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MEETING  
STATE LANDS COMMISSION  
STATE OF CALIFORNIA

ORIGINAL

STATE CAPITOL  
ROOM 447  
SACRAMENTO, CALIFORNIA

THURSDAY, APRIL 28, 1983  
10:05 A.M.

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

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MEMBERS PRESENT

Kenneth Cory, State Controller, Chairperson  
Leo T. McCarthy, Lieutenant Governor

MEMBERS ABSENT

Michael Franchetti, Director of Finance

STAFF PRESENT

Claire Dedrick, Executive Officer  
James Trout, Assistant Executive Officer  
Robert Hight  
W. M. Thompson  
Al Willard  
Jane Smith, Secretary

ALSO PRESENT

N. Gregory Taylor, Deputy Attorney General

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PROCEEDINGS

CHAIRPERSON CORY: We'll call the meeting to order.

I don't think necessarily, if there is anything that is controversial or on a split vote, we will be prepared to put it over for, leave the vote open in some fashion so Mr. Franchetti can participate, but he is tied up in a meeting elsewhere. It is getting down to that time where there are several meetings going at various places at the same time.

The first item is the Confirmation of the Minutes of the meeting of the 24th. Are there any corrections or additions to those minutes?

Without objection, the minutes of the 24th will be confirmed as presented.

Executive Officer.

EXECUTIVE OFFICER DEDRICK: No report.

CHAIRPERSON CORY: No report from the Executive Officer.

The next item is the Consent Calendar.

EXECUTIVE OFFICER DEDRICK: Item 5 is off.

CHAIRPERSON CORY: They are the items with the prefix letter "C," C1 through 19, excluding C5, which has been removed from the calendar.

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If there is anyone in the audience who has any disagreement with the proposed staff recommendation on those items, if they would please say so now, we will remove those items from the Consent Calendar because if there is no objection, all of those items will be dealt with in one motion and not discussed in detail. If anyone has any concerns or questions, they will be removed from the Consent Calendar.

Does anybody have any problems with any of those? Any Member of the Commission?

Without objection, the Consent Calendar will be approved as presented excluding Item C5 which has been removed from the calendar and will not be taken up today.

Next item is Item 20, Home Improvement Association.

This is a prospecting permit, 480 acres of school lands near Hayfield Dry Lake, Riverside County. A Mr. Larry Boerner would like to talk to us about this matter.

The staff recommendation is that we deny him without prejudice the application for a permit.

MR. BOERNER: I have requested to tape this meeting. It was granted as long as it didn't cause any problems.

CHAIRPERSON CORY: Fine. There will be a full transcript available if you want it as well, sir.

MR. BOERNER: Is this my seat?

CHAIRPERSON CORY: Yes.

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MR. BOERNER: Could we take Item 21 instead of 20, please?

CHAIRPERSON CORY: We're on 20, sir.

MR. BOERNER: The reason is because the speaking on Item 21 may clear up Item 20 totally and be unnecessary to discuss it. In fact, all the subject matter in 21, basically in 20, is basically in 21.

CHAIRPERSON CORY: Let me check with the staff. We have two separate and distinct items before us?

EXECUTIVE OFFICER DEDRICK: That is correct. Item 20 is for decision. Item 21 is for information. Item 20 is a prospecting permit, an application for a prospecting permit, and Item 21 is for the information of the Commission on Mr. Boerner's request for preferential mineral extraction lease.

CHAIRPERSON CORY: Go ahead and address them and we'll try to sort out motions at some point which item we're on. Go ahead.

MR. BOERNER: I'm going to go to Item 21. You have before you -- and I'm not familiar with the operations here -- but you have before you I suspect a printed --

CHAIRPERSON CORY: Yes.

MR. BOERNER: I have something I'd like -- If there's enough, I think maybe Mr. Willard would like one of those.

1

1 My name is Larry Boerner. I'm President of Baby  
2 Comstock Mining Corporation, a California corporation,  
3 located in El Cajon, California.

4 I've come here today to speak rather frankly  
5 to you and in a frank manner. I have been a general  
6 contractor for over 30 years and I've had extensive experience  
7 in dealing with public agencies and city councils, state  
8 statutes and building codes and laws and so forth. Quite  
9 frankly, I have never had the frustration that I have had  
10 to deal with with the State Lands Commission. The staff  
11 has provided false and misleading information. They have  
12 lied to me. They have made deals and then changed their  
13 minds. They have changed words and meanings of statutes.  
14 They have scrambled industry's terminology and made  
15 communication impossible. As an example, right here in  
16 this paper that comes out, that they send out. It says  
17 in about the fourth line, "Mr. Boerner has requested issuance  
18 of a preferential mineral extraction lease claiming discovery  
19 of a commercially valuable gold deposit."

20 That is not true. That's not a true statement.  
21 I did not do that.

22 If you will look on the little paper that I gave  
23 you at the top, the statute says -- I gave them all away.  
24 I don't have one myself. That's all right. I know it  
25 from memory.

1 It says that in the statute that the requirements  
2 for our lease is to discover commercially valuable deposits,  
3 plural, of minerals, plural. That's what I claimed. That's  
4 what I did.

5 We go down to where you see .06 ounces per ton.  
6 It's about two-thirds of the way down. That was done with  
7 a fire assay. For two years I've been telling the State  
8 Lands Commission in Long Beach that all ore does not fire  
9 assay properly. They provided me documentation of the  
10 fact that it did. I provided them documentation of the  
11 fact that it doesn't. In fact, in the mining journal,  
12 this month's mining journal, there is an extensive article  
13 on how fire assay is an art and not a science. It is an  
14 exact -- ~~Strike that~~ -- and it is not accurate on all  
15 ores and it says they don't know why.

16 In the example they used was they bulk sampled  
17 a hundred pounds and got five times more than they did,  
18 than the fire assay said was in the ore.

19 CHAIRPERSON CORY: Who is "they"?

20 MR. BOERNER: The California Mining Journal.

21 CHAIRPERSON CORY: Fine.

22 MR. BOERNER: Then they used this inexact .06  
23 to go on and say: Staff did not confirm the discovery  
24 of a commercially valuable mineral deposit. Well, that  
25 little paper I gave you there shows what deposits of minerals

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1 are to a prospector. The circles there where it says down  
 2 in the lower right-hand corner, it says samples, what a  
 3 prospector does is he goes out and searches areas and regions  
 4 for deposits of minerals that by industry standards could  
 5 meet, could be commercially valuable and that's what the  
 6 statute says a prospector should do. There's a big  
 7 difference between deposits of minerals and commercially  
 8 valuable mineral deposit. You don't discover a commercially  
 9 valuable mineral deposit, you develop one.

10 Then they go on and they say: Industry and Federal  
 11 Courts, criteria for a valuable mineral deposit, is one  
 12 from which the minerals can be extracted, removed and marketed  
 13 at a profit. Well, I would debate that one, but I'm not  
 14 going to get into all that now because you go into a lot  
 15 of legal court cases. I'm just saying so what. It has  
 16 nothing to do with the statute, the requirements or anything  
 17 else. So why do they even bother to mention it.

18 Then I go on, it goes on and in the second  
 19 sentence in the second page it says: Staff suggested the  
 20 further sampling of a prospect. A prospect by definition  
 21 is what a prospector discovers. They are admitting I have  
 22 a prospect and, therefore, I have completed what is required  
 23 by the statute.

24 CHAIRPERSON CORY: Pardon me. Where does it  
 25 say that in the statute?

1 MR. BOERNER: On the top of the, it says that  
 2 you must find commercially valuable deposits of minerals.  
 3 Once a prospector has completed, has discovered commercially  
 4 valuable deposits of minerals, he has a prospect. If you'll  
 5 notice over on the large printing that's slashed across  
 6 there, it said -- I guess I should really have one of those  
 7 -- it says: Prospectors discover commercially valuable  
 8 deposits of minerals on or near the surface with potential  
 9 for an ore body. This is called a prospect. Because they  
 10 are on the flat, they cannot meet staff's requirements  
 11 for ore body.

12 You'll notice the drill holes, you'll notice  
 13 drill holes are needed. It's the up and down print here.  
 14 Drill holes are needed to prove commercially valuable ore  
 15 body. Now, this is not prospecting. You'll notice over  
 16 on the left-hand large print it says mining companies drill  
 17 holes to establish tonnage and grade figures. This is  
 18 called developing a prospect to prove commercially valuable  
 19 ore bodies. There is a big difference between prospecting  
 20 and developing. As an example, 40 miles south of this  
 21 particular property that we're talking about, one of the  
 22 largest gold-mining companies in the world discovered deposits  
 23 of minerals on or near the surface in 1979 that became  
 24 a prospect. They have been drilling in it ever since.  
 25 Two and a half years they have been drilling in that property.

1 This is called developing the prospect. I was over there  
 2 last Friday and they said they had three years to go yet.  
 3 Now, what they're doing now, they couldn't get enough  
 4 information from the drill hole. So they are driving a  
 5 3,000 foot decline shaft to take the samples and bulk  
 6 sample them to determine whether they are going to have  
 7 a commercially valuable ore body or not. It's going to  
 8 take five and a half years minimum for them to complete  
 9 their work to get to the point that your staff has asked  
 10 me to do in two years. Besides, nobody does that kind  
 11 of work and spends millions of dollars without a lease.

12 COMMISSIONER McCARTHY: Do you mind if we ask  
 13 some questions --

14 MR. BOERNER: Sure.

15 COMMISSIONER McCARTHY: -- as you move along,  
 16 Mr. Boerner, because you're making a lot of points and  
 17 I'm not sure I'll remember all of them later on.

18 You just mentioned, you referred to spending  
 19 millions of dollars without having a lease. How much money  
 20 would you normally expend to find enough ore, enough  
 21 commercially valuable ore for you to make the economic  
 22 decision that it made sense for you to expend a rather  
 23 substantial sum of money in really drilling deep to find  
 24 out just what the total value of that might be? Understanding  
 25 the more you dig and explore, the more knowledge you gain.

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MR. BOERNER: Right.

COMMISSIONER McCARTHY: Do you understand my question?

MR. BOERNER: Yes.

COMMISSIONER McCARTHY: All right. How much money would you have to expend normally in the first couple of years where you made a major financial commitment?

MR. BOERNER: I would say that would depend entirely on the property, the type of property that we're talking about.

COMMISSIONER McCARTHY: Give me a set of circumstances to work with so we're not dealing only in --

MR. BOERNER: I would say that property is similar to the property that's 40 miles south and it could very well take ten million and probably five years. It's considerable, yes. I would say it's very similar property. That's why I went over to see it.

