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MEETING
STATE LANDS COMMISSION

1020 N STREET
ROOM 102
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 23, 1981
10:00 A.M.

ORIGINAL

Nadine J. Parks
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95828
TELEPHONE (916) 383-3601

MEMBERS PRESENT

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David Ackerman, representing Mike Curb, Lt. Governor,
Commissioner, Acting Chairperson

John Jervis, representing Kenneth Cory, State
Controller and Chairman

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

STAFF PRESENT

W. F. Northrop, Executive Officer

R. C. Hight

J. F. Trout

N. G. Taylor

Jan Stevens

W. M. Thompson

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PROCEEDINGS

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CHAIRPERSON ACKERMAN: The meeting will please come to order. Prior to beginning the meeting, Mr. Hight, do you have a legal disclaimer you have to make?

MR. HIGHT: Yes, Mr. Chairman. For the record, Mr. Jervis is sitting for Mr. Cory in a nonvoting capacity.

CHAIRPERSON ACKERMAN: Thank you very much. Our first order of business is confirmation of the minutes of the meeting of October 30th, 1981. Are there any changes or corrections either of the Commissioners wish to make?

MS. MORGAN: No.

CHAIRPERSON ACKERMAN: Without any objection, the minutes will be approved.

The next item is the Executive Officer's Report, Mr. Northrop.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman and members, Mr. Niels Weis a coastal engineer with Longard Pacific has requested emergency permits for two shore protection projects which, if not constructed by the end of the month, would -- according to Mr. Weis and confirmed by Mr. Al Woodward of our staff -- result in substantial loss of private property.

These projects are located in the City of

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1 San Clemente and the County of Orange. Timing is critical
2 with the extremely high tide which is predicted for the
3 first week of December.

4 With the Commission's concurrence, I will issue
5 a sixth month emergency permit which will be conditioned
6 upon permit rules by other agencies having jurisdiction,
7 included but not limited to the Coastal Commission and the
8 Corps of Engineers.

9 If you will give me that permission, I'll --

10 CHAIRPERSON ACKERMAN: Any objections?

11 MS. MORGAN: No.

12 CHAIRPERSON ACKERMAN: Without any objections,
13 approval is granted.

14 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, that
15 concludes my report. There is no report today from the
16 Coastal Commission.

17 CHAIRPERSON ACKERMAN: I believe Mr. Stevens has
18 a report concerning high water-low water, which is it?

19 MR. STEVENS: Pursuant to the Commission's
20 request for a monthly report on the status of litigation,
21 a petition for rehearing is before the U. S. Supreme Court.
22 It's still pending. It has been asserted by the petitioners
23 that the existence of a public trust between low and high
24 water would or may impair the use of federal lands in that
25 area by the federal government. The cases are very clear

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1 that the federal government has paramount rights under
2 the Navigation Clause of the U. S. Constitution.

3 I'm not sure that this is any major issue. For
4 the Commissioner's information, this is the principal point
5 that's been raised.

6 CHAIRPERSON ACKERMAN: Jan, as the one lawsuit
7 that was pending last time been resolved?

8 MR. STEVENS: Yes, that's right.

9 CHAIRPERSON ACKERMAN: It was the one lawsuit
10 in question.

11 MR. STEVENS: Thank you for making it possible
12 for us to resolve it.

13 CHAIRPERSON ACKERMAN: Before we begin the
14 regular calendar, Mr. Northrop, are there any calendar
15 items which --

16 EXECUTIVE OFFICER NORTHROP: Yes, Item C-11,
17 Mr. Chairman, should be pulled from the list.

18 CHAIRPERSON ACKERMAN: Items No. C-1 through
19 C-13 are normally considered the consent calendar. It will
20 be the desire of the Commission to take those items up
21 now en masse, with the exception of Item C-11, which has
22 been removed.

23 Unless there are any objections or anyone in the
24 audience or any Commissioners who wish any of these items
25 to be taken off and placed on the regular calendar -- is

1 there anyone in the audience opposed to the approval of
2 any items, C-1 through 13, with the exception of Item C-11?
3 Any objections from the Commissioners?

4 MS. MORGAN: No. Move approval,

5 CHAIRPERSON ACKERMAN: Without objection, approval
6 will be noted on Items C-1 through 13, with the exception of
7 C-11.

8 Item No. 14 on the regular calendar, the City of
9 Avalon, Applicant.

10 EXECUTIVE OFFICER NORTROP: Mr. Chairman, Jim
11 Trout would report on that.

12 MR. TROUT: Mr. Chairman, I'd first like to
13 acknowledge in the audience Mayor George Scott from the
14 City of Avalon and the City Manager, John Longley, who are
15 here to answer questions, and Mr. Dave Smith from the County
16 of Los Angeles.

17 This is generally an informational item. The
18 City of Avalon has long sought to have an airport in the
19 immediate vicinity of the city that would provide their
20 regular scheduled air service into Avalon.

21 The current airport is located on Island Company
22 property some 15 miles from Avalon at the top of one of the
23 hills. The city has obtained a federal grant to study the
24 feasibility of an airport in the vicinity of Avalon. They're
25 looking at four sites. The current airport site, a site at

1 Summit immediately outside of Avalon but considerably higher
2 than the City of Avalon, and two sites located immediately
3 adjacent to the city at Pebbly Beach and at Dewfish Point.

