

1
2
3
4
5
6
7
8
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10
11
12
13
14
15
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MEETING
STATE LANDS COMMISSION

DEPARTMENT OF CONSUMER AFFAIRS BUILDING
1020 N STREET, ROOM 102
SACRAMENTO, CALIFORNIA

ORIGINAL

TUESDAY, JUNE 5, 1979

1:00 P.M.

DELORES I. DALTON

MEMBERS PRESENT

Hon. Kenneth Cory, State Controller, Chairperson
Mr. Roy Bell, for Richard T. Silberman, Director
of Finance

MEMBERS ABSENT

Hon. Mike Curb, Lieutenant Governor

STAFF PRESENT

William Northrop, Executive Officer
James Trout
Robert Hight
Donald Everitts
Les Grimes
Diana Jones
Dave Hayward

ALSO PRESENT

Jan Stevens, Attorney General's Office

I N D E X

| | <u>Page</u> |
|----|-------------|
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |
| 11 | |
| 12 | |
| 13 | |
| 14 | |
| 15 | |
| 16 | |
| 17 | |
| 18 | |
| 19 | |
| 20 | |
| 21 | |
| 22 | |
| 23 | |
| 24 | |
| 25 | |

Proceedings 1

Approval of Minutes of April 26th Meeting 1

Executive Officer's Report

 Executive Officer Northrop 1

 Charges to Public Agencies - Jim Trout 2

 Geothermal Regulatory Hearings - Executive Officer Northrop 6

Staff Report on the State Coastal Commission

 Executive Officer Northrop 6

Consent Calendar Approved 7

Regular Calendar

Item 21 7

PUBLIC COMMENT

 Jack Alderson 8

 Jeremiah Scott 11

 Thomas Paul Pratte 12

 Question-and-Answer Session 18

 Douglas Galati 21

 Question-and-Answer Session 25

 Jack Alderson 26

 Jeremiah Scott 30

 Douglas Galati 31

 Thomas Paul Pratte 32

 Jeremiah Scott 32

I N D E X (Cont'd.)

| | <u>Page</u> |
|----|--------------------------------|
| 1 | |
| 2 | |
| 3 | 35 |
| 4 | 35 |
| 5 | 36 |
| 6 | 38 |
| 7 | 38 |
| 8 | 38 |
| 9 | 38 |
| 10 | 38 |
| 11 | 39 |
| 12 | 39 |
| 13 | 40 |
| 14 | 40 |
| 15 | 42 |
| 16 | 43 |
| 17 | 43 |
| 18 | |
| 19 | <u>PUBLIC COMMENT</u> |
| 20 | George Rodda 46 |
| 21 | Question-and-Answer Session 47 |
| 22 | Item 38 53 |
| 23 | Item 39 54 |
| 24 | Item 40 54 |
| 25 | <u>PUBLIC COMMENT</u> |
| | Kenneth Williams 58 |

I N D E X (Cont'd.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page

| | |
|-------------------------|----|
| Item 41 | 62 |
| Item 42 | 63 |
| Adjournment | 64 |
| Certificate of Reporter | 65 |

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P R O C E E D I N G S

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1
2
3 CHAIRPERSON CORY: First we will have confirmation
4 of the minutes of the meeting of April 26. Are there
5 any corrections or additions?

6 MR. BELL: Without objection.

7 CHAIRPERSON CORY: Without objection, it will
8 be approved.

9 The report of the Executive Officer.

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, the
11 Commission's staff received two safety awards from the
12 Governor's Safety and Rehabilitation Program. The first
13 award was a plaque signifying a zero frequency rate for
14 disabling injuries during '78. This award was given to
15 only nine other departments in the State. The Commission
16 also received a trophy for ranking second in the frequency
17 of injury category for departments with less than 500,000
18 employee hours annually.

19 CHAIRPERSON CORY: If you keep taking up our
20 time for things like that, we are going to blow our record
21 and chance for the thing next year with the injury you are
22 going to receive.

23 (Laughter.)

24 EXECUTIVE OFFICER NORTHROP: The staff has had
25 some discussion on charges to public agency, and Jim
Trout would like to -- I would like to have Jim Trout

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address that subject to the Commission. Mr. Trout.

MR. TROUT: Rather, Mr. Chairman, than read the material which you have in front of you, I would just say that the major concern is that many public agencies have to come to the Commission for permits and leases on tide and submerged lands. It costs the Commission staff some time and effort to process these permits which the Commission receives no revenue for. Most public agencies are very reluctant to pay the State anything to have a permit issued to them.

One of the problems involves special fund State agencies such as Caltrans, Fish and Game, some of these. The basic question is whether or not the Commission staff or the Commission should be subsidizing activities done primarily for the benefit of these public agencies, although it is the public at large. Staff was looking because of the number of inquiries we get, to perhaps any expression of direction from the Commission. We would like to apply a consistent policy. I think from our standpoint, it would be fair from a standpoint of program budgeting to have the Department pay the fair share of the processing costs. In most cases, it is \$450 for a public agency lease or permit.

Now, this is really a policy issue. Staff thinks that it is fair to collect it. Many public agencies feel

1 that it is not. And we are looking for guidance so that
2 we can prepare a calendar item that would set forth the
3 rationale and the requirements for payment, or we could
4 look at it from the standpoint of this is a service by
5 the Commission for the public good.

6 But we are getting a considerable number of
7 inquiries as to the necessity to pay for this.

8 CHAIRPERSON CORY: They are currently now paying?

9 MR. TROUT: Some are and some are not. We ask
10 for it and some pay it. Some don't. The fees are provided
11 for in the Public Resources Code, but the Commission may
12 choose to waive the fees if the public interest warrants it.

13 MR. BELL: Statewide public interest or local
14 interest?

15 MR. TROUT: In most cases, we are talking about
16 Statewide public interest. There are a small number of
17 projects such as a very local sewer or water district that
18 probably has no Statewide impact. But certainly Fish and
19 Game projects for nongame species, for example, are of
20 Statewide benefit.

21 The expression of just intent would allow us to
22 develop a calendar item which could then be formally
23 considered or rejected and we would have witnesses and
24 all that kind of stuff.

25 CHAIRPERSON CORY: We are at the present time

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1 currently charging some and not others?

2 MR. TROUT: We are attempting to collect
3 pursuant to the Code from everybody. A good number of
4 people just don't pay it.

5 CHAIRPERSON CORY: Then why don't we not make
6 them pay before we process?

7 MR. TROUT: Because we are the nice guys, I guess.
8 We can certainly do that.

9 CHAIRPERSON CORY: You ought to do that, and
10 maybe buy some I.Q. tests and administer them to the
11 operation. I mean, it seems like that's fairly easy to
12 come to quickly. If somebody is not paying you, you stop
13 doing work for them and you say, "Hey, folks. Until you
14 come up with the coin" -- I mean, I don't know. If we
15 are supposed to be collecting it, and they want to come in
16 and ask for a waiver, then we could deal with those at
17 that point.

18 MR. TROUT: Well, like Fish and Game, that is
19 routine. We send the application, and they ask for a
20 waiver of the fee. That's a very routine kind of thing.

21 MR. BELL: I don't have a strong feeling one way
22 or the other.

23 CHAIRPERSON CORY: I don't have any strong feeling.
24 It just seems to me that we ought to be awfully hard nosed
25 or walk away from all of it. I mean, I don't see allowing

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1 a guy who is ornery enough to stiff us to get away without
2 paying us, and the guy that is nice to end up paying.
3 That seems to me the worst of all worlds.

4 MR. TROUT: That's why we are here, because that
5 is really where we are now. We can apply the statute
6 very rigidly and approach it from --

7 CHAIRPERSON CORY: Why don't you collect the
8 money and see what happens at that point.

9 MR. TROUT: Okay.

10 CHAIRPERSON CORY: Fine,

11 MR. BELL: Are we talking about filing fees
12 primarily?

13 MR. TROUT: No. Filing fees are only \$25 by
14 regulation. We are talking about the processing fees.
15 The costs of opening the work order, reviewing the
16 description, preparing the document and that kind of
17 activity. And I think that what I sense from the
18 Commission, we will come back next month or at a subsequent
19 Commission meeting with the exact criteria that we would
20 use to apply it, and then we can get comments on it. I
21 think I sense the direction you are headed. Thank you.

22 CHAIRPERSON CORY: Geothermal regulatory hearings?
23 Is that our next --

24 The Executive Officer's Report, reportedly to be
25 by William F. Northrop, the first portion given by you,

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1 which I wasn't too keen on, the next one given by Trout,
2 and a third one on geothermal regulatory hearings. Is there
3 something you don't want to tell us about on geothermal
4 regulatory hearings?

5 EXECUTIVE OFFICER NORTHROP: I think we are kind
6 of pleased with the way they turned out. The public
7 hearings on proposed amendments to Article 4.1 of the
8 Administrative Code relating to exploration for and
9 development of geothermal resources from State-owned lands
10 were held May 16 in Sacramento and May 17 in Lakeport,
11 Lake County. There were relatively few comments to the
12 proposed regulatory changes, and most of those centered
13 on clarification of the new procedures contained in the
14 legislation.

15 As a result of those hearings and comments, staff
16 is now making some clarifying modifications, and we hope to
17 have the final regulations before you for adoption at the
18 meeting scheduled for June 27th.

19 CHAIRPERSON CORY: All right. Staff report on
20 the State Coastal Commission.

21 EXECUTIVE OFFICER NORTHROP: Mr. Chairman and Mr.
22 Bell, Mr. Golden, who is the Chairman's representative
23 to the Coastal Commission, is attending a meeting today.

24 The State Coastal Commission is expected to
25 approve a two-year \$75,000 contract to the State Lands

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1 Commission, for the purpose of conducting public trust
2 determination work in coastal areas, where they would
3 assist in the preparation of local coastal programs.

4 This contract is expected to fund two professional positions
5 in our offices, and is fashioned after our contract with
6 the U. S. Fish and Wildlife Service.

7 Today also the Commission will be considering
8 and possibly voting on the proposed San Francisco
9 wastewater system. The proposed system will replace
10 outmoded facilities in the City and County of San Francisco
11 and is designed to meet current wastewater discharge
12 standards.

13 Portions of the system involving State lands
14 include an ocean outfall and the deposition of sand dredged
15 from the trunkline alignment along the Great Highway onto
16 the beach. In addition, future revetment to protect the
17 Great Highway or the Westside Transport Facility may also
18 require State Lands Commission approval. Although the
19 construction of the overall system is embroiled in
20 substantial local controversy, this controversy does not
21 involve the proposed activities on State lands at this time.

22 Staff expects that San Francisco's application
23 for a 66-year general permit for the system's ocean outfall
24 will be calendared for your consideration at your next
25 meeting.

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1 CHAIRPERSON CORY: Okay.

2 All right. The next item on our calendar is
3 the Consent Calendar. These are items on the printed
4 agenda with the prefix C, 1 through 20. If there is anybody
5 in the audience who has any disagreement with the staff
6 recommendation, if they would speak up now, because we
7 will take all of these items up at one time and approve
8 them as a group unless there is an objection to any of
9 the items.

10 Is there any objection?

11 Without objection, the Consent Calendar will be
12 approved as presented.

13 (Whereupon the following pages were transcribed
14 from the Court Reporter's notes and the
15 preceding pages were transcribed from a
16 tape recording.)

17 CHAIRPERSON CORY: Item 21.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
19 is an approval of assignment from Mario J. Machi to
20 Humboldt Bay Harbor Recreation and Conservation District.
21 It's for a boat launch facility. The Humboldt Bay Harbor
22 Recreation and Conservation District intends to rebuild a
23 rock breakwater and allow 50 foot of access to the public
24 and clean up some boulders and rocks that are in the water
25 area. We understand there are some members of the public

1 who wish to speak to this issue.

