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MEETING

STATE LANDS COMMISSION

STATE OF CALIFORNIA

ORIGINAL

STATE CAPITOL

ROOM 447

SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 14, 1982

11:00 A.M.

Reported by:

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

MEMBERS PRESENT

Jim Tucker, Acting Chairperson, representing
Gray Davis, State Controller

LaFenus Stancell, representing Jesse R. Huff, Director of
Finance

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

MEMBERS ABSENT

NONE

STAFF PRESENT

Claire Dedrick, Executive Officer

Robert Hight, Chief Counsel

James Trout, Assistant Executive Officer

Lance Kiley

W. M. Thompson

Gail Moore, Secretary

ALSO PRESENT

Jan Stevens, Supervising Deputy Attorney General

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PROCEEDINGS

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ACTING CHAIRMAN TUCKER: This is the State Lands Commission and let me just announce the items that are taken off. The items that are taken off are Consent Items 1B, 16 and 22 and Items 34, 35, 41, 46 and 47.

If anybody would like to speak on any of these items, we have a little form we'd like you to fill out so we then have your fingerprints and all that good kind of stuff. And you should make sure if we zip by an item that you wanted to address and you didn't jump up in time, please don't hesitate to go ahead and jump up anyway and we'll be glad to hear you.

Let's see, do we have to confirm the minutes?

EXECUTIVE OFFICER DEDRICK: The minutes, yes, Mr. Chairman.

ACTING CHAIRMAN TUCKER: Mr. Stevens, have you reviewed the minutes of the last meeting to make sure that they conform to all requirements of law?

MR. STEVENS: Thoroughly, Mr. Chairman. I was just out in the hall reviewing them.

(Laughter.)

ACTING CHAIRMAN TUCKER: The minutes are adopted without correction.

MR. HIGHT: Mr. Chairman, if I could state for the

1 record that Jock O'Connell will be sitting in a nonvoting
2 capacity for the Lieutenant Governor.

3 ACTING CHAIRMAN TUCKER: Good. All right.

4 Any items on the Consent Calendar that anyone would
5 wish to address? If not, our procedure is to simply take up
6 the whole list as a group and approve them. So if there's
7 any item that anyone wants to be heard on, that's C1 through
8 25, you should so indicate.

9 Okay. The Consent Calendar then is adopted.

10 EXECUTIVE OFFICER DEDRICK: With the exception of
11 the two items already noted by the chairman.

12 ACTING CHAIRMAN TUCKER: Right. Okay, Item 26,
13 Whalers Village.

14 EXECUTIVE OFFICER DEDRICK: This is a request for
15 approval of a ten-year general permit protective structure.
16 It's for riprap to protect a home in Malibu in Ventura
17 County.

18 COMMISSIONER STANCELL: Moved.

19 ACTING CHAIRMAN TUCKER: Okay, that item is
20 approved. I take it there were no comments from the
21 audience? Okay.

22 Item 27, Mr. Hight, how are we going to address this
23 now?

24 EXECUTIVE OFFICER DEDRICK: Item 27 I've asked Mr.
25 Hight to handle it because primarily we've got -- the

1 arguments are primarily legal arguments here, Mr. Chairman,
2 rather than administrative ones.

3 MR. HIGHT: Mr. Chairman, on Item 27, as Commission
4 staff understands the existing problem, the Commission staff
5 had proposed the lifting of a moratorium.

6 TRPA's concern in this area was that in the area of
7 fish habitats and spawning areas that a permit from TRPA
8 would be all that would be necessary. It's the Attorney
9 General's opinion -- and Jan is here and can amplify on
10 that -- that in those areas we do not believe that TRPA
11 through their regulations has the ability to exempt
12 extensions and new piers.

13 ACTING CHAIRMAN TUCKER: Mr. Stevens.

14 MR. STEVENS: I can amplify on that a little if
15 you'd like. Basically is that as we had understood it the
16 Commission initially suspended issuing pier permits at Lake
17 Tahoe because of a lack of sufficient knowledge of the
18 cumulative impacts of these permits and their environmental
19 effects on the lake.

20 A study was funded which in part explored these
21 impacts. The study concluded that the littoral drift was not
22 substantially affected by the construction of new piers. At
23 the same time TRPA did adopt a shore zone ordinance -- and I
24 understand a representative from that agency is here to
25 discuss it, if desired -- which dealt with this general

1 subject and provided for an evaluation of piers. And by its
2 terms in our view it prohibited new piers and additional
3 intrusive pier construction or extension in areas of fish
4 habitat, fish spawning areas and habitat restoration areas
5 which, of course, are sensitive and could be adversely
6 affected.

