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MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

ROOM 444
STATE CAPITOL
SACRAMENTO, CALIFORNIA

ORIGINAL

WEDNESDAY, AUGUST 10, 1988
11:00 A.M.

Nadine J. Parks
Shorthand Reporter

A P P E A R A N C E S

1
2
3 Gray Davis, State Controller, Chairman
4 Stephen Hopcraft for Leo T. McCarthy,
5 Lieutenant Governor, Commissioner
6 Nancy Sweet for Jesse R. Huff,
7 Director of Finance, Commissioner
8

Staff Present:

9 Claire T. Dedrick, Executive Officer
10 James Trout, Assistant Executive Officer
11 Bob Hight, Chief Counsel
12 Jan Stevens, Deputy Attorney General
13 Allen Willard
14 Lance Kiley
15 Wilbur "Moose" Thompson
16 Jane Smith
17 Lisa Lynn
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P R O C E E D I N G S

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3 CHAIRMAN DAVIS: All right. The Lands Commission
4 meeting will come to order. I notice there's a quorum.

5 The first item of business is to note that
6 this is the 50th anniversary of the State Lands Commission.
7 And the staff, appropriately, is planning to pay your own
8 way -- the Controller endorses that approach -- pay your
9 own way celebrations, one on the 15th of this month in
10 Long Beach, and the other on the 18th in Sacramento.

11 I just want to add my personal congratulations
12 to this organization for its longevity and its service
13 to the people of California, and urge anyone within the
14 sound of my voice to attend either or both of those
15 events.

16 EXECUTIVE OFFICER DEDRICK: For your
17 information, we sent out a lot of invitations, but
18 information is available at the Lands office, and I'll
19 be happy to tell anyone when and where.

20 CHAIRMAN DAVIS: All right. I also want to
21 indicate that a number of items are off calendar. And
22 actually, maybe the Executive Officer -- maybe Claire,
23 you can do that, just to indicate the items that are off
24 calendar.

25 EXECUTIVE OFFICER DEDRICK: All right. In Item

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1 C2, Sections C, Q, and R are off calendar.

2 Item C11 is off calendar.

3 We would like to move C13 to the regular
4 calendar, Mr. Chairman.

5 C20 and 21 are off.

6 On the regular calendar, 38, 43, 44, 47, 58,
7 61, 65, and 66.

8 CHAIRMAN DAVIS: I'm also informed that there is
9 someone here to testify on Item C1-G. So, we'll take
10 that off the consent calendar.

11 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.
12 We'll move that to the regular calendar.

13 CHAIRMAN DAVIS: All right. Let's proceed
14 with the remaining items on the consent calendar.

15 Is there anyone here who would like to testify
16 on any item on the consent calendar or have any objection
17 to the adoption of the consent calendar?

18 Are there any questions from the members?

19 COMMISSIONER HOPCRAFT: No.

20 CHAIRMAN DAVIS: I'll entertain a motion to --

21 COMMISSIONER HOPCRAFT: So move.

22 CHAIRMAN DAVIS: Without objection, we'll adopt
23 the consent calendar.

24 Also, I want to ask for a motion to confirm the
25 minutes of the meeting of July 26th.

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1 COMMISSIONER HOPCRAFT: So move, Mr. Chairman.

2 CHAIRMAN DAVIS: Without objection, that motion
3 is approved.

4 Now having adopted the consent calendar, we'll
5 take up Item Cl-G first, and then Item Cl3, which have been
6 moved from the consent calendar.

7 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.
8 Item Cl-G, Dale Dorn, who is here to speak, Boon-Dox Liquor
9 and Deli.

10 This is a five-year rent review, and would
11 increase the rent from the current \$360 a year for an
12 accommodation dock to \$495 a year.

13 CHAIRMAN DAVIS: When was the last time the
14 rent was increased?

15 EXECUTIVE OFFICER DEDRICK: Five years ago.

16 We have regularly -- we have two kinds of
17 leases, Mr. Chairman. One, which is a percent of gross
18 lease and one which is with a minimum, and then a minimum
19 with a five-year rent review to bring the rent into
20 conformance with the changed base price of things,
21 inflationary.

22 CHAIRMAN DAVIS: All right. And you, sir, are
23 Mr. Dorn?

24 MR. DORN: Yes.

25 CHAIRMAN DAVIS: Would you state your name for

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1 the record, please? Be seated and offer whatever
2 comments you think are appropriate.

3 EXECUTIVE OFFICER DEDRICK: Pull the mike over.

4 MR. DORN: My name is Dale Dorn. I'm
5 representing Boon-Dox Liquor. The dock is located in
6 the city of -- in the community of Walnut Grove. And we
7 are the sole providers of a community dock. The dock is
8 used for tourists visiting the area.

9 There has been no fee paid on that dock for
10 30 years, other than when we initiate on our own the
11 original five-year lease.

12 The State Land appraiser has now appraised the
13 land at what we consider an exorbitant price. The Mayor of
14 Galt has high growth over there, and I'll let the
15 Commission in on a secret. In Walnut Grove we don't have
16 this inflation.

17 Houses are still selling for the same thing
18 they did five years ago. Commercial property is still on
19 the market. I have a letter here from a local realtor,
20 who is the only real estate agent in town. And in his
21 letter, he states there has been no growth.

22 When I asked for comparisons, they sent me
23 four comparisons. When you add up the four comparisons,
24 the land value is \$18,800. I was willing to concede to
25 a \$19,000 figure. They want 25,000. That's a 33 percent

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1 raise. It just isn't there. It's not there in that area.

2 Plus the fact that we are providing community
3 service on top of that; we're paying everything. Paying
4 insurance, paying the State Lands Commission for the
5 community of Walnut Grove.

6 So, therefore, I'm petitioning for the same
7 amount of rent for the next five years based on the land
8 values.

9 CHAIRMAN DAVIS: Do we have an appraisal? An
10 independent appraisal beyond what the Lands Commission has--

11 MR. DORN: These are the four appraisals that
12 they have.

13 CHAIRMAN DAVIS: -- from the assessor in the
14 appropriate county appraised this property?

15 MR. KILEY: I think the Assessor --

16 EXECUTIVE OFFICER DEDRICK: Lance, go ahead
17 Lance.

18 MR. KILEY: Our appraisal, as I understand it,
19 is based on approximately the assessed value of the
20 property and taxes paid on the property.

21 In other words, the values that the property is
22 being assessed for tax purposes are comparable to the
23 amount of money that our appraiser thinks the property's
24 worth.

25 And we get nine percent of the property value

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1 for rental typically.

2 CHAIRMAN DAVIS: Would you dispute, sir, the
3 Assessor's valuation that he's put on this property?

4 MR. DORN: Would I dispute it? Yes. I'm at
5 fault there. I thought the property was worth much more
6 than what it is, too.

7 I've owned the property for five years, and
8 there's been no escalation in Walnut Grove property. I
9 did that value on the property myself through ignorance
10 primarily.

11 Because when I purchased the land, it was myself
12 who set the value on the land. But I'm going by the
13 appraisals of the other marinas in the area. And there's
14 four of them here, four comparables.

15 If you total them four comparables up, they come
16 to 18,800, not 25,700.

17 There is no escalation of property down there.
18 We're not Elk Grove, Sacramento, Galt. This is a little
19 town community. And if you don't believe me, come on down.

20 Commercial buildings have been for sale there,
21 commercial property's been for sale there for four years,
22 and the price just keeps going down, not up.

23 EXECUTIVE OFFICER DEDRICK: Would you like to
24 hear from the Appraisal Section? Steve Sekelsky is in
25 charge of appraisals.

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1 CHAIRMAN DAVIS: All right.

2 MR. SEKELSKY: Mr. Chairman, the one fact that
3 Mr. Dorn has not stated here is that it is true that the
4 values of uplands in his area, Walnut Grove, may not have
5 gone up significantly during that period.

6 However, we're talking about waterfront
7 properties here. Now, just as the stock market went down
8 in October, not all stocks went down. We have showed
9 generally that there has been an increase of two to three
10 percent overall in the Delta.

11 One of the comparable sales that we used in
12 the appraisal recently resold -- and we have it -- the
13 data came forth. That parcel had sold in '83 and now has
14 gone up 40 percent on the resale in '87.

15 That's one of our comparables that we used. We
16 could have gone back and figured that into the computations
17 for his rent. If we did that, his rent would go up.

18 There are several methods we could have used.
19 If Mr. Dorn had a single-family residence and it was a
20 general purpose recreational lease, he would be paying
21 \$300 more than he is for his commercial lease. So, we
22 don't see as far -- another point to be made is he says,
23 "Add up all the comparables."

24 It's standard appraisal practices that you do
25 not add up all the comparables. You take the best

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1 indicators and use that. The Appraisal Section feels
2 strongly that the best indicators indicate a value of
3 twenty-four hundred five per acre. The Assessor has
4 \$35,000 an acre (sic) on that particular parcel on the
5 uplands. So, we feel that we're well within that range
6 based on the information I just stated. We're talking
7 about a \$135 increase over a five-year period.

8 And I would also like to state that the initial
9 rent was not the market rent that the Appraisal Section
10 came up with. It was a negotiated rent. So, it's not
11 the 33 percent. It's a little bit lower than that 33
12 percent increase over the four-year period of this contract.

13 CHAIRMAN DAVIS: Well, Mr. Dorn, I would be --
14 you know, if you can bring in some impartial government
15 official that can bolster your case, I would be
16 sympathetic to it.

17 This is a very good Commission. It's not
18 infallible. And I don't want to see it work a hardship
19 on you, and I don't want to see the State get taken. So,
20 it's a very difficult position you put us in.

21 MR. DORN: Well, you know, I understand your
22 position.

23 CHAIRMAN DAVIS: The Assessor -- let me tell you
24 why I mentioned the Assessor. You have a right to go before
25 the Assessor and challenge his valuation. In other words,

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1 if you're paying the taxes at the assessed rate, then
2 you're basically agreeing with his valuation of your
3 property.

4 If you think his valuation is too high, then
5 you shouldn't be paying taxes at that level.

6 MR. DORN: I understand. This is a very small
7 piece of property. Here are the four comparables. When
8 I asked them for what they were basing their information
9 on, here's the four comparables that they sent out to me.
10 Four comparable sales.

11 That's what they're supposed to be basing the
12 land value on, not on some independent appraiser that goes
13 out into the community. He's never talked to anyone that
14 I know of in that community other than me.

15 And, you know, I don't fault Steve for that.
16 He may be an excellent appraiser in Galt, because land
17 prices are accelerating there. But they're not
18 accelerating in the Walnut Grove area. There within lies
19 the difference of opinion.

20 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, if
21 you would like, I would be happy to -- we could put this
22 over. And I would be happy to sit down with staff and
23 this gentleman and the officials of Walnut Grove, if
24 necessary, and see if -- in fact, there is a -- one thing
25 that came up here that I thought might be significant is

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1 the question of it being -- you know, it's been represented
2 by this gentleman that it is the public access from the
3 river.

4 That's news to me. And I think that if that
5 is the case, perhaps we should have a lease with the
6 community there rather than with this gentleman. And then
7 the community could sublease the commercial portion of the
8 dock to him for whatever revenues the community feels
9 they need.

10 But I'd be happy to sit down and look for
11 another alternative here if the Commission would like us
12 to do that.

13 I think the public access thing should be
14 looked into. I'm sure staff knows about it, but I don't
15 is really what I'm telling you.

