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MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ORIGINAL

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

MONDAY, JULY 10, 1989
11:00 A.M.

Vicki L. Medeiros, C.S.R.
License No. 7871

COMMISSIONERS PRESENT

Leo T. McCarthy, Lieutenant Governor, Chairman

Jim Tucker, Commission Alternate for Gray Davis,
State Controller

LaFenus Stancell, Commission Alternate for
Jesse R. Huff, Director of Finance

STAFF PRESENT

Claire T. Dedrick, Executive Officer

James Trout, Assistant Executive Officer

Robert Hight, Chief Counsel

Dwight Sanders, Chief, Research and Planning Division

I N D E X

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	<u>Page</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
Proceedings	1
Confirmation of Minutes for the meeting of May 31, 1989	1
Consent Calendar Items C01-C21	1
Regular Calendar Items off calendar: Items 22, 30, 40, 42, 52 and 66	1
Item 23, J. Jeffery Kirst (Party)	2
Item 24, Pacific Mariculture, Inc. (Applicant)	3
Item 25, Yuma Associates, Ltd., a limited California partnership (Applicant)	6
Item 26, Pacific Gas and Electric Company (Applicant)	7
Discussion:	
Mr. Baumgartner	7
Mr. McKelvey	9
Item 27, State Lands Commission (Applicant)	25
Remarks by Mr. Sanders	26
<u>Public Comment</u>	
Mr. Greg Lien	29
Question-and-answer session	30
Commission action	34
Item 28, James R. Barrow and Marjorie A. Barrow (Applicant)	34

	<u>Page</u>
1	
2	Item 29, Walter Morris Hart Noble and Charles Edward Noble (Applicant) 34
3	Item 30, off calendar
4	Item 31, John Mozart and Patricia Mozart, Trustees (Applicant) 34
5	
6	Item 32, Thomas E. Kaljian, Mary Grace Kaljian, Gary P. Carlson, Anne Kaljian Carlson (Applicants) 34
7	
8	Item 33, Hugh W. Harris and Muriel M. Harris (Applicant) 34
9	Item 34, McKinney's Landing, Inc. (Applicant) 34
10	Item 35, Thacher Trelkeld, John Handlin Trelkeld, Jr., Donald Pierce Crocket and William Alexander Crocket, Jr. (Applicant) 34
11	
12	
13	Item 36, Northshore Townhouse Association (Applicant) 34
14	Item 37, Emile L. and Jean L. Labadie (Applicant) 34
15	
16	Item 38, Warren E. Spieker and Carol S. Spieker, Trustees (Applicant) 34
17	Item 39, Cedar Flat Improvement Association (Applicant) 34
18	
19	Item 40, off calendar
20	Item 41, Michael Shumate and Gail Shumate (Applicant) 34
21	Item 42, off calendar
22	Item 43, The Brockway Club (Assignor) and Glenn A. Storek (Assignee) 34
23	
24	Item 44, Donald Sweet, Sara Sweet, George Avanassian, Patricia Avanassian, Joseph E. Venosa, and Joy Naomi Vanosa (Applicants) 34
25	

	<u>Page</u>
1 Item 45, Ultramar Refining Company (Applicant)	35
2 Item 46, State Lands Commission (Applicant)	35
3 Item 47, postponed	
4 Item 48, City of Long Beach (Applicant)	35
5 Item 49, Chevron USA, Inc. (Applicant)	36
6 Item 50, Tri-Valley Oil and Gas Company (Proposed Lessee)	36
7 Item 51, Santa Fe Energy Company (Applicant/Proposed Lessee)	36
8 Item 52, off calendar	
9 Item 53, United States Borax and Chemical Corporation (Applicant)	37
10 Item 54, Joelen Enterprises (Applicant)	37
11 Item 55, County of Orange Harbors, Beaches and Parks (Applicant)	37
12 Item 56, Southwest Marine, Inc. (Applicant)	38
13 Item 57, Santa Barbara County Flood Control Water Conservation District (Applicant)	38
14 Item 58, Tahoe Keys Property Owners Association (Applicant)	39
15 Item 59, Homewood High and Dry Marina (Applicant)	39
16 Item 60, El Dorado Improvement Corporation/Ski Run Marina (Applicant)	40
17 <u>Public Comment</u>	
18 Ms. Dena Schwarte	41
19 Question-and-answer session	41
20 Commission action	43
21 Item 61, Delta Bay Club (Applicant)	44

