

1 MEETING

2 STATE LANDS COMMISSION

3 STATE OF CALIFORNIA

4
5
6
7
8
9
10
11 STATE CAPITOL

12 ROOM 447

13 SACRAMENTO, CALIFORNIA

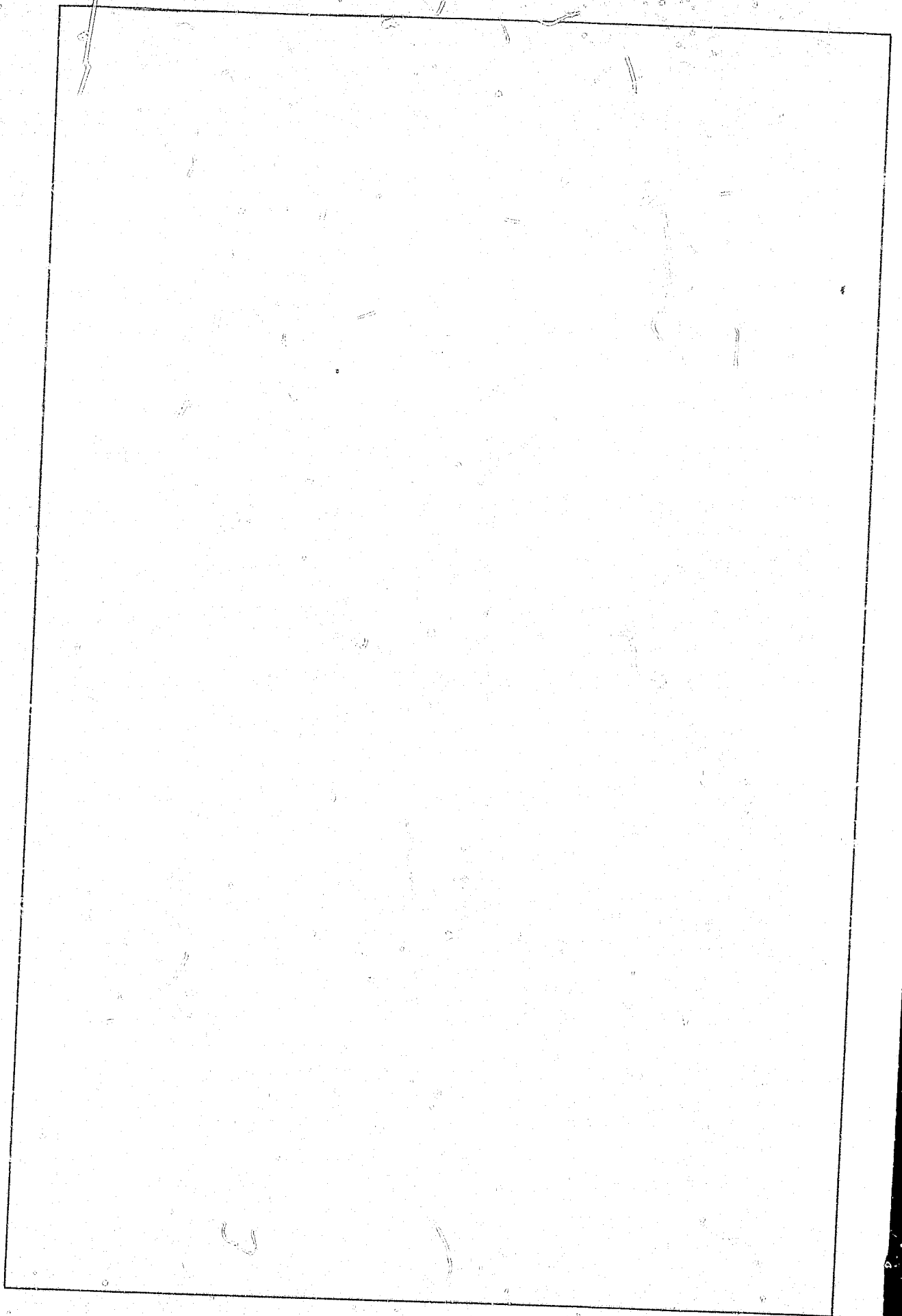
14
15
16
17
18 WEDNESDAY, JUNE 26, 1985

19 10:30 A.M.

20 ORIGINAL

21
22
23 Reported by:

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



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

MEMBERS PRESENT

Kenneth Cory, State Controller, Chairperson
Susan Wallace, representing Leo T. McCarthy, Lt. Governor

MEMBERS ABSENT

Jesse R. Huff, Director of Finance, Commissioner

STAFF PRESENT

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

ALSO PRESENT

Dave Judson, Deputy Attorney General
Michael Crow, Deputy Attorney General

INDEX

	<u>Page</u>
1	
2	
3	1
4	1
5	1
6	1
7	2
8	2
9	2
10	14
11	14
12	15
13	15
14	16
15	16
16	17
17	17
18	18
19	19
20	19
21	20
22	20
23	21
24	23
25	27
	28
	29
	32
	33
	35

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

Page

Bob Binnewies, Superintendent, Yosemite National Park	37
Beverly Barrick	39
Doug Vagim	42
George Thomas	48
Marie Escola	49

Item 49, United States Air Force, Fort MacArthur Military Reservation	53
Item 50, United States Department of the Navy	54
Item 51, State Lands Commission (Party)	54
Item 52, State Lands Commission (Party)	54
Item 54, State Lands Commission (Party)	54
Item 55, State Lands Commission (Applicant)	55

Adjournment 56

Certificate of Shorthand Reporter 57

PROCEEDINGS

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

We have some housekeeping items to deal with first so that you'll keep track of where we are. There are certain items that are on the printed calendar that have been taken off calendar for a variety of reasons. They include Item C8, Items 18, 20, 26, 27, 32, 37, 39, 40, 42, 45 and 53. If I am correct in that recitation, those are the items that have been removed from the calendar. So if there's anyone who's anxiously awaiting for the disposition of those items, it ain't going to happen today.

We also have Items C16 and C17 are removed from the Consent Calendar to the Regular Calendar. So the Consent Calendar is the first item to be taken up. They were the items that were marked with a "C" in front of the number with the exceptions of C8, 16 and 17. They will be taken up in a single motion to effectuate staff recommendation per the calendar item unless there is someone in the audience who disagrees with the proposed staff disposition of those items.

Anyone here for any of those items that disagrees with the proposed staff disposition, if they would please let me know now so we can remove the item.

Hearing none, without objection, the Consent Calendar will be approved and we will then move to Item 16.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman before you

1 do that we do need to confirm the minutes of the May 23rd
2 meeting.

3 CHAIRPERSON CORY: Thank you.

4 Are there any corrections or additions to the
5 minutes? No.

6 Without objection, the minutes are confirmed as
7 presented.

8 We also have the report of the Executive Officer.

9 EXECUTIVE OFFICER DEDRICK: No report today.

10 CHAIRPERSON CORY: No report today.

11 So we move to Item 16. This is approval of a
12 20-year public agency use permit to the California Department
13 of Fish and Game.

14 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, Item 16 and
15 17 are concurrent. There are no, that we know, of interest
16 in discussion on C16. It is C17 the actual lease to the
17 Crane Cattle Company that you may have an appearance on.

18 CHAIRPERSON CORY: Is there anybody here on Item 17?

19 MR. WILKERSON: Is that affecting property owned by
20 the Bank of America?

21 EXECUTIVE OFFICER DEDRICK: Yes.

22 CHAIRPERSON CORY: You're representing?

23 MR. WILKERSON: The Bank of America.

24 CHAIRPERSON CORY: And would you like to come forth
25 and tell us what you'd like to tell us about.

1 MP. WILKERSON: As I understand, this is regarding a
2 lease of property.

3 EXECUTIVE OFFICER DEDRICK: Sir, would you give your
4 name for the record please.

5 MR. WILKERSON: Aaron Wilkerson, Bank of America.

6 The proposed lease as I understand would involve
7 property that runs adjacent to the Lake Shore Ranch which we
8 own and as such, as I understand it, the fresh water source
9 for cattle is on our property. The lake being alkaline.

10 So, number one, that would be the objection we would
11 have to lease of the property as proposed by the Crane cattle
12 Company and the fact that there is no, nothing to prevent
13 them from mixing, the cattle from mixing.

14 The BLM or whatever agency that owns the land
15 involved that's proposed to be leased, has not fenced that
16 off and last year there was cattle running on that range,
17 came in and mixed, brought in infestation of brucellosis and
18 a great deal of problem associated with that, quarantine or
19 failure to observe quarantine. Basically we're saying that
20 it would not be a feasible stand alone property for leasing.

