

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

MEETING
STATE LANDS COMMISSION

DEPARTMENT OF TRANSPORTATION
BASEMENT BOARDROOM
1120 N Street
Sacramento, California

ORIGINAL

TUESDAY, MARCH 23, 1982
10:48 A.M.

Cathleen Slocum, C.S.R.
License No. 2822

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

MEMBERS PRESENT

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

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

MEMBERS ABSENT

John Jervis, representing Ken Cory, Controller

STAFF PRESENT

Claire Dedrick, Executive Officer

Robert Hight, Chief Counsel

Jack Rump, Assistant Chief Counsel

R. S. Golden, Assistant Executive Officer

J. F. Trout

Curtis Fossum

Joyce Lane

Diane Jones, Administrative Assistant

Jane Smith, Secretary

ALSO PRESENT

N. Gregory Taylor, Assistant Attorney General

Jan S. Stevens, Deputy Attorney General

I N D E X

	<u>Page</u>
1	
2	
3	1
4	1
5	1
6	5
7	
8	8
9	9
10	
11	9
12	10
13	12
14	26
15	28
16	28
17	
18	28
19	28
20	29
21	32
22	33
23	33
24	34
25	34

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 483-1600

1	Item 31 - Western Title Insurance Company	34
2	Commission discussion	34
3	Commission decision	35
4	Item 32 - Highest Qualified Bidder	35
5	Commission decision	35
6	Item 33 - Shell Oil Company	35
7	Commission discussion	35
8	Commission decision	36
9	Item 34 - Newmont Exploration Limited	36
10	Commission decision	36
11	Item 35 - Monitoring of possible subsidence and seismic hazards	36
12	Commission decision	37
13	Item 36 - City of Long Beach	37
14	Commission decision	37
15	Item 37 - TPL - Suisun	37
16	Commission decision	38
17	Item 38 - Usonia, Inc.	38
18	Commission decision	38
19	Item 39 - Title Insurance and Trust Company	38
20	Commission discussion	38
21	Commission decision	40
22	Item 40 - Anne L. Houk	40
23	Commission decision	40
24	Item 41 - Mobil/Redwood Shores, Inc.	40
25	Commission decision	41

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

Item 42 - San Diego Local Agency Formation Commission

41

Commission discussion

41

Commission decision

47

Item 44 - Approval of Replacement of Alternate San Francisco Bay Conservation and Development Commission

44

Commission decision

46

Item 45 - Santa Catalina Island (submitted under separate cover)

Adjournment

47

Certificate of Reporter

48

--oOo--

PROCEEDINGS

--oOo--

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

ACTING CHAIRPERSON ACKERMAN: Will the State Lands Commission meeting please come to order.

The first item on the agenda is confirmation of the minutes of our meeting of February 9th, 1982. Are there any questions from Commissioners on the minutes?

COMMISSIONER MORGAN: No.

ACTING CHAIRPERSON ACKERMAN: Any comments from the audience?

Without objection, then, the minutes of February 9th will be approved.

We have the report of the Executive Officer.

EXECUTIVE OFFICER DEDRICK: The last time we reported to you that the Coast Guard was closing its 12th District Office and we expressed our concern to them. They have replied by telling us that it's not going to be closed, and I think I probably should read you the brief letter that they sent us.

"Dear Mr. Cory:

"On behalf of Secretary Lewis I am responding to your letter that expressed concern about the possible merger of the Eleventh and Twelfth Coast Guard Districts. The intent of this action was to reduce

1 expenditures by consolidating administrative
2 functions. Operational capabilities were to
3 be preserved for the most part.

4 "I am happy to say, however, that the
5 recent prospect of budget relief has suspended
6 this action. Thank you for your concern.

7 "Sincerely, J. A. McDonough, Jr.,
8 Captain, U.S. Coast Guard."

9 The next item is in regard to geothermal bidding.
10 At the last Commission meeting you requested that we find
11 out what's going on with geothermal leases. We are
12 submitting to you today a preliminary report from the staff
13 on the basis of, where they have talked to past and present
14 bidders and other people in the industry, and to make a long
15 story short, it's the matching bid problem that's a real
16 problem. We can pursue that at the next Commission
17 conference, if you'd like. Is that -- Okay.

18 COMMISSIONER MORGAN: Yes.

19 EXECUTIVE OFFICER DEDRICK: Again at the last
20 meeting there were some questions regarding the exploration
21 permits, proposed Section 2100 of Article 2.9. There
22 appeared to have been confusion as to when the Commission
23 would require exploration permits. For clarification of
24 the record, it should be emphasized that under the new
25 regulations a general permit is required for all geological

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 or geophysical surveys conducted on State lands. The
 2 general permits will require advance notice to the Commission
 3 staff, local fishermen, and other entities several days prior
 4 to the actual survey. The terms and conditions covered by
 5 the general permits are still to be determined. It is the
 6 staff's understanding that the Commission, at its regular
 7 meetings, wishes to have a monthly recap of geological or
 8 geophysical activity, if any has taken place. Correct?

9 ACTING CHAIRPERSON ACKERMAN: Are we going to be
 10 asked to approve the permits on a case-by-case basis?
 11 Weren't they for general permits?

12 EXECUTIVE OFFICER DEDRICK: These were the
 13 overriding rules and, to a certain -- Yes, I think the answer
 14 to that is yes, although it looks like somebody wants to say
 15 something here.

16 MR. HIGHT: The answer is yes.

17 EXECUTIVE OFFICER DEDRICK: The answer is yes.

18 You authorized last month the sale of some royalty
 19 crude oil and the staff conducted two competitive bids. One
 20 on March 16th for oil produced from lease PRC 426 and the
 21 other on March 17th for oil produced from lease E-392.
 22 Champlin Petroleum submitted the only bids for both leases
 23 offering to pay the State bonuses of 15.1 cents and 8.1 cents
 24 per barrel. The 8.1 cent sale is on the consent calendar
 25 today. The 15.1 cent will be on the April calendar. That

1 is, of course, above posted price. If the bids are
2 accepted, the State would receive revenues in excess of
3 \$300 a day.

4 ACTING CHAIRPERSON ACKERMAN: Has the Department
5 of Finance already spent that money?

6 EXECUTIVE OFFICER DEDRICK: I think so.

7 COMMISSIONER MORGAN: I think the Lt. Governor
8 spent some of it.

9 [Laughter.]

10 EXECUTIVE OFFICER DEDRICK: I don't think that
11 was a fair question.

12 [Laughter.]

13 EXECUTIVE OFFICER DEDRICK: There is a controlled
14 burn proposed, the Fuel Modification Project, they call it,
15 by the California Department of Forestry on some federal,
16 state and privately-owned lands in Forestry's pilot area.
17 The Eysel and Thatcher Creek Watershed Management Unit in
18 Mendocino County has been selected. The plan is to carry
19 out this project within the time period of late March to
20 early April, this year. There are about ten acres of
21 chaparral which will be affected by the burn. The burning
22 on the school land will consist of a variable width strip
23 across a portion of the parcel to create a wildlife island
24 and improve the wildlife habitat of the area. That may sound
25 unlikely, but it's really true. Wildlife does better when

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 there is a break in the kind of environment, that is to say,
2 brush to meadow or forest to brush.

3 With the Commission's concurrence, I will issue
4 a temporary permit so that the project may proceed as
5 scheduled. A formal agreement will be executed and
6 presented at a forthcoming meeting.

7 ACTING CHAIRPERSON ACKERMAN: Have any problems?

8 COMMISSIONER MORGAN: No.

9 ACTING CHAIRPERSON ACKERMAN: Without objection,
10 that's fine.

11 COMMISSIONER MORGAN: Is this the geothermal thing
12 you refer to?

13 EXECUTIVE OFFICER DEDRICK: Yes. It is
14 preliminary, but because of the problem with matching bids,
15 the staff feels that it won't improve in the future. But
16 I would be glad to have your response to any concerns that
17 are raised by reading this report and will do our best to
18 answer them next time around.

19 COMMISSIONER MORGAN: Thank you.

20 ACTING CHAIRPERSON ACKERMAN: Any other questions?

21 COMMISSIONER MORGAN: No.

22 ACTING CHAIRPERSON ACKERMAN: Is there a staff
23 report on Coastal matters?

24 MR. GOLDEN: Yes, Mr. Chairman.

25 The Coastal Commission held a public hearing on

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3601

1 OCS Sale 68 proposals on March 17, 1982. The hearing took
2 over three hours and consisted of comments totally opposing
3 oil drilling off the California Coast to specific objections
4 to the sale of specified tracts.

5 The hearing was held to develop recommendations
6 to the governor on this proposed sale of 172 tracts by the
7 Department of Interior.

8 At the conclusion of the hearing, the Commission
9 voted to oppose the OCS 68 sale nomination off the California
10 Coast in their entirety with a follow-up resolution as a
11 backup position giving approval to all parcels except some
12 27 tracts as recommended by staff and two additional tracts
13 off Point Dume added by the Commission as a result of public
14 input.

15 It was notable that there was no oil company input
16 to the public hearing although their input was actively
17 solicited.

18 That terminates my report.

19 ACTING CHAIRPERSON ACKERMAN: Did the Lands
20 Commission get involved at all in OCS Tract 68?

21 MR. GOLDEN: Yes, Mr. Chairman. There was a member
22 of our staff present on the Policy Advisory Board which sat
23 with the Coastal Commission during this hearing.

24 ACTING CHAIRPERSON ACKERMAN: Does Tract 68 abut
25 to State-leased tracts?

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 MR. GOLDEN: Yes. Some of the proposed tracts
2 did and those were the ones that they were eliminating, those
3 in the Orange County and the vessel traffic separation lanes
4 going into Port of Los Angeles, Port of Long Beach, and then
5 there was some other miscellaneous tracts that did abut.

6 ACTING CHAIRPERSON ACKERMAN: Are you aware if
7 any of the proposed tracts abutted against nonleased State
8 areas?

9 MR. GOLDEN: I believe some of them did as proposed.
10 That was the problem. They were trying to keep from
11 triggering a mechanism in the oil and gas sanctuaries
12 specifically off Orange County.

13 ACTING CHAIRPERSON ACKERMAN: Am I not correct
14 that if federal tracts are leased where, against an unleased
15 tract from the strait, drainage occurs, then the State would
16 realize revenues?

17 MR. GOLDEN: We would have to prove, of course,
18 how much of that was coming from within the State tract and
19 that poses problems.

20 ACTING CHAIRPERSON ACKERMAN: Thus the Coastal
21 Commission's objection to leasing these tracts could result
22 in the State foregoing revenues?

23 MR. GOLDEN: Well, I think mainly that it would
24 mean that we would then perhaps go out and put platforms
25 out there as well to drill on our side of the line, and

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 I think that's what they were concerned about.

2 ACTING CHAIRPERSON ACKERMAN: It might be
3 advisable to have the staff monitor the situation of what
4 the impact is on State revenues with the Federal OCS policies
5 and maybe report periodically to the Commission in other
6 than just the Coastal Commission report because I realize
7 you're not an expert.

8 MR. GOLDEN: Right.

9 MR. TROUT: Mr. Ackerman, I think we should point
10 out that there are provisions with the cooperation of the
11 federal lessees for sharing revenues from a pool that crosses
12 a State line, but we've never been very successful in getting
13 an agreement with the Federal Government. But we would be
14 happy to report on that later.

15 ACTING CHAIRPERSON ACKERMAN: Okay. Any questions?

16 COMMISSIONER MORGAN: No.

17 ACTING CHAIRPERSON ACKERMAN: Thank you, Dick.

18 Just for your information on calendar items, Item
19 C16 which is on the consent calendar will be pulled off and
20 placed on the regular calendar. I understand there's someone
21 in the audience that wishes to address the Commission on
22 that item. Also, Items 26, 29 and 43 are all off calendar.

23 We will proceed then with the regular calendar,
24 Items C1 through, is it 25, C1 through 25 with the exception
25 of Item C16 are considered the consent calendar. These are

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95828
TELEPHONE (916) 383-3801

1 items that are normally administrative in nature and are
2 noncontroversial. The Commission would approve these items
3 in whole unless there are objections from anyone in the
4 audience who wishes to have any item removed and placed on
5 the regular calendar for hearing. Is there any request
6 from anyone in the audience to remove any item on the
7 consent calendar?