	<u>Page</u>
1	
2	Item 62, Star Harbor Homeowners Association (Applicant) 44
3	Item 63, Fireman's Fund Insurance (Applicant) 44
4	Item 64, Southern Pacific Transportation Company (Applicant) 45
5	
6	Remarks by Executive Officer Dedrick 45
7	<u>Public Comment</u>
8	Mr. Paul Evans 46
9	Question-and-answer session 49
10	Commission action 54
11	Item 65, State Lands Commission, U.S.D.A. Forest Service and California State Historic Preservation Office (Parties) 54
12	
13	Item 66, off calendar
14	Item 67, United States of America, State Lands Commission (Parties) 54
15	Item 68, State Lands Commission (Applicant) 54
16	Item 69, State Lands Commission (Applicant) 55
17	Item 70, State Lands Commission (Applicant) 55
18	Item 71, State Lands Commission (Applicant) 56
19	Item 72, State Lands Commission (Party) 56
20	Item 73, State Lands Commission (Applicant) 56
21	Item 74, Harry W. Schilling and Harry C. Schilling (Assignors) Key Lease Corporation (Assignee) 57
22	
23	Adjournment 57
24	Certificate of Reporter 58
25	

--o0o--

1
2
3
4
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8
9
10
11
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P R O C E E D I N G S

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CHAIRMAN McCARTHY: Good morning, Ladies and Gentlemen. Welcome to this meeting of the States Lands Commission.

Sitting on my right is Commissioner Tucker, sitting in for Controller Gray Davis. On my left is Commissioner Stancell, sitting in for Director of Finance Huff.

Minutes of the last Commission Meeting, without objection, are approved.

The consent items -- we're going to hold 21 temporarily on the Consent Calendar.

EXECUTIVE OFFICER DEDRICK: Orange County is here and could speak to that.

CHAIRMAN McCARTHY: Weren't you getting a document to Ed Manning and he was going to look that over?

EXECUTIVE OFFICER DEDRICK: Ed, do you want to speak?

CHAIRMAN McCARTHY: Are we still examining 21?

MR. MANNING: It's fine now.

CHAIRMAN McCARTHY: Fine. 21 is the last Consent item.

All right. We're on the Consent Calendar. No items are removed on the calendar by the Commission.

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Anyone in the audience wish to raise any point about the Consent Calendar before the Commission acts upon it?

If not, the Consent Calendar is passed unanimously by the Commission.

We're on item -- I'm sorry. We're going to talk about pulled items next.

The following items on the rest of the Calendar have been pulled for those of you who may be here in connection with any of these items: 22, 30, 40, 42, 52, 66. Those items are pulled from today's Calendar.

We try to give notice to everybody who has concern with those items, and we ask your forbearance if you came here in connection with one of those items without knowing they were going to be pulled.

We will proceed now to the Regular Calendar.

EXECUTIVE OFFICER DEDRICK: Item 23, Mr. Chairman, is a boundary line agreement and compromise settlement for a parcel of land adjacent to the Mokelumne River.

Party is Jeffery Kirst. This is near the town of Woodbridge. It results in full access to the river for the public along that parcel.

CHAIRMAN MCCARTHY: Any questions from Members of the Commission on Item 23?

From members of the audience on Item 23?

If not, recommendation is accepted.

1 Item 24.

2 EXECUTIVE OFFICER DEDRICK: Item 24, Mr. Chairman,
3 is Pacific Mariculture. This is the approval of a General
4 Lease-Industrial Use for and agricultural project in Santa
5 Cruz County for the purpose of growing abalone.

6 There are, I believe, some people here.

7 CHAIRMAN MCCARTHY: I have some notices here, and I
8 will call on members of the public in a minute.

9 Have you finished the staff report on this?

10 EXECUTIVE OFFICER DEDRICK: Basically, Mr. Chairman,
11 let me have Dwight Sanders, who has been involved in the
12 development of this project, give you a rundown on it and also
13 give you the approvals that have already been reached on the
14 subject.

15 MR. SANDERS: Thank you, Mr. Chairman.

16 As Claire, the Executive Officer, indicated, this is
17 a mariculture facility. The County of Santa Cruz served as
18 the lead agency, approved the project with consideration and
19 conditions.