21 CHAIRPERSON CORY: We have a applicant who's willing
22 to pay us \$5,428 a year to lease it. So there seems to be
23 some evidence that the applicant is willing to --

24 MR. WILKERSON: That is because the applicant's
25 cattle would run on our property, access water on our

1 property. There is nothing that separates the lease they're
2 trying to obtain from our property.

3 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, as I
4 understand it, the property will be financed, at least that's
5 what the calendar item says.

6 Lance Kiley.

7 MR. WILKERSON: I think the freshwater supply is on
8 our property is the big problem there.

9 MR. KILEY: I believe the applicant is here and can
10 answer questions if we want.

11 CHAIRPERSON CORY: Is the applicant here?

12 MR. WILKERSON: I might also say that I'm filling in
13 for someone until they get here because their plane was late.
14 The management people have better information, but this is
15 basically the problem.

16 CHAIRPERSON CORY: Okay. Sir, could you identify
17 yourself and tell us about what you know about this, please.

18 MR. SHERIDAN: My name is Dennis Sheridan and I am
19 the applicant on this.

20 First of all, there are springs located on the lake
21 bottom itself, freshwater springs. I work for Triple S Land
22 and Cattle which owned Lake Shore Ranch for three year I
23 ran cattle out there for them and, true, the lake is
24 alkaline, but there is freshwater springs located all along
25 the property.

1 The infestation that they was talking about of the
2 cattle came from cattle located on Lake Shore Ranch, not
3 cattle located on this property. That's about --

4 CHAIRPERSON CORY: Is the property fenced or is it
5 not fenced?

6 MR. SHERIDAN: Part of it is fenced, it's fenced off,
7 part of it is, yes, and then there's parts of it that joins
8 other properties. I couldn't tell you the names of the
9 properties.

10 CHAIRPERSON CORY: What is the custom and who has
11 the responsibility in that area in terms of running cattle on
12 this? If you get the lease are you going to have your cattle
13 on your neighbor's property and a lot of grief or do you have
14 some way to keep your cattle on your property? That seems to
15 be what they're concerned about.

16 MR. SHERIDAN: Okay. The unlands which is just
17 above the shoreline is really marginal properties. It's only
18 good for two or three weeks in the spring. Other than that,
19 cattle run on the lake bottom itself. That's where, that's
20 where they're not fenced off I'm saying. But then where
21 there is, there is one pretty good portion that is fenced and
22 they can't run on anything but the lake bottom there.

23 CHAIRPERSON CORY: The gentleman is complaining
24 that, he's apparently fearful that if this lease is
25 consummated that your cattle are going to end up on his

1 property. Now, if you get this lease, can you assure us that
2 you're going to keep the cattle off of there?

3 MR. SHERIDAN: Well, sir, as I understand it, any
4 time that there's a private party and a public institution
5 joins, that it's up to the private party to fence the cattle
6 off, and that is open range.

7 CHAIRPERSON CORY: So the custom is open range in
8 the area and it's the private landowner's responsibility to
9 protect it?

10 MR. SHERIDAN: That's correct.

11 CHAIRPERSON CORY: From our legal people, is that
12 your understanding of the law?

13 MR. HIGHT: Yes, Mr. Chairman, that's our
14 understanding.

15 CHAIRPERSON CORY: Do you have some vague familiarity
16 with the community?

17 MR. HIGHT: Yes, some vague familiarity.

18 CHAIRPERSON CORY: Yes, sir, what --

19 MR. WILKERSON: Well, the meander line of the lake
20 as, they call it, goes up and down. Right now, as far as I
21 know, there is no accessible water to the cattle except the
22 alkaline lake. As it is goes down later in the year -- I
23 don't know what about springs, whether there's springs under
24 there or not, but that property is not even visible at this
25 time. There is no way for cattle to obtain water except

1 through infiltration over on our property, and the cattle
2 that came over and brought the infestation were not cattle
3 that were assigned to the Lake Shore Ranch. They do mix and
4 the propriety of having cattle that have to travel for water
5 in the private lands doesn't seem to be an equitable
6 arrangement as far as public lands are concerned.

7 CHAIRPERSON CORY: Is not the custom --

8 MR. WILKERSON: Not the custom for water, no.

9 CHAIRPERSON CORY: The custom for the responsibility
10 of fencing, if you've got private property and you want to
11 keep your property private in an open range area, isn't it
12 your responsibility to fence it?

13 MR. WILKERSON: They can fence off the water if
14 that's what they want.

15 CHAIRPERSON CORY: I mean, where do you want to
16 protect? It's your responsibility to fence off I think is
17 what seems to be what's on the record from our legal people.

18 MR. WILKERSON: Well, this has run that way for as
19 long as it's ever been run I suppose up there. Never come up
20 before as far as the problem is concerned. But I think
21 you'll find if we fence off the land that we have, there
22 would not be access to water.

23 CHAIRPERSON CORY: That's the lessee's problem.

24 MR. WILKERSON: Problem, that's right.

25 CHAIRPERSON CORY: If we can get five grand a year

1 for the state, it seems to me that's five grand we don't have
2 to take out of the taxpayers' hide.

3 MR. KILEY: We do believe that the cattle have
4 indeed in the past, since it is open range, run down onto the
5 lake bed and there has never been a grazing permit for that
6 area. We believe that the cattle on the Lake Shore Ranch
7 have just randomly run over state owned property for a very
8 long period of time.

9 CHAIRPERSON CORY: Awe. Now I understand your
10 interest. In the past whoever owned this ranch got the use
11 of this property for free.

12 MR. WILKERSON: That's true. I know we've owned it
13 since February, some time in that period. There's never been
14 a lease on it is what it amounts to.

15 CHAIRPERSON CORY: Now I understand. The property
16 right rears its ugly head, only this time the public owns the
17 property.

18 MR. WILKERSON: But that is the reason. It's not a
19 stand alone property.

20 CHAIRPERSON CORY: What do you mean it doesn't stand
21 alone?

22 MR. WILKERSON: It doesn't have everything it needs
23 for a feasible --

24 CHAIRPERSON CORY: It's open range it seems like
25 unless you want to fence it and that's the lessee's problem

1 then.

2 MR. WILKERSON: We don't mind fencing it off as far
3 as that's concerned. We just wanted to point out the problem
4 and we don't want the cattle coming over on our property
5 because we have cattle on there already and we don't want the
6 infestation of disease.

7 EXECUTIVE OFFICER DEDRICK: I think the authority
8 for disease prevention on open range lies with the Department
9 of Agriculture.

10 MR. SHERIDAN: May I say something?

11 CHAIRPERSON CORY: Yes.

12 MR. SHERIDAN: Several things. He's talking about
13 water coming off of their property. There is one location,
14 one only, sir, that there is water that comes off of Lake
15 Shore Bank of America property. This upland that I was
16 talking about that I said was only useable for two or three
17 weeks in the spring, has water when it's stormy, but the
18 problem is it's almost in reverse. Their water supply comes
19 from the springs on the lake. Have you ever been there, sir?

20 MR. WILKERSON: Uh-huh.

21 MR. SHERIDAN: I've been there for three years,
22 worked cattle there all that time and I can guarantee you
23 that there is only one location that actually comes off of
24 Lake Shore Ranch. The other waters either comes off of
25 neighbors or it comes off from U.S. Forest Service property.

1 It comes from springs, out of what they call the rim onto the
2 Devil's Garden. That's the name of it. And the water comes
3 from those springs, down onto there, but there is numerous
4 springs on the property itself and where he's talking about
5 it being under water, these acres that we are talking about,
6 because I researched it very carefully, are visible at this
7 time.

8 CHAIRPERSON CORY: You understand that we, the lease
9 that you're applying for is that which the state owns; we're
10 giving you no rights to access to Bank of America property or
11 their water?

12 MR. SHERIDAN: That's true.

13 CHAIRPERSON CORY: Then I think --

14 MR. WILKERSON: And does the state object to us
15 running a fence down into the lake beyond our property in
16 order to catch, onto your property?

17 CHAIRPERSON CORY: You can't run a fence onto our
18 property. That's called a property right, sir.

19 MR. WILKERSON: But that allows the water when it
20 goes down, it allows access around our line to our property.
21 We have no way of fencing it off.

22 CHAIRPERSON CORY: You can fence on your property
23 line but you can't fence on ours. Nature of property right.
24 You can fence in your property.

25 MR. WILKERSON: We can fence it off if you'll permit

1 us to take it down to where the lake goes.

2 CHAIRPERSON CORY: No, you get to fence it where you
3 own. You can't put a fence on our property.

4 MR. WILKERSON: Well, as far as I know nobody owns
5 the lake bottom.

6 CHAIRPERSON CORY: We do. That's what we're leasing.

7 MR. WILKERSON: So you're not going to permit
8 anyone to have his cattle segregated from any other cattle on
9 that property?