8 Then without objection, the consent calendar will
9 be deemed approved with the exception of Item C16.

10 Why don't we just go to C16 at this point.

11 In fact, Jim or Claire, would you discuss the issue
12 and the item.

13 MR. TROJT: Mr. Chairman, it would perhaps be
14 helpful if you look at the aerial photo that we've blown
15 up here on the wall. What is on the calendar is the
16 approval of a longstanding, trying to be gracious,
17 longstanding trespass in the Petaluma River and the Gilardi
18 people who are really running this operation as I believe
19 an upland restaurant or coffee shop or something like that,
20 and these facilities in the Petaluma River, this is what's
21 on the calendar for your approval, the issuance of a lease.

22 We understand that representatives of Mrs. Miller,
23 the neighbor, and her attorney are here and they probably
24 would like to present their side of the case.

25 Staff put this on the calendar because this solves

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 983-3601

1 a longstanding problem regarding this occupancy of the
2 Petaluma River.

3 ACTING CHAIRPERSON ACKERMAN: Mr. Matthew Hudson,
4 I believe, is present. Sir, if you could identify yourself
5 for the record and state your relationship in the case.

6 MR. HUDSON: Thank you. My name is Matthew Hudson.
7 My offices are at 205 Kelly Street in Petaluma. I represent
8 Mrs. Natalie Miller, who is the landowner adjacent to the
9 Gilardi property.

10 That's a good picture up there. Mrs. Miller, as
11 you can see, is to the right as you view that picture. The
12 Lakeville Highway runs at about the top of that picture.
13 Mrs. Miller owns parcels on either side of it. Below the
14 Lakeville Highway is about 10.4 acres with a barn that she
15 leases to a local merchant who stores hay. Above the highway
16 is another 250 or so acres which is leased for dairy cattle
17 and for ranching generally. The 10.4 acres is also leased
18 to John Bordessa who runs a portion of his sheep operation
19 on it. Mr. Bordessa also owns property to the left of the
20 Gilardi property as you see it on the picture.

21 The marina layout originally, at least until about
22 1975, had a dock that ran just above to but not quite the
23 boundary between the Gilardi and Miller properties. In about
24 1975, perhaps slightly later than that, three pilings were
25 put in place by Mr. Gilardi or by his agents and the dock

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3801

1 was extended across the property line by about 75 feet.
2 Millers have owned their property, and it was the Merrill
3 property earlier, for about 33 years. The area itself is
4 agriculture. In fact, the marina represents the only
5 commercial activity in that area for some distance in either
6 direction, in fact, until you really get into the environs
7 of Petaluma as you head north.

8 There are, of course, the agricultural operations
9 including John Bordessa's on either side of the marina and
10 the cattle and dairy ranches on the other side of the
11 Lakeville Highway.

12 The barn, as I said, is also leased and stores
13 hay for a local grain and hay merchant who does business
14 in the City of Petaluma. The older docks have probably been
15 in place for at least 30 years. It was grandfathered, as
16 we understand it, by the Corps of Engineers at least as to
17 the original extent of the marina. It is a modest point,
18 unassuming and right now in the state of, I think you can
19 call, genteel dilapidation including even the new portions
20 of it. It's a very colorful place run by a very colorful
21 person. If you haven't been there, you should try it
22 some day.

23 It advertises itself as having the best hamburgers
24 in the whole damn universe which is an indication of its
25 character, too.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 The problem though is that we do have this
2 extension of the pier. If I might, I'd like to show the
3 Commission several pictures to indicate both the nature of
4 the area and of the marina itself. Can I hand them up there?
5 There are about ten or twelve of them.

6 ACTING CHAIRPERSON ACKERMAN: This is pteel
7 state of repair?

8 MR. HUDSON: That's right. It's not Newport Beach,
9 that's for sure.

10 In about 1972, in fact, in November of '72, Mr.
11 Gilardi, the owner of the marina property, wrote to Mrs.
12 Miller and actually to her agent, Mr. George Schlenker, in
13 asking permission to drive these piles in. I'd like to show
14 you a copy of the letter that Mr. Gilardi wrote and then
15 a copy of the response that Mr. Schlenker wrote in return.
16 I'll give you several copies of this, if I might.

17 ACTING CHAIRPERSON ACKERMAN: I don't mean to --
18 Has the staff had a chance to examine or discuss in detail
19 with Mr. Hudson the points that he's raising?

20 MR. TROUT: We've been aware of this problem and
21 maybe Curtis Fossum and Joyce Lane of our staff who handled
22 it could specifically answer any questions. I believe they
23 have been in contact with Mr. Hudson and with others prior
24 to this meeting.

25 ACTING CHAIRPERSON ACKERMAN: What I want to make

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-9601

1 sure, Susie, unless you feel differently, is that the
2 information is being presented today, that the staff has
3 had an opportunity or been afforded an opportunity to at
4 least consider it and be prepared to at least make a
5 recommendation to the Commission possibly to settle this
6 without having to get into a debate before us. Is that
7 possible?

8 EXECUTIVE OFFICER DEDRICK: Let's see what Curt
9 has to say.

10 MR. FOSSUM: As Mr. Trout mentioned, we have been
11 trying for some time to get this operation under lease. Staff
12 feels that, based on the present lessee of Mr. Gilardi who
13 is Mrs. Lahargoue, that her cooperation in entering this
14 lease and the terms of the lease are such that it's in the
15 best interest of the State to enter the lease at this time.
16 It is an existing structure and our alternatives are to remove
17 the structure. So based on her cooperation and the revenues
18 that will be generated and the fact that this particular
19 commercial operation, while it does occupy a part of the
20 river that's in front of Mrs. Miller's property, the staff
21 feels that it does not interfere with her use of the
22 property.

23 ACTING CHAIRPERSON ACKERMAN: She is not proposed
24 to be charged any rent in this case; is that correct?

25 EXECUTIVE OFFICER DEDRICK: That's correct.

1 MR. FOSSUM: No, it's not. She has an existing
2 pier and had a lease with us and has informed us that she
3 will remove her pier.

4 ACTING CHAIRPERSON ACKERMAN: Is her pier a
5 commercial pier or private?

6 MR. FOSSUM: No.

7 ACTING CHAIRPERSON ACKERMAN: It's under the
8 auspices of the free recreational piers?

9 MR. FOSSUM: Well, there's no house on the
10 property. So she's not in fact a residential use. It's
11 this pier that's to be removed. But the lease that we are
12 proposing, the description of the lease itself, does not
13 abut Mrs. Miller's property. It's out in the water and
14 technically Mrs. Lahargoue who is the lessee of Mr. Gilardi
15 will not occupy any abutting lands.

16 ACTING CHAIRPERSON ACKERMAN: And that's the
17 principal point at issue here?

18 MR. HUDSON: Is the extension across the property
19 line.

20 MR. FOSSUM: Projected property line.

21 MR. HUDSON: We have no complaint about the marina
22 itself. It's the intrusion on what we view, as I will
23 describe, intrusion on the use of the property that Mrs.
24 Miller owns. I should say that the Miller's dock is in no
25 condition to be used at all. It should be torn down.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3601

1 ACTING CHAIRPERSON ACKERMAN: What latitude does
2 the Commission have here? Can the Commission require removal
3 of a portion of the dock?

4 EXECUTIVE OFFICER DEDRICK: I would think so.
5 Bob.

6 MR. HIGHT: The Commission has broad latitude and
7 could require removal of the dock or permitting of the dock
8 at your discretion and the finding necessary is, is there
9 an interference with public use and benefit.

10 ACTING CHAIRPERSON ACKERMAN: Has the staff had
11 an opportunity to review it from that point and to make a
12 recommendation?

13 MR. FOSSUM: Yes. We recommend, based on what we
14 feel is the lack of interference of this structure to the
15 adjacent property owner --

16 MR. TROUT: Mr. Chairman, I think the important
17 issue here is that if, for example, at Clear Lake or even
18 here, if this dock were to go across a series of individual
19 property ownerships and block the access to the waterfront,
20 staff would not be making this recommendation. In this
21 particular case, we feel it is in the best interests. The
22 latitude that the Commission has in approving this is that
23 there's a large expansive frontage on the Miller property
24 and that this small extension here which is about 30 feet
25 from the water line here and extends about 70 feet out, does

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 not unnecessarily or unreasonably interfere with the access
2 to the property. Now, the lease could be handled at some
3 future time if it did become a problem. But the Commission
4 has the authority to either approve it with the extension
5 across, to approve it limited to this point and require the
6 removal of this area, in which case we may lose our
7 applicant, I don't know. But that's really what's before
8 the Commission.

9 MR. TAYLOR: Mr. Chairman, just for the record,
10 could I clarify a number of matters? It appears that the
11 dock, as Mr. Trout noted, is out away from the shoreline
12 and that there is passageway for boats to go to the shoreline
13 of the Miller property.

14 MR. TROUT: It's about 30 feet in here.

15 MR. TAYLOR: Secondly, the ownership of the
16 petaluma River itself is in the State. It is a navigable
17 river. We've had an Appellate Court recently on that, White
18 versus the State. It still carries a considerable amount
19 of tonnage. So from that standpoint the ownership of the
20 State to the riverbed is clear.

21 There is a regulation that gives a preference to
22 the upland owner. However, the Commission may find in the
23 best interests of the State that that not be the case in
24 a particular instance and by awarding this lease the
25 Commission would be making a determination that it would

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 333-3601

1 be in the best interest of the State due to the physical
2 configuration of this property and the fact that the State
3 owns the waterway to award the lease or in its discretion
4 it may decide not to do so. But I think that needs to be
5 made clear for the record.

6 I believe I understand the Miller's attorney's
7 position is that they feel that this interferes with their
8 exercise of rights to come out into the waterway which in
9 the position of counsel --

10 ACTING CHAIRPERSON ACKERMAN: Mr. Hudson is
11 shaking his head.

12 MR. TAYLOR: Well, then perhaps we've interrupted
13 him. Maybe we should let him finish.

14 MR. HUDSON: I don't know --

15 ACTING CHAIRPERSON ACKERMAN: If you could speak
16 directly to the point and what you are requesting the
17 Commission to do. That would help us in our deliberations.

18 MR. HUDSON: I don't know whether you want to mark
19 those pictures in evidence or not. I don't know what your
20 procedures are. I'd like to have them before you, whatever
21 process you use.

22 ACTING CHAIRPERSON ACKERMAN: If you wish, we will
23 so designate as Exhibit A.

24 MR. HUDSON: If you don't traditionally, I'm not
25 going to worry about it either. I just want to make sure

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95820
TELEPHONE (916) 383-3601

1 they get in the record.

2 ACTING CHAIRPERSON ACKERMAN: We have enough
3 attorneys in the room, I think they can.

4 MR. HUDSON: I was amazed.

5 [Thereupon the above-mentioned 13
6 photographs were marked as Exhibit A.]

7 MR. HUDSON: Well, the question really is whether
8 that extension across the property line is appropriate. The
9 issue arises because of the agricultural nature of the
10 property and because there are liveboards who tie up at
11 the marina for long periods of time and there's no provision
12 for disposal of human waste or other sewage or garbage and
13 that is a problem.

14 MR. FOSSUM: The lease will prohibit liveboards.

15 MR. HUDSON: That will help a lot. That means
16 that it won't be necessary for her to have that additional
17 70 feet either because it won't be economically necessary.
18 I'm glad to hear that, Curt.

19 The problem with the extension also is that it
20 permits people with boats who have dogs on those boats to
21 tie up and the dogs then jump off the pier, go to the tules
22 and kill sheep. I think that is one of the primary problems.

23 I have a letter from John Bordessa which I'd like
24 to give the Commission and have you consider it as evidence
25 today. In 1978, ten of his sheep were killed by a dog that

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 had jumped off the pier. Three weeks ago he lost another
2 lamb. In between those two incidents he's lost about a dozen
3 sheep. So in the last five years, he's lost about two dozen
4 animals to dogs specifically coming along this pier, jumping
5 off and going in for his animals. He's tried to catch up
6 with the owners of the animals, but they are transient in
7 that they can untie their boats and leave or else they've
8 just been uncooperative and John Bordessa is a good neighbor.
9 He doesn't want to cause any problems for Gilardi. So he's
10 just sat back and taken it.

11 The problem of dogs and sheep is a big one in
12 Sonoma County if it's not in this county. We recently had
13 an episode of a rancher shooting a dog and hanging it by
14 its neck by a sign that says your dog will be shot if it's
15 caught molesting sheep and cattle. Millions of dollars of
16 product are lost every year in our county to dogs. So this
17 isn't a phony issue that I raise. It's a real one and it
18 comes because this is the only commercial enterprise within
19 this large agricultural area.