4 In the past, the city has been somewhat
5 frustrated in their ability to get an airport because of
6 the lack of city-owned or city-controlled property.

7 In this study, they basically ask the Commission
8 to keep in mind the city's need to possibly utilize some
9 of the State's property for an airport. One of the
10 proposals, the Pebbly Beach proposal, will consider the
11 possibility of extending the shoreline out onto the State
12 tidelands, constructing the airport there.

13 The other site at Dewfish Point would consider
14 using some already filled tidelands for the construction
15 of the airport.

16 What staff is recommending here is that you allow
17 the staff to enter into a memorandum of understanding with
18 the city, with the County of Los Angeles, possibly with the
19 Governor's Office of Planning and Research, Office of
20 Permit Assistance to work with the city in studying and
21 developing the necessary environmental documents and
22 preparing the package as would be shown to be the right
23 thing to do under these studies.

24 What we're asking is basically for you to receive
25 this information and to allow us to enter into this

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1 memorandum of understanding with the public agencies that
2 are involved. The Mayor and the City Manager are here to
3 answer any questions you may have.

4 CHAIRPERSON ACKERMAN: Am I correct that the
5 memorandum of understanding is just to allow the staff and
6 technical assistance --

7 MR. TROUT: That's correct.

8 CHAIRPERSON ACKERMAN: -- for this undertaking?

9 MR. TROUT: There may be some instrumentation
10 required on State Lands and we'll be back with a permit
11 for that if that's required. But it basically is to get the
12 State involved in the process so that the city has a
13 stronger position in moving ahead with their airport.

14 CHAIRPERSON ACKERMAN: Is there opposition in
15 the audience to the staff recommendation on Calendar Item
16 14?

17 MS. MORGAN: Do we normally get involved at this
18 point?

19 MR. TROUT: It would depend on the circumstances.
20 I would say, no, we normally don't. But this isn't a
21 normal situation, because the city basically has no base
22 of operations. The two nearby sites are outside of the
23 city limits but immediately adjacent to the city. Therefore,
24 they need the involvement of both the county and the State
25 to provide a kind of a continuum or a solidified approach to

1 the development of the airport project. It's not a typical
2 project. Normally the city would have its own, some
3 interest in the land.

4 MS. MORGAN: Are airports acceptable projects
5 for tidelands?

6 MR. TROUT: Yes, they are. The San Diego Airport,
7 run by San Diego Unified Port District, is largely on State
8 tidelands, San Francisco Airport as well.

9 MR. TAYLOR: Basically they're planning the use
10 of State-owned property.

11 MR. HIGHT: Again, what this is is just a
12 participating feasibility study. I assume that the
13 Commission staff at this point won't be involved in any
14 recommendations.

15 MR. NORTHROP: No, Mr. Chairman. Any recommenda-
16 tions would come back to the Commission for their approval
17 or their recommendation.

18 MR. TROUT: We're asking to authorize staff
19 involvement. We're not talking about any contracts,
20 staff assistance.

21 CHAIRPERSON ACKERMAN: Any questions from the
22 Commissioners? Anyone in the audience on Item 14?

23 Without objection, Item 14 will be deemed approved.

24 Item 15, petition by Mr. Len Heist, Colusa County
25 to enlist the support of the Commission in a legal matter,

1 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
2 Mr. Heist is here and has asked to appear.

3 CHAIRPERSON ACKERMAN: If you could please come
4 forward. Bob, would you like to explain the item?

5 MR. HIGHT: Okay. Mr. Heist asked to come before
6 the Commission. He is concerned about the closure of a
7 road which provides access to 12 miles of Butte Creek,
8 I think maybe at this point we should hear what he has to
9 say.

10 CHAIRPERSON ACKERMAN: Would you please state
11 your name and address.

12 MR. HEIST: Yes. My name is Len Heist, 1835
13 Highway Top 20, Colusa, California.

14 CHAIRPERSON ACKERMAN: Okay.

15 MR. HEIST: On April 3rd, 1979, the Colusa Board
16 of Supervisors took an action that effectively denied the
17 use and enjoyment of the only stretch of Butte Creek
18 available to the public in this county, a 12-mile stretch,

19 If you was boating, it was 3,000 feet that was
20 accessible to people with their children. This action
21 taken at the request of certain influential landowners was
22 an abandonment and closure of Laux Road. There are people
23 opposed to the closure of 5,000 feet, as the petition of
24 over 400 names signed by local citizens -- the petition
25 upon the closure, which got lost, of local citizens, and

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1 120 petitions from the San Francisco area.

2 The closure of Laux Road and access to Butte
3 Creek was not in the best interests of the county residents
4 or of California residents,

5 The closure of 5,000 feet, being the only public
6 access to the area has restricted rights of navigation
7 and all recreational purposes involved.

8 One of the supervisors conducted a survey of a
9 representative cross-section of his constituency that he
10 represents. And one of the questions asked referred to
11 the Butte Creek-Laux Road problem. The result of that
12 survey indicated that people wished -- people's wish by
13 a vote of 47 to 27 to reopen Laux Road to the public so
14 that its resources may be enjoyed by those who desire.
15 It can be assumed that the people in District 2 are
16 representative of the residents in the rest of the county;
17 this being the case, the survey would indicate that it's the
18 desire of the rest of the county's voters to retain access
19 to the recreational resources by opening Laux Road.

20 The Supervisors I know personally and the vote
21 on this will come tomorrow, Tuesday, whether to do it or
22 not. But being personal friends with them, I published
23 this in the paper today, but it looks negative.