7 No study has been made exhaustively to our knowledge
8 of the environmental impacts of cumulative pier construction
9 as yet or of other impacts other than littoral drift there.

10 TRPA has begun issuing permits under its ordinance
11 for new piers and pier extensions, modifications at the lake
12 and these permits are now making their way to the Lands
13 Commission which is the agency, of course, charged with the
14 public trust and the ownership of the lake bed.

15 The calendar item before the Commission today calls
16 for an express lifting of the moratorium which was imposed by
17 the Commission and authorizes the staff to receive
18 applications for pier permits at Lake Tahoe if they are
19 accompanied by a valid TRPA permit and if the staff has
20 considered all applicable public trust uses and impacts.

21 At the last meeting an attorney representing the
22 Tahoe Sierra Preservation Council appeared and requested that
23 a pier extension in fish habitat areas expressly be accepted
24 by the Commission. We differed with his construction of the
25 TRPA ordinance. We do not believe the ordinance allows

1 either new piers or pier extensions in these areas and for
2 that reason, of course, Chairman Davis asked that the matter
3 be clarified and put over until this meeting.

4 It is still the view of our office that in fish
5 habitat areas or the other sensitive areas we talked about,
6 neither new piers nor pier extensions or modifications with
7 more intrusive impacts upon spawning areas is permitted under
8 the TRPA ordinance.

9 We think that the staff calendar item covers that by
10 requiring a valid TRPA permit. A permit from TRPA which
11 allows an extension in these areas would not be a valid
12 permit in our view.

13 There are two express pier permits also before the
14 Commission next in line, calendar Items 28 and 29 which have
15 been evaluated by staff and we understand are not in
16 sensitive areas and don't raise any problems.

17 So the Commission has before it a general policy
18 proposal as well as two express permit applications.

19 ACTING CHAIRMAN TUCKER: Just so we can focus the
20 discussion because there are several people who like to speak
21 on this, it would be my inclination that we not lift the
22 moratorium and, therefore, the staff's recommendation in 27
23 be rejected. However, that as to the two specific
24 applications, because they are not in sensitive areas of the
25 lake and because those applications have construction that

1 needs to be done before October 15th it's my understanding,
2 that those two applications be approved. And I have
3 discussed this with legal staff and they have indicated to me
4 that both of those positions are consistent and would be
5 legally supportable.

6 Any questions before we take the witnesses?

7 COMMISSIONER STANCELL: As I understand it, the
8 moritorium that's in place now does not allow any pier
9 modifications or extensions or building of new ones; is that
10 what the moritorium does now?

11 ACTING CHAIRMAN TUCKER: Until the completion of the
12 study.

13 MR. HIGHT: That's correct.

14 COMMISSIONER STANCELL: Until the completion of the
15 study. Now, the study has been completed?

16 MR. HIGHT: Well, TRPA has completed the study and I
17 guess one of the problems is the study -- the extent and
18 completeness of the study.

19 COMMISSIONER STANCELL: Is in question?

20 MR. HIGHT: Yes.

21 COMMISSIONER STANCELL: And your proposal then is to
22 make an exception to the moritorium for these two requests
23 that are before us?

24 ACTING CHAIRMAN TUCKER: That's correct. They're
25 the only requests that are before us as I understand it and

1 the staff has indicated that they are not in sensitive areas
2 and therefore they don't raise potential environmental
3 problems.

4 COMMISSIONER STANCELL: But we will still impose a
5 moritorium?

6 ACTING CHAIRMAN TUCKER: Right. We're not imposing
7 it.

8 COMMISSIONER STANCELL: We are continuing it. We're
9 not changing it. We're not lifting it, but we are -- we
10 would be making an exception to it?

11 ACTING CHAIRMAN TUCKER: That's correct.

12 COMMISSIONER STANCELL: And that would be the policy
13 that would be from here on out in terms of this particular
14 issue or is this just one time?

15 ACTING CHAIRMAN TUCKER: The Commission could look
16 at future applications and decide whether or not they involve
17 sensitive areas or not.

18 COMMISSIONER STANCELL: So the moritorium is sort of
19 not a moritorium in effect. It depends on whether it's in a
20 sensitive area or not. Is that what you're saying?

