

MEETING

STATE LANDS COMMISSION

STATE OF CALIFORNIA

STATE CAPITOL

ROOM 447

SACRAMENTO, CALIFORNIA

ORIGINAL

THURSDAY, MAY 22, 1986

10:05 A.M.

Reported by:

Cathleen Slocum, C.S.R.
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MEMBERS PRESENT

Lizabeth Rasmussen, Acting Chairperson, representing
Kenneth Cory, State Controller

Nancy Ordway, representing Jesse R. Huff, Director of Finance

Jock O'Connell, representing Leo T. McCarthy,
Lieutenant Governor

MEMBERS ABSENT

NONE

STAFF PRESENT

Claire Dedrick, Executive Officer

Robert Hight, Chief Counsel

James Trout, Assistant Executive Officer

Lance Kiley

W. M. Thompson

Jane Smith, Secretary

ALSO PRESENT

Jan Stevens, Supervising Deputy Attorney General

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PROCEEDINGS

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3 ACTING CHAIRPERSON RASMUSSEN: Let's call the
4 meeting to order. It's the meeting of the State Lands
5 Commission and the first item of business is the confirmation
6 of the minutes of the meeting of April 24th, 1986.

7 Are there any questions, comments on the minutes?
8 The minutes are approved by consensus.

9 The second item is the report of the Executive
10 Officer.

11 EXECUTIVE OFFICER DEDRICK: No report today,
12 Commissioners.

13 COMMISSIONER ORDWAY: Excuse me. For the record
14 could we have it indicated who's voting for this meeting?

15 MR. HIGHT: For the record Lizabeth Rasmussen is
16 sitting in a voting capacity for the Controller and John
17 O'Connell will be sitting in a nonvoting capacity for the
18 Lieutenant Governor.

19 ACTING CHAIRPERSON RASMUSSEN: Thank you. The next
20 item on the calendar is the consent agenda, Items 1 through
21 24. These are items that have been deemed to be
22 noncontroversial.

23 Are there any items from the consent agenda that
24 anyone would like to pull out for discussion? I see no
25 hands.

1 The consent agenda has been moved. Any questions,
2 comments? Consent agenda is approved by consensus of the
3 Commission.

4 On the regular agenda Item 41 has been pulled off
5 calendar.

6 EXECUTIVE OFFICER DEDRICK: Excuse me. Exactly what
7 I was going to remind you of. Sorry to interrupt.

8 ACTING CHAIRPERSON RASMUSSEN: First item on the
9 regular calendar is Item 25, Riverbank Holding Company.

10 Any report from the staff at this point?

11 EXECUTIVE OFFICER DEDRICK: Bob, do you want to give
12 the staff report?

13 MR. HIGHT: I'm wondering if --

14 COMMISSIONER ORDWAY: For some reason we can't hear
15 you with your mike. Your mike's not on.

16 MR. HIGHT: This is a request which was put over
17 from last month by Riverbank Holding Company for an exemption
18 from the Commission's river moritorium.

19 The staff of the Commission has on Item 26 the
20 report on the carrying capacity of the Sacramento River and
21 it is our request in that item that the Commission put out
22 the report for public comment for two months and the
23 moritorium would remain in effect during that length of time.

24 ACTING CHAIRPERSON RASMUSSEN: Would it be more
25 appropriate to take up Item 26 first?

1 EXECUTIVE OFFICER DEDRICK: That's what we were
2 wondering if you would like to do that.

3 ACTING CHAIRPERSON RASMUSSEN: Why don't we do that,
4 take Item 26 up?

5 EXECUTIVE OFFICER DEDRICK: Commissioners, as you
6 recall, at the time that the Riverbank proposal came in
7 initially which was about a year and a half ago, the
8 Commission expressed concern that there was a lot of
9 proliferation of marinas and not any real knowledge as to
10 what the significance of that was on the river.

11 As a result, asked the staff to put together a study
12 of what you might call cumulative effects, although it's not
13 intended as an environmental impact report, but rather a
14 study of the impacts of increasing marina developments. And
15 for the period of the study, called for a moratorium on new
16 marina construction or increases in the size of existing
17 marinas.

18 The staff met at length with a variety of, with all
19 of the local and federal agencies who have authority on the
20 river in developing the scoping of the proposal for the river
21 study. We also spent a good deal of time with various
22 members of the public in that process.

23 The contract was awarded last fall to the
24 consultants, who are present by the way. Anne Sands in the
25 front row here in the very pretty dress is head of the

1 consulting joint venture that did the work. The report -- I
2 should at this point stop. I should have stopped sooner and
3 let Lance Kiley who was in charge of making all this happen
4 give you the report.

5 MR. KILEY: The staff went in to, as Clare said,
6 conducted interviews with various people and members of the
7 public and also with all the affected local agencies. We
8 took a trip, went so far as to take a trip down the river on
9 a riverboat with all the political people that we could
10 gather from all the local jurisdictions to scope the study.
11 And then once the study got underway, the consultant
12 conducted a fairly thorough study given the guidelines that
13 we had at that time.

14 We are now at the point where the staff feels and
15 the consultant feels that traffic from boat ramps contributes
16 quite a lot to the overall traffic on the river and the staff
17 is requesting an augmentation of the contract to cover a
18 further study of boat ramp traffic on the river and also a
19 study of wave wash effects on the levee, on the levee system,
20 on the berm system adjacent to the levee system on the river
21 to determine what effects wave washes may have on some of the
22 residential structures that exist between the levee and the
23 river along the Garden Highway area.

24 EXECUTIVE OFFICER DEDRICK: The consultant's report
25 includes about 30 conclusions and 56, as I recall,

1 recommendations, some of which could be quite controversial.