10 CHAIRPERSON CORY: As long as you want to fence your
11 property and pay it, you can, but you can't lessen the cost
12 of your fencing by putting your fence on our property. That
13 we can't do for you unless you want to bid a greater amount
14 than this.

15 MR. WILKERSON: I don't know if we ever had an
16 opportunity to bid on it. We sent the application and never
17 received --

18 CHAIRPERSON CORY: It's my recollection you not only
19 received them and had them for a long period of time and
20 haven't exercised them. This gentleman has come in and put
21 his money up.

22 MR. WILKERSON: Our land management people said
23 they did not receive a reply from the request for an
24 application.

25 MR. HIGHT: Staff informs me that they have had the

1 application in excess of a year and have been informed of
2 this activity.

3 MR. WILKERSON: We've been informed of the activity,
4 but we still don't have the application form.

5 CHAIRPERSON CORY: Well, I'm prepared to approve it.
6 Any other --

7 MR. WILKERSON: What is the term of the lease?

8 CHAIRPERSON CORY: It's a ten year lease. July 1,
9 '85.

10 MR. WILKERSON: And we have no right to submit an
11 application now then in spite of the fact --

12 CHAIRPERSON CORY: You've been in touch with us for
13 over a year, sir.

14 MR. WILKERSON: We've been trying to get people back
15 in touch with us for over a year I guess according to the
16 land management people.

17 MR. KILEY: Our staff has had a regular contact
18 with Bank of America and their predecessors over a fairly
19 long period of time.

20 MR. WILKERSON: But we couldn't deal with the
21 property until we acquired it. It was under Triple S until
22 two or three months ago.

23 MR. SHERIDAN: They took it over August the 3rd,
24 1984. I was there.

25 MR. KILEY: The negotiator had informed me in the

1 past that the company that preceded the Bank of America's
2 ownership was requested to enter into a lease over two to
3 three years ago, at least over a long period of time
4 negotiations were carried on and they declined to enter into
5 a lease and no interest was shown by them until after this
6 application came in.

7 CHAIRPERSON CORY: I think we have a valid
8 application before us and I'm prepared to vote on it. I
9 don't see -- You took over the property in August for
10 February. Bank of America is a big organization and they
11 certainly have competent people working for them. If they
12 wanted to do something, they know what the law is and how to
13 go about it.

14 MR. WILKERSON: Do you enforce quarantine provisions
15 on your property?

16 CHAIRPERSON CORY: No.

17 MR. WILKERSON: Who does?

18 CHAIRPERSON CORY: Department of Agriculture.

19 MR. WILKERSON: Do they have authority to require it
20 when it happens?

21 CHAIRPERSON CORY: I believe they do.

22 MR. SHERIDAN: Yes, they do.

23 MR. WILKERSON: That would satisfy as far as we're
24 concerned the disease problem.

25 CHAIRPERSON CORY: Without objection, the lease will

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

be approved as presented on Iter 17 and Item 16 the general permits for Fish and Game will be approved as presented.

EXECUTIVE OFFICER DEDRICK: Thank you, Mr. Chairman.

CHAIRPERSON CORY: Item 19. This is a 25-year lease for a pier in Huntington Harbor , City of Huntington Beach.

Is there anybody in the audience on this item?

I raised a question about the liability insurance and the amount on this. Is there a way we can approve this subject to staff conferring with General Services to make sure we have adequate liability insurance?

EXECUTIVE OFFICER DEDRICK: Yes, I'm sure there is Mr. Chairman.

CHAIRPERSON CORY: I'd like to add that. There's been some problems in this area and I'd just like to make sure we're covered.

EXECUTIVE OFFICER DEDRICK: We will add the appropriate language.

CHAIRPERSON CORY: With the amendment, Item 19 will be approved.

Item 20 is off calendar.

Item 21, approval of a 20-year public agency use permit, Sacramento River, City of Sacramento for the historical and archeological resources of the river. Is there anybody in the audience on this item?

1 Any questions of Commissioners?

2 Without objection, Item 21 will be approved as
3 presented.

4 Item 22, approval of a 35-year general lease,
5 commercial use, on 3.493 acres in Seven Mile Slough at Owl
6 Island.

7 Is there anybody in the audience on this item?

8 Any questions from Commissioners?

9 Without objection, Item 22 will be approved as
10 presented.

11 Item 23, this is authorize an execution of a land
12 exchange agreement between the State of California and Gary
13 Bryce settling various disputes in Palo Verde, along the
14 Colorado River.

15 Is there anybody in the audience on this item?

16 Any questions from Commissioners?

17 Without objection, Item 23 will be approved as
18 presented.

19 Item 24, the City of Redondo Beach wants approval
20 of a resolution passed by the City Council of the City of
21 Redondo which rededicates two parcels of land back to the
22 public trust and the use of proceeds from income from that to
23 improve other public trust properties.

24 Is there anybody in the audience on this item?

25 Questions from Commissioners?

1 Without objection, Item 24 will be approved as
2 presented.

3 Item 25, approval of three-way land exchange in
4 which 3,680 acres of school land in Inyo and Mono Counties
5 will be transferred to BLM in exchange for 407 acres of BLM
6 land in Mendocino County that will in turn transfer to
7 Harwood Investment Company in exchange for 840 acres of
8 Harwood land within the Commission's High Peak Forest
9 Management Unit in Mendocino County.

10 Is there anyone in the audience on this item?

11 Any questions from Commissioners?

12 Without objection, Item 25 will be approved as
13 presented.

14 Item 26 and 27 are off calendar.

15 Item 28, this is authorizing filing four State
16 Indemnity Selections to acquire federally-owned lands and
17 mineral interests in Kern, Solano, Sonoma, Lake and Santa
18 Barbara Counties.

19 Anybody in the audience on this?

20 Any questions from Commissioners?

21 Without objection, 28 will be approved as presented.

22 Item 29, approval of Citibank and Bank of America,
23 and Hibernia Bank as secured parties, new lenders for
24 Wickland on there terminal leases.

25 EXECUTIVE OFFICER DEDRICK: That's correct.

1 CHAIRPERSON CORY: Anybody in the audience on this
2 item?

3 Questions of Commissioners?

4 Without objection, Item 29 will be approved as
5 presented.

6 Item 30, authorize cancellation of Purchase
7 Agreement involving Lots 1, 2, 7 and 8, Section 16, Township
8 1 south, Range 15 east in Tuolumne County.

9 Is there anybody in the audience on this item?

10 Any questions of Commissioners?

11 Without objection, we'll approve the cancellation as
12 requested, Item 30.

13 Item 31, GRI Exploration Corporation, deferment of
14 geothermal lease drilling requirements. This is to defer by
15 30 days the drilling requirements for GRI.

16 Is there anybody in the audience on this item?

17 EXECUTIVE OFFICER DEDRICK: On Item 31 we have a
18 deletion. I want to make sure that it actually got into the
19 calendar. Just a moment.

20 No, that language has not been changed. The
21 Attorney General has a request for a change in the --
22 Jane has it.

23 MR. HIGHT: The language change is in the calendar.

24 EXECUTIVE OFFICER DEDRICK: Your calendar, not mine.

25 CHAIRPERSON CORY: Okay. So we have the right item

1 before us?

5
2 EXECUTIVE OFFICER DEDRICK: We do.

3 CHAIRPERSON CORY: We're sure of that. We know what
4 we're doing. We just look like we don't.

5 EXECUTIVE OFFICER DEDRICK: You got a yellow page in
6 front of you that says 111?

7 CHAIRPERSON CORY: Yes, I've got that.

8 EXECUTIVE OFFICER DEDRICK: That's it. 111 and 112.

9 CHAIRPERSON CORY: I've got -- and it's the yellow
10 pages not the white ones?

11 EXECUTIVE OFFICER DEDRICK: That is correct.

12 CHAIRPERSON CORY: All right. Anybody in the
13 audience on --Do they know what we're doing?

14 (Laughter.)

15 EXECUTIVE OFFICER DEDRICK: They know what we're
16 doing.

17 CHAIRPERSON CORY: We're deferring the drilling
18 requirements on the GRI lease in Item 31; is that not
19 correct.

20 EXECUTIVE OFFICER DEDRICK: That is correct.

21 CHAIRPERSON CORY: Without objection, Item 31 will be
22 approved as presented.

23 Item 32 is off calendar.

24 Item 33 is approval of ten-year maintenance dredging
25 permit, Eureka Forest Products in Humboldt Bay.

1 Anybody in the audience on this item?

2 Any questions from Commissioners?

3 Without objection, it will be approved as presented.

4 Item 34, a dredging permit which was authorized by
5 the Executive Officer for Mendocino County Noyo Harbor, the
6 spoils to be deposited behind a sheet pile bulkhead and on
7 uplands.