16 CHAIRMAN DAVIS: Do you have any any thoughts,
17 Steve?

18 MR. HOPCRAFT: I'd like to hear from staff on
19 the public access issue.

20 Did you evaluate that as part of your appraisal?

21 MR. SEKELSKY: Yes, we did. Not at the -- when
22 we started to do the appraisal, but after it became
23 apparent that Mr. Dorn was servicing the whole community,
24 I went down and talked to Mr. Dorn. And I asked, "Well,
25 why didn't the rest of the businesses that benefited from

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1 this dock, why didn't they contribute to the insurance
2 that he has to pay, which he does have to pay by himself,
3 for the improvement itself, which is a costly, beautiful
4 improvement that he has?"

5 They use it. Why doesn't he charge them? He
6 does make charges to people that use the dock. Why doesn't
7 he charge the other upland landowners that have a benefit
8 from the dock?

9 Basically, you have -- he's not using it as an
10 economic unit. And he does charge individuals that dock
11 at his -- dock there a fee.

12 COMMISSIONER HOPCRAFT: I thought he said that
13 there was no fee.

14 MR. SEKELSKY: He instructed me that he does,
15 in fact, charge --

16 MR. DORN: Oh, yeah, we do charge recreational
17 boaters for the three months in the summertime a minimal
18 dockage fee to use the dock. We try to recuperate (sic) --

19 COMMISSIONER HOPCRAFT: I thought there were no
20 fees.

21 MR. DORN: There's no fees from the community,
22 to the other businesses or to the other members of the
23 community. There's no fees.

24 COMMISSIONER HOPCRAFT: So you charge the users.

25 MR. DORN: Yes, but it's a minimal amount. It

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1 doesn't even take care of the Lands Commission fee, you
2 know, much less the insurance, the bond, you know,
3 everything. The maintenance.

4 You have to understand. This is a very small
5 community. And you just can't bulldoze through the
6 community and say, "I'm providing the dock. You got to
7 pay."

8 You just can't do that in a small community.
9 It's not neighborly. It's not economically or neighborly
10 possible.

11 COMMISSIONER HOPCRAFT: No, but you charge the
12 users.

13 MR. DORN: They haven't done it for 30 years.
14 You can't do it.

15 COMMISSIONER HOPCRAFT: If you charge the
16 users, why not charge the businesses that benefit from
17 the dock?

18 MR. DORN: The users benefit from it more than
19 the visitor -- than the -- than the commercial business
20 upland.

21 You know, there's not that much business. What
22 boater comes in -- get a six-pack of beer and a bag of
23 ice. I mean, how can you justify a \$16,000 investment in a
24 dock, paying two, three thousand a year for insurance, \$360
25 to the State Lands Commission, 200-some dollars for a bond?

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1 You know, you add up all these figures, and there's no way
2 that you can support that thing with user fees.

3 MR. SEKELSKY: Mr. Chairman, I would like to
4 say again one time, that under our general permit
5 recreational use, if you had a home on the upland and
6 there was an intervening ownership, you would be paying
7 at least \$200 more for that same facility. And here, there
8 is an economic benefit to his upland business, to all
9 the businesses in town. Plus he charges for people that
10 dock there.

11 And that's the point we're making. He might
12 not be putting it to its best economic use, which makes
13 the thing not an economic unit. And I think that's the
14 point.

15 He has the ability to do that. And he has
16 chosen not to charge the other upland businesses.

17 MR. KILEY: I'd like to point out, too, that
18 although this is, admittedly, a very small community,
19 that area of Walnut Grove is an area where lots of people
20 from the Delta come and go.

21 It's a very heavily traveled boating area. So,
22 there's a great deal of traffic through that area. I
23 would presume that there's a great deal of traffic available
24 to stop at this dock and access to businesses.

25 COMMISSIONER HOPCRAFT: Could you estimate,

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1 Mr. Dorn, the revenues from the fees charged at the dock --

2 MR. DORN: Oh, I --

3 COMMISSIONER HOPCRAFT: -- annually?

4 MR. DORN: To my best recollection, the total
5 fees that recovered from the dock last year were in the
6 neighborhood of \$900 to \$1100. That was the total fees
7 collected.

8 I'd have to go back and review exactly to give
9 you the exact figure.

10 CHAIRMAN DAVIS: Let me suggest this, Mr. Dorn.
11 I mean I'm sympathetic to the problems of a small
12 business. You have to come here yourself, and there's
13 nobody running the business when you're here.

14 On the other hand, we have an obligation to the
15 people of the State to maximize revenues from permits
16 held that we grant.

17 MR. DORN: I understand.

18 CHAIRMAN DAVIS: I think the Executive Officer's
19 suggestion offers an opportunity for you to assemble,
20 you know, whatever person or persons you think make sense
21 to let her revisit the issue. She's the chief administrative
22 officer of this agency, and maybe she can suggest a figure
23 other than -- now, she may suggest a higher figure or she
24 may suggest, you know, a lower figure.

25 So, you're kind of rolling the dice here. And

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1 if you're willing to do that, I think the Commission is
2 willing to give you the time to do that.

3 MR. DORN: I think the Commission's always been
4 fair. I've been dealing with them for ten years, and I've
5 never had a problem.

6 I just have a problem now with this, and it's
7 more a community issue and personal outlay of my funds
8 than it is with the 360 or three -- \$495. I think the
9 appraisals are unfair.

10 And Steve has mentioned that a personal dock,
11 you know, I think it's seven cents a square-foot, is it,
12 or something --

13 MR. SEKELSKY: That's true.

14 MR. DORN: -- like that. No home on the
15 river is going to put up a 250-foot long dock for his
16 personal use. And if he did put up that size dock to
17 accommodate his boat, he wouldn't care about the seven
18 cents a a foot. So, that's irrelative to the thing. I
19 think the \$360 is an ample fee for what that -- for the --
20 to equate to the appraisal, to their own appraisal, for
21 their own -- to their own sales.

22 The appraiser is somewhere else. He's in Galt.
23 Things are exploding in Galt. They were in the front page
24 of the Bee yesterday.

25 (Laughter.)

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1 MR. DORN: With how their -- you know,
2 everything is just, you know -- you can buy land over
3 there and in one year retire. It's not that way in
4 Walnut Grove.

5 CHAIRMAN DAVIS: My sense is that you don't have
6 the votes necessary to have your position prevail.

7 We are trying to do the right thing and
8 balance those two interests I alluded to earlier. If you
9 want to take the time -- the Executive Officer's
10 volunteered her time --

11 MR. DORN: No problem.

12 CHAIRMAN DAVIS: -- to have a meeting and see
13 if we can come up with a different figure. But it almost
14 certainly will be higher than the figure that you're
15 arguing for. Conceivably, it will be less than the
16 figure that the staff has recommended to us.

17 MR. DORN: No problem.

18 CHAIRMAN DAVIS: All right. So, why don't we
19 give -- is 60 days enough time, Claire, to --

20 EXECUTIVE OFFICER DEDRICK: Yes. I believe it
21 is.

22 Is that enough time for you, too, Steve?

23 MR. SEKELSKY: Certainly.

24 EXECUTIVE OFFICER DEDRICK: We're going to have
25 to go to Walnut Grove, much as I find that an arduous thing

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1 to have to do.

2 (Laughter.)

3 MR. DORN: Make sure it's at lunchtime.

4 EXECUTIVE OFFICER DEDRICK: I will.

5 MR. DORN: Thank you.

6 CHAIRMAN DAVIS: Thank you for coming.

7 EXECUTIVE OFFICER DEDRICK: Thank you,

8 Mr. Chairman.

9 I should point out, clarify for the record,
10 that Steve Sekelsky is, in addition to being a very
11 competent appraiser, is also the Mayor of the City of
12 Galt.

13 (Laughter.)

14 COMMISSIONER HOPCRAFT: I would just like to
15 note also that, aside from the sympathy for small
16 businessmen and the desire to balance the considerations,
17 but I would like you to note in your negotiations or in
18 your sessions with Mr. Dorn, and when you come back to us,
19 if you're going to recommend lowering that, then I would
20 like to get your estimate on the impact on the other lease-
21 holders.

22 EXECUTIVE OFFICER DEDRICK: Yes.

23 COMMISSIONER HOPCRAFT: I mean, I think that
24 the equity as regards the rents that the other folks in
25 similar positions are paying is a concern.

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1 EXECUTIVE OFFICER DEDRICK: Yes, Commissioner,
2 I appreciate what you're saying. The Commission has always
3 made a serious effort to be equitable to all -- all
4 leaseholders, and I'm sure that the staff is carrying out.

5 And those regulations are clearly defined to
6 try and maintain that equity. I'd be happy to go through
7 this process. And if there's an alternative and -- you
8 know, I'll be back to you in any event in two months.

9 CHAIRMAN DAVIS: And, you know, just one last
10 thought on this item. It's been my experience that, if
11 anything, the Lands Commission tends to be at the low end
12 of market value on some of these things.

13 So, it does not have a tendency to overcharge.
14 Not that they may not be wrong in isolated instances, but
15 generally they do not seem to be gougers.

16 EXECUTIVE OFFICER DEDRICK: Thank you, Mr.
17 Chairman. We don't feel like gougers.

18 CHAIRMAN DAVIS: All right. Let's take up
19 Item C13, which we put over. Let's take that up now.

20 EXECUTIVE OFFICER DEDRICK: Okay. Jim, would
21 you? I'd like to ask Mr. Trout to take this one for me.

22 MR. TROUT: Mr. Chairman, the Item 13 is to
23 provide an intake and outflow for salt water to establish
24 an abalone farming activity in San Luis Obispo County.

25 We originally felt that this had minimal impact.

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1 However, in review of the environmental certification by
2 the county, they found that there were basically three
3 unmitigatable significant environmental effects.

4 One had to do with the adverse effect on the
5 plankton during the actual laying of the pipeline. One
6 had to do with the potential, although very remote, for
7 some adverse effect on the Pismo claim, and some potential
8 during the construction for some erosion of the inner
9 tidal zone.

10 The County of San Luis Obispo based its
11 determination on overriding consideration, and you are
12 basically using their environmental document. It has been
13 certified, and we know of no opposition.

14 And staff is supportive of the project. But
15 we felt that since you're making that determination, we
16 need to get that out front, so you know clearly what
17 you're doing.

18 We do recommend the project. But you're
19 agreeing to their finding of overriding consideration for
20 these minimal impacts.

21 CHAIRMAN DAVIS: Is there anyone here that is
22 here to speak on this item or opposed to staff's
23 recommendation?

24 COMMISSIONER HOPCRAFT: I move the staff's
25 recommendation.

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1 COMMISSIONER SWEET: I second.

2 CHAIRMAN DAVIS: It passes unanimously.

3 EXECUTIVE OFFICER DEDRICK: Thank you, Mr.

4 Chairman.

5 CHAIRMAN DAVIS: Now we go to --

6 EXECUTIVE OFFICER DEDRICK: Regular calendar?

7 CHAIRMAN DAVIS: Yes.

8 EXECUTIVE OFFICER DEDRICK: All right. Item 29
9 is an application by the Union Oil Company for a waste water
10 pipeline discharge and diffuser.

11 The staff -- and there is, as you can see, a
12 gentleman from the Regional Water Quality Control Board
13 here.

14 This action of the Commission would involve also
15 certifying the EIR, which was conducted by the Commission.

16 Staff recommends that you approve the lease
17 that we have negotiated with Union Oil Company for this
18 particular waste water disposal system, which is -- meets
19 the approval and, in fact, the requirements of the Water
20 Board and all of the relevant agencies in the area.