20 What we propose is to remove this dock and the
21 three pilings which Mr. Gilardi put in without our consent
22 and with the knowledge that things like this were going to
23 happen because of the intrusion of a commercial enterprise
24 in this area. We want him to take out those pilings, take
25 out the dock and put a fence across the end of it. We also

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 208
SACRAMENTO, CALIFORNIA 95828
TELEPHONE (916) 383-3501

1 want to improve the fence in between the two properties,
2 but that isn't where the dogs are coming from. That fence
3 isn't the problem because these dogs come down that are tied
4 up to the dock itself.

5 That is the sum and substance of our problem.

6 The other thing is and has bothered me in dealing
7 with the staff, not that they aren't able in doing their
8 job, but it has been a problem of it's a lot easier to get
9 forgiveness than it is to get permission. Mr. Gilardi has
10 put it in, has been able to live with it because Mrs. Miller
11 is also a good neighbor and doesn't want to cause some
12 problem if she doesn't have to. But now she finds herself
13 hung by that goodness, if you will, by not protesting
14 earlier and Mr. Gilardi wants to formalize what in the past
15 he could not have obtained from you, I think, or from the
16 Corps of Engineers if he had made proper application. I
17 think he would have paid attention to the problem of extension
18 into the agricultural areas. I think you would have paid
19 attention to the problem of liveboards and I think you would
20 have cut him off at the pass, if you will, and contained
21 him within his boundary line.

22 As your staff has said, you do have the authority
23 to go beyond it, but your rules also say in the general case,
24 in the usual situation, you will not.

25 Now, I would like to urge the Commission today

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 not to close down the marina. That's not our intention,
2 but to require the owner to remove the 70 feet of dock space.
3 I saw no evidence in the application and I don't think we'll
4 hear any today that says that that 70 feet is necessary to
5 the owner of the marina to maintain an economic operation.
6 I asked Mrs. Miller whether she's ever seen any boats rafted
7 out during the busiest part of the summer to indicate that
8 they were busier than they could handle, you're not going
9 to see that. I know enough about the operation out there
10 to know that the owner herself probably doesn't know who's
11 tied up there half the time and wouldn't collect rent anyway.

12 So I would urge you, because of the problems my
13 client has as a neighbor, to limit this lease within the
14 confines of the property boundaries themselves and the
15 extension. I'd be glad to answer any questions if I can.

16 MR. FOSSUM: Well, yesterday is the first day that
17 staff was informed about this dog problem and we followed
18 up. Joyce Lane contacted the County and they checked their
19 records and there have not been any dog protests in this
20 area in the last four months and some subsequent months in
21 1981 from this area. The person that was contacted did state
22 that there was as much as \$400,000 worth of damage to
23 livestock in the county last year, but this particular
24 location they had no reports.

25 Our problem is that, I don't know whether the County

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 393-3801

1 has a leash law or not, but that type of activity is one
2 that normally the police powers of the county would be
3 involved in. The Commission could look into it and see
4 whether or not dogs should be prohibited possibly from the
5 dock or something like that. But as far as we know, there's
6 nothing that keeps the dogs from simply crossing upland
7 parcels to get onto the property as well as from any place
8 else. They could swim around it.

9 ACTING CHAIRPERSON ACKERMAN: Having the 70 feet
10 of dock by itself alleviates the problem?

11 MR. FOSSUM: It doesn't seem to us that it would.

12 MR. HUDSON: With fences at the end, I think it
13 would.

14 MR. FOSSUM: In fact, the proposal to run a fence
15 out into the water would be objected to by the Commission
16 simply as a hazard to navigation. So that wouldn't be
17 allowed in any event.

18 MR. HUDSON: That wasn't exactly my proposal.
19 The proposal was to fence to the water line at the end,
20 actually at the end of the tules which can't be used anyway
21 and then across the end of the dock itself. I think that
22 would be sufficient because at the end of the dock then you
23 will have boats that will be tied up and prevent the animals
24 from getting through anyway. The problem is that they come
25 across, they can see the sheep. As you can see from the

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95820
TELEPHONE (916) 383-3601

1 pictures I gave you, from the end of the dock the animals
2 are out there very obviously. At the back end it's not so
3 much of a problem, especially because there's a barrier there.
4 As for the question of where the dogs came from, I have a
5 letter from John Bordessa which I would also like to present
6 to the Commission, if I might, indicating that he knows that's
7 where the dogs come from and they don't come from the upland
8 areas, partly because Lakeville Highway is a busy road.
9 They don't survive very well out there. Partly because
10 fences on the upland area are better than directly adjacent
11 to the marina itself.

12 EXECUTIVE OFFICER DEDRICK: Mr. Hudson, this letter
13 from John Bordessa is not dated. Could you give some
14 indication?

15 MR. HUDSON: It's dated March 18th.

16 ACTING CHAIRPERSON ACKERMAN: It's dated at the
17 bottom, March 18, 1982.

18 EXECUTIVE OFFICER DEDRICK: Okay. Sorry.

19 ACTING CHAIRPERSON ACKERMAN: Susie, what is your
20 pleasure?

21 COMMISSIONER MORGAN: I think we ought to ask the
22 staff a few more questions, but it's not at all clear to
23 me that taking off 70 feet will have any effect on the
24 problem that you raise of dogs attacking sheep. On the other
25 hand, the point of our giving a blessing and a permit to

1 something that we would not have approved if it had been
2 applied for prior to the extra 70 feet put in is a good
3 point and I don't think the staff has responded to that.

4 EXECUTIVE OFFICER DEDRICK: Curt, would you respond
5 to that?

6 MR. FOSSUM: Well, I think it would be up to the
7 discretion of the Commission whether they would approve it
8 if it hadn't actually been constructed yet. The criteria
9 is rather liberal in giving the Commission extreme discretion
10 in which they can find simply that it's in the best interest
11 of the State to issue a lease.

12 ACTING CHAIRPERSON ACKERMAN: Is this part of our
13 effort that was initiated by the chairman some time ago to
14 go out and pick up people that were trespassing?

15 MR. FOSSUM: That's correct. We have several
16 people in this vicinity in which we have gotten under lease
17 recently and after investigations have gone on for years
18 and we are trying to, as you can see, there are quite a few
19 structures adjacent to the water there and this was, as was
20 mentioned, the only commercial one in the area. We felt
21 that the importance of bringing this commercial operation
22 under lease would be a big step in bringing the rest of these
23 people under permit as well.

24 ACTING CHAIRPERSON ACKERMAN: Is there a precedent
25 for this type of situation before in going out and leasing

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3671

1 with trespassers?

2 MR. FOSSUM: It becomes somewhat difficult to
3 negotiate with a potential lessee when part of your
4 conditions would be removal of half their operation. It's
5 difficult enough and in many instances we have to result
6 to litigation to bring people under lease. So it tends to
7 be a situation that when we finally do find out about a
8 trespass that is in existence, that in negotiating and
9 trying to bring these people under lease, part of the give
10 and take would include the reasonableness of our attitude
11 to their existing operation as well as their reasonableness.

12 ACTING CHAIRPERSON ACKERMAN: If we made a change
13 today in the terms of the lease, then it's very likely in
14 your opinion that the terms would be rejected or you would
15 have to go back and do some different negotiations?

16 MR. FOSSUM: It would certainly be a potential
17 for them not wanting to accept that. It may not be quite
18 half, but it would be at least over 30 percent of their
19 docking space is actually past that projected line. Once
20 again, it's not a property line out there. We own the river.
21 It's simply projections.

22 ACTING CHAIRPERSON ACKERMAN: Is it appropriate
23 then today to not approve this item but, instead, have you
24 entertain Mr. Hudson's suggestions or his comments within
25 the scope of negotiations with the owner to see if there's

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 possibly not his solution but some other way to see if they
2 can take care of the problem of policing on the dock or some
3 other physical structure, something like that?

4 EXECUTIVE OFFICER DEDRICK: I think that would
5 be entirely appropriate.

6 MR. FOSSUM: We can contact them. We can also
7 mention the problem with the dogs to see if we can't include
8 a provision at least to prohibit dogs.

9 ACTING CHAIRPERSON ACKERMAN: If you're going to
10 ask them to entertain any capital expenditures as well, I
11 think that would affect some terms of the lease that you've
12 entered into as well.

13 MR. FOSSUM: We may have an additional problem.
14 The lessee who we are trying to bring under lease may or
15 may not own the structures. It may be Mr. Gilardi that
16 actually owns the dock.

17 MR. HUDSON: I think that's correct.

18 MR. FOSSUM: His acquiescence in that possible
19 removal could be somewhat more difficult.

20 ACTING CHAIRPERSON ACKERMAN: My position, I'm
21 sensitive to the concerns you've raised, Mr. Hudson, and
22 perhaps with your okay, Susie, we'll not approve this item
23 today and have the staff see what efforts they can undertake
24 to see if we can get some compromise solution out there.

25 EXECUTIVE OFFICER DEDRICK: All right. Thank you.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3801

1 MR. TAYLOR: For purposes of the record we'll say
2 that 13 photographs have been submitted which have a date
3 on them of 3-22-82 of various portions of the properties
4 involved and showing the condition of the boat yard. Those
5 will be put in the staff's file and be made a part of the
6 record of this hearing and the same will be true of the
7 letter.

8 MR. HUDSON: There were three letters actually.

9 ACTING CHAIRPERSON ACKERMAN: In fact, Bob, do
10 we specifically have to reference each letter? I have one
11 dated March 18, 1982, from John Bordessa, and there are two
12 other documents.

13 MR. HUDSON: One dated November 16, 1972, addressed
14 Dear Sir and signed Clarence Gilardi, and the other one dated
15 November 21, 1972, addressed to Clarence Gilardi by George
16 J. Schlenker.

17 ACTING CHAIRPERSON ACKERMAN: Those will be
18 entered as part of the record and if the staff would
19 undertake their efforts and report back to us at a
20 subsequent meeting.

21 MR. HUDSON: Thank you very much.

22 [Thereupon the above-mentioned letters
23 were marked as exhibits.]

24 ACTING CHAIRPERSON ACKERMAN: Thank you. So much
25 for the consent calendar.

1 [Laughter.]

2 ACTING CHAIRPERSON ACKERMAN: I hope that's not
3 an omen of things to come.

4 We will then continue with the regular calendar
5 items. Number 26 is off calendar. Item Number 27, we're
6 amending a Minute Item from November 23rd, '81 concerning
7 a boundary line agreement. Any controversial issue on this?

8 MR. TAYLOR: No.

9 COMMISSIONER MORGAN: I don't remember, and staff,
10 maybe you do, was this a contested item when we heard it
11 previously?

12 MR. TAYLOR: No, it was not.

13 MR. HIGHT: No.

14 MR. TROUT: No, it was not.

15 ACTING CHAIRPERSON ACKERMAN: Any objection?

16 COMMISSIONER MORGAN: No.

17 ACTING CHAIRPERSON ACKERMAN: Without objection,
18 Item 27 will be deemed approved.

19 Item 28, City of Long Beach and Wrather Port
20 Properties, approval of first amendment to the lease between
21 the City of Long Beach and Wrather Port Properties,
22 concerning the property around the QUEEN MARY. Is there
23 any comments the staff wishes to make?

24 MR. TROUT: Unless you have questions.

25 ACTING CHAIRPERSON ACKERMAN: I've examined the

1 documents.

2 Anyone in the audience who wishes to appear on
3 the item?

4 Without objection, then, the item will be approved.

5 COMMISSIONER MORGAN: I have a question, Dave.

6 I thought, and I remember this was a long time
7 ago when we discussed this issue, but it was my
8 understanding that we expected to see some change to the
9 lease once the Wrather Corporation entered into the marina.
10 We expected to see some increased rental coming from this.
11 Now, do I remember incorrectly?

12 MR. TROUT: No. You remember exactly correct.

13 Mr. Stevens is here from Wrather on another matter, but he's
14 in the audience and might want to respond. He has presented
15 to staff and to the City a rough plan of the development
16 of the area and that would result in an amendment that I
17 think, Commissioner Morgan, you remember and it would amend
18 the lease terms. What this does, you may recall, that the
19 chairman at the time had a question about the lease terms
20 were renegotiated after the first loan was paid off and he
21 said what if they left one dollar owing and never paid it
22 off, then the lease would never be adjusted. So what has
23 been put in here is a 30-year window whether the loan is
24 paid or not. But there is a rather expansive plan being
25 worked up by the Wrather people for the development of the

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 whole area. That's just commencing its process down the
2 road for approval.