20 The Coastal Commission also considered the item at
21 their last agenda and approved it on a vote of ten to zero
22 with additional considerations.

23 The primary issues that remain in contention are
24 twofold. One, an issue of, we believe, of view shed and
25 access, which was dealt with by the Coastal Commission; and

1 secondarily, the potential or the proposed use of natural sea
2 caves for the facility. One sea cave to be used for the
3 intake pipes to provide sea water to the facility, and another
4 sea cave to be used for the discharge pipe for the facility.

5 That concludes staff's presentation to this point,
6 Mr. Chairman.

7 CHAIRMAN McCARTHY: Thank you.

8 I have several sign-ups for the Applicant. The
9 Applicant is Pacific Mariculture, Inc.

10 You folks are going to have to give us some guidance
11 as to who is going to speak for you. I have Mr. Richard
12 Beale. I have Gerald Bowden. I have John Rutherford, Peter
13 Scrivani and that's it.

14 Then I have Mr. James Dorsey for questions, from
15 Yuba Associates.

16 EXECUTIVE OFFICER DEDRICK: That's another Item.

17 CHAIRMAN McCARTHY: I'm sorry.

18 EXECUTIVE OFFICER DEDRICK: We have Mr. Zeiher.
19 Mr. Zeiher, I believe, is the property owner in the area.

20 CHAIRMAN McCARTHY: That's fine. I would be happy to
21 hear from both sides.

22 I thought we should hear from the Applicant first.
23 Then we will hear from the property owner who is protesting
24 the Item.

25 EXECUTIVE OFFICER DEDRICK: Mr. Chairman --

1 CHAIRMAN McCARTHY: You have no testimony?

2 Would you like to testify, Mr. Scrivani?

3 MR. SCRIVANI: I'm the project Applicant, and the
4 individuals that you listed, Mr. Chairman, are all supporters
5 of the project, and we all concur with the Staff Report for
6 recommendation and approval.

7 That's the extent of my comments.

8 CHAIRMAN McCARTHY: Okay. Any questions of
9 Mr. Scrivani?

10 All right. Mr. Kurt Zeiher.

11 Mr. Zeiher, would you like to give us your side?

12 MR. ZEIHNER: Well, I don't have any side to give.

13 I'm in favor of this project, Mr. Chairman. I just
14 wanted to state that the property owners were very, very
15 impressed with Mariculture's projection for this project.

16 That's all I wanted to say, sir.

17 CHAIRMAN McCARTHY: All right.

18 Any questions of Mr. Zeiher?

19 Thank you, Mr. Zeiher.

20 I do not have any other on this Item. Are there any
21 other witnesses who wish to testify on this?

22 Any questions by the Commission Members?

23 All right. The matter is approved.

24 Item 25.

25 EXECUTIVE OFFICER DEDRICK: Item 25 is, Mr.

1 Chairman, Yuma Associates. This is another settlement
2 agreement on land on the Colorado River.

3 Again, this also involves complete access to the
4 river and a parking area.

5 CHAIRMAN McCARTHY: Any questions by Members of the
6 Commission?

7 Anyone in the audience wish to testify on this
8 matter?

9 Mr. Dorsey?

10 MR. DORSEY: Yes, sir.

11 CHAIRMAN McCARTHY: All right. Mr. Dorsey,
12 welcome.

13 What would you like to tell us?

14 MR. DORSEY: Mr. Chairman, I am representing the
15 Applicant. We have read the Staff Report, and we're in full
16 concurrence.

17 That's all I have to say, unless there are any
18 questions.

19 CHAIRMAN McCARTHY: All right. Any questions by
20 Members of the Commission of Mr. Dorsey?

21 Any comments by any other members of the public?

22 All right. The matter is approved as recommended.

23 Next item --

24 Commissioner Tucker.

25 COMMISSIONER TUCKER: Do we keep running track of

1 what access we have gained so that we can do like a yearly
2 summary for title settlements that indicates both monetary and
3 any land acquired and that sort of thing?

4 EXECUTIVE OFFICER DEDRICK: Yes, I think we do.
5 We have never had occasion to pull it out until
6 recently.

7 Your suggestion is right on target.

8 COMMISSIONER TUCKER: We should out something yearly
9 that indicates the benefits of the settlements so that other
10 people might be interested.

