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MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 28, 1983
10:00 A.M.

ORIGINAL

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

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MEMBERS PRESENT

Leo T. McCarthy, Lt. Governor, Acting Chairperson
John Jervis, representing Kenneth Corty, Controller
Nancy Ordway, representing Michael Franchetti, Director
of Finance.

MEMBERS ABSENT

NONE

STAFF PRESENT

Claire Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Chief Counsel
Lance Kiley
Mike Valentine
Jane Smith, Secretary

ALSO PRESENT

Jan Stevens, Deputy Attorney General

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| 18 | Item 29 - Salvatore Niosi and Silvano Vial | | 13 |
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| 21 | Commission action | | 14 |
| 22 | Item 31 - City of Newport Beach | | 14 |
| 23 | Commission action | | 15 |
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| 25 | Kenneth Dickerson, City Attorney | | 15 |

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PROCEEDINGS

ACTING CHAIRPERSON McCARTHY: Ladies and gentlemen, we were waiting for our third commissioner to arrive, but why don't we start with some items.

I first wanted to announce that the Commission, as a result of Executive Session discussion, has decided to postpone the receipt of bids on the Point Conception release sale over to November 18.

I'd like to indicate that two items are off calendar, Item 16 and Item 35. Continued until a meeting subsequently to be announced.

I'd like to mention that Item C13 has been taken off consent calendar, and we'll get to that in a moment. We're not there yet.

I'd like to call upon the Executive Officer for her report.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, the Executive Officer's Report is before you. Briefly, I've given a letter of permission to the Santa Clara Valley Water District and in advance of a routine permit for levee work at Alviso to protect the town from flooding and a letter of permission to Occidental Petroleum, Inc., to do some work on a pipeline in Butte Slough.

ACTING CHAIRPERSON McCARTHY: Is there any

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question on any item of her report? All right. The Executive Officer's Report is accepted.

EXECUTIVE OFFICER DEDRICK: Thank you. Minutes.

ACTING CHAIRPERSON McCARTHY: Any question about the minutes of the last meeting?

They're adopted.

Let's turn to consent item, without any comment on any of the other consent items, C13 has been withdrawn at the request of Mr. Walter Harvey who wants to give some testimony on that item.

Without any objection from the Commissioners, the other consent items are adopted.

All right. C13, Mr. Harvey. Good morning.

EXECUTIVE OFFICER DEDRICK: Would you give your name for the record, please.

MR. HARVEY: Yes. Walter Harvey.

I was here on another matter this morning and noticed C13 of some interest to the people that are along the riverway in the City of Sacramento. That you're entertaining a commercial lease which I understand perhaps is a renewal lease situation. But I feel very definitely that this type of an item, at least in this case, ought to be postponed until the approval of the local agency

1 or at least confirmation from a local agency that they
2 are willing to grant such an approval is made. Now, I
3 can attest only too well in my experiences leasing property
4 from State Land along the river, what can occur if the
5 local agencies do not wish to go along in the agreement.

6 I feel that it would be appropriate at least
7 to have the concurrence of the local agency before you
8 give a commercial lease in a primarily residential area
9 now, at least to a facility that has no sewer, that has
10 no sanitary facilities. A lease that has no parking
11 facilities and has received major objections from
12 surrounding neighborhood components along the river.

13 That's all I wish to say.

14 ACTING CHAIRPERSON McCARTHY: Thank you.

15 Ms. Dedrick, would you like to comment or have
16 the staff comment?

17 EXECUTIVE OFFICER DEDRICK: Our Chief Counsel,
18 Mr. Bob Hight, would like to comment.

19 MR. HIGHT: Mr. Chairman, this is not a new
20 lease. This is an assignment of the existing lease. I
21 can see no requirement for any governmental approval based
22 upon the assignment.

23 MR. KILEY: Mr. Chairman, this lease does not
24 expire until June 18th, 1991, under its terms. So this
25 is just a routine assignment which would be approved as

1 a matter of course through any other type of lease. It
2 doesn't have any impact on the lease terms whatsoever.

3 MR. HARVEY: So someone who is assigned this
4 lease wants to use this property for some other reason.
5 Don't they have to go through the local government to
6 get the proper planning, zoning?

7 MR. HIGHT: That's correct.

8 MR. KILEY: The assignors and assignees here
9 are basically the same people. One of the principals
10 in the company has died and that is the reason for the
11 assignment.

12 ACTING CHAIRPERSON McCARTHY: And they have
13 incorporated?

14 MR. KILEY: And they have incorporated, that's
15 correct.

16 ACTING CHAIRPERSON McCARTHY: So the assignment
17 is from holding as individuals to --

18 MR. KILEY: Correct.

19 ACTING CHAIRPERSON McCARTHY: -- officers and
20 directors of the corporation?

21 MR. KILEY: Yes.

22 ACTING CHAIRPERSON McCARTHY: Does that modify
23 your testimony in any way?

24 MR. HARVEY: I don't know if it modifies the
25 testimony at all, but certainly it seems that it would

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1 be appropriate that maybe my testimony is out of order
2 at this particular time, but perhaps in 1991.

3 [Laughter.]

4 ACTING CHAIRPERSON McCARTHY: Thank you.

5 Why don't we note that for the calendar.

6 [Laughter.]

7 MR. HARVEY: Would you send me a notice of that,
8 too, please?

9 ACTING CHAIRPERSON McCARTHY: Be happy to. Thank
10 you.

11 All right, without action, Item 13 is approved.

12 14.

13 EXECUTIVE OFFICER DEDRICK: Mr. Chairman,

14 ACTING CHAIRPERSON McCARTHY: Item 14.

15 EXECUTIVE OFFICER DEDRICK: Item 14 is a
16 litigation and title settlement agreement between the
17 State and Cove Investment Company covering the development
18 called Brickyard Cove in the City of Richmond.

19 ACTING CHAIRPERSON McCARTHY: Is your microphone
20 on?

21 EXECUTIVE OFFICER DEDRICK: I don't know. Maybe
22 I'm just not close enough to it. That better?

23 This table is very artistic, but somewhat small.

24 Dennis Eagan of the Attorney General's Office,
25 who has negotiated the settlement, would like to comment.

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MR. EAGAN: Two matters we'd like to bring to the Commission's attention. First, there will be a minor alteration in description in one part of the agreement area pursuant to recent discussions with private parties. Those areas that are shown as subdivision lots 6 and 44 in the agreement currently on file with the Commission will be replaced by descri areas which are substantially narrower in width. Such substitute areas are shown as lots J through O on Exhibit B to a consent decree which was filed in the case and titled United States of America versus Point Potrero, Case Number Civil C-74-2339-LMB, and that was a case in the United States District Court for the Northern District of California. Staff has reviewed the consent decree and has determined that the substitute descriptions can and will be prepared from the exhibit to the consent decree and that they will represent from the Commission's standpoint an improvement in this agreement.

One further matter. We have recently received in their final form the descriptions which are attached to the agreement. Those, of course, will be subject to final checking before the agreement is executed by the Executive Officer and, finally, the Commission staff will want to check final title reports and the pro forma title policies prior to execution.

ACTING CHAIRPERSON McCARTHY: Any questions

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1 by commissioners?

2 Anyone in the audience wish to testify on this
3 matter? Any dissent?

4 Item 15 is approved.

5 Item 16. I'm sorry, that was Item 14.

6 Item 15.

7 MR. TROUT: Item 15, Mr. Chairman, is an
8 assignment from Anza Shareholders' Liquidating Trust which
9 is a liquid entity for the Anza Pacific Corporation
10 to a new group called Burlingame Group of two leases near
11 the San Francisco Airport off of Bayshore Highway.

12 The real goal of this project is to develop
13 some state land in there and the Burlingame Group has
14 been working with staff and with the City of Burlingame
15 and BCDC to come up with an acceptable plan. We believe
16 that the approval of a revised lease in the new development
17 will be before the Commission either in October or November.
18 What you're doing here, ANZA Shareholders' Liquidating
19 Trust, has to get out of business. They have to liquidate
20 their assets. This is an assignment from them to the
21 Burlingame Group. There's no change in the terms and
22 conditions and we expect to be back with you, to you for
23 approval of a significant development on these lands.

