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MEETING  
STATE LANDS COMMISSION

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

ORIGINAL

TUESDAY, APRIL 7, 1981

10:05 A.M.

CATHLEEN SLOCUM, C.S.R.  
license No. 2822

PETERS SHORTHAND REPORTING CORPORATION

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MEMBERS PRESENT

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Kenneth Cory, Chairperson, State Controller

Susanne Morgan, representing Mary Ann Graves,  
Director of Finance, Commissioner

David Ackerman, representing Mike Curb, Lieutenant  
Governor, Commissioner

STAFF PRESENT

William Northrop, Executive Officer

R. S. Golden

James Trout

Gary Horn

Robert Hight

Diane Jones, Secretary

Mr. Thompson

ALSO PRESENT

N. Gregory Taylor

Sue Wylie, Deputy Attorney General

Jan Stevens, Deputy Attorney General

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P R O C E E D I N G S

---OOO---

CHAIRPERSON CORY: Call the meeting to order.

Are there any questions or additions to the minutes of the meetings of March 5th and March 18th?

Without objection, they will be adopted as presented.

Executive Officer, do you have a report?

EXECUTIVE OFFICER NORTHRUP: Yes, Mr. Chairman, two items. One is the Solar Pond Project --

CHAIRPERSON CORY: Move with some alacrity because we have two legislators waiting for the first item on the calendar, and I'd like to get through -- three. Wow, somebody came in without me knowing it. Okay. We'd like to get to that and we'd like to get through the formalities rather quickly if we can.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman and Members, the first item is the Solar Pond Project. Pursuant to the Commission's November 1980 request, one million dollars was included in the Governor's proposed budget, 1981-82, from the Energy and Resources Fund for a demonstration solar pond power plant at Owens Lake. At the same time, the Commission sought an additional one million dollars for the project from the Federal Government. Since then, three significant events have occurred. The first one

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1 is a comprehensive study of the project at the proposed site,  
2 including a flumer cost estimate and schedule have been  
3 completed.

4 Secondly, the prospect of Federal Funds for  
5 the project no longer exist.

6 Third, a partnership has been formed between the  
7 Commission, the Los Angeles Department of Water and Power  
8 and Inyo County for the joint development of the project.

9 The feasibility study has found Owens Lake to  
10 be a highly attractive site for the project, and has  
11 estimated its cost at \$2.7 million. Following the Los  
12 Angeles Department Water and Power's commitment to fund  
13 \$750,000 of the project and Inyo County's agreement to  
14 provide an access road and visitor overlook to it, the  
15 request for the State's contribution was amended to \$2 million,  
16 eliminating the need for federal funds. We have been  
17 informed by the Department of Finance that because of  
18 cancelled ERF projects, this new request has been  
19 accommodated.

20 The second item, Mr. Chairman and Members,  
21 is the Severance Tax. The Assembly Revenue and Taxation  
22 Committee held a hearing last week on AB 19 and ACA 1. This  
23 bill and constitutional amendment would substitute a  
24 severance tax for the advalorem tax on oil and gas mining  
25 rights. The Revenue and Tax Committee is planning to form

1 task force to gather data and State Lands has been asked to  
2 participate. So with your permission, we will proceed on  
3 that next task force.

4 CHAIRPERSON CORY: Questions from Commissioners?

5 MR. ACKERMAN: Was the additional million  
6 dollars from General Fund?

7 EXECUTIVE OFFICER NORTHROP: No. From the  
8 ERF Fund, which is a spin-off of the tidelands revenue.

9 CHAIRPERSON CORY: Like a nerf ball.

10 MR. ACKERMAN: Energy Resources Fund?

11 EXECUTIVE OFFICER NORTHROP: Energy Resources  
12 Fund, right.

13 CHAIRPERSON CORY: Any other questions from  
14 Commissioners?

15 MS. MORGAN: What's the timing on that project?

16 EXECUTIVE OFFICER NORTHROP: We plan on going  
17 -- Dan, are you here? The timing on the project?

18 MR. GORFAIN: Completion in 1982 or '83.

19 CHAIRPERSON CORY: If it's funded in the '81-82  
20 Budget, it's a quick project.

21 EXECUTIVE OFFICER NORTHROP: We'll get it done  
22 way ahead of any other projects.

23 CHAIRPERSON CORY: It should be operational  
24 before anyone else can come on line, and that can be used  
25 to extrapolate forward the next increment.

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MS. MORGAN: I think we have quite a selling job to do in the Legislature on this project.

CHAIRPERSON CORY: We aren't doing a very good job by making them wait for the item they want.

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

CHAIRPERSON CORY: Okay. Staff report on the Coastal Commission, Dick.

MR. GOLDEN: Yes, Mr. Chairman. As your representative on the State Coastal agencies, I have a very brief report here.

Mr. Chairman, I'll go through it rapidly.

On the Coastal Commission on June 30, 1981, the Regional Commissions are to be abolished and the State Commission with a revised membership will take over the workload. Numerous bills are in the Legislature to modify policies of the Coastal Act. The State Commission is seeking to arrive at a unified position with the League of California Cities.

Scheduled for major revision are the housing policy and procedural matters related to processing local coastal programs. Under consideration are changes which would remove Coastal Commission original permitting jurisdiction over public trust lands and place it in local government. This proposal may present major problems for

1 State Lands. If enacted into law, we would be required to  
2 segregate patented tidelands from ungranted tide and sub-  
3 merged lands which would still remain under their original  
4 Coastal Commission permitting jurisdiction. The splintering  
5 of jurisdiction can also make it much more difficult to  
6 review projects which might adversely offset public trust  
7 interests such as reviewing projects to ensure they don't  
8 encroach upon State-owned sovereign lands.

9 Now, turning to San Francisco Bay Conservation  
10 and Development Commission, there are several items of  
11 concern to BCDC that are likewise of concern to State Lands.  
12 First of these are projects arising from Anza Liquidation  
13 Trust in the bay front area of Burlingame. BCDC has a  
14 hundred-foot shoreline band jurisdiction which calls for  
15 maximum feasible public access. When State Lands entered  
16 into a boundary line agreement with Anza in 1969, one  
17 condition was the creation of a lagoon opening to the bay.  
18 By virtue of this action, BCDC gained shoreline jurisdiction  
19 around the lagoon. Up until now as projects sites are  
20 sold by Anza to private developers, access requirements are  
21 measured against the particular project. Now BCDC is chang-  
22 ing the approach and they are now considering the whole  
23 project of Anza's as a project and demanding a master plan.  
24 However, most of Anza's lands are already sold leaving a  
25 high percentage of state leased lands to be incorporated

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1 into the project. Thus our parcels will probably end up  
2 as those dedicated to public access while Anza's parcels  
3 will carry the development and obtain the revenue benefits.  
4 We are working to prevent an unfair treatment of our lands  
5 in this instance.

6 Extended public hearings have been held on  
7 use designations of lands at Hamilton Air Force Base,  
8 if and when they are conveyed out of federal ownership.  
9 As you know, we have a suit pending to quiet title to  
10 State claimed lands which were taken by the Air Base when  
11 it was being expanded. Marin County has been embroiled  
12 in extensive controversy relative to uses. The Bay Plan  
13 designated the area as airport priority use, which is at  
14 odds with Marin County's wishes. BCDC took action last  
15 week to retain the airport priority use designation, but  
16 to modify it to provide for general aviation use only, no  
17 commercial. It was the judgment of the Commission that such  
18 use could provide relief of the air space over Oakland and  
19 San Francisco so that additional bay fill would be obviated.

20 That closes my report.

21 CHAIRPERSON CORY: Questions from Commissioners.  
22 They aren't going to use it for practice strips  
23 for 747's in Marin?

24 MR. GOLDEN: No.

25 (Laughter.)

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1 CHAIRPERSON CORY: Okay.

2 The next items that we have are the Consent  
3 Calendar items. I would like Item C15 Number 8 -- the staff  
4 should not its customary when you're using numerical  
5 designations in outline form to use a letter for the  
6 subsequent subsections rather than numbers. But I would  
7 like that one deleted. Mr. Breuner and I have had some  
8 business dealings in the past, so I will absent myself  
9 and let you people take that up later.

10 For those people in the audience, if there are  
11 any questions, if you do not agree with the proposed staff  
12 recommendations of any of the agenda items that have the  
13 prefix C before the number, please indicate now what that  
14 item is so we can remove it from the Consent Calendar.  
15 If there are no objections, all of those items will be  
16 taken up in one motion without any further debate. Any other  
17 items to be removed? Without objection then, the Consent  
18 Calendar will be approved. Those are items C1 through 15,  
19 excluding C15-8.

20 MS. MORGAN: I'd like to move approval of C15-8.

21 CHAIRPERSON CORY: You get to chair it and do  
22 the whole thing.

23 MR. ACKERMAN: I'd like to know who Mr. Breuner  
24 is.

25 MS. MORGAN: He's a local --

26 CHAIRPERSON CORY: He's a legislative --

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1 -- yes. I was here when we bought him. That was the  
2 transaction.

3 MS. MORGAN: The approval is consistent with all  
4 the other actions. It's an existing pier and not a new  
5 pier.

6 Okay. That item is approved.

7 CHAIRPERSON CORY: Item 16.

8 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for  
9 the record, C22 is off calendar.

10 CHAIRPERSON CORY: C22?

11 EXECUTIVE OFFICER NORTHROP: 22 is off calendar.

12 CHAIRPERSON CORY: You're going to get those  
13 letters in there, aren't you?

14 Item 22 has been taken off calendar.

15 The next item on the agenda is Item 16, the City  
16 of Long Beach, landlord, Hyatt Long Beach Corporation,  
17 tenant.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,  
19 Mr. Gary Horn has worked on this project for staff. I'd like  
20 to have him make a presentation to the Commission.

21 MR. HORN: Mr. Chairman, Members of the  
22 Commission, the item before you today is a request of the  
23 Commission to make some findings on a lease between the City  
24 of Long Beach and Long Beach Hyatt Corporation. The findings  
25 are required under 6702(b) of the Public Resources Code.

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1 Briefly, the findings are that this lease  
 2 comport with the granting statutes of the lands to the City  
 3 of Long Beach. The second finding is that the City of Long  
 4 Beach has established a trust fund for these monies, and the  
 5 monies will only be expended for statewide public purposes  
 6 consistent with the trust. The third finding, and the most  
 7 important finding, is that the lease is in the best  
 8 interest of the state.

9 The staff has been working with the City of  
 10 Long Beach for more than a year now on this particular  
 11 project. Recognizing that it is a complex project, the  
 12 staff retained the consulting firm of Peat, Marwick,  
 13 Mitchell who has reviewed the lease, who has reviewed the  
 14 financial projections of a number of other consulting firms  
 15 that were retained by Hyatt and by the City, and Peat has  
 16 concluded that the lease is reasonable. It comports with  
 17 existing industry standards for these types of  
 18 transactions. Peat, Marwick has also concluded that the  
 19 financial projections, the room occupancy rates, occupancy  
 20 factors are all reasonably attainable by the City and by  
 21 Hyatt and they, therefore, see no reason why the hotel  
 22 project cannot be a success.

23 Partially relying on the Peat report, staff has  
 24 made its own investigations into the transactions. It's  
 25 looked into the leasing rate. It's looked into the uniqueness

1 of the lease back arrangement in this particular transaction  
 2 and we find that the City, while it has negotiated a unique  
 3 transaction, nevertheless has entered into one that should  
 4 make the Tideland Trust Fund for the City of Long Beach a  
 5 considerable revenue over the life of the lease. Therefore,  
 6 the staff is recommending that the Commission makes the  
 7 finding under 6702(b) relative to this particular trans-  
 8 action.

9 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I have  
 10 27 letters in support of the project which we responded to  
 11 and one letter in objection.

12 CHAIRPERSON CORY: I did not receive a copy of  
 13 the letter of objection. What is the objection?

14 MS. MORGAN: Neither did I.

15 EXECUTIVE OFFICER NORTHROP: I'll read the  
 16 letter into the record on the objection.

17 It's from Lester M. Denevan. And it says:  
 18

19 "Scheduled for public hearing before  
 20 the State Lands Commission on April 7, is  
 21 a proposed convention hotel of 542 rooms  
 22 in Long Beach. Because of the importance  
 23 of the project, and because of legal and  
 24 environmental questions raised in regard  
 25 to the hotel and the adjoining Rainbow  
 Lagoon," -- that was a long time ago --

1 "I'd like to request that the public  
2 hearing be held in Long Beach, so that  
3 interested persons in the community  
4 can attend the meeting and express  
5 their concerns.

6 "Some of these concerns are expressed  
7 in my letters to you of November 5 and  
8 12, 1979, January 14, 1980. Also,  
9 see my letter to you of November 19, 1979.

10 "Some sixty-three drafts have been  
11 prepared of the lease between the City of  
12 Long Beach and the Hyatt Corporation. Now  
13 that all the fine details of the contract  
14 have been worked out, will there really be  
15 any purpose in having a public hearing  
16 on April 7 in order to receive public  
17 input into the project? Would it  
18 not have been more fair to the public  
19 to have had a preliminary conceptual  
20 review by the State Lands Commission  
21 of the Convention Hotel many months ago?

22 "Very truly yours, Lester M. Denevan."

23 In response to this, Mr. Chairman, the final  
24 package was received in our office less than 30 days ago.  
25 Matter of fact, I think exactly 30 days ago today. So that

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1 proposal would not have been possible.

2 CHAIRPERSON CORY: The City did approve the  
3 thing, didn't they, at a public --

4 MR. DEVER: The City has held at least three  
5 public hearings. There have been hearings before the  
6 Coastal Commission. At all of these hearings Mr. Denevan  
7 has appeared and made these same statements.

8 CHAIRPERSON CORY: I just wanted the record  
9 here to show that there had been ample local opportunity  
10 for objections to be voiced. There does appear to be  
11 substantial support within the community for the project.

12 There are a number of dignataries here. Ollie,  
13 do you wish to address --

14 SENATOR SPERAW: I'm certainly very much in  
15 support of this lease.

16 Mr. Chairman, Members, my first experience with  
17 the Long Beach tidelands was some 34 years ago with my  
18 first Junior Chamber of Commerce project in Long Beach.  
19 At that time we recognized the need for hotel facilities,  
20 and at that time we didn't really have the convention  
21 facilities.

22 This body approved the convention, performing  
23 arts and trade show facility some time ago and it is now  
24 in existence in Long Beach. Certainly a hotel at that time,  
25 the need for one was known and that the City did agree at

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1 that time that they would work diligently to bring before  
2 you such a facility. They're here today for that purpose.

3 I might point out that one of the features  
4 of their proposal is some very favorable financing in light  
5 of today's money market. If, for some reason, this  
6 were not approved today, I would say the financial aspect  
7 of it would throw it off, I don't know, just how many years,  
8 until such another favorable financial package could be  
9 put together again.