COMMISSIONER McCARTHY: So you're saying that if you had what length lease, what term of years in the lease?

MR. BOERNER: I'm saying that it can't be done without a long-term lease.

COMMISSIONER McCARTHY: What term of years?

MR. BOERNER: I haven't --

COMMISSIONER McCARTHY: What are you asking for?

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1 MR. BOERNER: Twenty years. Twenty years is  
2 the statute's limit.

3 COMMISSIONER McCARTHY: What's the normal practice  
4 that you've got? I take it you've done this on other  
5 occasions on state or federally owned property.

6 MR. BOERNER: Right.

7 COMMISSIONER McCARTHY: Is that correct?

8 MR. BOERNER: That's correct.

9 COMMISSIONER McCARTHY: All right. What term  
10 of years do you normally get? What do you get under the  
11 federal process?

12 MR. BOERNER: There's no such thing as a lease  
13 under federal. You file -- it's an altogether different  
14 operation. You file a claim and first you discover it,  
15 you make your discovery first, then you're entitled to  
16 file claim. The state works backwards. They make you  
17 get the permit first and then make the discovery. Then  
18 once you do this on federal land, you have to do a minimum  
19 amount of work each year to maintain it.

20 COMMISSIONER McCARTHY: Let me focus here. What  
21 term of years would you ask for in this state? Yes, the  
22 statute allows 20 years.

23 MR. BOERNER: Could we proceed because  
24 I can't answer your question. You keep asking me the same  
25 question in a different manner and I can't answer it. If

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1 I could proceed with my presentation, maybe it will come  
2 out.

3 COMMISSIONER McCARTHY: I asked you if you'd  
4 mind.

5 MR. BOERNER: I've answered, but I can't answer  
6 it any better than that, sir. I'm sorry. I don't know  
7 what term of years at the present. The statute states  
8 20.

9 COMMISSIONER McCARTHY: So you would ask for  
10 20 years?

11 MR. BOERNER: A minimum of ten, yes, but 20 is  
12 what the statute is, what the agreement was when I got  
13 the permit.

14 COMMISSIONER McCARTHY: All right. Now in this  
15 particular piece of property, how much money would you  
16 normally expend in that ten-year period of time?

17 MR. BOERNER: Depends on the size of the company  
18 that would do the development work. In other words, the  
19 larger the development company, the more money they would  
20 spend. It's not in exact ratio. One little man, one little  
21 prospector out there, he could go out maybe and drill one  
22 hole and to him he would be satisfied. But a large company  
23 that's going to go into -- see, the mining business is  
24 a large production now. The thought of finding the vein  
25 and going out and taking it out and crushing it and panning

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1 it and so forth, that's gone. This gold you can't even  
2 see it.

3 COMMISSIONER MCCARTHY: If you were a manager  
4 of State Lands and someone seeking what you are approached  
5 you as a manager of State Lands, what are reasonable  
6 requirements to impose on the applicant understanding that  
7 there's a trust involved in managing State Lands to make  
8 sure that if you do contract for mining operation, you  
9 want it done somewhat expeditiously. You want some  
10 reasonable assurances about the amount of the investment  
11 going into it. You don't want someone to take the land  
12 and maybe hold it without any activity. What's reasonable?

13 MR. BOERNER: I understand. I understand that  
14 question. I can answer that one.

15 Industry normally sets a minimum amount that  
16 you spend on the land each year to keep your lease valid.  
17 In other words, let's say that I have a valid claim on a  
18 piece of federal land. I could lease it to a large  
19 company and you would put in that lease a certain amount  
20 of money that you would be willing, that they would be  
21 willing to spend developing that property and any time  
22 they feel it's not worth it, they can get out and you get  
23 that development work free.

24 CHAIRPERSON CORY: What is that amount?

25 MR. BOERNER: It depends on the size of the property.

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1 CHAIRPERSON CORY: This particular property.

2 COMMISSIONER McCARTHY: Yes.

3 MR. BOERNER: This property, I am relating it  
4 to the one that's 40 miles south. I would say something  
5 on the order of a minimum of five million maybe. I can't  
6 look into their books and they won't let me do that.

7 COMMISSIONER McCARTHY: Am I getting the drift  
8 that your ability to go out and -- I don't know whether  
9 it's subleasing -- your ability in effect to contract with  
10 a major investor really depends upon the terms you get  
11 from the State. How much of your money goes into this  
12 project?

13 MR. BOERNER: At this point, no more. Personal  
14 money, no more of my personal money or my corporation's  
15 money goes into that.

16 COMMISSIONER McCARTHY: Well, if you got the  
17 lease that you're looking for, how much of your money would  
18 go into the project?

19 MR. BOERNER: None.

20 COMMISSIONER McCARTHY: So then what you are  
21 then is a sort of a -- you then start acting as a lessor?

22 MR. BOERNER: Correct.

23 COMMISSIONER McCARTHY: You go get an investor  
24 and say I've got this for 20 years, we can explore it.

25 MR. BOERNER: Right.

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1  
2 COMMISSIONER McCARTHY: Are you interested in  
it?

3 MR. BOERNER: Right.

4 COMMISSIONER McCARTHY: And then you get a piece  
5

6 MR. BOERNER: Right.

7 COMMISSIONER McCARTHY: -- of, you get something  
up front --

8 MR. BOERNER: No.

9 COMMISSIONER McCARTHY: -- or do you get a  
10 percentage of whatever this property is?

11 MR. BOERNER: I'm not saying it's not done that  
12 way.

13 COMMISSIONER McCARTHY: How do you do it?

14 MR. BOERNER: No. I would demand the money spent  
15 on the property because --

16 COMMISSIONER McCARTHY: How do you participate  
17 in any profits?

18 MR. BOERNER: With State Lands it's a little  
19 more difficult because you get ten percent. So it has  
20 to be -- See, the normal lease is somewhere between five  
21 and ten percent. State has a pretty stiff lease going  
22 in. So, therefore, it's almost impossible to sublease  
23 a piece of state land and get a royalty. So you name a  
24 figure that you are willing to take for the property,  
25 that I would be willing to take for the property and my

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1 efforts and then if they spend, say, \$200,000 a year or  
2 \$300,000 a year drilling holes or half a million a year,  
3 whatever I can work out with the company, then as long  
4 as they keep doing that, then obviously they feel that  
5 it's worth it.

6 COMMISSIONER McCARTHY: Now, you apparently feel  
7 that in this particular piece of land there's some ore  
8 down there that's commercially marketable?

9 MR. BOERNER: That's correct, sir.

10 COMMISSIONER McCARTHY: You have looked at the  
11 ore?

12 MR. BOERNER: No, I haven't seen it because it's  
13 under the ground.

14 COMMISSIONER McCARTHY: So your assumption is  
15 that because in the general vicinity

16 MR. BOERNER: Correct.

17 COMMISSIONER McCARTHY: -- there are similar  
18 conditions where commercially marketable ore have been  
19 found --

20 MR. BOERNER: Correct.

21 COMMISSIONER McCARTHY: --- there's a good chance  
22 it's going to be here as well?

23 MR. BOERNER: That's correct.

24 COMMISSIONER McCARTHY: And you're telling us  
25 that two years is not enough time for you to go out and

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1 get a major company to invest, to put the money in. Is  
2 that the point of your testimony?

3 MR. BOERNER: No. The point of my testimony  
4 is that after I did what the statutes say I should do,  
5 your State Lands Commission changed the rules.

6 COMMISSIONER McCARTHY: Well, there's some  
7 difference apparently in the interpretation of just what  
8 the statute does require. So let's leave that aside for  
9 now. I'm trying to find out from you what you basically  
10 think is fair practice for the managers of State Lands.

11 MR. BOERNER: You just made a statement that  
12 let's leave that aside. That's the point, sir. That is  
13 the problem.

14 CHAIRPERSON CORY: Mr. Taylor, you have a --

15 MR. TAYLOR: I think that the problem may be  
16 as a result of a misunderstanding of the difference between  
17 State statutes and Federal statutes.

18 In Federal statutes you can get prospecting permits  
19 and as long as you work the claim, you can tie the property  
20 up. California doesn't have the abundance of property  
21 that the Federal Government does and also because of the  
22 kind of restraint on the ability to use property that's  
23 subject to mining claims, California went a different  
24 direction. That is that if there are no known minerals  
25 on a parcel of property that the State owns, a person

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1 may apply for a prospecting permit. That person has two  
 2 years in which to prove up his claim and may apply to the  
 3 Commission for an extension of an additional year or a  
 4 total of three years. At the end of that time the Commission  
 5 must make a finding as Mr. Boerner points out to you in  
 6 this piece of paper that he's handed to you in the statute  
 7 that 6895 says that upon establishing to the satisfaction  
 8 of the Commission, and it's totally in your discretion,  
 9 that commercially valuable deposits of minerals have been  
 10 discovered within the limits of any permit, the permittee  
 11 may be entitled to lease not more than 160 acres.

12 Now, apparently -- now, his permit was effective  
 13 on May the 1st, 1981. His initial term is about to run  
 14 out. He can get an additional one-year period if he wants  
 15 to continue the prospecting permit. The standard for that  
 16 which the staff must recommend to you is a prudent man  
 17 test which is that a prudent man would justify the expenditure  
 18 of his labor and means only where there is a reasonable  
 19 prospect of success in developing a valuable mine wherein  
 20 valuable mineral deposits is one from which minerals can  
 21 be extracted, removed and marketed at a profit.

22 Now, so far the material submitted by Mr. Boerner  
 23 to the staff shows an insufficient amount of minerals to  
 24 justify a finding that it's in commercial quantity.  
 25 Apparently what he's asking you to do is to ignore the

1 statute and to give him a lease at this point so that he  
2 can go out and market it.

3 Now, it would be a different situation under  
4 federal law. The reason for California law is that we  
5 believe there should only be a brief interruption of time  
6 when someone can tie up property from other uses and that  
7 period that the Legislature has determined to be two years  
8 with extension of a third. Therefore, I think that we  
9 would have to advise you that since your staff could not  
10 recommend that there is a commercial quantity of minerals,  
11 that Mr. Boerner's only option under the law at the present  
12 time is to apply for a one-year extension of time in which  
13 to go out and prospect. If he cannot convince the staff  
14 that there is commercially valuable minerals at the end  
15 of the year, his prospecting permit is over. The property  
16 then becomes available for any other use or any use that  
17 the State wants to make of it.