21 ACTING CHAIRMAN TUCKER: Yeah. It's a moritorium --

22 COMMISSIONER STANCELL: It's a moritorium on those
23 that are in sensitive areas?

24 ACTING CHAIRMAN TUCKER: Right.

25 COMMISSIONER STANCELL: So you're modifying the

1 existing moritorium?

2 ACTING CHAIRMAN TUCKER: That's correct. My concern
3 is if we simply lift the moritorium, it really sends the
4 wrong kind of signal. We wouldn't accurately reflect what,
5 in fact, we are doing which is making sure that no, from our
6 perspective, that no piers or pier extensions are allowed in
7 what we view to be sensitive areas.

8 COMMISSIONER STANCELL: So basically our policy is
9 that if it's a pier, new pier, an extension of an existing
10 pier that impacts a sensitive area, we will not allow that to
11 occur. There will be a moritorium. Any other pier that made
12 application will be considered.

13 ACTING CHAIRMAN TUCKER: I think that's the
14 practical effect of it.

15 EXECUTIVE OFFICER DEDRICK: What I was thinking,
16 Mr. Chairman, is if it's the will of the Commission to go
17 that way, perhaps the legal staff could write a resolution
18 which you could adopt that clarifies the imposition of a
19 moritorium on sensitive areas so that we have clear guidance
20 both to the staff and public if that's your wish.

21 ACTING CHAIRMAN TUCKER: I think we could certainly
22 take that up in the future and look at it. It seems to me
23 that the simplest approach is we simply don't have to do
24 anything on Item 27 and simply approve the two applications
25 if that's the willingness of the Commission. We could do it

1 either way.

2 COMMISSIONER STANCELL: I'm not an attorney. But if
3 the moratorium would apply to the entire issue, whether it's
4 in a sensitive area or nonsensitive area, how can you keep it
5 in place and then make an exception?

6 ACTING CHAIRMAN TUCKER: It's our moratorium. I
7 mean, we can make exceptions to it.

8 COMMISSIONER STANCELL: You got to modify it. I
9 think you ought to change the policy. I think you should do
10 it the right way.

11 ACTING CHAIRMAN TUCKER: That's fine. I think then
12 if we were going to do that we should notice it. Give staff
13 enough time to prepare it.

14 EXECUTIVE OFFICER DEDRICK: Do that on the next
15 calendar.

16 ACTING CHAIRMAN TUCKER: We should notice it and put
17 it on the calendar for a future.

18 But in the meantime I think we should act on these
19 applications because it's my understanding that those people
20 do have a deadline and that, again, staff has assured us that
21 there are no environmental considerations that we need be
22 concerned about in regards to these two applications. Is
23 that correct?

24 MR. HIGHT: Correct.

25 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, it would

1 be helpful if we could notice that for the next Commission
2 meeting. We have another perhaps ten applications pending.
3 The earliest 884 date is December.

4 ACTING CHAIRMAN TUCKER: My understanding is there's
5 a period that they can't build until May.

6 EXECUTIVE OFFICER DEDRICK: I'm sorry. I didn't
7 make myself clear.

8 ACTING CHAIRMAN TUCKER: They can't build until May
9 of next year anyway --

10 EXECUTIVE OFFICER DEDRICK: That's correct.

11 ACTING CHAIRMAN TUCKER: -- so I don't think we're
12 in a mad rush.

13 EXECUTIVE OFFICER DEDRICK: I'm only concerned that
14 884 will run on some of these permits in December. We,
15 therefore, either have to grant them or deny them prior to
16 December. If we had clarification of the Commission's
17 policy, it would make it clearer to both the public and the
18 staff how these items should be handled. That's why I'm
19 recommending --

20 ACTING CHAIRMAN TUCKER: If that's possible, that's
21 fine. There is another alternative which is they can agree
22 or they can reapply since there's not enough time.

23 EXECUTIVE OFFICER DEDRICK: If they choose to do so,
24 that is correct. But the Commission would have to act if
25 they do not.

1 ACTING CHAIRMAN TUCKER: Anyway, if we can get it
2 clarified and adopted, that's fine. Is that --

3 COMMISSIONER STANCELL: Fine.

4 ACTING CHAIRMAN TUCKER: Okay. With that in mind,
5 Mr. Lien, Greg Lien.

6 You were a man destined to be an attorney.

7 MR. LIEN: With a last name like that I've been
8 hearing that since law school.

9 My name is Greg Lien. I represent the Tahoe Sierra
10 Preservation Council and several interested individuals.

11 I appreciated your comments, Mr. Chairman,
12 particularly on the issue of sending signals because that's
13 what I want to talk about a little bit this morning.