24 ACTING CHAIRPERSON MCCARTHY: Any questions
25 from the other Commissioners?

1 Anyone in the audience who wish to address this
2 issue?

3 All right. Without dissent, Item 15 is approved.

4 Item 16.

5 EXECUTIVE OFFICER DEDRICK: Item 16 is off calendar,
6 Mr. Chairman.

7 ACTING CHAIRPERSON McCARTHY: Ah, thank you.

8 Item 17.

9 EXECUTIVE OFFICER DEDRICK: This is an approval
10 and authorization for the execution of a compromise title
11 settlement agreement between the Commission and Gal-Pox,
12 Incorporated, and it resolves titles to property bordering
13 the Northgate Industrial Park in the City of San Rafael.

14 ACTING CHAIRPERSON McCARTHY: Any questions
15 from Commissioners?

16 Anyone in the audience?

17 All right. The matter is approved as requested.

18 17.

19 EXECUTIVE OFFICER DEDRICK: Item 18 --

20 ACTING CHAIRPERSON McCARTHY: 18.

21 EXECUTIVE OFFICER DEDRICK: Sorry.

22 ACTING CHAIRPERSON McCARTHY: It's all right.

23 EXECUTIVE OFFICER DEDRICK: -- is a ratification
24 of expenditure by the Santa Barbara County for repair
25 of the harbor. Storm damaged the barrier around the harbor

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1 in Santa Barbara County.

2 ACTING CHAIRPERSON MCCARTHY: Any questions
3 by Commissioners?

4 Anyone in the audience?

5 Item 18 is approved.

6 Item 19,

7 EXECUTIVE OFFICER DEDRICK: Item 19 is a
8 deferment of drilling on ARCO leases 308, 309 and 3242
9 off Isla Vista in Santa Barbara County.

10 ACTING CHAIRPERSON MCCARTHY: Any questions
11 from Commissioners?

12 Anyone in the audience?

13 All right. Item 19 is approved.

14 Item 20.

15 EXECUTIVE OFFICER DEDRICK: It's a proposed
16 sale of crude oil, royalty oil, from state oil and gas
17 leases in Summerland and Carpinteria in Santa Barbara
18 County.

19 ACTING CHAIRPERSON MCCARTHY: Any questions
20 from Commissioners?

21 Anyone in the audience?

22 Item 20 is approved.

23 21.

24 EXECUTIVE OFFICER DEDRICK: This is a royalty
25 oil sale from the Belmont offshore field in Orange County.

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ACTING CHAIRPERSON McCARTHY: Any questions?

Anyone in the audience?

Item 21 is approved.

22.

EXECUTIVE OFFICER DEDRICK: Item 22 is an approval of a six-month extension of the drilling term on a geothermal lease held by Aminoil in the Geysers in Sonoma County.

ACTING CHAIRPERSON McCARTHY: Anyone have any questions?

Anyone in the audience?

That's approved as requested.

23.

EXECUTIVE OFFICER DEDRICK: 23 is an award of a royalty oil sales contract for \$2.05 to who?

MR. TROUT: Pacific Oasis.

EXECUTIVE OFFICER DEDRICK: Pacific Oasis.

ACTING CHAIRPERSON McCARTHY: That's a bit of an improvement from the last.

EXECUTIVE OFFICER DEDRICK: The last two were a little better, but it's sure a lot better than it's been the preceding years. The last two sales were both Huntington Beach oil. The last one was 2.25 and the one before that 2.12. Prior to that I think the highest bid we ever had was like 97 cents. A year ago this time we

1 were receiving bids that were so low, four or five cents,
2 that the Commission was turning them down.

3 ACTING CHAIRPERSON McCARTHY: Okay. Any questions?
4 Anyone in the audience wish to address this
5 one?

6 That's approved as requested.
7 Item 24.

8 EXECUTIVE OFFICER DEDRICK: This is an award
9 of a negotiated oil and gas lease with Chevron for plant
10 drilling under Stockton State Hospital in San Joaquin
11 County.

12 ACTING CHAIRPERSON McCARTHY: Anyone?
13 Commissioners?

14 Mr. Lawrence Hirst.
15 You're representing Chevron, U.S.A. Would you
16 come forward.

17 MR. HIRST: I'm just here to answer questions
18 if the Commissioners have any.

19 ACTING CHAIRPERSON McCARTHY: All right. Thank
20 you.

21 Do the Commissioners have any questions?
22 I don't think we do.

23 The recommendation is approved.
24 Item 25.

25 EXECUTIVE OFFICER DEDRICK: This is approval.

1 of the final report and closing statement of the '82-
2 '83 plan of development and operations and budget for
3 the Long Beach Unit in the Wilmington Fields in Los Angeles
4 County.

5 ACTING CHAIRPERSON McCARTHY: Any questions
6 from Commissioners?

7 Anyone in the audience wish to address 25?

8 If not, it's approved as requested.

9 26.

10 EXECUTIVE OFFICER DEDRICK: This is a consent
11 by this Commission to the amendment to the City of Long
12 Beach Natural Gas Liquid Sales Contract.

13 ACTING CHAIRPERSON McCARTHY: Do you have any
14 questions?

15 27.

16 Anybody in the audience on 26? No. 26 is
17 approved.

18 27.

19 EXECUTIVE OFFICER DEDRICK: This is a notice
20 of intent by the City of Long Beach to spend 309,300 of
21 the tideland oil revenues to upgrade the lighting system
22 and refurbish the ceiling tiles in the Convention Center
23 Arena.

24 ACTING CHAIRPERSON McCARTHY: All right. Anybody
25 have any questions on the ceiling tiles?

1 Anybody in the audience?

2 Thank you. Approved as requested.

3 28.

4 EXECUTIVE OFFICER DEDRICK: 28 is approval of
5 the title settlement agreement concerning lands in Redwood
6 City, San Mateo County.

7 ACTING CHAIRPERSON McCARTHY: Anybody in the
8 audience wish to testify?

9 I understand that a lot of discussions have
10 been going on between neighborhood groups and the city
11 down there. There are some problems worked out, although
12 there's still a division of opinion as to whether this
13 should go forward? This is the one?

14 EXECUTIVE OFFICER DEDRICK: The one I think
15 you're thinking of, Governor, is Number 32, which is the
16 City of Belmont.

17 ACTING CHAIRPERSON McCARTHY: All right.

18 Any questions on 28? If not, 28 is approved.

19 29.

20 EXECUTIVE OFFICER DEDRICK: 29 is approval of
21 an extension to a compromise title settlement agreement
22 which the Commission approved in March. There are some
23 property situations that need to be settled that are taking
24 longer than we had predicted. There were a few hangups
25 with the State. So we need another, I think 90 days,

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to complete the settlement agreement.

ACTING CHAIRPERSON McCARTHY: One of the interested parties, Mr. Salvatore Niosi is here. Did you wish to testify, Mr. Niosi?

MR. NIOSI: No, sir.

ACTING CHAIRPERSON McCARTHY: You just want to let us know you're here for any questions. Thank you.

Any questions on 29?

All right. We'll approve that request.

30.

EXECUTIVE OFFICER DEDRICK: 30 is an approval by this Commission for staff to hold a hearing on retrocession of jurisdiction at the Naval Radio Station, Imperial Beach, California, at the application of the United States Navy.

ACTING CHAIRPERSON McCARTHY: Any questions from fellow Commissioners?

Anyone in the audience wish to comment?

All right. Request on 30 is approved.

31.

EXECUTIVE OFFICER DEDRICK: This is a request for approval by the City of Newport Beach for the Commission to approve their proposed City Council resolution for a proposal to let an oil field operating contract. We have a joint powers agreement with the City of Newport Beach.