18 As I understand it, he has two disputes. One  
19 is he disputes whether there is commercially valuable  
20 minerals there and he doesn't agree with the staff's  
21 conclusion on that and maybe he should address himself  
22 to that.

23 Secondly, he's making an argument that there  
24 isn't enough, that he can't prove the mineral quality of  
25 this lease, of this prospecting permit, unless he's given

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1 a lease so he can get enough money to go ahead. I just  
2 have to say that while I may have sympathy for his position,  
3 that's not what is entitled under the law and I think  
4 there's good reason for the California law on this subject.  
5 So I think those are the two standards that you have.

6 Now, the statute also provides another point that  
7 the Office of the Attorney General must concur that the  
8 requirements of the law have been met. I would just like  
9 to inform you that as of this time we cannot make the finding  
10 that is necessary based upon the information that has been  
11 provided to us by your staff.

12 COMMISSIONER McCARTHY: Let me ask, there is  
13 no set weight for the amount of ore that has to be presented  
14 to the Commission in this first phase, this first two  
15 year period. The test I take it is that in whatever amount  
16 of ore is presented, as described from a particular  
17 geographical area, there be within that ore some  
18 indication of commercially marketable deposit.

19 MR. TAYLOR: That is correct.

20 COMMISSIONER McCARTHY: Now, is it the staff's  
21 position that the amount of ore, and someone should indicate  
22 to me how much ore that was, that the amount of ore  
23 presented so far -- has any ore been presented by Mr. Boerner  
24 in the first two years?

25 EXECUTIVE OFFICER DEDRICK: Governor McCarthy,

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1 this is Al Willard who is in charge of this kind of leasing  
2 and has been very closely --

3 COMMISSIONER McCARTHY: Let me ask the same  
4 questions and give me some succinct answers, please.

5 What ore has been presented by Mr. Boerner in  
6 this first two-year period?

7 MR. WILLARD: Mr. Boerner submitted evidence  
8 of some samples that he had taken and the tests that he  
9 had run on those samples plus some mining costs, estimated  
10 mining costs for the claim which he, it was my understanding  
11 that he implied that this was a commercially valuable deposit.  
12 We went out, visited the area, sampled the area and a  
13 registered mining engineer and registered geologist, they  
14 sampled it and we had those samples run. They did not  
15 bear out what Mr. Boerner's samples had indicated.

16 CHAIRPERSON CORY: That is the difference between  
17 the .74 and the point, .074 and .06?

18 MR. WILLARD: The point --

19 EXECUTIVE OFFICER DEDRICK: 0.2.

20 MR. WILLARD: .2 and .06. Our samples checked  
21 out .06. Mr. Boerner's samples indicated an average of  
22 .2. Running this through the economic analysis, the .06  
23 was not in our opinion a commercially valuable deposit.

24 COMMISSIONER McCARTHY: What kind of ore are  
25 we talking about?

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1 MR. WILLARD: Gold.

2 MR. HIGHT: Gold.

3 COMMISSIONER McCARTHY: Can you establish that  
4 it's normal staff practice to require that percentage deposit  
5 of gold in the ore that is presented to you?

6 MR. WILLARD: Followed up with an economic analysis  
7 as to the mining costs. I mean, it's possible you could  
8 have a lesser amount of gold present if the mining costs  
9 were such that it could be mined at a profit. So it bears  
10 an economic analysis also.

11 COMMISSIONER McCARTHY: What does that mean?  
12 I don't understand.

13 CHAIRPERSON CORY: I think what he's trying to  
14 say is that you could have a lesser percentage if you had  
15 some way of rendering it to raw gold bullion --

16 EXECUTIVE OFFICER DEDRICK: Cheaper.

17 CHAIRPERSON CORY: -- in a cheaper form so you  
18 could make a profit. If it's going to cost you more to  
19 extract 8,000 tons to get "X" number of ounces and transport  
20 it and all, but if you happen to discover it closer to an  
21 existing --

22 MR. WILLARD: Market probably or maybe some unique  
23 processing method you might --

24 COMMISSIONER McCARTHY: Does the Commission staff  
25 have a set of regulations which makes it clear to Californians

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1 who want to go through this permit process what they have  
2 to achieve in order to reach the second step?

3 MR. WILLARD: I think it's sufficiently known  
4 in the industry what a commercially valuable deposit of  
5 mineral --

6 CHAIRPERSON CORY: But we do not by regulation  
7 define it?

8 MR. WILLARD: No, we do not define it.

9 MR. TAYLOR: I don't know that you could because  
10 it would vary.

11 COMMISSIONER McCARTHY: An outer range.

12 MR. BOERNER: Sir, could I --

13 COMMISSIONER McCARTHY: I will get to you in  
14 a moment, Mr. Boerner.

15 I'm not suggesting that you can define every  
16 conceivable circumstance, but you can to try to give some  
17 sort of notice to Californians who want to go through this  
18 permit process, certainly provide them with the samples.  
19 Is there a stream of practice that's predictable enough  
20 so that permit applicants know what is required of them?  
21 That's all I'm asking you. How do you lay that out for  
22 them so they can read it before they even begin the two-  
23 year process?

24 EXECUTIVE OFFICER DEDRICK: When they apply,  
25 if they're interested, they talk to the Commission. The

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1 application form has all the information that the Commission  
2 needs to have.

3 CHAIRPERSON CORY: But there are no examples  
4 of standards?

5 MR. WILLARD: There is no examples. Now, again,  
6 there is such an accepted standard in industry, industry  
7 knows what a commercially valuable deposit is.

8 COMMISSIONER McCARTHY: I don't know what that  
9 means. We have already been told that we have a different  
10 set of practices than the Federal Government.

11 MR. BOERNER: That's irrelevant.

12 COMMISSIONER McCARTHY: We have a different set  
13 of practices than the Federal Government.

14 EXECUTIVE OFFICER DEDRICK: But we have the same  
15 standards.

16 CHAIRPERSON CORY: What do you mean?

17 EXECUTIVE OFFICER DEDRICK: The standard for  
18 commercially valuable is prudent man test. That is the  
19 same standard -- the one Mr. Taylor read to you.

20 MR. TAYLOR: That standard has been set up and  
21 accepted by the United States Supreme Court. It is an  
22 industrywide standard. I think if you'll look at the  
23 statutes they are extremely detailed about that and there  
24 is no -- Mr. Boerner doesn't misunderstand the standard.  
25 It says in the discretion of the Commission commercially --

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1 EXECUTIVE OFFICER DEDRICK: Valuable.

2 MR. TAYLOR: -- valuable minerals.

3 MR. BOERNER: It says deposits of minerals.

4 MR. TAYLOR: Commercially --

5 CHAIRPERSON CORY: Commercially valuable deposits  
6 of minerals.

7 MR. BOERNER: If I could give my presentation,  
8 this would all be cleared up. I've got it right here.

9 COMMISSIONER McCARTHY: Thank you. That's all  
10 the questions I have for now.

11 CHAIRPERSON CORY: Go ahead, sir, and how long  
12 do you think it will take?

13 MR. BOERNER: It's only this two and a half pages.

14 CHAIRPERSON CORY: Go for it.

15 MR. BOERNER: All right. The statutes are  
16 prepared by legislators and industry and they are written  
17 in industry's terminology. If the legislators had intended  
18 or interpreted or had intended staff's interpretation,  
19 they would have said as everybody is saying here today,  
20 mineral deposits or ore body. That would be in the statute.  
21 It's not. It says deposits of minerals. An ore body,  
22 let me ask you a question. In order to establish an ore  
23 body, do you have to delineate three dimensions?

24 MR. WILLARD: Yes.

25 MR. BOERNER: To find deposits of minerals on

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1 or near the surface, do you find three dimensions or two?

2 MR. WILLARD: It depends on how you're  
3 prospecting.

4 MR. BOERNER: Now, if commercially valuable ore  
5 body was in the statute as all these gentlemen seem to  
6 believe it is, which I have showed you is not, then they  
7 would not have used the word "discover" because you do  
8 not, industry does not discover ore body. They develop  
9 them or prove them. Also, the permit would not be called  
10 a prospector's permit. It would be a development permit.

11 Now, regarding commercially valuable. Other  
12 industries have easily recognized products that they  
13 manufacture and sell such as shoes, autos, banking service  
14 et cetera. The mining industry uses commercially valuable  
15 as a metaphor to communicate and differentiate. We do  
16 it all the time. Commercially valuable deposit. That's  
17 one from a worthless deposit. Commercially valuable  
18 mineral is one from a worthless rock. Commercially valuable  
19 process is a process that will produce money instead of  
20 eat up money. A commercially valuable location is one  
21 that you can get to it instead of having to take a helicopter  
22 into some isolated place. Industry works to make a profit  
23 and we work with commercially valuable ore and we process  
24 it to make a commercially valuable product. It's a metaphor.  
25 You can't take a metaphor. English language will not allow

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1 you to take a metaphor literally.

2 Now, yes, the statute has to put less metaphor  
3 in the statute because otherwise the statute would have  
4 said go out and find deposits of minerals and we'll give you  
5 a lease. Now, that wouldn't be right. So, the statutes  
6 cannot make assumption and that's why commercially valuable  
7 is in the statute.

8 If you took the statute literally as it is written,  
9 it would say: Go out and find two or more commercially  
10 valuable ore bodies, each containing two or more commercially  
11 valuable minerals. Now, they didn't intend that, but that's  
12 what it would be if you take it literally.

13 CHAIRPERSON CORY: Excuse me. Where do you find  
14 two?

15 MR. BOERNER: Because deposits in the statute  
16 is plural.

17 CHAIRPERSON CORY: Oh, okay.

18 MR. BOERNER: That means two or more, several,  
19 as many as it takes to prove what? That there is a reasonable  
20 possibility that there is an ore body, an invisible ore  
21 body below the surface which he just admits takes three  
22 dimensions. You will see on your little thing here,  
23 prospectors work areas and regions sampling on the surface  
24 to find an invisible commercially valuable ore body potential.

25 Okay. That's the first page.

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I think the staff has handled this very unprofessionally and I think they're trying to mix you up with words as has been my frustration for two words. Prospectors -- I've gone through that. We're further than we think. So much for that.

Commercially valuable deposits is plural. We've already gone through that. The prospector must sample as many as is required to establish the reasonable possibility a commercially valuable ore body exists below the surface. This discovery is called a prospect. Prospector's work is done on the flat and, therefore, it cannot meet the staff's requirements.