2 What staff would propose is that because of the
3 generally wide public interest in the study and the result
4 that it may have both for the decision making of this
5 Commission and for the other governmental agencies with
6 responsibility on the river, that would put the report out
7 for public review for 60 days and return with recommendations
8 to you on, at the August meeting or sometime in August. We
9 also recommend --

10 COMMISSIONER ORDWAY: Question.

11 EXECUTIVE OFFICER DEDRICK: Certainly.

12 COMMISSIONER ORDWAY: The report is going out when
13 for 60 days?

14 EXECUTIVE OFFICER DEDRICK: As of today.

15 COMMISSIONER ORDWAY: As of today. So the 60 days
16 would be over late July?

17 EXECUTIVE OFFICER DEDRICK: That's correct.

18 COMMISSIONER ORDWAY: Our August meeting I believe
19 is the 28th of August?

20 EXECUTIVE OFFICER DEDRICK: Yes.

21 COMMISSIONER ORDWAY: Is it possible to deal with
22 this prior to the 28th of August? Does that give staff
23 enough time to review the comments submitted?

24 EXECUTIVE OFFICER DEDRICK: Say that again.

25 COMMISSIONER ORDWAY: Is it possible to deal with

1 the comments that come in on the report prior to the 28th of
2 August?

3 EXECUTIVE OFFICER DEDRICK: Yes, I would think that
4 two or three -- well, what do you think, Lance, is two weeks
5 enough time for you to handle that?

6 MR. KILEY: The staff could handle that. I'm not
7 sure that the consultant could. I think the consultant has a
8 need to examine at least some of the really high intensity
9 use periods during the month of July, for example, during the
10 weekend periods. I'd have to defer to the consultant as to
11 whether they can put that together in that period of time.

12 COMMISSIONER ORDWAY: And advance it maybe two
13 weeks.

14 EXECUTIVE OFFICER DEDRICK: The other thing I was
15 thinking is you don't really have to have a 60-day public
16 review period. We could have a 45-day public review period.
17 But Anne, do you think -- how far into July do you think
18 you're -- we were thinking that the heavy use weekends are
19 certainly July 4th weekend and that, the beginning part of
20 the month. Would that be enough to give you the
21 confirmation, let you know whether you're confirming or have
22 problems with your existing data?

23 MS. SANDS: It would be tight. I'm not sure that
24 we'd come up with a clean product. It would be real enough
25 numbers.

1 MR. MEYER: The problem would be time for review by
2 your staff. We could probably set a target in mid-July.

3 EXECUTIVE OFFICER DEDRICK: Well, if we can hit a
4 target in mid-July --

5 COMMISSIONER ORDWAY: Why don't we leave it up for
6 the staff to determine, but I would prefer to have it earlier
7 if we can reasonably do that rather than delaying it until
8 the end of August.

9 EXECUTIVE OFFICER DEDRICK: Do you think the
10 Commission would be willing to have a special meeting on the
11 20th?

12 COMMISSIONER ORDWAY: Yes, I would be.

13 EXECUTIVE OFFICER DEDRICK: In that case I'm sure we
14 can do what you're asking for.

15 MR. KILEY: The staff would be very happy to apply
16 every effort that we possibly can, too.

17 COMMISSIONER ORDWAY: Fine. Thank you.

18 EXECUTIVE OFFICER DEDRICK: That would still leave
19 two or three months before winter weather hits.

20 COMMISSIONER ORDWAY: That's correct.

21 EXECUTIVE OFFICER DEDRICK: I think that would be
22 wise.

23 ACTING CHAIRPERSON RASMUSSEN: I think you have an
24 idea of the direction we're heading then. We want to be as
25 accommodating as possible and get our study done.

1 EXECUTIVE OFFICER DEDRICK: Yes, I think I
2 understand.

3 ACTING CHAIRPERSON RASMUSSEN: On this item we have
4 been asked to augment the contract in the amount of \$30,000.

5 EXECUTIVE OFFICER DEDRICK: That is within the
6 budgeted amount of money. We still have money in the budget.

7 ACTING CHAIRPERSON RASMUSSEN: Any questions or
8 concerns on that? Then I assume that the augmentation is
9 approved by consensus of the Commission.

10 Anything else under Item 26 then?

11 EXECUTIVE OFFICER DEDRICK: Well, there are other
12 resolutions we'd like you to adopt that are all on Page
13 147.3.

14 MR. KILEY: These are the resolutions essentially
15 authorizing distribution for public comment which the staff
16 strongly feels should be done since the public was involved
17 in the process up to this point and in extending the
18 moratorium for the period of the study.

19 ACTING CHAIRPERSON RASMUSSEN: Any questions on
20 that?

21 COMMISSIONER ORDWAY: I have a question on four.
22 Maintaining the moratorium until when? I would assume that
23 would be till the August meeting?

24 EXECUTIVE OFFICER DEDRICK: Until the Commission is
25 ready to lift it. We would assume that would be the August

1 meeting also.

2 COMMISSIONER ORDWAY: The August special meeting?

3 EXECUTIVE OFFICER DEDRICK: Whatever time you're
4 ready to, you feel you have the data you need to lift the
5 moritorium.

6 COMMISSIONER ORDWAY: But it would be back on
7 calendar at that time?

8 EXECUTIVE OFFICER DEDRICK: That's correct.

9 MR. KILEY: That's correct.

10 ACTING CHAIRPERSON RASMUSSEN: Any other questions
11 on these four items? The recommendations by the staff on
12 Page 147.3 are approved as presented by consensus of the
13 Commission and we'll return to Item 25.

14 Has the staff made its presentation? Was there
15 anything else that the staff needed to add at this point?

16 EXECUTIVE OFFICER DEDRICK: Well, staff is obviously
17 recommending that the exemption not be granted.

18 ACTING CHAIRPERSON RASMUSSEN: I have one request to
19 speak from Kip Skidmore. We need your name and who you're
20 representing for the record, please.

21 MR. SKIDMORE: My name is Kip Skidmore. I represent
22 Riverbank Holding Company.

23 In light of the study that you're now going to issue
24 on the public, we would like to have this item continued to
25 give us time to look at the study and see how it affects us.