14 There are other people in addition to the following
15 two items on your agenda this morning that have deadlines to
16 worry about. In effect I think we have quite a number of
17 applications that at this point are backed up with the State
18 Lands Commission. They're all facing deadlines and they want
19 to get going this fall before the winter season strikes and,
20 of course, they get the big storms then which can cause
21 further damage to piers which cannot be repaired in the
22 interim. So I would ask that we think this through a little
23 bit further.

24 Again, on the issue of sending signals. What the
25 Chairman proposes -- while I understand the motivations that

1 led to your suggestion; I appreciate them -- I think can send
2 a signal that we're attempting to cut a broader swath than
3 was suggested by your staff. In order to understand this I
4 want to go back and give you a little bit of background on
5 what's gone on at Lake Tahoe.

6 Several years ago at Lake Tahoe paranoia and
7 distrust were rampant, I believe, whether one aligned
8 themselves with environmentalists or with pro-property rights
9 advocates, each really suspected the other's motive. In
10 short, it was not an atmosphere particularly conducive to
11 resolution of the complex issues facing Lake Tahoe,
12 particularly with all the various interest groups feeling
13 that they had something very substantial to lose in the
14 process.

15 In such an atmosphere it was little wonder that
16 virtually no progress was made in the universally embraced
17 goal of protecting and improving Lake Tahoe's water quality
18 and the other attributes that have led to its recognition as
19 being a natural treasure.

20 Instead, we had in excess of a decade of
21 back-to-back moratoria for political wrangling and regulatory
22 paralysis. In 1984 just after TRPA adopted a controversial
23 new regional plan, Lake Tahoe's battles spilled over into the
24 courtroom. An injunction was imposed that brought a halt to
25 virtually every activity at Lake Tahoe. Regulatory

1 government essentially ceased to function as control of the
2 Tahoe Basin was effectively transferred to a federal court
3 just down the street here in Sacramento.

4 Nevada was threatening to withdraw from the bistate
5 compact that created the TRPA and things seemed destined for
6 protracted quagmire and stalemate.

7 It was against this backdrop that TRPA's executive
8 director, Bill Morgan -- and by the way, he had wanted to be
9 here today, but couldn't. He sent instead his chief of
10 project review who is here to answer your questions.

11 Bill Morgan suggested that we needed a more human
12 approach to the problems that we were facing. Realizing that
13 suspicious and distrust created an atmosphere where reaching
14 agreement was impossible, we embarked upon a consensus
15 approach to the problem. This approach which worked to
16 resolve many environmentally-oriented land use disputes
17 nationwide, involved the intervention of a professional
18 facilitator to help the participants understand the issues
19 and work towards positive solutions. All of the key
20 stakeholders -- that was the buzz word -- in the Tahoe Basin
21 participated in this process.

22 As it applies to the topic before us today, the
23 regulation of Lake Tahoe's shoreline, the outgrowth of the
24 consensus process was TRPA's shore zone ordinance. That
25 ordinance was developed over several years with the

1 participation of all the conflicting interests, stakeholders
2 and regulatory agencies involved. Those included: The Army
3 Corps of Engineers, the California Attorney General's Office,
4 the League to Save Lake Tahoe, the California and Nevada
5 Departments of Fish and Game, the Tahoe Lakefront Owners
6 Association, the Tahoe Sierra Preservation Council and
7 others.

8 You will be pleased to hear that your staff made a
9 particularly important contribution and a positive one as to
10 the critical issues. Your staff had just at that point
11 completed its study of the impacts of piers on Lake Tahoe,
12 and as you can see from your staff report they concluded that
13 they had no cumulative or serious negative impacts.

14 In the end, both the environmentalists and the
15 property rights advocates appeared to be equally displeased
16 with the compromises reached which I'm told is the sign of a
17 good settlement. All of the parties and participants agreed
18 to abide by the compromises that were reached.

19 As it affects the shore zone of Lake Tahoe, most of
20 the debate revolved about new piers, not extensions, not
21 modifications.

22 Finally, it was agreed that a moratorium would be
23 imposed on new piers in all areas which were mapped as having
24 value as fish habitat. That, by the way, constitutes 90 to
25 95 percent of the California shoreline.

1 A handful of new piers have been approved by TRPA in
2 areas outside mapped fish habitats as the following two on
3 your agenda indicate.

4 After several years of a blanket moritorium which
5 even included repairs, TRPA can now issue permits for repair,
6 reconstruction, modification and extension of piers under
7 rigorous guidelines.