On April 5th, an Assembly Committee approved AB 128 deleting the word "commercially" from the statute. Can you imagine that? Professionally I do not believe the change is prudent or necessary, but you can see what they are doing to stop what's going on in this Commission. They are going to great lengths to stop it.

Now, staff's action is they have changed the words "deposits of minerals" in this meeting, in all my communication -- I can document everything I'm saying. They changed this incidentally after I applied for a lease. Everything before this was deposits of minerals. No problem. The minute I applied for a lease, they changed my requirements for a lease. They have changed "deposits of minerals"

1 to "ore body" in all the communications. They have used  
2 improper terminology. They have taken commercially valuable  
3 literally, our metaphor, literally. They have changed a  
4 two-dimensional discovery into a three-dimensional  
5 development and they have changed the legislators' intent  
6 of the statute. Staff's action implies the legislators  
7 were incapable of communicating their intent into words.

8 Now, here is your decision. If you do not give  
9 me a lease, you could be documenting their error. If you  
10 do give me a lease, you could be opening up a can of worms  
11 here that won't quit. The problem is yours, gentlemen.

12 MR. TAYLOR: Mr. Chairman, for the record, it's  
13 my understanding from speaking with Mr. Willard that the  
14 break-even point in terms of economic analysis for this  
15 area that Mr. Boerner and the staff generally agree on  
16 is about two-tenths. That the staff's independent attempts  
17 to verify that figure have never come in with that amount  
18 and an independent consultant hired by Mr. Boerner confirmed  
19 the staff's result of .07, .07.

20 COMMISSIONER McCARTHY: Do you agree with that,  
21 Mr. Boerner?

22 MR. BOERNER: I think that's immaterial, sir.

23 COMMISSIONER McCARTHY: Do you agree with it?

24 MR. BOERNER: I didn't --

25 COMMISSIONER McCARTHY: All it takes is a yes

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1 or no answer.

2 Do you confirm that the independent --

3 MR. BOERNER: That (their independent or that  
4 my independent? My independent took it. He just took  
5 a piece of the mountain, the entire mountain. Your man  
6 took a piece of the vein. He fire assayed his and my man  
7 ran it in a chemical test.

8 MR. TAYLOR: I believe that both of them came  
9 out with point --

10 MR. BOERNER: It's immaterial, sir, because they  
11 were taken differently.

12 MR. TAYLOR: But irrespective of how they were  
13 taken, they both came out with the same results.

14 MR. BOERNER: It was different material.

15 COMMISSIONER McCARTHY: Mr. Boerner is attacking  
16 the method of which the deposit was taken, therefore, says  
17 it has no validity. That's your point?

18 MR. BOERNER: I'm saying they fire assayed it  
19 and it has no validity, but it's where they took it and  
20 how the independent -- I was going for large bulk type  
21 of material and to see if it could be extracted commercially.  
22 The letter they sent back said that it appeared as though  
23 it was of commercial value and that it should be further  
24 tested.

25 COMMISSIONER McCARTHY: Okay. Go ahead.

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1 MR. TAYLOR: I think the record before you  
2 indicates that the results by the consultant he hired, and  
3 by the staff were the same and that's in the record before  
4 you.

5 MR. BOERNER: They are taking and processing  
6 ore down to three dollars a ton now. Even at .06 and even  
7 taking all worst case situations, your staff checked but  
8 the material to be worth 25 to 28 dollars a ton. They  
9 are processing ore down to three dollars a ton now. I  
10 have several -- Mr. Fry, I don't know who Mr. Fry is, or  
11 where he is. Mr. Fry lied to me. He told me that if I  
12 could move or document that three dollars a ton material  
13 was commercial, he would back me before this Commission.  
14 When I proved it to him, he changed his mind.

15 COMMISSIONER McCARTHY: Mr. Boerner, may I suggest  
16 something. Of course, you're a witness here and you're  
17 free to take whatever approach you want and use whatever  
18 language you want. But your whole testimony indicates  
19 an intentional effort to engage in a conspiracy, to somehow  
20 defraud you or work dishonestly with you. That's the  
21 strength and intensity of your language. Now, if you have  
22 something that substantiates that, of course, I'd want  
23 to hear it. If you don't, why don't we try to figure out  
24 what the answers are to the two basic issues in front of  
25 us that you've heard presented so far. The first one is --

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1 MR. BOERNER: But --

2 COMMISSIONER McCARTHY: Are you listening to  
3 me?

4 MR. BOERNER: Uh-huh.

5 COMMISSIONER McCARTHY: Thank you. The first  
6 one is, when the ground rules changed so that you were  
7 prejudiced, were they applied any differently to you than  
8 they were to other Californians who came to this Commission  
9 staff prior to you applying for the same permit under the  
10 law? The second issue is, are ground rules applied  
11 rational? Now, the first issue. I want to ask the staff,  
12 can you give us other examples of similar cases in which  
13 the same requirements were exacted of other applicants  
14 that came to this Commission staff or conversely, can Mr.  
15 Boerner show us that other applicants were treated  
16 differently which is the allegation I heard him make.

17 MR. BOERNER: I didn't make that comment.

18 COMMISSIONER McCARTHY: You said they changed  
19 the ground rules on me after this began. I want you to  
20 substantiate that for me.

21 MR. TAYLOR: Governor, the statute has been  
22 unamended since 1976 and '77. '78 in the case of 6895.  
23 Therefore, the statutes have remained consistent, which  
24 set forth the standard, have been consistent during the  
25 period of his prospecting permit.

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1 COMMISSIONER McCARTHY: The statute was the same,  
2 but I'm talking about how the statute is implemented. What  
3 I heard from Mr. Boerner, and he should correct me  
4 immediately if I misunderstood him, was that the ground  
5 rules being applied were changed after he got into this  
6 process.

7 MR. BOERNER: Right.

8 COMMISSIONER McCARTHY: The implication to me  
9 was that he was being treated differently unless the ground  
10 rules were changed for other applicants in this permit  
11 process as well after they got into it.

12 EXECUTIVE OFFICER DEDRICK: If I may respond,  
13 when this problem came to my attention several months ago  
14 I very carefully looked into exactly the question that  
15 was raised. We do not have a lot of applicants, although  
16 you will observe there are two other prospecting permits  
17 on this calendar. But the way in which the process is  
18 handled is consistent. Now, in the case of Mr. Boerner,  
19 the only difference in the way that he has been treated  
20 is that the staff has gone to great lengths to try to  
21 accommodate his problem. I personally directed the staff  
22 to offer him a situation where an independent consultant  
23 selected by him should take samples from the claim or from  
24 the prospected areas in the process of Mr. Boerner and  
25 with the State Lands Commission staff and should select

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1 those samples from the places where Mr. Boerner wants those  
2 samples selected and in addition to where the State Lands  
3 Commission wants them to be selected. Mr. Boerner  
4 apparently has refused that offer.

5 I can't see any other way to resolve that concern  
6 except to have everybody present and take the samples and  
7 have them analyzed by a qualified metallurgist. At any  
8 rate, I can honestly tell you that Mr. Boerner has been  
9 treated with great fairness and with a great deal more  
10 time and care and effort to resolve this issue than the  
11 staff is normally called upon to do in the question of  
12 a prospecting permit or a mineral lease.

13 COMMISSIONER McCARTHY: Thank you.

14 Mr. Boerner, you wanted to say something.

15 MR. BOERNER: Well, you said that I would get  
16 to say something. Everybody here is missing the point.  
17 Taking the samples that the lady referred to, the reason  
18 that she wants to take the samples and everybody wants  
19 to take the samples is to try to establish the existence  
20 of a commercially valuable ore body not what the statute  
21 says which is deposits of minerals. What everybody is  
22 saying here is changing, that's the exact change that took  
23 place. I went by the statutes.

24 CHAIRPERSON CORY: It is your belief that if  
25 there is the existence of any amount of gold, that entitles

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1 you to the long-term lease so that you can go ahead and  
2 develop it. Is that the essence of your point?

3 MR. BOERNER: The statutes state that if I prove  
4 to the satisfaction of the Commission that commercially  
5 valuable deposits of minerals, plural, prospect, industry's  
6 terminology.

7 CHAIRPERSON CORY: It doesn't say "prospect."

8 MR. BOERNER: It's named a prospector's permit.  
9 I received a prospector's permit.

10 CHAIRPERSON CORY: It could be glove bonnet,  
11 and the section would still have the same connotation.

12 MR. BOERNER: Correct. Then after I did what  
13 the statute said, all the communication came. Here's one  
14 here. Paragraph 15 of the prospector's permit outlines  
15 the requirements for a lease. It doesn't outline it. It  
16 states it. Because they say it outlines it, now they go  
17 on: Discovery of a commercially valuable ore body. Now,  
18 that doesn't say that in the statutes. We all know what  
19 a commercially valuable ore body is and all of industry  
20 knows what commercially valuable deposits of minerals are  
21 and we all know what a prospector's permit is. But when  
22 you switch words like that this is changing the rules  
23 after I did my work. I have three letters here that  
24 document what I just said all from the State Lands  
25 Commission.

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1 CHAIRPERSON CORY: I think we have the issue  
2 before us.

3 EXECUTIVE OFFICER DEDRICK: Actually the issue  
4 before you, if I may, on Item 20, is -- well, 21 is merely  
5 informational. There is no action requested. Mr. Boerner  
6 wanted an opportunity to bring this case before the  
7 Commission, so we provided that opportunity.

8 CHAIRPERSON CORY: Okay. We have received the  
9 information. It's part of the record. We have Item 20  
10 before us which is a request for a prospecting permit.

11 I think there are some substantive information  
12 with respect to the prospecting permit and you are prepared  
13 to issue a prospecting permit with certain conditions.

14 EXECUTIVE OFFICER DEDRICK: That is correct.

15 CHAIRPERSON CORY: There are eight conditions.

16 MR. WILLARD: Eight environmental conditions.

17 CHAIRPERSON CORY: Eight environmental condition  
18 requirements that you are prepared and is it Mr. Boerner?

19 MR. BOERNER: Boerner.

20 CHAIRPERSON CORY: -- Boerner, we have had  
21 representations that you find those, at least one or more  
22 of those conditions, environmental restrictions unacceptable.  
23 Is that your position?