21 We have a problem with the lease with Union on
22 the marine terminal itself. Union has agreed to hold us
23 harmless on this. They have a clause of no prejudice
24 in regard to this particular item.

25 We'll continue to negotiate the lease, and we'll

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1 extend the lease for three months. Not three months
2 anymore, but to September, in order to continue those
3 negotiations. And that is the item that's before you.

4 CHAIRMAN DAVIS: What is the item?

5 EXECUTIVE OFFICER DEDRICK: For all those things.
6 Certify the EIR, approve the waste water discharge device,
7 pipeline, without prejudice to the base lease, and extend
8 the base lease to the end of September so the staff can
9 continue negotiation to bring it to a conclusion.

10 CHAIRMAN DAVIS: All right.

11 Let me call on Mr. Boyer, who asked to be heard
12 on this issue.

13 Are you going to speak in favor of it or in
14 opposition to the staff recommendation?

15 MR. BOYER: In favor of the staff recommendation.
16 My name is Dale Boyer. I'm a staff engineer with the
17 Regional Water Quality Control Board, San Francisco Bay
18 Region.

19 And I'm basically here to encourage the
20 State Lands Commission to certify the EIR. And it does
21 sound as though staff has worked out a compromise whereby
22 the project can be constructed even though you are
23 involved in these negotiations with Unocal. This would
24 certainly be something that our agency would encourage
25 wholeheartedly.

1 CHAIRMAN DAVIS: Yes?

2 COMMISSIONER SWEET: I have a question for
3 staff.

4 (Thereupon the reporter did not hear
5 the question by the Commissioner.)

6 COMMISSIONER SWEET: What would happen to the
7 pipeline if the lease negotiations are concluded in
8 September in our favor?

9 MR. KILEY: If the lease negotiations were
10 concluded favorably, the pipeline lease would be melded
11 into the final lease for the terminal.

12 EXECUTIVE OFFICER DEDRICK: It would have no
13 substantive effect. In any event, the pipeline will
14 stay there.

15 CHAIRMAN DAVIS: Are there any further --

16 COMMISSIONER HOPCRAFT: I note that there's a
17 cease and desist order from your agency. And I'm
18 wondering if there are any positive environmental
19 benefits from this current action that we take today,
20 aside from clearing the way, I guess, for your permit
21 process to proceed?

22 MR. BOYER: Well, certainly, a positive
23 environmental benefit will be construction of this
24 diffuser, which is required by the cease and desist order
25 in Unocal's current permit. They're currently overdue.

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1 The deadline was July. But we won't take enforcement
2 action, I feel, because delays were caused by circumstances
3 beyond their control.

4 COMMISSIONER HOPCRAFT: So, this is part of the
5 remedy from your cease and desist.

6 MR. BOYER: Yes, this is a requirement.

7 COMMISSIONER HOPCRAFT: And can you give me
8 just three sentences of layman's terms of what is a
9 diffuser?

10 MR. BOYER: A diffuser basically ensures that
11 the waste water discharged from this pipe will immediately
12 meet a very high rate of dilution in the receiving water.

13 This has a couple of benefits. Basically,
14 dilution is not a solution for pollution, but it certainly

15 (Laughter.)

16 MR. BOYER: -- helps to reduce the effects of
17 the waste water in the receiving water.

18 Also, there were problems with the waste water
19 treatment system, the effects, like I said, would be
20 ameliorated by the dispersion.

21 COMMISSIONER HOPCRAFT: Thank you.

22 Mr. Chairman, I would move the staff
23 recommendation.

24 COMMISSIONER SWEET: Second.

25 CHAIRMAN DAVIS: All right. Without opposition,

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1 that motion passes.

2 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I've
3 asked Mr. Trout to take Item 30.

4 MR. TROUT: Some years ago, Mr. Chairman, the
5 Commission had a moratorium on accepting new applications
6 for piers at Lake Tahoe to provide time for a study of
7 some of the environmental effects of piers.

8 That work has now been done, and the Tahoe
9 Regional Planning Agency and our office, Fish & Game,
10 the Attorney General, and others have arrived at the
11 conclusion that piers in and of themselves do not -- for
12 Tahoe are not going to have an adverse effect. But they
13 need to be looked at on an individual basis. We're asking
14 the Commission to basically lift that moratorium and allow
15 the staff to now process applications for new piers at
16 Tahoe.

17 There are some areas that will off limits for
18 new piers. And these are fish spawning areas that have
19 been identified and mapped by TRPA and Fish & Game.

20 After we came into the meeting today, an
21 attorney that represents some of the pier owners has
22 suggested a minor amendment to the recommendation, which
23 is a concern Recommendation 2 -- is that staff may
24 authorize to accept and process applications for new
25 piers. It said, "and pier extensions and modifications,"

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1 which we do agree would be included. But they'd ask this
2 language to be deleted simply because it may indicate
3 that extensions and modifications have to come under this
4 process. I don't think there's any harm in that.

5 We'll continue to process these applications
6 individually. There will be environmental documents and
7 all that. So, we'd just ask your approval of that and
8 acceptance of the staff recommendation.

9 CHAIRMAN DAVIS: Does anyone here want to
10 testify on this item?

11 MR. LIEN: Good morning. My name is Greg Lien,
12 and I represent the Tahoe-Sierra Preservation Council.

13 And, as Mr. Trout pointed out, we noted a
14 problem this morning with the language that could imply
15 that pier extensions might not be allowed in some areas.

16 Just to indicate the extent of the problem that
17 we just heard about this morning, the areas that are
18 identified on the map as having fish habitat at Lake Tahoe
19 constitute approximately 90 to 95 percent of the entire
20 shoreline. To my knowledge, virtually all marinas and
21 facilities open to the public might conceivably subject to
22 this new prohibition if the language, as originally
23 drafted, were to go through.

24 So, again, a drought year where a lot of
25 multiple-use and commercial facilities need to get some

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1 extension further into Lake Tahoe, this will be an
2 absolute disaster for many Lake Tahoe property owners
3 and business owners.

4 One point I want to make while you've kindly
5 given me the time to speak you, is that we need to
6 coordinate with the Tahoe Regional Planning Agency in
7 developing these policies. The Tahoe Regional Planning
8 Agency has the unenviable task of attempting to harmonize
9 the various interests at Lake Tahoe. And believe me,
10 they're diverse and often at each other's throats.

11 I don't believe it's appropriate for this
12 agency, being primarily a revenue-collecting agency, among
13 the other, very many beneficial things that you do, to be
14 dictating policy or get at cross-purposes with TRPA on some
15 of these very key issues to Lake Tahoe property owners and
16 business owners.

17 One further concern that I have is: As to the
18 California Department of Fish & Game being essentially
19 given veto power over where new piers could be located or
20 extensions, or so on, the California Department of Fish &
21 Game is again one of these diverse interests that has
22 their own point of view. They essentially represent the
23 fishermen.

24 Fishermen, from my point of view, are the kind
25 of people that go out and -- well, whether they're amateurs

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1 or professionals -- they're fish killers.

2 TRPA, on the other hand, is sort of on the side
3 of the fish. And to give veto power to the fish-killing
4 side, I guess, in our view, is perhaps not appropriate
5 and might deserve further consideration.

6 Again, in view of the lack of notice as to
7 extension kind of thing, we would concur and urge you to
8 adopt what Mr. Trout has suggested; that is, your paragraph
9 number two, with the deletion of the words, "and pier
10 extensions or modifications."

11 But I would ask that we go a step further and
12 have some coordination with the Tahoe Regional Planning
13 Agency.

14 I was informed this morning by your staff that
15 nobody has talked to them yet about what you're proposing
16 to do.

17 EXECUTIVE OFFICER DEDRICK: That's not true.

18 MR. KILEY: That's not true at all.

19 MR. LIEN: Excuse me.

20 MR. KILEY: It was developed in close harmony
21 with the TRPA people.

22 EXECUTIVE OFFICER DEDRICK: I really would like
23 to speak to that.

24 CHAIRMAN DAVIS: Listen. I'm going to run
25 this meeting.

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1 EXECUTIVE OFFICER DEDRICK: Yes, sir.

2 CHAIRMAN DAVIS: When you're through, we'll
3 then take -- allow the appropriate responses.

4 MR. LIEN: I apologize if I misspoke. I was
5 informed by one staff member, who was apparently not in on
6 those discussions, that, again, I'm just repeating what
7 I was told.

8 If there was coordination with TRPA, then, that's
9 good. I believe there ought to be some more, not only with
10 TRPA, but with some of the other groups involved, such as
11 ours, so that we can bring something back that really does
12 attempt to harmonize all of the interests involved and
13 will be truly workable.

14 This would be a good initial step in that
15 direction. I would ask that we bring this back next
16 month to consider some of the further issues involved.

17 Thank you.

18 CHAIRMAN DAVIS: All right. Why don't you
19 remain there for a second.

20 Do you want to respond, either Claire or --

21 EXECUTIVE OFFICER DEDRICK: May I, Mr. Chairman?

22 CHAIRMAN DAVIS: -- on the issue of whether we
23 coordinated with TRPA on this matter?

24 EXECUTIVE OFFICER DEDRICK: We have coordinated
25 closely with TRPA, with Cal-TRPA when it was in existence,

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1 and with the other relevant agencies on all of these
2 issues.

3 CHAIRMAN DAVIS: Who did you deal with at TRPA?
4 What human being?

5 EXECUTIVE OFFICER DEDRICK: The -- Dennis
6 Machado most recently, who is the Executive Director of --
7 Machida. I always say that. I'm having a gap
8 in my brain as to the Executive Officer of TRPA, who we
9 talked to last week.

10 Let me give you the whole background here. As
11 you know, I know well from your own experience, Mr. Chairman,
12 TRPA, the whole Tahoe issue has been a major issue. The
13 Commission has worked closely with both agencies from the
14 beginning. The reason that the moratorium existed was at
15 the request of Cal-TRPA and TRPA.

16 The studies that were the reason for the
17 moratorium have been carried out and results have been
18 obtained.

19 The reason Fish & Game is spoken to directly
20 in this particular item or the calendar item is because
21 Fish & Game has the authority to determine spawning areas
22 where such structures should not go in. That is by
23 agreement with Fish & Game and the Regional Planning
24 Agency. And, in fact, we're lifting the moratorium at this
25 time at the request of the Tahoe Regional Planning Agency.

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1 And we will continue to coordinate. One of our
2 regulations requires that we get approval of leases from
3 the Tahoe Regional Planning Agency before we grant them,
4 so -- and, as you know, all our leases require compliance
5 with all local, State, and Federal regulations before they
6 are enforced.

7 So, I think that in those regards, Mr. Lien has
8 been misinformed.

9 CHAIRMAN DAVIS: Just to be more specific, the
10 TRPA approves this ten-year recreational pier permit?

11 EXECUTIVE OFFICER LEDRICK: Yes, TRPA has to
12 approve them. Let me have the Attorney General speak to
13 the basic point.

14 That's the other area I did leave out. We
15 worked very closely with the Attorney General's Office on
16 this issue. And Jan's an expert on that.

17 MR. STEVENS: Mr. Chairman, yes, we have worked
18 on this matter with representatives from TRPA and the
19 Lands Commission of course. And we have some concerns, I
20 think, with Mr. Lien's proposed change and the assumptions
21 that underlie it.