24 CHAIRPERSON ACKERMAN: It looks like they're going
25 to close the area?

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1 MR, HEIST: To keep it closed, It's already
2 closed and deeded over to the landowners. But it was --
3 to the effect it was a foregone conclusion. It was a
4 monetary thing to keep it closed and keep the public out.

5 The excuses that they gave upon the closure was
6 it was too much for the Sheriff's Office to maintain this
7 5,000 feet and detrimental to farmers' equipment. According
8 to the map there is only one field that you could have
9 access to to do any detriment.

10 And due to the fact that it's closed in the
11 wintertime; it floods there -- like right now it's flooded,
12 and they have to remove all the equipment.

13 Yet when -- the Supervisors theoretically had
14 a verbal agreement that Colusa County residents would have
15 the right to obtain a key to go fishing, and after -- when
16 I tried -- this is what started the whole litigation --
17 you can't get a key in the wintertime when, theoretically,
18 because of damage to equipment. But there is none. Because
19 it floods, they have to take it out. It kind of shows
20 the reason they really closed the road was just for
21 monetary gain. They want to sell the fish and game that's
22 in the area. So, years before the whole area was a county
23 road. The county road went from Gridley Road to Sacramento
24 River. Well, they closed it all, except for the 5,000 feet,
25 which was for access. Then with the closure of this last

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1 little amount, it made total exploitation of fish and fowl.

2 CHAIRPERSON ACKERMAN: Is there access from the
3 other side of the creek?

4 MR. HEIST: No, sir. There is no way. It's
5 impossible. Even by boat now, you can't come up from the
6 Sacramento River. You can't come up from the Gridley
7 Bridge. I have pictures of the dam. I have pictures of the
8 trestle they built.

9 MS. MORGAN: That we have here?

10 MR. HEIST: Yes, ma'am. So, they have it totally
11 to themselves. Due to the fact it was a family area, Fish
12 and Game -- which is Chris Wright -- estimated -- and it is
13 an estimation -- over 13,000 hours on the 5,000 feet that
14 was accessible per year of recreational area. The grass
15 is worn off the bank where you could reach the water. So,
16 it's just -- I'm not an ardent hunter and fisherman. I like
17 to fish, but I just felt it was selling the public down the
18 river.

19 CHAIRPERSON ACKERMAN: No pun intended.

20 MR. JERVIS: Or up the creek.

21 MR. HEIST: Yes, that sounds better.

22 (Laughter.)

23 CHAIRPERSON ACKERMAN: Was this a county road?

24 MR. HEIST: Yes, sir, for over a century; 117
25 years now. In the olden days, this is how the market

1 hunters went into this Butte Sink area to, you know. Yes,
 2 117 years. I have on my petition the ex-landowners of
 3 Laux Road: Mr. Al Laux. And they did it in less than
 4 30 days. They realized if the public would get their teeth
 5 into it, it probably wouldn't have got closed. They did it
 6 in less than 30 days. And petition of the local
 7 petitioners -- there was a petition, but it was never
 8 mentioned in the minutes. Courthouse can't find it.
 9 There's a whole lot of things.

10 CHAIRPERSON ACKERMAN: You say the petition's
 11 being reheard by the Board?

12 MR. HEIST: I put it on the agenda. And I
 13 presented my petition of over 400 names of local citizens,
 14 They wouldn't accept -- only Colusa County residents.
 15 Then Mr. -- one of the supervisors has his own survey
 16 and it came out over two to one in favor of opening the
 17 5,000 feet back up.

18 The Sheriff's Department, the boating safety
 19 officer, he would like to see it opened up. Fish and Game,
 20 Chris Wright, which is the local resident, he would like
 21 to see it. If we do go to court, he wants to speak in
 22 behalf of me. Even for the small area, 400 petitioners
 23 was fairly easy to gather. They was coming down the
 24 driveway pretty good.

25 MR. TAYLOR: Mr. Chairman, in matters of this

1 sort, the Commission has -- normally prefers to leave it to
 2 the local jurisdiction. And on several occasions -- People vs.
 3 Mac and several other cases -- we have filed supporting
 4 briefs where public rights were asserted in this kind of a
 5 waterway.

6 In this instance, the county appears not to be
 7 interested in doing those rights and I don't know where the
 8 jurisdiction directly falls. I'm not sure that it directly
 9 falls to the Lands Commission in this particular instance.

10 We have talked to the gentleman. A number of
 11 people on your staff, Mr. Stevens; Lou Allen, the Land
 12 Agent, and we first advised him to seek the assistance of
 13 counsel and gave him what assistance we could with the
 14 applicable law that we could find.

15 And it appears that at least if you're in a
 16 tideland area, the county could not close off the street
 17 that would provide access. The question here is whether or
 18 not that kind of a provision applies to this type of creek.
 19 And it may be.

20 But we gave him the applicable sections. There is
 21 a problem, though, that is, this occurred two years ago,
 22 It occurred March and April of 1979. And I'm not sure the
 23 county can reassert the street without an offer by the
 24 current owners to rededicate. And, therefore, the question
 25 is really whether the property was properly terminated --

1 whether the road was properly terminated two years ago,
2 And that raises a number of matters.

3 It would be possible for the staff to talk to
4 Fish and Game to see what their interest on this one is.
5 And, of course, Mr. Heist is free to file a lawsuit and
6 name anyone he wants in the course of that.