1 We have a critical problem that is June 1st to apply for a
2 state grant. However, in light of the study, I think we
3 probably should review that prior to that.

4 I would, however, in asking this item be pulled, I
5 would like to have Mr. David Shore, the local city councilman
6 for this district, make his comments. Those I think are
7 germane to the item. With that I would like to have the item
8 put over until we have time to look at the study.

9 COMMISSIONER ORDWAY: So you'd be looking at
10 probably the August meeting also?

11 MR. SKIDMORE: After reviewing the document, I
12 probably could look at that in three or four days after I get
13 the document, communicate with the staff as to whether we
14 want it on the next regularly scheduled meeting or wait until
15 August. My position at the moment is since we're going to
16 lose our funding anyway June 1st, we'll probably just wait
17 until the study is completed.

18 COMMISSIONER ORDWAY: My only reason for asking if
19 you want it to be put over until August is it appears there's
20 going to be additional work done and more data available. I
21 assume that you'd want to be able to look at that also.

22 MR. SKIDMORE: Yes. And I'm also going to talk to
23 Boating and Waterways and find out if we miss the June 1st
24 deadline if they anticipate funds being available to
25 distribute at their September meeting. I don't think so

1 because there are a number of applications in there, but I
2 would like to find out. The item on exception from the
3 moritorium I would like, but I would also request the staff
4 issue a Letter of Agency to the City of Sacramento so that
5 they are able to at least start their EIR process. I heard
6 at this last meeting at the request of the Commission that we
7 deal with the EIR. The EIR --

8 COMMISSIONER ORDWAY: By Letter of Agency you mean
9 an acknowledgement that the City of Sacramento would be the
10 lead agency on any environmental document?

11 EXECUTIVE OFFICER DEDRICK: No.

12 MR. SKIDMORE: I'm not sure exactly --

13 COMMISSIONER ORDWAY: I'm not sure of the term that
14 you're using.

15 MR. SKIDMORE: I'm using the term that the staff is
16 using, that the City of Sacramento is also using, the letter
17 that they need in order to proceed with an environmental
18 impact assessment or a study. It doesn't commit, as I
19 understand it, it doesn't commit the Commission to anything
20 and it certainly doesn't commit the staff to anything.

21 COMMISSIONER ORDWAY: If I remember right from the
22 last meeting, that means that we would basically acknowledge
23 the City of Sacramento as the lead agency. I don't think I
24 have a problem with that because that's typically the case.
25 But if it goes beyond that, I just don't know what it is that

1 you're referring to. So I would ask staff of, either our
2 staff or the city staff, to inform me.

3 MR. KILEY: As the staff understands the Letter of
4 Agency and its meaning, the Commission would be consenting as
5 a property owner to the processing of this application. That
6 the environmental treatment would be included in that.

7 These things are usually issued in connection with
8 upland parcels where one property owner owns a parcel,
9 somebody else is proposing to develop it. The developer as
10 the applicant is required to have a Letter of Agency.

11 The staff feels that the Commission is acknowledging
12 that the project is going to go forward with this type of
13 letter.

14 COMMISSIONER ORDWAY: Wait a minute. I'm probably
15 one of the few nonlawyers in the room. You've just lost me.

16 EXECUTIVE OFFICER DEDRICK: Commissioner, we have
17 some concerns about this.

18 COMMISSIONER ORDWAY: I'd like to understand what it
19 is first and then I'd like to hear the concerns.

20 EXECUTIVE OFFICER DEDRICK: We are not certain, but
21 we do think -- this is the first time this has ever been
22 raised with State Lands by the city, this question of a
23 Letter of Agency, to my knowledge and to the knowledge of the
24 staff that's discussed it.

25 It appears to confer a property right. I do not

1 feel that we know enough about it to recommend that you make
2 a decision on that today. I would like to be able to review
3 it and get back to you on it before you commit yourself.

4 ACTING CHAIRPERSON RASMUSSEN: Is this a city term,
5 their term for this document?

6 EXECUTIVE OFFICER DEDRICK: Yes.

7 COMMISSIONER ORDWAY: Could Mr. Shore when he comes
8 up maybe tell us what the term means? I'm still not sure
9 what the term means.

10 EXECUTIVE OFFICER DEDRICK: I cannot tell you what
11 the term means.

12 COMMISSIONER ORDWAY: Whoever is coming up, if you
13 could identify yourself for the record. Would you use the
14 mike and identify yourself for the record.

15 MR. WESTLEY: I haven't filled out one of the
16 documents, but my name is Tom Westley. I'm a co-managing
17 partner of the Riverbank Holding Company, the applicant. I'm
18 also an attorney and I have spoken with the city in some
19 detail with respect to this subject and Mr. Lance Kiley also.

20 I talked to Mac Mailes who is the head of Planning
21 Development for the City of Sacramento. And essentially what
22 this document is -- actually, they're requesting two
23 documents. One, a simple Letter of Consent that reflects
24 that, as is normally the case, the lead agency for the
25 environmental study would be the City of Sacramento. And the

1 reason they want that, and this is something separate and
2 apart from the the Letter of Agency, and the reason they want
3 that is they feel since the moritorium is in place, that
4 there's some unique aspect of this particular --

5 COMMISSIONER ORDWAY: I have no problem with that.

6 MR. WESTLEY: That's the first thing that was
7 requested and apparently refused by staff. Second is this
8 Letter of Agency. And the Letter of Agency is like Mr. Kiley
9 indicates. It is normally done when there is another owner
10 of the land in which we're attempting to develop. In this
11 particular case, the State of California owns the land under,
12 has the water rights and owns the land under this particular
13 parcel. They feel, again, I guess because they're looking at
14 it quite closely based upon the fact there is a moritorium
15 and it is an issue, that they feel that they want to be
16 comfortable, have a comfort level established by getting this
17 Letter of Agency which simply says in my understanding that
18 the State of California consents to an ongoing process to
19 determine the environmental impact of this particular point.