2 CHAIRPERSON CORY: Okay. I guess we should hear
3 from some people with the Humboldt Bay Harbor Recreation
4 District, Jack Alderman (sic.) and Jeremiah Scott.

5 MR. ALDERSON: My name is Jack Alderson. I'm
6 the Chief Executive Officer of the Humboldt Bay Harbor
7 Recreation and Conservation District.

8 CHAIRPERSON CORY: Pardon me. Your name is Jack -

9 MR. ALDERSON: Alderson.

10 CHAIRPERSON CORY: Alderson, rather than Alderman.

11 MR. ALDERSON: Right.

12 CHAIRPERSON CORY: Are my eyes that bad or --
13 Go ahead. I'm sorry.

14 MR. ALDERSON: It's not the first time.

15 I have some pictures here of the Shelter Cove
16 area. Three years ago the Humboldt Bay Harbor Recreation
17 and Conservation District got involved in a project, or
18 started getting involved in a project at Shelter Cove at
19 the request of the local citizens. Basically, the project
20 is to replace two outhouses with flush-type toilets, permit
21 day use parking, stop cliff erosion in the area, widen and
22 pave the road down to the beach, creating a turnout for
23 safer launching of boats during high tide conditions, furnish
24 public access, and strengthen the existing breakwater.

25 To do this, the District has entered into really

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1 what is a multi-sighted agreement in that the Bureau of
2 Land Management has given the land for the parking lot
3 and the rest rooms, the County of Humboldt has also granted
4 some land for the parking lot access, Mr. Machi, who owned
5 the upland area in that area, has granted a right of way
6 across his property for public access, and the California
7 Department of Boating and Waterways has given a grant of
8 \$125,000 to support this project. The District has put
9 it together and promised to operate it over a period of
10 time.

11 Public hearings were held throughout this time.
12 CEQA was followed. It does meet the needs of the people
13 of the Shelter Cove area and is part, as BLM finds, of the
14 King Range Recreational Plan.

15 There is some question about the removal of
16 rocks from Dead Man's Reef. The rocks are sterile as has
17 been found by Doctor D. Martini in a study for the Coastal
18 Commission. The Harbor Commission only has a permit to
19 remove one-fourth of the rocks from the reef that is there.
20 It is an alluvial-type fan. Rocks are continuously coming
21 down the gully. They will be replaced. We have counted
22 additional rocks up in the gully.

23 We have a statement which your staff has from
24 Doctor R. J. Seymour who is an oceanographer with Scripps
25 that indicates the removal of the rocks would not adversely

1 affect the surfing in the area.

2 There are many other surfing beaches around.
3 This one is not used that much in comparison to some of
4 the other beaches.

5 One of the big problems that occurs at Shelter
6 Cove is the indiscriminate mooring of small boats in the
7 harbor. They use engine blocks, and at the end of the
8 summer, just cut the buoys off and go away. Well, the
9 pileup of engine blocks in the bottom now has created a
10 hazard for the commercial fishing fleet who use Shelter
11 Cove as a harbor of refuge. Something needs to be done
12 to control this harbor.

13 There have been letters received by the Harbor
14 District and the State Lands Commission, I believe -- the
15 staff -- and from the U. S. Army Corps of Engineers, the
16 Coast Guard and various fishermen's associations indicating
17 that something needs to be done to control this area.

18 That is what the Harbor District is asking for
19 now is the lease of the tide and submerged lands there so
20 that the control and proper operation of the harbor can
21 be completed, and we are requesting that you approve the
22 staff recommendations.

23 CHAIRPERSON CORY: You are Jeremiah Scott?

24 MR. SCOTT: Yes. I have nothing to add, but I
25 would be happy to answer any questions you might have.

1 CHAIRPERSON CORY: I just have a question of
2 staff. Did they pay their processing fee?

3 MR. GRIMES: Yes.

4 CHAIRPERSON CORY: Okay. And as I understand
5 it, there are some people who have a different view.

6 MR. ALDERSON: I have some pictures of the rocks
7 which will probably clarify it later on.

8 CHAIRPERSON CORY: We will probably need that.

9 If we could hear from Thomas Paul Pratte.

10 That's Les Grimes in a suit, the record will
11 please note.

12 So we understand, the lease will enable the
13 District to regulate mooring in the area?

14 MR. GRIMES: Yes.

15 CHAIRPERSON CORY: And that is a separate issue
16 from the movement of rock?

17 MR. GRIMES: Yes. It is my understanding from
18 these people here that they have no problem with the
19 regulation of the mooring or even the building of the
20 breakwater. They are concerned about --

21 CHAIRPERSON CORY: Okay. Let's hear from them
22 then.

23 MR. SCOTT: Could I just amplify your question.
24 The upland area is owned by a private man by the name of
25 Machi. Machi has a permit from the State Lands, 1957, to

1 build up a breakwater to improve the launching of the boats.
2 We are merely asking for your approval of the assignment
3 of the Machi permit to the Harbor District and amend that
4 permit to update it according to your terms and specifica-
5 tions that you presently use.

6 Machi, the private owner, controls all of the
7 access to the beach. Machi has agreed to give the Harbor
8 District an easement, a public easement, only if we make
9 these certain improvements.

10 If we fail, and if we fail to get the necessary
11 approval from you people, Machi will not give that public
12 easement, so the public then would be forever barred from
13 access to the beach.

14 In addition, I would like to point out that the
15 Regional Coastal Commission voted 11 to zero confirming
16 the position of the Harbor District. On appeal, appealed
17 by the man you are just about to hear, the State Coastal
18 Commission found no substantial issue on the question of
19 his appeal.

20 So we are merely asking that you approve the
21 assignment of the Machi permit to the Harbor District
22 and amend it. Thank you.

23 MR. PRATTE: My name is Thomas Paul Pratte. I'm
24 from Trinidad.

25 I did meet with staff yesterday. The boundary of

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1 the lease agreement runs to a certain section line designated
2 in Section 4 of the lease.

3 ---o0o---

4 Looking at the topographic map, it has been
5 apparent that this section line is south of Point No Pass,
6 in this area between these two points. I thought that
7 was made clear in discussing the matter with staff
8 yesterday, but there might be a little uncertainty in
9 that.

10 CHAIRPERSON SORY: Okay.

11 MR. PRATTE: I would like to show some slides of
12 the area.

13 ---o0o---

14 This first slide is taken from above Dead Man's
15 Gulch, looking down. The creek runs down through the
16 gulch, and those rocks out there exposed at low tide are
17 those proposed for the rock removal.

18 On this slide, if you look at the white water
19 pattern of the waves --

20 ---o0o---

21 -- over the reef, there is actually a surfer
22 riding that wave. That's at a higher tide.

23 This is looking down the coast. Dead Man's Reef
24 is the first reef, Point No Pass is the second major
25 projection, and the lease area goes a little bit beyond

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1 Point No Pass, I believe.

2 ---o0o---

3 That's Dead Man's Reef at low tide.

4 ---o0o---

5 And there it is at a medium tide.

6 ---o0o---

7 This is taken from the beach looking south.

8 That is Dead Man's Reef, the intertidal portion, extending
9 out, which looks like a drawing. It extends out about
10 100 yards from the mouth of the gulch.

11 ---o0o---

12 Here is a picture at high tide. The reef is
13 totally submerged at high tide.

14 ---o0o---

15 Here it is from the south side of the reef
16 looking into Shelter Cove. That is Point Delgaço in the
17 background.

18 ---o0o---

19 This is a picture of the reef at high tide.

20 ---o0o---

21 And this is at low tide.

22 ---o0o---

23 If I go back a little bit -- well, that only
24 goes forward.

25 ---o0o---

1 That's the extension of the reef at low tide.
2 It extends way out. In fact, over in this area here is
3 a person standing on the reef, for some scale.

4 ---o0o---

5 Here is a picture taken of a surfer riding a
6 wave at a medium high tide, and the lower intertidal
7 portion in this area here.

8 ---o0o---

9 This picture is a wave breaking at high tide.
10 Over on the right you can see the landward extension.
11 That is probably about a medium high tide. They are
12 breaking over the reef.

13 ---o0o---

14 Here is a picture of a fellow riding a wave
15 pretty close to shore. That picture is probably along
16 the edge of the reef, pulling out, very close to the shore.

17 ---o0o---

18 Here is another picture looking straight at the
19 mouth of the creek. This is a medium high tide. Surfers
20 are riding the waves along and across the intertidal area.

21 ---o0o---

22 Here is another picture of a surfer riding.

23 (More pictures of surfers riding the waves.)

24 ---o0o---

25 We will finish off with that shot.

1 I'm speaking on behalf of myself and as a
2 delegated representative of the Western Surfing
3 Association which is the voice of a half a million
4 California surfers. I have come to speak for preservation
5 of the surfing opportunities at Dead Man's Reef for
6 present and future generations.

7 I and the Western Surfing Association are also
8 plaintiffs in the suit against the Coastal Commission
9 regarding the assignment of an expired permit and failure
10 to protect surfing as a water-dependent recreational use
11 at Shelter Cove.

12 Surfing at Dead Man's Reef is within the
13 proposed boundaries of the rock removal, and the proposed
14 indiscriminate and wholesale and unplanned alteration of
15 this natural public resource, utilized for surfing, is
16 against the public interest.

17 It's apparent that the rock removal will alter
18 the bottom conditions and adversely alter the refraction
19 and shoaling of breaking waves near shore which are
20 required for the surfers' ride zone.

21 The improvements to boating facilities at Shelter
22 Cove are not dependent upon degradation of the surfing
23 resource.

24 We express our reservations concerning the long-
25 range effectiveness and structural integrity of this

1 breakwater project which has been designed without assistance
2 of an ocean wave expert or an ocean sediment expert.

3 The Harbor District estimates the volume of
4 rock required for this project -- their estimates vary
5 by a wide margin between 1,600 cubic yards and 6,000
6 cubic yards.

7 This rock removal is proposed to be permitted
8 free of charge from a natural recreational resource
9 currently in the public trust. Any rock removal must be
10 conditioned to objectively define and preserve the essential
11 components of this resource. We cannot agree to any rock
12 removal without an objective, verifiable and definitive
13 study which will first establish the boundaries and
14 characteristics of this surfside, and second, identify any
15 potential for rock removal which will not adversely alter
16 surfing opportunities.

17 Essential information required for such evaluation
18 includes: One, field operations at high tides and low
19 tides for large and small waves; two, bathometric mapping
20 of the surfing areas; three, analysis of photographs; and
21 four, interviews with surfers. Refusal to acquire this
22 essential information can only be interpreted as refusal
23 to look at alternatives.

24 CHAIRPERSON CORY: Thank you.

25 The question that we have before us is the

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1 assignment of a lease from a private individual to a
2 public agency?

3 MR. PRATTE: Of a permit, yes.

4 CHAIRPERSON CORY: Okay. Of a permit. Could
5 you address yourself to that question. I have some
6 sympathy for what you are saying, but I am sitting here
7 trying to weigh whether or not the public good is served
8 by leaving that permit in the private sector as opposed to
9 bringing it into the public sector.

10 MR. PRATTE: I don't know what you mean as far
11 as the permit whether the State Lands or the Harbor
12 District are concerned as the public sector.

13 CHAIRPERSON CORY: As the facts were presented to
14 me, the permit currently exists and a private individual
15 has it. That private individual could go ahead, presumably,
16 and move those rocks with the existing permit.