24 MR. BOERNER: I find several things in that  
25 prospector's permit that are not. Number one is I need

1 a clarification as to what --

2 CHAIRPERSON CORY: Sir.

3 MR. BOERNER: Excuse me.

4 CHAIRPERSON CORY: Sir, you are unwilling to  
5 accept the eight as presented, yes or no?

6 MR. BOERNER: When they sent me my permit --

7 CHAIRPERSON CORY: Yes or no.

8 MR. BOERNER: Yes or no? Yes. They sent me  
9 a permit, but that wasn't the reason I didn't sign it.  
10 I didn't sign it because there are, number one, the error  
11 that we're going through in Number 21 is still unresolved.

12 CHAIRPERSON CORY: You would like us to resolve  
13 21 is the whole thing?

14 MR. BOERNER: That's right. Plus there's two  
15 other errors in there.

16 CHAIRPERSON CORY: Governor, do you have any  
17 comments you'd like to make as to where we are?

18 COMMISSIONER McCARTHY: Mr. Boerner, of course,  
19 the choice is yours, but I would recommend that you accept  
20 Mrs. Dedrick's offer to jointly go out now and establish  
21 clear ground rules for how a proper deposit will occur.  
22 From my point of view sitting on this Commission which  
23 is to try to administer these laws, when you're dealing  
24 with State Lands, you have a couple of useful public policy  
25 objectives. One is to make the land commercially useful

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1 and return some revenue to the state and help the private  
2 sector make some money and help the engines of business  
3 in the state. The second is we also want to have some  
4 ground rules so that we're dealing with a public land.  
5 We want to make sure it's reasonably protected because  
6 there are other uses as well, recreational, whatever they  
7 might be.

8 I am not yet impressed with your case which bottom  
9 line is that the requirements of the staff are unreasonable.  
10 I've come to that conclusion. I will support you. So  
11 I've heard what you said about the interpretation of these  
12 statutes. I think that the offer made by Mrs. Dedrick  
13 repeated here sounds to me to be reasonable. I don't  
14 necessarily go along with what our staff does routinely.  
15 Sound reasonable. Why don't you establish a joint method  
16 of taking the deposit that can then be tested. I understand  
17 you basically don't believe that's the requirement of the  
18 statute. I at least think that's a reasonable interpretation  
19 of the statute.

20 MR. BOERNER: May I make one more comment?

21 COMMISSIONER MCGARTHY: Yes.

22 MR. BOERNER: Doing that would not prove three  
23 dimension, sir, and it would not prove what they want.

24 MR. STOCKMAN: May I be allowed to say something?

25 MR. BOERNER: This is the gentleman who is the

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1 attorney for

2 CHAIRPERSON CORY: We have now spent an hour  
3 on this item. I think that with three people here or the  
4 Commission Members, the Governor has made his position  
5 clear. I tend to concur with him. I think the  
6 interpretation is a reasonable interpretation of the statutes  
7 and that's where I am. I think at this point that's how  
8 I'm going to exercise the discretion that appears to be  
9 in the statute. That you're going to have to come in and  
10 establish that there is a commercial dimension to a mineral  
11 deposit before a long-term lease is going to be issued  
12 with my vote. So given that there are only two of us here  
13 with the votes, we have both come close to the same  
14 conclusion, I don't think there's much more that can be  
15 done or said other than to waste your time and the Commission  
16 and everybody else's time who are here with other items.

17 COMMISSIONER McCARTHY: I think that's where  
18 I am, too. The only thing that would change my mind is  
19 if you prove that the steps required would exact so much  
20 of an initial investment on your part that in reality the  
21 chance to prospect and find a commercially valuable deposit  
22 is truly not there inherent within the process.

23 MR. BOERNER: One more.

24 CHAIRPERSON CORY: Thank you very much, sir.

25 We have Item 22, pardon me, 20, Item 20 before

1 us. Do you wish to go ahead and make that denial without  
2 prejudice?

3 COMMISSIONER McCARTHY: [Nodding head.]

4 CHAIRPERSON CORY: Without objection, Item 20  
5 application will be denied without prejudice.

6 Next item is Item 22. This is a settlement of  
7 a lease quitclaim and a settlement of, what, Candlestick  
8 Park area?

9 MR. TAYLOR: Yes. Mr. Chairman, the State has  
10 set up a State Park at Candlestick Point. The area is  
11 part of the area that is granted tidelands and submerged  
12 lands and under this agreement those are going to be  
13 returned to the State on the condition that it be used  
14 for a State Park. When tide and submerged lands are  
15 involved, it has to come back to the State Lands Commission  
16 and then be leased to Parks and Rec.

17 CHAIRPERSON CORY: Anybody in the audience that  
18 has any objection to the proposed staff recommendation  
19 on this?

20 Questions from Commissioners?

21 COMMISSIONER McCARTHY: No.

22 CHAIRPERSON CORY: Without objection, Item 22  
23 is approved as presented.

24 Item 23 is radification of lease terms. This  
25 is an item which was required to go to Coastal Commission

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1 for approval. They put some conditions on it and this  
2 is issuing it subject to those conditions. Is that where  
3 we are?

4 EXECUTIVE OFFICER DEDRICK: Correct.

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

7 Questions from Commissioners?

8 COMMISSIONER McCARTHY: No.

9 CHAIRPERSON CORY: Without objection, Item 23  
10 is approved as presented.

11 Item 24, recommendation that we deny without  
12 prejudice an application for State-owned property in  
13 Riverside. The setback as I understand it on this one  
14 that the County has some concern about it. Rather than  
15 fight the battle at this point, the suggestion is that  
16 we go ahead and deny it without prejudice.

17 Is there anybody in the audience on this item?

18 Questions from Commissioners?

19 Without objection, Item 24 will be approved as  
20 presented.

21 Item 25, authorization of an amendment to add  
22 eight parcels of State school land to be managed as  
23 demonstration forests on behalf of the Commission to the  
24 Department of Forestry.

25 Ken Mitchell would like to address us on this

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01 item. He was with the Department of Parks and Recreation.

02 MR. MITCHELL: Thank you, Mr. Chairman, Mr.  
03 Lieutenant Governor. I am Ken Mitchell. I'm Chief of  
04 the Acquisition Division for the State Department of Parks  
05 and Recreation.

06 One of the items, one of the parcels, one of  
07 these eight, there's a piece of property that we would  
08 like to see removed from this particular lease if possible.  
09 This piece of property is adjacent to our Wilder Ranch  
10 State Park. To show you where the parcel is, the State  
11 Department of Parks and Recreation has acquired all the  
12 areas in yellow. This piece up here was acquired by Save  
13 the Redwoods League and we have now taken title to that.  
14 The piece of property that you are including in this lease  
15 to the Department of Forestry is this piece of property  
16 here.

17 ASSISTANT EXECUTIVE OFFICER TROUT: Perhaps I  
18 should step in and indicate that Mr. Mitchell has shown  
19 you about 900 acres of property acquired by the State in  
20 an exchange. The proposal to put into management by Forestry  
21 is second growth redwoods amounting to about 240 acres  
22 which is this piece up the Major Creek Drainage in this  
23 area. That agreement with the Department of Forestry which  
24 includes seven other parcels provides that those lands  
25 can be removed from the agreement on the request of the

1 Commission with 90 days' notice. So we're not talking  
2 about a long-term tie-up of the lands here. It's our  
3 understanding that Parks has no money to acquire this land  
4 and no money to develop it. The second growth redwoods  
5 do --

6 CHAIRPERSON CORY: Go ahead with your --

7 MR. MITCHELL: Thank you very much.

8 I would like to point out that this land in question  
9 was acquired subject to Chapter 973 of 1973 which is  
10 commonly referred to as the Sealy Bill. The provision  
11 within that bill states: The State Lands Commission should  
12 be authorized to exchange vacant school land under its  
13 jurisdiction for lands owned by any State agency, political  
14 subdivision, person, partnership or corporation for the  
15 purpose of acquiring lands for the following projects.  
16 Item C is this particular parcel and it states: Acquisition  
17 of coastal, beach and uplands in Santa Cruz County for  
18 the State Parks System. The property was acquired in 1977,  
19 I believe, and it was approved by the State Public Works  
20 Board. According to Exhibit S, the resolution approved  
21 by the State Public Works Board, states: Whereas Chapter  
22 973, Statutes of '73, as amended by Chapters 346 Statutes  
23 of '74, authorizes the State Lands Commission, with approval  
24 of the State Public Works Board, to exchange vacant lands  
25 for coastal beach and uplands in Santa Cruz County for

1 the State Park System which is of substantially equal value.

2 It goes on and approves that resolution.

3 In 1977, our Director did send a letter to Mr.  
4 Trout asking that we enter into a method of trying to obtain  
5 that land. As Mr. Trout points out, we do not currently  
6 have funding authority or lands that we can use for  
7 exchange. Essentially what we wanted to do was enter into  
8 a lease so that we can proceed with the development. I've  
9 been told by our Development Division which, by the way,  
10 the General Plan has been approved for this particular  
11 park. It was about a two-year process of public hearings  
12 and there's considerable interest in this park. One of  
13 the areas, the first areas to be developed will be a  
14 campground right in the middle of that particular parcel.  
15 It's a 130 acre campground. I understand that there are  
16 funds to help us reforest that this coming summer. That  
17 there's some grant to help the various State agencies to  
18 reforest property.

19 We're hoping to take advantage of that and reforest  
20 the area where our campgrounds would go.

21 Unfortunately, we have not been able to obtain  
22 funding for the campground for a variety of reasons; one  
23 of which is of course we don't hold title to the property  
24 yet. It's still under State Lands control. If this is,  
25 as Mr. Trout says, just an interim arrangement for 90 days

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1 or can be revoked in 90 days, I suppose we don't have any  
 2 problems if it could be considered as an interim proposal.  
 3 But obviously the Department has been considering this  
 4 as a part of the State Parks System for many years and  
 5 have attempted over a period of time -- I know, Mr. Cory,  
 6 you were involved in this last year and one of our area  
 7 managers was down here and showed you around several pieces  
 8 of property in that area. We have been working very closely  
 9 with you in trying to effectuate some kind of an agreement.

10 CHAIRPERSON CORY: Well, it can be terminated  
 11 with 90-day notice on Forestry and that just enables the  
 12 technicians to manage the forest and there's apparently  
 13 some problem with the trees and that's the purpose of this.  
 14 They're concerned with respect to they would like to acquire  
 15 this and we have not been able to reach terms in the past.  
 16 At some point that long saga could be discussed in private.  
 17 But you've been cooperating, but not cooperating enough.

18 MR. MITCHELL: As I understand there is one parcel  
 19 that was suggested for exchange and that was a critical  
 20 parcel acquired for the State Parks System with bond act  
 21 funds. Obviously it was not something that we were  
 22 interested in exchanging, that particular park.