3 COMMISSIONER MORGAN: Okay.

4 ACTING CHAIRPERSON ACKERMAN: Do we have further
5 options as well to look at changes in rent review schedules
6 pending the type of development and schedule for development
7 that's to be undertaken in the area?

8 MR. TROUT: Unless there is staff that wants to
9 correct me, my understanding is that as the developments
10 come on line over some 20-year period, there will be things
11 brought before the Port Commission and the State Lands
12 Commission involving that property.

13 ACTING CHAIRPERSON ACKERMAN: That was my
14 understanding when we approved it.

15 COMMISSIONER MORGAN: Okay.

16 MR. TROUT: At the moment it's not certain exactly
17 what the development would look like. There could be
18 everything from cruise ship terminals to marine institutes,
19 to motels and restaurants.

20 COMMISSIONER MORGAN: Okay.

21 ACTING CHAIRPERSON ACKERMAN: All of those plans
22 are subject to specific approval by the Commission anyway.

23 COMMISSIONER MORGAN: A year and a half ago we
24 asked the City and Wrather Corporation to negotiate an
25 amendment that would provide for renegotiation of rental

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 in the event that they exercise the option to build the
2 marina.

3 MR. TROUT: Your approval was conditional on them
4 doing it.

5 COMMISSIONER MORGAN: So now they've come to some
6 agreement and that's what is before us?

7 MR. TROUT: Yes.

8 COMMISSIONER MORGAN: And the agreement is, let's
9 see, that the rent will be reviewed or increased or
10 reconsidered in the marina area when in the marina area the
11 payment of the first permanent loan occurs or 30 years from
12 the funding of the loan. What does that mean?

13 MR. TROUT: That gives you an absolute window so
14 that they couldn't extend the adjustment on the marina out
15 forever. Most of the other facilities are on a percentage
16 of net or some other thing that wouldn't require a rent
17 review window.

18 ACTING CHAIRPERSON ACKERMAN: The concern was made
19 a year and a half ago that the owner in this case could either
20 refinance the property or through some other financial means
21 simply extend that final date and never be subjected to any
22 rent review based on the improvements they made in the
property. The Commission at that time wanted to make sure
24 that this didn't happen.

25 COMMISSIONER MORGAN: So what we provide for now

PETERS SHORTHAND REPORTING CORPORATION

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

1 is a 30-year rent review?

2 MR. TROUT: Or if the loan is paid off earlier,
3 Mr. Stevens is here if you want to get into greater detail.

4 MR. STEVENS: Briefly what this is is merely
5 reflecting the negotiation that was done up here in front
6 of your Commission and it's just taken a long time and there
7 was some other housekeeping cleanup. There's no change in
8 what you're seeing here than what the Commission agreed to.

9 With respect to the marina, it was negotiated here
10 that because Mr. Cory was concerned that, as was stated,
11 that we could just never pay off a loan and the State would
12 never get a chance to amend the percentage paid for the slips
13 and that window was closed at 30 years because if we didn't
14 finance for 20, we'd still have only ten years before it
15 would be renegotiated. There's no change in what the
16 Commission has already agreed to.

17 Just for information purposes, we were obligated
18 to submit a master plan within a certain time period and
19 we just recently submitted it. So it will be working its
20 way up to the Commission over a period of months.

21 MR. TAYLOR: For the record, Mr. Stevens, could
22 you identify yourself?

23 MR. STEVENS: Richard S. Stevens, Wrather
24 Corporation.

25 ACTING CHAIRPERSON ACKERMAN: What's the time

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 203
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 frame for submission of the overall development plan to the
2 Commission? Are we looking at --

3 MR. STEVENS: Perhaps I can add, the Port of Long
4 Beach had 60 days to act in terms of whether or not they
5 approved the plan in concept. Monday of this week they gave
6 a conditional approval subject to legal and environmental
7 clarification of several elements in the plan. Staff at
8 this level as well as staff at the Port level as well as
9 the AG's office will be looking at those issues that are
10 in question, resolve them and then it would start through
11 its normal permit process environmentally and otherwise.
12 So we'll keep everybody advised. Nothing's happening yet.

13 COMMISSIONER MORGAN: Thanks.

14 ACTING CHAIRPERSON ACKERMAN: Any further questions
15 Susie?

16 COMMISSIONER MORGAN: No.

17 ACTING CHAIRPERSON ACKERMAN: Without objection,
18 Item 28 is deemed approved.

19 Item 29 is off calendar.

20 Item Number 30, California Department of Forestry.
21 We're going to approve Management Plans for some forest
22 demonstration projects. Any comment from the staff?

23 COMMISSIONER MORGAN: Is this the Christmas tree
24 place?

25 EXECUTIVE OFFICER DEDRICK: One of them is.

1 ACTING CHAIRPERSON ACKERMAN: It's for Christmas
2 trees, right?

3 MR. TROUT: Yes.

4 COMMISSIONER MORGAN: Are we working with the
5 Department of Forestry on very many demonstration projects?

6 MR. TROUT: Yes, ma'am.

7 COMMISSIONER MORGAN: What have we done so far?

8 MR. TROUT: We have ten parcels that are now under
9 management agreement with the Department of Forestry. They
10 are required to submit a management plan on those parcels
11 for Commission approval. You have approved one already.
12 This is the second and third ones, if I recall correctly.
13 Forestry is tentatively talking to us about an additional
14 ten parcels. When we identify the parcels, we'll seek your
15 advice and concurrence.

16 COMMISSIONER MORGAN: Okay.

17 ACTING CHAIRPERSON ACKERMAN: Any further questions?

18 COMMISSIONER MORGAN: No.

19 ACTING CHAIRPERSON ACKERMAN: Without objection,
20 Item 30 will be deemed approved.

21 Item 31 is Western Title Insurance Company,
22 preparation and processing of a State patent to be issued
23 in the name of D. J. Canty, for 40 acres of land in Shasta
24 County. Any questions?

25 EXECUTIVE OFFICER DEDRICK: The operational point

1 was that he's had it since 1899.

2 ACTING CHAIRPERSON ACKERMAN: That's right, 1899.
3 We're finally getting around to it.

4 Anyone in the audience on Item 31?

5 Without objection, Item 31 will be deemed
6 approved.

7 Item 32 is the highest qualified bidder selection
8 on award of oil royalty sales. What was the bid?

9 EXECUTIVE OFFICER DEDRICK: 8.1 cents.

10 ACTING CHAIRPERSON ACKERMAN: 8.1 cents.

11 EXECUTIVE OFFICER DEDRICK: The 15 cent will be
12 on the next one.

13 ACTING CHAIRPERSON ACKERMAN: Okay. Any question
14 from Commissioners?

15 COMMISSIONER MORGAN: No.

16 ACTING CHAIRPERSON ACKERMAN: Without objection,
17 Item 32 will be approved.

18 Item Number 33, Shell Oil Company. They're asking
19 for authorization to conduct a public hearing on subsidence
20 and pollution control for oil and gas leases.

21 COMMISSIONER MORGAN: Is this the public hearing?

22 MR. HIGHT: This is the public hearing.

23 ACTING CHAIRPERSON ACKERMAN: This is on Solano
24 County.

25 MR. TROUT: This is authorization to conduct the

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 208
SACRAMENTO, CALIFORNIA 95822
TELEPHONE (916) 383-3601

1 hearing. This is not the hearing.

2 COMMISSIONER MORGAN: Okay. Got you.

3 ACTING CHAIRPERSON ACKERMAN: Anyone in the
4 audience on Item 33?

5 Without objection, Item 33 will be deemed
6 approved.

7 Item 34, Newmont Exploration Limited. They're
8 asking for a two-year permit for prospecting for gold and
9 silver on about 600 acres. Any issue on this item, any
10 questions?

11 COMMISSIONER MORGAN: No.

12 ACTING CHAIRPERSON ACKERMAN: Anyone in the
13 audience on Item 34?

14 It will be deemed approved without objection.

15 Item 35, in the Long Beach Operations, monitoring
16 of possible subsidence and seismic hazards in the Wilmington
17 oil field. I understand this is just a continuance of the
18 annual subsidence monitoring program. Any questions from
19 Commissioners?

20 COMMISSIONER MORGAN: No.

21 ACTING CHAIRPERSON ACKERMAN: Anyone from the
22 audience?

23 Claire, do you have a point on this one?

24 EXECUTIVE OFFICER DEDRICK: No. I was just going
25 to point out that Mr. Thompson is here if you have any

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

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

questions on the Long Beach Operations.

COMMISSIONER MORGAN: Where is he?

EXECUTIVE OFFICER DEDRICK: Back row.

MR. TAYLOR: He's in the last row.

ACTING CHAIRPERSON ACKERMAN: Item 35 will be deemed approved without objection.

Item 36, City of Long Beach, the notification of intent by the City to spend \$79,000 from its share of the oil revenues for a capital improvement project. I understand this is resurfacing a parking lot that has no connection to the Long Beach Grand Prix; is that correct?

MR. TROUT: That's correct.

EXECUTIVE OFFICER DEDRICK: That's correct.

ACTING CHAIRPERSON ACKERMAN: Any questions from Commissioners on this?

COMMISSIONER MORGAN: No.

ACTING CHAIRPERSON ACKERMAN: Anyone in the audience on Item 36?

Item 36 will be deemed approved.

Item 37. This is approval of a Land Bank Option Agreement with the Trust for Public Lands for 40 acres located near Suisun City in Solano County. Anyone in the audience on Item 37?

Any questions from Commissioners?

COMMISSIONER MORGAN: No.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 333-3601

1 ACTING CHAIRPERSON ACKERMAN: Item 37 will be
2 deemed approved.

3 Item 38, Usonia, Incorporated, compromise of a
4 Title Settlement Agreement, and this ties into the last item
5 of approval of Land Bank as an exchange parcel.

6 MR. TROUT: Mr. Chairman, you previously approved
7 the settlement and this will take 31 percent of the item
8 you just approved.

9 ACTING CHAIRPERSON ACKERMAN: Anyone in the
10 audience on Item 38?

11 Any questions, Susie?

12 COMMISSIONER MORGAN: No.

13 ACTING CHAIRPERSON ACKERMAN: Item 38 will be
14 deemed approved.

15 Item 39, Title Insurance and Trust, approval for
16 authorization for the Attorney General and the Commission
17 to litigate concerning hazards in Malibu.

18 COMMISSIONER MORGAN: We should do it.

19 ACTING CHAIRPERSON ACKERMAN: We should do that.

20 Anyone in the audience on Item 39?

21 Any questions from Commissioners?

22 COMMISSIONER MORGAN: No.

23 ACTING CHAIRPERSON ACKERMAN: Greg, one question
24 on this. Is this the only area in which we're proceeding
25 to remove hazards or is this the first step in a hazard

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (016) 353-3601

1 removal effort along the beaches?

2 MR. TAYLOR: Well, the Commission has been engaged
3 in an extensive one in Ventura and Santa Barbara Counties,
4 You'll recall that there was an appropriation for it with
5 a machine. I don't know the extent to which staff is going
6 on any the others.

7 MR. TROUT: I think, Mr. Chairman, the significant
8 difference is in other areas where we have been unable to
9 find the person who put the facilities in to begin with,
10 through federal money and through State money and through
11 the contributions of some oil companies we've been removing
12 hazards. In this case, it's pretty clear from the record
13 who installed these groins. So we are basically looking
14 to the person who originally installed them.

15 ACTING CHAIRPERSON ACKERMAN: Any questions?

16 MR. TAYLOR: You'll recall that we had a prior
17 action that we discussed and the Title Company doesn't
18 agree with us. That's why we can't reach a settlement.

19 ACTING CHAIRPERSON ACKERMAN: These are metal spikes
20 that are just under the surface of the water?

21 MR. TAYLOR: No. Some of them are rocks and all
22 kinds of things.

23 ACTING CHAIRPERSON ACKERMAN: Okay. Any questions,
24 Susie?

25 COMMISSIONER MORGAN: No.

1 ACTING CHAIRPERSON ACKERMAN: Item 39 will be
2 deemed approved without objection.

3 Item 40, Mrs. Anne Houk. This is another
4 authorization for the Commission and the Attorney General
5 to take steps including litigation to collect rent. Mr.
6 Hight, do you have a comment on this?

7 MR. HIGHT: Hopefully with this authorization we
8 can either bring the facility under lease or collect the
9 rent.

10 ACTING CHAIRPERSON ACKERMAN: Is there anyone in
11 the audience on Item 40? I understand someone might appear
12 today.