22 Basically, it's very unlikely, I think, that a
23 modification or extension could have the same detrimental
24 effects at Lake Tahoe as an entirely new pier. But it's
25 possible that it might. And any amendment to this item

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1 which would imply that a modification or extension is
2 going to come home free and escape the kind of scrutiny
3 that a pier would have is unjustifiable in our view.

4 The second thing is the assumption that this
5 Commission is solely a revenue-collecting agency and
6 should defer entirely to any approval given by TRPA, while
7 I think the arrangement that's been worked out is a good
8 one and, as a matter of fact, the TRPA designation based
9 upon maps showing fish habitat and spawning areas is going
10 to work and is going to work constructively toward review
11 and consideration, this Commission is, of course, the
12 guardian of the public trust at Lake Tahoe.

13 And we assume that it will retain full
14 discretion in that capacity to review pier modifications,
15 extensions, and new piers as well when they come before it.

16 EXECUTIVE OFFICER DEDRICK: To correct what I
17 hope -- I may have misspoken myself. I didn't mean to
18 imply that if TRPA approves something, that this Commission
19 staff would recommend automatic approval. That's not
20 true.

21 I merely meant that we would not recommend
22 approval of a pier that was disapproved by TRPA for their
23 own regional planning reasons.

24 CHAIRMAN DAVIS: I'm trying to reduce this from
25 a general philosophical discussion to the specific item

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1 before us.

2 Does TRPA recommend to this body that we
3 approve Item 31 before us?

4 MR. TROUT: Yes.

5 EXECUTIVE OFFICER DEDRICK: To my knowledge,
6 that's correct.

7 Let me check one point. Lance, you have
8 reviewed this document with the Tahoe Regional Planning
9 Agency?

10 MR. KILEY: My staff has reviewed this with
11 the Tahoe Regional Planning Agency.

12 EXECUTIVE OFFICER DEDRICK: I thought that was
13 the case, but it is, in fact, the case.

14 COMMISSIONER HOPCRAFT: I have a question about
15 the 95 percent figure. If we could just ask staff to
16 speak to this.

17 What is the true effect of us lifting this
18 moratorium if there is 95 percent of the area prohibited
19 from --

20 MR. TROUT: If I can respond? The 95 percent
21 is areas that are identified as spawning habitats, feeding,
22 or escape cover habitat, and areas targeted for b
23 restoration.

24 What this says is that it may yet still be
25 possible to put a pier, pier extension, or modification

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1 within those areas. But they will have to be looked at
2 very, very carefully.

3 There was a question as to whether Fish & Game
4 should have a veto authority. In fact, Fish & Game does
5 have such an authority, because they have to issue an
6 alteration permit or something to allow construction.

7 So, the impact of this is to basically allow
8 staff to accept and process applications. In areas that are
9 identified in the map, those will have to be handled in a
10 very special process.

11 COMMISSIONER HOPCRAFT: So, they'll be given
12 extra consideration.

13 My other question is: If we were to postpone
14 this item, what impact would that have for the current
15 year?

16 I know that, obviously, we've had a lot of
17 dredging and special concerns from the homeowners and
18 boaters due to the dry year. And I'm wondering if we do
19 accept the recommendation of Mr. Lien and postpone
20 action, what impact would that have on the use this year?

21 MR. TROUT: Most of the dredging thing has been
22 handled by the Commission as a result of some good staff
23 work earlier in the year.

24 Item 31, which immediately follows this, would
25 be the first application that the Commission would

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1 consider within this revised process. And it may mean that
2 he may not get a pier in in time to use it this summer.

3 That, I think, is the outside impact, that
4 there may be a party or two, perhaps Mr. Wood, who would
5 not be able to have a pier constructed and used this year.

6 Beyond that, I don't think there is an impact.

7 MR. KILEY: We have a backlog of several dozen
8 applications that are waiting for this action, however.

9 MR. LIEN: If I could briefly respond to some
10 of the things that have been said so far. Apparently, I've
11 been corrected. There was some contact with the TRPA
12 staff that -- at least their lower level staff level, and
13 so -- with their fish biologist and so on.

14 To my knowledge, there has been no use of TRPA's
15 facility in attempting to harmonize the various interests
16 in trying to make sure that this language was not in --
17 somehow in conflict with what they were attempting to
18 accomplish.

19 Again, they have decided that pier extensions
20 are environmentally sound primarily because they go
21 deeper into the lake where impacts on the bottom, say by
22 a boat propwash or whatever, would be less because there's
23 deeper water beneath the keel.

24 So, if human activity, as Mr. Trout pointed
25 out, is the detrimental impact, relocating that into deeper

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1 water where the fish have more room to get away, at least
2 in the TRPA's judgment, from my understanding of their
3 point of view, was a better way to go, to allow these
4 extensions.

5 So, again, we would like to see -- not that
6 this item be pulled all together, but that it be acted
7 on today with the deletion suggested by Mr. Trout.

8 COMMISSIONER HOPCRAFT: Are you recommending
9 that deletion, Mr. Trout, in opposition to the Attorney
10 General's statement earlier, that he thinks it would be
11 a dereliction of our duty?

12 MR. TROUT: I don't understand that to be what
13 Mr. Stevens said.

14 Mr. Lien recommended it. Staff has looked at
15 it. And we don't seem to have a problem with it.

16 There should not be inferred, however, the
17 fact that extensions and modifications would somehow get
18 very passive or casual treatment, and would not be
19 evaluated with Fish & Game and TRPA, and that the
20 environmental impacts on all of the fish spawning and
21 other activities would not be considered.

22 Any implication that that would be the case
23 is incorrect. And I'll let Mr. Stevens respond for himself.
24 But I think that's what I'm saying.

25 CHAIRMAN DAVIS: Well, then, as I understand it,

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1 there's really no dispute on the specific item before us,
2 as far as we take the amended language?

3 MR. STEVENS: The only concern we have --
4 I really don't think that the item, as presented today,
5 raises the kind of problem that Mr. Lien envisages.

6 I'm a little concerned that the Commission
7 creates some kind of legislative history by removing
8 extensions and modifications that may come back some day
9 to haunt us at the hands of able and articulate counsel.

10 EXECUTIVE OFFICER DEDRICK: I would be very
11 concerned if we completely ignored the possibility of
12 damage from extensions, and nor do I believe that that is
13 TRPA's exact position, because I have discussed it with the
14 agency.

15 CHAIRMAN DAVIS: Let me ask our counsel. What
16 is your view on this, Robert?

17 MR. HIGHT: Mr. Chairman, I think that the
18 Commission would be in a legal position, if we adopted the
19 item as presented, and if there is any, then, problem, we
20 can work with Mr. Lien to tailor any permits that would
21 come before us to accommodate any concerns he has.

22 MR. LIEN: Let me ask a question. If we went
23 with the language, as amended, and then brought it back
24 next month for a more comprehensive discussion of the
25 impact of extensions and modifications, and then hopefully

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1 we can take care of everything, including Mr. Wood, who I
2 do not represent, but I understand is on your calendar
3 today.

4 This will, I think, harmonize all of our
5 interests to the extent we can.

6 EXECUTIVE OFFICER DEDRICK: I'm somewhat
7 concerned about taking that route as a result of the
8 discussion that's taken place since the original proposal
9 to make this change.

10 I think it really is important that we be --
11 the Commission be in the position to deal with such
12 proposals on a case-by-case basis, so that they can be
13 examined on their own true environmental merits.

14 I think it would be very unfortunate -- and as
15 Jan has expressed concern and so has Bob -- that the -- that
16 any sort of record should exist indicating in any way
17 that that is no longer a concern of the State Lands
18 Commission.

19 CHAIRMAN DAVIS: Well --

20 COMMISSIONER SWEET: Can I ask just a technical
21 question?

22 What's the difference between a review that
23 would occur on extensions and modifications if the language
24 was amended? What's the practical difference of the
25 review that would occur?

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1 EXECUTIVE OFFICER DEDRICK: There would be no
2 practical difference. But there is an implication now
3 before us that there should be.

4 And as long as you people totally correct
5 that on the record and the problem doesn't exist, then I
6 don't have a problem.

7 But I would certainly bow to the attorneys in
8 my opinion.

9 COMMISSIONER SWEET: If there's no practical
10 difference, then why is it so important to amend it?

11 EXECUTIVE OFFICER DEDRICK: I don't think it is
12 myself.

13 CHAIRMAN DAVIS: Let me --

14 EXECUTIVE OFFICER DEDRICK: We were trying to
15 accommodate --

16 CHAIRMAN DAVIS: I'm not comfortable with this
17 item. And I think -- I'm particularly not comfortable
18 with both attorneys telling me that they're reluctant to
19 see the language changed.

20 I am sensitive to Mr. Lien's comments. So, I
21 would suggest we put this over for 30 days and see if we
22 can't get something in writing from TRPA as to what their
23 view is. And I don't know if we are the ultimate policy-
24 making authority or simply the revenue-collecting agency,
25 because if you look at some of our other items, particularly

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1 Santa Barbara, I think others would tend to agree with me
2 that we don't view this "just collecting money" as our
3 principal task -- it's important, but the affected
4 communities' interest, particularly relating to any
5 projects that we might approve, is also very important to
6 us.

7 Why don't we put this over 30 days?

8 EXECUTIVE OFFICER DEDRICK: We could also put
9 over Item 31 then, Mr. Chairman.

10 CHAIRMAN DAVIS: Right. And let's have
11 something in writing, or some positive statement from
12 TRPA as to where they are on this issue.

13 EXECUTIVE OFFICER DEDRICK: Yes. Randy -- I
14 didn't introduce Randy Moory, but he has spent a good deal
15 of time working on this issue over the last few years.

16 And I'm sure we will have no difficulty getting
17 all these things in writing.

18 CHAIRMAN DAVIS: Thank you. Okay. Item 32.

19 EXECUTIVE OFFICER DEDRICK: Item 32 is a denial
20 of an application of the Big Foot Development Company for
21 a piece of land called Slab City near Niland in Imperial
22 County, and a request by staff that you authorize us to
23 solicit proposals for development of this parcel.

24 CHAIRMAN DAVIS: Any comment from anyone on
25 this item? Any opposition to it?

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1 COMMISSIONER SWEET: Mr. Chairman, I move the
2 staff recommendation.

3 CHAIRMAN DAVIS: Hearing no objection, that's
4 approved.

5 Item 33?

6 EXECUTIVE OFFICER DEDRICK: Item 33, Robert
7 Marx, dba Phoenician South Seas.

8 This is an approval of a one-year extension of
9 his salvage permit for -- he's looking for a ship called
10 the St. Augustine located off Pt. Reyes somewhere.

11 CHAIRMAN DAVIS: Anyone care to comment on
12 this item?

13 Any questions or comments from the Commission?

14 COMMISSIONER SWEET: I move the staff
15 recommendation.

16 CHAIRMAN DAVIS: Without objection, approved
17 unanimously.

18 EXECUTIVE OFFICER DEDRICK: Item 34, the
19 State Lands Commission staff is the applicant in this
20 case.

21 We would ask you to accept and approve their
22 report, which we call the LOSS report-- I can't remember
23 why it's called that -- on the investigation of historical
24 sites and shipwrecks along the Sacramento River between
25 the city and Sherman Island.