7 If there's a dam that has been constructed across
8 the stream and this stream is naturally frequented by
9 fish, then public access would be required under
10 Section 5943 of the Fish and Game Code. I don't know
11 what the circumstances of that are, so that is one problem.

12 CHAIRPERSON ACKERMAN: What agency is finally
13 responsible for enforcing or determining public access?
14 Is it the Lands Commission, that agency?

15 MR. TAYLOR: There's a number of agencies that
16 can. It's not clear which one of them is exclusive.
17 The Lands Commission clearly would be the agency of
18 titlely navigable waterways. This is not titlely navigable,
19 as I understand it. By title, that's t-i-t-l-e, not
20 t-i-d-a-l.

21 The Commission does have an interest in the public
22 trust which attaches to lands which are navigable for
23 boating, but it's a nontitle interest. And that's a much
24 more indirect interest than the one you have directly under
25 your thing. I think the first concern would probably be

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1 with Fish and Game, or the first and primary concern would
2 be with the local agency, which would be the county.

3 The next would probably be Fish and Game. There
4 appears to be another problem, which he's discussed this
5 morning, and that's the fact that there's some kind of weir
6 under the county bridge which might be passable by boats
7 if it was removed. If the purpose of that is to prohibit
8 boats from going up Butte Creek, then that certainly is a
9 People vs. Mac situation. And it can be abated.

10 Likewise, at the junction of the Butte Creek and
11 Sacramento River at or near the town of Colusa, if the
12 purpose of that enclosure across the junction point is
13 to prevent navigational traffic, that's also a People vs.
14 Mac situation. And normally, those actions have been
15 brought by the District Attorney. There is jurisdiction
16 in the State to bring those.

17 I think one of the problems is that this is
18 late and it's not very timely and, secondly, I'm not sure
19 as to -- I think you have peripheral interest, but I'm not
20 sure you have the most direct interest. The primary concern
21 is with the county at this point.

22 I guess if you'd like a further report back from
23 the staff, or something of that sort, we could do it, or
24 we could talk to the Fish and Game about where it would sit
25 at this point.

1 CHAIRPERSON ACKERMAN: Sue, you have a question?

2 MS. MORGAN: I have. Our attorney just mentioned
3 that this road was closed two years ago.

4 MR. HEIST: Yes.

5 MS. MORGAN: Why are you just now getting
6 interested in it?

7 MR. HEIST: The person who had the first petition
8 was Angelo Jaconetti, who was an elder, longtime county
9 resident. I cannot find out how many names he had anyway.
10 He lost the thing. He came to my house and he said that
11 provisions had been made for Colusa County residents to be
12 able to utilize this 5,000 feet. You would go to the
13 landowner and he would issue you a key, then you would be
14 able to utilize this area.

15 ~~It~~, within the two years or few months before
16 I started this in the summertime, I was going to get a key
17 and utilize it. But what I found is that they're allowing
18 nobody in there during hunting time; they allow nobody in
19 there at night. There's about three months in the summer-
20 time that you could use the area. The landowner's office
21 stated that, "You let us know two days before you go
22 fishing -- before you want to go fishing -- then you can
23 come in when the office opens at nine to pick up the key."
24 They lock the place up at night, so you have to have the
25 key back before five o'clock.

1 I didn't believe that the county the supervisors
2 would think that was a good deal, so I went over to the
3 courthouse to find out what was done to save the
4 prescriptive rights of the county residents of this
5 fishing access and there was none.

6 So, when the termination of four years --
7 according to the law -- when it is up, then he would have
8 total -- he could do as he wanted. It was just a verbal
9 agreement.

10 So then when I talked to the supervisors on this
11 thing to ask where the agreement was or was it a verbal
12 agreement, you know, what rights did we have other than
13 verbal. You know, even verbal, they would have remembered.
14 So, now he can do as he wants.

15 In other words, if he don't like you, you just
16 can't go in. Unless he likes you or you're part of
17 Bechtel, or whatever, you can go in.

18 MS. MORGAN: What does Bechtel have to do with it?

19 MR. HESIST: Okay, It has the shooting rights,
20 That's a corporation; American Sportsmen bought the other
21 side. The landowner himself stated, "So, now I pay no
22 taxes, It becomes a monetary thing to me. They pay my
23 taxes and I get money besides." And this was his own
24 statement out of his own mouth to me as to why certain
25 people were denied or strung out their access.

1 MS. MORGAN: Who are the people that closed the
2 road? Is that your country supervisors?

3 MR. HEIST: The five board of supervisors. Yes,
4 ma'am.

5 MS. MORGAN: How do they sit? Are they elected?

6 MR. HEIST: Four voted --

7 MS. MORGAN: No, were they elected by the
8 residents?

9 MR. HEIST: By the residents, yes, ma'am.

10 MS. MORGAN: When was your last election?

11 MR. HEIST: It was two years.

12 MR. JERVIS: Staggered basis.

13 MS. MORGAN: A staggered basis?

14 MR. HEIST: Yeah, a staggered basis. It was
15 less than two years, almost two years. The one I voted
16 for lost.

17 MS. MORGAN: Has this ever been an issue during
18 an election?

19 MR. HEIST: The supervisor that this area is
20 in was brand new. The supervisor at the closure ruling
21 was brand new. He submitted it. He was the one that put
22 on his survey. They got him. They surprised him.

