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MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

ORIGINAL

MONDAY, MAY 9, 1988
10:20 A.M.

Nadine J. Parks
Shorthand Reporter

MEMBERS PRESENT

1
2
3 Jim Tucker for Gray Davis
State Controller, Chairman
4

5 Stephen Hopcraft for Leo T. McCarthy
Lieutenant Governor, Commissioner

6 La Fenus Stancell for Jesse R. Huff
Director of Finance, Commissioner
7

STAFF PRESENT

8
9
10 Claire T. Dedrick, Executive Officer
James Trout, Assistant Executive Officer
11 Jan Stevens, Deputy Attorney General
Jack Rump, Counsel

12 Lance Kiley

Curtis Fossum

13 Greg Taylor, Deputy Attorney General
"Moose" Thompson

14 Michael Valentine

Richard Ludlow

15 Alan Hager, Deputy Attorney General

Sue Breece

16 Lisa Lynn
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CHAIRMAN TUCKER: Good morning. We're going to begin with the consent calendar.

And I've received a number of requests for permission to testify. And if there's anybody else who hasn't filled out one of these forms who would like to testify on any of the matters before us, you can obtain from the woman up there at the front. And if there are no objections to any matters on the consent calendar, seeing none, we will deem the calendar to be --

EXECUTIVE OFFICER DEDRICK: Mr. Chairman --

CHAIRMAN TUCKER: -- approved after confirming the minutes to the last meeting.

EXECUTIVE OFFICER DEDRICK: There's one item, sir, that has been pulled from the consent calendar.

CHAIRMAN TUCKER: Okay. What's that one?

EXECUTIVE OFFICER DEDRICK: It's on Consent Item 1, No. 1, the Chevron/Shell lease renewal. If you could state your action to exclude that one, that would be --

CHAIRMAN TUCKER: Okay. The approval of the consent items, without Shell and Chevron request -- for purposes of the record, Mr. Hopcraft is here voting for the Lieutenant Governor today. And he and Mr. Stancell

1 will be voting on the items.

2 I'm just refereeing. So, if they get out of
3 hand, I'll rap their knuckles.

4 Okay. On the regular calendar, Item No. 17,
5 we're going to leave that to the end.

6 Item No. 18, City of Sacramento.

7 EXECUTIVE OFFICER DEDRICK: Mr. Chairman,
8 several items have been pulled from the calendar. Perhaps
9 you'd like to have me present that first.

10 CHAIRMAN TUCKER: Okay. The items pulled, I'm
11 sorry, are 18, 19, 21, 22, 27, 28, 31, 32, and 34.

12 EXECUTIVE OFFICER DEDRICK: That is correct,
13 sir.

14 CHAIRMAN TUCKER: Okay. So that leaves us
15 with No. 20. Union Oil Company.

16 EXECUTIVE OFFICER DEDRICK: Yes. This is a
17 consideration of an 18-month extension from the time the
18 lease for the pier in Contra Costa County terminated in --
19 on April 1st, 1987.

20 So, what we're asking for is an extension to
21 September 30th of this year to continue negotiations on a
22 new lease for that installation.

23 CHAIRMAN TUCKER: Okay. Mr. Hopcraft, do you
24 have a question?

25 COMMISSIONER HOPCRAFT: I do. I would like to

1 know from staff what leverage, if any, we can exercise to
2 bring Union Oil into compliance with water and air quality
3 standards, and if we could exercise any leverage at this
4 point during this lease extension?

5 CHAIRMAN TUCKER: Persuasion, you mean?

6 COMMISSIONER HOPCRAFT: Persuasion or any other
7 form of --

8 EXECUTIVE OFFICER DEDRICK: I think the fact
9 that the Commission is expressing sincere interest in
10 those aspects of the thing, we'll certainly -- it's
11 guidance to the staff to be sure that they're strongly
12 considered in the development of a lease.

13 We'll certainly report back to you on the status
14 of those situations, and whatever we can do to make sure
15 that your concerns are recognized and met.

16 COMMISSIONER HOPCRAFT: That lease would come
17 back to us when?

18 EXECUTIVE OFFICER DEDRICK: Not before the end
19 of September, probably in the September meeting,
20 Mr. Commissioner.

21 MR. KILEY: Unocal is under a stop order or
22 cease or desist type of order from water quality people
23 right now. And they're very nervous about that. So, we
24 are exercising some control over them. And we would not
25 probably not recommend to the Commission any action that

1 would get them out of that bind; we want them to stay in
2 that bind from our perspective.

3 EXECUTIVE OFFICER DEDRICK: Commissioner, the
4 lease is also, as you know, all our leases require
5 compliance with all local, State, and Federal regulations.

6 There is -- we certainly would not recommend
7 any changes in that form. But we'll get more --

8 COMMISSIONER HOPCRAFT: I'd like us to go beyond
9 that and take an affirmative position, and to include
10 possibly some sanctions of our own if they do not comply
11 with the terms of our lease.

12 What enforcement powers do we have, given that
13 our lease requires them to be in compliance and they are
14 not in compliance, what sanctions are available to us or
15 could be added to this lease that we could enforce?

16 EXECUTIVE OFFICER DEDRICK: I understand what
17 you're asking. Let me briefly tell you what the existing
18 situation is.

19 The lease has terminated. The lease in its
20 original form, the old lease, says at the end of the term
21 they either return the land to its natural condition; that
22 is, remove the pier, or if the Commission chooses, the
23 pier becomes the property of the State. It's that area
24 that we're discussing now, the lease for the new pier which
25 will -- for the existing pier, which will be the property

1 of the State.

2 In a general way, violation of any terms of any
3 lease is grounds for denial -- or for rescinding that lease.
4 And I think that that's our basic authority. I probably should
5 have Jack Rump, who is Assistant Chief Counsel, speak to
6 this directly if that's to your pleasure.

7 CHAIRMAN TUCKER: One thing that I think might
8 be helpful, because it's a question that's intended to be
9 more than just a question about Union Oil.

10 EXECUTIVE OFFICER DEDRICK: That's correct. I'm
11 sure it is.

12 CHAIRMAN TUCKER: It may be helpful if someone
13 could prepare a report for the Commission --

14 EXECUTIVE OFFICER DEDRICK: All right.

15 CHAIRMAN TUCKER: -- indicating what our
16 general requirements are, the methods by which we can
17 enforce those. And the other question I would have is
18 what authority do we have to determine, for example, that
19 they have been cited by the EPA? Do we have some way of
20 being notified about that, or do we just have to stumble
21 across it? Will the EPA tell us if we ask them, you know,
22 "Here are the leases. Please notify us anytime there's
23 a problem," et cetera?

24 Because I think that's an important aspect of
25 this. Even if we do have a condition, if we're never going

1 to find out that they have violated one of those terms
2 and conditions, you know, until we read it in the newspaper,
3 then it's probably not as meaningful as it could be.

4 EXECUTIVE OFFICER DEDRICK: Well, we really do
5 keep track, but we'll be happy to get a report to you that
6 clarifies the situation. Does that satisfy you,
7 Commissioner?

8 COMMISSIONER HOPCRAFT: Yes. If we can have it
9 understood that when the lease comes back, I'd like to
10 have that be part of the presentation of the lease.

11 EXECUTIVE OFFICER DEDRICK: Yes.

12 CHAIRMAN TUCKER: Okay.

13 EXECUTIVE OFFICER DEDRICK: The next item, I
14 think, Mr. Chairman is 23.

15 CHAIRMAN TUCKER: Phillips Petroleum.

16 EXECUTIVE OFFICER DEDRICK: Yes. This is the
17 approval of a nonexclusive geologic survey permit on State
18 lands. This is the kind that does not use anything, any
19 air guns or anything like that. It's a question of taking
20 small samples of the sea bottom.

21 CHAIRMAN TUCKER: Any questions? Okay. That
22 item is approved.

23 If there's anyone in the audience, if we happen
24 to go by an item that you did want to speak on, please
25 don't hesitate to say something, stand up, indicate your

1 interest. We can always go back to an item.

2 So, the fact that we seem to be going quickly,
3 does not mean that you should hesitate to speak up.

4 Item 24, Aggregate Transport.

5 EXECUTIVE OFFICER DELRICK: Yes, Mr. Chairman,
6 this item was considered by the Commission approximately
7 three months ago. Let me give you just a brief history
8 to make the record clear.

9 Aggregate Transport was the winner of a public
10 bid for the removal of sand in the Sacramento River, which
11 at that time constituted a navigational hazard where the
12 lock, the Sacramento Lock entered the river opposite
13 Miller Park.

14 The lease that went out to bid required -- put
15 some fairly tight restrictions on where you could dispose
16 of the -- or store, really, the sand from that operation.

17 Those restrictions were dictated by the fact that
18 a previous negotiated lease had resulted in some
19 environmental work for a specific site.

20 To make a long story short, the winner of the
21 bid, Mr. Kay Bell, was unable to reach the same
22 conclusion in regard to a site for storage, because the
23 area in question, which had been in the County of Yolo
24 at the time of the earlier -- at the time the bid was
25 accepted, was now in the City of West Sacramento, and the

1 rules have changed.

2 We have established, I believe, very clearly
3 through a lot of discussions and meetings that Mr. Bell
4 really did endeavor to meet his requirements. Mr. Bell
5 has requested an extension in order to find another buyer
6 or storage place for the sand.

7 I do not recommend that you give that extension,
8 because this bid was a very tightly and hotly contested
9 one. I do not believe that it would be equitable to the
10 other bidders if we did that.

11 So what I'm recommending to you today and -- is
12 that you release -- terminate the lease, but without
13 penalty to Mr. Bell. The original lease required a
14 \$30,000 minimum payment. I believe that he has not really
15 had an opportunity to carry out the conditions of the
16 lease, and therefore the rent would be an inequitable
17 burden.