17 MR. PRATTE: No, that's not true. The Coastal
18 permit of 1974 granted a one-year permit which they
19 recently made a finding that is still valid and can be
20 assigned after the one-year expiration date, and that is
21 in litigation right now.

22 The Army Corps granted a permit for this rock
23 removal in 1975, and that permit is not active now. It's
24 expired and the Harbor District is in the process of
25 applying for an Army Corps permit. The Army Corps has

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1 called for a public hearing June 19th in Garberville.
2 They are sending out some oceanographic experts with some
3 surfing expertise to evaluate this surfing area and to
4 also look at the breakwater -- investigate the aspects
5 of the breakwater.

6 CHAIRPERSON CORY: Are there other surfing
7 areas along the coastline?

8 MR. PRATTE: Yes. Well, along the coastline --
9 from the Shelter Cove area, way south -- 100 miles south
10 at Point Arena or 100 miles north in the Humboldt Bay area.
11 Then there is one area in the middle of the King Range
12 which is a one-day hike to get to. Shelter Cove is in the
13 middle of what is called the Lost Coast. Twenty miles to
14 the north is King Range and to the south is Chemise
15 Mountain, Sinkyone Wilderness State Park and the Usal area.
16 In the vicinity of Shelter Cove there are within this
17 lease area two other surfing sites; however, surfing
18 conditions are conditional and maybe possibly only one
19 area will be breaking at a certain time. They break
20 according to different tide levels, and they are all being
21 used now. And loss of the reef at Dead Man's Reef would
22 reduce surfing opportunities in the area. It would cause
23 crowding -- increased crowding -- and result in negative
24 affects on surfers directly by the loss of the opportunity.

25 CHAIRPERSON CORY: Let me ask the staff. Currently

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1 is it your opinion that private individuals can, with
2 an existing permit, go in and move the rocks?

3 MR. HIGHT: Yes, Mr. Chairman, providing he
4 has the Corps and Coastal permit. And I believe he
5 already has the Coastal permit.

6 CHAIRPERSON CORY: So what we are dealing with
7 is the assignment from a private individual to the public
8 sector, and it would still require the Corps of Engineers'
9 permit that is in process regardless of whether we agree
10 to the assignment or not?

11 MR. HIGHT: Correct.

12 CHAIRPERSON CORY: The point I am trying to get
13 at is whether or not the things you are concerned about,
14 whether this is the forum that you need to win that battle.

15 MR. PRATTE: I believe this public resource
16 is currently in the public trust, and I would recommend
17 that the State Lands Commission determine that this surfing
18 is an existing use on public trust lands and to condition
19 this permit in a manner which will ensure that this usage
20 will continue.

21 CHAIRPERSON CORY: If we did that, with language
22 that said that the assignment is subject to the preservation
23 of surfing opportunities, on their side of it their
24 presentation was that they have an expert that says that
25 it will not alter that.

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1 MR. PRATTE: Doctor Seymour, who made that
2 finding, did so on the basis from his desk in San Diego,
3 I guess, looking at aerial photographs, and he has yet
4 to visit the site. And in the Coastal Commission appeal,
5 in the staff report, staff talked with Seymour and Doctor
6 Seymour indicated that further study would be desirable.

7 In fact, I was informed yesterday by members
8 of the State Lands Commission staff that Doctor Seymour is
9 interested in going up there and looking at it in the
10 near future.

11 CHAIRPERSON CORY: Can we have Douglas Galati?

12 MR. GALATI: Right.

13 MR. PRATTE: Thank you.

14 CHAIRPERSON CORY: We will hear from you.

15 MR. GALATI: My name is Douglas Galati. I am
16 a resident and homeowner and taxpayer of Humboldt County.

17 I am speaking for myself and for a committee,
18 the Dead Man's Defense Committee, which I have participated
19 in as far as organizing local surfing populations' objections
20 to the rock removal.

21 My own experience as a surfer is that of 17 years.
22 I have world-wide experience. I have surfed in the
23 Philippine Islands, Africa, Europe, Mexico and the Western
24 Coast of the United States, and I feel that I am able to
25 judge good surfing waves when I see them.

1 My objection to permit PRC 1956.9 is that it
2 does not recognize surfing as a valuable coastal-dependent
3 recreation, and that the State Lands Commission should
4 not approve the condition permitting the removal of rock
5 from the intertidal zone in front of Dead Man's Gulch
6 for the purpose of improving the existing breakwater.

7 I think my concerns stem from several issues.
8 One, surfing is a sport of the native sons of California.
9 On the north coast, these resources are rare. Dead Man's
10 Gulch, though, has been designated a surfing site by its
11 public use for a number of years. Some of the estimates
12 are as early as 1950.

13 And the point is that the waves, the quality
14 surfing waves are directly related to the rocks and the
15 configuration in the intertidal zone.

16 But I believe, and others do, that the surf site
17 is in danger of destruction because of a denial of the
18 surfing community's concern and the haste to obtain permits
19 to undertake this project.

20 It is, one, before this Committee that myself and
21 others have undertaken to file suit against the Coastal
22 Commission and the Humboldt Bay Recreation and Conservation
23 District to contend first that the 1974 permit which was
24 transferred or assigned to the Harbor District from Mario
25 Machi has expired, and, two, to point out that there are

1 a number of inconsistencies in those staff reports and
2 the Commission's decisions regarding coastal-dependent
3 recreational activities. Basically, it is the Coastal
4 Commission staff, throughout their staff reports, could
5 not guarantee no adverse affects to surfing. And in fact
6 as early as the first staff report, they were requiring
7 an \$18,000 bond to the effect that if the surfing resource
8 was disturbed, that those moneys would have to be used to
9 restore the resource. Then the staff reports deteriorated
10 from that.

11 As far as money to do the project, money is not
12 at issue here. The Coastal Commission in their reports
13 said that they would help the Harbor District seek additional
14 funds to perform this project. So we are not dealing with
15 a dollar limited.

16 We also tried to seek satisfaction with the
17 Harbor District themselves, but we we e confronted with
18 concepts of -- pardon me. I will restate that. We were
19 confronted with attitudes that it was ridiculous to think
20 that wave formation was not determined by near shore
21 rock formations, which is essential to our position.

22 I think there has been significant public input
23 regarding surfing and that this warrants further consider-
24 ation.

25 We were able to convince the Army Corps of
Engineers of that fact, and they reopened the issue for

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1 investigation at public hearing which we have already
2 heard about.

3 CHAIRPERSON CORY: When will that take place?

4 MR. GALATI: We understand June 19th in Garber-
5 ville, which is east of Shelter Cove.

6 We have also understood that there are some
7 objections to the specific gravity of the rocks involved
8 in the area, whether or not they meet the specifications
9 of the Army Corps of Engineers to perform such a project.
10 Essentially it says that these rocks are too light and
11 will float away inside of storm conditions. The breakwater
12 will need repair. And what we have done is to destroy
13 a surfing site to build a breakwater that is now going to
14 need repair. And we will have destruction of the resource
15 ad infinitum.

16 One statistic that has been thrown around is
17 that the Harbor District wishes to improve the launching
18 of boats for a possible ten to fifteen-day period during
19 the fishing season which extends May through September.
20 We object to this because it will destroy the surfing
21 potential which ranges 365 days a year.

22 So in conclusion, I am requesting that the State
23 Lands Commission make an autonomous decision in this issue.
24 That, first of all, they recognize surfing as a valuable
25 recreational resource and that they recognize that surfing

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1 does occur at Dead Man's Gulch. Two, that they amend
2 the permit to preserve the surfing areas for present and
3 future generations of California surfers.

4 But if the Commission finds those suggestions
5 unacceptable, I think that the Commission should refrain
6 from making a judgment on this issue until the courts
7 have had a chance to litigate the matters at hand.

8 I submit to the Commission and its staff these
9 petitions of people who are concerned about the issue and
10 a copy of a letter from Douglas H. Bosco, Assemblyman,
11 which states:

12 "I think you make a very good case for
13 preserving the natural wave formations at
14 Shelter Cove."

15 But on the following, I don't agree with
16 Assemblyman Bosco as he states:

17 "Unfortunately, I do not believe that the
18 State and local agencies involved are prepared
19 to change their policy."

20 That's why we are here today.

21 MR. BELL: I assume you are familiar with the
22 coast up and down?

23 MR. GALATI: Yes, sir.

24 MR. BELL: How many harbors of refuge are there
25 along that stretch? I'm now talking about a public safety

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1 issue.

2 MR. GALATI: I think the matter is clear that
3 Shelter Cove has been a harbor on the Lost Coast for many
4 years. Whether or not this breakwater is going to improve
5 the harbor of refuge as you state is debatable.

6 MR. BELL: You are answering my second question.

7 CHAIRPERSON CORY: Are you opposed solely to the
8 removal of the rock, or the removal of the rock and where
9 they are placing it?

10 MR. GALATI: I object to the removal of the rock.

11 CHAIRPERSON CORY: If they leave the rock there,
12 but extend the thing with rock from some other source --

13 MR. GALATI: I have no objection to that.

14 CHAIRPERSON CORY: Jack Alderson, you have a
15 public hearing the 19th?

16 MR. ALDERSON: A public hearing, yes, sir.

17 CHAIRPERSON CORY: Can you tell us what that is
18 about? What is going through my mind is why not wait
19 until we see what that produces and what the Corps of
20 Engineers thinks about the breakwater and whether there is
21 another way to solve this. Politically, why should I take
22 the heat and get in the middle of this dogfight if somebody
23 else is going to settle it?

24 MR. ALDERSON: I fully understand your position,
25 sir. Your staff has in its possession petitions again

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1 representing some 5,000 names of people supporting this
2 project. One of the things that I believe the Commission
3 that I work for and that the Commissioners find bad about
4 this is that we went through the full CEQA process, had
5 the public hearings and had the votes of the Coastal
6 Commission at both the State and Regional level. We
7 have gone before the Resources Agency and got a grant.
8 We hear the same arguments, and each time the Boards find
9 in our favor on a unanimous vote.

10 CHAIRPERSON CORY: Let me put it in a little
11 more focus for you. You have got a problem. I'm sort
12 of easy and try to get along with people.

13 The staff is laughing.

14 But my problem is that I grew up in Huntington
15 Beach.

16 MR. ALDERSON: Sir, I grew up in Santa Ana. I
17 was surfing at San Onofre and Dana probably at the same
18 time you were.

19 CHAIRPERSON CORY: So I've got some sympathies,
20 frankly, because I saw what the Army Corps of Engineers
21 did when they extended the breakwater in Long Beach at
22 Huntington Beach.

23 There are only two members here that have heard
24 this. I think you are better off waiting. I don't know
25 if that does you some irreparable harm, but I'm not so sure

1 that I am prepared to vote to sign this permit. I'm
2 willing to listen to arguments as to why it needs to be
3 done, and I can maybe decide the other way.

4 But right now I prefer to have somebody -- I
5 understand what you are saying, and I am sympathetic on
6 both sides, but I'm trying to put it on the table.

7 MR. ALDERSON: We have two elected Commissioners
8 in the audience. Maybe they can give me some direction here

9 If you grew up in Huntington Beach, you remember
10 that the surfers complained about the groins that were
11 going to go in at Newport, and I was probably one of those.
12 And the groins improved it.

13 I started surfing San Onofre in 1944. At that
14 time, I had the privilege of meeting a man by the name of
15 Doc Ball. Doc Ball was a very famous surfer. He was a
16 member of the old Palos Verdes Surf Club. Started surfing
17 in '29. Doc Ball testified at the Coastal Commission
18 hearing, regional hearing, and he started surfing in 1950
19 at Shelter Cove. He started there. And he felt that the
20 removal of the rocks would not adversely affect the
21 surfing; if anything, it would improve it.