10 So for the full utilization of the present  
11 center, we need the hotel, and that is the concern both  
12 of the state and my district and of this City that that  
13 facility does have all the supporting facilities that are  
14 required. The attraction I'm certain that this hotel will  
15 provide will bring others into the area and continue to build  
16 the hotel complexes that are needed to support major conven-  
17 tions. I urge your approval.

18 CHAIRPERSON CORY: David.

19 ASSEMBLYMAN ELDER: Mr. Chairman, Members of the  
20 Commission, I would echo the statements of Senator Speraw,  
21 in regards to this particular project.

22 This rounds out and completes the development  
23 of our convention complex in Long Beach. It is something  
24 that has been pursued by the City for many decades.  
25 The 10 years that I worked for the City in the Budget Office

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1 and with the Harbor Department of the City of Long Beach,  
2 this is one of the high priorities of City management and  
3 we are now seeing the culmination of literally what must  
4 be hundreds of years of staff time on this endeavor.

5 It is a unique financing package, but the  
6 financial markets are such that one has to be a little more creative  
7 than has heretofore been required. I think that pledging  
8 the room tax as security has helped us attain this particular  
9 rate of interest which is extremely good in today's money  
10 market.

11 So I just would echo Senator Speraw's remarks  
12 and indicate to you that a substantial vast majority of  
13 my constituents are in support of this particular project  
14 and urge the Commission to move this project along to  
15 its construction phase.

16 CHAIRPERSON CORY: Is there anybody else that  
17 wishes to speak?

18 MR. BROWN: Mr. Chairman, Members, Dennis Brown.

19 I would just like to again echo what Senator  
20 Speraw and Assemblyman Elder have said. I think they've  
21 said it all for the City. I think it's a package that will  
22 benefit everybody. I would just like to add my strong  
23 support for this proposal.

24 Thank you.

25 CHAIRPERSON CORY: Okay. Anybody else in the

1 audience on this item?

2 Questions from Commissioners.

3 MS. MORGAN: I wanted to call attention to the  
4 effect of the grant reversion section of the staff  
5 recommendations. It's on page 29.

6 MR. ACKERMAN: Same page I've got.

7 MS. MORGAN: Particularly paragraph 4 where  
8 the staff recommends that if we make all the findings,  
9 the Commission does this under the express position that in  
10 the event of grant reversion, requirements of the State  
11 to make rental or other payments shall be subject to  
12 annual review and appropriation by the Legislature.

13 I think that's an important point and I want  
14 to make sure that all the parties to this lease are aware  
15 of that. I have had some concerns about the effect of  
16 grant reversion should that occur at any time during this  
17 50 or 75-year lease, and I do not want the State to be  
18 tied up, the taxpayers of the state to be tied up. I think  
19 that this provision that the staff has inserted is a  
20 necessary one.

21 Thank you.

22 CHAIRPERSON CORY: Is that a surprise to anyone?

23 MR. DEVER: Certainly not as the City is  
24 concerned. We concur in the recommendations and the  
25 provisions that are expressly in those.

1 MR. ACKERMAN: Let me ask one question then.

2 I don't really know who I should  
3 direct it to. What if the grant did revert and the  
4 Legislature refused to make an appropriation?

5 EXECUTIVE OFFICER NORTHROP: I think I'd have  
6 to refer that to the Attorney General.

7 MR. TAYLOR: Under the provisions, the Hyatt  
8 could reenter the sublease which had formerly been held by  
9 the City and operate it. They would probably --

10 MR. ACKERMAN: Operated as a sole entity?

11 MR. TAYLOR: Operated as an entity.

12 There may be other damage contentions, but  
13 essentially under the law, it would be our opinion that would  
14 be the limit of their rights. There would be probably a lawsuit.

15 CHAIRPERSON CORY: They could assume to the  
16 City's contractual rights, but in assuming that they  
17 would still be under the trust obligation; is that correct?

18 MR. TAYLOR: Yes. They would be under the  
19 purposes of the lease which is a proper trust purpose.  
20 So the purpose of the lease --

21 CHAIRPERSON CORY: So the State's interest  
22 is protected?

23 MR. TAYLOR: Yes, it is.

24 CHAIRPERSON CORY: If the City couldn't cut it,  
25 Hyatt could become the City?

1 MR. TAYLOR: It would recenter the City's  
2 position in the sublease and operate it per those purposes.

3 CHAIRPERSON CORY: But it would not expand  
4 their rights over and above what the City has. So the  
5 state is still protected in terms of the purposes.

6 MR. TAYLOR: That's correct.

7 MR. ACKERMAN: The State is never under any  
8 obligation to become the operator of the hotel facility?

9 MR. TAYLOR: If the State revoked the grant  
10 and chose to take the property, the hotel property back  
11 as a part of that, it would step into the shoes of the City  
12 in operating the sublease and would also step into the shoes  
13 as a lessor of the master situation. It's a lease, lease  
14 back arrangement. The City leases to Hyatt. Hyatt subleases  
15 back to the City as a public facility. So the State would  
16 be substituted at both the top and the bottom of the  
17 arrangement.

18 MR. ACKERMAN: That would be under the worst  
19 of circumstances, though.

20 MR. TAYLOR: That's correct.

21 CHAIRPERSON CORY: And we still would have the  
22 option of an outside contractor to actually operate the  
23 hotel which is the position the City is in. But if you're  
24 assuming the worst of all possible worlds and Hyatt would  
25 not want to do that, we'd be on the streets trying to find

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1 somebody to operate a hotel I presume or Bill Northrop and  
2 Bob Hight would learn how to make beds.

3 (Laughter.)

4 CHAIRPERSON CORY: Any further questions?  
5 Any questions from anyone in the audience?

6 Ready for a motion.

7 MR. ACKERMAN: So moved.

8 MS. MORGAN: Second.

9 CHAIRPERSON CORY: Moved and seconded that  
10 Item 16 be approved as presented.

11 Without objection, such will be the order.

12 Item 17 is the Capital Improvement Project  
13 which is providing proposed expenditures for the Capital  
14 outlays for the project are authorized 132. Are there  
15 any questions on this item? Anybody in the audience on this  
16 item?

17 Without objection, Item 17 is approved as  
18 presented.

19 I'd like to thank the dignataries very much for  
20 being here.

21 MR. ACKERMAN: I just have one comment. I think  
22 I owe a big debt of gratitude to the staff of the Lands  
23 Commission, the City and Hyatt International for putting  
24 together a very good project and an excellent staff report.

25 CHAIRPERSON CORY: Thank you very much.

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1 MR. DEVER: Mr. Chairman, before we leave,  
2 we'd like to thank the staff and also the Attorney General's  
3 Office for their help on this project.

4 CHAIRPERSON CORY: For a change, huh?

5 (Laughter.)

6 CHAIRPERSON CORY: Thank you very much.

7 MR. ACKERMAN: Write that down.

8 CHAIRPERSON CORY: We're going to deviate from  
9 the agenda.

10 Item 18, the Operational Audit. This is  
11 accepting the report of the outside auditors. The staff  
12 is going to go through that and come back with some  
13 proposed action for us. So at this point we are just to  
14 accept the audit; is that correct?

15 MR. TROUT: Yes, Mr. Chairman. The project  
16 managers for the audit firm Deloitte, Haskins and Sells are  
17 in the audience. The conclusions are found on page 9 of the  
18 Haskins-Sells report which has been furnished to each of the  
19 Commissioners.

20 MS. MORGAN: I want to interrupt for a moment,  
21 please.

22 I'm a little irritated by the process for this  
23 report. I understand that although the staff has had  
24 an opportunity to review the draft report, the final report  
25 was the first chance that the Commissioners had to look at

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1 any of this. I received it yesterday. It may have been  
2 available on Friday. I'm not sure. But I really would  
3 prefer to put aside any discussion of the content of the  
4 report until the Commissioners have had a chance to review  
5 it.

6 I'd like a chance to review it, and I'd like  
7 my auditors to review it too.

8 CHAIRPERSON CORY: Is there any reason why we  
9 have to do anything with it at this point?

10 MR. ACKERMAN: I don't think we were intending  
11 to. At least my intention was, Susanne, as yours, is it's  
12 a pretty complicated report and my direction at least in  
13 discussing with the staff yesterday was to ask the staff  
14 to review the report, review the recommendations, and then  
15 come back with suggested proposals back to the Commission  
16 to implement various recommendations made within the report.  
17 I think that's probably going to take at least 30 to 60  
18 days probably for the staff to complete that function.

19 EXECUTIVE OFFICER NORTHROP: That's where we  
20 were coming from.

21 MS. MORGAN: Okay.

22 EXECUTIVE OFFICER NORTHROP: It's the report  
23 in which the staff -- it's complete and we're laying it  
24 on the desk now to take a look at.

25 CHAIRPERSON CORY: The question I guess is are

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1 you expecting any action from the Commission?

2 MR. TROUT: The only action we expected from  
3 the Commission was the receipt of the report which would  
4 allow us to pay the contractor who has completed the  
5 work that was contracted for.

6 CHAIRPERSON CORY: If we don't publicly accept  
7 this, we don't have to pay for it?

8 (Laughter.)

9 CHAIRPERSON CORY: There's a budget crisis.

10 (Laughter.)

11 CHAIRPERSON CORY: That's the cheapest way out.  
12 We got the first draft. What the heck.

13 (Laughter.)

14 MR. TROUT: Staff would be more comfortable paying  
15 the bill.

16 CHAIRPERSON CORY: Oh, you're going to pay the  
17 bills. Any objection to paying the bill?

18 MS. MORGAN: Did they do the job? How do we  
19 know? Do we pay by the pound?

20 (Laughter.)

21 CHAIRPERSON CORY: I would think that we have  
22 ways of getting Haskins and Sells to conform any deficiencies  
23 that are there. It will take them a little bit of time  
24 to get it through the shop. And so if you have any, in the  
25 next 10 days, or two weeks, discrepancies that you notice in

1 there, let me know and I will not sign my name to the  
2 warrant.

3 MS. MORGAN: That's fine.

4 I would like to know if they're available to  
5 respond to any questions or comments we may have after we've  
6 had a chance to read this.

7 MR. TROUT: There are representatives of  
8 Haskins and Sells here. They were expecting to just quickly  
9 summarize the report today. My understanding is they would  
10 be available later to go over specifics.

11 CHAIRPERSON CORY: Representative of Haskins and  
12 Sells, are you available even though you get paid to explain  
13 what's in this report after we've had a chance to digest it?

14 MR. STEVENS: We would be happy to meet with  
15 you.

16 CHAIRPERSON CORY: Okay.

17 MS. MORGAN: Thank you.

18 CHAIRPERSON CORY: I think that's good enough.  
19 We'll get you paid.

20 MS. MORGAN: I move we accept the report.

21 CHAIRPERSON CORY: The report is accepted with-  
22 out objection.

23 Item 19.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,  
25 Item 19 is a response to legislation of last year, a

1 Mr. Lance Kiley will explain the settlement that was arrived  
2 at with the City of Vallejo and State Lands.

3 MR. KILEY: Mr. Chairman, Members, can you all  
4 see the cartoon here okay?

5 CHAIRPERSON CORY: Okay.

6 MR. KILEY: Chapter 895 of statutes of 1980  
7 contains findings made by the Legislature and directed the  
8 State Lands Commission to carry forth a land exchange with  
9 the City of Vallejo which would result in removing the  
10 trust from those lands generally encompassed within the  
11 area in yellow and the area in blue here and to exchange  
12 the trust from there to land of equal or greater value.  
13 The City of Vallejo some time after the legislation proposed  
14 to exchange the trust over to the Lake Chabot Golf Course,  
15 which is a couple of miles over the top of the hill here  
16 and which is outlined in red on the far side of the picture  
17 here. Staff studied the proposal and has made a finding  
18 of equal or greater value. It has also determined that this  
19 exchange would clear up a multitude of title problems which  
20 exist over this yellow area especially because there were  
21 numerous tideland surveys in this area causing a very complex  
22 situation. We were never too sure what Vallejo had been  
23 granted and what we still owned and what they owned in fee.  
24 In analyzing the thing and making the equal value exchange,  
25 we determined that the entire thing looked like a good deal

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1 and staff, therefore, recommends approval of the exchange in  
2 the form that's been outlined and we've reached agreement  
3 in principle with the city of Vallejo on the terms of the  
4 agreement.

5 CHAIRPERSON CORY: If there's some question as  
6 to property that has not been granted, what portion of the  
7 golf course is the State receiving not as granted lands?

8 MR. KILEY: Mr. Chairman, anything that the  
9 State had in this area outlined in yellow-blue was granted  
10 to the City. In the golf course the State would actually  
11 be acquiring a title of better degree than what it has here  
12 because these areas down here would be subject to some  
13 litigation to clear up title. In the golf course we're  
14 going to be accepting a relatively clear title.  
15 It's not subject to all these conflicting claims through  
16 the tidelands claimants.

17 CHAIRPERSON CORY: Okay. That's the basic  
18 outline of the program.

19 MR. KILEY: That's basically the outline, yes.

20 EXECUTIVE OFFICER NORTHROP: Thank you.

21 CHAIRPERSON CORY: Is there anyone in the audience  
22 on this item?

23 Come forward and identify yourself, please.

24 MR. MacDONELL: Mr. Chairman, my name is Ted  
25 MacDonell, City Manager of the City of Vallejo. I'm here

1 to urge you to adopt the recommendation of staff.

2 For the last year and a half or so we've been  
3 working with your staff very diligently and have arrived  
4 at what we feel is an equitable solution to this problem.  
5 Staff has been very good in coming up with alternates and  
6 suggestions whenever we ran into a roadblock.

7 We are now at a point when we are about to  
8 sell about a 35 to \$50 million bond issue to proceed with  
9 the development of these parcels and in this particular  
10 financial market, as you heard earlier, it's extremely  
11 critical that we be able to move ahead expeditiously.

12 I have with me -- I don't think they're expected  
13 to speak -- but representatives of the developers, Mr. Kimmel  
14 of Kimmel Construction Company, Mr. Graves, who has some  
15 properties, Mr. Hoffman is not with us. We have the Mayor  
16 and the former Vice-Mayor of the City of Vallejo that could  
17 answer any specific questions.

18 I would urge you to adopt the staff's recommenda-  
19 tion and thank you very much for your consideration.

20 CHAIRPERSON CORY: Is there any opposition in  
21 the audience to this item?

22 MR. SHUTE: Yes, Mr. Chairman.

23 CHAIRPERSON CORY: Before we get to you, is  
24 the Mayor here?

25 MR. MacDONELL: Yes, sir.

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1 CHAIRPERSON CORY: Would he come forward, please.