18 CHAIRMAN TUCKER: Any comments? What's the
19 status of the work? Did any work occur?

20 EXECUTIVE OFFICER DEDRICK: No. No work
21 has occurred at all. In the meantime, I forgot to say,
22 in the meantime, of course, the Port of Sacramento has
23 closed. So, the original driving impetus from the
24 Commission to remove a navigational hazard, though it's
25 still a navigational hazard for navigation on the river,

9
1 it's not of the critical nature that it was when it -- the
2 locks were open and it really interfered with navigation
3 in and out of the locks into the river.

4 CHAIRMAN TUCKER: Is this --

5 EXECUTIVE OFFICER DEDRICK: So the -- excuse me.

6 CHAIRMAN TUCKER: Is this item going to be put
7 out for bid again?

8 EXECUTIVE OFFICER DEDRICK: Yes, we would like
9 to redesign the bid package so that it more nearly fits
10 the true conditions that exist now and put it out for bid
11 again sometime later in the year.

12 The Fish & Game requirements limit the time
13 at which work can be done. And so, any operations would
14 probably not take place until -- I mean, the bid, even if
15 it went into effect prior to that time, could not take
16 place until next year. The work couldn't.

17 COMMISSIONER STANCELL: Why couldn't we just
18 accept the second highest bid or the second lowest bid?

19 EXECUTIVE OFFICER DEDRICK: I'll have to ask
20 Jack to speak to that. I believe once you've accepted a
21 bid, you can't do that. But I --

22 MR. RUMP: Well, I think there might be
23 several considerations to think of here.

24 EXECUTIVE OFFICER DEDRICK: Bring the mike over.

25 MR. RUMP: Can you hear me now? We're not sure

1 entirely of how many additional bidders would be
2 interested in the project, nor the particular bids that
3 they would have in mind. So, I believe the point is
4 that another solicitation, particularly with a stronger
5 provision of performance would be preferable to accepting
6 the second bid.

7 I've forgotten whether or not we actually had
8 rejected the other bids at the time of the first acceptance.

9 CHAIRMAN TUCKER: There's been a passage of
10 quite a bit of time since.

11 MR. RUMP: Yes, there has.

12 EXECUTIVE OFFICER DEDRICK: It's been almost --
13 well, it will be a year by the end of this month. In
14 fact, it's a year and one month probably.

15 CHAIRMAN TUCKER: So, the action of the
16 Commission today would be to cancel the lease and excuse
17 the penalty provisions; is that correct?

18 EXECUTIVE OFFICER DEDRICK: Yes. And I don't
19 believe you have to take the action, but there's a \$5,000
20 deposit that should be returned to be Mr. Bell as well.

21 I don't think it's necessary for you to say
22 that, but for your information.

23 CHAIRMAN TUCKER: Okay. That is approved.
24 Item 25, City of Long Beach, Alamitos Bay.

25 EXECUTIVE OFFICER DEDRICK: Item 25, this is a

1 consideration of a proposed pooling agreement between --
2 by the City of Long Beach for the Alamitos Bay marine
3 stadium area.

4 If you want more input, Mr. Thompson is here
5 if you'd like that further discussed. It's a noncontro-
6 versial item to our knowledge.

7 CHAIRMAN TUCKER: Any questions?

8 COMMISSIONER STANCELL: No questions.

9 CHAIRMAN TUCKER: Okay. That's approved.

10 Item 26, assignment of the Chevron-Phillips leases.

11 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman,
12 this item has been handled in its entirety pretty much
13 by one of our attorneys, who is right behind me, Rick
14 Ludlow. I would like to ask him to present the situation.

15 CHAIRMAN TUCKER: Start out by telling us what
16 your recommendation is and then give us the reasons why.

17 MR. LUDLOW: Well, basically, the recommendation
18 of staff is to authorize the City of Long Beach to execute
19 its discretion in authorizing the assignment of these
20 interests in the LBOD tide lands contract. All the
21 information that the city and the State have requested
22 from the applicant has been received, with the exception of
23 some additional information that the city's auditors would
24 like to have in hand, which include, I believe, pro forma
25 cash flow projection and that type of thing.

1 The representatives of the city are here to
2 explain their position. I think you should probably hear
3 from them directly.

4 CHAIRMAN TUCKER: Okay. Are there some
5 representatives here from the City of Long Beach?

6 Want to come on forward? What's the period of
7 time that the lease has remaining?

8 MR. LUDLOW: It expires February 28, 1989.

9 CHAIRMAN TUCKER: So, they're taking it over
10 for the last 10 months.

11 MR. LUDLOW: Right. Last 10 months.

12 CHAIRMAN TUCKER: Okay. Could you both
13 identify yourselves?

14 MR. EMEK: I'm Bill Emek with the Long Beach
15 City Attorney's Office.

16 MR. COLAZUS: I'm Zen Colazus. I'm the
17 Director of Oil Properties for the City of Long Beach.

18 CHAIRMAN TUCKER: Okay. As I understand the
19 real issue here, the question is the financial ability of
20 American Energy Operations to take over this responsibility.
21 The reason that we might want to have Chevron and Phillips
22 or Long Beach might want to have them continue on the hook,
23 so to speak, is because they clearly have the financial
24 wherewithal to -- to fulfill their obligations.

25 And so, the question would be: Does American

1 Energy Operations have a similar -- certainly not a big,
2 but similar ability to fulfill the obligations undertaken by
3 the lease?

4 MR. EMEK: In a sense, Mr. Tucker, there are
5 two considerations. One is, under the LBOD contract, the
6 parties are jointly and severally liable, and remaining
7 on the contract after this takes place, will be the
8 Exxon Corporation and Conaco. So, we still have two major
9 companies as part of this operation.

10 But secondly, to determine the financial
11 capability of this American Energy Operations, as Mr. Ludlow
12 pointed out, we have asked for a pro forma projection of the
13 cash flow, and we've also asked for evidence of their
14 ability to obtain a \$3.5 million line of credit, which we
15 believe will be sufficient to meet the obligations of the
16 contract for the remaining period.

17 American Energy has assured us they will provide
18 this information, and we will then submit to our people
19 for review and we will be in a position to make an
20 informed decision on the matter.

21 CHAIRMAN TUCKER: Okay. As I understand it,
22 the Commission's action today would be giving the City of
23 Long Beach the authority to either accept or reject this
24 assignment; is that correct?

25 MR. LUDLOW: That's correct.

1 CHAIRMAN TUCKER: And the city is indicating
2 to us that they would like to have the authority to accept
3 or reject after conducting the investigation that you've
4 indicated.

5 MR. EMEK: That is correct, Mr. Tucker.

6 CHAIRMAN TUCKER: Any questions?

7 COMMISSIONER HOPCRAFT: Then the city would like
8 to see the assignment take place if the information is
9 reassuring when it is completely received by the city?

10 MR. EMEK: It would be the recommendation of the
11 staff to the City Council that it take place if the
12 information provided is sufficient to assure us of the
13 financial -- of the ability of American Energy to perform,
14 yes, financially.

15 CHAIRMAN TUCKER: And will we have another
16 crack at it or is this our only chance?

17 MR. LUDLOW: This is your last -- this is the
18 last time it will be before the Commission.

19 CHAIRMAN TUCKER: Is there some reason why we
20 couldn't wait until after you've received the information
21 and act upon a recommendation for the city?

22 MR. COLAZUS: We are supposed to receive the
23 information by tomorrow sometime, sir.

24 MR. LUDLOW: The way the contract is set up,
25 it's an odd situation, where the Lands Commission is supposed

15
1 to come before the city's. It's one of those peculiar --
2 peculiarities that exist.

3 COMMISSIONER HOPCRAFT: Is there any
4 opposition to this assignment that we have heard about so
5 far?

6 EXECUTIVE OFFICER DEDRICK: We have heard none
7 at our staff level.

8 COMMISSIONER HOPCRAFT: I know that the
9 Attorney General in previous assignment cases has raised
10 questions. Those questions do not exist in this instance;
11 is that correct?

12 EXECUTIVE OFFICER DEDRICK: The Attorney General
13 on the case is -- I'm sorry, Jan, would you like --

14 MR. STEVENS: That's all right. Mr. Hager is
15 here, and I think he can speak to it. I don't believe we
16 have any problems with this one.

17 MR. HAGER: I'm not sure what issues you are
18 referring to.

19 COMMISSIONER HOPCRAFT: Well, we were
20 considering the LBOD last time, the Attorney General, I was
21 told, had questions about whether the withdrawal by some
22 of the parties, but not all of the parties, and then the
23 reassignment of those parties' rights raise some legal
24 questions that the Attorney General is not comfortable
25 with.

1 MR. HAGER: The only concerns we had with
2 this transaction have been resolved. Our concern was that
3 we get a commitment to the city in writing under a
4 separate document stating that Phillips and Chevron be
5 responsible for all activities occurring prior to the close
6 of this transaction.

7 And our concerns were environmental -- dumping
8 of waste into toxic waste sites in L. A. County and with
9 respect to liability under pending litigation on windfall
10 profit taxes.

11 We have received agreements of indemnification
12 from both Phillips and Chevron in that regard, and we find
13 them to be in order. So we do not have a problem with it.

14 MR. LUDLOW: We have received an expression of
15 support from the president of the local oil and gas
16 workers union in Long Beach, about 200 of his
17 constituents' jobs would be affected if this LOBD contract
18 were to be terminated and shut down.

19 CHAIRMAN TUCKER: Okay. So, Alan, then the
20 Attorney General doesn't have any problems with the
21 Commission giving the city the authority to either approve
22 or disapprove this assignment?