22 So it's again an opinion of not only some people
23 who have some surfing knowledge, but we have the documen-
24 tation of an oceanographer who specializes in wave motion
25 studies, and so forth -- a letter that your staff has

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1 indicating no irreparable damage. But as far as the
2 delay -- what? One month?

3 CHAIRPERSON CORY: You are having the Corps
4 of Engineers when? The 19th?

5 MR. BELL: Will the Corps of Engineers have an
6 action at that public hearing?

7 MR. ALDERSON: No, sir.

8 MR. BELL: Will there be any indication of
9 their opinion?

10 MR. ALDERSON: Having been to previous ones of
11 the Corps, no, sir.

12 MR. BELL: What would the waiting period be?

13 MR. ALDERSON: I cannot answer that, sir.

14 CHAIRPERSON CORY: But you are not where you can
15 proceed until you get the permit from them?

16 MR. ALDERSON: That's correct.

17 MR. BELL: Proceed with what? With all of the
18 project or merely building the breakwater and putting in --

19 MR. ALDERSON: With the total of the project.
20 Mr. Machi has said he will grant us the right of way across
21 his property only if we improve the breakwater. And that
22 has been agreed to.

23 MR. BELL: But he is not insisting that you take
24 the rock from that one point to improve the breakwater?

25 CHAIRPERSON CORY: It is probably the only

1 economical, feasible --

2 MR. ALDERSON: That is correct. It is the only
3 economical, feasible way. We have had the engineers
4 check.

5 MR. SCOTT: Just for your amplification, the
6 Machi permit authorized the construction of the breakwater.
7 He did, as you can see in the pictures, construct a portion
8 of the breakwater. The Machi Coastal Zone permit provided
9 that he could take from above the low-watermark, in the
10 intertidal area, 25 percent. The State Commission said
11 25 percent -- up to 25 percent of the rock. The Harbor
12 District permit provides, the Coastal Commission permit,
13 that we can only take rock from above the high-watermark.
14 So it's obvious that any rock above the high-watermark
15 cannot affect the surfing conditions out in the water.

16 I have never surfed, but as a layman, it would
17 be obvious that if we can only remove rock from above the
18 high-watermark, it would not affect the surfing conditions.

19 We have been fighting this guy now for about
20 three years. It came about by a petition of about 3,000
21 residents, the people who live there. Not somebody from
22 Los Angeles or Seattle; people who live there. As Mr.
23 Bell has indicated, it's a harbor of refuge, and it will
24 be implemented to save lives. If you have ever been there
25 and seen the launchings on the shore, you can see that there

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1 is a safety factor with the recreational and commercial
2 boaters.

3 In addition, the District is acquiring this
4 public easement which is not in existence at this time.
5 Machi could forbid the surfers from coming onto his
6 property, but by the goodness of his heart in the past,
7 I guess he has allowed them occasionally to come upon his
8 place.

9 MR. GALATI: I would like to address a couple
10 of issues here. Number one, Mario Machi has degenerated
11 to the point of charging surfers three dollars per surfboard
12 to cross his property. Most of the people are redirecting
13 their traffic down a prescriptive situation, a gulch at
14 the head of the surfing area, and are walking around the
15 BLM land.

16 As far as the 5,000 people that live at Shelter
17 Cove, all of the people of Humboldt County and all of the
18 people of the State of California have rights to access to
19 those beach areas and cannot be obstructed, by reason of
20 public trust.

21 As far as the conditions go with Newport Beach
22 improving the surfing, we are not talking about that kind
23 of situation. We are talking about a reef situation where
24 the bottom configuration controls the dynamics of the waves.

25 MR. PRATTE: Mr. Chairman.

1 CHAIRPERSON CORY: Yes.

2 MR. PRATTE: I would like to correct something
3 for the record. It's been stated that the 1974 Coastal
4 permit allows only 25 percent of the rock to be taken.
5 I didn't bring a copy of it with me, but that permit
6 states -- it shows a map for the area of rock removal.
7 In reading the minutes of the meeting when the Commission
8 made the decision, it is clear that the rock removal in
9 there was not conditioned on only a certain portion of
10 the reef. It was within that area anything.

11 MR. SCOTT: May I make one last point.

12 The issue here is the utility or benefit to
13 eight or ten surfers versus five to ten thousand boat
14 launchings per year. Now, these 5,000 signatures came
15 from people who reside immediately in the area. It's for
16 the public benefit. That's why the Harbor District is
17 trying to undertake this to promote all of these things.
18 And to obstruct an issue that is to be provided for the
19 public benefit, it's not worthwhile, I think, for this
20 Commission to delay or tally or for some reason delay
21 this public expenditure to benefit the --

22 CHAIRPERSON CORY: If you take a vote today,
23 you are going to lose. I'm trying to put it right up
24 front with you. I don't have enough information that I
25 am willing to vote in favor of it. I might after that

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1 hearing.

2 MR. SCOTT: What hearing?

3 CHAIRPERSON CORY: The Corps of Engineers hearing.

4 MR. SCOTT: Well, if you have made up your mind
5 as far as today --

6 CHAIRPERSON CORY: I am not prepared to vote
7 in the affirmative, because I lack information. That
8 hearing may produce enough information that I will feel
9 comfortable in voting in favor of it.

10 MR. SCOTT: Could you have one of your staff
11 members present at that meeting so that they can report
12 back to you?

13 CHAIRPERSON CORY: I will do that.

14 What I'm asking is to try to make sure that we
15 are not -- I mean, how far I have to put myself in the box
16 in terms of, if you are going to lose the deal or something
17 like that, but if you can't proceed anyway and it's all
18 tied together, as you have indicated, I would prefer to
19 put the matter over to our next meeting. And we will have
20 one of our staff people present at that --

21 MR. ALDERSON: I have a question on technicalities
22 here. Just over to the next meeting until you have heard
23 a report on what did occur at the public hearing or waiting
24 until the court has made their final decision?

25 CHAIRPERSON CORY: I think very likely at the

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1 next meeting, depending on what kind of evidence. If
2 the stuff that you have indicated -- people who are
3 oceanographers, wave experts will testify and are gathering
4 that information, I think we can take the raw data and
5 come to a conclusion.

6 MR. BELL: That is June 27th.

7 CHAIRPERSON CORY: I'm not trying to unduly delay
8 it, but I have just seen where people guessed wrong once.
9 Newport, you are right, it improved it. And Huntington
10 Beach, it didn't. It just really destroyed it.

11 I am sort of sympathetic. If I'm going to vote
12 to do it, I would like to know that we are doing it and
13 that we are making a decision, "Yeah. Boats are more
14 important than surfers." But I would like to put it cold
15 turkey on the table. And if that hearing clears it up,
16 fine. If nothing is adversely affected, that would be my
17 preference.

18 If there were another member here, and there were
19 two members that wanted to go ahead with it, I would let
20 them go ahead and I would vote sort of a quiet no and let
21 it go on. But, unfortunately, we only have two people here.

22 MR. BELL: Do you know if Mike surfs?

23 CHAIRPERSON CORY: I don't know if Mike surfs
24 or not.

25 (Laughter.)

1 MR. SCOTT: Let's put it over then.

2 CHAIRPERSON CORY: I apologize for making people
3 do double duty, but sometimes it's hard to make these
4 decisions when you are sitting here in Sacramento and
5 you don't know what the hell is going on in Humboldt.

6 MR. SCOTT: Thank you.

7 MR. ALDERSON: Thank you.

8 CHAIRPERSON CORY: We will make the record of
9 this available to the third member and we will also have
10 the staff brief him on what happened before the meeting
11 so that we can move rather quickly on it.

12 MR. SCOTT: Thank you.

13 CHAIRPERSON CORY: Item 22 - Ellwood Pier;
14 Authorization to extend deadline in the Ellwood Pier
15 Demolition and Lease Agreement

16 Anybody in the audience on this item?

17 Any objection?

18 MR. BELL: No. We already took care of this on
19 wildlife conservation. I think we had better do this one.

20 CHAIRPERSON CORY: Okay. Without objection,
21 we will extend three months.

22 Item 22, without objection, is approved.

23 Item 23 - East Bay Regional Park District,
24 authorizing acceptance as State sovereign lands of deed
25 to a 2/135ths -- that's impressive. This is the land bank?

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1 EXECUTIVE OFFICER NORTHROP: Yes, it's the land
2 bank.

3 CHAIRPERSON CORY: Anybody in the audience on
4 this one?

5 Without objection.

6 Item 24, issuance of a patent.

7 EXECUTIVE OFFICER NORTHROP: This is the one
8 that started in 1978, and Kemper back in '81, and '89
9 and 1940. And finally we got it back. That was in
10 November of this year. We asked for it, and I was just
11 informed in the middle of the last calendar item that this
12 one has a problem.

13 MR. HIGHT: Yes, Mr. Chairman. The description,
14 we want to make sure that we got the right piece of
15 property to the individual. The calendar item says Range
16 9 East; it should be 8 East.

17 CHAIRPERSON CORY: East?

18 MR. HIGHT: Yes. We may correct that.

19 CHAIRPERSON CORY: All right. We will amend the
20 calendar item to read Range 8 East, e-i-g-h-t --

21 MR. HIGHT: Yes.

22 CHAIRPERSON CORY: E-a-s-t?

23 MR. HIGHT: Correct, Mr. Chairman.

24 CHAIRPERSON CORY: I just want to make sure that
25 in doing this verbally that we are not giving them the East

1 Wilmington oil field or something.

2 (Laughter.)

3 CHAIRPERSON CORY: Are you satisfied?

4 MR. HIGHT: Yes, sir.

5 CHAIRPERSON CORY: As a lawyer, how in the hell
6 would you know?

7 (Laughter.)

8 CHAIRPERSON CORY: Is there an engineer or a
9 surveyor who is satisfied that this is where we should be?

10 MR. STEVENS: They are the ones that told us.

11 CHAIRPERSON CORY: Okay.

12 Mr. Bell is suggesting that his already reads
13 that way.

14 MR. STEVENS: The resolution is accurate, Mr.
15 Chairman. It was the calendar item itself that had an
16 error in it.

17 MR. BELL: We only vote the resolution, so whether
18 the calendar item is right or not doesn't matter.

19 MR. STEVENS: Just to make the record clear.

20 CHAIRPERSON CORY: ALL right. Anybody in the
21 audience on this item?

22 Without objection, Item 24 will be approved as
23 amended in the calendar item, but the resolution is
24 consistently correct. But inconsistent with the normal --

25 (Laughter.)

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1 CHAIRPERSON CORY: Item 25 - Authorization to
2 file disclaimers on certain parcels of land in Colusa
3 and Yolo Counties.

4 Mr. Hight.

5 MR. HIGHT: Yes, Mr. Chairman. This is eight
6 condemnation actions for the Tehama-Colusa Central Valley
7 Project. No State interest involved.

8 CHAIRPERSON CORY: Okay. Let's whip on down through
9 these and see if we have any problems with them. We can
10 probably take all of the litigation items together.

11 MR. HIGHT: 26, 27 and 28 are all the same,
12 Mr. Chairman. No State interest involved in Federal
13 condemnations.

14 CHAIRPERSON CORY: Okay. Shall we take 25
15 through 28 together and the others take separate motions;
16 right?

17 Okay. Items 25 through 28, is there anybody
18 in the audience on those items?

19 Without objection, those items will be approved
20 as presented.

21 Item 29. You want consent for a proposed
22 annexation to the City of Stockton. Do they need unanimous
23 consent of the landowners; is that correct?