13 Any objection?

14 COMMISSIONER MORGAN: No.

15 ACTING CHAIRPERSON ACKERMAN: Is there any
16 situation in this that's at all similar to the other one
17 we discussed?

18 MR. TROUT: Not as far as --

19 EXECUTIVE OFFICER DEDRICK: Strictly a price tag.

20 ACTING CHAIRPERSON ACKERMAN: Okay. Without
21 objection, Item 40 then will be deemed approved.

22 Item 41, Mobil/Redwood Shores. This is approval
23 to execute an amended exchange agreement. This is just to
24 allow an acceptance of a letter of credit, I understand.

25 MR. HIGHT: Yes, Mr. Chairman.

1 ACTING CHAIRPERSON ACKERMAN: Any question on Item
2 41?

3 COMMISSIONER MORGAN: Redwood Shores and Mobil
4 are one and the same?

5 MR. HIGHT: Yes.

6 COMMISSIONER MORGAN: Staff started out talking
7 about Redwood Shores and then continued the discussion using
8 Mobil as the party, but it's the same.

9 MR. HIGHT: They're a partnership.

10 COMMISSIONER MORGAN: That's fine.

11 ACTING CHAIRPERSON ACKERMAN: Anyone in the
12 audience on Item 41?

13 Without objection, Item 41 will be deemed approved.
14 Item 42, San Diego LAFCO. They're asking us to
15 approve a boundary line.

16 MR. HIGHT: Approve the legal sufficiency of their
17 description.

18 MR. TROUT: I think the staff may have misled the
19 Commission in the briefings because in re-review of the
20 calendar item itself, and Mr. Fossum is here to answer
21 questions, I had told you in the briefings that we were only
22 approving the boundaries. The calendar item on page 170
23 you are approving the boundaries and the incorporation.
24 So this is not a two-step process as is typical.

25 COMMISSIONER MORGAN: I'd like to see Exhibits

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 208
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3801

1 A and B.

2 ACTING CHAIRPERSON ACKERMAN: Is there any
3 objection locally to the incorporation? Was there any
4 objection opposed at LAFCO?

5 MR. FOSSUM: This is something LAFCO -- Curtis
6 Fossum.

7 LAFCO has been working for six months or more.
8 Local cities in the San Dieguito area have been proposing
9 incorporation. They've had some disputes over where the
10 boundaries should be. If the exhibits aren't there --

11 EXECUTIVE OFFICER DEDRICK: They aren't.

12 MR. FOSSUM: The northern boundary of the proposed
13 City of San Dieguito will be the southern boundary of
14 Datiguito's Lagoon, and that will be excluded. It will be
15 included within the area of Del Mar. So there won't be any
16 tide and submerged lands there. The southern boundary will
17 include San Elijo Lagoon which includes sovereign tide and
18 submerged lands. Also, they are proposing to include the
19 area offshore to the three-mile limit. Therefore, there
20 are lands under the jurisdiction of the State Lands
21 Commission.

22 You are being asked to approve the propriety of
23 the boundary of this incorporation and additionally I
24 included, because of our somewhat extended problem with
25 Del Mar, I included a provision in there that we also do

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 209
SACRAMENTO, CALIFORNIA 95820
TELEPHONE (916) 383-3601

1 not object or we approve as the landowner this particular
2 incorporation.

3 COMMISSIONER MORGAN: How long would it take to
4 get Exhibits A and B for us to look at? Maybe we could hold
5 the item.

6 MR. TROUT: We do have egg on face, I have to admit.

7 COMMISSIONER MORGAN: I'm sorry.

8 EXECUTIVE OFFICER DEDRICK: How long will it take
9 us to get it?

10 COMMISSIONER MORGAN: You always have everything
11 here. I didn't mean to embarrass you. I just thought
12 someone forgot to give me my copy.

13 MR. HIGHT: Fifteen minutes at most.

14 COMMISSIONER MORGAN: Are they available?

15 ACTING CHAIRPERSON ACKERMAN: Is there a time
16 difficulty that this has to be approved at this meeting?

17 MR. FOSSUM: They have been very much aware of
18 our processes and the election is not planned for several
19 more months. So I don't think there would be any problem
20 putting it off.

21 ACTING CHAIRPERSON ACKERMAN: Why don't we just
22 wait until the next meeting, then?

23 COMMISSIONER MORGAN: Okay.

24 EXECUTIVE OFFICER DEDRICK: I would rather like
25 to do that.

1 ACTING CHAIRPERSON ACKERMAN: Normally, Jim, didn't
2 you say it was a two-step process to approve the boundaries?

3 MR. TROUT: Typically those are annexations.

4 MR. FOSSUM: Excuse me. Mr. Taylor does remind
5 me that technically under the Code we have a 45-day period
6 in which the Commission must approve or reject the
7 description, otherwise it is deemed approved. We have a
8 difficulty every time one of these annexations or
9 incorporations take place because of the timing of the
10 Commission meetings.

11 ACTING CHAIRPERSON ACKERMAN: How much time do
12 we have left?

13 MR. FOSSUM: A day or two, maybe.

14 [Laughter.]

15 ACTING CHAIRPERSON ACKERMAN: Let's see if we can
16 get the items and take this as the last item on the agenda.

17 COMMISSIONER MORGAN: Otherwise, I would be
18 prepared to move denial without prejudice so that we could
19 have an opportunity to review them.

20 EXECUTIVE OFFICER DEDRICK: That might be the
21 easiest.

22 ACTING CHAIRPERSON ACKERMAN: We'll hold it and
23 see if we can do it.

24 Item 43 is off calendar.

25 Item 44, State Lands Commission item,

1 administrative action. We're to approve the replacement of
2 the alternate on BCDC who is just leaving the room.

3 [Laughter.]

4 EXECUTIVE OFFICER DEDRICK: Diane.

5 ACTING CHAIRPERSON ACKERMAN: You must be pretty
6 confident.

7 [Laughter.]

8 ACTING CHAIRPERSON ACKERMAN: She won't even come
9 before us for questioning.

10 Any questions?

11 COMMISSIONER MORGAN: No. That's fine.

12 ACTING CHAIRPERSON ACKERMAN: I'm happy to vote
13 on this action. Without objection, Item 44 will be deemed
14 approved.

15 COMMISSIONER MORGAN: I think we should say thank
16 you to Dick who has represented us longer than I can
17 remember.

18 MR. GOLDEN: Longer than 11 years.

19 EXECUTIVE OFFICER DEDRICK: Probably as long as
20 BCDC has been there.

21 ACTING CHAIRPERSON ACKERMAN: I'm interested in
22 how did Dick finagle his way out of this.

23 MR. GOLDEN: It's been a privilege. I really
24 appreciate it. Thank you very much.

25 COMMISSIONER MORGAN: You've been an excellent

1 representative. We appreciate your work.

2 ACTING CHAIRPERSON ACKERMAN: I hope that you will
3 be providing some assistance to our new appointee --

4 MR. GOLDEN: Oh, definitely.

5 ACTING CHAIRPERSON ACKERMAN: -- for an
6 in-service training program.

7 MR. GOLDEN: Right.

8 EXECUTIVE OFFICER DEDRICK: I'd like to say just
9 a word about Dick. I got to know him before I'd ever
10 dreamed I'd be in government. Through his actions on BCDC
11 he is very highly thought of by the other Commissioners.
12 Chairman Joe Houghteling is particularly sorry to lose Dick
13 because they go back to the beginning together. I really
14 think that we have a right to be proud of our staff for the
15 good work that they do and Dick has represented us
16 beautifully. I'm sure Diane will be just as good 11 years
17 from now.

18 ACTING CHAIRPERSON ACKERMAN: Thank you very much,
19 Dick.

20 MR. GOLDEN: Thank you.

21 ACTING CHAIRPERSON ACKERMAN: Item 44, then, will
22 be deemed approved.

23 [Thereupon agenda Item 45 was submitted
24 under separate cover.]

25 COMMISSIONER MORGAN: Item 42.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 ACTING CHAIRPERSON ACKERMAN: Item 42.

2 EXECUTIVE OFFICER DEDRICK: I'd like to ask staff
3 if the Commission follows Commissioner Morgan's suggestion
4 of dismissing it without prejudice while we find some maps
5 that tell us more than the ones we have today, would there
6 be any problem with that that you foresee?

7 MR. TAYLOR: No.

8 EXECUTIVE OFFICER DEDRICK: Then I'd like to
9 recommend that we do that. I don't think that the material
10 that is here is going to answer your question.

11 COMMISSIONER MORGAN: Then I'll move that we
12 dismiss without prejudice and bring it back --

13 MR. TAYLOR: Deny.

14 COMMISSIONER MORGAN: Deny.

15 ACTING CHAIRPERSON ACKERMAN: It is moved that
16 Item 42 be denied without prejudice. That vote should be
17 recorded as unanimous.

18 In the absence of any other calendar items, the
19 meeting is adjourned.

20 [Thereupon the State Lands Commission
21 Meeting was adjourned at 12:30 p.m.]

22 ---o0o---

CERTIFICATE OF SHORTHAND REPORTER

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

I, CATHLEEN SLOCUM, a Certified Shorthand Reporter of the State of California, do hereby certify:

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 1982.

Cathleen Slocum
CATHLEEN SLOCUM
Certified Shorthand Reporter
License No. 2822

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

MEETING

STATE LANDS COMMISSION

In the Matter of:)
)
CONSIDERATION BY COMMISSION OF)
FUTURE MANAGEMENT OF CERTAIN)
SUBMERGED LANDS AT SANTA)
CATALINA ISLAND RELATIVE TO)
COMMISSION LEASE PRC 3639.1)

ORIGINAL

DEPARTMENT OF TRANSPORTATION
BASEMENT BOARDROOM
1120 N Street
Sacramento, California

EXCERPT

Tuesday, March 23, 1982
10:40 A.M.

25 Cathleen Slocum, C.S.R.
License No. 2822

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

MEMBERS PRESENT

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

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

MEMBERS ABSENT

John Jervis, representing Ken Cory, Controller

STAFF PRESENT

Robert Hight, Chief Counsel

Claire Dedrick, Executive Officer

Jack Rump, Assistant Chief Counsel

Diane Jones, Administrative Assistant

Jane Smith, Secretary

ALSO PRESENT

N. Gregory Taylor, Assistant Attorney General

Jan Stevens, Deputy Attorney General

I N D E X

	<u>Page</u>
1	
2	
3	Agenda Item 45 - Santa Catalina Island
4	Proceedings
5	Opening statement by Acting Chairperson Ackerman
6	James Radcliffe, Attorney for Island Navigation Company
7	Comments by Mr. Taylor
8	Harold Lingle, representing Jack Finnie
9	Joseph Steele, Boatowners Associated Together
10	Comments by Mr. Taylor
11	Barry LeBow
12	Comments by Acting Chairperson Ackerman
13	Comments by Mr. Taylor
14	Robert Hertzberg, Counsel for Catalina Marine Services Corporation
15	Question by Commissioner Morgan
16	Further comments by Mr. Hertzberg
17	Charles Greenberg of the Law Firm of Ball, Hunt, Hart Brown & Baerwitz, representing present lessee
18	Jack Reinhold
19	Commission discussion - Acting Chairperson Ackerman
20	Commissioner Morgan
21	Commission action re Agenda Item 42
22	Adjournment of Agenda Item 45
23	Certificate of Reporter
24	
25	

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
 SACRAMENTO, CALIFORNIA 95826
 TELEPHONE (916) 383-3801

PROCEEDINGS

--oOo--

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

ACTING CHAIRPERSON ACKERMAN: Item 45, Santa Catalina Island, next-to-the-last item on the agenda.

The reason this item is on the agenda, perhaps I can open with a brief reason. The Commission asked that the staff study this issue, take another look at it and come back when prepared to the Commission to lay out very specifically what the options are to the Commission for further study and further action concerning the lease operations at Catalina Island. The staff is prepared to do so today. That's why you have not had specific actions proposed, solicited or sent out to you because the staff has presented this in a form of a discussion item so that the Commission may decide what course of action it's going to take.

What I would like to do, Susie, if it's okay with you, is have the staff briefly make their presentation on their study so far to the Commission. Then I've received four different requests to appear and testify before the Commission, five, I believe.

I would like to give those people the opportunity to respond to the staff's comments and then I would anticipate the Commission to discuss it and make a decision if one is in order.

1 Do you have any problem with that approach?

2 COMMISSIONER MORGAN: That's fine.

3 ACTING CHAIRPERSON ACKERMAN: Claire.

4 EXECUTIVE OFFICER DEDRICK: Yes. What the staff
5 has done is to thoroughly research the legal questions that
6 relate to your authorities here and you have received that
7 information on attorney-client relationship, if I'm saying
8 that right, Mr. Taylor?