20 I mean, it's not, I disagree with staff that this
21 is, this goes beyond that point, but certainly in talking to
22 Mr. Mailles, the only thing that he needs in order to start
23 the process -- because we're between the proverbial rock and
24 a hard place. We have the city saying we need a Letter of
25 Agency and we have the staff saying, no, we're not going to

1 give it to you. So there's no ongoing environmental impact
2 even though they've indicated preliminarily that there's
3 probably going to be a negative declaration.

4 ACTING CHAIRPERSON RASMUSSEN: Is this Letter of
5 Agency requested from all the participating agencies or just
6 the agency that is the landowner?

7 MR. WESTLEY: Just the landowner. It's a document
8 that says Riverbank Holding Company is our agent for the
9 purpose of going forward with whatever is contemplated and it
10 can be limited I would think to soothe the staff's real or
11 apparent concerns with respect to whether or not they're
12 going to go beyond what they really want to do. It's
13 something that we have to have in order to go forward. You
14 will not be presented sufficient information to make a ruling
15 even at a later time unless this is given.

16 COMMISSIONER ORDWAY: Legally what does it commit us
17 to or what would it indicate that we support or not support?

18 MR. WESTLEY: In my professional opinion it can be
19 drafted to be a very limited document. It can say City of
20 Sacramento, we give the consent to Riverbank Holding Company
21 as our agent to file an application to determine the
22 environmental impact at this particular site and leave it at
23 that period.

24 COMMISSIONER ORDWAY: May I have a comment from the
25 Attorney General?

1 MR. STEVENS: I think that the letter will in effect
2 say whatever it says. And it was described by the City of
3 Sacramento as simply a letter consenting to the filing of the
4 application which I guess isn't too far from what Mr. Westley
5 has described.

6 If there's a representative of the city, I think it
7 would be desirable to have it clarified because there are
8 letters and letters. It's not that accepted --

9 COMMISSIONER ORDWAY: Mr. Shore, I think it's your
10 turn.

11 MR. SHORE: Well, I'm a lawyer and I don't
12 understand it either.

13 (Laughter.)

14 COMMISSIONER ORDWAY: Would you identify yourself?
15 Some of us know you.

16 MR. SHORE: I'm Dave Shore. I'm the City Council
17 representative from the City of Sacramento for the district
18 that includes this project. In a moment, we do have Steve
19 Dee from the Planning Department here and I was going to
20 invite him up. I just had a brief comment before I do.
21 Since it's the Planning Department that does the
22 environmental processing, he could probably give you the
23 city's interpretation from the Planning Department standpoint
24 of why they would seek this Letter of Agency.

25 Real briefly the city is on record of supporting

1 your study that you've identified in the last item taking a
2 look at what the, what the capacity is of the river and we
3 support that. It's our understanding we have a one-to-one
4 trade here and it's our anticipation that any future
5 development would probably occur in this area or adjacent to
6 the central city. This area is next to what's known as
7 Bannon Island in an area we plan to preserve that attaches to
8 the American River Parkway. So we view it as one of the
9 remaining, at least from my perspective, I view it as one of
10 the remaining areas where we would seek this type of
11 development.

12 So with the thought in mind that we support the
13 study that you're doing and we understand this to be a
14 one-for-one trade, I would support this project and I would
15 view it as a positive project from the city's aspect.

16 If I might, can I bring up Steve Dee and he could
17 maybe talk to you about the legal aspects from the city
18 planning perspective?

19 ACTING CHAIRPERSON RASMUSSEN: Yes, I would like to
20 hear from him.

21 MR. DEE: My name is Steve Dee. I'm with the
22 Sacramento City Planning Division.

23 The Letter of Agency authorizes the project
24 proponents to file an application for development on land
25 that is owned by the State Lands Commission. I have also

1 been instructed by my manager that it implies that the
2 Commission has no problem with the city issuing an
3 entitlement to develop the project. To that extent, we feel
4 that the Commission should consider the implications of
5 issuing a Letter of Agency.

6 ACTING CHAIRPERSON RASMUSSEN: Thank you.

7 Does the staff have any response at this point? I
8 assume your recommendation is still the --

9 MR. HIGHT: I believe, Madam Chairman, that the key
10 words were "entitlements." That the city is looking for the
11 Commission to say that they don't have a problem with the
12 entitlement of use and I think that's the crux of the issue
13 which has yet to be decided.

14 ACTING CHAIRPERSON RASMUSSEN: I have to say that I
15 have serious reservations about the proposed project and as
16 well I have some serious problems with the existing
17 development and because of both of those reasons, I am not at
18 all willing to issue a letter. And I just think it would be
19 very inappropriate. I have discussed with staff in closed
20 session and asked them to get back to the Commission
21 consistent with our policy and bring us some alternatives as
22 to how we might handle the existing problems that are within
23 this project, the violations that have been outlined. I
24 believe they have been outlined in this agenda item and those
25 alternatives would include but not be limited to litigation.

1 And I'd just like you to know that because I think there's
2 some serious problems and the State Lands Commission's policy
3 has been to take care of problems when they arise.

4 Hopefully, it wouldn't come to litigation, but that
5 is a possibility. But for those reasons, I'm not at all
6 inclined to grant a letter.

7 Are there any comments or questions by the
8 Commissioners?

9 COMMISSIONER ORDWAY: I would probably be more
10 inclined to grant the letter provided it didn't bind us to
11 anything. But given that only you and I are voting, that's
12 the way that one's going to go obviously.

13 ACTING CHAIRPERSON RASMUSSEN: I think you were tied
14 up with some other business when Mr. Dee made his comments
15 and I think they were rather pertinent.

16 MR. HIGHT: The city in essence is saying that the
17 Letter of Agency, they would like to see, if I can put words
18 into Mr. Dee's mouth, an entitlement or an authorization by
19 the Commission that this kind of use would be acceptable.
20 And I think that, that's the issue that is before the
21 Commission in Riverbank Holding.