23 MR. HAGER: That's correct.

24 CHAIRMAN TUCKER: Thank you. Anything else?

25 Okay. Thank you. The item's approved.

1 Let's see. Now we have 27.

2 EXECUTIVE OFFICER DEDRICK: 27 and 28 are off,
3 Mr. Chairman.

4 CHAIRMAN TUCKER: Okay.

5 EXECUTIVE OFFICER DEDRICK: 29, 30, and 33,
6 as well as the ones that are off, among them constitute a
7 single issue area. The problem is that the water level in
8 Lake Tahoe has dropped substantially because of the drought
9 in the central Sierra, and these people are all people who
10 have marina operations up there which are affected by this
11 drop in water.

12 They have asked for permission from the Corps of
13 Engineers and from us to go into what constitutes a
14 maintenance dredging operation.

15 I met with them a week ago Friday to see what we
16 could do in regard to, you know, our ability to act on the
17 grounds of whether or not people had the right
18 environmental documents prepared, or could they be
19 negative declarations and so forth.

20 The Corps has been conducting the basic
21 negotiations. And in those cases where the Corps
22 document, either a letter of permission, which would be the
23 equivalent in our case of a categorical exemption, or a
24 FONSI, which is the equivalent of a mitigated negative
25 declaration, where those documents are available, staff

1 counsel advises me that you can act to grant those -- those
2 maintenance dredging contracts today.

3 That's true in the cases that are on the
4 calendar. In the cases that have been pulled from the
5 calendar, we noticed them, all of them so that we could
6 act on those which were ready. In those cases, the Corps
7 is still working on their environmental documents.

8 What I would -- we have had a request from one
9 of the applicants, and I would certainly endorse that
10 request, that if we could have a special meeting before the
11 end of the month if those Corps documents are available,
12 you could then authorize that action on those which cannot
13 be authorized today.

14 The staff recommendation is that you authorize
15 the ones which we can legally authorize and if you would
16 be willing to have a small special meeting toward the end
17 of the month, we could cover the others.

18 There are several people who are here. I don't
19 know if they actually want to speak or not.

20 CHAIRMAN TUCKER: Yes. We have a sheet from
21 one gentleman, who was obviously born to be a lawyer,
22 Greg Lien.

23 (Laughter.)

24 MR. LIEN: I'm just here to answer any questions
25 that you may have.

1 CHAIRMAN TUCKER: Okay. I had just one
2 question of staff. And that is, I take it that staff
3 believes that this dredging doesn't do any harm to the
4 lake?

5 EXECUTIVE OFFICER DEDRICK: That is correct.
6 And that is, of course, the reason for our concern that the
7 environmental work be done.

8 Fish & Game has met with -- the Tahoe agency,
9 Fish & Game, and the Corps, and various -- the other folks
10 who were concerned at the lake have met and developed some
11 guidelines on how to handle this dredging.

12 This is, in fact, maintenance dredging. The
13 biggest problem is where do you dispose of the soils. And
14 in those cases where we are recommending action today, all
15 of those problems have been resolved.

16 The others will be, I'm sure, because we're not
17 talking big dredging. We may have other problems occur
18 later that have much more environmental significance.
19 Such things as piers that are so high above the water that
20 they can't get access to their vessels, and those proposals
21 may take -- may be more complex to carry out. Those I
22 propose to deal with entirely on a case-by-case basis.

23 CHAIRMAN TUCKER: Is Greg still here, Taylor?
24 Greg Taylor?

25 EXECUTIVE OFFICER DEDRICK: I don't think so.

1 There he is.

2 CHAIRMAN TUCKER: Greg, can you come here for a
3 second? I just want to ask one question.

4 As our resident Lake Tahoe lover here, is the
5 Corps of Engineers any more sensitive in regards to the
6 lake than it is in regards to other matters it deals with?

7 MR. TAYLOR: Let's say, with regard to the
8 lake, I understand that they are doing their job. And the
9 concern that is here is whether this is truly maintenance
10 dredging or whether or not it's new dredging.

11 If it's new dredging, then they're going to have
12 to go through an environmental review. That's been the
13 position of the Corps; certainly the staff has supported
14 that.

15 For the ones that are going through, they have
16 been at this depth, and it's just a clean -- as I
17 understand it, it's just to clean up the channels to get
18 the boats in and out.

19 And as to those, there isn't any -- does not
20 appear to be any problem. So, with the ones that aren't
21 here, they are going through the process to make sure
22 that this is maintenance dredging and not new dredging
23 down to a depth, or that it is dredging -- it's maintenance
24 dredging on something which didn't have a proper permit
25 beforehand.

1 CHAIRMAN TUCKER: But we don't rely simply
2 on the Corps, though --

3 MR. TAYLOR: No.

4 CHAIRMAN TUCKER: -- to do our job?

5 MR. TAYLOR: No.

6 EXECUTIVE OFFICER DEDRICK: No. The Corps
7 is doing the fundamental documentation, and California law
8 allows us to utilize that. But our people are -- and
9 Fish & Game people -- are very much involved in the process
10 and the Attorney General's Office. Rick Skinner, who works
11 for Greg on the Tahoe thing, has been very close to us on
12 this all the way through.

13 CHAIRMAN TUCKER: Good. Okay. 29, 30, and
14 33 are the ones we're talking about. Is that correct?

15 EXECUTIVE OFFICER DEDRICK: Yes, I believe so.

16 CHAIRMAN TUCKER: Okay. Anybody want to be
17 heard on this matter?

18 Okay. Those items are approved. 29, 30, and
19 33.

20 31 and 32 and 34 are off. 35?

21 EXECUTIVE OFFICER DEDRICK: 35. Jack, would you
22 like to speak to this? This is the Arcata agreement.

23 MR. RUMP: Certainly. This is the proposed
24 agreement between the Commission, the City of Arcata, and
25 the County of Humboldt regarding a solid waste assessment

1 testing of the old Arcata landfill site.

2 Essentially, the site has been identified and
3 suspected of containing toxic waste. The procedure, as you
4 know, is to perform this testing. The agencies have met
5 and have agreed to share equally a burden of a maximum of
6 \$10,000 each.

7 So, this is for your approval to enter into
8 such agreement so such testing can proceed.

9 CHAIRMAN TUCKER: Okay. Any questions?

10 Okay. That's approved.

11 36, City of Stockton?

12 MR. RUMP: 36 is is an item for the annexation
13 of tide and submerged lands in the City of Stockton.
14 The general location of this is at French Camp Slough
15 close to the San Joaquin River.

16 Your approval would include both an approval of
17 the proposed boundaries and consent as a landowner.

18 CHAIRMAN TUCKER: Any questions?

19 That's approved. Item 37.

20 EXECUTIVE OFFICER DEDRICK: Item 37 has someone
21 who wishes to speak on it. Excuse me, Jack, would you like
22 to have one of your people present this? This case -- this
23 is the situation of the Batiquitas Lagoon where the Hunt
24 people are, among others -- we're asking you to authorize
25 our authorization for working with this -- the settlement

1 and exchange agreement with Batiquitos with Hunt and also
2 the -- I guess that's all that is on this one.

3 We've already approved -- you have already
4 approved the joint powers agreement at an earlier meeting.
5 I was thinking that was on here, too. But this is really
6 the execution of a -- of a compromise title settlement
7 and boundary agreement.

8 Jack, do you want to speak to this?

9 MR. RUMP: Certainly. Claire is correct on the
10 stage that we're at. Staff counsel, Curtis Fossum, has
11 been handling this matter as it proceeds. Perhaps we'll
12 have him make a short presentation to you.

13 CHAIRMAN TUCKER: I think everyone's familiar
14 with the background. Can you just tell us what the
15 Commission will be doing today?

16 MR. FOSSUM: This is a request for the
17 Commission to approve a settlement agreement, property
18 dispute, that involves both claims of sovereign ownership
19 to the bed of the lagoon as well as possible implied
20 dedication claims on the upland adjacent to the lagoon.

21 The Commission here is -- would be approving
22 the quitclaim of any interest it has in the uplands
23 adjacent to the lagoon in exchange for approximately
24 387 acres of land within the lagoon that the Hunts
25 presently own under a deed from the State of California.

1 The claim of ownership of the State to the
2 lagoon is the fact that some historical documents show that
3 there were tide and submerged lands in parts of the lagoon
4 during the 19th century.

5 The implied dedication claim is that the State
6 would be resolving, with the approval of the Attorney
7 General's Office, relate to a road that has run adjacent
8 to the lagoon for approximately a hundred years across
9 private property.

10 The public has made access to that by foot
11 and bicycle, motorcycle, offroad vehicle, as well as normal
12 vehicles.

13 The resolution of this property interest is in
14 furtherance of the proposal to enhance and restore this
15 lagoon to its once tidal -- tidal prism so that the
16 tides will keep the lagoon clean.

17 The Commission, in November of 1987, became a
18 party to the enhancement project by executing a memorandum
19 of agreement which will provide up to \$20 million by the
20 Port of Los Angeles. It's the largest scale type of
21 restoration like this that we're aware of.

22 One of the keys to it is the fact that the
23 Legislature required that the State of California become
24 the owner of the lagoon prior to the expenditure of that
25 money on the restoration project.

1 The approval that you're being asked to make
2 today is really one just of title to the property. It will
3 not in and of itself have the restoration project go
4 forward.

5 Environmental documents, both under CEQA and
6 NEPA, will be necessary before the parties will be able
7 to in fact do any enhancement of the lagoon itself.