2 MR. MacDONELL: I drove him up. I know he's  
3 here.

4 CHAIRPERSON CORY: It's Mr. Curtola?

5 MR. MacDONELL: Curtola, yes, sir.

6 MS. MORGAN: Maybe I could ask a question.  
7 What sort of bonds are you selling?

8 MR. MacDONELL: We're going to sell mortgage  
9 revenue bonds. We're one of the last agencies in the state  
10 or the United States that has authority to sell mortgage  
11 revenue bonds under the old pre-Ullman Act.

12 Evidentially he's stepped out, Mr. Chairman.

13 CHAIRPERSON CORY: If you want to get approval  
14 of this item, I suggest you find him, because there's  
15 unresolved business between the Mayor and the State Lands.

16 MR. MacDONELL: I think I know what you're  
17 speaking of. I could speak to that point if you'd like.

18 CHAIRPERSON CORY: I would like to hear it  
19 directly from him as to what is at issue or not at issue.

20 MR. MacDONELL: Okay. I'll check it out.

21 CHAIRPERSON CORY: If you want to wait for the  
22 opposition, you've got time. Do you want to make your  
23 statement, sir?

24 MR. SHUTE: Mr. Chairman and Members of the  
25 Commission, my name is Clement Shute and I'm representing

1 the Mare Island Ferry Company and Mr. Victor Raahauge, the  
2 President of the Company.

3 This is a small family business that operates  
4 a ferry across from Vallejo to the Mare Island Shipyard and  
5 has been in business in this family since 1922 and has  
6 operated in some form or other since 1854. The company  
7 uses the parking lot which is within the area that the  
8 trust would be terminated and transferred.

9 The City is currently posted that parking lot  
10 for closure on June 1, and we feel very strongly that's  
11 very likely to put the ferry company out of business because  
12 people that would use the ferry will have no proximity for  
13 parking or vehicles. We think that in this regard the  
14 company has received rather callous treatment from the city  
15 and we're also concerned about the legality of this trust  
16 transfer.

17 The lands involved where the trust would be  
18 terminated abut navigable waters. They abut trust areas  
19 and they certainly, the parking lot and the ferry operation,  
20 are being used in conjunction with trust purposes.

21 The statute that was passed assumes that the  
22 public will receive equal or greater value for trust  
23 purposes elsewhere. What is proposed is a transfer to an  
24 inland golf course which is several miles up this way and,  
25 as far as I can tell, if there's any water around, it must

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1 be in connection with one of the holes on the golf course,  
2 not a navigable waterway of the state.

3 I think the Mansell case which is the primary  
4 case under California law dealing with exchanges of this  
5 nature, the exchanged lands received by the State in that  
6 case the court was careful to point out abutted navigable  
7 waters and were to be used in furtherance of trust programs.  
8 In this case, you might as well approve a trust transfer  
9 to some desert land east of the Sierra Nevada. There's no  
10 relationship with any traditional or actual trust use.  
11 We think the approval of this would be bad policy, bad  
12 precedent. Others might attempt to do the same kind of  
13 thing, or serve the public no benefit in relation to  
14 trust uses and we don't believe it is legal under the  
15 Mansell case. We request that you reject the agreement.

16 CHAIRPERSON CORY: Does your client have some  
17 contractual relationship or right to use the parking lot?

18 MR. SHUTE: It's a very long and complicated  
19 history. Basically there was a major settlement between the  
20 City and the company in 1966 where the company was given the  
21 use of this parking lot. The company's position is that it  
22 has retained interest in that lot, although there's no lease.  
23 But we believe there's an estoppel that was understood at  
24 that time that the lot would be available or approximate  
25 facilities that would serve the same purpose. The City

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1 contends that the company has no interest. That may have  
2 to be resolved in another forum. But the company does  
3 contend that it has rights to that lot.

4 MR. ACKERMAN: Where is the parking lot supposed  
5 to be relocated? Could you point that out on the map?

6 MR. SHUTE: Victor, could you show us where  
7 the lot is? Mr. Raahauge can show you where he's located  
8 and where the lot is.

9 MR. RAAHAUGE: This is our operation here.  
10 The parking lot is directly east of the waterfront road.  
11 You can see the outline. We have not discussed any alternate  
12 parking.

13 MR. SHUTE: The City proposes to close this lot,  
14 and there is no current active proposal under consideration  
15 for proximate parking in the area. If employees that  
16 work in the shipyard don't have proximity to the ferry  
17 operation, they probably won't use it and the company will  
18 probably go out of business. That's our concern.

19 CHAIRPERSON CORY: So the people that park there  
20 pay parking fees?

21 MR. SHUTE: As of this moment, it's been made  
22 available by the City as a free lot for all day parking.  
23 This is a situation also where the Mare Island  
24 Naval Shipyard expects to be building more ships in the  
25 near future under the expanded national defense budget and

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1 it seems rather a shame that this business serving a strong  
2 public purpose would suffer from the closure of this lot  
3 under these circumstances.

4 CHAIRPERSON CORY: Questions?

5 MS. MORGAN: I would assume that this matter  
6 has been discussed with the City.

7 MR. SHUTE: We are having discussions with the  
8 City on all these other grounds, but I think we have a  
9 duty to point out to you that the transfer of the trust  
10 interest to an inland area is we think not lawful.

11 CHAIRPERSON CORY: Would you care to comment on,  
12 as I understand it, there's a specific statute that says  
13 that that has been passed saying that this is not necessary  
14 for --

15 MR. SHUTE: Trust purposes?

16 CHAIRPERSON CORY: Yes.

17 MR. SHUTE: I believe that's correct. But I think  
18 that you are empowered to approve the situation where the  
19 public receives equal or greater value in return. That is  
20 your function. What we're questioning here is the legality  
21 of where the trust interest will be proposed to be transferred.  
22 We recognize that if the City wants to go forward with this  
23 project eventually there has to be some accommodation of the  
24 company's concerns.

25 CHAIRPERSON CORY: The Attorney General, do you

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1 have any comments or recommendations on the trust purpose?

2 MR. TAYLOR: Mr. Chairman, we have not been  
3 involved in the negotiations of this matter. However,  
4 we have been consulted as to our views with regard to it.  
5 Not having thoroughly examined it, I would say, one, that  
6 the Legislature has passed the statute making the finding  
7 that has been required and that it's within the province  
8 of this Commission to act upon that. However, there are  
9 certain unique aspects of this project which, if reviewed  
10 by a court, would come under severe scrutiny.

11 There is a certain amount of deference to the  
12 findings of the Legislature and the administrative bodies  
13 to whom responsibility is delegated. However, in the  
14 case of public trust lands, the courts have scrutinized  
15 that legislative delegation and -- first of all, the finding  
16 of the Legislature and the exercise of that delegated  
17 responsibility very closely, and, in some instances have  
18 not sustained it. I think that this would be a case where  
19 prima facie you have the authority to do it. How it would  
20 withstand the questioning court would make a very interesting  
21 case. Generally you go in with presumptions on your side.  
22 I don't know how thoroughly it would be presented, but that  
23 would be where it would end up.

24 CHAIRPERSON CORY: But is our finding here,  
25 is our question one of equal value or is our question one

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1 of looking to the validity of the statute and/or the  
2 constitutionality of the statute?

3 MR. TAYLOR: I'd have to refresh my recollection  
4 by looking at the statute for a moment.

5 CHAIRPERSON CORY: Take the moment, because I'd  
6 like to know what it is we're supposed to be doing. It just  
7 seems to me, as you're looking at it, if we have found  
8 equal value, that's an arithmetic function. That's relatively  
9 easy to do. If we are limited by the existence of the  
10 statute as to what our options are, then I've got one  
11 set of standards to apply to the transaction. But if you  
12 are --

13 MR. SHUTE: Mr. Chairman, if I might just  
14 interject, I don't want to get into a cross debate with  
15 counsel here. I think that there's an underlying assumption  
16 that what you do would be on a legal premise, and we're  
17 questioning the legality as a matter of trust law of  
18 transferring a trust interest to this inland location.

19 CHAIRPERSON CORY: This is a complicated thing  
20 because of a recent constitutional amendment saying that  
21 a state agency cannot question the constitutionality of  
22 a legislative act. I don't know where we are. That's why  
23 I'm making the point.

24 MR. TAYLOR: Essentially the answer to your  
25 question is that the Legislature has made the findings with

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1 regard to the property and those questions would have to be,  
2 if litigation were to be, if there were litigation, would be  
3 reviewed by the court in the normal manner that they review  
4 those kind of findings with some greater degree of  
5 scrutiny since public trust lands are involved. The finding  
6 for this Commission is the equal or greater value question.

7 MS. MORGAN: Well, what's the basis for making  
8 that finding? What criteria do you use? It sounds to me  
9 like the counsel is implying that we should just move up  
10 the river a little ways to find property. That that's the  
11 only thing that's acceptable. Why is it acceptable in  
12 your eyes to go inland?

13 MR. KILEY: It's acceptable in that the law  
14 is not explicitly clear on the subject. Marks vs. Whitney  
15 came out sometime after Mansell and delineated recreational  
16 use as a trust use specifically. Furthermore, the golf course  
17 use was a specified trust use in the 1963 amendment to the  
18 grant statute here. So to us, as staff, where specifically  
19 the golf course was situated didn't seem to make that  
20 material difference if golf courses are in fact encompassed  
21 within the trust use, and as recreation under Marks vs.  
22 Whitney they seemed to be.

23 MS. MORGAN: Have we made exchanges previously?

24 MR. TAYLOR: Yes.

25 MS. MORGAN: Have we exchanged for what we

1 considered to be equal value shoreline for inland property?

2 MR. TAYLOR: No, we have not.

3 MR. SAUTE: Again, Mr. Chairman, if you'll  
4 entertain a brief remark. I was co-counsel with Mr. Taylor,  
5 as he'll verify, in Marks vs. Whitney representing the  
6 State, and I think it's the farthest thing from the court's  
7 mind in elaborating on trust uses in contemporary times  
8 that that would extend to golf courses inland. It had  
9 nothing to do with any of the issues in the case.

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, may  
11 I remind you --

12 CHAIRPERSON CORY: I was thinking that if there's  
13 one court case rattling around somewhere on religious  
14 freedom for people who worship while playing golf, if that  
15 prevails, we may have a separation of church and state  
16 problem.

17 (Laughter.)

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, may  
19 I remind the Attorney General of the settlement in Seal Beach  
20 in which we did take a parcel away from the water.

21 CHAIRPERSON CORY: What, the airport?

22 EXECUTIVE OFFICER NORTHROP: Airport Club.

23 MR. TAYLOR: That's true, there is that.

24 CHAIRPERSON CORY: We got a poker palace out of  
25 that one.

1 MS. MORGAN: My impression was that we really  
2 did not distinguish between shoreline or inland property.

3 MR. TAYLOR: I think that generally it has been  
4 tried to get the property as close to the water as possible.  
5 What's happened in this transaction is that in order to make  
6 to make the equal or greater value, it was necessary to go  
7 to this parcel of property. Generally exchange parcels have  
8 been on the water or adjacent to it. I think the Airport  
9 Club one is within the proximity of Alameda's Bay. It  
10 is not immediately abutting the water. It is some distance.  
11 It's a little ways inland, maybe a quarter of a mile inland.  
12 It is adjacent to the San Gabriel River and a fishing loca-  
13 tion. There is a fishing --

14 CHAIRPERSON CORY: San Gabriel River, come on.  
15 I grew up there.

16 (Laughter.)

17 MR. TAYLOR: The San Gabriel River at this point  
18 has been dredged for circulation to the Haynes Steam Plant  
19 and there are fish running there and the Wildlife Conservation  
20 Board has made an appropriation for trash can and public  
21 parking and people do fish from adjacent from this parcel  
22 of property for fish and they catch them, believe it or not.

23 CHAIRPERSON CORY: Okay.

24 MR. LAMOREE: Excuse me, Mr. Chairman, if I might.  
25 I'm Charles Lamoree, the assistant to the attorney from

1 Vallejo, and I'd like to put in just a couple of cents  
2 with respect to the legalities of this.

3 CHAIRPERSON CORY: Sure.

4 MR. LAMOREE: I don't think this is the appro-  
5 priate forum, however, for the legal issues, necessarily,  
6 but I would simply point out two things.

7 First, the issue I believe with respect to the  
8 parking lot and the litigation that will occur I'm certain  
9 between the City of Vallejo and Mr. Raahauge I do not believe  
10 to be germane to the issue before the Commission here today.  
11 The second thing is that the Legislature has provided for  
12 lands of equal or greater value without distinction with  
13 respect to trust lands or tidelands of equal or greater  
14 value. So I think that it is appropriate in this case that  
15 a parcel of land, although it not be adjacent to a navigable  
16 stream, but it is adjacent to a recreational lake where  
17 fishing is viable, is appropriate in this particular  
18 circumstance.

19 CHAIRPERSON CORY: Is it permitted?

20 MR. LAMOREE: Yes, it is permitted.

21 Finally, I think one thing was alluded to by your  
22 staff -- and I felt the staff did a good job on this -- is  
23 the fact that in addition to the findings with respect to this  
24 transaction by the Legislature, is the fact that the confusion  
25 of titles in this particular area, as well as the boundaries

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1 which are also in confusion, will be solved by this particular  
2 transfer and I believe it is appropriate. But I just felt  
3 that the Commission should make this distinction that  
4 Mr. Raahauge's issue I do not believe is at all related to  
5 this matter. Thank you.

6 CHAIRPERSON CORY: Would you like to comment  
7 on the specific question that seems to be raised that  
8 Mr. Raahauge is engaged in water-borne commerce navigation?

9 MR. LAMOREE: No question about it.

10 CHAIRPERSON CORY: And that the parking lot is  
11 used to facilitate that. Is there any question as to that  
12 ~~back~~ the case?

13 MR. LAMOREE: Well, I think the people that use  
14 his ferry certainly park there. But the original, at least  
15 from our view -- and, again, we're going to be getting into  
16 the merits of the case that ultimately will be decided.

17 CHAIRPERSON CORY: I don't mean the merits of  
18 that. My problem is what appears to be a legislative  
19 statute that says black is white, that it is no longer  
20 necessary for that trust purpose. That's the dilemma that  
21 I have in my mind.

22 MR. LAMOREE: But I think the only way to resolve  
23 that is to understand the history of the fact that the park-  
24 ing lot that they're talking about was an interim parking  
25 lot. Originally where the parking lot exists there's

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1 supposed to be a state freeway and that the original paying  
2 of it, and, as far as we're concerned, there is no right  
3 that Mr. Raahauge has with respect to it. It was to be for  
4 a short period of time. There never was to be a question  
5 that it was to be an ancillary use to the navigable process  
6 that Mr. Raahauge engages in.

7 So I think that what he's doing, my own view --  
8 again, this is getting, I think, far afield -- is to boot-  
9 strap his own claim for condemnation of the property  
10 we've already condemned and acquired 15 years ago by  
11 attempting to interject in this particular process. I think  
12 that they are distinct.