8 Is there anybody in the audience on this item?

9 Any questions from Commissioners?

10 Without objection, we will approve the royalty and
11 the agreement the Executive Officer entered into.

12 Item 35, Tenth Modification of the Plan of
13 Development operation of Long Beach fields.

14 What do we need to know about this?

15 MR. TROUT: This is a summary of the economic
16 projections. Production has been higher than was
17 anticipated. Some of the costs have been higher. Moose has
18 details.

19 (Laughter.)

20 CHAIRPERSON CORY: I was about to say good job,
21 Moose, but costs have been higher. Where is our net?

22 MR. THOMPSON: I think I would disagree with this.
23 I think our costs are lower.

24 CHAIRPERSON CORY: Good job, Moose. Production is
25 up. In spite of the burden that you carry at the Executive

1 Office, you do a tremendous job.

2 EXECUTIVE OFFICER DEDRICK: Thank you, Mr. Chairman.

3 CHAIRPERSON CORY: Without objection then, the tenth
4 modification and the economic projections are accepted.

5 The Eleventh Modification is internally moving some
6 money around for core drilling; is that --

7 EXECUTIVE OFFICER DEDRICK: That is correct.

8 CHAIRPERSON CORY: And it's taking some of the money
9 that he saved to get us the higher production to move it over
10 to do something he needs to do to get us higher production
11 in the future.

12 EXECUTIVE OFFICER DEDRICK: For practical purposes.

13 CHAIRPERSON CORY: Anybody in the audience on this
14 item?

15 Any questions from Commissioners?

16 Without objection, Item 36 is approved as presented.

17 Item 37 off calendar.

18 Item 38 assignment of interest in state oil and gas
19 lease PRC 2726 from the Getty Oil Company to Texaco in
20 conformity with the merger I guess is what that's about.

21 EXECUTIVE OFFICER DEDRICK: That is correct.

22 CHAIRPERSON CORY: Anybody in the audience on this
23 item?

24 Attorney General, is this the one that the Attorney
25 General was in court over? That's been dealt with in some

1 fashion? Texaco, Getty --

2 EXECUTIVE OFFICER DEDRICK: On the --

3 MR. HIGHT: Yes, Mr. Chairman, I think it was
4 Texaco-Getty and I think that that case has been dismissed.

5 CHAIRPERSON CORY: So we can go ahead and combine
6 them.

7 Without objection, Item 38 is approved as presented.

8 Item 39 is off.

9 Item 40 is off.

10 Item 41 is a request for staff to reiterate earlier
11 Commission action issuing public agency permit to the
12 Reclamation Board covering the Sacramento River from
13 Collinsville to Chico Landing stating explicitly that the
14 purposes are limited to maintenance of existing levee rip-rap
15 in those areas.

16 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, Raymond
17 Barsch, General Manager of the Reclamation Board has
18 requested by letter that the, first, that it is the
19 conviction of the Reclamation Board that they had received a
20 permit to do what they wanted to be recorded in the record.
21 As you know and have stated, that is not, was not the intent
22 of the Commission at the time the permit in '84 was granted
23 and that has been restated by this Commission at a meeting in
24 May. However, the letter is here for the record. He has
25 also asked that other documents be added to the record.

1 Blake Stevenson I believe is somewhere around here and has
2 those documents.

3 CHAIRPERSON CORY: Do you wish the documents added
4 or not?

5 MR. STEVENSON: Yes, I think they should be.

6 CHAIRPERSON CORY: We'll add those to the record.
7 And they are added to the record so we are now affirming and
8 reiterating our continued and constant position as to what we
9 had done in the past.

10 EXECUTIVE OFFICER DEDRICK: Yes the Commission I
11 think made it very clear at the May meeting that their
12 understanding was the same as it had been in last June which
13 was that the permit was for maintenance of existing rip-rap.
14 However, in the subsequent Court action the judge said did
15 you do this formally and so we are asking you to do this
16 formally.

17 CHAIRPERSON CORY: Is it formal enough to do it by
18 unanimous consent or do you want a motion and a second.

19 EXECUTIVE OFFICER DEDRICK: Formal enough for me.
20 Is it formal enough for the judge?

21 CHAIRPERSON CORY: By unanimous consent is
22 sufficient?

23 MR. HIGHT: Is sufficient.

24 CHAIRPERSON CORY: By unanimous consent we reiterate
25 our position. Item 41 is disposed of.

1 Item 43, staff is requesting authorization for they
2 and the Attorney General to take all steps necessary,
3 including litigation, for the ejection and collection of
4 rentals for the unauthorized use of submerged land located in
5 the bed of Lake Tahoe by Lake Tahoe Cruises, Inc.

6 Is there anybody here in the audience on this item?

7 Would you identify yourself for the record?

8 MR. GRAHAM: I'm Michael Graham, Porter, Simon,
9 Graham and Phelps in Truckee, attorneys for Lake Tahoe
10 Cruises, Inc. And I'd like to urge the Commissioners to
11 defer action on this matter. I am currently negotiating with
12 David Hadly for a lease on the property.

13 There is a jurisdictional question of whether or not
14 the mooring of the boat lied within the jurisdiction of the
15 State Lands Commission. That has been our issue. We're
16 making headway on it and plan to have a meeting next week
17 hopefully, and so I'd like to urge the Commission to defer
18 action on it.

19 CHAIRPERSON CORY: Do you acknowledge the
20 jurisdiction question or not?

21 MR. GRAHAM: It's an issue and I think it's an issue
22 that's unclear enough to be able to --

23 CHAIRPERSON CORY: That we ought to go to Court and
24 litigate it. Why should we wait?

25 MR. GRAHAM: Well, if the State Lands Commission is

1 able to negotiate a lease with us and we drop our challenge
2 to the issue, then there's no need for litigation. If we
3 decide to go ahead --

4 CHAIRPERSON CORY: This action doesn't preclude
5 that. As I understand, it enables that to occur but
6 precludes us losing another month's time to put it back on
7 the calendar if you agree to disagree.

8 MR. GRAHAM: If we agree to disagree I would like to
9 be able to present that to the Commission before you engage
10 yourself in litigation on a jurisdictional issue.

11 In other words, it's acknowledged the State Lands
12 Commission owns the submerged land lakeward of the low water
13 mark Lake Tahoe. This boat happens to moor partly within the
14 low water mark in the public trust area and so there's some
15 issues there and I'd like to have a chance to present that
16 fully to the Commission before you engage yourself in
17 litigation.

18 CHAIRPERSON CORY: Are you prepared to present it
19 now?

20 MR. GRAHAM: It's not necessary at this time because
21 this may become mute if we negotiate and enter into a lease.

22 CHAIRPERSON CORY: Staff.

23 MR. KILEY: This item however only authorizes the
24 proceeding with litigation, it certainly doesn't direct the
25 staff to proceed with litigation. There's a material

1 difference there.

2 MR. GRAHAM: The difference is the Commissioners
3 don't get the benefit of hearing our position on it before
4 authorizing your counsel to commence litigation.

5 CHAIRPERSON CORY: Some day you may be in private
6 practice, too, and you want to be able to bill for both
7 hearings.

8 MR. GRAHAM: We need an extra shot.

9 CHAIRPERSON CORY: I say that in jest.
10 Would they be precluded from coming back and
11 finishing their case if you guys can't get this thing
12 resolved.

13 EXECUTIVE OFFICER DEDRICK: No.

14 MR. HEIGHT: No.

15 EXECUTIVE OFFICER DEDRICK: The Commission regularly
16 hears the other side. It does, however, the authorization
17 indicates that the Commission is very serious about the
18 situation.

19 MR. GRAHAM: I understand.

20 CHAIRPERSON CORY: I am inclined to go ahead with
21 the authorization with the clear understanding you want it on
22 the calendar. You will have your chance to come here and --

23 MR. GRAHAM: If it's a conditional authorization
24 that we have an opportunity to come back and present our case
25 to the Commission before -- In other words, it seems to me

1 that it doesn't, it's conflicting, contradictory --

2 CHAIRPERSON CORY: We are very serious. We believe
3 you don't have a whole lot on your side. We'll listen, but
4 we would like to get you under lease and get it behind us and
5 we'd like to get it done somewhat expeditiously. And rather
6 than get involved in another sequence of notice because of
7 the public law requirements, I'm inclined to go ahead and
8 approve --

9 MR. GRAHAM: Can you merely continue this matter to
10 the next, because if we're going to come back anyway--

11 CHAIRPERSON CORY: No, we will go ahead -- I'm sort
12 of inclined to go ahead and approve it and if you can't
13 satisfactorily negotiate a lease, you think it's too high,
14 you think other terms are jurisdictional questions, before
15 the courts can get to it you can get back on the calendar and
16 if the staff isn't cooperative with you, you know how to
17 reach me. Call my office and we'll get you on the calendar.
18 But I'm sure my having said that you aren't going to have any
19 trouble.