23 MS. MORGAN: I don't really know what jurisdiction
24 or interest this agency has. It sounds like the State,
25 the great body of the State -- somewhere in the State there

1 is some entity that is concerned, And I would just
2 wonder if we could ask the staff to look into this a little
3 bit further and maybe help this man come up with the
4 right agency in the State, if there was one, to see what
5 sort of involvement we should have,

6 CHAIRPERSON ACKERMAN: Maybe we can go one step
7 further with the county government, too. And if the
8 Board is meeting tomorrow, I would think, one, it's
9 too premature for us to do anything legal prior to the
10 Board meeting tomorrow,

11 Maybe we should have the staff contact Fish and
12 Game and identify other agencies that may have a common
13 interest. And if something should be done jointly, if, in
14 fact, the State Lands Commission should join with Fish and
15 Game and any other appropriate State agency over the public
16 access issue. And see what the Board does tomorrow, You
17 can represent to the Board that you were here, that the
18 Commission is concerned about the public access, that we
19 are going to contact other State agencies as to the further
20 legal question, and that the staff put this item back on
21 the calendar, depending on tomorrow's action of the board
22 of supervisors. If your petition is successful, any action
23 by us here today is unnecessary.

24 MR. HEIST: I understand, sir,

25 CHAIRPERSON ACKERMAN: I don't like to go out and

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1 sue people. The attorneys are busy enough as it is anyway.

2 I don't know if you concur.

3 MS. MORGAN: That sounds fine. If it is as he
4 described, then I think we should probably get involved
5 and do something, because there's no such thing as a
6 private river, in my opinion.

7 And if it's something within the jurisdiction
8 of this Board, we should take a look at it.

9 CHAIRPERSON ACKERMAN: And he is free to
10 represent to the county board tomorrow that the Commission
11 is taking a closer look at it and other departments that
12 have an interest as well on behalf of the public, and
13 say that we're in the process of pursuing a staff report
14 on it.

15 MR. HEIST: Yes, sir. I will do it.

16 CHAIRPERSON ACKERMAN: Their action tomorrow
17 will determine any possible future action.

18 MR. JERVIS: You've got 400 qualified petition
19 signatures that are going to impress them tomorrow.

20 MR. HEIST: It impressed them to the fact that
21 when I presented my petition, the supervisor of one area --
22 the area -- said that probably a lot of people just signed
23 this because you were presenting it and laid it down. And
24 then the next supervisor, no.

25 CHAIRPERSON ACKERMAN: That's what people said

1 about Proposition 13.

2 But that would meet with your approval.

3 MR. HEIST: I'm happy.

4 MR. TAYLOR: I think you ought to ask the board
5 to also look into the fact as to whether or not they
6 properly abandoned the road two years ago. I think that's
7 your strongest argument.

8 MS. MORGAN: That seems to be the question.

9 MR. JERVIS: Maybe you shouldn't tell them that.

10 MR. HEIST: The one that they did leap on, it
11 was -- one second here. Okay. It's 960. That's the one
12 they used to close the road, because due to the fact at the
13 time that the road was open, they had to have a good
14 reason to close the road. It was 950. Here it is here,
15 954.5, and the section, if you read the Street and Highway
16 Code -- I'm not an attorney. Anyway, it was Section E,
17 which is determined that the maintenance is no longer
18 necessary. So that pretty well covers it all. And Section
19 E was not chaptered until 1979, which it didn't become law
20 until January 1, 1980. So, I think they jumped the gun
21 a little bit. But that would be for the courts to decide.
22 They used all of them. They wrote them all down. This
23 would have been the one they used, would have been 956.
24 It was just in Riverside County, the beaches. It was
25 chaptered in 1979 to become law in 1980. I shouldn't have

1 MR. TAYLOR: Fine.

2 CHAIRPERSON ACKERMAN: You can use your own
3 judgment if you want to bring that to the attention of
4 the supervisors.

5 MR. HEIST: No.

6 CHAIRPERSON ACKERMAN: One last question.

7 MS. MORGAN: Is there anyone else who has a
8 question?

9 CHAIRPERSON ACKERMAN: John?

10 MR. JERVIS: Have you ever used the key in the
11 summertime?

12 MR. HEIST: No, sir. I never even attempted to
13 after Mr. Jaconetti who had the petition said that he knew
14 that people had signed his petition would have been upset,
15 so he went around and explained to us that it was a verbal
16 agreement with the Board of Supervisors that Colusa County
17 residents, if they wanted to utilize the area, would have
18 access. I thought it was a written access that the Board
19 of Supervisors had provided for the Colusa County residents
20 to utilize this area.

21 Then when I went to exercise my right, I found
22 out what it was all about. Then I went to the courthouse
23 to find out what provision had been made to save it. And
24 there was none, other than verbal. And so he could use --
25 the landowners could use their -- who they wanted or what

1 they wanted or nobody, But after the four years was up,
 2 we would lose all rights. We would abstain all possible
 3 chance of recovering this road. He could do what he wanted.
 4 Even in the last minutes of the meeting, the landowner
 5 himself stated that -- in the minutes four times -- that
 6 he denied nobody access to the area. And it made the
 7 minutes zero times.