22 COMMISSIONER ORDWAY: So it would go beyond simply
23 allowing it to be conducted.

24 MR. SKIDMORE: Our purpose in asking for the EIR at
25 this time, I think time is no longer of critical importance

1 that it was a week ago, and that is since we miss our funding
2 date in any case. We are simply trying to have that EIR
3 process done concurrently with the review of the moritorium
4 study. So that when you finish the moritorium study and if
5 you conclude that this area as the study's preliminarily
6 concluded will be an area for further development of marinas,
7 that we don't add another 45 or 60 days on top of that
8 process, again, making that assumption.

9 COMMISSIONER ORDWAY: Would the city be comfortable
10 with a letter that just allowed the EIR process to start?

11 MR. DEE: The environmental assessment would be
12 based on a project as defined pursuant to the California
13 Environmental Quality Act. The project defined in that Act
14 includes a request for entitlement. The entitlement issued
15 by the city for this particular project would be a special
16 permit. That allows the project proponent to move ahead with
17 construction of the docks. To that extent, the environmental
18 assessment would have to be viewed in light of the request to
19 construct.

20 To simply split out the environmental assessment
21 apart from the request for the special permit would mean that
22 you'd have an environmental assessment based on no project
23 because there would be no request for the entitlement. So
24 you have to have a request for entitlement in order to have a
25 project to assess pursuant to CEQA.

1 MR. SKIDMORE: I'm just asking if it is legally
2 possible. We're not asking to bind the Commission to
3 anything with this environmental impact process. We're
4 simply trying to save ourselves 45 to 60 days.

5 COMMISSIONER ORDWAY: I'm trying to do that, too.
6 I'm not finding an answer.

7 MR. SKIDMORE: I don't hear it either.

8 ACTING CHAIRPERSON RASMUSSEN: Is there any
9 coordination in a situation like this between the
10 environmental process and the environmental study that we are
11 having done? Would that cause an additional problem to have
12 the two things ongoing?

13 EXECUTIVE OFFICER DEDRICK: No, I don't believe so,
14 Commissioner. The study that we're doing can be used as, by
15 reference, in any environmental impact reports that are done
16 further down the road. It itself does not interfere in any
17 way. It provides information. So it makes it quicker to do
18 the work later.

19 ACTING CHAIRPERSON RASMUSSEN: That was the second
20 part of my question then. Would the study that we're doing
21 perhaps aid and cut some of the time later on that would be
22 required in the environmental process?

23 COMMISSIONER ORDWAY: May cut the study time, but
24 it's not going to cut the public comment time. It's all set
25 in statute.

1 EXECUTIVE OFFICER DEDRICK: That's true.

2 MR. WESTLEY: Excuse me. May I be heard just for a
3 second? I was just wondering --

4 COMMISSIONER ORDWAY: I think for the reporter you
5 need to use the mike.

6 MR. WESTLEY: I'm sorry. Tom Westley again.

7 I'm just wondering whether the city would accept in
8 lieu of the Letter of Agency just a simple statement that
9 it's all right with this Commission or it's all right with
10 this Commission that we go forward with the environmental
11 study and let us take the risk of it.

12 COMMISSIONER ORDWAY: That's sort of what I asked.
13 I didn't hear a positive response from the city.

14 MR. DEE: We would be willing to review any Letter
15 of Agency that you submit to the city.

16 COMMISSIONER ORDWAY: I'm not talking about a Letter
17 of Agency. I'm talking about a letter that simply says the
18 Lands Commission has no problem, with no positive or negative
19 comments on the project, about having the city conduct the
20 environmental impact report on this project. End of
21 statement.

22 MR. DEE: We would take that under consideration.
23 I can't respond one way or the other at this time though.
24 It's my understanding that we need a Letter of Agency as
25 defined in order to complete our application package.

1 ACTING CHAIRPERSON RASMUSSEN: I'll tell you where I
2 am on this, Nancy, and that is if the only consideration in
3 front of us was whether or not to lift the moritorium or the
4 proposed expansion of the facilities, I think I would have no
5 problem with that. But in light of the fact that we have
6 been given a list of a number of the breaches of the current
7 lease, I'm very hesitant to even do that much at this point.

8 COMMISSIONER ORDWAY: So I take it if there were to
9 be a motion it would die for lack of a second?

10 ACTING CHAIRPERSON RASMUSSEN: That's right.

11 COMMISSIONER ORDWAY: Then I will go back to the
12 original item for why we're here which is the request for an
13 exemption from the moritorium which I believe is being asked
14 to put over until August or until a later hearing?

15 MR. SKIDMORE: After we review the report we'd make
16 that request of staff.

17 COMMISSIONER ORDWAY: I will make that motion
18 putting the item over without prejudice.

19 EXECUTIVE OFFICER DEDRICK: The motion is to put the
20 item over without prejudice.

21 MR. HIGHT: We have one other small problem. The
22 application time under 884 is running. So I guess we would
23 like, from the staff's point of view, so we have additional
24 working time, to deny the application that puts us in a new
25 starting position.

1 ACTING CHAIRPERSON RASMUSSEN: Which is the staff's
2 commendation.

3 COMMISSIONER ORDWAY: When does the time expire?

4 MR. HIGHT: A --

5 MR. SKIDMORE: We filed in March.

6 MR. HIGHT: So it would be -- it's a year, but
7 depending on what happens. It cleans the record.

8 COMMISSIONER ORDWAY: So we have nine months left?

9 MR. HIGHT: Yes.

10 COMMISSIONER ORDWAY: I'm not willing right now to
11 deny because the time of nine months is too short. That may
12 be an option later, but it's to me not an option if we've
13 only used 25 percent of the elapsed time.