20 MR. GRAHAM: But before this goes to court -- I just
21 want to make this clear for today -- before this goes to
22 court we'll have an opportunity to be here again?

23 CHAIRPERSON CORY: Before you have to be in court,
24 actually litigating-- Somebody may decide to file and get
25 the time running, but that's just paper work. You will have a

1 chance to pitch your wares and you may convince us and you
2 may prevail.

3 Okay. Without objection, the authorization is
4 granted and the staff understands that they're to sit down
5 and negotiate in good faith, and if there are subsequent
6 disagreements the Commissioners want to hear what they are.
7 So they get two bites at the apple--

8 EXECUTIVE OFFICER DEDRICK: Yes, we understand.

9 CHAIRPERSON CORY: --instead of just one.

10 MR. GRAHAM: Thank you, Commissioner

11 CHAIRPERSON CORY: Thank you.

12 Item 43 is approved, authorization is granted.

13 Item 44, request for authorization to settle
14 litigation as authorized and directed by Chapter 447.

15 Is there anybody in the audience on this item?

16 Any questions of Commissioners?

17 Without objection, item --

18 MR. HIGHT: I'd like to add one thing, Mr.
19 Chairman.

20 CHAIRPERSON CORY: You're going to blow a
21 settlement?

22 MR. HIGHT: I'm just going to go make it easier.

23 The calendar item did not include the authorization
24 to file papers in Court finish the litigation.

25 CHAIRPERSON CORY: You would like to amend 44 to

1 include authorization to settle the pending court case?

2 MR. HIGHT: Yes.

3 CHAIRPERSON CORY: Without objection, Item 44 is
4 approved as amended.

5 Item 45 is off calendar.

6 Item 46.

7 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.

8 CHAIRPERSON CORY: There's a technical change that
9 you want to make in this item?

10 EXECUTIVE OFFICER DEDRICK: Yes, sir.

11 We have some language that we would like you to
12 adopt in place of the language that is in the printed
13 calendar item. Mr. Trout has that information.

14 MR. TROUT: San Diego LAFCO has informed us that the
15 legal description that was submitted is in error. Our staff
16 has verified it's in error. Because of the timing, we are
17 asking the Commission to change the word "approve" to
18 "disapprove" so that the affect of your action would be to
19 not approve the description and the annexation.

20 CHAIRPERSON CORY: We can't just change the
21 boundary.

22 MR. TROUT: We're not prepared to amend it at this
23 time.

24 CHAIRPERSON CORY: Okay. So San Diego LAFCO knows
25 we're doing this?

1 MR. TROUT: Yes. In fact, they asked us to put it
2 over, but it was already out. So we decided the easiest
3 thing to do was to recommend disapproval.

4 EXECUTIVE OFFICER DEDRICK: We have a 45 day action
5 time limit. So we pretty well have to disapprove it.

6 CHAIRPERSON CORY: Is there anybody in the audience
7 on this item?

8 Without objection, we will deny the request of San
9 Diego LAFCO in 46 with the understanding that we'll get an
10 amended boundary and back to us; is that correct?

11 EXECUTIVE OFFICER DEDRICK: Correct.

12 CHAIRPERSON CORY: Without objection, Item 46 will
13 be denied.

14 Item 47 is consideration of most appropriate Public
15 Trust needs and uses of tide and submerged lands in the City
16 of Albany.

17 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Commissioner.
18 You authorized the staff to go forward with the Public Trust
19 exercise on that portion of the Albany submerged lands which
20 had not been treated in the previous trust exercise. The
21 hearings were held, testimony was received both spoken and in
22 writing from a broad variety of interests. Staff
23 recommends --and a staff report has been issued. Staff
24 recommends that the trust finding be made that the most
25 appropriate uses for the tide and submerged lands are wild

1 life habitat and open space.

2 Again, a substantial amount of testimony. Mike
3 Valentine is here if you would like to have a more detailed
4 discussion.

5 CHAIRPERSON CORY: For the record, as I recall this
6 item, Santa Fe-Southern Pacific combined railroad, they would
7 prefer not to have the public trust exercised so they can
8 maximize their future options. Is that --

9 EXECUTIVE OFFICER DEDRICK: Yes. The underlying fee
10 owner was originally Santa Fe. It is now Santa Fe-Southern
11 Pacific. This is one of the parcels of land that was dealt
12 with in the Berkeley decision in 1980. We have a property
13 right in the public trust easement. They have fee title to
14 the underlying surface.

15 They were aware of this, well aware of this process,
16 were invited in to testify, to submit plans that they had.
17 They did not do so. I have talked to them. They are aware
18 that the action is before the Commission and what the
19 recommendation is. They have said that they don't like it,
20 but they are not going to fight it.

21 CHAIRPERSON CORY: These are wet and unfilled lands?

22 EXECUTIVE OFFICER DEDRICK: That is correct.

23 CHAIRPERSON CORY: Anybody in the audience on this
24 item?

25 EXECUTIVE OFFICER DEDRICK: No. That's what they

1 told me.

2 CHAIRPERSON CORY: Okay.

3 MR. NELSON: Mr. Chairman, Commissioners, my name
4 is Barry Nelson. I represent the Save San Francisco Bay
5 Association.

6 The association has 22,000 members around the Bay
7 and around the entire state. We've been working for a number
8 of years trying to protect the entire Bay as well as the
9 shoreline and we've been working trying to establish a state
10 park on the shoreline of Alameda County stretching from
11 Albany to Emeryville and we simply would like to urge you to
12 approve trust uses which would be consistent with future park
13 use such as wild life, recreation and open space.

14 CHAIRPERSON CORY: Thank you.

15 EXECUTIVE OFFICER DEDRICK: You are therefore
16 supporting the staff recommendation?

17 MR. NELSON: Yes.

18 EXECUTIVE OFFICER DEDRICK: Thank you.

19 The City of Albany also was very, has told us their
20 support.

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

23 FROM THE AUDIENCE: We're from the City of Albany.
24 We have no comments. We support the staff.

25 CHAIRPERSON CORY: Without objection, Item 47 would

1 be approved, the staff recommendation is approved as
2 presented.

3 Item 48, this is a question of Retrocession of
4 Jurisdiction at Wawona, Yosemite National Park, Mariposa
5 County. This is a request, the staff recommendation is to put
6 the jurisdiction back to the local county; is that correct?

7 MR. HIGHT: Yes. It would provide for concurrent
8 jurisdiction in the area.

9 CHAIRPERSON CORY: Okay.

10 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, we have a
11 letter from William Penn Mott, now director of the National
12 Park Service who asks us to hold up the retrocession until a
13 local Memorandum of Agreement has been signed. I'd like to
14 put that letter into the record.

15 CHAIRPERSON CORY: Okay.

16 MR. HIGHT: In addition, Mr. Chairman, we have a
17 letter from Assemblyman Bill Jones who asks that no premature
18 decision be formalized that might later jeopardize the Wawona
19 landowners. We'll put that in the record.

20 CHAIRPERSON CORY: We'll have that in the record and
21 staff will address that question and at some point before we
22 take action as to whether or not any proposed pier would
23 adversely affect the property rights of those people?

24 MR. HIGHT: Yes.

25 EXECUTIVE OFFICER DEDRICK: We also had a

1 communication from Assemblyman Ken Maddy which we'd like to
2 put in the record.

3 CHAIRPERSON CORY: Okay. Maddy's communication is?

4 MR. HEIGHT: He is urging the Commission to proceed
5 with the retrocession.

6 CHAIRPERSON CORY: Okay. All right. We have some
7 people who would like to speak to us I would guess from these
8 forms. The Executive Director of the National Inholders
9 Association, Charles S. Cushman.

10 MR. CUSHMAN: Yes, sir.

11 CHAIRPERSON CORY: Mr. Cushman, what do you have to
12 say to us?

13 MR. CUSHMAN: The National Inholders Association has
14 11,000 members made up of the people who own property or
15 other equity interest within the boundaries of federally
16 managed lands.

17 I would like to address two things, first of all my
18 own comments and then brierly Director Mott's letter.

19 The citizens of Wawona have struggled for a long
20 time to try to preserve their community. It has been the
21 policy of the National Park Service to remove Wawona
22 ultimately. We were successful in slowing that process, but
23 that is still the underlying policy. Part of that policy is
24 a stringent, gradual screwing down of the regulations and
25 tightening down of the forces and powers that be and

1 jurisdiction is part of that process.