8 CHAIRPERSON ACKERMAN: I don't think that's a
 9 question for us to consider. That's all?

10 If you will inform the staff tomorrow of the
 11 action --

12 MR. HEIST: I will do. Thank you very much.

13 CHAIRPERSON ACKERMAN: Thank you very much,
 14 We'll move on to Item 16, tidelands inventory.
 15 We're being asked to approve the tidelands inventory
 16 report to the Legislature, pursuant to the requirements
 17 of Chapter 706.

18 EXECUTIVE OFFICER NORTHROP: Mr, Chairman, you
 19 have in front of you, each of you, a stack. It might look
 20 like the agenda, but it's not. The title is "Inventory,"
 21 which is the result of work done -- preliminary work done
 22 by the Joint Tidelands Committee and later by the Joint
 23 Committee on Public Domain. And this was chaptered into law
 24 in 1975.

25 And this is a progress report on the open coast

1 area tidelands inventory.

2 And I would like to publicly thank the staff
3 who worked on this, Lance started it before he came a
4 lawyer and got smart. And Lance was followed by Leroy
5 Weed of the staff in the background. And we now are ready
6 to submit to you for your approval.

7 CHAIRPERSON ACKERMAN: When looking through it
8 last week, I think I asked you during the briefing on the
9 agenda, if the Coastal Commission had all the information
10 they used in it. I was somewhat chagrined that the
11 Coastal Commission didn't necessarily do this type of work,
12 I think it imperative with some of the decisions they make.
13 I sincerely hope that it will be useful to the Coastal
14 Commission as long as they may continue to exist.

15 EXECUTIVE OFFICER NORTHROP: It might give it a
16 basis to survive.

17 MS. MORGAN: Another board that I sit on operates
18 more or less as an intermediary between the Commission
19 and the people who are trying to do something along with
20 those projects. This is impressive. But what are all
21 these people going to do for the next five years?

22 EXECUTIVE OFFICER NORTHROP: This is just Phase
23 One. There are two more phases on it.

24 MR. TAYLOR: 2025 would be an optimistic date
25 to be completed.

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1 MS, MORGAN: 2025?

2 MR, TAYLOR: Yes,

3 EXECUTIVE OFFICER NORTHROP: Leroy Weed has
4 grandchildren,

5 MS, MORGAN: That man's too young,

6 CHAIRPERSON ACKERMAN: You can turn it over to
7 your grandchildren.

8 MS, MORGAN: Is it a good project?

9 EXECUTIVE OFFICER NORTHROP: I think it's a good
10 project. I think they've done a very nice job on it. It's
11 something that needs to be done. One of the criticisms
12 that State Lands has received since I can remember, even
13 in the days when I was a legislative consultant working
14 with the Joint Committee on Public Domain, was we don't know
15 what we own. And this gives us some kind of a handle on
16 what we own. There's still a lot of questions about what
17 we own, and I don't think until the year 2000 Greg is ready
18 to put a red line on a map and say that we own this. Is
19 that right, Mr. Taylor?

20 MR, TAYLOR: No, no. We have a number. Maybe
21 a hundred miles so far,

22 CHAIRPERSON ACKERMAN: If this was in existence
23 during the whole Eureka question that Les was involved in,
24 wouldn't it have made all the negotiations much easier?

25 EXECUTIVE OFFICER NORTHROP: Part of it was

1 available at the time.

2 MR. GRIMES: This is under the ungranted tidelands
3 and Eureka is granted, so it wouldn't have been a help,

4 MR. TAYLOR: That's really only the beginning,
5 That's only the base data,

6 And when you consider -- to give you an estimate
7 of the magnitude of it by Statute 2000, which was passed --
8 Chapter 2000 in 1957 required the State Lands Commission to
9 survey monument, plat, and boundaries in the City of Long
10 Beach. We are almost complete with that. But it's been a
11 long pull. There's still a few more parcels to go in
12 Alamitos Bay. So, that's how long it would take. That's
13 just the initial work. That's the identifying document.

14 CHAIRPERSON ACKERMAN: This really tells us
15 what we still have to do.

16 Without objection, I'll --

17 MS. MORGAN: What's the action on it?

18 CHAIRPERSON ACKERMAN: The action is approval
19 for the transmission to the Legislature by December 31st
20 as required. I believe that the statute required it a few
21 years ago.

22 MR. TAYLOR: This is on time.

23 EXECUTIVE OFFICER NORTHROP: Right. It's on
24 time.

25 CHAIRPERSON ACKERMAN: The staff ought to be

1 commended.

2 MS. MORGAN: Good work.

3 CHAIRPERSON ACKERMAN: Without objection, that
4 will be the order. Thank you very much.

5 MS. MORGAN: We pay by the pound.

6 CHAIRPERSON ACKERMAN: I thought this was the
7 staff report on Catalina Island.

8 (Laughter)

9 MR. TAYLOR: There is one thing in the back end
10 of that report that notes there either has to be a staff
11 augmentation -- those are mine -- there has to be a staff
12 augmentation of 30 positions or an extension of the
13 deadline for completing the final part of the work until
14 the year 2025, I think.

15 MR. GRIMES: 2010.

16 MR. TAYLOR: 2010, I'm sorry. So there would have
17 to be some legislation following this report at some point
18 to raise that deadline. That was always contemplated when
19 the statute was adopted, but they had to see how it went.

20 CHAIRPERSON ACKERMAN: I imagine this report
21 would be subject to deliberations and discussions over the
22 next successive years.