9 MR. RUMP: That's correct.

10 EXECUTIVE OFFICER DEDRICK: We also have looked
11 at the time period which different sorts of reviews would
12 require. There are a range of options that we can pursue.
13 I think you're all cognizant of those options and of what
14 time and legal restrictions you have. That's the substance
15 of the staff report.

16 ACTING CHAIRPERSON ACKERMAN: Okay. What I'd like
17 to do is briefly lay out at least my own thoughts on this
18 first and then at least provide a basis and a context in
19 which those people who are going to testify are going to
20 testify so we're not just talking in the dark.

21 Personally, my own interests are to, one, very
22 carefully and methodically, try to further examine the
23 leasing and subleasing, not the subleasing but the master
24 lease operations, at Catalina. What I will be prepared
25 to propose is to ask the staff for a period of 90 days to

1 study the prior bid proposal and prior bid proposals and
2 the framework for those proposals, come back to the
3 Commission within 90 days with its recommendation as to the
4 content of a new master lease proposal if one is in order
5 per the staff's recommendation that could reflect either
6 the existing lease or modifications to it as determined by
7 the staff. At our last meeting, we had considerable
8 discussion concerning pros and cons on the lease,
9 environmental concerns, legal questions and the like. It's
10 those questions which I would like the staff to specifically
11 address in coming back to the Commission with a proposal.

12 The last time we had limited time with which to
13 do this. This time I want to make sure that we give the
14 staff adequate time to consider all ramifications and all
15 possibilities in their efforts. I'm not planning to ask
16 any other direction or seek any other resolution at this
17 time other than to ask the staff to come back to us in 90
18 days with a detailed proposal for the Commission's action.
19 That proposal would also have to be given to all interested
20 parties enough in advance so that any public comment that
21 was appropriate could be given to the Commission and so that
22 all individuals have time to study the document and prepare
23 such comments.

24 That's why I'm looking at the 90-day time period
25 on it.

PETERS SKORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE 916-341-5601

1. With that, Susie, unless you have any questions
2 which I imagine you probably do.

3 COMMISSIONER MORGAN: Where you're heading is
4 toward a new bid process; is that true?

5 ACTING CHAIRPERSON ACKERMAN: I think our options,
6 at least legally that are being looked at, is the Commission
7 can do a variety of things. Number one, we could open it
8 up to an entire new bidding process. Number two, we could
9 limit the process to selected participants which the
10 Commission may wish to select, possibly limited to the bidders
11 that have already expressed an interest in operating at
12 Catalina or, third, do nothing at this particular time frame
13 since a master lessee already is in place and we have the
14 option of substituting that lessee over the first three
15 years of the lease. We could act any time prior to, if staff
16 advises me correctly, October of the third year to substitute
17 a lessee.

18 So our options would be somewhere within a
19 three-year time frame. We could do nothing this year or
20 next year except further study the issue to make a
21 determination. In 1984, would it be?

22 EXECUTIVE OFFICER DEDRICK: Yes. October 1st,
23 '84, for operation.

24 COMMISSIONER MORGAN: You think you're going to
25 outlast me. I think you are, too.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 [Laughter.]

2 ACTING CHAIRPERSON ACKERMAN: So that's what I'm
3 looking at as three options.

4 What I'd like the staff to do, the way I'm
5 leaning, which I've already discussed with some individuals
6 in the audience in some meetings in Newport, is looking
7 towards some way that the Commission may receive new
8 proposals on a limited and restricted basis to mirror as
9 close as possible the existing operations on the Island.
10 That was our original intent in seeking bids before and I
11 think we should be consistent in soliciting revised
12 proposals on that same basis again without going to an
13 entire, brand-new, public bid package.

14 I don't know if I confused the issue or not, but
15 that's what I'm looking at as my options. Do you want to
16 comment?

17 COMMISSIONER MORGAN: I think we ought to hear
18 from the people who are here and see their reactions to that.
19 It's perfectly fine with me if you want to ask the staff
20 to do some more work. It's my feeling that unless we're
21 talking about creating a whole new environment at Catalina,
22 then what we're talking about is ending up at the point where
23 we have to say that the only workable master lessee is the
24 upland owner. I don't know if additional information will
25 bring you to that conclusion or to some other conclusion.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 303-3601

1 But if you're interested in getting additional
2 staff work, fine. I mean, any more heads on this could surely
3 bring new ideas.

4 EXECUTIVE OFFICER DEDRICK: Commissioner Ackerman,
5 before you open, we have a couple of communications to the
6 Commission which should be put into the record.

7 ACTING CHAIRPERSON ACKERMAN: Let me note for the
8 record that we've received one letter from a Mr. Richard
9 D. Glenn, the Catalina Oyster Company, asking the Commission
10 to revise the terms of the current lease and take some other
11 relative actions concerning the Island. We also have
12 received correspondence from the law firm of Hertzberg,
13 Koslow and Franzen, asking, among other things, to restrict
14 further consideration of a new lease. These will be entered
15 officially into the record.

16 Let me start in the order that I received these.
17 Mr. James Radcliffe, attorney for the Island Navigation
18 Company.

19 Mr. Radcliffe.

20 MR. RADCLIFFE: Mr. Chairman, Miss Morgan, staff,
21 Mr. Chairman, I must confess that I am not clear,
22 particularly in view of the chairman's statement as to the
23 nature of these proceedings today. It was my original
24 understanding that each of the bidders had been invited to
25 Sacramento and came to Sacramento to present to the staff

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3601

1 input which was to have been, I understood, communicated
2 to the Commission and out of which would come some guidelines
3 for today's hearing. In view of the chairman's original
4 statement of the various options and of the chairman's
5 inclination for the 90-day staff study, I would say first
6 of all that, absent any guidelines, it had been my intention
7 to suggest to the Commission that there be further staff
8 study. In view of the fact that the staff report which was
9 submitted on December the 17th, I believe it was, when the
10 prior action was taken or a decision was made to take
11 subsequent action which ultimately did happen, it seemed
12 to me that the staff study as a result of the fact that the
13 staff, I'm sure, did not have time to familiarize itself
14 with the operations on Catalina Island and did not have time
15 to examine into the factual basis, if any, of some of the
16 bids, that the recommendations or that the report made to
17 the Commission by the staff contains some rather glaring
18 errors of fact.

19 I'm sure that these errors were a result of what
20 I have just stated, a lack of time. But I think the
21 operation in Catalina Island as it has existed over the years
22 and how it is working and how it has worked is something
23 that the Commission should in making the decision that it
24 is going to make for a lessee for a 12-year period or
25 14-year period or whatever, the balance of the 15-year term,

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 that the Commission owes to itself and to the people of the
2 State of California, to be fully conversant with the facts
3 as to how the operation has run, the potential gross revenues
4 from the operation in Catalina Island and the effectiveness
5 of the potential bidders.

6 It was our position when we responded to the
7 original bid that the Commission and the solicitation to
8 bid was inviting a bid that would have either negative or
9 no environmental impacts so it would be either categorically
10 exempt or would be able to simply replace that which was
11 in existence. We felt that our bid had a negative impact.
12 We were going to remove from the Island operations which
13 presently existed on the Island.

14 ACTING CHAIRPERSON ACKERMAN: You mean negative
15 not in an environmental way, but negative in a positive way?

16 MR. RADCLIFFE: That's correct. Yes.

17 In other words, rather than have an impact, it
18 would have not only no impact but it would remove some of
19 the impact of this operation on Catalina Island.

20 Apparently information was presented where the
21 staff obtained information which indicated that was not the
22 case and that was presented in the staff report as one of
23 the bases for which Pioneer and Island Navigation Company
24 would necessitate an environmental impact report. Now, as
25 the Commission may recall, at the time of the hearing the

1 staff report did not say that but during the hearing it was
2 subsequently developed that that apparently was the staff
3 opinion.

4 It seems to me in these times when you're dealing
5 with revenues to the State of California, when we're dealing
6 with property owned by unquestionably the State of
7 California, that it behooves all of us to say that the people
8 of the State, not only the users of the facility, but all
9 of the people of the State of California are not short-
10 changed in which bid and the type of bid and the type of
11 lease that the State enters into. It seems to me that, as
12 I understand this whole process developed, historically there
13 was an operator paying about \$19,000 a year for tidelands
14 and submerged lands where the gross revenues ranged,
15 depending upon which estimate you read, three-quarters of
16 a million to a million and a half dollars a year. As I
17 further understand it, there was another party who volunteered
18 to double that and it got redoubled in the process and
19 ultimately led to the notion by the Commission that perhaps
20 open bidding was a way to really determine what that
21 leasehold was worth.

22 I would suggest to the Commission that with that
23 history in mind in this specific situation, that I would
24 concur certainly with the chairman's notion that there
25 should be an in-depth staff study. I think perhaps 90 days

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 is an appropriate period of time to allow the staff the time
2 which they did not have initially and I would suggest that
3 during that period of time it might be appropriate to have
4 an adversary administrative hearing in which each of the
5 bidders and the staff were parties to develop what in fact
6 is the situation in Catalina Island today and what in fact
7 is projected by the lease that is anticipated.

8 I personally believe that that would be
9 enlightening, both to the Commission and to various of the
10 bidders, but I think it's not only important, as has been
11 said, that justice be done, but it must also appear to be
12 done. I think the Commission, if I may say so, and the
13 bidders, are obliged to assure the people of the State of
14 California that they're getting a fair shake. That all of
15 the revenues which are potential revenues are brought out
16 into the open and are considered by the Commission in
17 awarding the bid. I would suggest to the Commission that
18 that has not been the case and that there are revenues which
19 the Commission is unaware that would add to the income to
20 the State of California.

21 ACTING CHAIRPERSON ACKERMAN: I would expect the
22 staff work to address those points as well.

23 MR. RADCLIFFE: The only other suggestion I would
24 have in view of the chairman's opening statement, would be
25 as I have said, first of all, an open hearing to assist the

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 staff by adversary proceedings. That the staff specify to
2 the various bidders what it is in those bids that caused
3 the staff to determine that there was some environmental
4 impact that should be addressed, and to allow each of the
5 bidders, if such is the case -- and I would submit it's true
6 of all three bidders, even though I know that the Island
7 Company Conservancy position has been that they have been
8 there and, therefore, there is no environmental impact.
9 I don't agree with that notion based on the history of how
10 this has developed.

11 I think in all fairness if that is the case and
12 if the staff has specifics that it feels would trigger an
13 environmental impact, that each bidder be allowed to amend
14 his bid so that such an impact would be avoided because that,
15 after all, was the condition of the original solicitation
16 to bid.

17 With that idea in mind, I would like to say that
18 Island Navigation Company as one of the bidders finally would
19 say that the Anglo-Saxon concept of fair play, it seems to
20 me, dictates that all of the bidders having gone to
21 expense -- I've heard the figure in the case of one bidder
22 of \$35,000, and I assure the Commission, that's not us --
23 but considerable money and considerable time and considerable
24 effort not only has been expended by the staff but has been
25 expended by each of these bidders. They have submitted bids

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 in good faith, all three, I'm sure. They're out on the table
2 for the world to see. There was adequate notice, I feel,
3 for those who were interested at the time to get involved.
4 I would suggest finally and in concluding that it be
5 considered by the Commission that the staff be directed to
6 conduct its study in the next 90 days to a process which
7 would involve the three original bidders with the amendments
8 that I have suggested if there is an environmental impact
9 problem.

10 I thank you, Commissioners, for your time.

11 ACTING CHAIRPERSON ACKERMAN: Thank you very much.

12 MR. TAYLOR: Mr. Chairman, may I make a statement
13 because there has been some reference made in the last
14 presentation to the fact that there is some continuing
15 nature to the bids that were submitted in December. The
16 Commission's action was that those bids were rejected. They
17 no longer had any further force and effect and what is before
18 the Commission at the present time is the consideration under
19 the lease which was issued in December as to whether or not
20 there shall be a substitution. I think that for the record
21 that must be made clear that the bids are no longer in
22 effect. We have so advised you.

23 It does not preclude the Commission from
24 reentertaining them or having them resubmitted or developing
25 a proposal. But the matter that happened in December has

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 now been concluded and this is proceeding under a new
2 ball game which is with respect to the option that is left
3 to the Commission to substitute somebody.