23 CHAIRPERSON CORY: Well, the question before  
 24 us is the parcel which is treed, the forested portion.

25 MR. MITCHELL: That's true.

1 CHAIRPERSON CORY: And the flat portion is  
2 relatively minor agricultural, grazing lease.

3 ASSISTANT EXECUTIVE OFFICER TROUT: The grazing  
4 lease, Mr. Chairman, over this area and an agricultural  
5 lease over a portion of this area.

6 CHAIRPERSON CORY: And then when you get seaward  
7 of the highway, there's rather extensive agriculture in  
8 there and a significant amount of revenue that's coming  
9 in from those ag leases.

10 MR. MITCHELL: That's correct.

11 CHAIRPERSON CORY: The grazing one is of modest  
12 proportion.

13 EXECUTIVE OFFICER DEDRICK: About \$20,000 a year.

14 MR. MITCHELL: Actually the lands that are under  
15 our control have the same situation on the coastal tariffs.  
16 We have brussel sprouts growing there also. We have not  
17 obtained those lands from the Department of General Services  
18 because we don't have the leasing authority until Senator  
19 Presley's bill is through this year to give us that  
20 authority.

21 CHAIRPERSON CORY: What we're talking about here  
22 is just the forest. I don't think there is -- so I think  
23 there's not a problem we're aware of. Your concern is  
24 maybe some day we'll find something we can swap for it.

25 MR. MITCHELL: Very good. I don't know if staff

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1 has a copy of our General Plan, but I can leave it with  
2 staff if you wish.

3 ASSISTANT EXECUTIVE OFFICER TROUT: Please do.

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

6 Without objection, we will approve the Forestry  
7 Agreement with the understanding there's a 90-day termination  
8 clause in it.

9 Without objection, Item 25 is approved.

10 Item 26, this is a request for determination  
11 of whether State Lands Commission can conduct a hearing  
12 on the public trust uses in the sovereign parcel in the  
13 City of Belmont.

14 Okay. We have some people who would like to  
15 talk to us on that. I would guess what, Mr. Deyoung, you  
16 would like us to hold --

17 MR. DEYOUNG: That's correct.

18 CHAIRPERSON CORY: -- hearings. So why don't  
19 we put the burden first upon you to address that issue.

20 MR. DEYOUNG: That's fair enough. I want to  
21 thank you for giving me this time. My name is Doug Deyoung.  
22 I live in Belmont, California. I'm treasurer of a group  
23 known as Citizens for Orderly Growth. We are a group  
24 concerned with land use issues in our community.

25 I have a brief statement I would like to read --

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1 CHAIRPERSON CORY: Please.

2 MR. DEYOUNG: -- in support of a hearing.

3 We've requested the State Lands Commission have  
4 its staff conduct a public hearing regarding Belmont's  
5 claim to ownership of land near Belmont and O'Neill Slough.  
6 One of the issues that the Commission must address is whether  
7 Belmont's proposed use of the claimed land will adversely  
8 affect a public interest in the existing tidelands which  
9 will remain in State ownership. There is prima facie evidence  
10 that Belmont's proposed use will in the long run make public  
11 access to the tidelands difficult, if not dangerous. There's  
12 also evidence that one portion of this proposal is not  
13 in the public interest. A public hearing will allow the  
14 opportunity to produce evidence relating to the impact  
15 of the proposed use on shoreline access and to suggest  
16 appropriate alternatives and conditions.

17 We also have a request on the timing of the hearing.  
18 One of the problems we share with the Commission and staff  
19 is that so far Belmont's proposal is conceptual and  
20 respecting the critical area adjacent to the shoreline,  
21 vague at best. While the concepts that have been defined  
22 are useful in partially evaluating the impacts on shoreline  
23 access, we believe the hearing should be scheduled when  
24 we all know what Belmont plans to do with all its claimed  
25 shoreline land, whether or not a claim is now pending

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before the Commission and that no action should be taken by the Commission until after the hearing.

In addition to proposing playing fields and a hotel which because of their location we think will enhance the shoreline, Belmont proposes to construct a road primarily to serve privately owned land to the north in which the owner proposes to build 900,000 square feet of buildings with 2,670 parking spaces. The road is designed to handle a projected peak traffic flow of 2,000 cars per hour from this proposed private development. A road of this proposed carrying capacity is not necessary to develop the lands claimed by Belmont, nor is it necessary if modern ingress and egress were to be allowed to privately owned lands. While such a road most certainly will enhance the size of the private developer's proposed project, it cannot be found that such intense traffic in the proximity of a band of shoreline will enhance that shoreline. Obviously, such traffic will detract from it.

Secondly, because Belmont has not defined a proposed use for the land between the road and Belmont Slough, it is quite possible that a traffic-laden road will become a barrier to free and easy access to the shoreline. When you do not know what use Belmont may propose for that land, you cannot make a finding that such a road will enhance it and the water.

1 In conclusion, I am asking you to provide a proper  
2 public forum for the examination of public trust issues.  
3 There is sufficient controversy surrounding this development  
4 involving elements within the jurisdiction of the Commission  
5 to warrant such a hearing. This is the democratic process  
6 and your favorable consideration of a hearing would be  
7 appreciated.

8 Thank you.

9 CHAIRPERSON CORY: Governor.

10 I think we have also the Mayor of the City of  
11 Belmont and the Commissioner of the Parks and Recreation  
12 Department. I presume they are on the same side of this  
13 issue. I've made an assumption. It may be in error.

14 Is that correct? That's not correct.

15 Who is on which side? Who would like to have  
16 a hearing, and the Commissioner? Okay. We have -- Do  
17 you wish to testify, the woman and someone?

18 MR. DEYCUNG: Not at this time. I would yield  
19 to the other gentleman to speak at this time.

20 CHAIRPERSON CORY: And you are?

21 MR. MOORE: William Moore.

22 CHAIRPERSON CORY: William Moore. Would you  
23 like to come forward and give us that side of it and you  
24 are the Mayor of --

25 MR. MOORE: Yes, sir, I am.

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1 I appreciate the opportunity to chat with you  
2 a little this morning. You've seen the plan. Your staff  
3 has seen the plan. The State has identified the shortage  
4 of regional park space in Central San Mateo County. This  
5 is through the State Parks and Recreation Commission, the  
6 California Outdoor Recreational Resource Plan. This proposed  
7 use is also consistent with the San Mateo County General  
8 Plan and this is also, the use has also been endorsed by  
9 the Department of Environmental Management.

10 This use will not only assure but augment existing  
11 waterways and maximize accessibility to the public. On  
12 the adjacent privately held land which is free and clear,  
13 it's the City of Belmont's intent to impose restrictions  
14 to assure adequate flow of water and public accessibility.  
15 The commercial development on this site is essential if  
16 Belmont is to maintain this 15-acre badly needed recreational  
17 facility. We just can't maintain it without the revenue  
18 to do so.

19 In Belmont this plan has been unanimously,  
20 unanimously embraced by the City Council, the Planning  
21 Commission and the Parks and Rec Commission. None of this  
22 land incidentally has been affected for many, many years  
23 with the ebb and flow of tide.

24 I have no objections to the State Lands Commission  
25 having a public hearing in Belmont. That's all well and

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1 good if you care to immerse yourself in Belmont politics.  
2 My real focus is to get this thing moving.

3 COMMISSIONER McCARTHY: Is it interesting?

4 [Laughter.]

5 MR. MOORE: We have plenty of room in Belmont  
6 for a few more politicians.

7 [Laughter.]

8 MR. MOORE: I think this essentially is a political  
9 issue between a faction of people on the private land that  
10 wants to see growth and another faction that wants to see  
11 no growth. As far as the State's interest, I think that's  
12 pretty well been documented through the State and through  
13 the County and through the City of Belmont. We have a  
14 need. It's been identified. It's a very real need. I  
15 think this is an excellent use of State and public lands.  
16 The City of Belmont is very anxious in accordance with  
17 your staff to purchase the State's interest in that little  
18 bit of land that the State does have an interest in.

19 I'd be anxious to respond to any questions if  
20 you have any.

21 ASSISTANT EXECUTIVE OFFICER TROUT: Let me hasten  
22 to add that we're not going to purchase the State's interest.  
23 They are going to make an exchange with the State through  
24 the acquisition, through the land bank of some other  
25 property. That's a fine technical point, but it should

1 be clear.

2 CHAIRPERSON CORY: Okay.

3 COMMISSIONER McCARTHY: I guess the issue that  
4 the members of this Commission would have to respond to,  
5 and this is addressed to both of the witnesses, is whether  
6 or not our trust responsibility in connection with this  
7 State land is called into issue by the kind of use to which  
8 the State land would be put or whether or not any  
9 immediate peripheral use would threaten the use to which  
10 the State land would be put.

11 MR. MOORE: Again, if I might respond. This  
12 plan reacts to the plan that's put forth by the State  
13 Parks and Recreational Department, the California Outdoor  
14 Recreational Resource Plan, the General Plan of San Mateo  
15 County. I think we're operating in accordance with what  
16 the State has declared is an appropriate use. We need  
17 a regional ballpark complex.

18 CHAIRPERSON CORY: The actual State property  
19 or that which there is a State trust obligation upon, the  
20 use of that property is for what purpose?

21 ASSISTANT EXECUTIVE OFFICER TROUT: According  
22 to the plan submitted to the staff, it would be public  
23 recreation, ballparks, lawn areas.

24 CHAIRPERSON CORY: What you would traditionally  
25 think of as a normal park?

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ASSISTANT EXECUTIVE OFFICER TROUT: Trust use,  
yes.

MR. MOORE: Yes.

CHAIRPERSON CORY: And that is system use. But  
the impact that Mr. Deyoung is worried about is whether  
or not the adjacent development plan would in fact adversely  
impact the trust use of the State property. Is that --

MR. DEYOUNG: Yes, that is one of the basic issues  
here. The matter before us we're considering right now  
is not a matter of resolving the substantive issues at  
hand. The decision today is simply whether or not we should  
have a hearing as I understand the agenda item. What I  
hope we have demonstrated here, that there is a sufficient  
difference of opinion as to whether or not there are issues  
falling within the jurisdiction of the Commission to warrant  
a formal public hearing. It is our contention that there  
is. Unfortunately, we can get into a chicken-and-egg problem  
here. I don't know how we can convince you of that without  
actually going through all the substantive issues. That's  
kind of the problem.