13 I simply leave my comments at that.

14 CHAIRPERSON CORY: Questions from the Commissioners?

15 MS. MORGAN: Well, the condemnation previously  
16 was for a freeway?

17 MR. LAMOREE: The condemnation was an entire  
18 redevelopment project which would include a freeway,  
19 commerce, or, excuse me, commercial structures. The City  
20 Hall which has been built, the library and so forth. This  
21 entire area formerly known as Lord Georgia Street which had  
22 a variety of reputations, depending on who you talked to,  
23 was completely redeveloped. Part and parcel of that was to  
24 be the freeway. Then Caltrans decided they would not build  
25 the freeway. An amendment of the Redevelopment Plan went

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1 through which provided for residential and at no time was  
2 there ever a determination made that the parking lot that  
3 Mr. Raahague claims as his own was to ever be there as a  
4 permit matter, but simply interim use pending first the  
5 development of the freeway and now the commercial and  
6 residential development.

7 MR. ACKERMAN: One question. When we first  
8 were debating the land exchange, didn't we originally take  
9 a look at some bay front property and we could not make the  
10 determination of equal or greater value, so we had to look  
11 elsewhere?

12 MR. KILEY: Yes, we did. We considered a parcel  
13 on the north side of Marc Island that was across the straits  
14 from the parcel here in question and determined that there was  
15 no way that an equal or greater value could be met. As a  
16 matter of fact, I think we considered a couple of parcels  
17 over there.

18 MR. ACKERMAN: My knowledge was that if those  
19 parcels weren't able to be exchanged, that really there were  
20 no other suitable waterfront parcels that could meet that  
21 test.

22 MR. KILEY: That was Vallejo's contention.

23 CHAIRPERSON CORY: That transaction wouldn't  
24 solve the opposing gentleman's problem anyway.

25 MR. LAMOREE: No.

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1 CHAIRPERSON CORY: If we swap for something on  
2 the other side of Mare Island, unless somebody wanted to take  
3 a ferry from one point on Mare Island to another point, that  
4 wouldn't do your client much good.

5 MR. SHUTE: Except in the sense of time, your  
6 Honor. I think we need some time to work this out with the  
7 City and that parking lot doesn't have to be closed if this  
8 is an illegal opinion.

9 MR. LAMOREE: I think the other thing is, assum-  
10 ing there was no change at all still wouldn't change his  
11 problem since there are a tremendous variety of uses that  
12 can be utilized in this particular area. You can put up  
13 an asphalt plant. You can put up commercial development.  
14 It all could be built over the parking lot. So I don't see  
15 that as being germane.

16 CHAIRPERSON CORY: Depending upon whether or not  
17 it's encumbered with the trust.

18 MR. LAMOREE: Well, the trust provisions with  
19 respect to these parcels down here encompass a wide variety  
20 of possible uses. We would think residential would be  
21 included, but there are others that think they're not. But  
22 certainly there are a variety of commercial utilizations  
23 which could be utilized which could be placed on the parking  
24 lot.

25 CHAIRPERSON CORY: I just wanted to clean that

1 up so there's not, sometime in the future, somebody thought  
2 I was acquiescing in that decision, I understand where you're  
3 coming from.

4 Okay. Is the Mayor back?

5 Mayor Curtola?

6 MAYOR CURTOLA: Yes. I'm Terry Curtola, Mayor  
7 of the City of Vallejo.

8 CHAIRPERSON CORY: I've read with interest  
9 some of your activities in the newspaper, and I'd like an  
10 explanation --

11 MAYOR CURTOLA: All right, Mr. Cory.

12 CHAIRPERSON CORY: -- on your attitude towards  
13 State Lands.

14 MAYOR CURTOLA: All right, sir.

15 I found out about that yesterday. I do know when  
16 it was in the paper after we came back from a meeting  
17 with your staff and you're talking, if I understand correctly  
18 your concern is --

19 CHAIRPERSON CORY: The Vallejo Independent Press,  
20 Friday, March 20th, '81, fourth column, "I don't know if  
21 you've ever dealt with the State Lands. I'd rather deal with my  
22 5-year-old child."

23 MAYOR CURTOLA: Yes. Let me just go back, and  
24 the quote is very accurate. There was a little bit more.  
25 The meeting did go on at our Council meeting for about

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1 45 minutes before that. The discussion was brought up by  
2 one of our Council members. This was after we had met with  
3 your staff and come back and had been working on the lease  
4 change with the Vallejo Golf Club Board of Directors. Then  
5 our Council was acting on amending the lease agreement with  
6 them so they would succeed to the trust if it was placed  
7 on their golf club.

8 At that time, this one Council member had said  
9 she did not feel that the trust belonged that far away from  
10 the water and I said that isn't what we are discussing and  
11 I said, "Our problem has been on land value." She said,  
12 "Well, I understand that the State Lands does not agree to  
13 that." I said, "We spent three hours with the staff the  
14 day before," if I'm not mistaken, having our big discussion  
15 was on trying to explain what is land of equal or greater  
16 value and was it the City's interest in the property or was  
17 it the value of the property. And I said exactly that it  
18 was easier to explain our position to my 5-year-old son than  
19 it was to State Lands. I think about three or four days  
20 later I talked to your staff when they had called and we  
21 still had a difference. It was, and I think between the City  
22 of Vallejo staff and myself and the Vice-Mayor that were up  
23 at that meeting and your staff. It was deep discussion on  
24 how the value of the land was going to be determined. Was it  
25 out interest in it because of the lease we had or was it the

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1 value of the property? To this day, and I've said this even  
2 to your staff on the phone, that I think my 5-year-old son  
3 did understand it from the way I was presenting it to him.

4 CHAIRPERSON CORY: Take your time and tell me  
5 what your position is on this and the difficulty you're  
6 having with our staff.

7 MAYOR CURTOLA: You have to go back, Mr. Cory.  
8 This goes back to our first meeting, the first time I had  
9 met with your staff. The question at that time, which, if  
10 I'm not mistaken, has been resolved, was when we looked at  
11 the part of the bill that says land of equal or greater value  
12 and they were subtracting the years of the lease we had with  
13 the Vallejo Golf Club's. My argument was that the land is  
14 worth "X" amount of dollars regardless of the lease, whatever  
15 the land is worth. Now, we still have a difference, or we did  
16 have a difference of opinion.

17 CHAIRPERSON CORY: If you were buying land and  
18 somebody had a 99-year lease on it, you would pay as much  
19 for that land as you would pay for land without the lease?

20 MAYOR CURTOLA: Excuse me, sir. What I was saying  
21 was, I'm in business at home. If my property is worth  
22 a million dollars and you would like to buy it, and if the  
23 Bank of America, which is using a true fact, owns \$700,000  
24 of my business from a loan or lease per se, you are still  
25 going to pay me the million dollars and I'm going to have to

1 give the Bank of America \$700,000. So I am saying that the  
2 value of my land was a million dollars. I am not an attorney.  
3 I'm not in real estate. Everyone I talked to, I would say, as I  
4 said to your staff after, and I probably spoke to eight different  
5 real estate people and seven of them agreed with me and one  
6 of them agreed with your staff. So there is that question.

7 CHAIRPERSON CORY: But the issue is that there's  
8 a lease on this property that's being acquired and it's a  
9 question of whether or not the value of that lease is  
10 deducted. When the transaction is completed, are you paying  
11 off the lease so that the lease is no longer there and you've  
12 bought him out in your analogy of the bank that you're  
13 paying off the bank if I buy your property for a million?

14 MAYOR CURTOLA: No. We have the value -- using  
15 the same analogy -- the value of the land is, let's say,  
16 a million and a half dollars on the golf course. If the  
17 value of the land that they're talking about on the trust,  
18 that 40 acres is a million and a half dollars on the figures --  
19 you have them there in front of you -- and if the Senate bill  
20 states that you can exchange the trust for lands of equal  
21 or greater value, then in my simple mind you could take a  
22 trust for a million and a half dollars worth of land here and  
23 put it on a piece of property over here that's worth a million  
24 and a half dollars. Not whose interest is in it. The City  
25 owns that land.

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1 CHAIRPERSON CORY: But if you leased it to  
2 someone else and they have the right, you don't have clear  
3 title to a million and a half. You can't take a million  
4 dollars back to your business and pocket the full million  
5 and have the new owner pay off Bank of America \$700,000 in  
6 addition.

7 MAYOR CURTOLA: Well, as part of our discussion,  
8 the possibility was that we could go drop the lease for the  
9 Vallejo Golf Club and then put the trust on it.

10 CHAIRPERSON CORY: I'm just trying to understand.

11 MAYOR CURTOLA: Maybe that's why, Mr. Cory, I've  
12 said to your staff --

13 CHAIRPERSON CORY: That your 5-year-old son  
14 understands all this.

15 MAYOR CURTOLA: He understood that. Maybe it  
16 was the way I explained it. That was right after --

17 CHAIRPERSON CORY: I'm not sure he's perceiving  
18 property rights if he's accepting your analogy, but go ahead.

19 MAYOR CURTOLA: Maybe I don't either, Mr. Cory.  
20 But I'm just saying that was my statement at that time.  
21 A few days later your staff had called me and we went over  
22 everything, and as I heard our City attorneys state, your  
23 staff has been excellent working with that. At that time when  
24 I had one Council member discussing that they didn't under-  
25 stand this, that was my statement. Maybe it's out of

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1 frustration, but my 5-year-old son I think would have under-  
2 stood it, but maybe I made him understand the way I perceived  
3 it.

4 CHAIRPERSON CORY: One of the things that I keep  
5 track of is I am concerned about overreaching of government  
6 and what bothers me, and I dealt with that one, is do you  
7 recall ever meeting a George Gianulis? I may be mispronounc-  
8 ing it, G-i-a-n-u-l-i-s.

9 MAYOR CURTOLA: I know who he is, Mr. Cory.

10 CHAIRPERSON CORY: Were you involved in some  
11 other difugalty of White Slough and the Lands Commission?  
12

13 MAYOR CURTOLA: No, sir. The first time I met  
14 on that was about three weeks ago with all the properties  
15 out there. If you're referring to when Senator Nielson had  
16 a meeting in the City Council Chamber and he had all the  
17 property owners of the White Slough area and all the State  
18 agencies and Federal agencies involved there. He asked me  
19 to attend the meeting.

20 CHAIRPERSON CORY: What I'm troubled about --

21 MAYOR CURTOLA: Mr. Cory, I know what you're  
22 saying, and let me be real honest with you. Yes, I've been  
23 an elected official now for 13 years and I've served on  
24 some State agencies, the NTC, et cetera, I guess from my end  
25 and maybe I have a bad habit, I work within the system.  
Sometimes I do get extremely frustrated I think as you or any

1 elected official does. Now you're referring to a statement  
 2 that I think was made, quote, by the newspaper that I said  
 3 about State Lands. I don't think I did. I think the actual  
 4 quote was towards BCDC. The answer was when all these people  
 5 were screaming at Senator Nielson and Assemblyman Sebastiani  
 6 and myself about why aren't we doing anything, I said that  
 7 sometimes the elected officials cannot make the decision that  
 8 a lot of agencies do. I think that's very true. As I told  
 9 your staff, and we've had good relations with BCDC. I don't  
 10 feel that I'm obligated not to criticize. I do, I get very  
 11 frustrated at times because my job has been -- I served 8  
 12 years on the City Council and retired from it figuring I had  
 13 done my civic duty and I still believe my City wasn't  
 14 moving in the direction it should be, and ran again. I guess  
 15 I get impatient. I would like things to happen for the  
 16 betterment of my City. When you run into roadblocks, and  
 17 you think you've done everything you can to resolve them and  
 18 you still have another roadblock, I get very frustrated.  
 19 I did that with my own LAFCO Board yesterday morning. Same  
 20 type of statement. I serve on that one, so I am criticizing  
 21 myself.

22 CHAIRPERSON CORY: What concerns me is trying to  
 23 make sure you understand your obligation as a public  
 24 official vis-a-vis the public trust on those properties.

25 MAYOR CURTOLA: Yes, I do.

1 CHAIRPERSON CORY: And I want to make sure that  
2 you clearly understand that I am required to do things I  
3 don't agree with as a member of this Board. They pay me  
4 forty-two five a year. I took an oath and I got to do the  
5 job. Some if you like and some of it you don't. But the  
6 Courts have clearly laid out, somewhat clearly laid out in  
7 some court cases some limits as to what we can and can't  
8 do. Frustrations are something we all suffer. But one of  
9 the things that bothers me if the staff has done some things  
10 incorrectly, I get on them and that's what the system is  
11 all about and that's fine.

12 What I am concerned about in the particular case  
13 that really sort of bothers me why it stuck, and it was not  
14 your name, was the fact that an employee of BCDC was involved  
15 in, in essence, a physical altercation with a land owner  
16 which I think is beyond working within the system.

17 MAYOR CURTOLA: Mr. Cory, in fact I refused to  
18 meet with that man up until a week ago on behalf of the  
19 other property owners.

20 CHAIRPERSON CORY: Those kinds of things I think  
21 we have to make the record clear and you have to clearly  
22 understand that the court says that there are limitations  
23 on what we can do. That there are public trusts and  
24 we must obey the public trust.

25 I think we've got a serious constitutional

1 question that is likely to be litigated in this particular  
2 transaction. You know, the Legislature cannot do everything  
3 it wants. I was in the Legislature. There are limitations.  
4 Some of those limitations I don't like. I happen to have  
5 lost property that I thought I had paid for. I know I had  
6 paid for. I thought I owned, that I didn't own to this  
7 band of people enforcing the law. It disturbs me. But I  
8 have to ask you the tough questions when I see statements  
9 like this in the paper and we're, in essence, entering  
10 into a trade with you as Mayor and the City representative.  
11 If you don't understand that obligation, then maybe we  
12 shouldn't make the trade until you do understand. If you  
13 understand that obligation, I think we can go ahead and  
14 proceed with the understanding that I want the record clear.  
15 I think there's probably equal value in the value from what  
16 the staff has said in the report. We can make that trade.  
17 Whether or not that's commensurate with the public trust,  
18 I don't know. Somebody else should make that determination.  
19 I don't think this is the proper forum. I think that's what  
20 the Attorney General advised me. But I do not want to allow,  
21 because there was a couple of things in the newspapers that  
22 bothered me that we didn't have a chance to clear up that  
23 dialogue. I understand your position and hopefully you  
24 understand mine.

25 MAYOR CURTOLA: I do, Mr. Cory. I feel, at least

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1 I feel -- maybe it's my Italian blood, I don't know. I'm  
2 very careful of what I say, because I believe in the trust  
3 that I have from the constituents. I may answer, I did not  
4 say, and I think your staff knows that, I did not say that  
5 they were doing anything wrong. I fully agree with what  
6 law they have to work under. My 5-year-old son's statement  
7 that I said was trying to explain how to figure land value.  
8 As I'm saying that to you, I can see people around, some  
9 shaking their head yes, some shaking no.