4 ACTING CHAIRPERSON ACKERMAN: Point well taken.

5 MR. RADCLIFFE: I understand.

6 EXECUTIVE OFFICER DEDRICK: Mr. Chairman.

7 ACTING CHAIRPERSON ACKERMAN: Mr. Harold Lingle.

8 COMMISSIONER MORGAN: While you're walking up here,
9 I wanted to find out how many speakers there are to see if
10 we should take a break and make a few phone calls or
11 continue on.

12 ACTING CHAIRPERSON ACKERMAN: There are four more
13 speakers, and I don't think with the limited discussion that
14 we're having, it will take all that long.

15 MR. HIGHT: Mr. Lingle is very brief.

16 MR. LINGLE: Thank you.

17 [Laughter.]

18 MR. LINGLE: I'm Harold Lingle. I represent Jack
19 Finnie.

20 This whole process I believe started because
21 Mr. Finnie offered to double the amount that was proposed
22 to have been negotiated. When Mr. Finnie offered to do that,
23 it was his assumption that he was going to try to operate
24 the moorings and the leases in the same manner as they
25 previously had been operated. I think one of the things

1 that goes on is that there seems to be a fear that
2 something's going to happen to the yachtsmen, and I hope
3 nothing happens to the yachtsmen. It certainly was not Mr.
4 Finnie's intention to make anything happen to the yachtsmen.
5 I think we have to put that in the perspective that you're
6 talking about a valuable resource. Those yachtsmen have
7 boats that are worth a great deal of money and this is a
8 valuable resource. It's worth a great deal of money.

9 Do we just provide the yachtsmen a special
10 anchorage at Catalina or do we attempt to get a fair and
11 reasonable return for the State and the other people.
12 Mr. Finnie, as you know, did not bid originally. He is still
13 interested in bidding. We urge you to put it up to bid on
14 some reasonable grounds and we want you to know that you
15 have, in addition to the original bidders, other people that
16 are looking at it and are interested in bidding who think
17 they can do a good job.

18 ACTING CHAIRPERSON ACKERMAN: Let me correct just
19 one thing that you said so there's no misconception. We
20 have really two issues at stake here. One is the selection
21 of a master leaseholder. The other is the terms and
22 conditions of the lease. At least in my recollection the
23 terms and conditions of the lease as it affects the boater
24 have been resolved and put to rest. Those issues are not
25 going to be reopened again. So as far as the protection

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3801

1 of the boaters is concerned, as to their subleasing and
2 their subleasing arrangements, that's over. The boater can
3 rest assured that no master lessee is going to disturb the
4 guarantees that the Commission has already vested in the
5 boaters' lease over the next 14 years. At least I'm not
6 going to vote for that.

7 MR. LINGLE: Mr. Ackerman, I certainly shouldn't
8 be making that pitch either. That isn't what I'm trying
9 to do.

10 ACTING CHAIRPERSON ACKERMAN: I think the
11 Commission has stated its position very clearly on that.

12 MR. LINGLE: Then my real thrust or argument is
13 we'd like the opportunity to bid on it again or to examine
14 what that lease that was put up to see whether we want to
15 bid and we want you to know that you have serious people
16 and that there is a source of income for this state.

17 ACTING CHAIRPERSON ACKERMAN: That's what we're
18 here to find out.

19 MR. LINGLE: That's all.

20 ACTING CHAIRPERSON ACKERMAN: Thank you very much.

21 COMMISSIONER MORGAN: Thanks.

22 ACTING CHAIRPERSON ACKERMAN: Mr. Robert S. Hood.
23 Mr. Hood.

24 MR. HOOD: I'm not going to speak.

25 ACTING CHAIRPERSON ACKERMAN: Thank you.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 Mr. Joseph Steele, Joe,

2 MR. STEELE: Mr. Chairman, I'm Joe Steele, the
3 President of Boatowners Associated Together, a California
4 nonprofit corporation of some 35,000 boat-owning families.

5 We were not quite sure what action the Commission
6 intended to do today. So I'm perhaps not as well prepared
7 to address you as I would have liked to have been.

8 It was my understanding that the issue of
9 eliminating the two options to cancel the lease at the first
10 and second year would arise today. Your meeting in December,
11 the minutes that I received of that meeting, indicated that
12 the Commission had voted to offer a lease to the Island
13 Company for 15 years with a cancellation at the end of the
14 third year only. There was nothing in the public record
15 of that meeting indicating a cancellation earlier. So it
16 was that issue that I primarily came to address you on.

17 However, a couple of other items have arisen since
18 that time. The Island Navigation Company brought up the
19 issue of maximizing the State income on these leases and
20 that really disturbs me. I'm sure you realize that this
21 is purely a recreation issue. The State has not invested
22 one single cent in the development of this. There is no
23 extraction, there is no oil being taken out or gravel or
24 any other such thing. The only thing that's being extracted
25 from Catalina is pleasure and we hope we can continue to

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3601

1 do that. I would certainly hope that it is not the policy
2 of the State of California to maximize the income on every
3 piece of recreational property in the state because if that's
4 the policy, I think you could charge considerably more for
5 many other places where you have invested a large amount
6 of money. That worries me as you assured us that the boaters
7 have been taken care of as far as the subleases are
8 concerned and we are very happy with that. The boater would
9 not be very well taken care of if the master lease were put
10 out to the absolute highest bidder because the only place
11 he's going to get his income is from the boaters and we would
12 be spending a rather tremendous amount of money on that.

13 Mr. Chairman, we feel that you have a perfectly
14 good lease right now with only one problem, and that is the
15 cancellation clauses that you have imposed on the lease
16 and particularly the fact that the lease can be cancelled
17 at the end of each of the first three years. So in fact,
18 the lessees have a one-year lease with an option to extend
19 one year at a time for three years and then an option to
20 extend for 12. This makes it very difficult for anyone to
21 do anything in the way of capital improvement. We can
22 hardly expect them to buy new boats or make any investments
23 over there when their lease might be cancelled at the end
24 of a year.

25 If this process that you're going through right

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 204
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 now continues, it makes the whole business even more
2 doubtful. As you well know, this is a very political year
3 in the State of California. We feel that this issue should
4 be resolved quickly and not dragged out until campaign time
5 because it is a very emotional issue in Southern California.
6 There are literally hundreds of thousands of boaters down
7 there who use the facility at Catalina and who are very
8 worried about this.

9 I think that's all I have unless you have some
10 questions.

11 ACTING CHAIRPERSON ACKERMAN: I've met with you
12 on several occasions and I think I'm very clear on your
13 position.

14 Susie.

15 COMMISSIONER MORGAN: I want to make it clear,
16 notwithstanding the fact that someone from your organization
17 wrote me and told me they'd support me for governor, that
18 I do not intend to run.

19 [Laughter.]

20 MR. STEELE: Maybe you should.

21 ACTING CHAIRPERSON ACKERMAN: Nor will she accept
22 a draft.

23 MR. TAYLOR: Mr. Chairman, I might clarify one
24 of Mr. Steele's concerns, and that is, that it is a 15-year
25 lease. That as far as the sublessees are concerned, they

1 have a right to renew for 15 years provided they want to
2 make whatever the rental consideration fixed by the master
3 lessee. The only option remaining to the Commission at this
4 time is whether at one point during a three-year period which
5 can be exercised on any October during that three-year
6 period the Commission desires to substitute a new master
7 lessee. So from the standpoint of the boatowners, their
8 concerns have been addressed and taken care of and there
9 isn't any problem about their interests being terminated
10 if a new master lessee steps into the picture.

11 In other words, they have a right to renew under
12 whoever the master lessee is. Does that address your
13 concern?

14 MR. STEELE: Well, not completely because after
15 all it makes a lot of difference who the landlord is. It's
16 the landlord who is going to provide most of the services
17 over there. So certainly you've taken care of the boaters
18 in one respect in that they're not going to find themselves
19 out in the cold, but they may find themselves with much less
20 cooperative landlord than they have right now.

21 FROM THE AUDIENCE: Higher prices.

22 MR. STEELE: And that's worse.

23 ACTING CHAIRPERSON ACKERMAN: For the record,
24 Barry LeBow [ph.].

25 MR. LeBOW: I think we're concerned about one other

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3001

1 item in here in this clarification as Greg Taylor just said.
2 When we left you on December 17th, the statement of the
3 Commission and the motion which you approved, was for a
4 15-year lease that could be reviewed at the end of three
5 years. The lease that we now prepared at some point prior
6 to the 24th of the month provided for something that wasn't
7 even discussed, and that was that the lease could be reviewed
8 in any one of the first three years, not after three years,
9 by notification on October 1st.

10 We submit that we the boaters didn't hear any part
11 of that and we wonder how you did it or whether it was
12 proper because, once again, with regard to the things that
13 Joe has just said, with regard specifically to capital
14 improvements and those things that will benefit the boaters,
15 if I was a lessee and I only had a nine-month lease and that's
16 to October 1st or then I had to worry about each successive
17 year, I wouldn't be spending much money for those boaters
18 in that period. I submit that that's a change in the lease
19 and I would hope that at this meeting, even as an interim
20 type of step, that you at least remove the chain between
21 the December 17th and December 24th.

22 MR. TAYLOR: Could we have the gentleman's name
23 for the record?

24 MR. LeBOW: I am Barry LeBow, Van Nuys, California.
25 I'm speaking as an individual.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 ACTING CHAIRPERSON ACKERMAN: Barry, as you recall,
2 when the Lieutenant Governor and I met with you and several
3 others down in Newport, I believe it was last month, we did
4 discuss that provision.

5 MR. LeBOW: Correct

6 ACTING CHAIRPERSON ACKERMAN: The day following
7 my return to Sacramento, I spent a good, much to the chagrin
8 of the staff, a good four to five hours with the staff
9 going over a lot of the details of the lease and of our
10 actions. I have discussed, not with you personally since
11 then, but with numerous individuals including counsel for
12 several of the parties that issue of the modification of
13 just a three-year lease versus a cancellation clause at
14 each of the first three years.

15 I committed to you at the time that I would raise
16 that today as an issue and I was prepared to do so. I've
17 talked to counsel for one of the parties involved who
18 suggested to me that perhaps it need not be raised now
19 because future action of the Commission could render that
20 a moot point and that we did not need to go back and start
21 to make technical amendments and technical changes to the
22 lease at this stage when it may be a moot point at some point
23 in the future. So, therefore, I did not plan to raise it
24 today.

25 MR. LeBOW: Without then bringing it up, can you

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 208
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 just for the record, because I think it was evident in,
2 certainly wasn't in the Commission meeting, but it was
3 evident in the public session, that there was some
4 discrepancy and that the year to year at this point is
5 improper. But rather than raise it as an issue and change
6 the lease at this point, hold off to a more appropriate date.
7 But I think it should be acknowledged that it was an
8 inappropriate change.

9 MR. HIGHT: No.

10 ACTING CHAIRPERSON ACKERMAN: The change is advice
11 from counsel and it was done legally and correctly.

12 EXECUTIVE OFFICER DEDRICK: I think that that should
13 be restated, Greg.

14 MR. TAYLOR: Following the Commission meeting the
15 form of the lease was shown to individual commissioners who
16 felt that it did not fully reflect their views, whatever
17 the reason for that was, and with regard to concerns about
18 how fast environmental review could be done. It was felt
19 that refinement of what the Commission acted upon was in
20 order and that was discussed with the current lessee and
21 the current lessee executed a letter to the State waiving
22 any objection to that modification of the lease form.

23 I think it should also be pointed out that with
24 regard to services and other things that the boaters are
25 concerned about, is that the lease is very specific as to

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 the type of services that will be provided irrespective of
2 the master lessee and it's my understanding that each
3 sublessee sent a copy of the lease which sets forth all of
4 those conditions.

5 One other individual, Mr. Robert Hertzberg.

6 MR. HERTZBERG: Mr. Chairman, Commissioner, my
7 name is Robert Hertzberg. I'm counsel for Catalina Marine
8 Services Corporation, one of the three bidders that were
9 considered on December 17th.

10 In light of the fact that I'm last and comments
11 have been rather long, I'd like to make a very brief outline
12 of a few of our thoughts we have concerning the awarding
13 of the conditional lease.

14 First, it is our feeling that the conditional bid
15 should be offered and limited to the three bidders who
16 participated at the December 17th, 1981 hearing. We feel
17 that this was a competitive bid process that was entered
18 into, that those bidders stepped forward and bid. We feel
19 that it is now unfair to open it up to any others than those
20 three bidders because those three bidders have now shown
21 their hand as we have set forth in the letter which you
22 acknowledged at the beginning of the meeting.