CHAIRPERSON CORY: Would it perhaps be appropriate  
to have the staff and the Attorney General look at a  
potential agenda of that hearing and try to then get some  
written comments from these people? I don't want to  
necessarily put you to the task of having to drive back

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1 up here, but I'm a little -- I'm not sure if the time frame  
2 that we have available with the short Commission, with  
3 the other things that are going to happen, that we can  
4 go into the substantive issue right now. But I'd kind  
5 of like to feel what that agenda would likely be.

6 MR. DEYOUNG: That would be acceptable.

7 MR. MOORE: Gentlemen, we have --

8 CHAIRPERSON CORY: In essence I would like the  
9 staff to look at that trustee question and if there is  
10 a ballpark that nobody's going to be able to use --

11 MR. DEYOUNG: I'm not intending that.

12 MR. MOORE: No.

13 CHAIRPERSON CORY: I don't know. I don't want  
14 to get into that substantive question, but I would like  
15 the staff to look deeply into the substantive issue where  
16 you can outline an agenda for a hearing if we had one so  
17 we would know what it is you were doing other than --  
18 I see no purpose to be served in muck raking in your  
19 political affairs unless there is a substantive trust issue  
20 that we should address ourselves to.

21 MR. MOORE: Gentlemen, if I might, it is the  
22 City's intent on the adjacent privately held land to assure  
23 -- obviously, we need the ballpark -- to assure adequate  
24 accessibility and adequate flow of water in the tideland  
25 portion. We have at this point not entered into a development

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1 agreement or have not negotiated with this private developer  
2 for a project. Our focus today is primarily on those  
3 properties where the State has an interest. I can assure  
4 you it's the intent of the City, the Planning Commission,  
5 the Parks and Recreational Commission, we have no intent  
6 of building a ball field complex that is going to be  
7 adversely affected or impacted by private development.  
8 My focus is what do we have to do to get moving.

9 CHAIRPERSON CORY: Okay. Could the staff come  
10 up with that agenda? Make sure you confer with the people  
11 who were here because they think those are totally all  
12 wrong, that proposed agenda, then we could come up with  
13 a decision rather than try to make it at this point without  
14 getting into the substance.

15 MR. MOORE: Mr. Chairman, I understand the intent  
16 is to come to Belmont with a public hearing?

17 CHAIRPERSON CORY: No. The staff is going to  
18 come back to us with a proposed agenda. We'll take the  
19 matter under submission to look at that proposed agenda  
20 before we bite that bullet.

21 MR. HIGHT: One suggestion, Mr. Chairman. Perhaps  
22 some input from both sides on the agenda.

23 EXECUTIVE OFFICER DEDRICK: Yes.

24 CHAIRPERSON CORY: We were anticipating you would  
25 call and talk to the interested parties as to what items

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1 might be on that agenda rather than us send somebody down  
2 there as a circuit rider without knowing what it is they're  
3 to accomplish.

4 MR. DEYOUNG: That's fair.

5 COMMISSIONER McCARTHY: As I understood the  
6 Chairman's direction to the staff, it is for them to take  
7 a look at the facts, to make the first preliminary judgment  
8 as to whether or not this Commission has a responsibility  
9 because there's some threat to our responsibility to look  
10 at lands in trust. The first issue is that. If the answer  
11 to that were a yes, then the decision on a hearing would  
12 have to take place.

13 EXECUTIVE OFFICER DEDRICK: That's fine,  
14 Commissioner.

15 CHAIRPERSON CORY: That's what I mean by the  
16 agenda, how does it fit.

17 EXECUTIVE OFFICER DEDRICK: I understand.

18 CHAIRPERSON CORY: And we'll be back to you and  
19 the staff will be calling on you.

20 MR. MOORE: May I ask one question, and excuse  
21 me if it's a naive question. Belmont, our Park and  
22 Recreational System, is dependent on our schools. We've  
23 just had to close three of our six elementary schools.  
24 This is a serious need of ours for soccer, for Little League,  
25 for our youth in our city. I'm concerned as to how long

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1 this process might take.

2 CHAIRPERSON CORY: I would hope that it should  
3 be resolved rather quickly and at the most 30 days. I  
4 would hope the staff could do it quicker than that.

5 ASSISTANT EXECUTIVE OFFICER TROUT: I suggested  
6 to Mr. Valentine that if he could catch these two gentlemen  
7 while they're here in Sacramento and go back to the office  
8 and see what we can get down on paper today.

9 CHAIRPERSON CORY: Very quickly. I just am  
10 sitting here with a plane schedule problem and that sort  
11 of thing and if we try to learn what we need to know in  
12 this Commission, we won't get through this agenda today  
13 and it seems to be probably an inappropriate time to try  
14 to structure what the issues of that public hearing might  
15 be should we decide to have it.

16 MR. MOORE: All right.

17 EXECUTIVE OFFICER DEDRICK: We can get back to  
18 you individually and get a feeling for what we want to  
19 do and see whether you want to calendar it.

20 CHAIRPERSON CORY: We understand that the facts  
21 need to get out as quickly as possible if there's going  
22 to be a public hearing and if there's not going to be the  
23 existence of a public hearing, I don't think should impede  
24 your time schedule. It's not the purpose of taking this  
25 under submission to impede your time schedule.

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MR. MOORE: All right.

CHAIRPERSON CORY: It's to ascertain how we get the facts.

MR. MOORE: Sure.

CHAIRPERSON CORY: All right.

MR. MOORE: Thank you very much.

CHAIRPERSON CORY: Item 27, approval of a prospecting permit application on State school lands in Inyo County. Anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 27 is approved as presented.

Item 28, a prospecting permit for Queenstake Resources on 320 acres in Inyo County.

Anybody in the audience on this one?

Questions from Commissioners?

Without objection, such will be approved as presented.

Item 29, approval of the assignment of a geothermal lease in Sonoma County from Aminoil to GRI Exploration.

Is there anyone in the audience on this item?

Questions from Commissioners?

Without objection, Item 29 is approved as presented.

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Item 30. This is public hearing approval on pollution and subsidence control plan on PRC 6873.2, negotiated oil and gas lease in Taylor Slough, Contra Costa County.

Anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 30 is approved as presented.

Item 31, interim reduction in the amount of Letter of Credit on Royalty Oil Sales Contract for Sunland. This is due to the fact that we have a platform that is down. The oil is not being produced. So our risk is less.

Is there anybody in the audience on this?

Without objection, Item 31 is approved as presented.

Item 32, Big Red wants to invoke Force Majeure Conditions --

MR. TAYLOR: I don't know if there's any objection to the Commission making the finding that the event which occurred which was severe wave action has caused some serious problems, but I don't think that your action today should be understood as excusing them from diligently attempting to get back into production or into a position to --

CHAIRPERSON CORY: Is there anyone from Chevron here?

1 Please come forth and identify yourself. It's  
2 probably worthwhile to make sure we have this on the record.

3 Mr. Taylor here from the Attorney General's Office  
4 is suggesting we make it abundantly clear to Chevron that  
5 the natural forces that put us in this condition do in  
6 fact exist and we're prepared to acknowledge that, but  
7 that does not absolve Chevron from its duty to as rapidly  
8 as possibly come to a conclusion and get that lease back  
9 into production or quitclaim the lease and negotiate  
10 some settlement.

11 EXECUTIVE OFFICER DEDRICK: Could you identify  
12 yourself?

13 MR. DOWN: My name is Carl Down with Chevron.

14 I understood that this was not going to be an  
15 indefinite suspension of the obligations; however, I think  
16 the Commission should keep in mind that to put that island  
17 back on production requires a tremendous amount of  
18 engineering, resources. There are insurance issues that  
19 have not been resolved and the amount of time taken is  
20 going to -- I don't know whether or not he's talking a  
21 year or five years or something like that, but it is going  
22 to take time.

23 CHAIRPERSON CORY: It's not a year or five years  
24 that we're talking.

25 MR. DOWN: We are diligently trying to put the

1 island back on production.

2 CHAIRPERSON CORY: That is our expectation and  
3 I would also add I am not sure that your insurance problems  
4 are our problems.

5 MR. DOWN: Okay. I would concur with that.

6 CHAIRPERSON CORY: The problems are there. We  
7 just need extreme diligence to get that back on because  
8 we need the money.

9 MR. DOWN: Okay.

10 ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman,  
11 the recommendation of the staff includes a request that  
12 Chevron report on the status on July 1st of this year.  
13 I'd like to suggest perhaps in strengthening that that  
14 we change it and say that the Commission acknowledges and  
15 requests or finds that Chevron is to report back. Make  
16 it a positive action rather than just a request.

17 MR. TAYLOR: I think we should also include that  
18 this does not exclude due diligence to get back into  
19 position for production.

20 CHAIRPERSON CORY: That's what we're really trying  
21 to see, due diligence, and give us a report July 1. Is  
22 that fine?

23 MR. DOWN: That's fine. You're requesting it  
24 as a positive obligation on our part to report by July  
25 1st?

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1 CHAIRPERSON CORY: Yes. By July 1st as to where  
2 you are. That's part I would think --

3 COMMISSIONER McCARTHY: Positive obligation is  
4 to answer into repair and restore this to a productive  
5 condition.

6 MR. TAYLOR: Everyone understands it will take  
7 some time, we just don't think it ought to wobble off into  
8 the future and that you ought to demonstrate all the way  
9 along that you're going to get back on. We're not letting  
10 you off of a requirement of due diligence by the finding.  
11 That's what we're trying to make clear for the record.

12 MR. DOWN: It was our understanding that this  
13 was not an indefinite suspension.

14 CHAIRPERSON CORY: With that clarification of  
15 a positive obligation to report back on Chevron's part  
16 by the 1st of July, and it is not relief from the due  
17 diligence requirement of the existing obligation of the  
18 lease, we will approve Item 32 as presented.

19 MR. DOWN: Thank you, Mr. Chairman.

20 CHAIRPERSON CORY: Thank you, sir.

21 Item 33, deferment of drilling obligation for  
22 Texaco in the Santa Barbara Channel.

23 This is to coincide with some Coastal Commission  
24 permits in the drilling vessels. It is necessary to extend  
25 this.

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1 Is there anyone in the audience on this item?  
2 Questions from Commissioners?

3 Okay. Without objection, Item 33 is approved  
4 as presented.

5 Item 34, assignment of a partial interest in  
6 oil and gas lease. The assignee is Celeron from Pauley.

7 EXECUTIVE OFFICER DEDRICK: Correct.

8 CHAIRPERSON CORY: Anybody in the audience on  
9 this item?

10 Questions from Commissioners?

11 Without objection, Item 34 is approved as  
12 presented.

13 Item 35.

14 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, we  
15 have a subsidence map on the wall which shows no subsidence  
16 and Mr. Thompson is here to answer any questions you may  
17 have.