1 ACTING CHAIRPERSON McCARTHY: Any questions?

2 Anybody in the audience on this issue?

3 31 is approved as requested.

4 32.

5 EXECUTIVE OFFICER DEDRICK: 32 is the approval
6 of a compromise title settlement agreement between State
7 Lands Commission and the City of Belmont. I think you
8 have several people who will want to speak to this issue.

9 ACTING CHAIRPERSON McCARTHY: I have Mr. Steve
10 Salkind, Mr. Tom Adams, and Mr. Kenneth Dickerson.

11 MR. BEZZANT: Would you add Bob Bezzant, Public
12 Works Director, City of San Mateo.

13 ACTING CHAIRPERSON McCARTHY: Spell your name
14 for us, Mr. Bezzant.

15 MR. BEZZANT: B-e-z-z-a-n-t, Bob Bezzant.

16 ACTING CHAIRPERSON McCARTHY: All right. Thank
17 you, Mr. Bezzant.

18 Who would like to start on this?

19 Mr. Dickerson.

20 MR. DICKERSON: Yes, sir.

21 ACTING CHAIRPERSON McCARTHY: City Attorney,
22 the City of Belmont.

23 MR. DICKERSON: I just want to inform the
24 Commission that at a City Council meeting held last evening
25 the City Council approved the agreement with the

1 modification suggested by your Commission staff by a four
2 to zero vote. I happen to know that the fifth member
3 of the City Council, who was not present, was also in
4 favor of approval of the agreement.

5 There was no objection to the adoption of the
6 agreement that was made at the Council meeting.

7 ACTING CHAIRPERSON McCARTHY: You're saying
8 that no citizens gave testimony at the public hearing?

9 MR. DICKERSON: That's correct. There were
10 a couple of questions asked, but nobody got up and said
11 that we object to the adoption of this agreement or talked
12 against it.

13 ACTING CHAIRPERSON McCARTHY: All right. Thank
14 you.

15 Have you finished your testimony?

16 Any questions of Mr. Dickerson?

17 All right. Did the Public Works Director wish
18 to give any testimony?

19 MR. BEZZANT: Thank you, Mr. Chairman. My name
20 is Bob Bezzant, Director of Public Works of San Mateo.

21 We're the upstream beneficiaries, you might
22 say, of O'Neill Slough. We have concern with, on the
23 first page, that last paragraph which states: "To
24 accomplish these goals, obstructions to the natural flow
25 of water through O'Neill Slough, including a collapsed

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1 culvert at the settlement parcel, will be removed unless"
2 -- this unless part is the part we have concern with --
3 "staff of the Commission: 1) is made aware of clear and
4 convincing evidence that to do so would cause flooding
5 of the existing roadbed of Highway 101; or 2) is informed
6 by the Endangered Species Office of the United States
7 Fish and Wildlife Service that to do so would result in
8 the destruction of specific endangered species inhabiting
9 properties adjacent to O'Neill Slough in the immediate
10 vicinity of or on the settlement parcel."

11 The problem that San Mateo has is unique in
12 that we have a lagoon that we operate there as a flood
13 control catchment in the winter and there's a recreational
14 lagoon in the summer. The circulation in that lagoon
15 is from the head end of O'Neill Slough and then northward
16 out to the bay on the tidal cycle, take water in on the
17 incoming cycle and put it out on the outgoing cycle.
18 That's inhibited at this present time by the culvert,
19 the collapsed culvert. The culvert was installed by the
20 City of Belmont in conjunction with the South County
21 Disposal Area and the South County Disposal Area filled
22 or with that culvert the culvert's corrugated members
23 collapsed and it inhibits the intake of water in the summer.
24 As a result, we suffer from the water quality degradation
25 in the lagoon. We have worked with Mr. Valentine and

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1 Belmont to the understanding that that would be removed
2 and a bridge placed there so that there would be a free
3 flow of water. At the present time at high tide there's
4 a perhaps three-foot differential between the bayside
5 and the upstream side as it were of the culvert. Obviously
6 removing that impediment will allow the tide to come to
7 full cycle and upstream of the present impediment. That,
8 of course, will inundate the marsh that's adjacent to
9 O'Neill Slough on the highest of high tides in the summer
10 and winter. This, because of the restriction of the tide,
11 there's been a certain habitation created that is different
12 than what would have been had the culvert been removed.

13 Of course, that will impact that habitation.
14 But at the same time if that culvert is not removed because
15 the impact on habitation, then we are restricted from
16 either discharging water in the wintertime from our
17 catchment or taking a sufficient supply of water in the
18 summer to establish water quality.

19 So we would suggest that that paragraph be amended
20 to include the culvert will be removed so that we can
21 be assured of a full access to the tidal cycle to take
22 water in and in the summertime and, of course, to discharge
23 water in the wintertime through that O'Neill Slough. In
24 historic times that was the outlet for about, an area of
25 Belmont and San Mateo, of about, oh, three or four miles

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1 of catchment. It had been rearranged by the lagoon
2 construction, but we want to discharge water out that
3 south end with a pumping scheme that we have had and we've
4 been inhibited if that culvert were not removed both from
5 winter discharge of water and summer intake of water to
6 ensure the water quality for recreation. So we'd ask
7 for that amendment.

8 ACTING CHAIRPERSON McCARTHY: Are you here speaking
9 for the County of San Mateo?

10 EXECUTIVE OFFICER DEDRICK: No, this is the
11 City.

12 MR. BEZZANT: No, City.

13 ACTING CHAIRPERSON McCARTHY: You're speaking
14 for the City?

15 MR. BEZZANT: For the City.

16 COMMISSIONER ORDWAY: The City just approved
17 it.

18 EXECUTIVE OFFICER DEDRICK: This is the City
19 of San Mateo. It's next door.

20 ACTING CHAIRPERSON McCARTHY: Next door.

21 EXECUTIVE OFFICER DEDRICK: They're upstream
22 or downstream, I guess, but the plan was to end with
23 O'Neill Slough.

24 Mr. Chairman, I think the reason that clause
25 is in it is to protect the Commission from potential legal

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1 problems. Mike Valentine who negotiated the entire
2 agreement is here and I think perhaps you'd like to hear
3 from him.

4 ACTING CHAIRPERSON McCARTHY: All right. Please.

5 MR. BEZZANT: The one thing I want to establish,
6 we're in support of Belmont's activity that's going on.
7 We'd like this one change to protect our activity. At
8 the same time, we are in support of Belmont's activity.
9 We don't want to be the spoiler in the case. Just need
10 that little extra help.

11 ACTING CHAIRPERSON McCARTHY: Perhaps you'd
12 like to referee this --

13 [Laughter.]

14 ACTING CHAIRPERSON McCARTHY: -- City of San
15 Mateo.

16 MR. VALENTINE: Mr. Chairman, Mike Valentine
17 of the Commission staff.

18 The City of San Mateo's concerns were addressed
19 by the agreement as drafted by removal of the obstruction
20 and replace of that obstruction with a bridge. We're
21 not willing to flood 101 to accomplish those goals for
22 the City of San Mateo, however. The U.S. Fish and
23 Wildlife Service is not particularly agreeable to us
24 destroying any endangered species which may be found to
25 exist on adjacent properties. Caltrans has made suggestions

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1 to us which, if followed, they have said will not result
2 in flooding 101. So we don't think Caltrans is a problem.

3 A wildlife biologist from Fish and Wildlife
4 Service worked very closely with us on this transaction,
5 and she does not believe that it will result in the loss
6 of identified endangered species. She's here today if
7 the Commission has questions of her.

8 But we feel that the proposal to remove the
9 obstruction is proper only if there's not going to be
10 unreasonably adverse consequences either to the
11 transportation corridor there or to endangered species
12 on nearby properties. We don't believe those are going
13 to be problems, but we thought it would be prudent for
14 the protection of the Commission to include such a proviso.