8 CHAIRMAN TUCKER: Okay. And the Attorney
9 General supports the compromise title settlement?

10 MR. STEVENS: Yes, we do.

11 CHAIRMAN TUCKER: That was Mr. Stevens.

12 MR. STEVENS: Mr. Taylor concurs.

13 (Laughter.)

14 EXECUTIVE OFFICER DEDRICK: Whether he likes it
15 or not.

16 (Laughter.)

17 CHAIRMAN TUCKER: You guys are in teams, huh?
18 Okay. I think the Commission is inclined to improve this
19 item. There are several people who indicated they would
20 like to be heard either in rebuttal, if there was
21 opposition, et cetera. I don't know if they still wish
22 to be heard.

23 Dolores Welty?

24 MS. WELTY: Yes, I do. Do I sit here?

25 EXECUTIVE OFFICER DEDRICK: Yes, please. And

1 identify yourself for the record, Ms. Welty.

2 MS. WELTY: Yes. I'm Dolores Welty. I live
3 on the south shore of the lagoon in Leucadia. I represent
4 myself and 800 petitioners who have concerns about the
5 enhancement project and about the development surrounding
6 the lagoon.

7 I brought pictures for the Commissioners. This
8 is the lagoon in one of its good moments. This is the way
9 the Hunt properties would prefer it look at all times, but
10 it does not.

11 It quite often is merely dried up and is a
12 salt pan there. Assessing the value of the lagoon is a
13 complex issue and it's dependent upon the point of view
14 from which the land is regarded. To the California wildlife
15 who use it, and to those of us who honor the preservation
16 of a wild California, this lagoon and its adjacent open
17 space is priceless.

18 To the builder, though, this lagoon has been
19 worse than worthless, since possession of the lagoon with
20 no permission to alter it has kept the Hunt project from
21 going forward.

22 Finally, the Hunts realized that they were never
23 going to get approval for their project until they accepted
24 the lagoon as a valuable public resource and agreed to
25 allow the resource agencies to oversee any project proposed.

1 for it.

2 By giving up the lagoon, the Hunts have turned a
3 liability into an asset in three ways. They have been able
4 to gain approval for their extensive development plans on
5 the adjacent lands. They have been able to pass the cost
6 of enhancing the lagoon over to the public. And the
7 proposed lagoon enhancement will give them the water feature
8 that they desire as an amenity for their resort, and to
9 which they refer in their master plan.

10 Thus, the transfer of this property to the
11 people of California is of high value to the Hunts. What
12 has the public gained?

13 First, the impact of the proposed lagoon
14 enhancement plan upon the natural values of Batiquitos
15 Lagoon is under close scrutiny and has caused extensive
16 controversy.

17 Changing this fresh water wetland into a salt
18 water wetland is accepted by marine fisheries experts.
19 But the actual enhancement plan is required to maintain
20 existing values and no marine fishery values exist at
21 Batiquitos. Ornithologists and wetlands experts have
22 strong reservations that this plan will be anything but a
23 loss to the existing values of Batiquitos (sic).

24 Further complicating the issue is the
25 California Department of Fish & Game's new wetland policy

1 which has just been issued. This policy states that
2 wetland acreage, not value, but acreage, will be increased
3 by 50 percent over the next years.

4 Opening Batiquitos to the ocean and dredging
5 it will cause Batiquitos to lose wetland acreage; up to
6 one-third of its wetland acreage, depending upon which
7 alternative is chosen.

8 Will this then be acceptable to Fish & Game
9 under the new policy? So what is the value of the lagoon
10 to the public? If public funds are spent to dredge it
11 at the expense of its wetland values, but on an increased
12 in its value (sic) as an amenity for the Hunt properties
13 resort, the people of California have not only lost the
14 wetland, but would have paid for its destruction.

15 If the no-project alternative is chosen and the
16 Port of Los Angeles is required to look elsewhere for a
17 mitigation site, leaving Batiquitos unchanged, what have the
18 people of California gained by accepting title to
19 Batiquitos?

20 Again, its value is dependent upon its continued
21 use by wildlife and its visual relief as open space.
22 Here again, the fact that the Coastal Commission overruled
23 their staff's recommendation on April 14th of this year
24 and approved the Hunt project has compromised the lagoon
25 value.

1 Approval of the Hunt project included approval
2 of amendments to the local coastal plan that increased
3 density from the allowed 2,200 houses to 2,836 houses,
4 a multibuilding hotel resort with conference suites, a
5 commercial sports complex, restaurants, a golf course,
6 and a neighborhood shopping complex. By allowing such
7 dense development around this site, the natural values of
8 the lagoon have been compromised.

9 Furthermore, the Hunt development, combined with
10 other approved developments surrounding the lagoon, may
11 result in a catastrophic effect upon the lagoon. The Urban
12 Canyon Study by UCSD documents the fact that wildlife
13 abandons an area that has been surrounded by development.

14 Birds, strangely enough, are the first to go.
15 And it is birds that predominate at Batiquitos. What
16 compensation can the public receive for the loss of the
17 upland to development and the resultant diminishing wildlife
18 values of the lagoon?

19 So here's another question of the value of
20 Batiquitos. When all developments have reached buildout --
21 this is the developments that surround the lagoon -- and
22 the public owns all the wetland area, plus the trail around
23 its edge, what will we see? Will there still be thousands
24 of waterfowl or shore birds here, the species alternating
25 season by season? They are here now.

1 Or will there only be tens, or hundreds, or
2 perhaps none at all? And what will be considered the cause
3 of their discontinued use?

4 The public access trail around the lagoon
5 placed as it is within the wetland boundary -- the wetland
6 buffer, pardon me, is not adequate compensation for the
7 loss of the upland value. In deeding title of the lagoon
8 to the State of California so that public money can be
9 spent to dredge it, is also an unequal trade. Nothing
10 extraordinary has been asked of the Hunts as compensation
11 for the allowed increase of density.

12 Access to the hotel and commercial facilities
13 does not compensate the public for the loss of this open
14 space. The impact of this project upon the natural
15 values of the property, both lagoon and uplands, would be
16 massive.

17 We ask that the State Lands Commission provide
18 for a more nearly equal exchange of values by requesting
19 title to a portion of the environmentally sensitive
20 upland acres adjacent to the lagoon, and by postponing
21 action upon this issue until the environmental study for the
22 enhancement plan has been completed.

23 At that time, a more accurate assessment of the
24 value of Batiquitos Lagoon to all parties should be
25 possible. Thank you.

1 CHAIRMAN TUCKER: Any questions?

2 COMMISSIONER HOPCRAFT: Yes. I have several
3 questions.

4 First, I'd like to thank you for coming up
5 here today to present your arguments, which I find give me
6 pause. I'd like to hear the response from our own staff
7 to some of the cogent points that I think were raised.

8 EXECUTIVE OFFICER DEDRICK: Mr. Chairman,
9 Commissioners, on the legal questions and the negotiating
10 questions, I think that Curtis is very, very well-informed.
11 If you would like -- however, I think you also need some
12 comment on the environmental factors. And Dwight Sanders,
13 who, as you know, is very much involved and runs our
14 environmental branch, could go into that.

15 CHAIRMAN TUCKER: Before we go into that, I'd
16 like to see if we could get a copy of your statement, and
17 also if you have copies of the petitions that you referred
18 to, the 800 petitioners. I'd like to get a copy of those.

19 MR. FOSSUM: Commissioners, Mrs. Welty did
20 submit a written statement as well to the Commission, so you
21 have that.

22 EXECUTIVE OFFICER DEDRICK: Where is it? This
23 isn't hers.

24 MR. FOSSUM: Not today. It was received in the
25 mail last week.

1 CHAIRMAN TUCKER: Let me try and frame some of the
2 issues here so that we know what we're talking about.

3 We're not approving the program for the
4 restoration itself of the lagoon; is that correct? That's
5 something that's down the line.

6 MR. FOSSUM: That's correct.

7 CHAIRMAN TUCKER: And that will involve a lot
8 of additional discussion, et cetera; nor are we involved
9 in the improvement of the level of development, if any,
10 around this lagoon; is that correct?

11 MR. FOSSUM: That's correct.

12 CHAIRMAN TUCKER: The question really is:
13 Should we accept title to the property in settlement for
14 our claims, and are we receiving enough for what the
15 attorneys have valued the claim to be; that is, looking
16 at its strengths and weaknesses, et cetera, have we gotten
17 a good deal for the claim that we feel that we have?

18 MR. FOSSUM: Correct.

19 COMMISSIONER HOPCRAFT: Well, but the argument
20 seemed to be made that by clearing the lagoon, that that
21 is hinged to the upland development. What is your response
22 to that argument?

23 MR. FOSSUM: In effect, that is the situation.
24 The City of Carlsbad, in approving this plan, approving
25 the local coastal plan and approving the development plan

1 for the Hunts required that, as a condition of their
2 approval of those -- their taking those actions, that
3 within 30 days of the Coastal Commission also approving
4 the local coastal plan for the area and the permit for the
5 development, that the Hunts were required to convey this
6 property to the State.

7 So, they made it a condition of those permits.
8 So, if the State did not accept those things, then the entire
9 local coastal plan would fall away.

10 The problem is that we have been negotiating this
11 for several years. It's had several levels of analysis.
12 When we approved the memorandum agreement last year, we,
13 in effect, took the position that we would acquire the
14 lagoon for the State of California.

15 When Mrs. Welty mentioned that the Coastal
16 Commission, in a unanimous vote I might add, overruled
17 their staff recommendation, that had to do with development
18 on certain portions of the upland that the staff felt
19 would be nice to have as open space. And it also had to do
20 with a second area, the type of grading of certain
21 hillsides, issues that have absolutely no impact before us
22 today.