18 MR. THOMPSON: This map is to show the progress  
19 of the ground elevations from this period of time from  
20 May, 1965, which is prior to the start of any production  
21 in the Long Beach Unit through November of 1982. What  
22 it shows is that in all the areas that are between the  
23 green lines there in effect are at the same or higher  
24 elevations than they were in May of 1965.

25 CHAIRPERSON CORY: Questions from Commissioners?

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1 Anybody in the audience on this item?

2 Without objection, the report is accepted.

3 Item 36, the award of contract for a sell-off  
4 on Parcel A.

5 EXECUTIVE OFFICER DEDRICK: 87 cents.

6 CHAIRPERSON CORY: 87 cents was the high bidder?

7 EXECUTIVE OFFICER DEDRICK: On all three, and  
8 Edgington Oil Company.

9 CHAIRPERSON CORY: Edgington Oil is the --

10 EXECUTIVE OFFICER DEDRICK: That's correct.

11 CHAIRPERSON CORY: Identical bids on all and  
12 some people were pushing them.

13 Is there anybody in the audience on this item?

14 Questions from Commissioners?

15 Without objection, we'll award the contracts  
16 as recommended by the staff on Item 36.

17 Item 37, this is the Plan of Development and  
18 Operations of Long Beach Unit found on calendar pages  
19 250.

20 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, Carolyn  
21 Sutter who is the Director of Tideland Properties for the  
22 City of Long Beach and Xenophon Colazas who is the Director  
23 of Oil Properties are here and I'd like to introduce you.

24 Mr. Cory, I think you've met them before, but I don't think  
25 Governor McCarthy has.

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1 CHAIRPERSON CORY: Very glad to have you with  
2 us and you like the Plan of Development; right?

3 MR. COLAZAS: Yes.

4 CHAIRPERSON CORY: Anybody else in the audience  
5 who would like to comment on this outrageous expenditure  
6 of funds?

7 [Laughter.]

8 CHAIRPERSON CORY: No. Without objection, the  
9 Plan of Development and Operations will be approved as  
10 presented.

11 Item 38, a Quarterly Report.

12 ASSISTANT EXECUTIVE OFFICER TROUT: Required  
13 by statute.

14 CHAIRPERSON CORY: The report is in the file.

15 ASSISTANT EXECUTIVE OFFICER TROUT: The report  
16 is in the file and the only changes is the indication that  
17 Santa Barbara County and other parties filed suit against  
18 the Commission concerning the adequacy of the EIR. I don't  
19 know if Mr. Taylor wants to cover it.

20 MR. TAYLOR: Excuse me, can I go back to the  
21 Plan of Budget?

22 CHAIRPERSON CORY: Yes.

23 MR. TAYLOR: I'm worried about that item because  
24 if it includes the city's raising of the barrel tax, I  
25 think that that should be noted for the Commission's

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1 information. I think that it also ought to be clear that  
2 the approval of this budget does not indicate the concurrence  
3 of the State in the raising of the barrel tax amount of  
4 money unless the Commission cares to do so. But I think  
5 that that item is in there and I don't think that this  
6 action should be cited as approval of the barrel tax  
7 situation which I understand was being discussed.

8 ASSISTANT EXECUTIVE OFFICER TROUT: In effect  
9 Mr. Thompson can discuss it in detail. In fact, the calendar  
10 item mentions the increase in the barrel tax and indicates  
11 a transfer or adjustment will be required, about a million  
12 dollars during the fiscal year.

13 MR. THOMPSON: The present funding is at the  
14 current level. The change takes place I believe July 1st.

15 CHAIRPERSON CORY: I thought there was not any  
16 change in this plan and development of dollars to  
17 accommodate that, and that's why I thought that we'd need  
18 not acknowledge it because we weren't changing it.

19 MR. TAYLOR: It is in?

20 MR. THOMPSON: No. The funding for the increased  
21 barrel tax is not in the plan of the budget. It will require  
22 transfer or augmentation of a million dollars.

23 MR. TAYLOR: Which will require future Commission  
24 action.

25 EXECUTIVE OFFICER DEDRICK: That's correct. It

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1 will require approval of a modification.

2 CHAIRPERSON CORY: Are we okay on that, Mr. Taylor?

3 MR. TAYLOR: Yes.

4 CHAIRPERSON CORY: So we can leave it stand as  
5 it is with the caveat that if it's not in there, and it  
6 will take an adjustment to the future development plan  
7 for it to come out or we end up drawing our swords and  
8 doing whatever we have to do.

9 MR. HIGHT: Yes.

10 CHAIRPERSON CORY: We can go on to Item 38. We  
11 have the Quarterly Report here. Any questions from  
12 Commissioners?

13 Without objection, Item 38 is received.

14 Item 39, this is to authorize staff and the Attorney  
15 General to take all necessary steps, including litigation,  
16 to settle title disputes regarding certain parcels adjacent  
17 to Catalina.

18 Are there any questions by anybody in the  
19 audience?

20 Any questions from Commissioners?

21 Without objection, authorization will be granted.

22 Item 40 is authorization to file a disclaimer  
23 in Fong v. Fong, et al., in the Superior Court here --  
24 Wait a minute. Where is that parcel?

25 MR. HIGHT: It's on the Sacramento River just

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1 down Freeport.

2 CHAIRPERSON CORY: It's not Omochumnes Rancho?

3 MR. HIGHT: No.

4 CHAIRPERSON CORY: Okay. I just want to make  
5 sure. You guys ripped me off of 11 acres of land you said  
6 you had an interest in and I want to make sure you get  
7 my neighbors. I just want to be treated fairly, that's  
8 all.

9 [Laughter.]

10 CHAIRPERSON CORY: Anybody in the audience on  
11 this item?

12 The staff is of the opinion we have no interest  
13 in the property.

14 Without objection, Item 40 is approved as  
15 presented.

16 Item 41, a land bank acquisition, settlement  
17 in Desmond v. State of California, Butte County. The  
18 portion of the land bank parcel will be purchased and  
19 exchange made to effectuate the title clearance?

20 MR. HIGHT: Correct. Mr. Chairman, you're acting  
21 as the land bank trustee commissioners in this case.

22 CHAIRPERSON CORY: Is there anybody in the  
23 audience on this item?

24 Questions from Commissioners?

25 Without objection, Item 41 is approved as

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1 presented.

2 Item 42 is off calendar.

3 Item 43, title dispute litigation of land in  
4 the Wilmington District of the City of Los Angeles which  
5 is on the board to the left and we are acquiring in that  
6 the red parcels as I understand.

7 MR. TAYLOR: The city is trustee.

8 CHAIRPERSON CORY: The city trustee will be  
9 acquiring that and we will be approving the acquisition  
10 of that for the freeing of the trust obligation on the  
11 part surrounded by black except those portions which are  
12 red are surrounded by green. Is that --

13 MR. TAYLOR: That's correct, Mr. Chairman, with  
14 the understanding that this action is contingent upon the  
15 approval of this matter by the City Council of the City  
16 of Los Angeles.

17 CHAIRPERSON CORY: Approved by the Harbor  
18 Department Commission and the Council Subcommittee but  
19 not the full council.

20 MR. TAYLOR: No, it hasn't been approved by either  
21 the City Council Committee or the City Council. It's been  
22 transmitted to them. It's calendared. It hasn't been  
23 acted on.

24 CHAIRPERSON CORY: Okay. Anybody in the audience  
25 on this item?

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1 Without objection, Item 43 is approved as  
2 presented.

3 Item 44, approval of a contract for legal  
4 consulting services, Lobel, Novins and Lamont, to handle  
5 the Washington, D.C. administrative hearings and the like.

6 Is there anybody in the audience on this item?

7 Questions from Commissioners?

8 Without objection, Item 44 is approved as  
9 presented.

10 Item 45, this is the contract for the reproduction  
11 blueprint services for State Lands. Is there anybody in  
12 the audience on this item?

13 This is for a bid contract?

14 MR. HIGHT: It will be a bid.

15 CHAIRPERSON CORY: Okay. Questions?

16 Without objection, Item 45 is approved as  
17 presented.

18 Item 46, helicopter services in Santa Barbara  
19 for the offshore. Anybody in the audience on this one?

20 This is also bid?

21 EXECUTIVE OFFICER DEDRICK: It's also bid.

22 CHAIRPERSON CORY: Questions from the Commission?

23 Without objection, Item 46 approved as presented.

24 Item 47.

25 MR. HIGHT: Item 47, Mr. Chairman, I have some

1 question with, but I think --

2 ASSISTANT EXECUTIVE OFFICER TROUT: Maybe we  
3 should go on --

4 [Laughter.]

5 CHAIRPERSON CORY: Could we have a personnel  
6 session?

7 This is the Attorney General's contract to provide  
8 services for the Long Beach Operation.

9 MR. TAYLOR: It appears we've overrun this year's  
10 contract. So we may be next month to see you.

11 CHAIRPERSON CORY: I want, in next year's contract,  
12 I want exclusion from billable hours the time that Greg  
13 talks.

14 [Laughter.]

15 CHAIRPERSON CORY: I think we can live with the  
16 budget if we can accomplish that.

17 The comment should be made that as long as he  
18 talks, much as we may not like him personally, he brought  
19 home the bacon again in the Bolsachica lawsuit and rather  
20 good Appellate Court decision affirming that we have been  
21 proceeding in a legal and proper fashion in exercising  
22 the public trust in the various exchanges to clear up title  
23 and I think it's a very worthwhile decision. It's one  
24 that if you don't have something to read on an airplane,  
25 I commend to you. It's good legal scholarship that Greg

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1 pulled the wool over their eyes one more time,

2 [Laughter.]

3 CHAIRPERSON CORY: Without objection, we will  
4 approve Item 47.

5 MR. TAYLOR: Thank you, Mr. Chairman.

6 Actually the case was argued by Teddy Berger.  
7 There was a long line of attorneys that worked on that  
8 case over the years, but thank you for your comment.

9 CHAIRPERSON CORY: Thank you,

10 If there's nothing else, we'll stand adjourned.

11 [Thereupon the State Lands Commission

12 Meeting was adjourned at 11:45 a.m.]

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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 12 day of May, 1983.

*Cathleen Slocum*  
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