8 Those that are successful in running this TRPA
9 permit gauntlet of findings, fees and studies of all impacts,
10 including visual, water quality, fisheries and the entire
11 spectrum of environmental impacts, have indeed been carefully
12 scrutinized.

13 In addition, California side applicants at Lake
14 Tahoe must face review from the Lahontan Regional Water
15 Quality Control Board, the California Department of Fish and
16 Game, the Army Corps of Engineers and whichever county they
17 are, in fact, located.

18 At your meeting last month you considered a proposal
19 that would have imposed a new moritorium as I view it on
20 modifications and extensions. Whether you view it as new or
21 a continuation of the old one however the results are the
22 same.

23 TRPA has been accepting applications for those types
24 of projects and provided all necessary findings could be
25 made, they have been issuing permits. Having only found out

1 about this proposal moments before your meeting last month, I
2 must confess that my old feelings of mistrust and suspicion
3 returned. Based upon what I had learned to that point, I
4 worried that perhaps the State Lands Commission would become
5 a participant in an attempt to unravel the compromise that
6 was so painstaking put in place through the consensus process
7 at TRPA.

8 For that reason I was relieved when I ran into your
9 staff by chance last week as they were having a retreat at
10 Lake Tahoe. In discussing the matter with your staff at that
11 time, I was informed that no moratorium was being discussed
12 and that a TRPA approval in effect became one's ticket to get
13 in the door at the State Lands Commission.

14 Monday of this week I learned the final language
15 that was to be contained in your staff report and indeed you
16 have before you today. And in pertinent part, of course, the
17 recommendation to authorize the staff to accept applications
18 for things which are accompanied by a valid TRPA permit.

19 My concerns at that point were in large part
20 satisfied in my confidence that you would agree that anything
21 that could run the rigorous gauntlet at Lake Tahoe could
22 certainly run through your process here once you had a chance
23 to examine the issues and satisfy yourselves on them.

24 I was confident that for the time being at least
25 there would continue to be peace in the valley.

1 Unfortunately, I may have been mistaken as just yesterday I
2 had a chance to review the staff report in its entirety. It
3 appears that the Attorney General's Office has advised you
4 that many of the projects submitted to your agency for review
5 are not accompanied by valid TRPA permits. This apparently
6 is based upon the fact that the Attorney General's Office has
7 a different reading of TRPA's ordinances than TRPA does
8 itself.

9 This effectively amounts to the imposition of the
10 same moratorium suggested to you by your staff at last
11 month's meeting. And now this morning I, again, in the
12 nature of sending signals, we hear perhaps even a broader
13 moratorium being imposed.

14 Far from resolving the problem, therefore, it seems
15 to me that we are still in the midst of it. And the point I
16 want to emphasize to you today is that disagreements over the
17 comprises embodied in TRPA's shore zone ordinance ought to be
18 resolved at TRPA and not before this forum.

19 The Commission would be taking a precipitous action
20 which endangers the maintenance of the peace at Lake Tahoe if
21 it were to impose a continuing moratorium out of step with
22 all other regulators at Lake Tahoe.

23 It should be remembered that to the extent that
24 TRPA's permits are somehow invalid, they would affect both
25 California and Nevada shoreline owners.

1 I believe that the Attorney General's Office,
2 however, appreciates the sensitivity of this matter. I'm
3 informed that the Attorney General's Office has contacted
4 TRPA's staff and is planning to meet this Friday to see
5 whether there is potential to harmonize the dispute that we
6 now have before us. If this can be done in the next several
7 weeks, we can avoid the fallout that the imposition of a
8 protracted moratorium would entail.

9 On a final note I hope that we can agree that
10 attempting to streamline the process for applicants generally
11 is a goal worth working toward. We certainly have seen that
12 this can work as people who needed emergency permits for
13 dredging because of our recent draught. We had an excellent
14 process for that.

15 Again, we're somewhat in the dark as to exactly
16 what's being proposed at this point. I would just like to
17 conclude that in our judgment a workable process here would
18 be one that generally respected the compromises embodied in
19 TRPA shore zone audience, and that by implication includes a
20 rapid resolution of the Attorney General's disagreement with
21 TRPA.

22 It would also involve, again, an effort to minimize
23 duplication and streamline the process in the interest of the
24 applicants involved.

25 That's all the comments I have unless you have any

1 questions.