11 EXECUTIVE OFFICER DEDRICK: We will do that.

12 CHAIRMAN McCARTHY: Item 26.

13 EXECUTIVE OFFICER DEDRICK: Item 26. This is an
14 overhead power line proposed by Pacific Gas and Electric
15 Company in the area of Fresno.

16 Our authority is based on the fact that the power
17 line has to cross sovereign lands, and, therefore, we're the
18 lead agency for the State.

19 We have can give a detailed discussion from staff,
20 and you have a few people who appear to want to talk.

21 Mr. McKelvey, I believe, is in opposition to the project. I
22 am not sure of that.

23 And then we have two people from PG&E.

24 CHAIRMAN McCARTHY: Let's hear from one of the PG&E
25 representatives.

1 MR. BAUMGARTNER: Thank you, Mr. Chairman. My name
2 is Peter Baumgartner. I'm an attorney for Pacific Gas and
3 Electric Company in San Francisco.

4 This project is approximately 22 miles of 115 KV,
5 thousand volts, 115,000 volt transmission line made necessary
6 to serve the rapidly growing areas around Fresno. There are
7 two San Joaquin River crossings. The line will essentially be
8 built on, above an existing distribution circuit. We will
9 have to replace the poles, of course, but essentially it will
10 follow an existing route.

11 I'm available with Mr. Ralston, who is my technical
12 advisor, to answer any questions you may have or questions
13 from the staff.

14 CHAIRMAN McCARTHY: Existing route, does that mean
15 that there are existing transmission lines there now?

16 MR. BAUMGARTNER: There is an existing pole line.

17 It's a distribution line. The difference being that
18 a 115,000 volts is considerably greater capacity than say a 12
19 or 24 KV line would be. So, essentially we replace the
20 existing poles with taller one's so that we can put the three
21 additional conductors or wires above the existing lines.

22 There are some areas in Fresno County particularly
23 where a new line without existing distribution circuits will
24 be built.

25 CHAIRMAN McCARTHY: Questions from the Commission

1 Members?

2 Thank you very much.

3 Now, we would like to hear from the landowner,
4 Mr. McKelvey, representing Mr. Gunner.

5 Mr. McKelvey, welcome.

6 MR. MCKELVEY: Thank you, Mr. Chairman and Members.

7 I'm Jim McKelvey, attorney representing Richard
8 Gunner, the owner of one mile of street frontage out of the 22
9 miles impacted by this project.

10 Our request of you today is simply to request
11 further environmental analysis of this project. We are not in
12 opposition to the project per se.

13 You're being asked, among other things, to certify a
14 negative declaration finding that this project will have no
15 adverse impact on the environment. Our position is to the
16 contrary.

17 You were told, and the document says, the proposed
18 negative declaration says, that the project consists simply of
19 elevating an existing line by adding a high tension or high
20 voltage line above it. The existing, I think, is a 12
21 kilovolt line is to have placed above it 115 kilovolt line.

22 We own the property depicted pictorially in Exhibit
23 4, in the original negative declaration, and you'll see the
24 impact that such an installation has on our property.

25 In fairness, I should say that we own the property

1 on the left side of that picture, which currently has no power
2 lines shown on it. The existing power line is across Avenue
3 10 to the north of our property.

4 PG&E originally proposed to erect what you see in
5 the picture on the bottom, across our frontage where no line
6 currently exists.

7 So, the statement that the existing line is simply
8 being increased in height is not true as to our property.

9 EXECUTIVE OFFICER DEDRICK: Page 400 in the
10 calendar.

11 CHAIRMAN McCARTHY: Thank you.

12 MR. McKELVEY: Thank you.

13 CHAIRMAN McCARTHY: Let me see if I understand
14 this. Is this land land that is presently agricultural land?

15 MR. McKELVEY: Yes, sir.

16 CHAIRMAN McCARTHY: And land that is, what, suitable
17 for commercial development?

18 MR. McKELVEY: We have two concerns. Our neighbors
19 and the balance of our tenants are in agriculture use, and our
20 concern about the existence of a high voltage line at such a
21 tremendous height around their agriculture areas because of
22 the impact that has on crop dusting of their properties. The
23 ag users want those effects studied environmentally.