23 The Coastal Commission report, on the other hand,
24 supports our position on this, on every other issue -- staff
25 and the Coastal Commission action.

1 This is also in furtherance of the legislation
2 that was passed which permitted the city -- the Port of
3 Los Angeles to restore this lagoon. That was done with the
4 support of many agencies, as was the memorandum of
5 agreement.

6 The analysis that has gone into this so far
7 was that this is a lagoon that needs restoration. That
8 was the conclusion of all responsible State and Federal
9 agencies. And they concluded in the memorandum of
10 agreement that they would go forward with this program.

11 They did not guarantee that this lagoon would
12 ever be restored. What they did is say they would seek
13 out title to the lagoon and then do the environmental
14 analysis, as I mentioned earlier, through CEQA and NEPA,
15 to see whether or not the benefit to the environment was
16 there in a restoration project.

17 If it is, then the plan is to go forward. Even
18 if this lagoon is not restored, the State Lands Commission,
19 its actions today, we feel is in the best interest of the
20 State.

21 The lagoon will, in fact, be in State ownership.
22 It will be protected for environmental purposes. The Hunts
23 will not be able to dredge it themselves in any future
24 times to create a marina or any other type of direct
25 benefit to their property. It will be a beautiful restored

1 lagoon someday we hope for the environment. The fact that
2 the Hunts own the adjoining property is certainly to their
3 benefit, but it's to the benefit of the people of the
4 State and the environment that the staff recommends this
5 settlement today.

6 COMMISSIONER HOPCRAFT: What about the salt
7 water versus fresh water argument?

8 MR. FOSSUM: The lagoon historically does dry
9 up every summer. The majority of the bed of the lagoon
10 becomes a salt pan. Some of the historical data that
11 our research has reflected shows that it's been used by
12 vehicles in the bed of the lagoon historically. Dune
13 buggies and what not would go into the lagoon.

14 CHAIRMAN TUCKER: Greg?

15 MR. TAYLOR: Let me -- the concerns that have
16 been raised by the lady today is certainly articulate
17 and are concerns that are going to have to be addressed
18 in the course of the project.

19 To some large extent, they have already been
20 addressed by the city and the Coastal Commission who have
21 jurisdiction over the uplands.

22 The important thing is to understand what this
23 Commission is trying to do today. And I'd just like to
24 emphasize what Curtis has been saying. And that is, that
25 for more than 15 years, we have been trying to get public

1 title to all of Batiquitos lagoon. And we've started down
2 at the bottom area and as that area has been acquired, the
3 Lands Commission has transferred the interest to the
4 Department of Fish & Game for administration. And we've
5 admitted their expertise in making sure that the right
6 decisions are made with regard to the balance of use,
7 which will still have to be weighed out after the title
8 transfers under this document.

9 What's before you today is the opportunity to
10 put in public ownership all of the lagoon. Before any
11 development can take place, there would still have to be
12 the other studies.

13 As I understand the lady's comment that was
14 made to you, her objection is not so much to taking the
15 title, but that we haven't taken enough title. And the
16 areas that she is asking that additionally be included in
17 this transaction are areas which have already gone through
18 the planning process to date and also are outside any
19 claim we possibly have to the property.

20 You'll recall, about two or three years ago
21 on a Christmas Eve, we approved the -- a project for a
22 smaller parcel of property next door. With great acrimony,
23 we insisted upon a road which shows in the telephone
24 directory. Although it's not dedicated, I opened it up
25 in the telephone directory down there one day, and here was

1 the road on it.

2 What we have insisted is the recognition of
3 that road within the area that is being set aside for public
4 use. It may be that we're going to step down the amount
5 of public use allowed; certain kinds of public use in that
6 area won't be appropriate.

7 But at least there's recognition of this road
8 which goes back to the first maps of the area. With regard
9 to the State Lands' claim to the area below that, whether
10 it is a natural water body, which you'd have a good claim
11 of title to, or whether it is, as is shown on some of the
12 township maps, a dry hayfield, because that's the two ways
13 that it's been depicted.

14 It would seem to me that recognition of public
15 title to all of that, together with this historic road,
16 is more than fair compensation. I always wish that we
17 could do more for people or that we could get a better --
18 better transaction. But in this location, I think that
19 we've done very well in terms of perfecting title and getting
20 it in public ownership so the planning process can
21 continue, and also that the process of evaluating the other
22 impacts of this project can be made by the necessary
23 agencies.

24 It just isn't possible to take into consideration
25 all of the things, given the scope of the jurisdiction of

1 this Commission. And those are being handled by the
2 agencies. And this is a controversial project in the area.
3 It has been debated and will continue to be debated in that
4 process.

5 But as a landowner, we will have more say in that
6 process than we will have at the current time with
7 uncertain title.

8 And that's basically where we'd be left.

9 COMMISSIONER HOPCRAFT: Why could we not do,
10 as was requested, which would be to postpone action until
11 the environmental studies have been received?

12 MR. FOSSUM: The entire planning process that
13 this project has gone through the last several years ended
14 in the City of Carlsbad requiring that the Hunts, within
15 30 days of the Coastal Commission's action of the notice of
16 intent to issue a permit, that they convey that interest
17 to the State. They wanted to put Hunts' feet to the
18 fire to ensure that this property came to the State on a
19 very timely basis.

20 Those 30 days, I believe, are running now. And
21 if the Commission fails to act today, they would have to go
22 back through the entire planning process. And I think I
23 can't emphasize enough that I think this is one of the
24 better settlements that the State has ever made under its
25 ability to clear title to property like this for the State.

1 The dollar values are -- our goal is to get
2 equal or greater value. We're certainly getting greater
3 value than our claims to any of the property that we're
4 clearing title to.

5 Mrs. Welty did mention something -- the one
6 thing that I think has caused the most controversy with
7 this, and that happens to be the trail. The Department of
8 Fish & Game and the Fish & Wildlife Service are concerned
9 about the existence of people close to the lagoon. And
10 they have, therefore, required that any public access
11 trail along the edge of the lagoon be kept as far back as
12 possible.

13 We, therefore, trying to put this trail on the
14 north side of the lagoon as far from the lagoon as possible,
15 which would be within approximately a hundred feet of the
16 lagoon so that you're not quite a ways away, but at the
17 same time keeping as much distance from the wildlife.

18 The problem is that, as Greg mentioned, there's
19 a road and a trail that have been there for a hundred years
20 or more. And the wildlife agencies as well as the
21 Coastal Commission, once again, have said that they don't want
22 any more grading in this area. In fact, the coastal plan
23 forbids -- forbids it.

24 Therefore, the existing trail that is there is
25 the one that would be used where possible. That would put

1 the trail in some instances closer to the lagoon than the
2 50 to a hundred feet away -- I think it's three instances.

3 But that has been agreed to by the wildlife
4 agencies and the Coastal Commission, and is therefore the
5 trail that we're looking to establish.

6 MR. TAYLOR: I think there's a short answer to
7 why it's important to go ahead with the transaction today,
8 and that is that that puts title in a public agency and
9 cuts off the ability of the Hunts to keep dangling the
10 title in our face and then pulling it back, or adding
11 conditions, and then taking away other conditions.

12 By doing this transaction, we are setting -- we
13 are giving status, not just a claim, but we are giving an
14 ownership interest in this area that, as the rest of the
15 planning process goes ahead, we can have a much better
16 role in what we have to say about how the process will be
17 engaged.

18 And it is important that title be settled in
19 order that the planning be completed. And there is no
20 guarantee as to how all the EIR studies and other things
21 will come out. But by your action today, there will be a
22 guarantee that there will be public ownership of that area
23 whether it remains as hard salt pan or it remains as a
24 lagoon in some modified form, or whether it would go
25 completely to a marina, which I do not believe is in

1 anyone's contemplation for the ultimate use of this
2 property, although there is hope that by doing some dredging
3 it would be -- it would be continually covered by water
4 throughout the year, because the tidal prism would keep it
5 open to the sea.

6 The problem with this area is that it closes
7 up, and then it doesn't have any exchange of water.

8 CHAIRMAN TUCKER: So, by taking title, the
9 Commission ensures it will have a role in how the lagoon
10 is developed or not developed.

11 MR. FOSSUM: That's correct. And the intent
12 is to transfer it to -- as Greg mentioned -- to the
13 Department of Fish & Game as an ecological reserve. So,
14 the Commission at a later date will have before it the
15 authorization to execute a lease to the Department of Fish
16 & Game so that it can become one of the ecological reserves
17 systems.

18 CHAIRMAN TUCKER: Under conditions set by us.

19 MR. FOSSUM: That's correct.

20 EXECUTIVE OFFICER DEDRICK: That's correct.

21 In the biological questions, I think the relevant point is
22 the process that has been established under the memorandum
23 of agreement brings together all of the expert agencies
24 with the jurisdiction and the knowledge to improve or to
25 handle wildlife habitat.

1 What we've started is a process by which the
2 questions that have been raised by these ladies can be
3 answered. Whether it is better to have a salt water or
4 fresh water lagoon, whether you would have more wildlife
5 habitat, more wildlife living because you have a lagoon
6 that does not become a salt pan every summer, whether the
7 quality of wildlife is better if you have a salt pan every
8 summer, all of those questions need to be addressed by
9 people with professional knowledge and can come up with
10 answers that are in the best interest of the wildlife
11 community.

12 I think that that's really the outstanding
13 thing here, is you haven't seen Mrs. Yoder's statement yet,
14 but it's here, that has been raised in regard to wildlife
15 is we do need to have the studies that are -- that are
16 parallel to this action of the Commission.

17 To finance those studies requires the expenditure
18 of public funds, tidelands funds. The statute requires that
19 those funds can only be spent on publicly owned land.