10 CHAIRPERSON CORY: My problem is if you have a  
11 real complaint with the staff, you've got a right to state  
12 your views and you should. But I think all of us in public  
13 life have to be careful when we send these guys out of here,  
14 and they aren't paid all that well, the State employees.  
15 When I see a BCDC employee or a State Lands Commission employee  
16 taking a lot of abuse, I have to defend them. I kick them  
17 when I think they're wrong. I just wanted to get that  
18 clarified that we were dealing with people that understood  
19 what the trust was, that we got a tough job to do. Sometimes  
20 I disagree with what the courts have told me I got to do,  
21 but I've got to do it.

22 MAYOR CURTOLA: The Mr. Gianulis thing, a hundred  
23 percent. If you see a picture in the paper of Mr. Gianulis  
24 and I and Senator Nielson, it was Senator Nielson and I that  
25 the photographer was taking. The other gentleman walked up.

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1 CHAIRPERSON CORY: I understand those problems.  
2 Any further questions from Commissioners?

3 Okay. Thank you.

4 Sorry, but it was necessary to clarify that.

5 MAYOR CURTOLA: I understood.

6 CHAIRPERSON CORY: Anybody else in the audience on  
7 this item?

8 MS. MORGAN: Well, it sounds like it's an order  
9 that's consistent with the legislation and should be approved  
10 at this point.

11 CHAIRPERSON CORY: It seems to me that the equal  
12 value is there.

13 MR. ACKERMAN: No question about that.

14 CHAIRPERSON CORY: But I don't want to find any  
15 more than that. I think if we do that, then whatever issues  
16 people can resolve in whatever forum as long as the record  
17 is clear here that we are finding it of equal financial value  
18 and the two properties to be exchanged can go ahead.

19 Without objection, such will be the order.

20 Item 19 is suspended with.

21 Item 20, City of Redondo Beach, conditional  
22 approval to spend trust revenues for building a parking lot.  
23 Is there anybody in the audience on this item?

24 MS. MORGAN: I have a question. Will this parking  
25 facility include bicycle parking?

1 EXECUTIVE OFFICER NORTHROP: We don't know the  
2 design.

3 CHAIRPERSON CORY: Anybody here from the City of  
4 Redondo?

5 MR. PARSONS: Chairman Cory, Members of the  
6 Commission, Richard Parsons, Harbor Director for the City  
7 of Redondo Beach.

8 I'm sorry, I didn't hear the question.

9 CHAIRPERSON CORY: Does the facility that you're  
10 providing have parking for bicycles.

11 MR. PARSONS: There's a plaza level that we're  
12 talking about on the top of it. It's just that, a plaza.  
13 The bike path, the Santa Monica Bay bike path goes right  
14 across the top of it. So there would be bike racks on that  
15 upper level.

16 MS. MORGAN: That's fine.

17 CHAIRPERSON CORY: Any questions from  
18 Commissioners?

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

21 Item 21, consideration of five-year Utilization  
22 Report for Granted Lands. They've done some nice things.

23 EXECUTIVE OFFICER NORTHROP: They've done some  
24 nice things.

25 CHAIRPERSON CORY: City of San Mateo. Is there

1 anybody here in the audience on this item?

2 Without objection --

3 MS. MORGAN: That's fine.

4 CHAIRPERSON CORY: -- Item 21 is taken care of.

5 Item 22, authorization for Execution of

6 Memorandum --

7 EXECUTIVE OFFICER NORTHROP: Off calendar.

8 CHAIRPERSON CORY: Off calendar. Whoops, pardon

9 me.

10 Item 23, BLM, we're giving them a road in Lassen  
11 County for \$13,050. Is there anybody in the audience on this  
12 item? Questions from Commissioners?

13 Without objection, Item 23 is approved as  
14 presented.

15 Item 24, Novato Center, Incorporated. This is  
16 extending a time limit to extract 500,000 cubic yards of fill  
17 material at 15 cents and requiring construction of a salt  
18 marsh restoration facility on a 200-acre parcel.

19 Anybody in the audience on this item? Questions  
20 from the Commissioners?

21 Without objection, Item 24 is approved as  
22 presented.

23 Item 25, authorize the granting of the deferment  
24 of drilling requirements on State Oil and Gas lease in Belmont  
25 Offshore Field, Orange County.

1 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there  
2 have been several wells drilled on this location. The  
3 lessee would like some time for work over program and  
4 a production testing program before they proceed with the  
5 development program and the staff feels that this kind of a  
6 development delay probably is in order so they can best  
7 utilize the field.

8 CHAIRPERSON CORY: You're becoming incredibly  
9 bureaucratic.

10 EXECUTIVE OFFICER NORTHROP: I know.

11 CHAIRPERSON CORY: This is the one they ain't  
12 got no oil coming out, but not enough.

13 EXECUTIVE OFFICER NORTHROP: They got some oil,  
14 but not enough, and they want to reevaluate the program.

15 CHAIRPERSON CORY: The length of time that we're  
16 putting this off is?

17 EXECUTIVE OFFICER NORTHROP: One year,  
18 Mr. Chairman.

19 CHAIRPERSON CORY: Does it take a year to do that  
20 evaluation?

21 EXECUTIVE OFFICER NORTHROP: We are going to  
22 review it quarterly in the next year as to the progress of  
23 what they've done.

24 CHAIRPERSON CORY: And if we aren't making  
25 progress?

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1 EXECUTIVE OFFICER NORTHROP: If we're not  
2 satisfied, we'll come back to the Commission and we'll say  
3 they're not doing diligently developing the lease.

4 CHAIRPERSON CORY: And we have the option of  
5 terminating if there's lack of diligence?

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

8 CHAIRPERSON CORY: Okay. The lawyers are  
9 comfortable with that?

10 MR. HIGHT: Yes, Mr. Chairman.

11 CHAIRPERSON CORY: You know what you're nodding  
12 to, Greg?

13 MR. TAYLOR: (Shaking head.)

14 MS. MORGAN: Boy will you be surprised.

15 CHAIRPERSON CORY: You just agreed to outside  
16 counsel.

17 (Laughter.)

18 CHAIRPERSON CORY: In the Exxon deferral, they're  
19 talking about quarterly reviews on diligence. If we uni-  
20 laterally decide they have not been diligent, we have that  
21 option of terminating?

22 MR. TAYLOR: They're agreeing to it and this was  
23 worked out and Hager did pass on it. My nodding was  
24 it was an oil item that was reviewed by our office and  
25 we're satisfied. Although I couldn't address specifically

1 what you were asking about. We have no problems with the  
2 oil items on the calendar.

3 CHAIRPERSON CORY: That is nonresponsive,  
4 Mr. Taylor. The question is --

5 (Laughter.)

6 MS. MORGAN: Do we pay these guys?

7 (Laughter.)

8 CHAIRPERSON CORY: The question is if at the end  
9 of three months, Exxon still wants to have a year to make  
10 a decision and we think they haven't fulfilled an obligation  
11 of diligence in that three months period of time, can we  
12 pull the plug or are we just buying a lawsuit to pull the plug at that point?

13 MR. TAYLOR: No. I think that they're agreeing  
14 to it as a condition of the relinquishment of this --

15 MR. TROUT: Mr. Chairman, on page 156 the  
16 recommendation is the Commission reserves the right to  
17 terminate this deferment of drilling requirements upon 60 days' written notice.

18 MR. TAYLOR: That's part of the deal with them.  
19 So there's mutuality on that.

20 CHAIRPERSON CORY: Any further questions on 25?  
21 Anybody in the audience on 25?

22 Without objection, Item 25 approved as presented.

23 Item 26, approval to hold a public hearing to  
24 consider plans for subsidence and pollution control for  
25 proposed lease on Joice Island, gas --

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1 EXECUTIVE OFFICER NORTHROP: That's correct.

2 CHAIRPERSON CORY: Anybody in the audience  
3 on this item? Questions from Commissioners?

4 Without objection, Item 26 approved as presented.

5 Item 27, award of oil and gas lease for the  
6 Gray Lodge to Seaward Resources, Inc., the high bidder.  
7 31.25 percent of net profit.

8 Is there anybody in the audience on this item?  
9 Questions from Commissioners?

10 Without objection, Item 27 is approved as  
11 presented.

12 Item 28, granting the Executive Officer to issue  
13 a request for proposals to award a contract for the EIR on  
14 platforms or development in Point Conception.

15 EXECUTIVE OFFICER NORTHROP: Refugio, Conception  
16 and Cuarta Offshore.

17 CHAIRPERSON CORY: Questions from anybody in the  
18 audience? Questions from Commissioners?

19 Without objection, --

20 MR. ACKERMAN: Does this go through the public  
21 hearing process?

22 EXECUTIVE OFFICER NORTHROP: Yes, it will.

23 CHAIRPERSON CORY: Item 28, approved as  
24 presented.

25 Item 29, approval for the Executive Officer and

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1 this is in the Elwood area for an EIR.

2 Anybody in the audience on this? Questions from  
3 Commissioners?

4 Without objection, item approved as presented.

5 Item 30, Home Improvement Association. This is  
6 a prospecting permit for gold and silver in Riverside County.

7 Anybody in the audience on this item?

8 Questions from Commissioners?

9 If the prospecting is positive, we are required  
10 to grant the lease. The revenues from the lease are already  
11 prescribed by statute.

12 EXECUTIVE OFFICER NORTHROP: I believe that's  
13 correct. We get 10 percent of the revenue.

14 CHAIRPERSON CORY: Gross?

15 EXECUTIVE OFFICER NORTHROP: Yes.

16 CHAIRPERSON CORY: Without objection, Item 30  
17 is approved as presented.

18 Item 31, Western Pacific Construction Materials  
19 Company.

20 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, on  
21 Item 31 there were three bidders and we are awarding it  
22 to the low bidder. Mr. Trout would like to give the rationale  
23 on that.

24 CHAIRPERSON CORY: Let's start with the explana-  
25 tion of why under Western Pacific Construction Materials (high

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1 bidder).

2 MR. TROUT: You understood incompetence you  
3 said last month. I can't answer that.

4 Western Pacific is the one that we're recommending  
5 that the award be to. The State went out for bids on this and  
6 we received three bids. The high bidder was Tidewater,  
7 Sand and Gravel. After the opening of the bid, Tidewater  
8 withdrew their bid stating, the only reason they gave was  
9 it was a corporate management decision. The second highest  
10 bidder was Olin Jones Sand and Gravel. Olin Jones already  
11 has two leases with the State Lands Commission and it is the  
12 opinion of the staff that Olin Jones is pretty much at  
13 the limit of their financial capacity. Therefore, we do not  
14 feel that we can recommend them to the Commission as a  
15 qualified bidder which leaves us with the third bid,  
16 Western Pacific Construction.

17 CHAIRPERSON CORY: And the stockholder is your  
18 wife or what?

19 (Laughter.)

20 MR. TROUT: Don't I wish, I'm one of those guys  
21 that only fills out the one little block. I don't have any  
22 other forms to fill out on conflict of interest.

23 CHAIRPERSON CORY: That was a facetious comment,  
24 but we're down to the last bidder.

25 MR. TROUT: We're down to the last bidder.

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1 CHAIRPERSON CORY: What was the difference between  
2 the high, the middle and the low?

3 MR. TROUT: Perhaps Mr. Everitts would come up.  
4 My understanding is that the high bidder was a bid factor  
5 of two which is 20 percent. It's a factor times 10 percent.  
6 So that it would be 20 percent of gross oil lease and that  
7 the middle was about 1.4 or 14 percent than the lower  
8 bidder, but the one who remains, at 1.05 or 10.5 percent.

9 We would make once change in the calendar item.  
10 We would like to withdraw recommendation four without  
11 prejudice. Recommendation four is a recommendation that the  
12 earl at money deposit of the high bidder not be returned.  
13 Their agent has requested opportunity to discuss that option  
14 with the staff. We propose to bring it back to the Commission  
15 for consideration on April 29th.

16 CHAIRPERSON CORY: Fine kettle of fish you've  
17 gotten us into, Ollie.

18 MR. TROUT: A representative from the high  
19 bidder is here, Mr. Hortig, who made the request. The staff  
20 feels the request is reasonable. That we should have this  
21 opportunity to --

22 CHAIRPERSON CORY: I think that's probably fine  
23 on that issue, although I think I would be hard pressed to  
24 find if somebody who enters into a bid, why they don't  
25 conclude it, particularly when we're talking about three

1 bidders and the people withdrawing. It seems to me its  
2 an open invitation to start sandbagging bids and putting  
3 in three or four phonies and pulling down till you've  
4 got one under you.

5 MR. TROUT: Staff doesn't recommend that you  
6 decide to return the money. We just ask that you withhold  
7 the finding.

8 CHAIRPERSON CORY: --his equity arguments as best  
9 you can, that's fine to give the time for that. But I'm  
10 really troubled about having lost the high bidder and not  
11 going ahead with the second bidder and that we've got two  
12 leases with this bidder already. Is the second bidder here  
13 represented?

14 EXECUTIVE OFFICER NORTHROP: Is anyone here  
15 from --

16 MR. TROUT: Not that I'm aware of.

17 CHAIRPERSON CORY: With all due respect to the  
18 staff, who are you to determine that this guy in his  
19 business wisdom is willing to run the risk and says he can  
20 pay 14 percent, I mean, what evidence do you have that he  
21 isn't able to pay the 14 percent and we ought to throw him  
22 out?

23 MR. TROUT: I would have to defer to our auditors  
24 who made the analysis along with Don Everitts' staff. I  
25 don't know whether there's a representative here.

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1 CHAIRPERSON CORY: Is he behind on his other  
2 payments?

3 MR. EVERITTS: The basic analysis was that they  
4 did give us their books to look at and their liabilities  
5 far exceeded their assets and their potential income for  
6 the year wasn't sufficient to pay off their liabilities  
7 based on the mining plan they gave us. So it was a general  
8 conclusion that they didn't have enough money to make it  
9 on our project.

10 CHAIRPERSON CORY: What about the other two  
11 leases we have. I mean, it seems to me --

12 MR. ACKERMAN: Those are in danger, too.

13 MR. EVERITTS: Right.

14 MR. ACKERMAN: What's the downside to the  
15 State financially if we went ahead with the second bidder  
16 and after a nominal period of time we found that he was  
17 in extreme financial trouble? Financially what's the downside  
18 to the State?

19 MR. HIGHT: Mr. Ackerman, the minimum is  
20 \$15,000 a year. So unless they took more than the minimum,  
21 the downside would be a maximum of \$15,000 in the hole.

22 MR. ACKERMAN: Assuming they didn't pay us a  
23 thing.

24 MR. HIGHT: Right.

25 MR. TAYLOR: There is one other problem. That is

1 that you have entered into a contractual agreement with  
2 this person and there might be a period in which no one  
3 could operate the lease because of litigation over whether  
4 or not they had defaulted.