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1 This was authorized and funded by in the -- over
2 the last two years. And the report we sent you -- we sent
3 you a next-to-the-last version of the report. We didn't
4 get them all printed. We didn't want to get them printed
5 until you approved it, so --

6 CHAIRMAN DAVIS: Any opposition to this?

7 COMMISSIONER HOPCRAFT: I move we adopt this
8 report.

9 CHAIRMAN DAVIS: Without objection, that's
10 adopted unanimously.

11 Item 35?

12 EXECUTIVE OFFICER DEDRICK: Item 35 is an approval
13 of an assignment from the Exxon Company and Phillips
14 Petroleum to the Exxon Pipeline and Largo Company of the
15 offshore lease, which is a pipeline lease. I think also --
16 and a terminal lease. Commission approved both leases
17 in the fall.

18 CHAIRMAN DAVIS: Anyone want to comment or
19 testify on this item?

20 Any opposition to it?

21 COMMISSIONER SWEET: I'll move the staff
22 recommendation.

23 CHAIRMAN DAVIS: Without objection, it's
24 approved unanimously.

25 Item 36?

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1 EXECUTIVE OFFICER DEDRICK: Item 36, this is
2 approval of a 49-year master lease to the City of
3 Sacramento for the riverfront area on the Sacramento
4 River between the Tower Bridge and the Pioneer Bridge, so
5 they can go forward with the development of that area.

6 CHAIRMAN DAVIS: Anyone care to be heard on
7 this item? Any opposition?

8 Is there a motion to approve?

9 COMMISSIONER SWEET: So move.

10 CHAIRMAN DAVIS: Without objection, that's
11 approved unanimously.

12 Item 37?

13 EXECUTIVE OFFICER DEDRICK: Item 37, the City of
14 Petaluma. This is approval of a termination of an existing
15 lease and a quitclaim deed, a settlement with the city,
16 and approval of a project to do some marina work in
17 Petaluma,

18 CHAIRMAN DAVIS: Anyone want to be heard on this
19 item?

20 Any opposition?

21 Is there a motion to approve?

22 COMMISSIONER SWEET: So move.

23 CHAIRMAN DAVIS: Without objection, that's
24 approved unanimously.

25 EXECUTIVE OFFICER DEDRICK: Item 38 is off

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1 calendar.

2 Item 39, the Kerry K. and Caren R.
3 Kennedy. This is the issuance of a patent on a parcel
4 of land the Commission authorized the sale of over two or
5 three months ago.

6 CHAIRMAN DAVIS: Anyone care to be heard on this
7 item?

8 Any opposition?

9 Is there a motion to approve?

10 COMMISSIONER SWEET: Move the staff
11 recommendation.

12 CHAIRMAN DAVIS: Without objection, that will
13 be approved unanimously.

14 Item 40?

15 EXECUTIVE OFFICER DEDRICK: Yes. Item 40,
16 Commissioners, I should inform you that on both Items 39
17 and 40, you are acting also as School Land Bank Trustees
18 as well as State Lands Commissioners.

19 Item 40 is an authorization to sell a parcel,
20 two acres, in Shasta County -- in Siskiyou County on the
21 side of Mount Shasta for access to a parcel owned by
22 Danielle L. Light.

23 CHAIRMAN DAVIS: Anyone want to be heard on
24 this item?

25 Any opposition?

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1 COMMISSIONER SWEET: I move the staff
2 recommendation.

3 CHAIRMAN DAVIS: Without objection, it's
4 approved unanimously.

5 EXECUTIVE OFFICER DEDRICK: In both cases, the
6 revenue from these two goes into the School Land Bank
7 Trust Fund.

8 Item -- excuse me.

9 CHAIRMAN DAVIS: Item 41?

10 EXECUTIVE OFFICER DEDRICK: Item 41, S & R
11 Forest Management. This is authorization to accept a bid
12 of \$24,000-plus for a timber sale of -- in Mendocino
13 County -- Lake County. I'm sorry. -- of a burn -- the sale
14 of salvaged timber from a burn.

15 CHAIRMAN DAVIS: Anyone want to be heard on this
16 item? Any opposition?

17 Is there a motion? |

18 COMMISSIONER SWEET: I so move.

19 CHAIRMAN DAVIS: Without objection, that's
20 adopted unanimously.

21 EXECUTIVE OFFICER DEDRICK: Item 42, California
22 Department of Forestry.

23 This is approval to enter into an interagency
24 agreement for a prescribed burn on a parcel of land in
25 Shasta County.

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1 CHAIRMAN DAVIS: Anyone want to be heard on
2 this item?

3 Is there opposition?

4 COMMISSIONER SWEET: Move the staff
5 recommendation.

6 CHAIRMAN DAVIS: That's unanimously approved.

7 EXECUTIVE OFFICER DEDRICK: Item 45, Commissioners,
8 this is -- W. L. Burdue is the applicant for a prospecting
9 permit for minerals in the -- off the San Diego Coast.
10 It's off Imperial Beach.

11 The staff recommends denial. Mr. Burdue is
12 here and probably would like to speak.

13 CHAIRMAN DAVIS: Will you come forward,
14 Mr. Burdue?

15 MR. BURDUE: Yes, thank you. You have some
16 pretty good communicators here today. I'm sorry I'm not
17 one of them, but I'll try to get my point across.

18 CHAIRMAN DAVIS: Take your time.

19 MR. BURDUE: I do have some written stuff if
20 you'd like to submit it there for -- some analyses as far
21 as areas being impact and all (sic). If -- I don't know
22 how many you --

23 And then, in addition to --

24 In case, just the project itself, have to take
25 any on the statements (sic), I'd like to also submit some

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1 assessment impact for similar type of activities that
2 have been done on -- and I have more, but that's just an
3 example.

4 EXECUTIVE OFFICER DEDRICK: Go ahead,
5 Mr. Burdue.

6 MR. BURDUE: Yes. It's my understanding that
7 one of the main charters of this Commission is to promote
8 and encourage development of our public resources through
9 private participation.

10 In spite of this, I am under the impression your
11 staff's motivation is only in supporting those interests
12 of self-serving government programs.

13 Also, it was called to my attention that some
14 of the Land Commission officials here are noted for being
15 politically motivated in securing denials of any activity
16 which might be interpreted as an environmental issue.

17 Now, all this does is engage in partisan
18 politics when the public interest could be better served
19 by proposing flexible amendments if a misconception could be
20 corrected.

21 Please take a minute to recall in the past or
22 notice today's calendar items and note how many of these
23 items are mainly for sea sand removals. True, they don't
24 call it prospecting, but used language like maintenance
25 dredging, sand replenishment, et cetera.

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1 Also, there's another big difference, and that
2 if -- if we don't have a mineral discovery, there is no
3 reason for -- to proceed farther than but a removal of
4 just a few pounds.

5 Of course, the removal of the final tonnage is
6 required to prove the security and economic well being for
7 obtaining this lease.

8 Even if good judgment enable (sic) us to be
9 successful in removing all the sands proposed in this
10 project, it would only represent a very small fraction
11 in comparison to the other sand removal items.

12 In fact, even a single storm wave action could
13 displace a lot more sand than our entire proposed sand
14 sampling program.

15 I started this application in June, in '87, which
16 was first approved as complete in December, '85, but
17 had just been scheduled for this public hearing today.

18 The staff has encouraged me to withdraw my
19 application several times. They did identify several
20 government agents (sic) and their rights in various
21 functions, but failed to state that in all these locations
22 that the State specifically reserved and maintained all the
23 mining rights for the benefit of the public.

24 I am here today to urge this Commission to
25 direct their Long Beach office to mitigate a prospecting

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1 permit in keeping with the State's past public intention
2 of developing their resources through private enterprise.

3 I believe a review of this project will show
4 that a preparation of the EIR is not required and a
5 finding of a no significant impact is considered
6 consistent with prior projects.

7 It should be noted that this is not a full-scale
8 production type of operation that might require or
9 justify more information in the form of an EIR to show
10 possible environmental restraints.

11 The Commission now has a chance to perform
12 their function and show their concern for the rights of
13 private miners -- in this case, me -- which have in the
14 past been a positive force in the development of
15 California public resources.

16 With the current high budget pressure, all
17 agents (sic) should do their part in trying to relieve
18 the private sector of any undue tax stress.

19 I urge you to look at the specific intent of
20 this project with me, and determine that the tasks and
21 procedures outlined will meet with your approval in granting
22 this permit.

23 Also, should you feel I should farther (sic)
24 address more specifically each statement of the staff's
25 report with why I feel they were generic in nature,
biased, and misleading, I will do so.

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1 And, please, the tone came out, I guess,
2 stronger than what I meant. I'm just trying to -- I got a
3 lot of time and energy in this. And I feel a lot -- no --
4 to me, no mitigation was accomplished, or even tried to
5 in this case, because it gave the impression that there'd
6 been a freeze on any type of exploration or anything.

7 If that's the case, it should have come out
8 that way instead of going back through this. Now, I
9 would like to point out, if I could just a moment, this
10 second page here is mainly just what the objective of the
11 permit outline is.

12 Obviously, the objective of this is to see if
13 we can locate minerals and make assays or samplings. And
14 then the second thing is determine whether it's profitable
15 or not to do this.

16 Now, as far as the environmental, there's very
17 little known about the ocean. And the more data you can
18 collect the better off it is for all of us to make good
19 decisions on what's going on down there.

20 We don't have any -- anybody collecting data
21 or storing it or keeping it. You may recall back at the
22 beginning of the Commission, the Coastal Commission, they
23 tried to -- they made a study on how to collect data.

24 They funded that to the private enterprise.
25 They came up with a good computer program for collecting

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1 data. They never did go ahead and fund, to my knowledge,
2 the implementation of collecting this data so somebody
3 intelligent can make a decision.

4 All they do, it appears, is make up the
5 decision, then go collect the data to justify why a
6 decision was made.

7 But, anyway, my plan we have proposed here, we
8 have not asked for any variance request. We haven't
9 asked anybody to have any variance on it.

10 We -- we know that the -- the environmental
11 issue is a very sensitive thing here and various policies
12 are for our benefit, especially with the EPA problems
13 they're having now with the ocean. But that's -- most of
14 that's indirectly in relation to the ocean. And it's
15 inland as far as the pollution goes. It's not the users.

16 Now, we want to comply with all of the
17 compliances (sic). We've asked the State to be a part of
18 the observation on here. And we want to recognize any --
19 any inputs they have for this. We would incorporate that
20 in our plan.

21 This is similar to a permit that I helped
22 people do back in the time frame, in 1976 through '79,
23 and the permit number is 9878.

24 There are data there. I don't think there was
25 any problems there or anything encountered there. Now --

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1 and we got more sophisticated laser analysis, spectro-
2 analysis, where we can go out and make better analysis (sic).

3 CHAIRMAN DAVIS: Mr. Burdue, let me interrupt --

4 MR. BURDUE: Okay.

5 CHAIRMAN DAVIS: -- you for a second.

6 What -- have you ever been granted a permit
7 by the Lands Commission before to conduct mining
8 operations?

9 MR. BURDUE: I have not. This permit I'm
10 speaking of here in the same area, people came to me and
11 I helped them as a consultant and put them together. I
12 didn't -- I didn't have time at that time to do it.

13 CHAIRMAN DAVIS: Let me just ask the Commission
14 staff, if you'll permit me, what was the basis on which
15 this permit was denied?

16 EXECUTIVE OFFICER DEDRICK: Well, Mr. Chairman,
17 in the course of -- as soon as the application came in,
18 staff recognized the sensitivity of the area adjacent to
19 the Tijuana Estuary National Wildlife Refuge, State Beach,
20 other things that are itemized in the calendar item.