2 ACTING CHAIRMAN TUCKER: Okay. Thank you.

3 Mr. Wells.

4 MR. WELLS: Good morning. My name is Jerry Wells.

5 I'm the Chief of Project Review with TRPA. And I was asked
6 to come here today to clarify some points that were brought
7 out in the staff summary and for the sake of time I'll try to
8 just focus on those primary issues. I think Mr. Lien covered
9 most of the history and saved me having to go through all
10 that.

11 The one thing in the staff summary that we do concur
12 with is that we do have -- it's clearly in the ordinance --
13 that we do have a moratorium on new piers in fish habitat
14 areas. This includes areas designated as fish spawning as
15 well as restoration areas, escape, cover and feeding areas as
16 well. So it's a pretty broad area. As Mr. Lien mentioned,
17 it covers roughly 90 percent or more of the California
18 shoreline.

19 One point of clarification I would like to make
20 though is that we have always under the code since it was
21 adopted had the ability to have repairs of existing piers
22 without regard to the designated fish habitat areas.

23 In addition to that, I believe your staff summary
24 pointed out that reconstruction of existing piers is also
25 prohibited in fish habitat areas. That is not true under the

1 TRPA ordinance. We consider reconstruction of existing piers
2 without modification or expansion as a form of a repair. So
3 we don't look at that as being different. It does allow
4 people to actually completely remove their piers and replace
5 them as was previously existing.

6 In some of these instances, however, we do require
7 additional environmental reviews such as an environmental
8 assessment of the impacts, especially if it's in a critical
9 fish spawning area.

10 As to the interpretation that has been raised by the
11 Attorney General's Office, we did take an interpretation
12 before our governing board in March of this year. That was
13 open for public hearing. The staff report and the
14 interpretation itself was distributed and no questions at
15 that time were raised by any of the board members or the
16 public in general.

17 Since that time we have approved certain pier
18 expansions and extensions in fish habitat areas, primarily
19 outside of spawning areas.

20 The one point I'd like to make on that is the TRPA
21 ordinance, what we classify as an expansion is maybe
22 different from what you consider expansion. It's not merely
23 just the lengthening of the pier. It's all inclusive. It
24 includes adding handrails to piers, adding low-level boat
25 lifts, very minor what you would call additions to a pier are

1 considered expansions. To interpret the ordinance to say
2 that none of that can be done in a fish habitat area I don't
3 believe was the original intent of the structure of the
4 ordinance. And to further that, we have allowed some actual
5 extensions in length to bring piers into conformance.

6 We feel that TRPA as an agency is charged with
7 interpreting its own ordinances. We feel we've done that.
8 As we've come across these needs for interpretations, we will
9 write them and bring them to our board for acknowledgement.
10 And we have done that with this particular one.

11 The Attorney General, as I mentioned earlier, has
12 questioned this at this stage and we are more than willing to
13 sit down with them and discuss the merits of their
14 objections. But at this point we feel that the
15 interpretation is still in effect and we plan to continue
16 issuing permits based on that interpretation.

17 As to the staff summary's comments towards valid
18 permits, we, of course, at TRPA feel that all of our permits
19 are valid. We've made the findings on each one of the
20 permits that are required by the code. We've issued those
21 permits and as of this date none of those permits have been
22 challenged. So we feel that any project that comes to you
23 with an official TRPA permit is, in fact, valid.

24 One other comment that I think Mr. Tucker you had
25 made earlier was to the effect that -- regarding the fish

1 study or one of the staff members mentioned that it was
 2 complete, but it was being contested. We're in the process
 3 now of doing a fish study. It's not complete to my
 4 knowledge. It's scheduled to be completed by the fall of
 5 '89. And it's a two-year study. The focus of that study is
 6 to make a determination of the impacts of piers on fish
 7 habitat areas.

8 So we're hoping that the findings that come out of
 9 that study will help us fine tune our ordinances even more in
 10 the future and, in fact, we anticipate doing that in the fall
 11 of '89 or shortly thereafter pending the conclusion of that
 12 study.

13 So, again, we feel that the current regulations that
 14 are in place today are adequate to protect the environmental
 15 of Lake Tahoe until such time that that study is completed
 16 and then we can fine tune it at that point.

17 Just a few closing remarks. Our governing board at
 18 its August hearing discussed this pier moratorium that the
 19 State Lands Commission has held for some time. They
 20 discussed it at some length and they wanted staff to at least
 21 bring to you the feeling that they would urge you to consider
 22 the strong need for consistency in regulations so we don't
 23 get the overlap and the conflict between agencies. We feel
 24 we're putting the public in a real tight screw here in
 25 between agencies. And as Mr. Lien mentioned earlier, they do

1 go through a very rigorous process through our review and
2 then get to this point and end up being stopped.