24 MR. BELL: Are we the only landowner involved?

25 MR. HIGHT: No, there are other landowner involved.

1 CHAIRPERSON CORY: Does it take unanimous --

2 MR. HIGHT: No, it's majority vote.

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
4 100 percent.

5 CHAIRPERSON CORY: All right. As long as it's
6 100 percent, I'm willing to approve it. If somebody is
7 going to use us as the deciding vote, then I would like
8 to find out what the beef is about.

9 EXECUTIVE OFFICER NORTHROP: No, it's unanimous.

10 CHAIRPERSON CORY: Unanimous, without objection,
11 Item 29 be approved as presented.

12 Item 30 - Settlement of quiet title in Wilcox
13 versus State of California.

14 MR. HIGHT: Yes, Mr. Chairman. This involves
15 a quiet title action of about nine and a half acres of
16 land. The State will receive 2.9 acres in fee which we
17 get the gas and oil rights, and we will in turn lease that
18 area back to the private applicant.

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

21 Without objection, be approved.

22 Item 31 is authorization to enter into a contract.
23 This was the low bidder --

24 EXECUTIVE OFFICER NORTHROP: Low bidder of four,
25 Mr. Chairman.

1 CHAIRPERSON CORY: Anybody in the audience on
2 this item?

3 Without objection, Item 31 is approved as
4 presented.

5 The next item is amendment of service contract
6 by Lobel, Novins and Lamont. Anybody in the audience on
7 this item?

8 Is there a motion from anybody up here?
9 (Laughter.)

10 MR. BELL: I'm afraid that I cannot object.

11 CHAIRPERSON CORY: Without objection, Item 32
12 is approved as presented.

13 Item 33, the Ninth Modification - Plan of
14 Development and Operations and Budget, and you bought a
15 new vacuum truck?

16 MR. HAYWARD: Oh, that isn't one of the major
17 features, this particular item. That is just sort of a
18 tag-on item.

19 MR. BELL: Which is the one that has their new
20 drilling rig in it.

21 MR. HAYWARD: Well, that is a part of this one.
22 My name is Dave Hayward. I am Deputy Chief,
23 Long Beach Operations.

24 This item, the Ninth Modification, is primarily
25 third quarter review of how we are doing on the plan and

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1 budget. It is required that it be in the form of a
2 modification and presented to this Commission.

3 I think the important thing about the Ninth
4 Modification is that when the original estimates were made
5 as to oil rates and revenues and expenditures, that the
6 oil rate has turned out to be very close to what was
7 originally estimated. The rate of expenditures about the
8 same, too -- about \$77 million.

9 The revenue is on the high side. We had
10 originally given the Commission a range, a low side and
11 a high side of a range of net revenue from the Long Beach
12 Unit, and we are happy to say that we are at the high
13 side of that range, which is \$100 million.

14 I think this is primarily because we have been
15 getting regular, although small, increments in the ceiling
16 price of crude oil from the Department of Energy. Those
17 have been coming along. That's been making it possible to
18 buy things such as a drilling rig for about three and one-
19 half million dollars.

20 So that is about where we are on this Ninth
21 Modification of the Long Beach Unit Plan and Budget.

22 CHAIRPERSON CORY: Questions?

23 MR. BELL: No questions.

24 CHAIRPERSON CORY: We need to adopt on the
25 modification or not?

1 EXECUTIVE OFFICER NORTHROP: Yes, we need an
2 adoption, Mr. Chairman.

3 CHAIRPERSON CORY: Without objection, the Ninth
4 Modification will be adopted as presented.

5 Item 34 - Review of pilot scale demonstration
6 of caustic waterflooding techniques for enhanced oil
7 recovery.

8 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, they
9 have also been working on that.

10 MR. HAYWARD: Yes. This is a semiannual review
11 of this caustic water project. It indicates that at
12 the present time we are primarily concerned with conducting
13 core flood tests to determine just what is the best
14 caustic chemical to use and how much of it to use and the
15 best rate of water injection.

16 CHAIRPERSON CORY: When do you think they will
17 likely start the caustic flooding?

18 MR. HAYWARD: About six months down the road, it
19 looks like now, after this laboratory test is done and
20 completed.

21 CHAIRPERSON CORY: You have no indication from
22 those tests as to what is happening? When you started
23 putting the small samples down there were you doing any
24 good or are we wasting our time?

25 MR. HAYWARD: We have put some very small samples

1 down. They have been in the nature of softening water
2 with small amounts of salt. It's gone into five of the
3 main injection wells, but it hasn't been in a large amount
4 or enough or over a long enough time to expect any results.

5 MR. BELL: Is this the one that the Feds put
6 up 60 percent and we put up 40, or vice versa.

7 MR. HAYWARD: Yes. It's a cost sharing
8 arrangement where DOE pays 40 percent and the Long Beach
9 Unit pays 60 percent.

10 MR. BELL: Tertiary recovery.

11 MR. HAYWARD: Yes. Well, that's a good point.
12 Just very recently the DOE has approved it as a tertiary
13 recovery project.

14 MR. BELL: That has something to do with the
15 new deregulation.

16 CHAIRPERSON CORY: The next item is to approve
17 an additional \$15,000 to be expended for additional
18 Subsidence Studies in Long Beach. Anybody in the audience
19 on this item?

20 Without objection, approve it as presented.

21 Item 36 - Authorize issuance of a prospecting
22 permit to Kaiser Steel to evaluate the potential of the
23 inferred iron ore deposit on 145.43 acres in Riverside
24 County.

25 MR. TROUT: Mr. Chairman, the State holds the

1 mineral interests on a portion of a piece of school land
2 adjacent to Kaiser's Eagle Mountain Mine. One of the
3 ore bodies would appear, from Kaiser's own pit operations,
4 to have the potential for extending under the State
5 property, and they have asked for a permit to prospect
6 on the State's -- they own the surface now, but they
7 prospect from that land into the State's minerals to see
8 if there are any minerals there. If there are, in terms
9 of the prospective permit, they would have a preferential
10 lease and the royalty is established in advance. It would
11 be ten percent of the value.

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

14 FROM THE AUDIENCE: If there is a question, sir,
15 we are available.

16 CHAIRPERSON CORY: Our choices are slim and none
17 on this?

18 MR. TROUT: That is basically true. Kaiser
19 owns all of the surrounding land, the roads, the railroad,
20 the processing mill.

21 CHAIRPERSON CORY: What will be the rate if they
22 find it is there? How do we determine --

23 MR. TROUT: Okay. We will ask Mr. Everitts to
24 answer that question.

25 CHAIRPERSON CORY: Is there a difference between

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1 the prospecting and --

2 MR. EVERITTS: What makes the ore have any value
3 at all is that it is about two miles closer to the mill
4 than where they are currently hauling ore. They originally
5 came to us and said the only value to them was the cost
6 of hauling it which was about 40 cents a ton. We didn't
7 think that was right, so we suggested that perhaps the
8 real value to them would be the cost of mining it, which
9 was about 90 cents. Based on using that as a value of
10 10 percent on 90 cents is 9 cents, and that is the
11 royalty that we are proposing.

12 If they make a discovery and a lease is issued.

13 MR. BELL: Then all they get is preference on the
14 lease?

15 MR. EVERITTS: No. We are suggesting that they
16 would get a preferential right to a lease, if they make
17 discovery.

18 MR. BELL: Yes. That's what I meant.

19 CHAIRPERSON CORY: But the rate that they would
20 pay would be nine cents.

21 MR. EVERITTS: Yes.

22 CHAIRPERSON CORY: They are a competitive bid,
23 and the problem you have got is that they are the only
24 game in town.

25 MR. BELL: Yes, they are the only game in town.

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1 CHAIRPERSON CORY: Without objection?

2 MR. BELL: No objection.

3 CHAIRPERSON CORY: The item will be approved
4 as presented.

5 Item 37.

6 MR. RODDA: I'm ready for 37, with
7 objection.

8 CHAIRPERSON CORY: Item 37 is a rescission of
9 geothermal prospecting permit proposal to Management
10 Engineering, Inc., and issuance of geothermal prospecting
11 permit to Getty Oil.

12 Would you be Mr. George Rodda?

13 MR. RODDA: I am he.

14 CHAIRPERSON CORY: Speak. Speak to us.

15 MR. RODDA: Mr. Chairman, Management Engineering
16 Corporation is and represents the fee simple surface owners
17 of the property. Under an agreement struck with the
18 Getty Oil Company, we filed for the permit, obtained the
19 approval of the EIR, and did everything deemed appropriate
20 to the protection and development of our respective properties.
21 Unfortunately, although it didn't take from 100 years as
22 did one of the patents today, processing did take an
23 extremely long time, during which time the Getty Oil people
24 with whom we had struck the deal no longer are in those
25 functions from which the deal was struck. As a matter of

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1 fact, one of the people is not even in the United States.

2 So their capacities have changed and what we are
3 asking is that you give us sufficient time, which was not
4 sufficient between the May 31st date that we obtained
5 this notice that this hearing today would take place, to
6 perfect our bond. We have done everything else. We just
7 couldn't get the bond between May 31st and today. We are
8 asking for time to do that so that the property owners can
9 continue to control their own destinies and work some kind
10 of an arrangement with the Getty Oil Company or by ourselves.

11 CHAIRPERSON CORY: Could the staff fill us in
12 on the history of this?

13 MR. HIGHT: Yes, Mr. Chairman. The application
14 was originally sent to Management Engineering some year
15 and a half ago, at which time we had written them several
16 letters and advised them would they please sign the lease,
17 and we have heard nothing from them to date.

18 The law provides that the Commission can, within
19 30 days after failure of return of a lease, terminate that
20 lease. And this is what the staff's recommendation is.

21 CHAIRPERSON CORY: Can you address yourself to
22 that question?

23 MR. RODDA: The situation with regard to that is
24 that we had struck a bargain with the Getty Oil Company.
25 The difficulty has been that the personnel at Getty are no

1 longer in those positions and in that capacity with which
2 we struck the bargain.

3 At this particular time, we had no knowledge,
4 after all of these years that have taken place, that there
5 was a 'til-the-match-goes-out type of deadline. The only
6 thing necessary for us to do in addition to signing the
7 lease is to get the \$50,000 bond which is a requisite
8 portion of it. We have applied to Jay and Renfro for
9 such a bond. We have been informed that we cannot get
10 it within the time frame of May 31st when we received
11 this notice until today's hearing.

12 So what we are asking from you is that would you
13 give us a sufficiency of time in which we can provide the
14 bond, sign the lease and do all of those things that are
15 necessary.

16 Now, we haven't been deleterious at all in our
17 dealings with Getty. Getty simply has -- the successors
18 in interest at Getty simply are not dealing with us in the
19 same good faith upon which we relied when we struck the
20 bargain.

21 We are the surface owners of the property. We
22 seek to control our own destinies in the best way we deem
23 appropriate. We are asking your permission for an additional
24 amount of time sufficient to perfect that bond and sign
25 the lease.

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1 And we were just about in a lawsuit. And I think at that
2 time Mr. Kra^{mer} took over Yuba Consolidated as President
3 and Chairman of the Board and came in and said, "I would like
4 to settle this dispute. How can we do it?" And we came
5 up with the land exchange system as probably being equitable
6 to both parties. And this was concurred in by our Attorney
7 General.