21 We therefore -- I directed staff to solicit
22 comments as to whether or not this would be a problem
23 from all of the relevant agencies that protect the public
24 resources.

25 Uniformly, there were -- there were responses.

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1 There are a couple of pages of comments here expressing
2 concern as to really hoping the Commission would not
3 grant this prospecting permit.

4 Staff really does not believe that the --
5 believes that the environmental impact of a mining
6 operation there would be sufficiently intense that the
7 Commission couldn't legitimately grant a mining lease in
8 the area. In order to -- the prospecting permit leads
9 toward a mining lease, but it requires that an EIR be
10 conducted. So, our point is --

11 CHAIRMAN DAVIS: Are there any other mining
12 operations in the --

13 EXECUTIVE OFFICER DEDRICK: In the sand --

14 CHAIRMAN DAVIS: In the adjacent area?

15 EXECUTIVE OFFICER DEDRICK: No. There are none.

16 CHAIRMAN DAVIS: Have we ever granted mining
17 operations in the area in the past?

18 EXECUTIVE OFFICER DEDRICK: Not since I've been
19 with the Commission.

20 Moose, do you remember any of those?

21 Moose Thompson is Chief of Extraction -

22 MR. THOMPSON: Al Willard will be happy to
23 answer that question.

24 MR. BURDUE: If I may, I'd give you the number
25 here of it.

CHAIRMAN DAVIS: Of a mining operation --

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1 MR. BURDUE: Yes.

2 CHAIRMAN DAVIS: -- in this area?

3 MR. BURDUE: Yes. Exactly the same operation
4 I'm doing.

5 W-9878. It was done by the 4-M Company.

6 CHAIRMAN DAVIS: What year?

7 MR. BURDUE: 1976 through 1979.

8 EXECUTIVE OFFICER DEDRICK: Al?

9 MR. BURDUE: Al?

10 MR. WILLARD: That was a prospecting permit for
11 that company at that time. It did not cover any
12 mining operations, again, for just taking some samples.

13 CHAIRMAN DAVIS: Did any mining operations
14 ensue --

15 MR. WILLARD: No.

16 CHAIRMAN DAVIS: -- when the prospecting
17 permit concluded?

18 MR. WILLARD: No, sir. It was determined to be
19 negative results, and they did not.

20 CHAIRMAN DAVIS: What you're really saying to
21 Mr. Burdue is not so much a statement of his competence
22 or his expertise --

23 EXECUTIVE OFFICER DEDRICK: No.

24 CHAIRMAN DAVIS: -- but just your view,
25 corroborated by a number of other agencies, this is not an

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1 area which we think mining is appropriate?

2 EXECUTIVE OFFICER DEDRICK: That's correct,
3 Mr. Chairman.

4 CHAIRMAN DAVIS: What do you say to that,
5 Mr. Burdue?

6 MR. BURDUE: If mining did take place, we'd
7 forced enough to (sic) come up with some of these
8 beneficial to the country, and I might add it would be in
9 the strategic minerals resources type of minerals that
10 we found. That the mining, it would be nothing but a
11 sand extraction. You'd be carrying the sand. There'd be
12 no -- nothing done there than removal of sands, which is
13 running the dredges.

14 The dredges take place down there at the
15 various marinas, they do it -- when I was there off of
16 this area -- I'm sorry -- she's speaking of the Tijuana
17 Slough, they was removing more sand and dredging than I
18 would ever be able to economically probably do in years.

19 So, it would be taking sand, and then taking
20 it in shore and processing according to whatever
21 regulation that is in effect away from the ocean.

22 There was never any intent to do the mining
23 there. It would be a harvesting mainly of resources that
24 came from land. They have washed into the ocean, and
25 they've been washed there. Now we want to pick them back

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1 up, because they've been concentrated in a different
2 format now where we think, maybe with new technology, we
3 can make an income.

4 Now, the -- the problem being here -- I won't
5 go through how much. It's very small. They just -- they're
6 trying to think of as a mining thing and kill. This is
7 what they told me they would try to do. They would kill
8 it that way. If not, they would come up with an expensive
9 EIR to do it.

10 Now, she mentioned -- Mrs. Claire -- she
11 mentioned the staff's report. They did. They had a lot
12 of very negative inputs. And I think it was probably good
13 input from their own viewpoint. If you will look at the
14 document I gave you, and look at the document she has,
15 they're almost identical. They call out even up in the
16 Anaheim Bay the same endangered bird as they talk about
17 at Imperial. Exactly the same name. And they come up
18 with the possibility of dredging doing damage up there.

19 But, the only difference being this is
20 mitigated and approval was given to it. It almost -- if
21 you read that report and read the one the staff gave,
22 it's almost the same words.

23 And I can go -- I got five or six other
24 reports, the problem being that is that somebody didn't
25 want to mitigate this thing to see if it could be worked

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1 out.

2 And I appreciate --

3 CHAIRMAN DAVIS: That's a policy judgment.

4 And, you know -- let me ask. Have we -- we have only
5 issued the one prospecting permit --

6 EXECUTIVE OFFICER DEDRICK: The one --

7 CHAIRMAN DAVIS: -- back in the mid to late
8 seventies?

9 EXECUTIVE OFFICER DEDRICK: Let me expand just
10 a little bit on that.

11 In that area -- that's correct. Let me say,
12 also, that a prospecting permit for a similar sort of
13 operation was issued a very few years ago off Sunset
14 Beach in the City of San Francisco.

15 When the issue came before the Commission as to
16 whether or not to grant a mineral lease, there was
17 tremendous controversy.

18 An environmental impact report would certainly
19 have been required. And absent an environmental impact
20 report, the Commission denied that application.

21 Now, Mr. Chairman, one thing I did not speak
22 clearly on, I think, when I introduced this item, is that
23 the initial discussions with other agencies indicate that
24 we would have to do an EIR.

25 884 runs on 10/28 of this year. So, clearly,

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1 there isn't time to accomplish an environmental impact
2 report in that period.

3 And I think Mr. Bardue misunderstood staff when
4 he took it as a threat that we would require an EIR. Staff
5 informed him that in order to process a prospecting permit
6 any further to bring it to you for approval, an environmental
7 impact report would have to be done as a result of the
8 comments that we have received and our own knowledge of
9 the environmental impact in the area.

10 CHAIRMAN DAVIS: Is that your understanding,
11 Jan?

12 MR. STEVENS: Yes. The record indicates a
13 number of possible significant effects. It's very clear,
14 and also possible controversy, and an EIR would be
15 necessary.

16 CHAIRMAN DAVIS: Well, is there a manner in
17 which we can uphold the staff's recommendation, but ~~any~~
18 without prejudice, and allow him to sit down with the
19 staff and see, you know, if there's any merit in his
20 pursuing his interest in this area?

21 Or would you recommend that we just act up or
22 down --

23 EXECUTIVE OFFICER DEORICK: Surely, we can do --
24 to go forward on this, you can certainly deny without
25 prejudice. He can make another application. Part of that

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1 application would require a reimbursement agreement for
2 the funding of an environmental impact report in order
3 for that application to go forward.

4 I really believe, Mr. Chairman, there is no
5 question that if this -- the prospecting permit is to be
6 considered for approval, that an environmental impact
7 report must be done. And that's the way we would go about
8 it.

9 We should deny today, because there isn't any
10 way in which you could complete the process with an
11 environmental impact report prior to the expiration of the
12 permit streamlining act requirement.

13 MR. THOMPSON: Because as far as the applicant
14 is concerned, if he takes that particular approach, he will
15 actually shorten it, rather than waiting till the end of
16 that particular 884 time, and then having to submit --
17 resubmit.

18 MR. BURDUE: Could I please answer to that,
19 please?

20 An EIR in the case of a small person like
21 this here, you got to use good judgment. And that's why
22 I'm coming before the Commission here is to lay out a
23 little bit farther down here what the plan really is. And
24 I think if you will look at it from a judgment standpoint,
25 that if you look at it from strictly the prospecting --

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1 that's all we're here for -- I'm here for is the
2 prospecting to see -- gather that to see if it justifies
3 going ahead with the mining type of operation. That's all
4 we can do.

5 CHAIRMAN DAVIS: Why did you think that the
6 earlier prospecting permit in the same area, which I
7 gather revealed that there were no -- no reason to -- no
8 resources to develop, why do you think your prospecting --

9 MR. BURDUE: That's not quite true. The thing
10 that happened on that, at that point in time, in order to
11 make the evaluation, they had atomic absorption -- was the
12 only type of machine that was able light off the
13 specimens and raise the different type of gas.

14 Now they got new equipment that are able to
15 detect a little bit cheaper so they can get faster
16 turnaround in this new process to see whether it could be
17 economically recovered.

18 They did, in all cases -- if you'd check, and
19 I can bring the statement. I'll bring the people in from
20 4-M. Values were find -- found there. The values are
21 there, but it wasn't economical technologywise to be able to
22 develop the processing for it.

23 Now -- and it's trying to relocate and see
24 if we can come up with the technology. This -- since the
25 time expanded (sic). Now, no damage was done then. If I

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1 could, just --

2 CHAIRMAN DAVIS: Well, Mr. Burdue --

3 MR. BURDUE: I mean if you just see what's
4 taken place there. That's --

5 CHAIRMAN DAVIS: You have three problems. One,
6 there may not be any minerals to extract; two, you have
7 to have an EIR done by law -- all our attorneys say --
8 three, as a policy judgment, we may not think it's
9 appropriate, even if there are minerals there, for them
10 to be extracted.

11 MR. BURDUE: The policy -- I -- I think, you
12 know, that you mentioned, you're a policy agency and
13 obviously what can I do about that? I can't -- and I
14 don't mean to fight that or anything. That's what I've
15 been running up against all through here is a brick wall.
16 We don't want you. Go away.

17 And if that's the attitude, a way individuals
18 are looked on in this State, then that's the way it is.

19 The best -- let's let it be known that it is
20 a policy, and that we don't recognize the individual's
21 rights here.

22 CHAIRMAN DAVIS: I don't think we'll accept
23 that characterization.

24 COMMISSIONER HOPCRAFT: I certainly would
25 dispute that. I think you've been present for this

1 morning's hearing --

2 MR. BURDUE: And I appreciate --

3 COMMISSIONER HOPCRAFT: -- and other leases and
4 other applications, so I would certainly strongly dispute
5 your statement, as I would strongly dispute many other
6 statements you've made this morning about this being
7 politically motivated. Obviously, there's no political
8 angle. We don't know you.

9 This is not a huge public issue. So --

10 MR. BURDUE: The political -- excuse me -- what
11 I was referring to is that it looks -- that it is negative
12 if anything'd done in the ocean, if anybody goes out and
13 do anything (sic), it's obviously going to be a bad
14 impact.

15 And there's good impacts and results from things,
16 too. And --

17 (Thereupon the witness interrupted
18 Commissioner Hopcraft's statement.)

19 MR. BURDUE: I'm sorry.

20 COMMISSIONER HOPCRAFT: If you examine the
21 record, you'd find that we do approve projects in the
22 ocean.

23 MR. BURDUE: We weren't able to find any.

24 COMMISSIONER HOPCRAFT: Where they're
25 appropriate.

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1 MR. BURDUE: That's -- okay. I'm sorry,

2 COMMISSIONER SWEET: Is it proper for us to
3 take an action on this? Do we need to have an
4 environmental impact report, or is it -- I'm trying to
5 understand the process. We can deny it, but we can't
6 approve it without an environmental impact report; is that
7 right?