14 EXECUTIVE OFFICER DEDRICK: Commissioner, we do not
15 really have a project before us. And I think that the
16 results --

17 COMMISSIONER ORDWAY: What we have before us as I
18 understand is a request to be exempted from the moratorium.

19 EXECUTIVE OFFICER DEDRICK: And what I'm suggesting
20 in relation to Bob's concern is that if the applicant would,
21 you know, withdraw his application and submit a new
22 application after the study period when there's some ground
23 rules and so forth, then the whole problem of 884 goes away
24 and gets into the right context. What we have now is not
25 something that you would want to act on or that we would

1 recommend that you act on. So you could deny it. But on the
2 other hand, you could also just leave it and when we get into
3 July or August, then we have a better idea of what kinds of
4 boundaries the Commission is going to want on leases in the
5 moritorium, in the study area.

6 These people could make an application that fitted
7 those boundaries and start 884 running there. The city could
8 then go forward with their process in an orderly fashion and
9 the whole thing I think would work a great deal better than
10 it is right now. Just get things back into a reasonable
11 level.

12 ACTING CHAIRPERSON RASMUSSEN: Does the applicant
13 have any response to that?

14 MR. SKIDMORE: That's, that's fine with us. We'll
15 accept that. If you want to go through that process, that's
16 fine. We're, at this time --

17 ACTING CHAIRPERSON RASMUSSEN: Would you prefer then
18 that we deny the application or that you withdraw?

19 MR. SKIDMORE: We'll just withdraw the application.
20 I guess we have an application in. I'm hearing, I'm not sure
21 whether we have an application in?

22 EXECUTIVE OFFICER DEDRICK: I'm not sure. If you
23 have, you've withdrawn it then. Is that adequate?

24 MR. SKIDMORE: We would just like the door to remain
25 open. If the study's going to drag on through October,

1 November, December, we would like to resubmit that in
2 September.

3 COMMISSIONER ORDWAY: I would like it to be before
4 us in August.

5 ACTING CHAIRPERSON RASMUSSEN: Yes, we will have
6 something in August.

7 MR. SKIDMORE: Okay.

8 EXECUTIVE OFFICER DEDRICK: Staff has proposed that
9 it will be before the Commission no later than August.

10 MR. SKIDMORE: Then we withdraw the application.

11 ACTING CHAIRPERSON RASMUSSEN: Then Item 25 is --

12 COMMISSIONER O'CONNELL: To go back to the question
13 of whether the city can proceed with an EIR absent a
14 technical Letter of Agency from us, does the city understand
15 that -- I think that Nancy doesn't have any objection. I
16 don't think the Lieutenant Governor were he here would have
17 any objection to allowing the city to proceed with an EIR
18 under the assumption that that should in no way prejudice any
19 decision made subsequently by this group.

20 What we would like to do is, speaking as a nonvoting
21 designate of the Lieutenant Governor, we'd like to find some
22 way of accommodating your needs and shortening the amount of
23 time that it takes you to process some of your problems, but
24 without necessarily prejudicing any subsequent decisions
25 taken by the Commission.

8
1 Can you, in fact, proceed with what you have to do?

2 MR. DEE: The way the process would work is that the
3 project proponent would file an application with the city for
4 a special permit to construct the docks in Sacramento. That
5 request would trigger the need for an environmental
6 assessment because the request for entitlement constitutes a
7 project pursuant to CEQA.

8 Also, to complete the application, we need a Letter
9 of Agency from the State Lands Commission indicating that you
10 have no problem with him filing the application on your
11 property. It also implies that you have no problem with the
12 city going ahead and issuing the request for entitlement.
13 Before that can be done, however, an environmental assessment
14 has to be conducted be it a negative declaration or an
15 environmental impact report.

16 MR. SKIDMORE: Steve, can't they just put something
17 in their letter that says this does not constitute
18 entitlement or request for entitlement or we don't want to
19 give them entitlement?

20 MR. DEE: In order for us to conduct an
21 environmental assessment we need a project. A project is a
22 request for an entitlement. The application for a request
23 for entitlement includes a Letter of Agency.

24 EXECUTIVE OFFICER DEDRICK: That is a city
25 requirement; isn't that correct, Steve?

1 MR. DEE: That's correct.

2 EXECUTIVE OFFICER DEDRICK: It has nothing to do
3 with CEQA, it's a requirement of the city?

4 MR. DEE: Yes. We cannot conduct an
5 environmental --

6 EXECUTIVE OFFICER DEDRICK: CEQA doesn't say they
7 can't be their own lead agency. They can do that.

8 MR. DEE: We cannot conduct an environmental
9 assessment on a nonexistent project. The project as defined
10 is the request for entitlement, a special permit to develop
11 the dock project. So for you to say, yes, we concur with the
12 assessment of the environmental impacts is also to imply that
13 you concur with the issuance of the special permit.

14 ACTING CHAIRPERSON RASMUSSEN: Why has this not come
15 up before? The statement was made earlier that this is the
16 first time we've had this particular problem.

17 MR. KILEY: In almost every single case, in every
18 single case that I can recall the state -- the moratorium
19 didn't exist for one thing and the State Lands Commission has
20 been working hand and hand with the applicant to go forward
21 with the processing of these things. So it just never came
22 up. The city never had I guess a need to go forward.

23 EXECUTIVE OFFICER DEDRICK: Normally deals with
24 upland.

25 MR. KILEY: It normally is an upland procedure. We

1 have not encountered it because in the vast majority,
2 probably 99 and 44/100ths percent of the projects that come
3 before the city is an upland project.

4 ACTING CHAIRPERSON RASMUSSEN: Okay.

5 MR. SKIDMORE: We didn't file one of these letters
6 of agency before we did our major EIR on the project in
7 general. So it's difficult for us to understand, too.

8 ACTING CHAIRPERSON RASMUSSEN: Okay. Anything else
9 on this item then? Thank you, everyone.

10 Item 27, please.

11 COMMISSIONER ORDWAY: Mr. Farr left? He had to
12 catch a plane?

13 EXECUTIVE OFFICER DEDRICK: Yes, ma'am. He asked me
14 to urge you to not let it slip -- this item is the purchase
15 by the Department of Parks of the Scaroni Ranch from the
16 State Teachers' Retirement, from the School Lands Trust.