8 As to the value, I'd like to make one comment,
9 I guess as a private citizen rather than in an official
10 position of the Corps. I would suggest, and I guess it
11 reiterates what Mr. Dacey said, that the Commission, before
12 making a decision on whether to proceed with litigation,
13 look strongly at the facts that the cost to the State tax-
14 payers of pursuing litigation, and that they're really kind
15 of the bottom line, if you won, what would you win? Where
16 was the Yuba River in 1850? How wide was it and what do you
17 get? I think that most of the maps and evidence that we
18 have seen would indicate that you're going to get a strip of
19 a pile of tailings.

20 I would urge the Commission to consider that, as I
21 know you will.

22 The other point of interest, I guess, is that Yuba
23 Consolidated approximately two years ago started up the
24 dredge -- I think it was the dredge leasehold. But this
25 kind of precipitated our argument and brought about the

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1 settlement. We operate the dredge leasing in an area that
2 we thought we were legally permitted to do so. But we put
3 them on notice and said, "Don't get outside of that area
4 because we claim an interest in these other areas." We
5 dredged for something less than a year, and it proved to be
6 an uneconomical operation as far as recovery of the gold.

7 And with that, Mr. Chairman, I close my remarks.
8 Thank you.

9 CHAIRPERSON BELL: Thank you, Mr. Wheeler.

10 Originally these are all the people that we had
11 had to testify. However, at the last minute before we
12 started this meeting, a gentleman named Clark Moscrip,
13 attorney for Mr. Rosser, turned in a slip because he said
14 that Mr. Rosser's name had been mentioned.

15 Do you wish to make a quick comment?

16 MR. MOSCRIP: Just a brief comment, if I may.

17 CHAIRPERSON BELL: Mr. Moscrip.

18 MR. MOSCRIP: Thank you. I'm Clark Moscrip. I'm
19 with the firm of Lukes & Bossoni in San Francisco. I represent
20 Mr. Rosser.

21 The only reason I speak here at the moment is
22 because this matter originally was apparently brought to
23 the attention of the State Lands Commission as a result
24 of the litigation between my client and the Gold Fields.
25 My client has been on the land for three years, since 1976,

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1 and has expended a great sum of money developing a fish
2 hatchery. The only reason we brought this matter to the
3 State Lands Commission is because we originally believed
4 we had an agreement for a lease with the Yuba Gold Fields,
5 Inc. This was disputed, and it came to our attention that
6 in fact the question of ownership -- the land may not lie
7 within the Yuba Gold Fields. We then decided we wanted to
8 know how we should have to deal in order to protect our
9 interests. So we hired an engineer, Mr. Charles De St.
10 Maurice, a very well-known engineer in Marysville. He
11 undertook a survey to ascertain the location of the Yuba
12 River and also did some preliminary research with regard to
13 the question of navigability of the Yuba River back in 1850,
14 which, of course, is the operative date. We merely
15 presented that information to the State Lands Commission
16 and asked them to investigate it. That was the entire
17 involvement.

18 It's interesting, the last speaker commented on
19 the question of the value of the land. The Gold Fields,
20 in opposition to a preliminary injunction which I asked
21 the court grant in our private litigation, estimated that
22 there were many hundreds of thousands and perhaps millions
23 of dollars in documents to the court, signed declarations
24 supplied to the court as to the value of this land. The
25 question of navigability is not controlled by the declarations

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1 of the California Legislature which were made in 1850, '51,
2 '52, and '53. Four different times the State Legislature
3 changed their mind as to where the Yuba River was navigable.
4 That's not controlling here. The question is a matter of
5 fact. And I believe the staff has already presented
6 evidence -- that the river in fact was navigable back in
7 1850.

8 Finally, I would merely say that while, of course,
9 the Gold Fields represent many people, you gentlemen
10 represent the State of California and its twenty million
11 citizens, as I'm sure you are well aware. And I know you
12 take that into consideration here. And I would ask that you
13 do so in making your decision on this issue.

14 I have no other comments.

15 CHAIRPERSON BELL: Thank you, Mr. Moscrip.

16 Any questions?

17 If not, thank you very much.

18 These are the only apparent requests I have on this
19 item. I would now like to ask the Attorney General to
20 respond to us in any way which he feels appropriate.

21 MR. TAYLOR: Mr. Chairman, I believe that all of
22 the participants today have to be commended for their fine
23 participation. And it's only too bad that this body is not
24 the Supreme Court so the matter could be over, because they
25 have certainly been eloquent and covered the points in their

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1 respective standpoints.

2 CHAIRPERSON BELL: Just for the court reporter,
3 this is Mr. Taylor of the Attorney General's Office.

4 MR. TAYLOR: I think first that one question should
5 be cleared up at the outset. And that is how did this
6 controversy begin. This controversy began as a result of
7 township plats which showed the river to be navigable and
8 included in the disposition of public lands by the
9 Department of Interior or by the Department of Interior by
10 transfer to the State. The prima facie case of the State
11 are those original township plats. This litigation or the
12 current controversy regarding State ownership was not
13 initiated by the State, but was initiated by DiGiorgio
14 Farms, a substantial landholder in California, who recognized
15 that they had a problem in getting title insurance at a point
16 above Marysville below the Yuba Gold Fields area. Therefore
17 a private party filed an action against the State seeking
18 to quiet his title so that he could get satisfactory title
19 insurance, or the company could get satisfactory title
20 insurance. That action was filed approximately two years
21 ago. And again, it should be noted it was filed by a
22 private party in order to clean up his title so that he
23 could get a desired kind of title insurance.

24 I believe that our first notice of the controversy
25 over the Yuba Gold Fields matter actually came from the

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1 engineer retained by DiGiorgios to bring the action against
2 the State. Now, what we're having here today is a
3 traditional kind of matter where there are title claims
4 and differences. And the traditional way in which the
5 State Lands Commission has preferred in the past to resolve
6 these matters is through negotiations and settlement. The
7 Lands Commission didn't create the problem. The problem
8 was created by the character of the property and the manner
9 in which we set up our real estate and the disposal of
10 property to private parties in the beginning of the Union
11 in 1850. We have something very valuable for the private
12 parties, and that is the ability to give them security of
13 title. And I believe that the staff should be commended
14 for their great patience in the discussions that they have
15 had at great length with the various parties to this
16 controversy.

17 It should be noted that the State did not object,
18 at the request of Mr. Kratter and the Corps of Engineers to
19 them proceeding with their land exchange on the basis that
20 there would be a settlement with the State. Those dis-
21 cussions seem to disappear, or those promises or commitments
22 seem to disappear after the Corps and Mr. Kratter completed
23 their transaction and sent it back to Washington where it's
24 pending for final approval.

25 The second thing that should be borne in mind is the

1 fact that the Corps of Engineers is somewhat similar to the
2 Department of Highways or Caltrans. It is not an agency
3 which starts with a grant of property by virtue of its
4 creation. The administration of public lands of the United
5 States is entrusted to the Department of Interior, not the
6 Corps of Engineers. At the turn of the century, the Corps
7 of Engineers went out and purchased, acquired, or had
8 donated to them the area which we're talking about in this
9 area. No interest of the State of California was acquired
10 at the turn of the century by the Corps. That omission
11 today is taken care of, and each month you have two or three
12 items where the Corps now routinely mentions us as a party
13 to a transaction and requires this Commission to make a
14 statement as to whether or not it has an interest and then
15 say whether it demands compensation.

16 There also seems to have been some confusion in
17 the presentation today between the original condition of the
18 river in 1850 when we came into the Union and that which
19 followed the havoc that was created by the dredging that was
20 caused in the production of gold in the early days of
21 statehood. Clearly the river has no semblance to what it
22 was in 1850 at the present time. However, the 1850 date
23 is pertinent for title purposes where the river was
24 artificially changed.

25 There is one additional matter which is of some

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1 significance to this Commission. And that is the fact that
2 mining claims that are outstanding, in order to be
3 perfected with the Federal Government, have to be filed,
4 I believe by the end of this year with the Department of
5 Interior, October of this year. Concurrent with this
6 project but unknown to the people who are working on it
7 with the Bureau of Land Management, it was agreed that the
8 meander lines shown on the township plats would be adhered
9 to for purposes of determining whether to accept private
10 mining claims or not. In the areas that were meandered
11 along what were assumed by that meandering to be navigable
12 waterways, those claims were to be rejected, and the rights
13 of the State of California were to be respected. There is a
14 lot of gold still remaining in this area. This is a very
15 valuable mineral today. It is my understanding that as a
16 part of the development program which Yuba intends to
17 undertake, that they will go down into the deep tailings
18 and endeavor to recover more gold. Therefore there is an
19 economic interest irrespective of where the bed is. As a
20 matter of fact, we may be better off to have the bed not in
21 the present location but in the former location where the
22 filling occurred and where the gold may have settled out.
23 So there is a mineral interest to the State of California
24 and a principle at stake beyond that in which Yuba Gold
25 Fields is concerned.

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1 I guess in closing I should say that the current
2 situation with regard to title claims along the Yuba River
3 started with the DiGiorgio lawsuit and that any of the
4 parties that are affected by this, or in any navigable
5 waterway of the State, are certainly free to come to the
6 State and to try to work out a settlement. And if that
7 settlement is not possible, the courts of this State are
8 equipped to handle a resolution of those kinds of problems
9 in an orderly manner and to have them resolved, if necessary,
10 on appeal. And that is the process that has been followed
11 since 1850. And I would say that in most instances it has
12 probably been as actively disputed as it has been today.

13 CHAIRPERSON BELL: Thank you.

14 Would you like to make any statement at this time,
15 Gregg?

16 MR. ACKERMAN: A couple of questions on the
17 recommended action, proposed word change. I think that when
18 Mr. Kratter originally made his statement, he was concerned
19 about the State, and I believe the request for action seemed
20 to already prejudge the absolute interest of the State he
21 determined in the case. And your recommended language to be
22 approved today requests that litigation or other steps be
23 taken to protect any and all State interests. I was
24 wondering if more appropriate wording would be rather not to
25 say "protect any and all State interests", that language more

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1 appropriate be used. When you say "protect", it seems to
2 preestablish the condition. Perhaps we could say "determine
3 State interests" instead.

4 MR. TAYLOR: I think that would be more appropriate.

5 MR. ACKERMAN: After the testimony today, I'm
6 confused as to whether or not the State actually has an
7 interest. And I think that's the main question that everyone
8 has addressed, is to determine whether or not there is an
9 interest to begin with.

10 MR. TAYLOR: There would be no objection to that
11 change.

12 MR. ACKERMAN: I have one other question, and I'm
13 not an attorney myself, so please respect that. But you
14 mentioned at the outset the location in question. Is that
15 too broad a determination to -- I guess what I'm really
16 asking you, would that have a tendency to bring in all 121
17 pieces of property, or can somehow the action or litigation,
18 if it's approved, be limited just to this one element?

19 MR. TAYLOR: I believe the proposal to be limited
20 to the Yuba Gold Fields area alone. It may be that the
21 others may want to join in the litigation, but the proposal
22 of the staff is only for the Yuba Gold Fields area.

23 MR. ACKERMAN: Does that need to be expressly
24 stated, or is it implied?

25 MR. TAYLOR: I believe my statement and your reaction

1 to it makes it clear on the record that it was only the
2 Yuba Gold Fields, area claimed by Yuba Gold Fields that
3 would be authorized by this action.

4 MR. ACKERMAN: Let me ask one further question
5 then. If the Lands Commission at this point decides not to
6 ask for further litigation, does that still, in the opinion
7 of counsel, cloud title on the properties pending another
8 suit to be brought at some future time charging or claiming
9 State interest in some other parcel of property and raising
10 this whole question again?