5 EXECUTIVE OFFICER NORTHROP: We saw that last  
6 Commission meeting in the Newport Beach-Armstrong controversy

7 MR. ACKERMAN: Would there be a likelihood if we  
8 awarded to the second bidder and he defaulted, he also  
9 would be in a position of defaulting on his other two  
10 contracts with the Commission?

11 MR. EVERITTS: Possibility. Don't know if it's likely.

12 CHAIRPERSON CORY: What are the pluses and  
13 minuses of rebidding? Are these the only three people that  
14 are likely to want --

15 MR. EVERITTS: If you're asking for a guess,  
16 I would guess we might get two bids. If one already  
17 cancelled or revoked, I don't think he'd bid again probably  
18 for the same reason he wanted to revoke.

19 MR. ACKERMAN: Unless he wanted to bid a little  
20 lower.

21 CHAIRPERSON CORY: So we'd have two bids and we'd be sitting  
22 there with one of them the staff would still say is not  
23 a qualified bidder.

24 MS. MORGAN: Was it a requirement of the bid  
25 that the operator's liability be less than his income?

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1 MR. EVERITTS: The bid is supposed to be  
2 awarded to the highest qualified bidder, and the definition  
3 of "qualified" is he can pay his bills.

4 MS. MORGAN: Was that specified?

5 EXECUTIVE OFFICER NORTHROP: Staff feels that's  
6 the definition of "qualified". We owe the Commission the  
7 obligation to investigate the background of the bidders  
8 and report to you what we feel is the legitimacy of the bid.  
9 Because the bid may well be, may well be a marketable  
10 item. So to bid it where you can't afford it with the idea  
11 of resale, which well may be contemplated and could be  
12 contemplated.

13 MS. MORGAN: But technically speaking if you have  
14 an unqualified bidder, then we have no bid at all.

15 EXECUTIVE OFFICER NORTHROP: We don't have an  
16 unqualified bidder. We have before you Western Pacific  
17 Construction which we consider a qualified bidder.

18 CHAIRPERSON CORY: Was the second bidder notified  
19 that you were rejecting him as a qualified?

20 MR. EVERITTS: I don't know if he was notified  
21 in writing. He certainly was notified on the telephone.  
22 We've had daily conversation with the people since he is  
23 a lessee.

24 CHAIRPERSON CORY: And he chose not to show up  
25 and argue the point?

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1 MR. EVERITTS: That's correct.

2 MS. MORGAN: Did he know we were having this  
3 meeting?

4 MR. EVERITTS: We're not sure.

5 MR. ACKERMAN: I know we're only talking about  
6 \$15,000 here, but if the whole thing were rebid, would it  
7 likely result in a higher royalty to the State because  
8 now we're forced to go the absolutely lowest bidder?

9 CHAIRPERSON CORY: It looks to me like you're  
10 down to zero. I mean, if I were Western Pacific Construction  
11 and I was sitting in this room, I think I'd bid five percent  
12 next time.

13 MR. EVERITTS: At least we have a 10 percent  
14 minimum by law.

15 CHAIRPERSON CORY: I don't know.

16 MS. MORGAN: How long is this bid good for?

17 MR. TROUT: Five years with a five-year option.

18 MS. MORGAN: What period of time do we have before  
19 we have to accept a bid or reject it?

20 MR. EVERITTS: I don't know.

21 MS. MORGAN: Is it a 30-day period? You don't  
22 know.

23 MR. TAYLOR: I'm not aware of a time limit.

24 MR. HIGHT: I don't believe there's a time limit  
25 on this one. It would have to be a reasonable time.

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1 MR. TAYLOR: You certainly couldn't have  
2 conditions change and hold a man to his bid. So there would  
3 be a duty of diligence. But I don't think that we have  
4 ever set specific ones.

5 MS. MORGAN: I think the Commission is, at least  
6 the feeling I get, the Commission is uncomfortable with  
7 rejecting the bidder unless the bidder has been notified  
8 and has had an opportunity to appeal. By awarding to the  
9 third bidder, we basically limit his right to appeal.

10 MR. EVERITTS: I know that the middle bidder  
11 has been notified. I don't know --

12 MS. MORGAN: Of the meeting and his right to  
13 appeal?

14 MR. EVERITTS: I don't know that.

15 MR. ACKERMAN: Put it over for 30 days.

16 CHAIRPERSON CORY: We'll put this item over to  
17 the next meeting. If he's in that bad of shape, I'm probably  
18 going to agree with you. But I'm just puzzled that we're  
19 getting to the third bidder on something is what is disturbing  
20 me.

21 MS. MORGAN: I think that if he thought in his  
22 business sense he was not prepared to handle the bid, then  
23 he wouldn't have bid either.

24 EXECUTIVE OFFICER NORTHROP: I'm not so sure  
25 if a reasonable bid might be considered to be a saleable piece

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1 of merchandise.

2 CHAIRPERSON CORY: Saleable. Somebody should  
3 be in bidding. I don't know.

4 EXECUTIVE OFFICER NORTHROP: Somebody did bid  
5 higher.

6 CHAIRPERSON CORY: Okay. We will put Item 31  
7 over.

8 Do you have the information on Item 32 for us.

9 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,  
10 attached to the calendar item is the newest sales price  
11 for geothermal steam. Our number last year was about 4.6  
12 million. This year we exceed 7.2 million dollars.

13 MS. MORGAN: This is informational.

14 CHAIRPERSON CORY: Any questions from  
15 Commissioners?

16 Item 33, authorize to offer for sale by  
17 competitive bid, Tract 2. How many barrels is that?

18 EXECUTIVE OFFICER NORTHROP: Two-hundred and sixty  
19 barrels a day, Mr. Chairman.

20 CHAIRPERSON CORY: Two-hundred sixty barrels a  
21 day. Anybody in the audience on this item? Any questions  
22 from Commissioners?

23 Without objection, Item 33 is approved as  
24 presented.

25 Item 34, Sell-Off Parcel "A", approval of

1 specifications and forms for notices inviting bids on  
2 Parcel "A".

3 Anybody in the audience on this item?  
4 Questions from Commissioners?

5 Without objection, item approved as  
6 presented.

7 Item 35, Shotputter.

8 EXECUTIVE OFFICER NORTHROP: Mr. Thompson,

9 MR. ACKERMAN: Susanne's favorite item.

10 MR. THOMPSON: Favorite item.

11 EXECUTIVE OFFICER NORTHROP: Get whipped about  
12 the head and shoulders again.

13 MS. MORGAN: At least now they're saying it  
14 cost a lot of money. This is the one where we pour money  
15 into the ground and nothing comes back.

16 CHAIRPERSON CORY: Right.

17 MR. ACKERMAN: We've now paid for the slug.

18 (Laughter.)

19 CHAIRPERSON CORY: You engineer types really  
20 ought to do something about pre-flush polymer and slug.  
21 You ought to package these things a little better if you  
22 want all this money. Go ahead.

23 MR. THOMPSON: We need a little more Madison  
24 Avenue approach here do we or something?

25 CHAIRPERSON CORY: Pre-flush polymer. Go ahead,

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1 sir.

2 MR. THOMPSON: As you can see from the plot  
3 that I gave you here, why the oil rate is flattening out.  
4 That's shown in red. The project has performed as we  
5 predicted from the lab test. The water-oil ratio, that's  
6 the amount of water produced in relationship to the oil  
7 that's dropped and flattened now. That's shown in green.  
8 The water rate from the project has dropped. Again, we're  
9 back to the question of economics. To date we have to date  
10 spent about nine and a half million dollars on the project  
11 and the Federal Government contributed about three and a  
12 half million dollars. So we started off with six million  
13 dollars. As we alerted you before, the chances of economic  
14 pay-out on this project are between zero and none, but  
15 we are gathering information.

16 CHAIRPERSON CORY: I thought they were a little  
17 higher than that when we went into it Moose.

18 MR. THOMPSON: Promises, promises, promises.

19 EXECUTIVE OFFICER NORTHROP: Cost them \$27 a  
20 barrel.

21 MR. THOMPSON: That's, as we said before, why  
22 the break even rate at the present time is about a hundred  
23 and sixty barrels a day and we're doing about two hundred  
24 and fifty or sixty. So we are actually getting back. There  
25 will be a reduction in cost about October when we stop

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1 injecting this polymer water and put in conventional water.  
2 The problem is now the oil rate is beginning to flatten  
3 out and the water-oil ratio begins to have suggestion of turning up. So  
4 this may be the time we'll be able to predict the life of this and see  
5 what it is.

6 CHAIRPERSON CORY: What happened to the one  
7 little blip in the oil rate mid-80?

8 MR. THOMPSON: That was probably when a well  
9 was down. We've had trouble keeping our wells on production  
10 here. So you have a little drop time in there and you  
11 can also see that the water rate in the blue dropped drastically  
12 there. So this looks like a rather high cut well that went  
13 off production at that time.

14 So, again, we'll continue to report this  
15 quarterly and see how the projects are doing.

16 MS. MORGAN: Why are we doing this?

17 CHAIRPERSON CORY: We're losing money but  
18 making it up on the volume.

19 MS. MORGAN: This is a research project?

20 MR. THOMPSON: Actually we have increased  
21 the ultimate oil recovery here by about eight percent of  
22 the tank oil in place. Again, this is a risk you take here  
23 because if we have, say, six billion barrels of oil in place  
24 in the Wilmington Oil Field, we talked getting 8 to 10 percent  
25 additional oil. We're talking about a factor that's so

1 large that even though you think that you're in a loss  
2 position here for several million dollars, the potential  
3 gain would be in the billions. So again this is a test  
4 evaluation. If the country really ever gets to the point  
5 where we have to be self-dependent within our own borders  
6 we'll be doing projects like this.

7 MS. MORGAN: How much longer are we going to  
8 be doing this? What we've proved is that we can do it, but  
9 it's very expensive.

10 MR. THOMPSON: Yes.

11 MS. MORGAN: And you don't get a lot back.  
12 How much more do we have to prove?

13 MR. THOMPSON: This project will go on to its  
14 final end because now we're going to switch very soon in  
15 October to conventional water. We will then flood the  
16 project out to the economic limit just like we do with  
17 any other well.

18 EXECUTIVE OFFICER NORTHROP: We have staunched  
19 the flow of blood, now we're going to start reaping the  
20 profits we can.

21 CHAIRPERSON CORY: You invest some money up  
22 front by putting the gunk down under the ground. I think  
23 Moose and Northrop just took the money and went South with  
24 it.

25 MS. MORGAN: No. No.

1 CHAIRPERSON CORY: And there's no real money  
2 gone anywhere. Have you ever heard of, would you have the  
3 nerve to sell anybody pre-flushed polymer and a flood for  
4 six million?

5 EXECUTIVE OFFICER NORTHROP: We conned the DOE  
6 into it.

7 CHAIRPERSON CORY: We put the money in early  
8 and then that supposedly breaks loose additional oil so that  
9 for months ahead or weeks ahead they'll be additional  
10 oil coming.

11 EXECUTIVE OFFICER NORTHROP: The background of  
12 it is this. We were allowed, when the price of crude oil  
13 was controlled, we were allowed a de-controlled price  
14 on the oil that was produced. Secondly, DOE participated  
15 for half or -- what was the maximum?

16 MR. THOMPSON: Three and a half million.

17 EXECUTIVE OFFICER NORTHROP: Three and a half  
18 million of which none of that gets paid back and part of  
19 the price release of the crude that we enjoyed in 1979  
20 and '80 prior to the de-control was in that area. So we  
21 had some payment back. By the looks of this and Moose and  
22 his staff are only judging that the war is over because  
23 the last little glitch in green is starting to go up. But  
24 I point out, there was a glitch in green in 1980 in mid-year,  
25 and it went back down again. So I think it's a project we

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1 had to look at as to what it costs for secondary recovery  
2 because otherwise the world is going to be, we have a very  
3 large operation, and if we have to depend totally on the water  
4 flood and can't find another way to do it because, we're  
5 in trouble because we have a large reservoir that we're  
6 going to abandon if we don't.

7 MR. THOMPSON: This is a pilot project. There  
8 are additional costs on any pilot project, additional  
9 research and overhead and just complying with the DOE  
10 requirements and there's quite a paper flow.

11 CHAIRPERSON CORY: When you did the economics  
12 on whether or not we made or lost on this thing, did you  
13 factor in the released oil increment?

14 MR. THOMPSON: Yes. Because all the oil comes  
15 from the project goes through us. The government doesn't  
16 get any of it.

17 CHAIRPERSON CORY: But that is factored in as  
18 one of the benefits of the project?

19 MR. THOMPSON: Yes.

20 CHAIRPERSON CORY: Which used to be a benefit  
21 and is no longer a benefit because everything is de-controlled.

22 MR. THOMPSON: Again, the problem with this thing  
23 is it bootstraps itself back into a hydrocarbon usage again  
24 and as the cost of hydrocarbon goes up, then you have to  
25 collect the product that you put back in to recover. That's

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1 the one thing that is handicapping this type of an approach.  
2 But until you really get it into a field application to see  
3 if there are other things besides that particular bootstrap  
4 that bothers you, you really don't have all the answers.

5 EXECUTIVE OFFICER NORTHROP: It may be, given  
6 this is a very limited field, we found a field with a  
7 fault block gave us a fairly tight area to work in that  
8 wouldn't wander around the rest of the oil field. It may  
9 be when we analyze this at the end of the project, we may  
10 see a large area in which we could use it which would give  
11 us more revenue.

12 MS. MORGAN: When was the end of the project?

13 EXECUTIVE OFFICER NORTHROP: When that green  
14 line is up to the zero cut line, to the 100 percent water  
15 line, that's the end of the project.

16 MS. MORGAN: That will never happen because  
17 you know you can --

18 EXECUTIVE OFFICER NORTHROP: Well, no.

19 MR. THOMPSON: We will reach an economic limit.

20 EXECUTIVE OFFICER NORTHROP: It's an economic  
21 limit to it do it.

22 CHAIRPERSON CORY: When the cost of pulling the  
23 fluid out of the hole --

24 EXECUTIVE OFFICER NORTHROP: Exceeds the return.

25 CHAIRPERSON CORY: -- exceeds what we get.

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1 MR. THOMPSON: That's no different than any  
2 other well we have that's tidal property.

3 MS. MORGAN: But it does that already.

4 EXECUTIVE OFFICER NORTHROP: Pardon me? No.

5 CHAIRPERSON CORY: You take a big wad of cash  
6 and put it down a hole in one fell swoop over a few  
7 months period of time and then you sit back to see what  
8 happens. Is that not in essence what we did?

9 MR. THOMPSON: Yes.

10 CHAIRPERSON CORY: As we sit back now it's  
11 been a noble experiment. I'd like to talk about that a little  
12 later. But they don't think it's really going to prove  
13 to be something we should do throughout the field.