20 What that means is that the process of restoring
21 a very badly damaged wetland cannot go on absent the
22 acceptance of this title. And that's the concern of the
23 wildlife people. They want to go forward with finding out
24 the best way to -- and doing what they can to restore this
25 wetland, which has been damaged by a lack of ground water.

1 As development has taken place all through that
2 part of California, the ground water doesn't come into
3 that -- through the lagoon anymore, so the lagoon doesn't
4 open to the sea in the winter.

5 So, it's all those kinds of complexities,
6 Mr. Commissioner, which I know you understand at the
7 Bolsachica Marsh.

8 COMMISSIONER HOPCRAFT: Well, I want the
9 Commission to respond to the concerns of the folks who
10 live around there. And while I understand we have control
11 over only a certain portion of the land that's proposed
12 for development, I am very concerned that our action today
13 will or could, you know, grease the wheels for that
14 development in a way that we may lose control over, in a
15 way that it's admitted we have no control over.

16 And I don't see the public, the 800 homeowners
17 referred to by Mrs. Welty, having a particular role.
18 What steps would the Commission take if we accept title to --
19 what commitments would we make to Miss Welty and her fellow
20 homeowners that we will meet and represent their concerns
21 in this environmental planning process?

22 MR. FOSSUM: They will have a very significant
23 role, in that the -- both the CEQA and NEPA processes are
24 open to the public for comment. When the environmental
25 impact reports are drafted, they will have the opportunity

1 to comment a will the State.

2 The kind of analysis that's done on that will
3 be very detailed. It will discuss the impacts on existing
4 wildlife. Those things are being studied now, what kind
5 of wildlife values are in the lagoon, and they will be
6 compared in the report with what they expect the enhanced
7 lagoon would provide in values.

8 So, we would expect that all those individuals
9 who signed the petition -- and I haven't seen the petition,
10 but I assume it's directed at, in fact, this concern that
11 has been expressed about what kind of environmental
12 changes are going to be made by returning tidal flows to the
13 lagoon.

14 Right now, you have a nontidal lagoon. If you
15 bring salt water in there, it will have some impacts.
16 But the wildlife agencies will have jurisdiction as well as
17 the Coastal Commission, who will have to, once again,
18 issue the actual permit under the Coastal Act for any
19 dredging in the lagoon, as will the Corps of Engineers,
20 EPA, all the water quality agencies will have their
21 opportunities to comment on the project.

22 And we would hope that they would get a thorough
23 public airing so that all members of the public, as well
24 as the agencies, will have an opportunity to comment on
25 those reports.

1 MR. TAYLOR: Mr. Hopcraft, I think the way to
2 answer your question is that there is a better chance for
3 public input with public ownership than there is with
4 uncertainty of the public status.

5 And certainly, the record of development in
6 Orange County -- in San Diego County has been one of
7 pretty great density. And, certainly, if the Hunts had
8 their -- their druthers, they would probably like to put
9 this into a complete Newport Bay operation. I don't know
10 if they could ever -- even they could afford the cost of
11 that. But at least by having public ownership there,
12 you're going to have a public agency -- public agencies
13 making sure of how those things come out as opposed to
14 having a hundred percent private development.

15 And at the present time, we've had a lot of
16 studies on the title. We think that this is much better
17 than we could do in any kind of litigation. And that it
18 puts -- it gives the public agencies standing to say, "Hey,
19 this is, you know, you are impacting our property, and we
20 do have these concerns about it." That we will not have
21 that kind of standing. We will have a stronger standing
22 as a result of this agreement than without it.

23 And that there's greater jeopardy in some
24 respects to the kind of project you ultimately will have
25 if this doesn't go through than if it does.

1 And, therefore, I think that, in the long run,
2 we have addressed the concerns that have been raised
3 better by what we're proposing today than if the matter
4 were postponed.

5 COMMISSIONER HDECRAFT: Mrs. Welty, has what
6 you've heard changed your view any?

7 Given the constraints on what we can affect,
8 do you agree that it would be -- that we would better be
9 able to carry the environmental concerns of the residents
10 by approving this exchange?

11 MS. WELTY: What I've heard is what I have
12 feared. I will be glad to see the lagoon in public hands.
13 And I will be glad to have you take title to the lagoon.

14 You stated very definitely what it is that I
15 wanted you to do, and that is to take title to more of the
16 land than you seem to be able to do.

17 And my -- I still have that fear and do not see
18 how I can -- that we can address the loss of a significant
19 amount of upland to the lagoon. Wildlife does not sleep
20 in a bathtub, you know, and upland is necessary to their
21 continued survival.

22 I've not -- we've not been able to make that
23 very clear either to the City of Carlsbad or to the
24 Coastal Commission. And I did hope that perhaps you -- there
25 was something State Lands could do.

1 COMMISSIONER STANCELL: Excuse me. Are you
2 basically asking State Lands to acquire property that is
3 of greater value to the property which we are offering
4 them in exchange for the property in question? Is that
5 what you're saying?

6 MS. WELTY: Yes. I did believe that the lagoon
7 itself has a certain amount of value, true, untouched. But
8 you're also asking the public to spend \$20 million on that
9 lagoon to improve it, and that may or may not be spent.

10 If it is spent to improve it, though, merely --
11 merely taking title to the lagoon does not seem to me to
12 equal the amount that will be spent.

13 CHAIRMAN TUCKER: Well, I think what you have to
14 understand is that we can't simply wave a wand and say,
15 "Well, this is the area we'd really like, and so we're
16 just going to come in and take it."

17 MS. WELTY: Yes.

18 CHAIRMAN TUCKER: We're involved in a lawsuit.
19 The lawsuit has a factual basis for it. The factual basis
20 is that there are certain areas that the public had at some
21 point or another because the way the waters were flowing in
22 and out, the tides, et cetera. That's a factual issue. We
23 can't contend that the tides roll all the way back to the
24 mountains, and therefore, all of the property up to the
25 mountains is ours or belongs to the State. We are

1 constrained by the facts.

2 And according to the attorneys, the facts
3 don't justify, even under our construction of the facts,
4 the acquisition of those properties that you're talking
5 about. So, it's not something that we have a choice in --
6 in doing.

7 MS. WELTY: I see. I have talked to Mr.
8 Fossum about it earlier. And because there was public
9 access to nearly all these acres through bicycling and --

10 CHAIRMAN TUCKER: Yes, but you have to convince
11 somebody that that's the case. And they just say, "Yeah,
12 you're right. You can have it."

13 MS. WELTY: You have to convince --

14 CHAIRMAN TUCKER: You have to go to court --

15 MS. WELTY: -- the Hunts, the owner.

16 CHAIRMAN TUCKER: No, we have to convince a
17 court.

18 MS. WELTY: I see.

19 CHAIRMAN TUCKER: And the other side disputes
20 that. And that's why I've heard from a number of people
21 who have congratulated the attorneys involved in this, that
22 the negotiations that they have carried out have the
23 potential for acquiring for the State an incredible
24 resource.

25 If you go up and down our coast and look at how

1 few wetlands there are that the public has any access or
2 control over. These are rarer than the Hope diamond at
3 this point.

4 MS. WELTY: Yes, I know.

5 CHAIRMAN TUCKER: So, what the attorneys
6 have accomplished in this, it seems to me, is an incredible
7 achievement for the State if the State acquires property to
8 this property. That we would like to acquire more, I think,
9 goes without question.

10 But they have to make an evaluation, what would
11 happen if we were to go to court, what would we likely end
12 up with?

13 And I think their assessment is that we would
14 not end up with more. We could end up with less.

15 Some of these claims have been totally
16 unsuccessful. So, that's the balance, and the Commission
17 ultimately has to rely on its attorneys to assess what is it
18 that we are likely to be able to accomplish in court.

19 And their assessment is, and from everything
20 I've heard, it sounds like their assessment is totally
21 correct, that what we've been able to accomplish through
22 the settlement is quite an achievement.

23 It may not be everything that everyone would
24 like, but given the factual constraints, it's a major
25 accomplishment.

1 MS. WELTY: Thank you very much.

2 CHAIRMAN TUCKER: We have two others who wish
3 to speak. Inez Yoder and Christopher Nevils.

4 MR. FOSSUM: Mr. Tucker, I'd just like to --

5 CHAIRMAN TUCKER: Yes.

6 MR. FOSSUM: -- qualify one of the statements
7 that was made. We are not presently in litigation, but
8 we do have a property dispute with NBI.

9 CHAIRMAN TUCKER: Right.

10 MS. YODER: I'm going to waive my statement,
11 since it has --

12 EXECUTIVE OFFICER DEDRICK: Would you identify
13 yourself for the record?

14 MS. YODER: I'm sorry.

15 EXECUTIVE OFFICER DEDRICK: That's all right.

16 MS. YODER: I'm Inez Yoder from Carlsbad, and
17 I represent myself and an organization called SOS, which is
18 the Save Open Space initiative of Carlsbad, a group of
19 individuals who are vitally interested in the open space
20 of Carlsbad.

21 What I'm interested in is the possibility of the
22 open space of Area 28, which impacts on the lagoon and
23 scenic highway. And I see that you do not feel you have
24 the power to add that to what you're asking for.

25 If there were any way that you could put a

1 condition on postponing the development of that until the
2 environmental impact -- something.

3 Thank you.

4 CHAIRMAN TUCKER: Mr. Neils?

5 MR. NEILS: Thank you, Mr. Chairman. My name is
6 Christopher Neils. And my office is in San Diego,
7 California, at 701 B Street, 10th floor. I'm with the law
8 firm of Sheppard, Mullin, Richter and Hampton, and we're
9 counsel to the Hunt Brothers and the Hunt Properties, Inc.,
10 the owners of the uplands, and at least according to our
11 records, would have a pretty good shot, if this matter went
12 to court, at also being declared the owners of the lagoon.