11 MR. TAYLOR: I do not believe that the Commission's
12 failure to authorize action today would terminate the
13 controversy. It might be used as an element in arguing
14 about the extent of the State's interest or whether the
15 State had taken action on which people have relied which
16 would prevent the successful assertion of that. But
17 traditionally throughout the State -- and Alamitos Bay here
18 in Long Beach is the best example of that. Four times
19 consideration was given to the filing of the lawsuit to
20 determine the interest in Alamitos Bay, and four times the
21 governmental agency that had jurisdiction over the land
22 did not do it. Then the Legislature came along in 1957 and
23 told the Lands Commission to determine the boundaries.
24 And we finally had to determine those boundaries '69 and '71
25 after ten years of work. So I think the answer is the

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1 failure of the Commission to act today would not resolve
2 the problem.

3 CHAIRPERSON BELL: All right. Having heard
4 testimony and comments on both sides, do I have a motion
5 on the calendar item as amended to strike the word
6 "protect" and substitute the word "determine" in the last
7 paragraph of the action?

8 MR. ACKERMAN: I would so move.

9 CHAIRPERSON BELL: All right. And I will second.
10 All those in favor, say Aye.

11 (Ayes.)

12 CHAIRPERSON BELL: Opposed?

13 (No response.)

14 CHAIRPERSON BELL: That's approved.
15 Calender Item 18.

16 (Thereupon Calendar Item 18 was transcribed
17 under separate cover and is not a part of
18 this transcript.)

19 CHAIRPERSON BELL: Item 19 Eureka City Settlement.

20 MR. TROUT: This is one of a continuing series of
21 settlements in the Eureka Area to resolve the question
22 regarding some tide land patent where the Commission is
23 being asked to clear title of a piece of property. The
24 owner will deposit \$2,000 in a Eureka tide lands fund, which
25 fund has to be used for trust purposes.

1 CHAIRPERSON BELL: Any problem?

2 Without objection, Item 19 will be approved.

3 Item 20, Land Exchange, again with the City of
4 Eureka.

5 MR. TROUT: Item 20 involves the Eureka water fill
6 irrigation. And I'd like Mr. Grimes, the Deputy Chief of
7 Land Management Conservation, to just briefly point out
8 where this parcel is.

9 MR. GRIMES: You will recognize this map from
10 last time for the Eureka settlement here. This was the
11 area of settlement. The litigation proceeds on down here.
12 This parcel here is in back of the area of litigation and
13 it's a parcel desired by the City to put in a parking
14 structure to serve the waterfront when they finally get
15 their redevelopment plan going. This was owned by a private
16 party. The City had this parcel here, which, if you flop
17 this down and around like this, the waterfront goes right
18 on around. And they have this parcel down here, which is
19 in an old tide land package. And the whole property is
20 subject to the trust. It's much bigger and therefore more
21 valuable than this. So the private party is giving the
22 City this parcel plus sixty-eight, five, plus another
23 twenty that will go into development of a parking structure
24 which has a life of probably 40, 50 years on it. So we
25 feel at staff level, and the Attorney General has looked at

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1 this, that the trust asset has been maintained, not
2 depreciated.

3 CHAIRPERSON BELL: All right. Without objection?
4 Without objection, Item 20 will be approved.
5 Item 21, County of Humboldt.

6 MR. TROUT: Item 21 is some bank protection on the
7 Eel River by the County of Humboldt.

8 CHAIRPERSON BELL: Oh, yes. I have seen that. I
9 have no problem with the item, do you?

10 MR. ACKERMAN: No.

11 CHAIRPERSON BELL: Without objection, Item 21 is
12 approved.

13 Item 22, County of Humboldt.

14 As I go through these, if anyone in the audience
15 objects, just let me know. Otherwise I'm going to go fairly
16 fast.

17 Item 22, County of Humboldt.

18 MR. TROUT: Item 22 is similar. It happens to be
19 some rock protection along the Pacific Coast, Mattole Road.
20 It's to keep the highway from falling into the ocean.

21 CHAIRPERSON BELL: I see no problem here.

22 Without objection, Item 22 is approved.

23 Item 23, the title of this item is Leon Fink,
24 settlement of the litigation regarding school land parcel,
25 Los Angeles County.

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1 MR. TROUT: Mr. Hight can explain this.

2 MR. HIGHT: Mr. Chairman, this is the settlement
3 of a lawsuit by which the Commission will receive \$50,000
4 for a parcel of land in Los Angeles County. It will be
5 \$20,000 down, with the remainder within one year. This is a
6 settlement in litigation, and the estate of the litigant is
7 paying for the price.

8 CHAIRPERSON BELL: Is this one where the estate is
9 sort of landlocked or something, and therefore we're taking
10 a one-year settlement instead of outright cash?

11 MR. HIGHT: Yes.

12 CHAIRPERSON BELL: All right.

13 MR. ACKERMAN: There is no objection by any one of
14 the parties?

15 MR. HIGHT: No.

16 CHAIRPERSON BELL: All right. Without objection,
17 Item 23 is approved.

18 Now we're on the item of litigation, Item 24,
19 Halvorsen Industries.

20 MR. TROUT: Item 24 is relatively simple. It's a
21 parcel of Halvorsen Industries which the Commission may
22 remember was in a massive settlement for about half of the
23 Eureka waterfront. This parcel is on a bluff, significant
24 elevation, and could not have been tide land. We are not
25 certain that the finding is necessary, but we're quite willing

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1 to recommend to the Commission that they find that the trust
2 never existed on this piece of property.

3 CHAIRPERSON BELL: Well, at that level, above sea
4 level, it would be pretty hard to say then that it was even
5 at the high tide level.

6 All right. Without objection, Item 24 will be
7 approved.

8 Item 25.

9 MR. HIGHT: Mr. Chairman, could we take Item 25 and
10 Item 26 together?

11 CHAIRPERSON BELL: Yes. Item 25 and Item 26 can go
12 together.

13 MR. HIGHT: They're both condemnation actions for
14 the New Melones Lake and Dam Project. The Commission has no
15 interest in these.

16 CHAIRPERSON BELL: I think it should be pointed
17 out that these are again examples where the Federal
18 Government is now coming to us notifying us about finding
19 out whether we do or don't have any interest in lands. And
20 we are taking official action saying no, we do not.

21 Item 25, 26, without objection, will be approved.

22 Item 27.

23 MR. HIGHT: Item 27, Mr. Chairman, is a settlement
24 of a quiet title action whereby the State will acquire
25 partial title and some access to the area.

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1 CHAIRPERSON BELL: This is in the Delta?

2 MR. HIGHT: Yes, sir.

3 CHAIRPERSON BELL: Without objection?

4 Without objection, Item 27 is approved.

5 Item 28, Gerome Anolik.

6 MR. HIGHT: 28, Mr. Chairman, is the settlement of
7 litigation which was authorized by the Commission. The
8 litigant, the proposed litigant has agreed to sign up for a
9 lease, and a structure will be placed in conformance with
10 navigation safety requirements.

11 CHAIRPERSON BELL: Of the Coast Guard?

12 MR. HIGHT: Of the Coast Guard, yes.

13 CHAIRPERSON BELL: All right. Without objection
14 then, Item 28 will be approved.

15 Item 29.

16 MR. HIGHT: Item 29, Mr. Chairman, is a settlement
17 of litigation against Standard Resources for a sand lease
18 in Monterey County. Standard Resources did not dredge any
19 sand from the area. And in a settlement of the litigation,
20 they are paying us \$500.

21 CHAIRPERSON BELL: They are paying us \$500 because
22 they didn't do anything?

23 MR. HIGHT: Right.

24 CHAIRPERSON BELL: Okay. Without objection, Item
25 29 is approved.

1 Subject of Delegation of Authority, Item 30.

2 MR. TROUT: Mr. Chairman, Item 30 is authority
3 for the Executive Officer or his designee to approve
4 individual private recreational pier permits under specified
5 conditions: one, that an environmental document is not
6 required. The delegation would also require that those
7 approved be reported back to the Commission at the next
8 meeting. Similar delegations have been made for dredging
9 permits under a small amount.

10 CHAIRPERSON BELL: Private recreational pier
11 permits, this is one the Legislature has recently decided
12 to be more lenient about; and therefore in order to
13 expedite permits, we will delegate this authority to the
14 Executive Officer where it's designated. Is that right?

15 MR. TROUT: The Legislature has actually found
16 there is no rent coming from these facilities.

17 CHAIRPERSON BELL: In that case -- yes, Mr.
18 Ackerman.

19 MR. ACKERMAN: Are there any other areas to where
20 such delegations on a routine basis would be done to
21 expedite?

22 MR. TROUT: We think there are. We've got a
23 recommendation that we submitted to this calendar which Mr.
24 Hight and I had some problems with. We expect that there
25 will be more coming to the Commission to the extent that

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1 you're willing to do so over the next few months.

2 ACKERMAN: Okay.

3 CHAIRPERSON BELL: But at the moment just those
4 you have mentioned are the only delegations?

5 MR. TROUT: It's my understanding that there are
6 three. There is one regarding the dredging. And I think
7 the figure may be 10,000 yards or something like that.

8 Anyway, it's a minimum number of yards. Mr. Everitts?

9 MR. EVERITTS: That's right. 10,000 yards. There
10 is one regarding an emergency permit in an extreme
11 circumstances for the Executive Officer to act, and now
12 there's a recreational pier permit.

13 CHAIRPERSON BELL: All right. Without objection
14 then, we'll delegate that authority under Item 13 to the
15 Executive Officer as designated.

16 The next subject matter is tide height measuring
17 program, Item 31.

18 MR. TROUT: For the past three years the Commission
19 has been budgeting for the cost sharing of a tide height
20 measuring program with the National Ocean Survey. This
21 proposal is to renew that contract for the first six months
22 of the next fiscal year or the last six months of the
23 calendar year which terminates that program. The money
24 included in the budget for the Commission which at this
25 point has been approved by subcommittees of both houses,

1 and this is to get the documents started through the Federal
2 Government.

3 CHAIRPERSON BELL: All right. Without objection,
4 Item 31 is approved.

5 Item 32, Department of Justice.

6 MR. TROUT: I think Mr. Hight wants to give Mr.
7 Taylor \$160,000 to act in our place on Long Beach operations
8 in Alamitos Bay.

9 MR. TAYLOR: This is of the same level as last year
10 and, I believe, almost the same as the year before.

11 CHAIRPERSON BELL: All right. Without objection,
12 Item 32 is approved.

13 The next group of items are called Energy and
14 Mineral Resources of Long Beach, Item 33.

15 MR. TROUT: Mr. Thompson, Chief of Long Beach
16 operations, is going to present these.

17 CHAIRPERSON BELL: Do we take all three of these
18 items together, or do we --

19 MR. THOMPSON: It depends on how much presentation
20 you want us to make on these. We can just go through this
21 first item, the plan and budget, and we can make a presenta-
22 tion or we can answer your questions.

23 CHAIRPERSON BELL: All right. Item 33 is approval
24 of the '79-'80 plan of development and operations, while
25 Items 34 and 35 are approval of the Seventh Modification and

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1 Eighth Modification of the 1978-'79 plan. Why don't you
2 take the '79-'80 first.

3 MR. THOMPSON: All right. What we're proposing
4 here for your recommendation and adoption is a budget for
5 the next year. And this is coming up to 80.449 million
6 dollars. Just in skimming through this real fast, this is
7 to drill 16 new wells, plan for three rig years of activity.
8 We do have problems here with inflation rate. The expense
9 items we put in here, we normally were using about eight
10 percent inflation. As we mentioned to the Board in February,
11 one came up that was high. It dropped a little bit down
12 there, but we can't tell. So there may be some augmentation
13 necessary.