14 MS. MORGAN: So we're not putting any more  
15 money into this?

16 CHAIRPERSON CORY: No.

17 MS. MORGAN: I don't think that's true.

18 EXECUTIVE OFFICER NORTHROP: The project wasn't  
19 designed to put more money into.

20 MR. THOMPSON: The big cost of this project  
21 is the material you put under the ground to increase the  
22 recovery. The rest of it is just --

23 MS. MORGAN: And you've already done that?

24 MR. THOMPSON: Yes.

25 MS. MORGAN: Yes.

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1 CHAIRPERSON CORY: That's spent, gone, goodbye.  
2 Who wrote this item? Is this your penmanship?

3 MR. THOMPSON: No.

4 CHAIRPERSON CORY: Would you like to tell us  
5 who midwifed it?

6 MR. THOMPSON: One of my staff engineers.

7 CHAIRPERSON CORY: "A pilot project of this  
8 type is intended to provide technical information, and not  
9 necessarily be an economic success."

10 I didn't find that line when we approved the  
11 project.

12 (Laughter.)

13 CHAIRPERSON CORY: I just want you to know that.  
14 Then there's, "This is confirmed to date...."

15 MR. THOMPSON: It's always the difference between  
16 whether you're buying or selling.

17 CHAIRPERSON CORY: I understand.

18 "...well repair and other expenses have been  
19 higher than were expected, and only by February, 1981,  
20 was the cumulative value of the additional oil recovery  
21 equal to the cost of the micellar slug along. The project  
22 will be, though, a valuable benchmark for planning and  
23 evaluating the future applications of the process -- that  
24 was the intent behind the DOE's participation."

25 Not explaining what our intent was. But it's

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1 a worthwhile -- I'm not down on it. It might have worked  
2 and we might have made a zillion dollars. So we took a risk  
3 and didn't come out all that well.

4 Okay. We've been informed. Is that all we're  
5 supposed to do on this one?

6 EXECUTIVE OFFICER NORTHROP: Yes. Quarterly  
7 information.

8 CHAIRPERSON CORY: And I thought it was a worth-  
9 while experiment. Not because of the scientific information,  
10 because we had a chance of winning.

11 MS. MORGAN: Was that 1978 that you thought it  
12 was worthwhile?

13 CHAIRPERSON CORY: Yes.

14 We've been informed on that. Now we've got some  
15 legal questions.

16 Santa Monica State Beach Boundary Agreement.  
17 Somebody going to explain that as to what we're doing?

18 MR. HIGHT: Yes, Mr. Chairman.

19 In Number 36 --

20 CHAIRPERSON CORY: That's the swimming pool?

21 MR. HIGHT: That's the swimming pool and this  
22 is the proposed lease for 10 years at a nominal rent and  
23 option to renew for 15 years at fair market value, and at  
24 the end of that the swimming pool will be removed. This is  
25 not the Johnathan Club.

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1 MS. MORGAN: Is this a private party?

2 MR. HIGHT: Yes.

3 CHAIRPERSON CORY: This is a single parcel?

4 MR. HIGHT: Right.

5 CHAIRPERSON CORY: Okay. Any questions?

6 MS. MORGAN: It's a settlement.

7 MR. ACKERMAN: On both this item and Number  
8 37 it mentions an initial 10-year or in this one I guess  
9 10-year period --

10 EXECUTIVE OFFICER NORTHROP: I believe it is.

11 MR. ACKERMAN: -- and a nominal annual rental  
12 rate. How is that nominal annual rental rate determined?

13 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,  
14 Sue Wylie in the Attorney General's Office has been working  
15 in that area a great deal, and I think she can address that.

16 How did you come up with the nominal 10 percent  
17 rent?

18 MS. WYLIE: Well, the nominal rent is determined  
19 from the State Lands regulations under the general permit.  
20 It goes on the basis of square footage.

21 MR. ACKERMAN: And the calendar Item 36  
22 then, what would be the rent for that particular parcel?

23 MS. WYLIE: For this particular parcel it would  
24 be \$40 a year.

25 MS. ACKERMAN: That's nominal.

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1 CHAIRPERSON CORY: That's nominal unless you're  
2 paying it.

3 MR. ACKERMAN: Forty dollars a year?

4 CHAIRPERSON CORY: Then it's tribute.

5 MR. ACKERMAN: And that's based on the square  
6 footage?

7 MS. WYLIE: It's based on the square footage.  
8 But at the end of that 10-year period, it would then go  
9 on a straight fair rental value for the amount of property  
10 that's used.

11 MR. ACKERMAN: Would that be based on an  
12 assessment that was done by L.A. County Assessor?

13 CHAIRPERSON CORY: Competitive bidding, of course.

14 MS. WYLIE: It would be done according to State  
15 Lands regulations in existence at that time or depending  
16 on which entity or agency might be administering the lease  
17 at that time.

18 MR. ACKERMAN: So, in other words, at the  
19 expiration time of the initial lease, everything comes back  
20 for some type of renegotiation as to what the annual rental  
21 cost would be?

22 MS. WYLIE: At the end of the 10 years there  
23 would be a renegotiation and a fair rental value would be  
24 established and assessed on the property at that time.

25 CHAIRPERSON CORY: Questions?

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1 MR. ACKERMAN: I have a question. I assume in  
2 this case that this particular property owner is satisfied  
3 with the proposed agreement?

4 MS. WYLIE: Yes. His attorney is present here  
5 today.

6 CHAIRPERSON CORY: Okay. Anybody in the audience  
7 that disagrees with the proposed staff solution?

8 Without objection --

9 MS. MORGAN: That's fine.

10 CHAIRPERSON CORY: -- Item 36 is approved as  
11 presented.

12 Item 37. This is non-swimming pool portions  
13 and some people have agreed to this and some are still  
14 up in the air as to whether they wish to agree. This  
15 excludes the quasi-commercial --

16 MS. WYLIE: This item relates to those property  
17 owners who have encroachments which extend 5 to 50 feet  
18 waterward of the 1921 mean high tide line. The proposal  
19 for these property owners is that they would have the  
20 10-year nominal use of the property and renegotiate the lease  
21 at the end of that 10 years for an additional 10 years,  
22 after which they would remove their encroachment.

23 One of the property owners also represented  
24 by Mr. Lafaille is agreeing and we are finalizing a settlement  
25 on the terms if the Commission so approves. Several other

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1 property owners have indicated that they are willing to  
2 settle the litigation on the same terms.

3 CHAIRPERSON CORY: Okay. Anybody in the audience  
4 opposed to the proposed settlements?

5 Questions from Commissioners?

6 MR. ACKERMAN: You have a list in the agenda  
7 of all the property owners. Some of those do not agree  
8 to this proposed settlement at this point in time?

9 MS. WYLIE: Some of them have not agreed. That's  
10 not to say that they would not be in agreement. This was  
11 put together rather rapidly and I have contacted the  
12 attorneys of most of those people and they're reviewing it.  
13 So far they're optimistic that it's a viable settlement.

14 MR. ACKERMAN: Do we have a comment from the  
15 attorney that's present? I'd just like a comment from you.  
16 I assume you're representing all of the property owners.

17 MR. LAFAILLE: No, I'm not. I'm representing  
18 two of the property owners.

19 MR. ACKERMAN: Those two property owners are satisfied  
20 with the settlement?

21 MR. LAFAILLE: Yes.

22 CHAIRPERSON CORY: And if you would identify yourself for  
23 the record.

24 MR. LAFAILLE: David Lafaille, your Honor, Mr. Commissioner.

25 MR. ACKERMAN: You've been called your Honor twice today.

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1 (Laughter.)

2 CHAIRPERSON CORY: Ever told you what my  
3 secretary used to call me? Instead of the Honorable Ken  
4 Cory, the Almost Honorable Ken Cory.

5 MR. LAFAILLE: I represent the property owner  
6 at 514 and 522 Palisades Beach Road. We have been working  
7 very closely with the Attorney General's Office in this  
8 settlement. I want to compliment Ms. Wylie on the handling  
9 of this matter. Very difficult circumstances with a lot  
10 of adamant people and she, with regards to my particular  
11 clients, she has accomplished a very rapidly and efficiently  
12 this settlement.

13 We are very happy with the settlement.

14 MR. ACKERMAN: Is one of those the swimming  
15 pool?

16 MR. LAFAILLE: Yes.

17 MS. MORGAN: On Item 37, you mentioned that  
18 this involves encroachment up to 50 feet.

19 MS. WYLIE: That's correct. Those are the  
20 private encroachments. These do not include the two beach  
21 clubs which are larger encroachments.

22 MS. MORGAN: How many of the private encroach-  
23 ments go beyond 10 feet or how many of them go to 50?

24 MS. WYLIE: How many go to 50? I believe there  
25 are 2 that go to 50 feet. The encroachments here today, the

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1 swimming pool property is 29 feet and the property at 514  
2 is approximately 14 feet.

3 CHAIRPERSON CORY: Okay.

4 MS. MORGAN: I thought we previously talked about  
5 10 being the maximum for the private owners, but we didn't?

6 MS. WYLIE: No.

7 MR. ACKERMAN: A couple of questions.

8 CHAIRPERSON CORY: Go.

9 MR. ACKERMAN: Within the listing of parcels  
10 I notice there are several in here that look like they're  
11 clubs or other than just private single land owners; is  
12 that correct?

13 MS. WYLIE: There is one called the Palisades  
14 Beach Club which is a very small structure, a private home  
15 that's made into a club and has approximately 35 members.  
16 They have an encroachment that extends out to 50 feet.  
17 It's adjacent to the other encroachment which is 50 feet  
18 and they have expressed a willingness to participate in a  
19 settlement on this basis. While their encroachment extends  
20 50 feet out, they have not precluded the public from  
21 utilizing the portion of the sand. They have a string of  
22 barbecues and some picnic tables that go out.

23 MR. ACKERMAN: So the only two land owners in  
24 Santa Monica that aren't affected by this settlement are  
25 the Johnathan Club and the Beach Club?

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1 MS. WYLIE: And there are some that have less  
2 than 5 feet encroachment. Some of them only matter an  
3 inch or two. Some of them up to 4 feet.

4 MR. ACKERMAN: How are you going to settle with  
5 those?

6 MS. WYLIE: We had previously decided and offered  
7 to them in years past that we would just allow them to keep  
8 their encroachment for the term at a nominal rate without  
9 going through the lease renegotiation and so on since it's  
10 such a minor distance.

11 MR. ACKERMAN: Do those have to come before  
12 the Commission?

13 MS. WYLIE: Those would come before the  
14 Commission separately.

15 MR. ACKERMAN: One more. Which property owners  
16 have not agreed to the settlement?

17 Do you know? It's just since they were included  
18 in the list, I just assumed that they all had agreed to it.  
19 Otherwise they wouldn't have been on the list.

20 MS. WYLIE: What we attempted to do was we had  
21 two represented by Mr. Lafaille who have definitely said that  
22 they would accept those terms. What I attempted to do  
23 in grouping the others is that that should be then our  
24 offer to the others who are similarly situated. To avoid  
25 coming back to the Commission for each settlement, I thought

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1 it would be more expeditious to just have the Commission  
2 approve us entering into the same settlement on the same  
3 terms using the same documents with those who are willing  
4 to accept the terms. If they're not, then we'll just  
5 proceed with the litigation.

6 Now, several have indicated that they would  
7 be willing, but they have to get approval of their members  
8 or they're still talking to their attorneys and so on.  
9 I think a majority of them will accept it.

10 MR. ACKERMAN: So this simply is an authorization  
11 for you to present a settlement to them?

12 MS. WYLIE: And to execute a boundary agreement  
13 on the same terms as the 514 property.

14 MR. ACKERMAN: What happens to the land owners  
15 who reject that offer?

16 MS. WYLIE: Then we just proceed with the  
17 litigation.

18 CHAIRPERSON CORY: This is the camel's nose  
19 under the tent or divide and conquer; right? Run up the  
20 costs of litigation.

21 MS. WYLIE: We've always felt that it wouldn't  
22 be fair to make one offer to one party because they're  
23 all basically similarly situated. So we're trying  
24 to treat them equally. If two people come forward and say  
25 we're willing to accept those terms, then we've established

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1 the terms and we would go ahead on that basis.

2 MR. LAFAILLE: And we're the first deserters  
3 out of the camp.

4 (Laughter.)

5 MS. MORGAN: I just don't remember 50 feet as  
6 being the limit that we had agreed to. It seemed to me  
7 at a meeting some time ago we had said something else.

8 MR. TAYLOR: I think the maximum limit that  
9 was ever discussed was 50 feet, nothing more than 50 feet.  
10 That was the original offer that Parks and State Lands  
11 made to the parties a few years ago. But it was 50 feet  
12 or the extent of your encroachment, whichever is less.  
13 This is consistent with that policy.

14 MS. MORGAN: And we consider picnic benches to  
15 be encroachment?

16 MS. WYLIE: If they're placed in some sort of  
17 permanent position. This is out on a concrete slab in the  
18 one property.

19 I believe our discussions have been 50 feet  
20 for the homeowners because that's the furthest encroachment.  
21 That's why we've separated out the beach clubs from this and  
22 just deal with those encroachments that are with the home-  
23 owners because the furthest one is 50 feet.

24 MR. ACKERMAN: Were the attorneys for the other  
25 individual property owners notified of the meeting today?

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MS. WYLIE: They were not notified. Most of them --

MR. ACKERMAN: You only notified the attorney of the ones that were willing to settle?

MS. WYLIE: Well, this was, like I say, put together rather rapidly. One of these properties --

MR. ACKERMAN: Why was it put together so rapidly?

MS. WYLIE: This property --

MR. TAYLOR: I'd rather answer that question in Executive Session with you.

MS. ACKERMAN: Given that answer, I'm not so sure I'm prepared to vote on that.

MR. LAFAILLE: I don't want to speak on behalf of the Attorney General. I would give this brief history. We, and I saw "we" advisedly because Ralph Nutter is the attorney for the homeowners' group and I just happened to represent a client who is selling one house and moving next door. That's why I happened to be representing 514 and 522. It's been at my behest that these matters came before the Commission because my client will not close his escrow --

CHAIRPERSON CORY: He wants to get his escrow closed.

MR. LAFAILLE: He wants to get his escrow closed. So it's been at my request and the Attorney General has been

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1 very kind in going forward with this.

2 MR. ACKERMAN: You're in escrow right now?

3 MR. LAFAILLE: We are in escrow. We are a month  
4 overdue in closing that escrow. So it has been at our behest  
5 that the matter had come to the Commission with this degree  
6 of haste and Ms. Wylie has been extremely kind to my client,  
7 to myself in bringing this to the Commission. It's certainly  
8 nothing untoward occurring here in terms of the Attorney  
9 General bringing it.