17 Could I just report to you briefly on a meeting that
18 was held by the Lieutenant Governor with Assemblyman Farr and
19 myself and General Services and Parks? The problem really
20 centers around the disagreements in appraisals between our
21 staff and the staff in the General Services Agency. We
22 frequently do have those disagreements.

23 I, of course, support our staff entirely and I'm
24 certain they're 100 percent right. On the other hand,
25 General Services is equally certain about theirs. The

1 Lieutenant Governor suggested that rather than get into that
2 kind of debate that we just split the difference on the
3 price.

4 We've discussed that, I think the Lieutenant
5 Governor's discussed that with the Controller and he agrees
6 to that. There's a further problem, however, and that is
7 that obviously there isn't any money in SAFCO. So what
8 Assemblyman Farr requested that I put into the record today
9 is that cleaning up this mess in his judgment is good
10 government and he hopes that whatever things that have to
11 happen, that the priority will not slip and that we'll go
12 forward with a settlement of the problem.

13 COMMISSIONER ORDWAY: It's a priority for us also.
14 As I understand the issue right now, the funding portion of
15 the issue, not necessarily the discussions between General
16 Services and Parks and Lands, the funding for this project is
17 currently in in one house and out in the other which makes it
18 an item of conference. Conference Committee does not begin
19 until next week. I don't see where we as a Commission can
20 take any action until we know whether or not there's an
21 appropriation still existing come the 1st of July.

22 ACTING CHAIRPERSON RASMUSSEN: I think this is just
23 an informative item.

24 EXECUTIVE OFFICER DEDRICK: Yes, that is correct.

25 ACTING CHAIRPERSON RASMUSSEN: I don't think any

1 action is required.

2 EXECUTIVE OFFICER DEDRICK: It's a request of
3 Assemblyman Farr.

4 COMMISSIONER ORDWAY: I would like this --

5 ACTING CHAIRPERSON RASMUSSEN: Maybe we will know a
6 little bit more at our next meeting.

7 COMMISSIONER ORDWAY: We may not. The next meeting
8 is scheduled for the 26th of June.

9 EXECUTIVE OFFICER DEDRICK: Correct.

10 COMMISSIONER ORDWAY: We may or may not have a
11 '86-'87 budget by that time.

12 ACTING CHAIRPERSON RASMUSSEN: Probably won't.

13 COMMISSIONER ORDWAY: So I would ask that we can put
14 it on for information purposes for the June meeting, but it
15 more than likely will not be dealt with until the July
16 meeting. However, what I would suggest, since I know there's
17 some urgency to the project, is that -- I feel very confident
18 that the Legislature will deliver a budget on time. The
19 administration will handle the budget within the proper time
20 framing. I think it would be appropriate to file notice of
21 meeting for, if we like Thursday, it would be the 11th of
22 July, special meeting for the purpose of handling this. And
23 you would know by the 30th of June whether or not there were
24 funds available and whether or not to have a special meeting,
25 but I'd have no problem at all with having, if the funds

1 aren't available, having a special meeting the 11th of July.

2 EXECUTIVE OFFICER DEDRICK: Fine.

3 ACTING CHAIRPERSON RASMUSSEN: Then that takes care
4 of the problem as far as the staff is concerned?

5 EXECUTIVE OFFICER DEDRICK: Yes, ma'am.

6 COMMISSIONER ORDWAY: Could you communicate that to
7 Assemblyman Farr?

8 EXECUTIVE OFFICER DEDRICK: I certainly will.

9 COMMISSIONER ORDWAY: Thank you.

10 ACTING CHAIRPERSON RASMUSSEN: Item 28, please.

11 EXECUTIVE OFFICER DEDRICK: This is an approval of
12 an amended land exchange of 550 acres of school lands in
13 Mendocino County to the Harwood Investment Company in
14 exchange for 1175 acres of Harwood land.

15 ACTING CHAIRPERSON RASMUSSEN: Any questions?

16 It's been moved and is approved by concensus.

17 Item 29.

18 EXECUTIVE OFFICER DEDRICK: Item 29 is the approval
19 or request for approval of the interim agreement for lease
20 with the Union Oil Company on their marine terminal in Contra
21 Costa County. We're requesting a six-month interim lease
22 while we negotiate the long-term lease.

23 COMMISSIONER ORDWAY: Motion.

24 ACTING CHAIRPERSON RASMUSSEN: Any other questions
25 on 29? Twenty-nine is approved as presented.

1 Item 30 is an information item.

2 EXECUTIVE OFFICER DEDRICK: Item 30 is a report to
3 you on the status of the deferment of the drilling operations
4 as requested by the Commission on the Chevron leases in the
5 Carpinteria area.

6 ACTING CHAIRPERSON RASMUSSEN: Any questions on Item
7 30?

8 COMMISSIONER ORDWAY: No.

9 ACTING CHAIRPERSON RASMUSSEN: Item 31.

10 EXECUTIVE OFFICER DEDRICK: This is the approval of
11 a reduced letter of credit that is required under a royalty
12 oil sales contract because the value of oil for which they
13 owe us money goes down.

14 COMMISSIONER ORDWAY: Motion.

15 ACTING CHAIRPERSON RASMUSSEN: It's been moved. Any
16 questions on Item 31? Thirty-one is approved as presented.
17 Thirty-two.

18 EXECUTIVE OFFICER DEDRICK: It's a public interest
19 dredging permit to the City of Oceanside for 400,000 cubic
20 feet of material.

21 COMMISSIONER ORDWAY: Motion.

22 ACTING CHAIRPERSON RASMUSSEN: Any questions on Item
23 32? Item 32 has been moved and is approved as presented.

24 Item 33.

25 EXECUTIVE OFFICER DEDRICK: Is the final

1 authorization to cancel the geothermal lease for MSR Public
2 Power Agency in Mendocino County for failure to meet drilling
3 requirements.