13 It is a matter in dispute as the Chair had
14 noted. I was sitting here earlier in this proceeding
15 debating with whether or not actually to come up here and
16 address some of the remarks.

17 I finally decided that I probably better, because
18 I think that in the zeal to articulate their concerns about
19 the lagoon, that unfortunately, some information has -- or
20 misimpressions may have been created in people's minds as
21 to the relationship with the uplands.

22 And I really feel like, on behalf of my clients,
23 I'd like to straighten that out. And this may go to some
24 of the background that seems to be lurking behind
25 Mr. Hopcraft's concerns.

1 I will try to be brief, Mr. Chairman. We are --
2 one, wanted, first of all, to do what your staff has
3 already done, which is remind everybody that project
4 approvals come from other kinds of governmental
5 organizations. This project has gone through the City of
6 Carlsbad for more than three years. The -- I can attest
7 to it, having been involved with the project, that the
8 City of Carlsbad extracted lists of conditions,
9 requirements, environmental safeguards, and other things
10 which go on at enormous length.

11 This may be one of the most heavily regulated
12 and detailed master plan projects anywhere in Southern
13 California. And in addition to that, it has also been
14 through the Coastal Commission, which did not back away in
15 any bashful role in seeking to require things of their own.

16 It has always been the -- a practical
17 recognition and realization on behalf of my clients that
18 the price of getting a project approved on the uplands
19 would very likely require them to deed over title to the
20 lagoon to some kind of public agency. It has turned out
21 that all of the various potential agencies in question
22 have in mind the State Lands Commission.

23 The State Lands Commission also has potential
24 claims of its own, which it has articulated, and that's
25 perfectly fine with my clients to go along with that

1 feeding process.

2 The one thing that's really important, and I
3 think what cuts through the previous testimony today, is
4 that there's really an important distinction between
5 what's going on with my uplands project, which these people
6 seem to desire to prevent, and what may or may not go on
7 with the lagoon, depending upon the results of studies
8 by a whole bunch of very well-qualified agencies and
9 various environmental review by people who are going to try
10 to figure out what, if anything, and under what
11 circumstances and what controls can be done to change the
12 state of the lagoon, if that is in the best interests of the
13 public, once that has been studied.

14 But those two are very, very, very separate
15 matters as I hope the Commissioners can appreciate, and as
16 I believe that the comments of Mr. Fossum and Mr. Taylor
17 would indicate.

18 After having -- by the way, the -- our project --
19 the uplands project came before the City of Carlsbad
20 Planning Commission and the City Council in November and
21 December of 1987. There was a tremendous amount of public
22 testimony, more than a hundred people. No opposition.
23 Which is very interesting, considering we'd been in the
24 process for more than three years.

25 When we went to the Coastal Commission, the

1 mayor of the city and the city planning staff came to the
2 Coastal Commission and spoke in support of the
3 project, reemphasizing the previous fact I mentioned.

4 I'm glad Mr. Fossum reminded you that it would
5 be misleading to accept at face value the notion that the
6 State Coastal Commission approve the project overriding
7 their staff concern or their staff recommendation.

8 The staff had a technical disagreement with the
9 City of Carlsbad as to how some grading ought to be done,
10 and there was a dispute about the intensity of using one
11 area. Basically two conditions out of 16 or 17 conditions.

12 And, yes, the Commission did disagree with the
13 staff on those two. But all the other conditions were
14 unanimously agreed to by everybody on all sides. But the
15 main point that I wish to make and to leave you with is
16 this: Nowhere in the project proposal for the uplands on
17 behalf of my clients have we ever suggested or asked for,
18 nor do we now, any kind of a requirement or expectation
19 that anybody do anything to the lagoon.

20 All we have merely agreed to do, if this agreement
21 is approved by you all, or the authority to enter into the
22 agreement is granted to your staff, is to deed over title
23 to it to a public agency; in this case, the State Lands
24 Commission.

25 No condition attached by the city or the

1 Coastal Commission to our project requires that anything
2 be done to the lagoon by us or on our behalf or by anybody
3 else, nor has any such condition ever been proposed.

4 The notion that somehow or other our project is
5 going to cause the lagoon to get altered just plainly
6 isn't true.

7 We're going to dead over the lagoon, if you'll
8 let us, to the State. And then the State and the Federal
9 people and all the various agencies that look out for the
10 welfare of deep water fish and shallow water fish and
11 salt water fish and fresh water fish, and shallow water
12 birds and deep water birds, and the crustaceans and the
13 mollusks, and everybody else of the wild kingdom that
14 lives in that lagoon are going to study that lagoon and
15 figure out what, if anything, ought to be done.

16 And frankly, whatever the answer to that is
17 fine with my clients. If nothing is done, so be it. If
18 something can be done, that's also fine. It will be out of
19 our control. And we recognize that and always have.

20 And we don't ask that anything else be done.
21 Therefore, I believe that the notion that merit to the
22 public could come from postponing your action today is a
23 fallacious suggestion. Because the only thing that is
24 going to be studied further from an environmental
25 standpoint is the question: What can be done to the

1 lagoon?

2 And delaying the acquisition of title really
3 doesn't affect that very much, nor, I submit, could it
4 affect what this Commission could require from my clients
5 in the means of a title settlement agreement.

6 Now, I've taken more time than I had ever
7 intended to, and I apologize for that. But I did feel
8 that there were a couple of things that needed to be said.

9 And I'd be happy to answer any questions that
10 any Commissioners or staff members have.

11 CHAIRMAN TUCKER: Okay. Thank you.

12 Okay. We're going to take a -- is there anybody
13 else who wanted to testify?

14 We're going to a five-minute recess, and we'll
15 be back to finish this item and the rest of the calendar.

16 Thank you.

17 (Thereupon there was a recess
18 taken.)

19 CHAIRMAN TUCKER: Five minutes has elapsed,
20 so we can resume.

21 Is there anybody else that wishes to speak on
22 Item 37? That was the Hunt application?

23 Okay.

24 COMMISSIONER HOPCRAFT: I'd just like to give
25 some direction to our staff before we take the vote.

1 First, I think that my guiding principle in
2 casting this vote is to protect the lagoon, and to go as
3 far as we are able to go within the jurisdiction of this
4 Commission to effect that end.

5 It's my understanding that we cannot affect
6 what happens on the uplands, that we have no claim thereto.
7 And so the question before us is whether we take title to
8 the lagoon or we let it remain in the hands of the Hunt
9 Brothers or some other party as yet unknown.

10 And I understand that preserving and protecting
11 Batiquitos Lagoon is also the goal of the Sierra Club
12 and other environmental organizations, and I want to see
13 us support that goal and I want to see us restore and
14 protect the lagoon.

15 I would like to direct the staff that they
16 consult with the local homeowner who have raised
17 concerns here today, and I want to reassure those home-
18 owners that we share the concern for the lagoon, that it
19 be restored to its optimum state that it be protected to the
20 maximum. And whatever reservations I may have about the
21 project that the Hunts have proposed, I feel that we are
22 unable to affect that. And given the position that the
23 Coastal Commission has placed us in, our question before
24 us today is whether we take title to this lagoon and have
25 influence and standing to protect it and enhance it, or

1 whether we allow the Hunts to continue to have title to
2 that.

3 So given all that, I am prepared to support the
4 taking of title to the lagoon.

5 CHAIRMAN TUCKER: Okay. Anything else?

6 COMMISSIONER STANCELL: I just want to make sure
7 I understand the motion. You're instructing staff, as a
8 condition of accepting title, to consult with the home-
9 owners?

10 COMMISSIONER HOPCRAFT: Yes.

11 COMMISSIONER STANCELL: Irrespective of the
12 process that's related to the CEQA --

13 COMMISSIONER HOPCRAFT: As part of the process.

14 COMMISSIONER STANCELL: As part of the process.

15 COMMISSIONER HOPCRAFT: As part of the process
16 of doing the environmental studies.

17 COMMISSIONER STANCELL: Oh, I see. I
18 understand.

19 EXECUTIVE OFFICER DEDRICK: Excuse me. As part
20 of the process that follows.

21 COMMISSIONER HOPCRAFT: Yes.

22 COMMISSIONER STANCELL: As part of the process.

23 EXECUTIVE OFFICER DEDRICK: Okay. Fine.

24 Thank you.

25 COMMISSIONER STANCELL: If that's the motion,

1 than I second.

2 CHAIRMAN TUCKER: Okay. That item is
3 approved.

4 Item 38, City of Belmont.

5 EXECUTIVE OFFICER DEDRICK: This is approval of
6 a public agency permit for the use of State sovereign
7 lands by the City of Belmont as a city park.

8 CHAIRMAN TUCKER: Okay. Any questions or
9 comments on that?

10 Okay. That item's approved.

11 39?

12 EXECUTIVE OFFICER DEDRICK: 39, this is a
13 request of the Executive Office for delegation for timber
14 and land appraisal services for school land parcels and
15 federal exchange parcels nominated with the U.S. Forest
16 Service.

17 CHAIRMAN TUCKER: Okay. Any questions?
18 Statements on that? That's approved. 40?

19 EXECUTIVE OFFICER DEDRICK: And we request
20 delegation on Item 40 for the removal of hazardous
21 structures in the Counties of Santa Barbara, Los Angeles,
22 San Diego, and Marin.

23 These are the ones that were authorized by the
24 Legislature and were budgeted for this.

25 CHAIRMAN TUCKER: Okay. Any questions? That's

1 approved.

2 41?