2 The Park Service ignored a 1976 law, The General
3 Authorities Act which required them to divest themselves of
4 jurisdiction. We were successful in reminding them of that
5 and it is presently Interior Department policy and has been
6 achieved in 138 other parks that a good portion of
7 jurisdiction should be retroceded to the states and counties
8 affected.

9 The issue here is not one of retrocession, although
10 it is our view that this letter from the director is an
11 attempt to slow up the process in the hope that some
12 political, some political winds will change and that
13 ultimately retrocession can be avoided if at all possible.

14 The Director's letter is in contravention of
15 Interior Department policy and it's my understanding that the
16 request was made of Interior to send this letter and the
17 Director did not receive that approval and went ahead and
18 sent that letter anyway, and he doesn't even describe it
19 adequately. He calls it a Memorandum of Agreement. It's a
20 Memorandum of Understanding. He's trying to take confusion
21 that occurred in the first hearing before the Lands
22 Commission in Yosemite and make it out as some sort of
23 controversy. There is no controversy. The citizens of
24 Wawona are as far as I know united in their interest in
25 obtaining a good portion of their jurisdiction back. There

1 are others that will speak to that in detail.

2 I think this letter is deliberately designed to
3 provide a cloud or a question in the mind of the Commission
4 and I would suggest that -- well, I don't know how to deal
5 with this letter because I know the letter is not consistent
6 with the policy and perhaps Mr. Fry might be willing to
7 discuss that.

8 If retrocession is tied to a Memorandum of
9 Understanding, then the Park Service will continue to delay a
10 Memorandum of Understanding as they have done for the last
11 several years.

12 CHAIRPERSON CORY: Rather than you belabor that
13 point, if I may ask one of our attorneys here, we have some
14 questions legally as to making the finding of retrocession
15 conditional. Aren't there some legal questions as to the
16 propriety of that?

17 MR. CROW: Yes, Mr. Chairman, Michael Crow, Deputy
18 Attorney General.

19 We do have some serious concerns with making a
20 Commission action conditional upon the execution of a
21 Memorandum of Understanding because of two reasons. One is
22 that we are uncertain whether the Commission is authorized to
23 make such a conditional action under the statute we are
24 operating under, Government Code Section 113; and the second
25 reason concerns the California Environmental Quality Act and

1 what would be turning a, just an unconditional Commission
2 action which would not be under the California Environmental
3 Quality Act into an action which requires the Commission to
4 engage in the review process required by that Act.

5 I might suggest a proper way of proceeding here
6 would be to have the Park Service present, since they are the
7 proponent of this, have them present their case.

8 Mr. Binnewies, the Park Superintendent of the
9 Yosemite National Park is here together with Mr. Ward who is
10 with the National Park Service in San Francisco.

11 CHAIRPERSON CORY: I thought somebody had made some
12 value judgments and I was taking these off the order. I just
13 wanted not to have this gentleman waste his time with
14 something I felt you people in terms of briefing me had
15 raised some serious legal questions.

16 MR. CUSHMAN: I can finish quickly although if we
17 want to turn this into a debate with the Park Service we can
18 certainly do that.

19 The problem that exists is that with the present
20 status, if we assume, and we do not accept the fact that
21 Mariposa County does not have jurisdiction, but if we make
22 the assumption that Mariposa County does not have
23 jurisdiction, then the Park Service is not able to convey
24 certain aspects of jurisdiction and the county is not able to
25 take aspects of jurisdiction because they are not equal. If

1 you accept a retrocession of jurisdiction, then these two
2 entities can get together and work out a MOU that will
3 protect the interests of the citizens of the State of
4 California. There will be no vacuum anymore then presently
5 exists when you have the two parties fighting over who does
6 what which ends up that both of them do some things and
7 neither of them do other things.

8 If you retrocede it, at least give us the chance to
9 be equal citizens with the rest of the State of California.
10 If you do not accept retrocession, than the Park Service
11 based on previous experience will stall and deliberately
12 drive a hard bargain. If you accept retrocession, then the
13 sense of urgency will be upon them to move ahead with
14 retrocession because they will need to do that in order to
15 adequately perform their functions.

16 CHAIRPERSON CORY: The Superintendent of the Park is
17 here?

18 MR. BINNEWIES: Yes, my name is Bob Binnewies,
19 Superintendent of Yosemite National Park.

20 I think the issue here is to try to eliminate
21 conflict and confusion in a privately owned section of
22 Yosemite National Park through the development of a clear
23 Memorandum of Understanding between Yosemite Park and the
24 County of Mariposa.

25 I feel that the Memorandum of Understanding should

1 be ready for signing, sealing and delivering before this
2 jurisdictional change takes place. That has been the
3 recommendation of the Director, Mr. Mott.

4 Should retrocession proceed without a Memorandum of
5 Understanding, I feel that we're going to be placed, both
6 agencies, the county and the park, in a position where
7 conflict and confusion may increase rather than decrease.

8 We have been working very diligently with the
9 county. We have been making excellent progress with the
10 county in terms of developing the detail of the Memorandum of
11 Understanding. We're moving very close to an agreement to be
12 able to sign on the dotted line.

13 My recommendation is that retrocession not take
14 place until a Memorandum of Understanding is ready for
15 signature.

16 CHAIRPERSON CORY: The question that's been raised
17 by our lawyers, do you have any insight? One, they question
18 whether we have legal authority under our statutes to make it
19 conditional and, two, if we do make it conditional that we
20 get into the CEQA statute which requires us to do a full EIR
21 on that which we have not done to my knowledge in any of the
22 retrocession issues before this body. Do you have any
23 comment because that is almost persuasive to me that thus far
24 we have never gotten into that kind of detail. That's left
25 to the local authorities who are in the land use planning

1 business and the federal government agencies who have
2 occupied that sphere of influence. Could you address that?

3 MR. BINNEWIES: I'm sorry, I wish I could help on
4 that question, but I legally can't provide any advice on
5 that. My hope is that rather than make it conditional that
6 it just become effective when we're ready to sign the
7 Memorandum of Understanding.

8 CHAIRPERSON CORY: Okay. Thank you.

9 Beverly Barrick, Did I pronounce that correctly?

10 MS. BARRICK: Barrick, just like Army.

11 CHAIRPERSON CORY: Okay.

12 MS. BARRICK: That's good. You can just be glad I
13 don't use my other name. That's Almassey (phonetic). My
14 husband's name is Almassey and I don't use it for that
15 reason.

16 CHAIRPERSON CORY: Because it's his name of --

17 MS. BARRICK: Because it's even more difficult, the
18 spelling doesn't look like it sounds and people have a lot of
19 difficulty with it.

20 I would like to inform the Commission that as one of
21 the negotiators for Mariposa County we have made some real
22 progress with our Memorandum of Understanding.

23 A draft was given to the Wawona Town Planning
24 Advisory Committee who has been working for two or three
25 years on town planning for the county. A draft of the

1 agreement was given to them and at their meeting of May 5th,
2 the day following the hearing in Yosemite National Park that
3 Committee did vote to accept the draft of the Memorandum of
4 Understanding. It was not a unanimous agreement but it was a
5 majority.

6 At the Board of Supervisors meeting yesterday the
7 draft which had some minor gramatical changes was presented
8 to the Board of Supervisors for their consideration. At the
9 time the Board has had an opportunity to study that MOU and
10 to act upon it, it will then go into the review process that
11 is required of the county.

12 There are two or three still minor things that need
13 to be looked at but basically there is agreement between the
14 National Park Service and the county on the salient points of
15 the agreement. As I see it, the only hold up in the
16 agreement, we do have to go into the public hearing process
17 and as result of the input we receive from the people there,
18 there are possibly some minor changes that the county will
19 wish to make which we would then have to go and discuss with
20 the National Park Service.

21 I don't see any major obstacle to signing that
22 agreement. I understand the National Park Service's
23 position. There has been a great deal of stance taking over
24 the past 40 years. Yes, it's mine; no, it's not yours; yes,
25 it's mine; no, it isn't; yes, it is. And as administration

1 changes have taken place in Washington, the National Park
2 Service has been a benign landlord, quote landlord. They
3 have at times been very punitive to the people of Wawona, and
4 if punitive isn't a good word, maybe it conveys what I'm
5 trying to say anyway.

6 During the current time, the National Park Service
7 has expressed a strong desire to settle this question and
8 they have bargained with us on the local level in good faith.
9 I cannot be responsible or cannot vouch for what has happened
10 in anything but the local level. In the local level there
11 has been good faith bargaining between the county and the
12 National Park Service. I realize that their stance in order
13 to be logical has to be don't give the retrocession until we
14 have the agreement signed. The county's position is that the
15 people of Wawona are the ones who suffer without clear cut
16 lines of authority and the county urges you to grant this
17 retrocession at this time, let us get on with the business of
18 living for the people in Wawona.