15 MR. BEZZANT: Mr. Chairman, we have this kind
16 of a problem, that we can't maintain the water quality
17 of the lagoon. We have a biota that grows there in the
18 summer, algae, bottom-rooted weeds. They collapse about
19 this time of the year as the sunlight is less and less
20 apparent in the day.

21 In dying, they consume the oxygen in that lagoon,
22 and we have fish gills in there and we have some rather
23 large bass that rolled up on the top of the surface over
24 the last little while. So we have a problem in that
25 biological world that we are trying to take care of.

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1 So we need that bit of help. It's kind of a trade-off,
2 as it were, of biota spheres.

3 ACTING CHAIRPERSON McCARTHY: Did this discussion
4 occur prior to today, the City of San Mateo concerns?

5 MR. VALENTINE: I have been in contact with
6 the City Engineer, the Director of Public Works, the
7 City Attorney for San Mateo over the course of the last
8 year and a half, and in discussions involving this
9 transaction.

10 ACTING CHAIRPERSON McCARTHY: And the comments
11 just made by Director Bezzant that there were wildlife
12 and biota threatened if this action were taken, is there
13 an evaluation of that, whether that's a serious
14 probability or not?

15 MR. VALENTINE: The thrust of the remarks as
16 I received them during the course of this negotiation
17 was that San Mateo's main concern had to do with water
18 flow, water runoff in the winter, tide flow in the summer
19 to allow algae to be essentially killed by the saltwater
20 intrusion. We think we're going to be able to accomplish
21 that, but we don't think it's worth giving up the store
22 for.

23 EXECUTIVE OFFICER DEDRICK: I think, Mr.
24 Chairman, that it's apparent that solving San Mateo's
25 problem is a desirable solution, but I do think that Mike

1 is right that we have to be prudent about it. Since we
2 know of the possibility of these two problems with
3 endangered species in the marsh and with Highway 101 and
4 its ripple effect, I guess, I think it would be prudent
5 of the Commission to retain that option in case one of
6 those circumstances turned out to be something serious
7 that we could not handle in any other way.

8 ACTING CHAIRPERSON McCARTHY: I understand,
9 Mr. Valentine, you said you had discussed this with the
10 U.S. Fish and Wildlife Service.

11 MR. VALENTINE: Yes, Mr. Chairman.

12 ACTING CHAIRPERSON McCARTHY: And a representative
13 of that office is here?

14 MR. VALENTINE: Yes.

15 ACTING CHAIRPERSON McCARTHY: Who is that?

16 MR. VALENTINE: Karen Miller. She's a wildlife
17 biologist.

18 ACTING CHAIRPERSON McCARTHY: We don't necessarily
19 need to build a large crowd up here, Miss Miller, but
20 would you just generally indicate whether you on behalf
21 of your office confirmed that the value judgment made
22 to give the greater protection to the fish and wildlife
23 in the area that we're concerned about here if there are
24 any wildlife.

25 MS. MILLER: My name is Karen Miller, and I

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1 work for the Division of Ecological Services of the Fish
2 and Wildlife Service. I've discussed this project with
3 our Endangered Species Office which, I should say, would
4 be the official representative for endangered species
5 concerns.

6 They have told me that there is a past record
7 of salt marsh harvest mice in the marsh adjacent to
8 O'Neill Slough. So they have to assume that salt marsh
9 harvest mice are there. However, because of that collapsed
10 culvert in the slough, that area has not received full
11 tidal action for a number of years and, as a result of
12 that, there's a good deal of upland vegetation invading
13 into the marsh and we also assume that they're probably
14 are species such as rats and house mice getting into that
15 marsh which are direct competitors with salt marsh harvest
16 mice. Therefore, Endangered Species Office feels that
17 salt marsh harvest mice are either not doing very well
18 in the marsh or they may be gone altogether. They feel
19 that introduction of full tidal action to that marsh would
20 be beneficial to salt marsh harvest mice. If they're
21 still there, it would help them.

22 There's been discussion about if there are no
23 upland areas for the salt marsh harvest mice to escape
24 to during high tide, the office suggested it be very simple
25 just to build a very few islands of upland vegetation

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1 for them.

2 So, in summary, we do not feel at this point
3 that there will be any adverse impact to salt marsh harvest
4 mice as a result of opening that slough.

5 ACTING CHAIRPERSON MCCARTHY: Any questions?

6 COMMISSIONER ORDWAY: So you're saying that
7 they could take this out of the tidal action?

8 MS. MILLER: Yes. Salt marsh harvest mice like
9 tidal wetlands.

10 COMMISSIONER ORDWAY: So you're supporting San
11 Mateo's concern?

12 MS. MILLER: Yes, in essence.

13 EXECUTIVE OFFICER DEDRICK: Is Caltrans here,
14 Mike?

15 MR. VALENTINE: No representative of Caltrans
16 is here, Mr. Chairman. They did send us a letter making
17 recommendations as to how the culvert should be repaired.
18 The City has agreed to include those recommendations within
19 the agreement. The City of Belmont, not the City of San
20 Mateo.

21 ACTING CHAIRPERSON MCCARTHY: Could we clarify
22 something? The testimony I just heard was that the
23 representative from U.S. Fish and Wildlife was supporting
24 the City of San Mateo.

25 EXECUTIVE OFFICER DEDRICK: That is correct.

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1 ACTING CHAIRPERSON McCARTHY: -- testimony which
2 would call for an amendment to what we have before us.

3 EXECUTIVE OFFICER DEDRICK: That's correct.
4 I was just looking to see whether there was a way, whether
5 Caltrans was here and had some assurance that flooding
6 101 would not be a problem.

7 MS. MILLER: Right. As far as endangered species
8 are concerned, we support the opening of that slough to
9 tidal action. I cannot speak to flooding of Highway 101.
10 Surely, the Fish and Wildlife Service would not support
11 flooding of the freeway.

12 EXECUTIVE OFFICER DEDRICK: Why not?

13 [Laughter.]

14 EXECUTIVE OFFICER DEDRICK: Thank you, Karen.

15 MR. BEZZANT: We might suggest, Mr. Chairman,
16 that that's subject to remedial action, that Caltrans
17 has a budget and they could do some dyking along the edge
18 if they've had subsidence. I'm not sure their elevation
19 is there. But there's enough at stake in the biological
20 world that I think that we could find a way to cut the
21 baby, as it were, and we suggest that our position with
22 the Fish and Wildlife Service is not inimical and there's
23 a remedial course of action that Caltrans can take to
24 make it fit, as it were.

25 ACTING CHAIRPERSON McCARTHY: Do you mind my

1 commenting on the millennium we may have reached when
2 the Director of Public Works comes to testify in defense
3 of the salt marsh harvest mice?

4 [Laughter.]

5 ACTING CHAIRPERSON McCARTHY: I think that should
6 be recorded for proper tidal action to protect the biota.

7 All right. A man for every issue. I don't
8 know if the City of Belmont had any specific comments
9 on that single point. They will have a chance to say
10 so again if they want to.

11 Have we heard from everybody of the officials
12 that are here that wanted to make comment? I know that
13 the citizen groups now want their time, their chance at
14 this.

15 Tom Adams, the Kuman Corporation.

16 Mr. Adams, did you wish to testify? Do you
17 want to listen for a while?

18 MR. ADAMS: If something comes up, I might want
19 to make a comment, but nothing at this point.

20 ACTING CHAIRPERSON McCARTHY: All right. Thank
21 you.

22 Now we have Steve Salkind. Are you all, Donald
23 Bomberger, Gary Orton, Lida Paetzke, are you all on the
24 same team? You're saying different things. Then let
25 me ask, are there any of you who are siding with the point

1 of view we've heard so far so we can hear this in some
2 logical sequence?