8 CHAIRMAN DAVID: We'd deny it for 884 purposes.

9 EXECUTIVE OFFICER DEDRICK: You can do that,
10 you know. A denial doesn't prejudice a future application
11 in any way, Mr. Chairman. Whether you say it's without
12 prejudice or not, it just doesn't prejudice it. Each
13 application is a new thing.

14 CHAIRMAN DAVIS: Well, what I would recommend
15 to my colleagues is that we deny -- we uphold the
16 staff's recommendation and deny your permit, but invite
17 you to sit with the appropriate people that Claire will
18 designate. And, Claire, if you could participate --

19 EXECUTIVE OFFICER DEDRICK: Certainly.

20 CHAIRMAN DAVIS: -- in that meeting, so at
21 least he has the benefit of a higher ranking official of
22 the Lands Commission.

23 And listen to these people. They're not
24 trying to create problems for you. They're trying to
25 suggest what is possible and what is not possible under the

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1 law and under the best thinking of a number of other
2 agencies with whom we have to consult before we can make
3 an affirmative decision.

4 In other words, we have to get a sense of what
5 the City and County of San Diego thinks, what the Port
6 Commission thinks down there, environmental agencies,
7 and all that --

8 MR. BURDUE: I --

9 CHAIRMAN DAVIS: -- factored in to the
10 decision we make.

11 MR. BURDUE: That's one of the problems I'd
12 like to bring up.

13 I talked to almost every one of those, except
14 the State Lands Commission. They didn't respond. I don't
15 mean the State Land (sic), the Coastal Commission. And
16 the -- when I talked directly to most all of them, there
17 was a different feeling in what came back when the Land
18 Commission put their interpretation. And it was never two
19 of us together or something to see if there was any type
20 of mitigation why we was having this communication
21 problem.

22 But that don't seem -- if there was this
23 problem, it looked like the two of us would have got together
24 or had a chance to talk if there was truly a problem.

25 CHAIRMAN DAVIS: You're getting something out of

1 this, because I'm directing Claire Detrick, who is the
2 top person in the Lands Commission to sit down with you
3 personally and any other staff that she thinks is
4 appropriate. --

5 EXECUTIVE OFFICER DEDRICK: We will do that.

6 CHAIRMAN DAVIS: -- to direct your future --

7 MR. BURDUE: That's all I can ask for.

8 CHAIRMAN DAVIS: The immediate item before us,
9 we've got to -- at least in my judgment -- I have to
10 observe the staff recommendation to --

11 MR. BURDUE: Does that mean -- I'm sorry -- does
12 that mean economically I would have to go through the
13 financial hardship of reopening the thing again if I
14 wanted to do something? Or is this a chance to reevaluate
15 the application?

16 EXECUTIVE OFFICER DEDRICK: Now, there would
17 be -- other than the question of the environmental
18 impact report, which is a substantial economic investment,
19 the existing application -- the existing application could
20 be resubmitted and we would not charge an additional
21 fee.

22 CHAIRMAN DAVIS: All right. You're probably
23 going to be facing an environmental impact report, though,
24 as a matter of law whichever way you go. So, they will
25 explain that to you. And you may view that as a hardship.

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1 but that is a legal obligation, and that would be a
2 violation of our duties if we didn't require that.

3 So, that has nothing to do with the decision
4 we'll make in time.

5 MR. BURDUE: That'd be fine.

6 CHAIRMAN DAVIS: All right. Is there a motion
7 to accept the staff recommendation?

8 COMMISSIONER HOPCRAFT: Yes. I would move
9 that we adopt the staff recommendation.

10 COMMISSIONER SWEET: I'll second it.

11 CHAIRMAN DAVIS: Without objection, that's
12 approved.

13 EXECUTIVE OFFICER DEDRICK: Thank you,
14 Commissioners.

15 Item 46, the Portofino Cove Condominium
16 Homeowners Association. This is an application not for
17 a maintenance dredging permit, but for a dredging permit
18 for an area in Huntington Harbor.

19 CHAIRMAN DAVIS: Mr. Burdue, you might want to
20 just stay around here, ~~and~~ after the Commission meeting
21 you can make some arrangement with Claire Dedrick to
22 schedule a meeting. I would imagine we'd be through in
23 about a half hour or 40 minutes.

24 EXECUTIVE OFFICER DEDRICK: The item is a
25 dredging permit, not a maintenance dredging permit, for

1 the Portofino Cove Condominium Homeowners Association in
2 Huntington Harbor.

3 Staff recommends approval.

4 CHAIRMAN DAVIS: All right. Does anyone want
5 to be heard on this item? Is there any opposition?
6 Is there a motion to approve?

7 COMMISSIONER SWEET: I'll move the staff
8 recommendation.

9 CHAIRMAN DAVIS: Without opposition, that's
10 approved unanimously.

11 EXECUTIVE OFFICER DEDRICK: Item 48, CGG
12 American Service. This is approval of a geophysical
13 survey permit for State-owned land essentially in the
14 San Joaquin Delta area.

15 The Department of Fish & Game has regulatory
16 approval here, and they're exercising it.

17 CHAIRMAN DAVIS: Anyone want to be heard?
18 Any opposition?
19 Is there a motion to approve?

20 COMMISSIONER HOPCRAFT: The Department of Fish &
21 Game is in support of --

22 EXECUTIVE OFFICER DEDRICK: That's correct. Yes,
23 they are regulating this operation.

24 CHAIRMAN DAVIS: All right. That's without --
25 Would someone make a motion to approve this? No motion

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1 to approve?

2 COMMISSIONER HOPCRAFT: I would move to approve
3 the staff recommendation.

4 COMMISSIONER SWEET: I'm hesitating only because
5 I happened to note here that this is a geophysical --

6 EXECUTIVE OFFICER DEDRICK: This is a different
7 sort of -- this isn't an offshore geophysical operation.
8 This is partly on land and partly over water in the
9 Delta. It's a totally different type of operation than
10 is carried on in the offshore area.

11 This particular operation utilizes dynamite.
12 And whenever that is the case, the Department of Fish &
13 Game has a direct regulatory control over the operation,
14 whether it takes place or not and how it takes place.

15 COMMISSIONER SWEET: And they've approved this?

16 EXECUTIVE OFFICER DEDRICK: They have approved
17 this operation.

18 COMMISSIONER SWEET: I'll second it.

19 CHAIRMAN DAVIS: All right. Item 48 is
20 unanimously approved.

21 EXECUTIVE OFFICER DEDRICK: Okay. Item 49,
22 Noble Consultants. This is approval of a geologic survey
23 permit for -- this is in the offshore area, but it is
24 geologic, not geophysical.

25 COMMISSIONER HOPCRAFT: Does anyone wish to be

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1 heard on this item?

2 COMMISSIONER SWEET: If not, I'll move the
3 staff recommendation.

4 COMMISSIONER HOPCRAFT: And I will second that.
5 Item 50?

6 EXECUTIVE OFFICER DEDRICK: Item 50, United
7 States Air Force. This is approval and ratification of
8 a maintenance dredging permit for less than 10,000 cubic
9 yards at Point Arguello, Vanderberg Air Force Base.

10 CHAIRMAN DAVIS: Does anyone want to be heard
11 on this item?

12 Any objection?

13 COMMISSIONER SWEET: Move staff recommendation.

14 CHAIRMAN DAVIS: Okay. Without objection,
15 that's unanimously approved.

16 EXECUTIVE OFFICER DEDRICK: Item 51, Petro
17 Source Corporation, and is the assignee of -- this is
18 approval of assignment of a State royalty oil sale's lease
19 from -- I don't know who -- in Los Angeles and Santa
20 Barbara Counties. From Cal Jet to Petro Source. Sorry.

21 CHAIRMAN DAVIS: Does anyone want to be heard
22 on this item?

23 Is there any opposition?

24 Is there a motion to approve?

25 COMMISSIONER SWEET: So move.

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CHAIRMAN DAVIS: Okay. That will be
unanimously approved.

EXECUTIVE OFFICER DEDRICK: Item 52, Shell
Western Exploration & Production, Inc. Approve the form
of indemnity agreement between Shell and the California
Coastal Commission. Staff recommends approval.

CHAIRMAN DAVIS: Any opposition to this? I
assume the Coastal Commission approves this?

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRMAN DAVIS: Is there a motion in favor?

COMMISSIONER SWEET: Move staff recommendation.

CHAIRMAN DAVIS: Without objection, that's
unanimously approved.

EXECUTIVE OFFICER DEDRICK: Item 53, the City of
Long Beach. This is a status report on the 1987-88 plan
year, Long Beach Unit, Wilmington Field, Los Angeles
County.

This is an informational item. You don't need
to vote on that.

CHAIRMAN DAVIS: Next item?

EXECUTIVE OFFICER DEDRICK: Item 54, Arco Oil
and Gas. This is a consideration of the drilling
deferment on the Coal Oil Point leases, 208, 308, 309, 3120,
and 3242. Arco applied for a five-year deferment.
Staff recommends a three-year deferment. And

1 that is the item that's before you.

2 CHAIRMAN DAVIS: The applicant agrees to,
3 you know, that amended motion?

4 EXECUTIVE OFFICER DEDRICK: Yes. I'll let the
5 attorney speak to that.

6 MR. HIGHT: Mr. Draper from Atlantic Richfield
7 is here, and I believe he is in agreement with that.

8 MR. DRAPER: Yes, we had a prestatement. We
9 are in agreement with that. I have one comment on the
10 staff report if we might.

11 CHAIRMAN DAVIS: Please be seated and state
12 your name for the record.

13 MR. DRAPER: Good morning. I'm Jack Draper,
14 attorney for Atlantic Richfield Company.

15 And Mr. Richard Ranger of Arco & Gas Company
16 is here with me today on this --

17 CHAIRMAN DAVIS: Good morning, Mr. Ranger.

18 MR. DRAPER: -- calendar item.

19 Arco does support the recommendation of staff
20 for a three-year deferment. We do have one comment on
21 page 2 of the staff report, the second full paragraph
22 mentions the three-year deferment is in order to allow
23 Arco a reasonable time in which to study and propose
24 alternative development plans that are economically and
25 technologically feasible, are compatible with other public

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1 trust uses of these lands and will mitigate significant adverse
2 environmental effects.

3 I would just like to reiterate, as stated in our
4 letter of application for the deferment, that it's
5 Arco's position that Arco's Coal Oil Point project
6 development plan represents the only feasible development
7 for the project, and it is one which the Commission staff
8 was intimately involved in developing.

9 EXECUTIVE OFFICER DEBRICK: Jack, could you get
10 that mike a little closer to your mouth? She can't quite
11 hear you.

12 MR. DRAPER: And it was one in which the
13 Commission staff was intimately involved in developing at
14 the time.

15 In conclusion, that's all -- the only comment
16 we had. We request the Commission adopt the staff
17 recommendation for the three-year deferment, and we're
18 here to answer any questions you might have.

19 Thank you for your time.

20 CHAIRMAN DAVIS: Jan, do you have any comments
21 on this?

22 MR. STEVENS: No problem. I think we're familiar
23 with Arco's position. We recognize it.

24 CHAIRMAN DAVIS: No. I'm well aware of that.
25 But I mean on this --

1 (Laughter.)