23 MR. TAYLOR: Yes.

24 CHAIRPERSON ACKERMAN: Okay. Thank you very
25 much. Okay. Item No. 17, Robert Sherman, Frank E. Zemogh,
rescind prior approval of sublease and adding --

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1 EXECUTIVE OFFICER NORTHROP: That's correct,
2 Mr. Chairman,

3 CHAIRPERSON ACKERMAN: Anyone to appear on Item
4 17? Without objection, the item will be approved,

5 Item No. 18, a proposed settlement of pending
6 litigation with L R Partnership, Ltd.

7 EXECUTIVE OFFICER NORTHROP: Mr. Taylor is
8 prepared. Greg, I believe you have an additional calendar
9 item on there.

10 MR. TAYLOR: I feel I've been set up. This is
11 a title and boundary settlement at Agua Hedionda Lagoon,
12 This is a lagoon, which to the extent that it existed --
13 which is of some argument -- it is within a rancho. The
14 question has been argued last week before the California
15 Supreme Court.

16 The settlement -- if it was truly a lagoon,
17 then several choices of lines, some down near the bottom
18 of the property and two up near the top of the property,
19 which might be argued to be high water marks, and no
20 agreement on that natural location was reached. This
21 lagoon.

22 Basically what we're doing is they're giving us
23 an arbitrary line across the bottom and a certain amount
24 of acreage in exchange for the State terminating any
25 easement that exists above that. And they're also subject

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1 to an implied dedication case giving two 20-foot access
2 ways down either side of the property. The owner of the
3 property is happy with this. He is about to solve his
4 problems with the Coastal Commission. If the densities
5 work out, there will be some development on the upland
6 portion of this.

7 CHAIRPERSON ACKERMAN: Any questions? Without
8 objection, the item will be deemed approved.

9 Item 19, United States Department of Agriculture,
10 Forest Service, approval for fuelbreak at Shaver Lake. Any
11 questions from any of the Commissioners?

12 Anyone in the audience on Item 19?

13 It will be deemed approved.

14 Item 20, Huntington Partnership, Crocker National
15 Bank. And this is similar to the item we had on last month's
16 agenda.

17 EXECUTIVE OFFICER NORTHROP: That's correct.
18 We come to the same conclusion.

19 CHAIRPERSON ACKERMAN: Could you explain the
20 terminology? What's the two days, five days? Let's have
21 it one more time.

22 MR. HIGHT: Three days prior to the intent to
23 bid and two days prior to any sale.

24 MS. MORGAN: Working days.

25 MR. HIGHT: Working days.

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1 CHAIRPERSON ACKERMAN: So holidays and weekends
2 are excluded?

3 MR. HIGHT: Right,

4 CHAIRPERSON ACKERMAN: That would give the staff
5 enough time to make a recommendation,

6 MR. HIGHT: Yes,

7 CHAIRPERSON ACKERMAN: Okay, Any interested
8 persons in the audience on Item 20? Questions from the
9 Commissioners?

10 MS. MORGAN: See how it works, I hope we never
11 have to exercise it,

12 CHAIRPERSON ACKERMAN: I hope we never have to
13 do it,

14 MR. HIGHT: I don't anticipate we will ever be
15 in a position to find out if it works,

16 CHAIRPERSON ACKERMAN: Without objection then,
17 Item 20 will be approved,

18 Item 21, Bureau of Land Management, approval of
19 the sale of 2.24 acres more or less in San Bernardino
20 County. Any questions from the Commissioners on the item?
21 Anyone in the audience? Item 21 will be approved,

22 Item 22, Jordan Oil and Gas Company, approval of
23 holding a public hearing.

24 EXECUTIVE OFFICER MORTHROP: We must hold public
25 hearings prior.

1 CHAIRPERSON ACKERMAN: Any questions from the
2 Commissioners? Anyone in the audience on Item 22?

3 Item 22 will be approved.

4 Item 23. This is Glebe/Prati, surface owners,
5 on geothermal bid. Three matching bids.

6 MS. MORGAN: These were the bids we had before
7 us at the last meeting.

8 EXECUTIVE OFFICER NORTHROP: 97.5, 80.1 and 70
9 percent were matched. I think that tends to tell us
10 there's a little competition out there, particularly when
11 a property owner matches it for an oil company to give
12 a percentage or some several percent perhaps to the property
13 owner.

14 CHAIRPERSON ACKERMAN: The geothermal business
15 is looking a lot better right now.

16 Anyone in the audience on Item 23? Any questions
17 from the Commissioners?

18 Item 23 will be approved.

19 Long Beach operations, Item 24, crude oil sell-off.
20 This is an approval for sell-off for Parcel A, Wilmington
21 Oil Field.

22 EXECUTIVE OFFICER NORTHROP: And for Long
23 Beach Oil Development, LBOD, will have four parcels of
24 about -- one for about 445, two for about 400, and one for
25 about 355 barrels a day.

1 CHAIRPERSON ACKERMAN: Are these for sometime in
2 March?

3 EXECUTIVE OFFICER NORTHROP: Yes,

4 MS. MORGAN: When will the sale take place? In
5 March?

6 EXECUTIVE OFFICER NORTHROP: In March, I imagine
7 we'll have that for the January meeting.

8 CHAIRPERSON ACKERMAN: Any questions from the
9 Commissioners on Item ~~24~~? Item 24 will be approved,
10 Item 25, the fourth modification.

11 MR. THOMPSON: This is reporting on Exhibits C-3
12 and C-4. There's no augmentation or transfer of funds in
13 this particular modification.