3 Are you all objecting to what the official
4 representatives here have asked us to do?

5 MR. SALKIND: There's a point of view that I
6 have to express that stands by itself.

7 ACTING CHAIRPERSON MCCARTHY: All right, Mr.
8 Salkind.

9 MR. SALKIND: I'm here to ensure the Committee
10 that there is a severe need for the fields that would
11 be realized from this project. I am the Area Director
12 of AYSO Soccer in the South San Mateo County, encompasses
13 from Belmont south through San Carlos, Redwood City,
14 Menlo Park, Atherton. Since the school cutback situation
15 in services, the volunteers such as myself have come in
16 and filled in the gap I think quite admirably, especially
17 in our area. Those of you who are acquainted with or
18 may not be acquainted with the Rodiger Institute which
19 just came out with their findings about a year ago about
20 how one-third of all of our children are in trouble in
21 school, trouble adapting to just staying seated very nicely
22 in their chairs while not being given a proper amount
23 of exercise. We have come forward in our organization,
24 we have many volunteers, hundreds, who take care of 3500
25 children in the AYSO program alone. We are not just

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1 the only one. There are of course Bobbysox, Little League,
2 and others who have really picked up the number.
3 Percentagewise we have in Belmont, just one category alone,
4 are the six-seven-year-olds. This is the type of recruiting
5 program that we're going into that we have a 196 in this
6 year in instructional age, six-seven-year-olds involved
7 in our program. That's quite impressive when you realize
8 there are only 450 six-seven-year-olds in all of Belmont.

9 The point and the underlying point is my need
10 is for my area, it's more field space. We just don't
11 have the tools. We're willing to take up the burden.
12 We're willing to do the job. We don't want to be paid
13 for it. We just ask that we have enough field space so
14 that we can implement the program that we are willing
15 to do as volunteers as we've been asked by our government
16 to do. If you would just give us the tools, we'll be
17 happy to do the job.

18 Thank you very much.

19 ACTING CHAIRPERSON McCARTHY: Any questions?

20 COMMISSIONER ORDWAY: I'm not clear what you're
21 asking for.

22 MR. SALKIND: The approval of the project.

23 COMMISSIONER ORDWAY: As it exists or as it
24 is proposed to be amended by San Mateo?

25 MR. SALKIND: Okay. I have come to present

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1 the legitimate need of fields.

2 ACTING CHAIRPERSON McCARTHY: Let me see if
3 I can simplify this. Your testimony has nothing to do
4 with the amendment requested by the City of San Mateo.

5 MR. SALKIND: That is correct. That's why I
6 say I stand alone.

7 ACTING CHAIRPERSON McCARTHY: You're requesting
8 approval because this entire development would make
9 available some playing fields for the youngsters you're
10 concerned about in your program.

11 MR. SALKIND: That's correct.

12 ACTING CHAIRPERSON McCARTHY: All right. Thank
13 you, Mr. Salkind.

14 Any questions?

15 Thank you very much.

16 Now, I have --

17 MR. DICKERSON: Mr. Chairman.

18 ACTING CHAIRPERSON McCARTHY: We'll give you
19 a chance if you want. There might be other points raised
20 by other --

21 MR. DICKERSON: I have a comment to make on
22 the proposed amendment.

23 ACTING CHAIRPERSON McCARTHY: Well, we'll give
24 you that opportunity. Suppose we just follow this and
25 we'll pretend we're being logical and we'll follow this

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1 in some sequence here.

2 Let me hear from the other citizen groups now.

3 Mr. Orton and Miss Paetzke, Mr. Bomberger.

4 Is it Mr. Bamberger or Mr. Bomberger?

5 MR. BOMBERGER: Bomberger.

6 ACTING CHAIRPERSON MCCARTHY: Thank you, Mr.
7 Bomberger. Would you like to start?

8 MR. BOMBERGER: I also do not propose to address
9 the issue that has been raised by the City of San Mateo.
10 In part my presence here is so that Mr. Valentine will
11 not be disappointed.

12 [Laughter.]

13 MR. BOMBERGER: On May 17th, the State Lands
14 Commission held a public hearing in Belmont to discuss
15 the proposed settlement agreement. At that time there
16 was a subparcel that was not included in the agreement.
17 That parcel now lies east of the proposed road easement.
18 So, at that time we were not allowed to address the
19 disposition of that particular parcel. Because we were
20 not allowed to talk about it, we find that we have some
21 feelings that we are upset now to find that it is included
22 in the trust termination parcel of the proposed agreement.

23 MR. VALENTINE: If I may, Mr. Chairman, at the
24 time of the public meeting down in Belmont, the parcel
25 on the parcel plat sent out for the hearing notice conformed

1 to this configuration. The parcel which was subsequently
2 added to the negotiations lies immediately adjacent and
3 just to the east.

4 MR. BOMBERGER: Thank you.

5 ACTING CHAIRPERSON McCARTHY: And the gist of
6 what you just said is what, that adequate notice was given
7 on all the land considered part --

8 MR. VALENTINE: Well, my response, Mr. Chairman,
9 would be the Commission had no obligation to hold a public
10 meeting in the first place.

11 ACTING CHAIRPERSON McCARTHY: This Commission?

12 MR. VALENTINE: That's correct. At the
13 beginning of the meeting it was indicated that if people
14 wanted to address other properties in the area that were
15 adjacent or near this proposed trust termination parcel,
16 nobody would shout them down were my words.

17 ACTING CHAIRPERSON McCARTHY: Mr. Bomberger,
18 was your point, so I understand it, that the issue of
19 whether that piece of land was part of the hearing or
20 not, that that is the cornerstone to your position on
21 this issue?

22 MR. BOMBERGER: No, that is not the cornerstone.
23 That's by way of introduction --

24 ACTING CHAIRPERSON McCARTHY: By way of
25 introduction.

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1 MR. BOMBERGER -- to the cornerstone.

2 ACTING CHAIRPERSON McCARTHY: To the issue of
3 adequacy of notice, if that should be an issue.

4 MR. BOMBERGER: No. I'm upset about that. When
5 we started out in preparation for that hearing, we did
6 not know that that was going to be a concern.

7 ACTING CHAIRPERSON McCARTHY: Go ahead.

8 MR. BOMBERGER: The cornerstone of my argument
9 really is that we believe that rather than belonging in
10 the trust termination parcel, that should remain in the
11 public trust parcel of the agreement that is now being
12 discussed. We have a number of reasons for that belief.
13 If you look at the current trust termination parcel, except
14 for this subparcel and two small subparcels which are
15 identified I think on that map as 4 and 5, the rest of
16 the lands are basically far removed from the waterway.
17 They have been filled. They have had nonwater-related
18 activities ongoing for a number of years. So it's not
19 too hard to argue that they are not suitable for public
20 trust use at this point.

21 Not only that, but in giving up those two little
22 parcels 4 and 5 for the road easement, the State is going
23 to receive titles to a parcel that is identified as number
24 10 on that exhibit which is down there next to O'Neill
25 Slough. It's up in the top. So that in terminating the

1 public trust in those particular parcels, you're receiving
2 a large piece of land. Furthermore, the subparcel that
3 we're talking about, that little one up in the corner,
4 is a very suitable piece of land for public trust use.
5 It has a large area of wetlands on it now and if you go
6 down there you'll find that it is currently being occupied
7 by the Sea Scout group in Belmont.

8 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I
9 think, if I understand this agreement properly, and I
10 understand Mr. Bomberger properly, there's a confusion
11 as to where the trust is actually being terminated. Mike,
12 would you show the boundary, please.

13 MR. VALENTINE: The development line would stop
14 here which is the edge of fill. The trust termination
15 parcel is all fill, unengineered trash fill from the '30's,
16 '40's and '50's. The development line is the edge of
17 the wetland as staked by Commission staff and accompanied
18 by Mrs. Miller from the Fish and Wildlife Service.

19 EXECUTIVE OFFICER DEDRICK: Mike, in the area
20 that Mr. Bomberger is talking about where the Sea Scouts
21 are located, not their building but the water area, in
22 that area the trust is not being terminated; is that
23 correct?

24 MR. VALENTINE: That's correct. The piers and
25 boats are in the area in which the trust would not be

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1 terminated. They have an old structure which is on the
2 fill which is within the trust termination parcel.