24 More directly, however, as you say, Mr. Chairman,
25 this property is at the intersection of State Freeway 41 and

1 Avenue 20. State Highway 41 is currently being plan lined for
2 conversion to full freeway status.

3 This intersection is shown, this corner, as an
4 offramp to that freeway. This then becomes a prime commercial
5 intersection in the very near future.

6 Today, directly across the street, north of our
7 property, is an existing residential subdivision, occupied by
8 single family homes.

9 All of what is now State Highway and soon to be
10 Freeway 41, from our property south to the City of Fresno, is
11 currently developed with commercial uses. So, we are
12 surrounded on the east by commercial development, on the north
13 by residential development today.

14 We are currently negotiating with developers for
15 commercial development on our now vacant property that you see
16 in this picture. Commercial development on the corner and
17 residential development to the west or rear of our property.

18 Those negotiations are ongoing, and the concern that
19 the current owner and the developer have is simply this:
20 County policy require, number one, that the street be widened
21 upon development. So, if this line is installed today, we
22 would have to relocate it, let's say six months from today,
23 the new line has to be picked up and moved at our expense;
24 number two, current policy requires that lines of the status
25 of the current one be underground.

1 The cost of undergrounding this line across our
2 property is, approximately, we were told by PG&E, \$198,000.
3 If the 115 KV transmission line is built above it, the cost of
4 undergrounding increases to \$2 million.

5 At that point, upon development of our property, we
6 have two choices. We either pay \$2 million and underground
7 that line, which is being built currently, or we have to set
8 back any development from it at considerable distance and
9 suffer what the lawyers call severance damages as a result of
10 the loss of our ability to use a good portion of our land.

11 We think those impacts should have been in the study
12 or the focus of an environmental impact report.

13 CHAIRMAN McCARTHY: The local government did not
14 agree with you? I assume that you proposed that at the local
15 government level?

16 MR. MCKELVEY: No, sir. We have not had that
17 opportunity. There has been no hearing locally.

18 EXECUTIVE OFFICER DEDRICK: State Lands is the lead
19 agency on this project, Mr. Chairman.

20 CHAIRMAN McCARTHY: What role does local government
21 play in making a determination?

22 MR. SANDERS: Local government, Mr. Chairman, has
23 already approved the line as proposed, both Fresno County and
24 Madera County.

25 The issues that have been raised thus far were not

1 raised in the environmental process that we did engage in.
2 There was no comment at all received from any entity,
3 including Mr. Gunner or his representatives, in the
4 circulation in the amended environmental documentation.

5 These issues are, for one, new to us in some
6 respects. In other respects, the counties involved have
7 already acted on this project and given their approval as
8 proposed.

9 MR. MCKELVEY: On that point, may I offer that the
10 County of Madera has no requirement for any entitlement for
11 the installation of lines of this sort. Consequently, they
12 held no hearings, gave no notice and no opportunity to
13 property owners to input. We have had none.

14 CHAIRMAN MCCARTHY: You're one mile in the County of
15 Madera?

16 MR. MCKELVEY: Yes, sir.

17 We have sent two letters to your staff raising these
18 very same issues, none of which are addressed in the negative
19 declaration. That has been our only opportunity to comment,
20 that and today's hearing.

21 We, therefore, agree with the State Energy
22 Commission which raised some of these same points that a full
23 EIR should be required.

24 If, however, in your wisdom you elect not to, we
25 would at least ask you to impose as part of the negative

1 declaration a mitigating measure to require PG&E to deal with
2 this issue. That measure could, for instance, as Fresno
3 County did, require that they set the line back at its
4 ultimate location so it doesn't have to be picked up and moved
5 again six months from now.

6 Fresno County imposed that requirement along Coffer
7 Avenue.

8 CHAIRMAN McCARTHY: What distance was that?

9 MR. McKELVEY: I'm sorry, I don't know.

10 CHAIRMAN McCARTHY: It would still be on your
11 client's property?

12 MR. McKELVEY: Yes. Approximately thirty feet.

13 And/or that they pay appropriate severance damages
14 if we were required to move the line.

15 CHAIRMAN McCARTHY: Mr. Baumgartner, would you come
16 back up for a minute?

17 Our staff is indicating that Mr. McKelvey has
18 provided us with some new information which might have some
19 impact on the issue of negative declaration versus
20 environmental impact report.