14 There is a difference in net income, primarily
15 the result of the carry-in of approximately \$29 million
16 and a reduction in projected crude oil prices.

17 In looking at Exhibits C-3 and C-4, we see the
18 crude oil price is flat for the balance of the year of
19 a little over \$26. The original estimates were \$29 for
20 the last quarter. They're down about 10 percent.

21 And this reduction is reflected in the State
22 revenues.

23 CHAIRPERSON ACKERMAN: But this will have no
24 impact on State revenues?

25 EXECUTIVE OFFICER NORTHROP: It will have some

1 impact on State revenues, but we've already projected it,

2 CHAIRPERSON ACKERMAN: Then it's already included
3 in the budget?

4 EXECUTIVE OFFICER NORTHROP: It's already in.

5 CHAIRPERSON ACKERMAN: All right, Does anyone
6 have any questions?

7 MS. MORGAN: When you do sell-off, which we
8 just approved on the prior item, will you get information
9 that would change the revenue projection?

10 MR. THOMPSON: Very, very unlikely. At the
11 present time, the present bid is somewhere in the range
12 of 35 cents. We may not get any offers. The market is
13 not too good at the present time, plus the fact of the
14 portions that are involved.

15 MS. MORGAN: It's not a large enough sale to make
16 any difference in the revenue projection?

17 EXECUTIVE OFFICER NORTHROP: If we got a bonus
18 that was unexpectedly high, then it would give us an
19 indication that the market was firming up. In that case,
20 we would probably revise our estimate upward. But what
21 Moose is saying, what we currently expect is to stay very
22 flat. But if there was a change, this would be our first
23 indicator to look for some price increase.

24 MR. THOMPSON: And then we would hope that the
25 amount of the prices might be revised upward. But right

1 now we don't have that much to --

2 MS. MORGAN: Okay.

3 EXECUTIVE OFFICER NORTHROP: Our previous
4 sell-offs were indicative of a price drop. Based on that,
5 we had probably three to four months lead the prices were
6 falling. They finally did.

7 CHAIRPERSON ACKERMAN: I had a chance to meet
8 with some refiners the other day and they mentioned that
9 anything under five or six hundred barrels a day, the
10 paperwork costs they had to deal with, it just wasn't worth
11 it. There's an oil glut on the market right now. This
12 sell-off was for 1500?

13 MR. TAYLOR: About four or five hundred barrels
14 a day.

15 CHAIRPERSON ACKERMAN: That may be enough
16 volume to give it a little push.

17 Any other questions?

18 MS. MORGAN: You had \$29 million of carryovers
19 from the prior budget?

20 MR. THOMPSON: Yes.

21 MS. MORGAN: Is that typical?

22 MR. THOMPSON: This is a little large compared
23 to some of the past carryovers because we have some large
24 construction projects somewhere around ten or twelve million
25 dollars.

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1 CHAIRPERSON ACKERMAN: Any other questions?

2 Then without objection, Item 25 will be approved,
3 Item 26, American Savings vs. State of
4 California; approval of exchange parcel for settlement.

5 MR. HIGHT: Yes, Mr. Chairman. This is -- the
6 Commission approved the settlement of this lawsuit several
7 months back. At that time we did not have a Land Bank.

8 CHAIRPERSON ACKERMAN: That's the Hayward?

9 MR. HIGHT: Yes, sir. Hayward Land Bank.

10 CHAIRPERSON ACKERMAN: Any questions from
11 Commissioners?

12 Anyone in the audience on Item 26?

13 MS. MORGAN: Move approval.

14 CHAIRPERSON ACKERMAN: Item 26 will be deemed
15 approved.

16 Item 27, approval of proposed stipulated judgment.

17 MR. HIGHT: Yes, Mr. Chairman. This is
18 Mr. Stevens' Lake Tahoe settlement. It allows the --
19 it's a settlement of a lawsuit between two parties in that
20 restaurant. And it allows that restaurant to remain where
21 it is, finding that it is consistent with the trust.

22 CHAIRPERSON ACKERMAN: Is there any objection up
23 in Tahoe concerning the proposed ownership?

24 MR. STEVENS: We know of none, Mr. Chairman. This
25 simply recognizes the existence of the public trust between

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1 low and high at the levels the Commission has established
2 and puts the Commission on record as recognizing that
3 fine French food is a public trust,

4 (Laughter)

5 MR. STEVENS: There is an error in the spelling,
6 It's D-u-f-a-u. It should be D-u-f-a-u and the record
7 should indicate that.

8 CHAIRPERSON ACKERMAN: The record will so
9 indicate.

10 Is there anyone in the audience on Item 27?
11 Then on behalf of fine French food, No. 27 will be
12 deemed approved.

13 That completes the calendar items, Are there
14 any items before executive session?

15 EXECUTIVE OFFICER NORTHROP: Two items.

16 CHAIRPERSON ACKERMAN: There's two items before
17 executive session concerning litigation.

18 The meeting will be deemed closed and we will
19 conduct the executive session.

20 (Thereupon the meeting was adjourned
21 at 10:55 a.m.)

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I, Nadine J. Parks, a shorthand reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing regular meeting of the State Lands Commission was reported in shorthand by me, Nadine J. Parks, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have set my hand this 12th of December, 1981.

Nadine J. Parks
Nadine J. Parks
Shorthand Reporter