4 COMMISSIONER ORDWAY: Motion.

5 ACTING CHAIRPERSON RASMUSSEN: Item 33 has been
6 moved. Any questions? Approved as presented.

7 Item 34.

8 EXECUTIVE OFFICER DEDRICK: The Notice of Intent by
9 the City of Long Beach, Los Angeles County, to spend \$83,675
10 for electrical power service upgrade at their convention
11 center.

12 COMMISSIONER ORDWAY: Motion.

13 ACTING CHAIRPERSON RASMUSSEN: Question on 34?
14 Approved as presented.

15 Item 35 is an information item.

16 EXECUTIVE OFFICER DEDRICK: It's a report on the
17 equity adjustment Elder bill affair and Moose Thompson will
18 quickly report to you.

19 MR. THOMPSON: This is just another report on the
20 progress of this.

21 We started back in December of '85 in which the City
22 of Long Beach sent out some inquiry letters. They sent out
23 17 letters. We've gotten six responses so far to implement
24 this thing. On half of those responses have been negative.

25 One has suggested that the implementation costs be

1 passed on to the royalty owner which I don't think was ever
2 considered in the original bill, and Chevron's proposed an
3 additional payment is that they're now talking about a cost
4 of money through deferment. That is something that has to be
5 borne with the state.

6 We're going to meet early in June with
7 representatives of the town lot people of the City of Long
8 Beach, ARCO who is a town lot working interest handler, and
9 see again if we can go over all the problems here and see if
10 there's any future in it, whether this bill can ever be
11 implemented or not.

12 ACTING CHAIRPERSON RASMUSSEN: This is the item that
13 Mr. Elder is interested in?

14 MR. THOMPSON: We stopped by this morning and talked
15 to Elder's office.

16 ACTING CHAIRPERSON RASMUSSEN: I want staff to make
17 sure that Mr. Elder gets all the information.

18 MR. THOMPSON: Yes.

19 ACTING CHAIRPERSON RASMUSSEN: Any questions on Item
20 35?

21 Item 36.

22 MR. HIGHT: Item 36, Madam Chairman, is the
23 authorization for the Commission to have criteria for
24 repayment of the environmental costs.

25 COMMISSIONER ORDWAY: Motion.

1 ACTING CHAIRPERSON RASMUSSEN: Item 36 has been
2 moved. Are there any questions? Misspelled the word
3 "criteria."

4 MR. HIGHT: He was only a lawyer.

5 ACTING CHAIRPERSON RASMUSSEN: Item 36 is approved
6 as presented.

7 Item 37.

8 MR. HIGHT: The authorization to settle a lawsuit
9 with Tehama County whereby the private property owner will
10 acknowledge the state's navigation rights and provide the
11 state will own everything below the high waterline.

12 COMMISSIONER ORDWAY: Motion.

13 ACTING CHAIRPERSON RASMUSSEN: Any questions on item
14 37? It's been moved and is approved as presented.

15 Item 38.

16 MR. HIGHT: Is the authorization to enter into a
17 boundary line agreement in the City of Los Angeles for the
18 harbor area. The area will go from the Southern Pacific Land
19 Company to the harbor and it will cleanup the respective
20 areas and allow the city to develop the port.

21 ACTING CHAIRPERSON RASMUSSEN: Any questions on Item
22 38?

23 COMMISSIONER ORDWAY: Motion.

24 ACTING CHAIRPERSON RASMUSSEN: Moved and it is
25 approved as presented.

1 Item 39.

2 EXECUTIVE OFFICER DEDRICK: Item 39 is a request for
3 delegation for executing agreements for services for the
4 '86-'87 fiscal year. These include: Reproduction,
5 helicopter flying, legal -- that's the Attorney General's
6 office -- data processing, geothermal reservoir simulation,
7 OCS planning coordination, a couple of contracts with the
8 Controller's office for work that we're doing for them at
9 Marina Del Rey, and some oil and gas expertise contracts with
10 the State Reclamation Board.

11 ACTING CHAIRPERSON RASMUSSEN: Any questions on Item
12 39?

13 COMMISSIONER ORDWAY: I believe it's called the
14 Health and Welfare Data Center.

15 EXECUTIVE OFFICER DEDRICK: Did I miss that? I'm
16 sorry.

17 COMMISSIONER ORDWAY: Just so the record is correct.

18 ACTING CHAIRPERSON RASMUSSEN: Any other questions?
19 Item 39 is approved as presented.

20 Item 40.

21 MR. HIGHT: Is an augmentation of the existing
22 budget for the Attorney General for this year for \$400,000.

23 ACTING CHAIRPERSON RASMUSSEN: Should we make
24 them --

25 COMMISSIONER ORDWAY: Question on this for the

1 Attorney General's office. I assume that we're, in the
2 processing of this this morning, we will expeditiously see a
3 request for change in schedule for an increase in members
4 from the Attorney General's office. I just want to remind
5 you that the Legislature tends to pick on Finance when the
6 departments don't process their paper work quickly. And
7 since this is a current year cost, we're almost to the end of
8 May, we will have a 30-day wait and we hope that the Attorney
9 General's office will --

10 MR. STEVENS: I believe it's underway.

11 MR. HIGHT: I believe it's already in the process.

12 EXECUTIVE OFFICER DEDRICK: We'll let you know.

13 MR. STEVENS: That's right.

14 COMMISSIONER ORDWAY: For both parties, Lands and
15 the Attorney General's office?

16 MR. STEVENS: Yes.

17 ACTING CHAIRPERSON RASMUSSEN: Item 40 is approved
18 as presented. Item 41 is off calendar. So that completes
19 the agenda.

20 Any other business to come before the Commission?

21 EXECUTIVE OFFICER DEDRICK: No.

22 ACTING CHAIRPERSON RASMUSSEN: Meeting is adjourned.
23 Thank you.

24 (Thereupon the Meeting of the State Lands
25 Commission was adjourned at 9:55 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER

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 hereinafter 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 11 day of June, 1986.

Cathleen Slocum
Cathleen Slocum
Certified Shorthand Reporter
License No. 2822