19 There have been problems forever about building
20 permits. The way we're working now is that we walk them
21 through. We have tacit agreement that say okay we will do it
22 by thus and so and the Park Service by actuality has said to
23 us we will let the building permits go if they meet county
24 standards. And some of them have been kind of dicey. There
25 are some really small substandard parcels in Wawona. There

1 are a lot of problems with land development in Wawona. But
2 we've been able to walk these through on a one by one basis,
3 and it's working that way. But if you give us the authority,
4 the agreement, if the Commissioners have seen the draft, the
5 agreement states that the county will have jurisdiction over
6 building permits and these kinds of development.

7 It would just make it a lot easier for us to get on
8 with these kinds of projects. Also law enforcement, if we
9 would call for the National Park Service to deputize the
10 Mariposa County Sheriff's Deputy who is assigned to that area,
11 by so doing the people will know that no matter which entity
12 they call they can have law enforcement protection. They are
13 in real need of protection in that area and they need
14 clarification as to who is going to protect them.

15 When the agreement goes into effect, the people will
16 be, the deputy will be deputized and in these areas it simply
17 would make it very much easier for the county to perform its
18 functions.

19 I urge you as representatives of the people of
20 Wawona and Mariposa County to accept this retrocession and
21 leave us to complete our work on the Memorandum of
22 Understanding.

23 CHAIRPERSON CORY: Thank you.

24 Mr. Doug Vagim.

25 MR. VAGIM: Mr. Cory, members of the Commission and

1 staff, thank you for hearing this interesting discussion
2 today because I planned to get into a little different topic.

3 First of all, for the record I am Doug Vagim. I live
4 at 1034 Poplar in Fresno. I am a landowner and my mother
5 lives in Wawona on a piece of property.

6 I was the individual that secured the letter from
7 Assemblyman Jones on the question of jurisdiction for the
8 fact that that lies within his assembly district.

9 Indeed, the question becomes one, if the state has
10 jurisdiction or the federal government has jurisdiction as
11 standing right this instant. Indeed, the Legislative Counsel
12 in '72, '73 found that the state did have jurisdiction.
13 Subsequently to that the Attorney General of California found
14 that the Federal Government had jurisdiction in criminal
15 matters only.

16 So it was a matter of record here that it has been
17 studied and Mr. Jones is very concerned about it. That's why
18 he submitted it to leg counsel because it does a few things
19 that changes things around.

20 First of all, whenever you deal with it in a
21 negotiation situation, as I'm sure everyone knows, dealing
22 with from a position of strength has a lot more effective
23 position for you than dealing from a point of weakness. As
24 the last testimonies have just I think said that there has
25 been a total sphere of, lets say, more than passive

1 persuasion with the fact the Federal Government has always
2 indicated that they've had jurisdiction and basically their
3 jurisdiction grounds are basically by fiat. Only in the fact
4 that they have made a memorandum themselves internally saying
5 we have jurisdiction.

6 Indeed, if you read the statute that this Commission
7 is going under, the statute 1919 that ceded jurisdiction to
8 the federal government, says only the lands that are
9 dedicated for park purposes. Now Wawona, private lands in
10 Wawona have never been dedicated for park purposes and as a
11 matter of fact I think it would be against the National Park
12 Service regulations to have public access, or not public
13 access, but public park land on private land or have a public
14 park land designate and have it only be used by private
15 individuals. I think that would be totally in violation of
16 regulations. And that's why the statute says only for those
17 pieces of property that are dedicated for park purposes, and
18 private land in Wawona has never been dedicated to park
19 purposes.

20 Now what I am asking and what I think Mr. Jones is
21 asking because he's asked me to come because he's pushing
22 some legislation through on the assembly today, is that we
23 hold this in abeyance for, one, leg counsel to find, two,
24 this question is being litigated under federal courts and it
25 is being permitted by the federal court to be litigated, the

1 very question of jurisdiction. It has not been litigated to
2 date and every finding of jurisdiction has always stated that
3 the question has never been litigated. Because it is a huge
4 gap between who has jurisdiction, federal or state.

5 If I may just give a little background. The last
6 few days we've been watching an incident in Beirut that has
7 reminded me a lot of Wawona. The people in Wawona have been
8 in all sense and purposes hostage to the federal government's
9 authority to condemn and indeed they did condemn through the
10 use of Declaration of Taking which I'm sure you all know you
11 go down to the county recorder's office and say now it's ours
12 and tell the landowner later you no longer own your land.
13 And, indeed, that happened in three or four cases and we
14 happened to be one of them. As a matter of fact they even
15 threatened a condemnation for an elderly couple who wanted to
16 build a restaurant.

17 I think that was the last straw and I think things
18 changed a little bit, but yet the potential was always there,
19 particularly when Mr. Mott is saying that we want to go in
20 and wipe out Wawona.

21 Now I believe and Mr. Jones believes that it would
22 be in the state's best interest and the voting people of
23 Mariposa County within his district best interest to have the
24 ability to negotiate from strength. Heretofore the Mariposa
25 County being a small county has never been able to take the

1 federal government to court over this jurisdictional issue
2 because of the expense. I really firmly believe it's a state
3 versus federal government issue and I think we don't have to
4 go to court over it. The litigation that I speak of was
5 basically because it was through a Declaration of Taking.
6 It is in a permanent state of halt from the day they took it
7 which is 1977. So this question of whether the state has
8 jurisdiction now or the federal government has jurisdiction
9 is really a moot point on the trial.

10 But nevertheless, the question still remains, is it
11 a violation of the interpretation or is the interpretation a
12 violation of the statute of 1919 that says only for dedicated
13 park purposes is this land being ceded jurisdiction. I feel
14 it isn't. I know Mr. Jones feels it isn't. Indeed, the
15 people in Wawona as has been said before had been dealing
16 with the position of total weakness because when the Park
17 Service says they don't want us, that is just about it.
18 There isn't any room for budge.

19 As a matter of fact, the current latest draft that
20 the Committee just went over has quite a few loopholes in it.
21 One is it doesn't even provide for a change the way normal
22 general law counties provide for change in a specific plan,
23 i.e., through the general plan amendment two or three times a
24 year. It allows you one meeting a year between the Park
25 Service and the county and if the county submits changes to

1 the map and saying this is what we'd like to do and the Park
2 Service all they have to do is say no.

3 So basically what it really turns out to be is a
4 special or conditional use permit to those lands laying in
5 Mariposa County. I feel the draft, the Memorandum of
6 agreement should be much stronger than that, permitting
7 landowners to go through the normal process which they have
8 now in the sense of being private citizens under the control
9 of the state and county, to go through the Planning
10 Commission, to go through the Board of Supervisors, to public
11 hearings to get a change. That is not true under that draft.
12 They will have to go to a once a year meeting and ask for a
13 change. Park Service says no. That's it.

14 So I feel that those hammers are too strong in this
15 draft and the only reason why they're in there, they've
16 always said, well, we just won't come to an agreement and you
17 will be always under our jurisdiction and we'll tear your
18 cabins down to earth as they have done in the mid 70s through
19 a wild acquisition plan that they had.

20 So indeed that always remains a potentiality. I
21 feel that the state would come to the rescue of little
22 Mariposa County in saying, yeah, let's find out once and for
23 all who has jurisdiction and then the state later can say Mr.
24 Federal Government, we understand that you want to be
25 cooperative because you've indicated your cooperativeness by

1 saying YOU want to cede partial jurisdiction to us.
2 Fine. When we find out that we do have authority, we will be
3 willing perhaps to cede partial jurisdiction back to you with
4 the fact that the county will be negotiating from strength
5 not the federal government. Believe me, the leverage is so
6 much on the federal government's side. It's almost a joke.
7 I guess I'm appealing to the state for that commonsense
8 approach to helping the lowly citizens and I'm speaking
9 primarily for the citizens who live and earn a livelihood in
10 Mariposa County. There are citizens up there who live in
11 other counties of the state who travel up there but it's
12 really the folks who live there year round who are being
13 impacted more than any other citizen.

14 Thank you.

15 CHAIRPERSON CORY: Thank you.

16 Mr. George Thomas.

17 MR. THOMAS: Thank you, Mr. Chairman. I'm George
18 Thomas. I live in Holister, California. I'm a landowner in
19 Wawona. I wish I was as eloquent as the man before me, but
20 I'm not. However, I disagree with some of the things he
21 said.