3 We feel that all the necessary ordinances are in
4 place in terms of the TRPA code and with coordination and
5 cooperation between the agencies, we feel that they can be
6 adequately applied as they are today.

7 That's all the comments I had. I'll be happy to
8 answer any questions that any of you have of TRPA.

9 Thank you.

10 ACTING CHAIRMAN TUCKER: Does anybody else wish to
11 be heard on this?

12 I would then move that we approve the Items 28 and
13 29 and that Item 27 simply be put over and that staff be
14 directed to write up a policy that's consistent with the
15 comments that were made today.

16 EXECUTIVE OFFICER DEDRICK: That's fine, Mr.
17 Chairman, from our viewpoint.

18 COMMISSIONER STANCELL: Second.

19 ACTING CHAIRMAN TUCKER: That's approved.

20 EXECUTIVE OFFICER DEDRICK: Twenty-seven is put
21 over.

22 ACTING CHAIRMAN TUCKER: Twenty-seven, twenty-eight,
23 twenty-nine.

24 Item 30.

25 EXECUTIVE OFFICER DEDRICK: Item 30 is an

1 authorization to issue a school lands patent to the United
2 States for the purpose of a Forest Service road that will
3 give access to their land and to ours in Mendocino County.

4 ACTING CHAIRMAN TUCKER: Any questions on this?

5 COMMISSIONER STANCELL: Move the item.

6 ACTING CHAIRMAN TUCKER: That's approved.

7 Item 31.

8 EXECUTIVE OFFICER DEDRICK: Item 31, Sea Epics
9 Research, Inc. This is approval of a one-year salvage permit
10 to Donald Knight who is the principal of Sea Epics Research
11 to carry out some salvage operations on the wreck Brother
12 Jonathan which is up by Crescent City in Del Norte County.

13 ACTING CHAIRMAN TUCKER: Any questions on this?

14 That's approved.

15 Item 32.

16 EXECUTIVE OFFICER DEDRICK: Thirty-two is approval
17 of a consent to an Encumbrance Agreement for PS Marina
18 Investors who is also Tower Park Marina.

19 COMMISSION STANCELL: Move the item.

20 ACTING CHAIRMAN TUCKER: Okay. That's approved.

21 Thirty-three.

22 EXECUTIVE OFFICER DEDRICK: Thirty-three is approval
23 of a dredging permit for the U.S. Army Corps of Engineers to
24 carry out some dredging in Anaheim Bay in Orange County.

25 ACTING CHAIRMAN TUCKER: Okay. That's approved.

1 Thirty-four.

2 EXECUTIVE OFFICER DEDRICK: Thirty-four and
3 thirty-five are off calendar.

4 Thirty-six -- Mr. Chairman, Items 36 through 39 are
5 all requests for drilling deferments. Staff has
6 recommended -- and I'll give you a quick rundown on them --
7 number 36 is Exxon. Staff's recommending a one-year drilling
8 deferment for leases in Santa Barbara County. Thirty-seven,
9 a one-year deferment for the drilling obligation on their
10 leases in I believe Santa Barbara County also. Thirty-eight
11 we're recommending 18 months. That's a special case there.
12 It's a situation where one rig can be used on four platforms
13 and they're having some internal disagreements on how that
14 should be handled. And 39 is the Mobil exploration program
15 which Mobil withdrew their application just before the EIR
16 went to public hearing and have requested a drilling
17 deferment. Staff recommends granting a year deferment in
18 that case also.

19 ACTING CHAIRMAN TUCKER: Any questions on items or
20 statements on Items 36 through 39, drilling deferments?

21 COMMISSIONER STANCELL: Move the items.

22 ACTING CHAIRMAN TUCKER: Those are approved.

23 Forty.

24 EXECUTIVE OFFICER DEDRICK: Item 40 is approval of
25 forms and specifications for inviting bids for gas treatment

1 agreement at the tidelands at Long Beach.

2 ACTING CHAIRMAN TUCKER: Okay. It's approved.

3 Forty-one.

4 EXECUTIVE OFFICER DEDRICK: Forty-one is off
5 calendar.

6 Forty-two is the City of Long Beach submittal of
7 final report and closing statement of the '87-88 Plan of
8 Development Operations and Budget for the Wilmington Field.