21 Have you heard these allegations before?

22 MR. BAUMGARTNER: Yes.

23 We have had a number of negotiations with
24 Mr. Gunner, none of which were satisfactory.

25 I think I should correct the record. There was a

1 supplement to the environmental impact report that was
2 prepared. As a result of some of the complaints from Mr.
3 Gunner, PG&E agreed that we would locate the line in the
4 vicinity of his property, within the existing right of way of
5 the distribution circuit.

6 The exhibit that he referred to is no longer
7 effective. It's Exhibit 4 in the revised environmental report
8 which your staff prepared which clearly shows that the line
9 will not be --

10 CHAIRMAN McCARTHY: Offer that to Mr. McKelvey so
11 he's looking at the same thing.

12 MR. SANDERS: Mr. Chairman, Mr. McKelvey did receive
13 that material as part of the circulation of the amended
14 environmental documentation.

15 We will show him what we have here, also.

16 The issue -- if I might clarify one point that I
17 raised, the new information or new issue that I was referring
18 to is the matter of crop dusting.

19 All of the other issues that had been raised by
20 Mr. McKelvey had been covered within the environmental
21 documentation that the Commission did. Crop dusting was never
22 an issue brought forth or to our attention by any agency with
23 whom we have been dealing.

24 CHAIRMAN McCARTHY: What distance are we talking
25 about Mr. Baumgartner?

1 What are we talking about in terms of moving the
2 line? Mr. McKelvey is sort of trying to ride a couple of
3 horses here.

4 We have the crop duster horse. We have the
5 commercial development horse, and that's what a lawyer is
6 supposed to do, I guess, put it all out there and hope one of
7 them works.

8 If we move the line here, what are we talking
9 about? If you move the line a little bit it would only cost
10 \$198,000 now versus a couple of million, or whatever it was,
11 later on if they feel that their commercial development
12 prospects are pretty hot.

13 MR. BAUMGARTNER: There is approximately 5,000 feet
14 of frontage on this road that Mr. Gunner owns.

15 We, in the revised environmental report and in
16 answer to some of his complaints, agreed that we would locate
17 approximately 3,000 feet of the line on top of an existing
18 distribution line.

19 That line crosses the road to Mr. Gunner's side of
20 the road. Our proposed route is to put the line right on top
21 of the poles all the way on the 5,000. That leaves about
22 2,000 feet of Mr. Gunner's property which will have a higher
23 line on it which potentially might affect crop dusting.

24 CHAIRMAN MCCARTHY: How close is that to this
25 intersection that he referred to of Highway 41 and whatever

1 the other cross street?

2 This is Mr. Ralston?

3 MR. RALSTON: Right.

4 CHAIRMAN McCARTHY: Go ahead.

5 MR. RALSTON: Highway 41 is here, and the San
6 Joaquin River goes down here. The crossing adjacent to the
7 location and north to the top and there is Mr. Gunner's
8 property.

9 The existing distribution line is on the south side
10 of the street.

11 Our initial proposal was to stay on the south side,
12 but because we wished to make sure that we minimized the
13 impact, we agreed to over build and reconstruct the
14 distribution line on the route. We are going to reconstruct
15 this pole line in the ultimate position. We talked to Madera
16 County and --

17 CHAIRMAN McCARTHY: And those neighbors over there
18 have not said anything?

19 MR. RALSTON: We're in the county road right of
20 way.

21 EXECUTIVE OFFICER DEDRICK: They haven't complained?

22 MR. RALSTON: No.

23 EXECUTIVE OFFICER DEDRICK: Did they know about it?

24 MR. RALSTON: They had been notified. We conducted
25 a public hearing process in Madera County and all the property

1 owners were notified.

2 This is Highway 41.

3 CHAIRMAN MCCARTHY: Where is the 2,000 feet?

4 MR. RALSTON: Between here and here is

5 Mr. Gunner's.

6 CHAIRMAN MCCARTHY: And the intersection of Highway

7 41?

8 MR. RALSTON: This is where the interchange is

9 planned.

10 EXECUTIVE OFFICER DEDRICK: The map, as I understood

11 what Mr. Baumgartner was saying, Mr. Chairman, 3,000 feet

12 would not be on his property and 2,000 feet would be.

13 Basically, 2,000 feet will be on the residential

14 property, or adjacent to the residents, and 3,000 feet on his

15 property.