10 I would say this -- and I can't speak on behalf  
11 of Mr. Nutter either -- but apparently, it is my understanding  
12 that he has reached a tentative agreement and still had to  
13 go back to his clients with regard to getting approvals  
14 either individually or as a whole. That being so, it would seem  
15 to me that this matter coming on to the Commission's  
16 calendar was really nothing untoward involved in it.

17 I would appreciate with regard to my specific  
18 client that if the Commission would rule on that today.

19 MR. ACKERMAN: Is that the Item 36?

20 MR. LAFAILLE: It's 36 and 37. The swimming pool  
21 matter is a matter which is being closed in escrow and the  
22 other one is really of no interest whether its done  
23 today.

24 MR. TAYLOR: I'll answer the question. I don't  
25 know that it should be made such a big deal of. You don't

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1 have to approve all of the items. However, we have been  
2 working with the City Council on this matter which another  
3 party to the agreement, the City of Santa Monica. The  
4 existing Council has been very familiar with what is going  
5 on and had been advised as many times as you have been  
6 advised with regard to the status of this matter.

7 There is an election in Santa Monica on Tuesday  
8 as to which some of the Councilmen who are familiar with this  
9 matter are not seeking reelection. There may be a change  
10 in that. It would seem unfortunate --

11 (Laughter.)

12 MR. TAYLOR: It would be unfortunate to lose  
13 the benefit of those people. We will have to go back to  
14 the new Council or the Council that is reformed subsequently  
15 with some other matters and we will certainly bring them  
16 up to date on that, but we were trying to give this  
17 Council which had considered all of the matters an  
18 opportunity to make the same offer to everyone and it was  
19 also with the idea of the convenience of this Commission.

20 CHAIRPERSON CORY: None of the retiring Council  
21 members are buying Item 37, are they?

22 MR. LAFAILLE: No.

23 MR. TAYLOR: But it was also with the idea that  
24 this Commission has certainly heard quite a bit about this  
25 litigation over a good number of years and it was thought

1 that if one settlement was made, that same thing should be  
2 offered to everyone formally that wanted to come in as  
3 promptly as they wanted to come in on it. That it  
4 shouldn't be brought back piecemeal where you have people  
5 in a single category.

6 If you don't want to do it, we can just take  
7 the two that you have before you. But those are the reasons  
8 for it. Santa Monica City Council has considered this  
9 in open session. There isn't any controversy within the  
10 City on the matter. It's just a question that we had a  
11 group of people that were up on it and ready to go and  
12 there are going to be other people where this property is  
13 turning over where you're going to have a transition period.

14 CHAIRPERSON CORY: What's the wish of the  
15 Commissioners?

16 MS. MORGAN: Well, --

17 CHAIRPERSON CORY: You get paid to vote, folks.  
18 Yea or nay, what do you want to do?

19 MS. MORGAN: I think we probably should move  
20 on Item 36.

21 MR. ACKERMAN: I think we already have.

22 MS. MORGAN: And Item 37, if it's not as impor-  
23 tant to this client --

24 CHAIRPERSON CORY: Is that correct? 36 is the  
25 escrow that you wanted to get closed?

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1 MR. LAFAILLE: Yes, that is correct.

2 MS. MORGAN: Then we could hold 37, but give  
3 general --

4 MR. ACKERMAN: I would even be willing to approve  
5 the one parcel in Item 37 which we've already ascertained --

6 MS. WYLIE: The reason it was set up this way  
7 is just to accommodate the Commission so we didn't have to  
8 come back with each one. I would perfectly agreeable --

9 CHAIRPERSON CORY: We like this so much.

10 (Laughter.)

11 MS. WYLIE: I was mistaken.

12 It was originally set up as approving 514  
13 and then authorizing the rest. We can drop the rest and  
14 just approve item 514 which is Mr. Lafaille's other client.  
15 because that one is also ready to go.

16 MS. MORGAN: The problem with doing that, Dave,  
17 is that if there is serious objection from any of the  
18 other clients or clients of the other parties and we  
19 change or recommend a different settlement, then I think --

20 CHAIRPERSON CORY: We've got that problem in  
21 36 already.

22 MR. ACKERMAN: We accept the terms of that  
23 settlement. They're already different.

24 EXECUTIVE OFFICER NORTHROP: Do I detect, Ms.  
25 Morgan, that our terms that we're settling on are not liberal

1 enough?

2 MS. MORGAN: I think you should give it away.

3 EXECUTIVE OFFICER NORTHROP: I'm trying to figure  
4 out, staff is trying to get some direction.

5 MS. MORGAN: I don't like to run roughshod  
6 over people if this is a settlement that they've not had  
7 a chance to comment on.

8 MR. TROUT: This is not true.

9 MS. WYLIE: This is not true.

10 CHAIRPERSON CORY: I think what is suggested  
11 here is that you've got a loose federation of people who  
12 are property owners and that once settlement starts,  
13 for whatever reason, to close an escrow or whatever,  
14 as they start phasing out that there is a high degree of  
15 probability that the time is ripe, if this authorization  
16 is granted, that within the next two weeks a lot of these  
17 might get settled. There's a certain amount of peer group  
18 pressure, not wanting to stand alone. There's a lot of  
19 those kind of things that might go on. Settling a lawsuit,  
20 that seems to be a worthwhile strategy.

21 If we want to maximize individual equity  
22 opportunities, we may not want to do that. Nobody has to  
23 take it and they have the right to litigate. The problem  
24 is the costs might go up.

25 MS. WYLIE: Let me point out one more thing.

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1           The original offer to these homeowners, this  
2 is an accommodation to them. It's always been ten years,  
3 five years nominal and five years escalating to a fair  
4 rental value. In an attempt to be accommodating, we've  
5 gone 10 years nominal and an additional 10 years and I have  
6 not heard of anyone who's unhappy with this to date.

7           MR. TAYLOR: I think one other thing that should  
8 be said is that while we will go ahead with the litigation  
9 of those who will not sign, there's nothing to preclude other  
10 people from coming with a proposal which we'll put before  
11 the Commission. We certainly, after all the time that we  
12 spent down on that beach, are not trying to be high-handed.  
13 The purpose of this thing at this time is to try to be  
14 accommodating. The terms that are worked out, and this has  
15 been discussed at length all over the place, before the  
16 City Council, and before the Park people, and now before  
17 this Commission.

18           CHAIRPERSON CORY: I understand where you are.  
19 I think the staff understands.

20           What do we want to do with Item 37? We approved  
21 36, as I understand. We have 37 before us. Do we want to  
22 take up 37 or put it over?

23           I'm the Chair, I don't have to say anything.

24           MS. MORGAN: I know.

25           MR. ACKERMAN: Let me ask one more question.

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1           What's the likelihood you anticipate any major  
2 downside from the elections next week in total reversal on  
3 what's been accomplished so far, because I think the progress  
4 that's been made down there has been substantial and it's  
5 all been in the right direction?

6           MR. TAYLOR: I hope not.

7           MS. WYLIE: The City Council --

8           MR. ACKERMAN: I don't want to run roughshod  
9 over a new City Council either.

10          MS. WYLIE: No. The City Council approved these  
11 two settlements and also authorized us, authorized their  
12 City Manager to enter into other settlements on the same terms.  
13 So we don't have to go back to the City Council if people  
14 are willing to accept these terms.

15          MR. TAYLOR: That isn't responsive to the  
16 question.

17          There are two groups in Santa Monica and both  
18 groups supported the settlement. Now, which group has  
19 more members on the Council at the end of the election,  
20 we don't know. But people who represent the views of both  
21 of the groups support it and voted for this proposal. So I  
22 don't think that this is an issue which is subject to any  
23 kind of local partisan dispute at this time. It's more  
24 important, I think, to the City, as a group, that the dispute  
25 over where the boundary line is be resolved and that they

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1 be able to get on with the planning for the public use of  
2 this beach. Based on that, I would not anticipate any  
3 change. I think that the only problem will be that there  
4 will be a slight delay while you have to give people who  
5 have been elected to the Council time to get up to speed on  
6 the matter. But it's not been an issue in the election.  
7 It's not been an issue between the vying groups in Santa  
8 Monica. This matter was supported by the people who are  
9 most outspoken in favor of the predominant group in that  
10 town now.

11 MR. LAFAILLE: May I make one comment to the  
12 Commission? I think, as a taxpayer, having been involved  
13 in this litigation, and this is a particularly nasty piece  
14 of work when you go to these meetings. The Commission  
15 would be missing a great opportunity to put this to bed.  
16 by not acting on this at this moment, believe me. I've  
17 got a client with a particular interest in getting out  
18 and that's why we're getting out. But if the Commission  
19 made this available at this time, I'm sure, I'm sure --

20 MR. ACKERMAN: That's why I asked my question.

21 Mr. LAFAILLE: You're really missing an  
22 excellent opportunity.

23 MR. ACKERMAN: You're looking at me.

24 CHAIRPERSON CORY: Somebody make a motion. If  
25 not, I would presume that there is not sufficient votes.

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1 MS. MORGAN: I just wanted to make sure that  
2 Dave is comfortable. He's the one --

3 MR. ACKERMAN: I just happened to get  
4 interested in it, unfortunately.

5 (Laughter.)

6 MR. ACKERMAN: I took a phone call when you two  
7 didn't one day.

8 CHAIRPERSON CORY: Public service is so rewarding.  
9 What shall I do? What would you like to do, Mr. Ackerman?

10 MR. ACKERMAN: I'd be willing to go along with  
11 it.

12 MS. MORGAN: Okay. To authorize the two settle-  
13 ments, the second settlement that's before us and to give  
14 authorization to the staff to go ahead and settle on the  
15 same terms with any of the other property owners. That's  
16 my motion.

17 CHAIRPERSON CORY: Which is 37 as staff  
18 presented; right?

19 MR. TAYLOR: Yes. 37 as staff has presented.

20 CHAIRPERSON CORY: Are there any distinctions  
21 that you want from the staff recommendation?

22 MS. MORGAN: No.

23 MR. ACKERMAN: Second.

24 CHAIRPERSON CORY: Motion is seconded.

25 All those in favor signify by saying aye.

1 (Ayes.)

2 CHAIRPERSON CORY: Opposed.

3 Okay. You got it.

4 Item 38, Shell Oil Company overpaid us they  
5 claim.

6 EXECUTIVE OFFICER NORTHROP: Yes.

7 CHAIRPERSON CORY: Somebody audited this and  
8 confirmed it?

9 EXECUTIVE OFFICER NORTHROP: Yes.

10 Our staff did.

11 CHAIRPERSON CORY: Who on the staff?

12 EXECUTIVE OFFICER NORTHROP: Mr. Maulorico,  
13 who on your staff?

14 Mr. Al Maulorico.

15 CHAIRPERSON CORY: Al I'll trust. You did this  
16 one, Al?

17 MR. MAULORICO: Not personally. Our royalty  
18 accounting staff.

19 CHAIRPERSON CORY: And you're comfortable that  
20 they overpaid?

21 MR. MAULORICO: Yes, we are.

22 CHAIRPERSON CORY: Should we send a letter  
23 to the stockholders?

24 MR. ACKERMAN: When their total bill is \$90,000 and  
25 they overpaid by \$84,000, that's --

26 CHAIRPERSON CORY: Nothing significant to the numbers

1 they deal in.

2 EXECUTIVE OFFICER NORTHROP: Their chairman  
3 can understand incompetency, too,

4 CHAIRPERSON CORY: Without objection, refund  
5 authorized,

6 Item 39 -- oh, whoops, we got one other. We  
7 got two pieces of legislation that we need to act on before  
8 noon. We missed it, folks.

9 There are two proposed pieces of legislation.

10 MR. ACKERMAN: There are two bills which I'd  
11 like to solicit the Commission's support on. One is an  
12 Assembly constitutional amendment and another bill, AB 695.

13 Both have been introduced and authored by  
14 Assemblyman Herger and deal with public lands. I have copies  
15 of those for you.

16 The constitutional amendment -- I also, I must  
17 say, both of them have been reviewed by the staff of the  
18 Lands Commission and at least at a staff advisory level  
19 some amendments have been suggested to Assemblyman Herger  
20 and he has taken the amendments. The bill as before you  
21 reflect the amendments suggested by staff.

22 The first bill is a constitutional amendment.  
23 It very simply states that if and when land is granted by  
24 the Federal Government to California under the processes  
25 now being actively undertaken by the Commission staff, it

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1 would place in the constitution a public land policy of multiple  
2 use to apply to the unreserved, unappropriated public lands  
3 that may well be granted to the state by Congress. Most  
4 importantly this amendment stresses the importance of protecting the  
5 public interest in those lands for all Californians in what-  
6 ever multiple use is decided.

7 The second measure, Assembly Bill 695 which is even  
8 of a simpler nature. What it would require is a statement  
9 an administrator of any of these lands guarantee that it  
10 provide maximum public access to all lands that are granted  
11 by Congress to the state.

12 I think both measures are in good form and  
13 provide a little bit of debate in the Legislature.

14 MS. MORGAN: Who's Assemblyman Herger?

15 MR. ACKERMAN: He replaced Assemblyman Gene  
16 Chappie. The reason I'm asking for support today is the  
17 bills will be heard this afternoon and I guess it's Land  
18 Resources --

19 MR. MORRISON: Energy and Natural Resources.

20 MR. ACKERMAN: Assemblyman Herger has requested  
21 assistance from Lands Commission staff.

22 Now that they're amended, I think --

23 MS. MORGAN: Sounds good. Sounds like a good  
24 idea for whoever replaced Mr. Chappie to enter into a good  
25 working relationship with the Lands Commission.

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1 (Laughter.)

2 MR. TROUT: We appreciate that very much.

3 EXECUTIVE OFFICER NORTHROP: He has different  
4 advice now than Chappie had.

5 CHAIRPERSON CORY: I authored a constitutional  
6 amendment which dealt with recordkeeping and making sure  
7 the people were protected from excess records and discovered  
8 that the Supreme Court recently decided that that guaranteed  
9 the people, poor people and a lot of other people the right  
10 to an abortion. So I'm wishing Assemblyman Herger well with  
11 what the court may do with that one.

12 (Laughter.)

13 MR. ACKERMAN: I'd like to entertain a motion  
14 in support of these two --

15 CHAIRPERSON CORY: Without objection, --

16 MS. MORGAN: I'll move.

17 MR. ACKERMAN: And allow the staff to  
18 assist Mr. Herger in his efforts.

19 CHAIRPERSON CORY: Without objection,  
20 unanimously approved.

21 We have a one item Executive Session. Hopefully  
22 everybody out there is hungry and will clear the room  
23 quickly.

24 (Thereupon this meeting of the State  
25 Lands Commission was adjourned at 12:10 p.m.)

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6 the foregoing State Lands Commission Meeting was reported  
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9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said hearing, nor in  
11 any way interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand  
13 this 20 day of April, 1981.

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