3 EXECUTIVE OFFICER DEDRICK: And 41 is the
4 delegation to execute the service contracts and agreements
5 for the 88-89 fiscal year that have already been
6 authorized by the Department of Finance.

7 CHAIRMAN TUCKER: Okay. Any questions? Okay.
8 That's approved.

9 Returning to Item No. 17.

10 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.

11 CHAIRMAN TUCKER: The reason that we had to
12 put this over to the end was that the proposed lease was
13 being reviewed by someone from the Reclamation Board.
14 So that's what was going on in case anyone's interested.

15 EXECUTIVE OFFICER DEDRICK: Yes. Mr. Chairman,
16 let me ask Mike Valentine -- there he is, behind me --
17 who has been doing the negotiations here, to give you a
18 brief rundown on the lease. And then, as you know, there
19 are a couple of people who would like to speak to it.

20 CHAIRMAN TUCKER: Right?

21 MR. VALENTINE: Mr. Chairman, this item is a
22 request for approval of a master lease for maintenance and
23 new construction work to be done in connection with the
24 Sacramento River bank protection project.

25 The maintenance work will run for -- the term of

1 the maintenance work will run for a period of 30 years
2 for facilities, bank protection facilities that are
3 currently in place on the river and on the project.

4 The lease would also approve new construction
5 for a period of slightly in excess of five years.

6 The master lease is a lease covering all the
7 Sacramento River bank protection project from Collinsville
8 to Chico Landing. As individual worksites, and contract
9 units are identified, the Reclamation Board will come back
10 to the Commission for at least annual and perhaps a couple
11 times a year to prepare -- to present their environmental
12 documentation for their projects and to seek amendments to
13 the master lease to include the new work.

14 There are two items that I think probably
15 should be mentioned in connection with the lease. As
16 currently drafted, the lease will require the Commission
17 to consider the 1988 amendments by May 26th for Units
18 41-B and 42 and by June 30 on contract unit 43.

19 If the Commission is unable to meet to consider
20 those units by those two dates, May 26th or June 30th, then
21 those units will be deemed approved by the Commission
22 and the master lease will be amended -- deemed amended to
23 include the new work.

24 So, we're basically agreeing to some drop-dead
25 dates here. One of which, the May 26th drop-dead date, will

1 require, as I understand it, a special meeting.

2 The reason it can't be considered today and
3 approved or disapproved today is that the comment period
4 through the Clearinghouse, as required by CEQA, is not
5 complete until after the 20th.

6 So, due to time constraints that the Board has
7 to work under, it is staff's recommendation that we try
8 to accommodate them for this year's work. Next year, the
9 Commission will be afforded a much more relatively
10 lengthy period to review the proposed amendments.

11 As a housecleaning item, the calendar summary
12 indicates that this -- today's approval includes approval
13 of Contract Unit 41-B. That should read 40-B, which is the
14 Butte Basin, for which their environmental documentation
15 is complete.

16 CHAIRMAN TUCKER: Okay. Mr. Spotts, did you
17 want to say something?

18 MR. SPOTTS: Mr. Chairman, Commission members,
19 I am Richard Spotts, the California representative for
20 Defenders of Wildlife.

21 As you know, we're very concerned about
22 continuing rip-rap bank protection projects along the
23 Sacramento River. These projects over the years have had
24 substantial adverse impacts on State and Federally listed
25 endangered species, on anadromous fish runs, and on

1 riparian habitats.

2 Indeed, we're down to less than two percent of
3 the historic riparian habitats along the Sacramento River.
4 We've recognized that this Commission has an important
5 authority to look out for the sovereign interests along
6 the river and the public trust values there.

7 We've reviewed this proposed master lease.
8 We believe that it's better than the status quo. It's a
9 positive step and, therefore, we recommend that you
10 approve it.

11 However, we wish to state for the record that
12 we wish that it could have been stronger in a number of
13 respects. First, this lease does not require even a
14 minimum commitment to demonstration sites using less
15 damaging bank protection methods along the Sacramento
16 River.

17 We've always felt that the Corps of Engineers
18 and the State Reclamation Board should have a more
19 specific commitment under nonemergency circumstances to
20 try to use alternative methods of bank protection, to
21 develop better data, and see if they could be used on a
22 broader basis in the future.

23 Second, we believe that we need more specific
24 commitments for mitigation. The history of mitigation
25 along the Sacramento River has largely been illusory. Most

1 of the conservation easements that have been acquired for
2 mitigation are not posted today, are not routinely
3 monitored, and in many cases are being violated.

4 So we would have preferred conditions that
5 require that some responsible agency post these easements
6 by a date certain, periodically monitor them, and enforce
7 them vis-a-vis any repeated violations.

8 We would indicate that we greatly appreciate the
9 work of the Commission staff. They worked very hard on
10 this and we know that there were lengthy negotiations with
11 the State Reclamation Board.

12 Thank you.

13 CHAIRMAN TUCKER: Thank you. Anything else?

14 Is there anything that we can do to strengthen
15 the language about the alternative demonstrations or to
16 meet the mitigation enforcement concerns? Too late to do
17 that? That's something we have to work on for the
18 future.

19 MR. SPOTTS: I concur, Mr. Commissioner.

20 EXECUTIVE OFFICER DEDRICK: In fact, I was
21 going to ask Mike to speak to it.

22 We certainly share the view. And I hope you
23 understand that staff has a very strong commitment to
24 preservation of riparian habitat wherever possible.

25 I feel personally very strongly that we -- that

1 the ability to at least test some of these other
2 things is extremely important. And, in fact, that has
3 improved in our actual relationships with the Reclamation
4 Board in the last two or three years.

5 Mike and the Board have had some pretty
6 intensive negotiations. And Mr. Spotts has had a lot of
7 input, as he's indicated, and we really appreciate your
8 recognizing the efforts of staff.

9 I just think that at this point, the public
10 hazard aspects of the project of not going forward with
11 such projects are so large that you never really are
12 entirely free to negotiate perhaps as forcefully as you'd
13 like.

14 There has been legislative support for this
15 position. Assemblyman Connelly, of course, carried the
16 mitigation legislation. And we have -- or the Rec Board
17 has agreed that their leasing -- that the management of
18 these mitigation sites will first be offered to the
19 Department of Fish & Game. And other -- if Fish & Game,
20 for some reason doesn't want to take those sites, any
21 agency that does take them will be the approval of both the
22 State Lands Commission and the Rec Board.

23 So, we're in a better position, I believe, in
24 regard to your concerns than -- and Mr. Spotts' than we
25 have been in the past.

1 COMMISSIONER HOPCRAFT: What steps could we
2 take to enforce the mitigation, the monitoring, the
3 posting, and the enforcement that he mentioned?

4 EXECUTIVE OFFICER DEDRICK: Well, I'll let Mike
5 speak to that, but I think the failure to maintain it is
6 a violation of the lease, isn't it?

7 MR. VALENTINE: Mr. Hopcraft, if mitigation,
8 which is committed to -- pursuant to the CEQA process, it
9 will be the Board's requirement to live up to that
10 mitigation whether we have a lease with them or not.

11 If they make commitments to acquire and
12 enhance certain habitat, then they will be legally
13 obligated to do so.

14 If they fail to do that, under the terms of
15 this lease, they will also be in breach. The Board under
16 the lease is not committing to pose X-number of sites
17 with X-number of signs, nor is it agreeing to a specific
18 number of demonstration sites. This is, after all, a
19 master lease.

20 And also the Board has committed itself to use
21 its best efforts to implement less damaging construction
22 and maintenance methods. It just has not been compelled
23 to commit -- what after all was a negotiation process --
24 it has not committed to a specific number of demonstration
25 sites.

1 So, given that this is a master document and
2 recognizing the inherent imperfections of negotiation,
3 we think this is the best we can do, and that this is the
4 time to act on it, and that the action should be an
5 approval.

6 EXECUTIVE OFFICER DEDRICK: There's one other
7 thing I would like to say, and that is that I really -- I
8 do believe that the Board and Ray Barsch, the Executive
9 Director, have been acting in complete good faith with us
10 in all of these negotiations.

11 I am certain that their intent is to carry out
12 the provisions of the lease and also the CEQA requirements
13 and so forth. There's never been any question but which
14 they intended to do that which they have committed to.

15 COMMISSIONER HOPCRAFT: Maybe we should direct
16 our enforcement unit to monitor these mitigation measures.

17 EXECUTIVE OFFICER DEDRICK: Let's see what we
18 can do along those lines.

19 COMMISSIONER HOPCRAFT: I mean, if we're getting
20 things in return for giving up things, I'd like to have
21 some assurance that we're actually monitoring what we're
22 supposedly getting.

23 EXECUTIVE OFFICER DEDRICK: We do have, as you
24 know, a one-person enforcement branch --

25 COMMISSIONER HOPCRAFT: A crack enforcement team.

1 EXECUTIVE OFFICER DEDRICK: -- and she loves
2 to go out on the levee. So, I'm sure that we can -- a
3 crack enforcement team. Right. I didn't mean to put it
4 that way.

5 CHAIRMAN TUCKER: Anything else? We're going to
6 have to leave soon, because Mr. Stancell has to get back.
7 They're still looking for that 800 million, so --

8 (Laughter.)

9 I'll move this item, and Mr. Stancell will vote
10 aye. And is there anything else?

11 EXECUTIVE OFFICER DEDRICK: No, sir. That is
12 the end of the calendar.

13 CHAIRMAN TUCKER: Okay. Thank you very much.

14 (Thereupon the meeting was
15 adjourned at 12:05 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

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I, Nadine J. Parks, a 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 in shorthand by me, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 1988.

Nadine J. Parks
Nadine J. Parks
Shorthand Reporter