3 MR. BOMBERGER: Basically what they lose is
4 their access to that parcel.

5 EXECUTIVE OFFICER DEDRICK: But the wetlands
6 themselves are not part of the termination?

7 MR. BOMBERGER: That is correct. But because
8 of the public trust uses of the wetlands, we feel that
9 it's suitable that they have a little place to get to
10 it.

11 All right. But furthermore, because that
12 particular parcel in the corner that was not being
13 considered when we had the original, well, the part that
14 was not considered when we had the public hearing was
15 a larger piece.

16 MR. VALENTINE: Goes all the way down here.

17 MR. BOMBERGER: All right. The argument is
18 as follows: At the time that we had our last public
19 hearing on the overall development, there were no specific
20 plans for that parcel. It was considered to be a parcel
21 for future use. There are still no detailed plans for
22 what is actually going to go along on that parcel.

23 The argument is that the development agreement
24 or the termination agreement that you have for your
25 consideration makes the final decision as to whether the

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1 public trust is being served by the overall development
 2 plan a staff issue, that they are allowed to make the
 3 decision as to what's going to happen. Our point is that
 4 because we do not know what is going to be in that corner,
 5 its future development, that denies the public the
 6 opportunity to comment on whether the uses that are proposed
 7 at sometime in the future are suitable for public trust.
 8 That's really what we're arguing about.

9 MR. VALENTINE: My response to that last point,
 10 Mr. Chairman, --

11 ACTING CHAIRPERSON McCARTHY: Instead of having
 12 an exchange, we can sum up points at the end, I think.
 13 Let's let Mr. Bomberger finish his testimony.

14 MR. BOMBERGER: Well, because of that we're
 15 recommending that that be left, that all of that site
 16 be left in the public trust parcel rather than the trust
 17 termination parcel

18 ACTING CHAIRPERSON McCARTHY: Have you finished
 19 your testimony?

20 MR. BOMBERGER: Now I am finished.

21 ACTING CHAIRPERSON McCARTHY: I'm sorry, why
 22 don't you comment, Mr. Valentine.

23 MR. VALENTINE: Mr. Chairman, this agreement
 24 would not cut off the public's right to comment. It would
 25 cut off the public's right to comment in this forum. What

1 they want to talk about is land use planning, which is
2 my understanding is the primary responsibility of the
3 local officials and they would have every opportunity,
4 I would assume, to comment before the Belmont City Council
5 when the plan came up for review.

6 MR. BOMBERGER: That is correct, but that's
7 not a public trust forum.

8 EXECUTIVE OFFICER DEDRICK: The exchange is
9 between the State and the City of Belmont, Mr. Chairman.
10 It's not with a private developer.

11 ACTING CHAIRPERSON MCCARTHY: All right. Thank
12 you, Mr. Bomberger.

13 Any questions of Mr. Bomberger?

14 Thank you very much.

15 Now I have Gary Orton and Lida Paetzke. Mr.
16 Orton.

17 MR. ORTON: Thank you, Mr. Chairman.

18 I'm glad to see the concern you showed over
19 the salt marsh mouse. We have some concerns over the
20 children who will be using the ball fields. Citizens
21 for Orderly Growth recommended, also recommended that
22 it's suitable to use that area for a ball field. As a
23 matter of fact, we submitted a plan of our own to the
24 Parks and Recreation Commission of the City of Belmont
25 who approved in concept much the same way they approved

1 in concept the current proposal for ball fields. We have
2 not heard from the City Council although it was passed
3 on to them.

4 As an aside, Mr. Chairman, Mr. Dickerson indicated
5 that there were no objections to this agreement at the
6 City Council meeting. I would like to indicate that I
7 was given two minutes last night at 11:20 and summarily
8 terminated any further comments that I could make at that
9 meeting.

10 The City has known our position for months and
11 months and months. The comment I am going to make to
12 you and the rest of the Commission we made at the hearing
13 held in Belmont in May. The Environmental Impact Report
14 indicates that the carbon monoxide concentrations on the
15 ball fields as proposed in this project will be excessive.
16 There is an alternative and there is a method in which
17 to reduce those carbon monoxide concentrations to acceptable
18 levels. Those measures have not been taken in this
19 proposal.

20 The way to do that, Mr. Chairman, and members
21 of the Commission, is to reduce the amount of traffic
22 on that access road. I think it's been the position of
23 staff, and I'm sure I'll be corrected if I state this
24 wrongly, and that it is not the function of this Commission
25 to determine how much traffic will be on that road. I

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1 disagree. I think you can set conditions. You can by
2 the actions you take determine or limit the amount of
3 traffic that will be on that road.

4 There was a further concern that we expressed
5 at the hearing, and that was identified in the EIR, and
6 that is of noise. That will be an extremely noisy place
7 to play and there were recommendations and alternatives
8 mentioned in the EIR to correct that. It's basically
9 to move the playing field as far away from Bayshore as
10 you can. In our plan that we submitted to the Department
11 of Parks and Recreation Commission which they approved.
12 in concept does that basically by putting the access road
13 parallel and contiguous to Bayshore. Those concerns we
14 expressed and they have fallen on deaf ears to be frank
15 We think that you as Commissioners in your trust duties
16 should take these things into consideration in providing
17 the best ball fields that we can for the children of Belmont.

18 ACTING CHAIRPERSON MCCARTHY: Thank you, Mr.
19 Orton.

20 I've only sat on this Commission this year,
21 but I've asked the question about the range of conditions
22 that have been attached historically and why or why not
23 and I don't think it's too encouraging. I want to say
24 that this Commission ordinarily does not sit as the City
25 Planning Commission.

1 MR. ORTON: I understand.

2 ACTING CHAIRPERSON McCARTHY: Or a Recreation
3 and Park Commission. It tries to avoid introducing
4 confusion into the different areas of authority that make
5 decisions like this. I'm aware that we could try to expand
6 our authority and condition a long list of things on any
7 title, any exchanges of property.

8 MR. ORTON: You have made a condition as part
9 of this agreement. I don't know if it was intended or
10 not, but it talks about whether or not by the development
11 plan whether the development plan will adversely affect
12 the lands in which the State retains an ownership interest.
13 That could be broadly construed; that could be narrowly
14 construed. I suppose it could be broadly construed to
15 say that the development plan that provides that traffic
16 is going to be of a certain capacity is going to
17 adversely affect the public trust lands. You have made
18 a condition.

19 The question is: How is that going to be
20 interpreted? At what point are we able to raise those
21 issues?

22 ACTING CHAIRPERSON McCARTHY: I think perhaps
23 what we're hearing is that the City Council didn't respond
24 to you and the other citizens of Belmont the way that
25 you thought they should in this overall development issue

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1 and understandably you're seeking whatever forum you might
2 to try to prevail in your point of view. We have to make
3 the judgment because we do have other citizens approaching
4 us in a similar vein, whether or not it's fair on an overall
5 basis without regard to any particular development proposal
6 for us to become a city planning commission at an appellate
7 level, if you will. There has been rather severe reluctance
8 to adopt that approach by this Lands Commission for a
9 number of years.

10 MR. ORTON: If I understand the tenor of your
11 comments, I would like something for the record that
12 indicates that other agencies that must approve this should
13 not consider any approval that you might give an approval
14 of these issues that we are discussing here.

15 ACTING CHAIRPERSON McCARTHY: I think that's
16 clear that it's not. No. If it works one way, it certainly
17 has to work the other way, too.

18 Thank you, Mr. Orton.

19 Now we have Miss Lida Paetzke.

20 MR. VALENTINE: If I may, Mr. Chairman, it's
21 Lida Paetzke.

22 ACTING CHAIRPERSON McCARTHY: Lida. I have
23 P-a-r-t-a-k-e. Oh, I'm sorry, P-a-e-t-z-k-e.

24 MS. PAETZKE: That's correct.

25 ACTING CHAIRPERSON McCARTHY: These are my old

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glasses. They don't do the job as my new ones do. I'm
sorry.