16 MR. RALSTON: Also, another issue that Mr. McKelvey

17 raised with regard to the crop dusting, with the exception of

18 one property --

19 CHAIRMAN MCCARTHY: We don't want to go to crop

20 dusting yet. Let's stick to the other problem for a moment,

21 okay?

22 Mr. McKelvey, do you want to explain how that

23 impacts your client's prospects of developing commercially in

24 and around that intersection?

25 MR. MCKELVEY: Yes, sir. The impacts are the

1 several that I mentioned.

2 Upon development of our property, as I say,
3 commercial on the corner and residential abutting it, we are
4 required to widen Avenue 10, at which point we would have to
5 pick up this new line up and relocate it.

6 CHAIRMAN McCARTHY: Would you point to that, Mr.
7 Ralston?

8 Okay. We're moving away from the intersection now?

9 MR. McKELVEY: Yes, sir. The whole street has to be
10 widened the entire length of our property has to be widened as
11 a condition of that development.

12 CHAIRMAN McCARTHY: For 3,000 feet of that is the
13 point now that should they, should his client want to develop
14 commercially along that street, he would have to move the line
15 in a certain distance.

16 Is there some prospect or possibility of figuring
17 out how to do that now in the original agreement, assuming
18 they drop all other objections like crop dusting problems?

19 MR. BAUMGARTNER: Mr. Chairman, the problem is that
20 the property owner does not have a plan for development so
21 it's not clear exactly where we would locate the line.

22 It is the policy of PG&E, however, in situations
23 like this to offer to relocate the line once, provided the
24 property owner provides a suitable right of way for doing so.

25 CHAIRMAN McCARTHY: At PG&E's cost?

1 MR. BAUMGARTNER: Yes.

2 That offer was made to the property owner in our
3 negotiations with him.

4 MR. MCKELVEY: What we were told was that PG&E would
5 pay for the labor cost of moving the line, and it would be our
6 responsibility to provide the land for the relocation.

7 MR. BAUMGARTNER: That's correct. Provided the
8 property owner provides suitable right of way.

9 CHAIRMAN MCCARTHY: A piece of your land is going to
10 be taken in either event.

11 MR. MCKELVEY: Yes, sir. As long as we pay for it.

12 COMMISSIONER TUCKER: If they decide not to develop
13 it, the line is going to be located further in to his property
14 under their proposal, which may negatively impact the sale of
15 that property.

16 It doesn't make sense to move it until you know
17 where you're going to move it to.

18 CHAIRMAN MCCARTHY: It's up to the landowner to
19 decide within a time frame whether they are going to develop
20 or not.

21 EXECUTIVE OFFICER DEDRICK: Doesn't local government
22 require in the construction of residential subdivisions or is
23 it a state law requiring the undergrounding of power lines?

24 MR. MCKELVEY: It does below a certain capacity.
25 PG&E will have to help me. 115 KV is exempt.

1 MR. EAUMGARTNER: Well, 115 KV line, the cost of
2 undergrounding is absolutely astronomical. It would cost
3 between \$1 and \$6 million to build the transition point, that
4 is from overhead to underground; and then there is a
5 significantly increased cost per foot of digging the trench
6 and putting the proper facilities in.

7 In some cases, depending upon what the load the line
8 is designed to carry, it would have to have an oil cooling
9 system with pumps and all the rest of it in order to. That's
10 why we don't.

11 The smaller lines, or the lower capacity lines,
12 those facilities are not necessary and the cost of
13 undergrounding is not significantly greater. Even when
14 undergrounding is required for a subdivision, overhead is
15 permitted up to the boundary line, and then all of the streets
16 inside the subdivision would have -- we wouldn't underground
17 the whole county just to serve one subdivision.

18 MR. McKELVEY: Mr. Chairman, you have been very
19 patient. My point is really very simple.

20 You're being asked to certify a document that says
21 this project will have no affect on the environment. It
22 concludes as follows: Where the proposed line is located along
23 existing county roads, no land use impacts are identified. No
24 significant land use impacts were found and no need for
25 mitigation exists.

1 I realize this is not the forum at which these
2 issues should be resolved. I simply highlight the issues do
3 exist and need to be addressed environmentally. They need to
4 be resolved and they were not. They are significant.