9 ACTING CHAIRMAN TUCKER: Okay. Do we have any
10 comments on that? That's approved.

11 Forty-three.

12 EXECUTIVE OFFICER DEDRICK: Forty-three, again Long
13 Beach, approval of specifications and forms for inviting bids
14 for a crude oil selloff in Fault Blocks IV and V in the
15 Wilmington Field.

16 ACTING CHAIRMAN TUCKER: Okay. That's approved.

17 Forty-four.

18 EXECUTIVE OFFICER DEDRICK: Forty-four, Bob, we're
19 into legal, would you like to take these?

20 MR. HIGHT: Forty-four, Mr. Chairman, is the
21 authorization to enter into a compromise pending litigation
22 for the settlement of a trespass on the Sacramento River in
23 Tehama County. The Commission would receive \$1,500 in back
24 rent and \$270 on a per annum basis. We recommend it as does
25 the Attorney General.

1 COMMISSIONER STANCELL: Move the item.

2 ACTING CHAIRMAN TUCKER: Okay. That's approved.

3 Forty-five.

4 MR. HIGHT: Forty-five is the authorization to hold
5 a hearing for the Devil's Post Pile National Monument
6 concerning the a cession of concurrent criminal jurisdiction.
7 We will hold the hearing and then get back to the Commission
8 as to the findings on the hearing.

9 ACTING CHAIRMAN TUCKER: Okay. That's approved.

10 Forty-six.

11 EXECUTIVE OFFICER DEDRICK: The other items are
12 administrative. I've asked Mr. Trout to handle those.

13 I'm sorry. Forty-six is off calendar.

14 COMMISSIONER STANCELL: Forty-seven is off.

15 MR. TROUT: I'm sorry.

16 MR. HIGHT: Forty-seven is off.

17 COMMISSIONER STANCELL: Are we at 48 now?

18 MR. TROUT: Item 48 is authorization to solicit bids
19 for the removal of the most serious hazards along the coastal
20 zone. The Legislature made available \$583,000 for that
21 purpose. After the bids are received, we will come back to
22 the Commission for approval of the bid.

23 COMMISSIONER STANCELL: Move the item.

24 ACTING CHAIRMAN TUCKER: Okay. That's approved.

25 And 49.

1 MR. TROUT: Forty-nine is authorization to solicit
2 bids for the rental of a Global Positioning System. This is
3 a system that uses navigational satellites to position the
4 location above which the instrument is located. This will be
5 about \$30,000.

6 ACTING CHAIRMAN TUCKER: Are you trying to change
7 the position of the earth?

8 MR. TROUT: Yes. Instead of running -- did I miss
9 something?

10 EXECUTIVE OFFICER DEDRICK: That's all right. He
11 thought you were changing the position of the earth.

12 MR. TROUT: Well, I try.

13 COMMISSIONER STANCELL: Move the item.

14 ACTING CHAIRMAN TUCKER: Okay. That's approved.
15 Anything else that anybody has before we adjourn?

16 MR. STEVENS: Mr. Chairman, we just wanted to
17 briefly announce that Lake County Superior Court has ruled
18 for the Commission in setting the boundary of Clear Lake
19 applying the standard of the highest level for five
20 consecutive years that we established --

21 ACTING CHAIRMAN TUCKER: And we're going to have a
22 beach party.

23 MR. STEVENS: Certainly the public trust extends to
24 the Commission holding such events.

25 ACTING CHAIRMAN TUCKER: Vindicated once again.

1 Soon we will have everything.

2 EXECUTIVE OFFICER DEDRICK: We're working on it.

3 COMMISSIONER O'CONNELL: Have the Commissioners
4 been advised of the staff retreat at Tahoe?

5 EXECUTIVE OFFICER DEDRICK: Commission members,
6 staff had a management retreat at Tahoe last week which I
7 believe was highly successful. We were at Granlibakken, the
8 old Berkeley ski lodge, and had the managers, 25 managers of
9 the staff in a very intensive work session at Tahoe. I only
10 got one-half of one evening off.

11 COMMISSIONER O'CONNELL: Okay.

12 ACTING CHAIRMAN TUCKER: Thank you very much.

13 EXECUTIVE OFFICER DEDRICK: Thank you,
14 Commissioners.

15 (Thereupon the Meeting of the State Lands
16 Commission was adjourned at 11:37 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER


--oO--

I, CATHLEEN SLOCUM, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing meeting of the State Lands Commission, was reported in shorthand by me, Cathleen Slocum, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 22 day of September, 1988.


CATHLEEN SLOCUM
Certified Shorthand Reporter
License No. 2822