MS. PAETZKE: My name is Lida Paetzke. I live
at 201 Carmelita in Belmont.

I had hoped to be able to, just like Mr. Orton
and Mr. Bomberger, do the talking for Citizens for Orderly
Growth today. But after hearing some responses, I felt
I really want to express to you my objection, and I will
try to be as logical as they are -- they're much more
eloquent than I am -- to this agreement. My concern is
the public trust. It was my understanding that that's
what this Commission is all about.

I do not believe that it is in the interest
of the public trust to use public trust land for a four-
lane highway that will service a private development.
That highway will also cut off the parcel that Mr.
Bomberger referred to which I agree with him should remain
in the public trust. It will be very difficult to find
access to that if this is approved.

I also am concerned -- and I realize you don't
want to hear it, but I'm going to say it anyway -- I have
another environmental concern. Mr. Orton failed to mention
the noise level that will exist on the playing fields
if they are placed where they are now proposed.

ACTING CHAIRPERSON MCCARTHY: Mr. Orton did

1 address that issue, but you're certainly welcome to also.

2 MS. PAETZKE: I didn't hear it. I would like
3 to reiterate for my own personal reasons. I have a son
4 who has a hearing loss. He has a difficult time enough
5 hearing on the other playing fields that we have now.
6 You put him down there and the only way you can communicate
7 with him is sign language.

8 I just would again like to say I am opposed
9 to some of the provisions in this proposed agreement.
10 Thank you.

11 ACTING CHAIRPERSON MCCARTHY: Thank you. Any
12 questions?

13 Thank you very much.

14 Any other witnesses who wish to give testimony
15 on this matter at this time?

16 The City Attorney from Belmont here?

17 MR. DICKERSON: Yes, your Honor.

18 ACTING CHAIRPERSON MCCARTHY: Why don't you
19 sit down.

20 I've never aspired to be a judge, but I would
21 never reject that appellation. Somehow it seems very
22 comfortable.

23 [Laughter.]

24 EXECUTIVE OFFICER DEDRICK: There is one other
25 witness, I think.

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ACTING CHAIRPERSON McCARTHY: We'll call on

Mr. Adams in a minute. Go ahead, please.

MR. DICKERSON: I'd like to respond first to

the amendment issue. The City of Belmont has no objection to opening up the slough and repairing the culvert. We have indicated this to the Commission staff. We are, of course, concerned about potential liability resulting from that action. If we were to flood the Bayshore Highway, the City would be exposed to potential liability. If there was a problem with destruction of endangered species, there could be a litigation problem there if the agencies that protect the endangered species were to obtain an injunction against the City prohibiting us from carrying out the contract. Within those parameters, we have no objection to opening up the slough as required. I think that the language that's in there simply serves as a safety valve in the event these problems arise. Of course, if the City of San Mateo is willing to indicate to the City of Belmont that we want you to open it up and we will sign an agreement and we'll hold you harmless from any claims or any damage caused by the opening up, there would be no problem. We haven't received that offer.

ACTING CHAIRPERSON McCARTHY: Is the Director of Public Works authorized to sign that kind of an agreement?

[Laughter.]

ACTING CHAIRPERSON McCARTHY: I don't know.

What does our staff think about this?

I don't want to let this go too far.

EXECUTIVE OFFICER DEDRICK: It seems to me,

Mr. Chairman, that if the Fish and Wildlife Service --

I need to refer to an attorney. Is that an adequate

protection, the testimony of a biologist in this

Commission meeting that there is no harm to endangered

species there because that is a governing law? The other

thing is that it seems to me that it looks to me as if

the problem is solvable, but I just as a matter of prudence

think the Commission should not put itself in a position

where it could be liable for damage to a major highway

or damage to an endangered species. The odds are that

if both problems are solvable, the thing can be done and

in my own opinion it's a desirable thing to do. But I

would not like to see the Commission find itself down

the road with a problem, legal problem that could be

substantially expensive because you didn't leave yourself

a loophole at this stage, but it's entirely at your

discretion.

ACTING CHAIRPERSON McCARTHY: What does that

mean? Are you recommending that we not go forward with

the amendment?

1 EXECUTIVE OFFICER DEDRICK: Yes, I am.

2 COMMISSIONER ORDWAY: Does the agreement as
3 proposed allow both cities enough flexibility to be able
4 to work together?

5 EXECUTIVE OFFICER DEDRICK: I think it does.
6 Let me ask Mike specifically to address that point.

7 MR. VALENTINE: There's certainly nothing in
8 the agreement which would preclude them from working out
9 their problems in terms of planning for flood control.

10 COMMISSIONER ORDWAY: And also working on any
11 potential problem that Caltrans will have or U.S. Fish
12 and Wildlife Service?

13 MR. VALENTINE: That's right.

14 COMMISSIONER ORDWAY: So the agreement that's
15 before us gives the cities the flexibility to accommodate
16 both of their needs?

17 MR. VALENTINE: I believe it does. That was
18 certainly the goal.

19 MR. BEZZANT: We seek that assurance as a city.
20 We have not been willing to, let's say, ask for an
21 injunction to require the culvert to be opened which is
22 the alternate legal posture, let's say, to what Mr.
23 Dickerson is proposing. We want to kind of work these
24 things out, rather than proceed with an injunction.

25 ACTING CHAIRPERSON McCARTHY: The courts are

1 too full anyway.

2 MR. BEZZANT: But if the agreement will not get
3 in the way of our needs, as we cited, we're fully
4 supportive of what Belmont wants to do there but we have
5 this one little thing we need to work out. If they will
6 accommodate us, then we're happy.

7 ACTING CHAIRPERSON McCARTHY: This is sort of
8 a nebulous conversation. It's getting a bit erudite.

9 [Laughter.]

10 ACTING CHAIRPERSON McCARTHY: I don't even know
11 whether there is any danger of flooding of this, assuming
12 that this Commission even thinks this whole thing should
13 go forward. We ought to establish that. Did the staff
14 think on this specific point of saying: Well, this is
15 all right, as long as the city of Belmont accept
16 responsibility for any damages caused by --

17 MR. DICKERSON: City of San Mateo.

18 ACTING CHAIRPERSON McCARTHY: City of San Mateo.

19 MR. VALENTINE: Yes, Mr. Chairman. It was a
20 major concern all along who would have the responsibility
21 for any damages and by touching base with Caltrans --

22 ACTING CHAIRPERSON McCARTHY: Let me reword
23 my statement. I'm sorry. I wasn't very clear.

24 Why don't we give San Mateo their way by putting
25 in the amendment and saying this is fine. However, if

1 this leads to flooding of the highway, and damages Belmont,
2 then San Mateo can take care of the problem.

3 MR. BEZZANT: We figured out a position that
4 would assist us there in the fact that that's an artificial
5 constriction of a waterway and an injunction, why, it
6 could be opened and restored to its natural condition.
7 So I don't think we're concerned about what will happen
8 when it's opened up. It's a return to nature.

9 ACTING CHAIRPERSON McCARTHY: Are you now arguing
10 against the necessity of the amendment?

11 [Laughter.]

12 MR. BEZZANT: No, only to protect us. Put the
13 amendment in there, but make sure that San Mateo is
14 mentioned in there as a beneficiary of that waterway,
15 you know, and that the goal that you're attempting to
16 reach there by requiring that that be removed is to also
17 take care of San Mateo and not alone the salt marsh harvest
18 mouse and, I should say, Caltrans, that we give some
19 honorable mention, as it were, in there.

20 ACTING CHAIRPERSON McCARTHY: I don't think
21 the Commission is inclined from what I just heard in both
22 ears to go forward with this amendment at this time.
23 You can have further discussions if you want. We don't
24 know yet whether the Commission is going to go forward
25 with the entire resolution.

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MR. BEZZANT: Again, we don't want to play the spoiler, but we need to take care of our interests, you know.