23 Second, we feel that there should be a solicitation
24 bid and it should be modified in the following respects:

25 A, it should eliminate all references to CEQA,

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 California Environmental Quality Act, and coastal
2 development permits as a condition to the award of the lease.
3 This, we believe, is in conformity with the commissioners'
4 intent and discussion after reviewing the record from the
5 December 17th hearing.

6 B, the solicitation bid, the modified solicitation
7 bid should include consideration of additional sources of
8 revenue other than the minimum annual lease payments and
9 percentage of gross revenues. We think that that is a
10 benefit to the State as clearly it will result in more
11 revenue.

12 Thirdly, we concur with Mr. Radcliffe's statement
13 that the three bidders should be allowed to modify their
14 respective proposals to mitigate any potential CEQA or
15 coastal development act on. That should not be, however,
16 a precondition to or consideration of the award of the
17 conditional lease. But what it should be is it should simply
18 allow the parties to do that so that when the conditional
19 lessee is awarded the lease, that they have the opportunity
20 to minimize whatever administrative review is necessary which
21 will shorten down the time that it will take for the
22 conditional lessee to step in the shoes of the present
23 lessee.

24 COMMISSIONER MORGAN: Could I interrupt and ask
25 a question?

1 MR. HERTZBERG: Sure.

2 COMMISSIONER MORGAN: It sounds like nonsense to
3 me, but maybe I'm not following you. What you are asking
4 the Commission to do is ignore the environmental laws and
5 ask the bidders to ignore the environmental laws and, having
6 ignored that, that would not even be a factor in
7 considering the proposals that are brought forward.

8 MR. HERTZBERG: It is our understanding from
9 your action on December 17th, that what you intended to do
10 by having that three-year clause in the present lessee's
11 document and lease, was to allow a conditional lessee to
12 step in the shoes, to have a conditional lease awarded and
13 then once that conditional lease was awarded, then that would
14 give jurisdiction to the various lead agencies to begin the
15 environmental review process. It would give jurisdiction
16 to the Coastal Commission to begin the development permit
17 process and that while that time was running, that
18 conditional lessee would go through the requisite approvals,
19 and as soon as those approvals were received, based upon
20 the opinion of Mr. Taylor and some of the others here, they
21 thought -- and I think it was Mr. Northrop -- they thought
22 that that process could take upwards of three years. That
23 once that approval was received, all stamped, met all
24 California laws, environmental and coastal, then that
25 person, assuming that happened before October 1st, 1984,

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 would step in the shoes of the present lessee and will have
2 met all laws. So it's not ignoring the laws. It's simply
3 putting each of the parties on an equal footing and ignoring
4 the CEQA for purposes of granting the conditional lease.
5 That was our understanding of the Commission's action on
6 December 17th.

7 What we're attempting to do here is we'd like to
8 see the Commission here today limit, to get this thing
9 underway. Because what's happening here, the real problem
10 is that the time is ticking against that three-year clock.
11 If the opinion of Mr. Taylor, if the opinion of Mr. Northrop
12 is accurate, that it's going to take three years to go through
13 the process once a conditional lease is granted, that clock
14 is running and it has to happen before October '84. We've
15 already lost a tremendous amount of time as it is, any
16 conditional lessee getting into it.

17 So what may happen is that the attempt of the
18 Commission in our opinion by its action on December 17th,
19 was to put all the parties on equal and fair footing. But
20 by delaying the process to the other bidders in the process,
21 you're causing prejudice.

22 COMMISSIONER MORGAN: Why don't you go ahead with
23 your points.

24 MR. HERTZBERG: That was really one of my points.
25 You saved me a little time.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 We respectfully request that the Commission here
2 today reentertain those three bids and make the decision
3 to limit it to those three bids, and 90 days -- Again, we're
4 causing prejudice to the other bidders here. To limit it
5 to 30 days I think that's a reasonable period of time because
6 I believe there was a Commission meeting on November 6th
7 in which it was sent out to bid. There was thereafter a
8 meeting on December 17th, in which the bids were entertained.
9 It's clearly doable. I think that it should be 30 days rather
10 than 90 days. That the staff should come back with a
11 modified bid solicitation which governs the rules and allows
12 the various parties to modify their respective bid leases
13 within the guidelines of that provision.

14 We agree with Mr. Steele as to the urgency of this
15 matter.

16 That's all. Thank you.

17 ACTING CHAIRPERSON ACKERMAN: Is there anyone else
18 in the audience that wishes to address the Commission?

19 Mr. Greenberg.

20 MR. GREENBERG: Charles Greenberg of Ball, Hunt
21 Hart, Brown and Baerwitz, representing your present lessee.
22 As representing your lessees, I didn't really think that
23 we would make a comment but I do feel constrained to respond
24 to Mr. Hertzberg's statement because I believe it can lead
25 you into a significant legal error that we believe would

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 be most unfortunate.

2 If I understand the gravamen of what he's saying,
3 it is that we are about to undertake a process by which prior
4 to the time the required environmental review is done of
5 a substitute bidder's program, you conditionally award some
6 sort of lease to him and then subsequent to that award you
7 go through some sort of environmental process, whatever you
8 think is appropriate, which we continue to think inevitably
9 will be an EIR. But that I believe clearly is inappropriate
10 legally. The whole thrust of the California Environmental
11 Quality Act is that at the earliest possible time and at
12 the time that you make a decision, tentative or otherwise,
13 to go with a particular project or go with a particular
14 leaseholder in this case, that you should have before you
15 all of the environmental materials that you need,
16 environmental materials that have been properly prepared
17 in accordance with the guidelines of the California
18 Environmental Quality Act. The concept -- this is not a
19 lawyer's esoteric thing -- the concept is very simple. The
20 concept is that an EIR or any environmental documentation
21 is similar to a situation where you want to buy a stock and
22 you want to have before you, a new stock, and you want to
23 have before you the disclosures required by the securities
24 laws at the time you buy the stock. The case law is clear
25 that the environmental review has to be done at the earliest

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 possible time and before you take your action in adopting
2 the project.

3 Therefore, whatever process you set up as far as
4 we're concerned -- by the way, we believe that really at
5 this point, having gone through an exhaustive process where
6 on the one hand the other parties seeking the lease were
7 telling you that you can obtain substantially more monies
8 if you put the matter out to bid and where we were telling
9 you it is impossible for any other party to operate this
10 leasehold without causing substantial environmental effects
11 that require difficult analysis, it seems clear to us that
12 both parties have made their point. That you went through
13 the bidding process. As a result of it, the funds which
14 the State is going to receive did indeed go substantially
15 up and the people who were telling you that were correct.

16 Now that you know more about the Catalina
17 operations and how this lease has to be operated, it seems
18 absolutely clear that we were right also and that that
19 operation cannot be operated without having a very careful
20 analysis of very substantial environmental effects if it
21 is to be operated by anybody else but the adjacent land site
22 owner.

23 Now, having done that, our view would be you've
24 clearly put yourself in a position where you have all the
25 evidence you need before you to say, fine, we're now

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3801

1 obtaining more monies, we now have the best environmentally
2 sound way of operating that lease, and that should be the
3 end of the issue. You have a prerogative under your lease
4 of going forward. If you do go forward, however, I would
5 urge you to do it in a way where you analyze projects and
6 analyze the environmental effect of those projects strictly
7 in accordance with the requirements of California
8 Environmental Quality Act prior to the time you make any
9 decision that might be construed as adopting a project or,
10 quote, conditionally, unquote, awarding the lease to anyone
11 with respect to this project.

12 Thank you very much. Be pleased to answer any
13 questions you might have.

14 ACTING CHAIRPERSON ACKERMAN: I think you were
15 very clear.

16 Yes, sir.

17 MR. REINHOLD: My name is Jack Reinhold, and I
18 represent my wife and me who are individual boatowners.

19 Several people have commented on the fact that
20 the boater has been taken care of in the Catalina program.
21 I think that's true, but not the way I'd like to be taken
22 care of. Our mooring rates have gone up 34 percent, being
23 forced by this competitive bidding. It's a recreational
24 area. The high dollar boatowners generally go to Avalon.
25 They now can have a daily fee stopover for less money than

1 we can in the isthmus area. I think you draw a line to it.
2 I think you should leave it with the Island Company. They
3 do an outstanding job. They have the history and let's not
4 let the prices go up any more because most of us are going
5 to be priced out of it. It's our only recreation.

6 Thank you.

7 ACTING CHAIRPERSON ACKERMAN: Any other comments
8 from the audience?

9 Susie, what is your, or do you want me to --

10 I think based, at least my opinion, based upon
11 the testimony now, I would feel that, number one, the staff
12 and the Commission has to very carefully chart the course
13 that's out before us to both serve ourselves and the people
14 of California and the boaters and the bidders that we have
15 in fact systematically and very completely analyzed all the
16 details on it so that we don't have any unanswered questions.
17 Because right now, at least in my opinion, we are now going
18 on opinion as to environmental impact. We're going on
19 opinion as to the level of services that are provided for
20 in each of the packages.

21 I, for one, want to see a very clear and a very
22 detailed analysis of that so that the Commission may make
23 a total informed decision on it. I think we would be remiss
24 to do any less.

25 I picked the 90-day figure somewhat out of the

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 209
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3001

1 air, but usually that time frame is given for review
2 processes. I would still offer that the staff within 90
3 days, which doesn't preclude sooner if the staff is ready,
4 within 90 days come back to the Commission with a very clear
5 and very definite set of proposed actions that lays out the
6 exact course of action for the Commission to follow. I think
7 the staff should do that after consultation and discussion
8 with the people who have testified here today. Each of them
9 have raised various points. I think those points should
10 be considered in the Commission making a final decision as
11 to the direction we're going to proceed.

12 COMMISSIONER MORGAN: Well, since you are the
13 commissioner who continues to have concerns, it seems to
14 me it would be more appropriate for the staff to work with
15 you in responding to the questions that you have in putting
16 together something that you feel satisfies your concerns.
17 When you feel they have done that, then bring it to the
18 Commission and make a presentation based on what you feel
19 is an appropriate way to go. But at this point I think
20 the Commission has had sufficient public meetings to get
21 public input and if there's a different direction that you
22 would like to go, then it seems to me it's up to you to work
23 with the staff to bring that direction back to the
24 Commission.

25 " Is there anything else we need to do?

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 205
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 303-3601

1 EXECUTIVE OFFICER DEDRICK: Yes. We're through
2 with Catalina.

3 [Thereupon a brief recess was taken.]

4 COMMISSIONER MORGAN: I'll move approval of Item
5 42 having seen Exhibits A and B.

6 ACTING CHAIRPERSON ACKERMAN: Let me ask one point
7 of clarification for the staff, whoever should answer.

8 Does the Commission need to take official action
9 today or should we to initiate a staff review or would that
10 be done in the course of past Commission actions and
11 internal discussions?

12 EXECUTIVE OFFICER DEDRICK: I would think that
13 your directions to us are already on record. This is a
14 continuing process. Unless you feel you need to do
15 something like that, I think I know what the staff is
16 supposed to be doing. It's very good for us to have those
17 kinds of directions on the record, but we don't need you to
18 tell us.

19 ACTING CHAIRPERSON ACKERMAN: I'll stipulate to
20 Susie's remarks, but again realizing that there are only two
21 of us here today. There is necessarily three people that
22 constitute the Lands Commission and I'm only one vote of
23 those three.

24 Secondly, that it would be my intent, unless
25 there's objection, that 90 days be a time limit on the

PETERS SHORTHAND REPORTING CORPORATION

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

1 outside on this and if it can be done sooner, so be it.

2 COMMISSIONER MORGAN: Then if at the end of 90
3 days you have not brought the matter back to the Commission
4 for discussion, that I will be prepared that we amend the
5 lease to remove the offensive termination language that was
6 mentioned here today.

7 ACTING CHAIRPERSON ACKERMAN: Okay. No problem
8 with that.

9 COMMISSIONER MORGAN: Okay.

10 [Thereupon Agenda Item 45 was concluded.]

11 ---o0---

12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SHORTHAND REPORTER

1
2
3 I, CATHLEEN SLOCUM, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

5 That I am a disinterested person herein; that
6 the foregoing excerpt from the State Lands Commission
7 Meeting was reported in shorthand by me, Cathleen Slocum,
8 and thereafter transcribed into typewriting.

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

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 31st day of March, 1982.

14
15
16 *Cathleen Slocum*
17 CATHLEEN SLOCUM
18 Certified Shorthand Reporter
19 License No. 2822
20
21
22
23
24
25

PETERS SHORTHAND REPORTING CORPORATION

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