2 CHAIRMAN DAVIS: I mean on this particular item.

3 MR. STEVENS: No, no problem. This was in
4 accord with our recommendation.

5 CHAIRMAN DAVIS: Bob?

6 MR. HIGHT: Yes. As Mr. Stevens said, we
7 recognize Atlantic Richfield's position and respectfully
8 disagree with it. For this item, we are in agreement.

9 CHAIRMAN DAVIS: Okay. Does anyone else want to
10 be heard on this item? Is there any opposition to it?
11 Is there a motion to approve?

12 COMMISSIONER SWEET: I'll move to defer the
13 obligation per staff's recommendation.

14 CHAIRMAN DAVIS: Okay. That's approved
15 unanimously.

16 Thank you.

17 MR. DRAPER: Thank you, Mr. Chairman,
18 Commission members.

19 EXECUTIVE OFFICER DEDRICK: Item 55, Shell
20 Western E & P. This is an approval of a request to
21 replace two deteriorated and leaking water pipelines to
22 Platform Emmy, which is located at Huntington Beach in
23 Orange County.

24 CHAIRMAN DAVIS: Does anyone want to be heard
25 on this item? Is there any opposition? Is there a motion

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1 to approve?

2 COMMISSIONER SWEET: So move.

3 CHAIRMAN DAVIS: That will be unanimously
4 adopted.

5 EXECUTIVE OFFICER DEDRICK: Okay. Item 56,
6 East Bay Municipal Utility District. This is the --
7 staff's recommending approval of a request for exemption
8 from competitive bidding procedures for oil and gas lease --
9 they're really gas leases -- in Contra Costa County,
10 because the lands are surrounded.

11 CHAIRMAN DAVIS: Why do we want to avoid
12 competitive bidding?

13 EXECUTIVE OFFICER DEDRICK: These -- in the
14 case where the lands over which we have jurisdiction are
15 completely surrounded by other lessees, you can't really
16 get anywhere with a competitive bid and allow -- that's
17 one of the ways -- one of the times when the law allows
18 the exemption from the competitive bidding procedure.

19 CHAIRMAN DAVIS: Do you have any thoughts on this
20 Jan?

21 MR. STEVENS: No. I'd defer to Mr. Hight.

22 MR. HIGHT: Mr. Chairman, in this case, the
23 areas surrounded by existing leases. And as a practical
24 matter, no lessee, other than the lessee of the surrounding
25 leases, would bid. And in those cases, the staff would

1 recommend to the Commission approval of the exemption.

2 We believe that this case meets those
3 requirements.

4 CHAIRMAN DAVIS: Okay. You don't have any
5 guidance for us on this, Jan? Do you think this is
6 appropriate?

7 I always get nervous when I see us exempting
8 from competitive bidding.

9 MR. STEVENS: The statute does provide for an
10 exemption under these circumstances. We weren't involved
11 in the transaction, but under the facts indicated, it's
12 certainly appropriate.

13 CHAIRMAN DAVIS: So, you would recommend
14 approval of this?

15 MR. STEVENS: Yes.

16 CHAIRMAN DAVIS: Is there anyone who wants to be
17 heard on this?

18 Any objection to it?

19 COMMISSIONER SWEET: Move the staff
20 recommendation.

21 CHAIRMAN DAVIS: All right. That's, somewhat
22 reluctantly, unanimously approved.

23 (Laughter.)

24 Item 57?

25 EXECUTIVE OFFICER DERRICK: Item 57, Kaiser

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1 Steel Corporation. This is approval of an amendment of
2 a mineral extraction lease for iron ore in Riverside
3 County.

4 This will lead to the reopening of the old
5 Kaiser mine. The amendment reduces the royalties from
6 the earlier -- from the old lease in the existing lease,
7 because the uses for the iron ore now are not as
8 profitable as they were in the days when Kaiser made steel.

9 CHAIRMAN DAVIS: Okay. Does anyone want to be
10 heard?

11 Is there any objection?

12 Is there a motion to approve?

13 COMMISSIONER SWEET: Is this a STRS item?

14 EXECUTIVE OFFICER DEDRICK: Yes. This is
15 indeed a STRS item. This is -- that is, the revenue from
16 this mine will flow to STRS.

17 COMMISSIONER SWEET: I'll move the staff
18 recommendation.

19 CHAIRMAN DAVIS: Okay. That's, without objection,
20 that's unanimously approved.

21 EXECUTIVE OFFICER DEDRICK: Okay. Item 59 is a
22 legal item. And, Bob, would you like to take the legal
23 items?

24 MR. NIGHT: Yes. Item 59, Chairman, is the
25 approval of a compromise title settlement at White Slough.

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1 You will be acting also in your capacity as
2 Land Bank Trustees. It is staff's recommendation that
3 we accept \$21,000 as the Commission's interest in this
4 parcel in addition to an easement along the slough.

5 We believe this is a very good settlement.

6 CHAIRMAN DAVIS: Jan, what are your comments
7 on that?

8 MR. STEVENS: I'm unfamiliar personally with this
9 transaction; however, it appears to be in order.

10 COMMISSIONER HOPCRAFT: Is it correct that this
11 will lead to new public access?

12 MR. HIGHT: Yes, it will, along White Slough.

13 COMMISSIONER HOPCRAFT: I would move we adopt
14 the staff recommendation.

15 CHAIRMAN DAVIS: I don't know if I asked. Does
16 anyone want to be heard on this item?

17 Is there any opposition to it?

18 Is there a motion to approve?

19 COMMISSIONER HOPCRAFT: So move.

20 CHAIRMAN DAVIS: All right. That's unanimously
21 approved.

22 EXECUTIVE OFFICER DEDRICK: Item -- I'm sorry,
23 Bob. These are yours.

24 MR. HIGHT: Item 60, Mr. Chairman, is a memoran-
25 dum of understanding between the Commission and oil

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1 companies who are members of the Long Beach Unit.

2 This memorandum would provide a -- hopefully
3 a means of resolving some of the equity disputes outside
4 of the equity procedure. And this would provide that
5 anything that was resolved in this is not binding upon the
6 Commission, but it is our goal in doing this to expedite
7 resolution of equity in Long Beach.

8 CHAIRMAN DAVIS: Mr. Draper, did you want to be
9 heard on this?

10 MR. DRAPER: IN view of the staff recommendation,
11 we don't have any comment. We do support the Commission's
12 approval.

13 CHAIRMAN DAVIS: All right. Does anyone want
14 to be heard on this?

15 Is there any objection?

16 COMMISSIONER HOPCRAFT: I would move we adopt
17 the staff recommendation.

18 CHAIRMAN DAVIS: All right. That will be
19 unanimously approved.

20 MR. HIGHT: Item 62, Mr. Chairman, is the
21 City of Stockton --

22 CHAIRMAN DAVIS: Let me back up just a second.
23 I gather the City of Long Beach approves this?

24 MR. HIGHT: Yes. The City of Long Beach
25 supports it.

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1 CHAIRMAN DAVIS: Item 60 I mean?

2 MR. HIGHT: Yes.

3 CHAIRMAN DAVIS: 61?

4 MR. HIGHT: 61 is off calendar, Mr. Chairman.

5 62 is an application by the City of Stockton
6 to annex an area that includes some land that is under
7 Commission's jurisdiction.

8 We recommend approval of the legal sufficiency
9 of the boundaries and of the annexation.

10 CHAIRMAN DAVIS: Has the county checked in?
11 Do they have any concern with this?

12 MR. HIGHT: LAFCO has --

13 EXECUTIVE OFFICER DEDRICK: Curtis is in the
14 back of the room.

15 Curtis, would you come up and tell us what the
16 standing with LAFCO is?

17 This is Curtis Fossum who handles these.

18 MR. FOSSUM: Mr. Chairman, Commissioners, LAFCO
19 has not taken a formal position on this yet; but before
20 they can take a formal position, the Government Code
21 requires that the State Lands Commission first adopt the
22 boundaries for the annexation.

23 At that time, they're allowed to accept the --
24 accept the application for the annexation. So, this is
25 the city at this time requesting our approving --

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1 CHAIRMAN DAVIS: Right. But have we had any
2 communication from San Joaquin County? Do they have any --

3 MR. FOSSUM: No, they did not communicate with
4 us on that.

5 They will -- our approval of this will not
6 preclude them from asserting their jurisdiction. LAFCO
7 will have -- can recommend or deny the annexation.

8 CHAIRMAN DAVIS: Does anyone have any comment
9 on this item?

10 Any opposition to it?

11 COMMISSIONER HOPCRAFT: I would move the
12 staff recommendation.

13 CHAIRMAN DAVIS: All right. That will be
14 unanimously approved. Next item?

15 MR. HIGHT: Item 63, Mr. Chairman, is the
16 request to file a disclaimer in a lawsuit in Lake County.
17 The Commission was served and has no interest in the case.

18 CHAIRMAN DAVIS: Does anyone want to be heard
19 on this?

20 COMMISSIONER SWEET: I'll move the staff
21 recommendation.

22 CHAIRMAN DAVIS: Fine. It's unanimously
23 approved.

24 MR. HIGHT: Item 64, Mr. Chairman, is the
25 request to enter into a boundary line agreement with

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1 Mr. Raley in Yolo County across from Sacramento, and the
2 approval of a 49-year lease for levee realignment.

3 We believe this is a very good settlement and
4 allows Mr. Raley to proceed with his development.

5 CHAIRMAN DAVIS: Jan, do you have any --

6 MR. STEVENS: Yes. We concur and recommend
7 approval.

8 CHAIRMAN DAVIS: Does anyone have an objection
9 to this?

10 Anyone want to be heard?

11 Is there a motion to approve?

12 COMMISSIONER HOPCRAFT: Move that we approve.

13 CHAIRMAN DAVIS: That's unanimously approved.

14 MR. TROUT: Mr. Chairman, finally, Item 67 is
15 the -- request your authority to solicit bids for repairs
16 to the Huntington Beach field office.

17 The calendar item also suggests awarding a
18 contract. We prefer to go to bid and bringing the bids
19 back to you for approval on a subsequent meeting.

20 CHAIRMAN DAVIS: You want to spend the
21 taxpayers' money for building an office for our own
22 folks?

23 MR. TROUT: This is to repair an office that
24 has long existed.

25 CHAIRMAN DAVIS: All right. Any opposition to

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1 that?

2 Is there a motion to approve?

3 COMMISSIONER HOPCRAFT: So move.

4 CHAIRMAN DAVIS: All right. That will be
5 unanimously approved.

6 EXECUTIVE OFFICER DEDRICK: That's all the
7 business, Mr. Chairman.

8 CHAIRMAN DAVIS: Thank you very much.

9 EXECUTIVE OFFICER DEDRICK: Thank you,
10 Commissioners.

11 CHAIRMAN DAVIS: This meeting will stand
12 adjourned.

13 (Thereupon the meeting was
14 adjourned at 12:50 p.m.)

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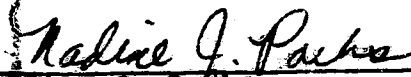
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CERTIFICATE OF SHORTHAND REPORTER

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3 I, Nadine J. Parks, a shorthand reporter of the
4 State of California, do hereby certify that I am a
5 disinterested person herein; that the foregoing meeting
6 of the State Lands Commission was reported in shorthand
7 by me, and thereafter transcribed into typewriting.

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

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 5th day of September, 1988.

13
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15 Nadine J. Parks
16 Shorthand Reporter
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