22 I think retrocession is important at this time to
23 the people that have property there as well as the owners.
24 As far as not having any ability to fight the Park Service, I
25 disagree with him because my wife and I went through that

1 procedure and won our case and after we won our case there
2 were quite a number of people that did the same thing,
3 proceeded the same way. What I found was that as you change
4 superintendents in the park you get a different attitude.
5 The previous superintendent was following out an order and a
6 decision to try to eliminate the people in Wawona. The
7 present superintendent, regardless of what you may have heard
8 before has been willing to work with us. And I sit on the
9 town Planning Council that was appointed by the Board of
10 Supervisors. We have worked on this project for three years.
11 It is our opinion that retrocession should occur. We'll go
12 ahead with this Memorandum of Understanding. I think that
13 with the retrocession we will be in a position to come up
14 with a better Memorandum of Understanding and I would appeal
15 to this Commission to please grant us retrocession.

16 Thank you.

17 CHAIRPERSON CORY: Okay.

18 Marie Escola.

19 MS. ESCOLA: Mr. Cory and Commission, I would like
20 to say initially that our message and our impact here is to,
21 with Wawona is to protect our community as an entity, the
22 people that love each other and live together and to retain
23 our homes and we wish to do it not at the expense of
24 exploiting Yosemite National Park. Since 1960 especially the
25 National Park has used harrassment, intimidation, coercion,

1 fear in an attempt to obtain people's property.

2 Since 1932 there has been no definition of the
3 jurisdiction of Wawona and it's created many problems as some
4 of the other speakers have eluded to.

5 The 1976 Authorities Act which directed the National
6 Parks to proceed toward concurrent jurisdiction was ignored
7 by the National Park until in 1984 the people of Wawona
8 became aware of that Act. Some of those things are just not
9 well publicized and we weren't aware of that.

10 However, in 1982 the people of Wawona had already
11 started working toward creating an environment in Wawona and
12 an atmosphere together with the National Park so that we
13 could work toward retrocession. This was before we even
14 realized there was an Act that directed them to work toward
15 it. We did that by starting working on a town plan, and we
16 felt that if we had a good town plan that not only addressed
17 the problems of the people in Wawona but also protected the
18 National Park, that we would have a better chance of getting
19 a retrocession from the National Park Service. And we
20 presented that first draft of our plan to the Secretary of
21 the Interior in May of 1984 and it was very well received.
22 He said this is a fine plan. It's better than the Yosemite
23 National Park Wawona land use controls under which we had
24 been being governed. However, in June of 1984 the solicitors
25 for the Interior Department indicated that we had, before

1 when we talked about it in May, they said we'll have to get a
2 Memorandum of Understanding. So then in June they came back
3 and said we've talked with the solicitors and we find we have
4 to have the retrocession first before we have the Memorandum
5 of Understanding because there are things that the National
6 Park cannot release, controls that they cannot release until
7 the retrocession has been put over and the jurisdiction, the
8 partial jurisdiction was within the county.

9 And I know in the initial hearings on May 4th and
10 13th there was some confusion about whether the Memorandum of
11 Understanding should be signed first. And we feel that we
12 should go back to the legal opinion of the solicitors and the
13 Secretary of the Interior's office that the retrocession has
14 to come first. And the National Park holding in the complete
15 jurisdiction that they -- excuse me, I'm repeating myself.

16 And we're asking you today to grant us the
17 retrocession of partial jurisdiction in Wawona so that we can
18 then get on with our lives, so that we can get on with
19 creating a good Memorandum of Understanding. There are still
20 items in our town plan which we feel should be directed into
21 the Memorandum of Understanding but they are not of great
22 national import or of any threat to the National Park.

23 They are little everyday things like provisions for
24 home-based occupation and parking controls, fire
25 regulations, a little gift store co-op, sign standards, noise

1 controls. These things are not in the Yosemite Wawona land
2 use controls. They are in our plan and we would like to see
3 them addressed in some way in the Memorandum of
4 Understanding.

5 In conclusion, I would like to say that our plan is
6 much more restricting than part of the directions of the MOU
7 right now, but they all are guidelines and they protect the
8 people of Wawona and they also protect Yosemite National
9 Park. Like in ours we require all rental units to have a
10 fire extinguisher of ten pounds plus instructions of fire
11 control. We think that's important. The National Park has
12 not addressed that.

13 And in conclusion we wish to impress the Commission
14 that we, the people of Wawona, have acted responsibly, we are
15 responsible people, we do not wish to exploit the park and we
16 wish to live with the park system but we wish to have our
17 rights. We wish not to have our property taken from us and
18 we would like to get under this fear under which we've lived
19 for very much for the last 25 years. And if the state
20 accepts the retrocession as is, it will help us to that
21 determination.

22 Thank you.

23 CHAIRPERSON GORY: Anybody else in the audience on
24 this item?

25 Okay. In the staff recommendation from the

1 hearing-- you conducted a hearing. The people of Wawona
2 would prefer to have us do the retrocession?

3 MR. HEIGHT: Yes.

4 CHAIRPERSON CORY: I'm prepared to proceed and
5 approve the retrocession.

6 Are you, Susan? Susan and I agree unanimously to
7 proceed with the retrocession as the staff recommended. Such
8 will be the order.

9 MR. HIGHT: Mr. Chairman with one small cleanup
10 item.

11 Once again, we have to put in the resolution that
12 there are letters on file which we want to make not a part of
13 the record but just they're on file in the office.

14 CHAIRPERSON CORY: These are the letters people
15 have--

16 MR. HEIGHT: Who have written in support.

17 CHAIRPERSON CORY: --support or in opposition. That
18 is a part of the file and we have it in the office for anyone
19 who wishes to--

20 MR. HIGHT: Yes.

21 CHAIRPERSON CORY: Item 49, the United States Air
22 Force Fort MacArthur Military, approval pf retrocession of
23 exclusive jurisdiction over Fort MacArthur Military
24 Reservation, Los Angeles County.

25 Anybody in the audience on this item?

1 Any questions of Commissioners?

2 Without objection, such will be the order.

3 Item 50, clarification of retrocession at Murphy
4 Canyon Heights in San Diego. This is just a restatement of
5 that which everybody thought they had done sometime before on
6 a retrocession matter in San Diego.

7 Is there anybody in the audience on this matter?

8 Nobody there.

9 Without objection, Item 50 will be approved as
10 presented.

11 Item 51, request for delegation of authority of the
12 Executive Officer or her designee to execute agreements for
13 preleasing studies on quitclaims parcels PRC 2198, 2205, and
14 2207.

15 Anybody in the audience on this?

16 Without objection, approved as presented.

17 Item 52, request for delegation of authority to
18 executes preleasing studies on Parcel 1, Point Conception
19 lease sale.

20 Anybody in the audience on this item?

21 Questions of Commissioners?

22 Without objection, such will be the order.

23 Item 53 is off calendar.

24 Item 54, request for delegation of authority for the
25 Executive or designee to execute agreements for services for

1 fiscal year '85-'86 including reproduction, helicopter,
2 representation, legal, site preparation and Owens Lake Dust
3 abatement study.

4 Anybody in the audience on this item?

5 Any questions from Commissioners?

6 Without objection, Item 54 is approved as presented.

7 Item 55, request for delegation of authority of the
8 Executive Officer to execute agreements for major projects
9 budgeted for fiscal '85-'86. These projects include Hazard
10 Removal Study, Sacramento River Archaeology Study, Land and
11 Mineral Appraisals, Cultural Resource Surveys, Road
12 Maintenance Market Feasibility Study and Geothermal
13 Reservoir Simulation, Geophysical Exploration Impact Study,
14 Systems Reliability.

15 Anybody in the audience on this item?

16 Without objection, Item 55 will be approved as
17 presented.

18 EXECUTIVE OFFICER DERRICK: Mr. Chairman, for the
19 record I should make one point here. The Sacramento River
20 Archeology Study was added to the budget. We do not know
21 whether that item will be included. It did not go through
22 the normal Department of Finance process. The authorization
23 would be dependant upon that approval being obtained from the
24 Governor.

25 CHAIRPERSON CORY: I would presume you would not

1 proceed with--

2 EXECUTIVE OFFICER DEDRICK: We would not print it.

3 CHAIRPERSON CORY: Okay, anything else to be brought
4 before the Commission?

5 Without objection, we stand adjourned.

6 (Thereupon, the meeting of the State Lands
7 Commission was adjourned at 11:50 a.m.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SHORTHAND REPORTER

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

I, Cathleen Slocum, a certified shorthand reporter of the State of California, do hereby certify

That I am a disinterested person herein; that the foregoing meeting of the State Lands Commission was reported by me, Cathleen Slocum, and herein after 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 herein set my hand this 19th day of July, 1985.

Cathleen Slocum
Cathleen Slocum
Certified Shorthand Reporter
License No. 2822