14 CHAIRPERSON BELL: Three new --

15 MR. THOMPSON: Three rig years of activity.

16 CHAIRPERSON BELL: Three rig years. One of your
17 later modifications of the current year is four rig years.
18 Is there any relationship between that and the fact that
19 your new budget only has three rig years?

20 MR. THOMPSON: I think we just want to forewarn you
21 that we may be coming in and asking you to approve more
22 money. And we think this would be justified as soon as
23 we get the final shakedown on Carter's last action as far
24 as the energy program is concerned. Again we can go through
25 what we think is happening with his energy program, but that

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1 depends on your time constraints.

2 CHAIRPERSON BELL: Well, I'm relatively familiar
3 with it myself.

4 All right. Without objection then, Item 33 is
5 approved.

6 Items 34 and 35 are two modifications.

7 MR. THOMPSON: Neither one of these requires any
8 allocation of budget. They are merely adding things to the
9 plan and transferring funds.

10 CHAIRPERSON BELL: I notice they are moving from
11 one item to another.

12 MR. THOMPSON: Yes.

13 CHAIRPERSON BELL: I assume you split two of them
14 so that they wouldn't look so big.

15 MR. THOMPSON: Well, one of them was the ratifica-
16 tion of the Exec Officer's action, and that was already --
17 the money was cast. And the other one we're asking for
18 your approval.

19 CHAIRPERSON BELL: All right. Do you have any
20 problems with these?

21 MR. ACKERMAN: No, I don't.

22 CHAIRPERSON BELL: All right. Without objection,
23 Items 34 and 35 will be approved.

24 The next item is Energy and Mineral, Statewide,
25 oil and gas, Item 36.

1 MR. TROUT: This is the Royalty Oil sell-off that's
2 been before the Commission once before. The Commission
3 previously rejected all of this without the rebate. The
4 successful draw out of the hand went to Lunday-Thagard.
5 Mr. Edwards informs me that there should be a change on
6 Page 3, recommendation item number 5. The starting date
7 should be changed from May 1, 1979, to June 1, 1979. There
8 apparently is a 30-day notification period that would make
9 the May 1 date impossible to meet. This is at ceiling price.
10 The major developer, who has about 91 percent, has chosen
11 to exercise the option to match the bid. That would be
12 approximately nine percent.

13 CHAIRPERSON BELL: Nine percent. And the cor-
14 rection is June instead of May 1st?

15 MR. TROUT: That's correct.

16 CHAIRPERSON BELL: On item 5. All right. It's
17 corrected on item 5. The final date would be June 1st,
18 1979, instead of May 1st, 1979, as shown in the actions
19 before us.

20 MR. ACKERMAN: No problem.

21 CHAIRPERSON BELL: All right. Without objection,
22 Item 36 is approved.

23 We have two items under archaeological study,
24 geothermal land, Item 37.

25 MR. TROUT: The Bureau of Land Management is

1 undertaking some exploration for archaeological studies in
2 native American occupation in an area. There is a request
3 that the State look at some of its adjoining parcels. This
4 would be a proposal to spend up to \$15,000 in an
5 archaeological study. If possible, we would contract with
6 the same contractor the Federal Government does. This may
7 require some negotiations with the State Department of
8 General Services. If that doesn't work, this would also
9 authorize the Executive Officer to go out for proposals and
10 enter into a contract on his own.

11 CHAIRPERSON BELL: All right. It might actually
12 be to our advantage to have the same contractor that's
13 appropriate.

14 MR. TROUT: We think so. General Services has
15 some questions as to whether the Federal building procedure
16 is as stringent as the State procedure. We'll continue to
17 work on that. There is authority, however, if that fails,
18 for the Commission to request its own proposals and
19 authorize the Executive Officer to enter into a contract
20 of the specified amount.

21 CHAIRPERSON BELL: All right. Without objection,
22 Item 37 is approved.

23 The last item on the agenda is Item 38.

24 MR. TROUT: Item 38 relates to a piece of property
25 that the Commission acquired in an exchange in Seal Beach.

1 There is now underway the development of a proposal approved
2 by the Commission to put a development there called
3 Marine Racquetball. It will be a racquetball-tennis complex.
4 The City of Seal Beach will require a dedication of access
5 to the parcel as part of the approval. It appears that the
6 street that runs alongside -- which is paved, striped, and
7 has speed limit signs. There is a signal at the inter-
8 section of Pacific Coast Highway. There is considerable
9 evidence that this street, although not owned on the record
10 by the public, has in fact been given, dedicated to the
11 public. This would allow the staff to make a preliminary --

12 CHAIRPERSON BELL: Implied dedication.

13 MR. TROUT: -- to determine whether there are
14 already public rights in there. There was also a request
15 of Southern California Edison to close off the street to the
16 public. We understand that that request has been withdrawn,
17 at least for the time being. But we'd like the Commission
18 to go ahead and grant us this authorization.

19 CHAIRPERSON BELL: May I ask if Southern California
20 Edison wants to close that street, do they have a complete
21 right to do so without anybody's approval?

22 MR. TROUT: They apparently must have approval of
23 the Coastal Commission. At least they applied to the Coastal
24 Commission for approval to close it off and then recently
25 withdrew that request. Mr. Taylor might have some comments

1 regarding the implied dedication of the prescriptive rights
2 aspect. But it's clear that the road has been maintained
3 and used by the public and has been treated by the City of
4 Seal Beach as a City street.

5 MR. GRIMES: There is an exhibit on the thing.

6 MR. TROUT: Mr. Grimes might point out that this
7 is right across from the City of Long Beach.

8 MR. GRIMES: Pacific Coast Highway. This is a
9 Commission parcel here. This is the road that goes from
10 Pacific Coast Highway over to Westminster Street, both
11 very busy. There is a five-way stoplight here put in by the
12 City. There is a city sign and speed limit signs all along
13 here, striping down the middle. And the road actually goes
14 across the State parcel. Where they wanted to close it off
15 was right here. And they close off the road where it does
16 cross the State parcel. So I don't think they have that
17 right.

18 CHAIRPERSON BELL: Mr. Ackerman has a question.

19 MR. ACKERMAN: Is the City involved in this at all?
20 I would anticipate they'd be very upset about the closure
21 of the street.

22 MR. GRIMES: My information is that the City,
23 all they wanted was keys to the lock that was going to be put
24 on the gate. And they got it.

25 MR. ACKERMAN: What does that mean?

1 MR. GRIMES: Pardon me?

2 MR. ACKERMAN: What does that mean? You mean the
3 City was going to go along with it as long as --

4 MR. GRIMES: They were going to go along with it
5 as long as they could get keys to the lock.

6 CHAIRPERSON BELL: What does the action of our
7 Commission do in dealing with this item, merely review it,
8 investigate it?

9 MR. TAYLOR: It just authorizes the staff to go
10 ahead and make an investigation. They would have to report
11 back to you for any further action.

12 CHAIRPERSON BELL: I see.

13 MR. ACKERMAN: Again, this is just to protect the
14 interests of the State along that street boundary.

15 CHAIRPERSON BELL: Not to determine them?

16 MR. TAYLOR: I guess Mr. Grimes and I could
17 speculate on what's going on. But there is large development
18 coming in, and the question is that Edison feels that it has
19 a certain price that it would like from the State and from
20 the developer that's going to be coming in for this street.
21 And so I think it's an appropriate time to close the street
22 since both the State and the other side want to do something
23 about it. And we're not sure that they have the right to
24 do that. And that's what it comes down to.

25 CHAIRPERSON BELL: It's merely an investigation to

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1 see what they're going to do.

2 All right. Without objection, Item 38 is approved.

3 There is an item called Status of Major Litigation.

4 Any comments?

5 MR. TAYLOR: Three quick ones. One is that we
6 completed hearings in Washington and New York City in U.S.
7 vs. California, which is the continuing litigation with the
8 Federal Government over where the three-mile limit of State
9 ownership is in the offshore area. Judge Jessup, formerly
10 of the World Court, testified. The Federal Government
11 brought in an expert from Europe who testified in New York
12 City for three days last week. And then discovery continued
13 in Washington, D.C. The final argument of that case will
14 be held shortly in Denver, Colorado, where the Special
15 Master appointed by the United States Supreme Court is.
16 We would expect a report of the Special Master sometime this
17 summer and have the matter argued before the Supreme Court
18 sometime next year.

19 The second item is that we are getting ready to
20 make -- file a motion with the United States Supreme Court
21 to compel the Federal Government to be a party to California
22 vs. Nevada. Now, the reason for that is that the Federal
23 Government by not being a party might seek to reopen the
24 entire litigation, and it wouldn't be conclusively determined.
25 Despite the pleas of the California Legislature, the members

1 of this Commission, the Governor, and all members of the
2 California Congressional Delegation, the Federal Government
3 has refused to voluntarily join as a party. Now, we believe
4 that as a result of some language in the recent Supreme
5 Court case that came down in our favor on the Colorado
6 River, that there may be a chance of dragging the Federal
7 Government in. At least we want them to make a statement
8 one way or the other as to what their position will be with
9 regard to this litigation formally before the court. It
10 would be a crime not to have this matter totally settled
11 and to have the Federal Government at a later time be
12 able to question it and not to resolve the title problems
13 with regard to the private parties who are affected.

14 I would just call the Commission's attention to the
15 fact that we settled a lawsuit today resolving a controversy
16 over Delta land ownership, apparently to the satisfaction
17 of the private party. That has been the attitude. I believe
18 that it is the only Constitutional way to resolve Delta
19 title problems and that the pending Senate Bill 664 by
20 Nielsen will do great mischief in terms of trying to resolve
21 these problems. The staff will appear again before the
22 Senate GO Committee on Tuesday at ten a.m. for a special
23 sitting with regard to this bill. I think there are serious
24 questions about the Constitutionality of this statute, and
25 there are also problems with the form of the bill. It has

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1 now been amended so it is not necessary for the person to
2 have made full payment to the State for the land. And they
3 have now also amended the bill so that it no longer applies
4 only to land within the levees, but also includes the berm
5 areas outside the levees and the burrow pits. The burrow
6 pits are the areas where they get the dredge material to make
7 the levees. Most burrow pits, if they are outside of the
8 levee -- and there are two ways you can do it. You can have
9 burrow pits either on the outside or inside. When they are
10 on the outside, those burrow pits will be very deep water
11 areas and will not have been reclaimed and are currently
12 wet. I don't understand the title company's action in
13 bringing this lawsuit when we're standing with them in two
14 cases of litigation where we are with them in defending the
15 validity of this Commission's action in the past to the
16 tune of a minimum of forty million dollars. We have already
17 been told by one of our opponents in one of the lawsuits
18 that they hope the bill passes so they can add it to the
19 Upper Newport Bay litigation and allege it is unconstitu-
20 tional. I hope that some way we get a handle on this
21 matter, and we're working with it.

22 CHAIRPERSON BELL: Thank you.

23 The only item remaining on the agenda is the
24 confirmation of the date, time, and place of the next
25 Commission meeting will be Thursday, May 24th, 1979, in

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1 Sacramento, at ten a.m.

2 Any other items to come before the meeting?

3 If not, we're adjourned.

4 (Thereupon the meeting of the State Lands
5 Commission was adjourned at 12:22 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, FRANCES ANN PETERSON, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission Meeting was reported in shorthand by me, Frances Ann Peterson, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of May, 1979.

Frances Ann Peterson
FRANCES ANN PETERSON
Certified Shorthand Reporter
License No. 4379