ACTING CHAIRPERSON MCCARTHY: I fully appreciate that, why you're here, and you're trying to fulfill your responsibility. This may be subject to some future comment if we act on the whole matter.

Did you have any further comments?

MR. DICKERSON: Yes, Mr. Chairman.

If you will indulge with me for a few more minutes, I have a few more comments I'd like to make in response to Mr. Bomberger in part and Mrs. Paetzke.

This agreement that's before the Commission for approval is a settlement agreement. The City of Belmont purchased this property from what was then known as the Division of Highways many years ago and we paid good money for it. The State Lands has claimed title to the same property. So when we're talking about leaving property in trust, we're not talking about, or taking property out of trust, we're not talking about an out-and-out gift from the State to the City. We are settling by this agreement our various claims to the property and avoiding litigation that would be expensive to both sides. Now, I'd like to point out to the Commission, if it doesn't already have this information, that the City has constructed

1 and operate a baseball field in this area for many years.
2 We have never to my knowledge received any complaints
3 about carbon monoxide and we have never received any
4 complaints about noise. The park has been used by our
5 Little League year after year and it's almost adjacent
6 or right in the area where the new ball fields are to
7 be constructed. So I would ask the Commission to take
8 that into consideration and to weigh it against the
9 testimony received today.

10 Thank you.

11 ACTING CHAIRPERSON McCARTHY: Could I just,
12 just briefly. I was a little bothered by Mr. Orton's
13 comment that he only got a chance to testify two minutes
14 at the end of a long council meeting last night. That's
15 of course totally within the council's prerogative.
16 But is that accurate?

17 MR. MOORE: May I comment on that? Bill Moore,
18 Mayor of the City of Belmont.

19 ACTING CHAIRPERSON McCARTHY: Yes, Mr. Moore.
20 Why don't you come forward so that you can be heard.

21 MR. MOORE: It was suggested that this whole
22 program is relatively new and that the City is trying
23 to push something through very rapidly. In point of fact,
24 this program has been talked about for some two and a
25 half years, has tremendous support in the community,

1 tremendous support in all areas: park and rec, planning
2 commission, city council, anyone that's ever looked at
3 it.

4 Last night this agreement was agendized, came
5 up very late. We had a very long agenda. Mr. Orton wanted
6 to speak on it. We allowed him to speak at which point
7 he asked several questions and got in an argument, if you
8 will, with the city attorney. Because of the hour I didn't
9 feel that an argument was appropriate. I asked him if
10 he had any further questions. He did not have any direct
11 questions. So we asked him if he wouldn't let us proceed
12 with the business at hand. He did have an opportunity
13 to comment. He did so. Any specific questions he wanted
14 to ask, we were more than happy to listen to.

15 I might point out that when the State Lands
16 Commission held hearings in Belmont, there was no negative
17 reports, and Mike can comment on this. Everyone at that
18 hearing that made comment was terribly supportive of the
19 park concept, of the recreational concept, and of the
20 development in general.

21 We have listened to this in Belmont to a
22 fare-thee-well. I've said this before. Again, if the
23 State Lands Commission would like to come down and manage
24 Belmont, you're entitled to do that perhaps. We're doing
25 the best we can. This has been a long program for two

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1 years and, again, park and rec, planning, city council
2 with tremendous community support and input.

3 ACTING CHAIRPERSON McCARTHY: What do you pay?

4 [Laughter.]

5 MR. MOORE: Comes out to about 15 cents an hour.

6 [Laughter.]

7 COMMISSIONER ORDWAY: That's the same wages.

8 ACTING CHAIRPERSON McCARTHY: Take it under
9 submission.

10 [Laughter.]

11 ACTING CHAIRPERSON McCARTHY: All right. Are
12 you finished, Mr. Moore?

13 MR. MOORE: Yes. Thank you.

14 ACTING CHAIRPERSON McCARTHY: Mr. Tom Adams.

15 MR. ADAMS: Thank you, Lieutenant Governor.

16 I'm Tom Adams. I'm a lawyer. I represent Kuman
17 Corporation which proposes with the City of Belmont to
18 develop the park in this area and to build a development
19 on some adjacent property.

20 I don't want to take up much additional time.
21 I'd just like to make a brief comment. That is that I
22 think, as is appropriate when there's competing concerns
23 here, there have been long negotiations over this thing
24 and I think that most of the things have been resolved
25 in ways that are very favorable to the State. Your staff

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1 has, I think, worked well to represent the State interest.

2 The current site is a garbage dump. It has
3 a single ball field on it and very low-grade public uses.
4 O'Neill Slough which is a public waterway is partially
5 blocked. If this agreement is approved, several ball
6 fields will be able to be constructed and there will be
7 greatly enhanced public use of what is really a former
8 garbage dump.

9 Assuming the problems with Caltrans and
10 endangered species can be resolved, the culvert will be
11 removed and O'Neill Slough will be opened up to free flow.
12 Additionally, this development or this agreement contains
13 a development line so that there can't be any intrusion
14 on the banks close to the slough. So that the natural
15 biological values of that area will be protected.

16 I think that this agreement will greatly enhance
17 the public trust uses of this property over what they
18 are now and over anything that would be possible without
19 it. So we think that it greatly commends itself to you
20 and would like to support it.

21 I'd be happy to answer any questions about any
22 specific points, but generally that would be my testimony.

23 ACTING CHAIRPERSON McCARTHY: Any questions
24 of Mr. Adams?

25 Thank you, Mr. Adams.

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1 MR. ADAMS: Thank you very much.

2 ACTING CHAIRPERSON McCARTHY: Does staff have
3 any final point it wants to make before the Commission
4 makes its decision?

5 EXECUTIVE OFFICER DEDRICK: I don't think so,
6 Mr. Chairman.

7 ACTING CHAIRPERSON McCARTHY: What's the pleasure
8 of the Commission?

9 COMMISSIONER ORDWAY: I'll move the agreement
10 as presented by staff.

11 COMMISSIONER JERVIS: Second.

12 ACTING CHAIRPERSON McCARTHY: The Commission
13 unanimously approves the recommendation of staff.
14 Item 33.

15 EXECUTIVE OFFICER DEDRICK: This is a ratification
16 of the Executive Session action from last month for us
17 to hire an expert witness on geophysical matters.

18 ACTING CHAIRPERSON McCARTHY: Any questions
19 on Item 33?

20 Hearing none, approved.

21 34.

22 EXECUTIVE OFFICER DEDRICK: 34 is permission
23 to put out a notice of intent to contract for the
24 preparation of a joint federal/state environmental document
25 for the All-American pipeline which is currently proposed

1 to run between Taft, California and Midland, Texas.

2 ACTING CHAIRPERSON McCARTHY: Any questions
3 in the audience on Item 34?

4 All right, approved.

5 35.

6 EXECUTIVE OFFICER DEDRICK: Item 36 -- Item
7 35 is off calendar.

8 Item 36 --

9 ACTING CHAIRPERSON McCARTHY: About time you
10 made a mistake.

11 [Laughter.]

12 ACTING CHAIRPERSON McCARTHY: Oh, Item 35 is
13 off calendar.

14 COMMISSIONER JERVIS: There's one more.

15 ACTING CHAIRPERSON McCARTHY: All right. That's
16 right. Doggone it, I thought you made a mistake.

17 36.

18 EXECUTIVE OFFICER DEDRICK: I'm sorry, Governor.
19 I'll do my best.

20 36 is authority to execute an agreement for
21 the lease of word processing equipment for Sacramento
22 and Long Beach which we desperately need.

23 ACTING CHAIRPERSON McCARTHY: Any questions
24 by Commissioners?

25 Anyone in the audience?

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All right. Item 36 is approved.

That's the end of the agenda.

EXECUTIVE OFFICER DEDRICK: That's correct.

ACTING CHAIRPERSON McCARTHY: Thank you. This
Commission meeting is ended.

[Thereupon the State Lands Commission
meeting was adjourned at 11:15 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 19 day of October, 1983.

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