5 CHAIRMAN McCARTHY: As I get it, Mr. Sanders, the
6 only issue not resolved that may affect the decision on the
7 negative declaration versus environmental impact report is the
8 crop dusting issue.

9 Now, if we were to somehow make a different decision
10 on this or require that this be examined on the crop dusting
11 issue, is that what you're aiming at? Is that where you
12 really want to end up?

13 MR. McKELVEY: What I really seriously am addressing
14 is the land use issue.

15 CHAIRMAN McCARTHY: It doesn't sound like you're
16 interested in leaving this land in agricultural usage. It
17 sounds like you want to do some decent negotiating with PG&E
18 on this as to how you are going to maximize your potential for
19 commercial and residential development.

20 We're not the -- what do they call the new judges
21 that solve of these problems?

22 MR. BAUMGARTNER: Private judges?

23 CHAIRMAN McCARTHY: Yes. We're not sitting in that
24 capacity. It might be fun, but we're not.

25 COMMISSIONER TUCKER: I do not see any question on

1 the issue of environmental impacts. There is not a thing that
2 is indicated that is described as to what might be a potential
3 environmental impact.

4 CHAIRMAN McCARTHY: Mr. Sanders, do you want a
5 comment from them on the crop dusting issue?

6 MR. SANDERS: No. I do not, Mr. Chairman. I think
7 that's a moot point.

8 I think that the major point to emphasize here is
9 that the plans for this property are merely conceptual at this
10 particular point in time. They have not been submitted, to my
11 knowledge, to any public entity for consideration and
12 certainly not figured very strongly as it appears in the
13 conversations between these two parties.

14 As such, the documentation that was prepared that we
15 prepared as lead agency had no wherewithal to consider
16 something that merely exists as a concept.

17 The issues that have been raised are ones of land
18 use. The land use question is not defined to the point that
19 Mr. McKelvey would have us discuss them.

20 CHAIRMAN McCARTHY: Mr. Baumgartner, would you
21 please tell me how long PG&E will give this landowner to make
22 a decision on commercial development, the question of where
23 the line might finally be planted could be made?

24 MR. BAUMGARTNER: Mr. Chairman, as I said, it's the
25 policy of company to relocate in kind this of situation when

1 the plans are well-known. However, we would like to get
2 working tomorrow if we can to complete this project because
3 we're running into really severe capacity shortages in this
4 particular area.

5 With all the growth that's going on, particularly in
6 Fresno County, we have to get the power over there or we risk
7 serious outages which could affect lots of customers for up to
8 24 hours.

9 That really isn't acceptable.

10 COMMISSIONER TUCKER: Is this area that is proposed,
11 would they use this power?

12 MR. BAUMGARTNER: There is no question that they
13 will be served out of these general facilities.

14 COMMISSIONER TUCKER: There is an advantage to have
15 that line there.

16 MR. BAUMGARTNER: Yes.

17 But also the issue as to the timing of this project,
18 we want to start work on it as soon as possible. Because of
19 the, what we consider to be the critical need, it's cost
20 effective to relocate it later when he has the necessary land
21 use permit so we know how it is going to be engineered.

22 CHAIRMAN MCCARTHY: Mr. McKelvey, how soon do you
23 think your client is going to have a fairly firm idea as to
24 where he would want this line located?

25 MR. MCKELVEY: Thank you, Mr. Chairman. We have

1 development plans that we could present to PG&E within thirty
2 days. They are in the final stage of development.

3 We're prepared to negotiate with them the final
4 location of that line if given the opportunity to do so within
5 that period.

6 CHAIRMAN McCARTHY: How does that sound, Mr.
7 Baumgartner? Can you give them thirty days?

8 MR. BAUMGARTNER: We'll give them thirty days.

9 CHAIRMAN McCARTHY: The Commission approves the
10 recommendation with that understanding.

11 EXECUTIVE OFFICER DEDRICK: Item 27, Mr. Chairman,
12 this is the Tahoe item in which staff is presenting a program
13 to the Commission for approval for how to handle construction,
14 reconstruction of old piers, construction of new piers and any
15 other activities in the shore zone of Lake Tahoe where an
16 endangered species has just been identified.

17 The endangered species is called the Tahoe Yellow
18 Crest. The scientific name is Roripa, and is referred to by
19 both names.

20 Staff is prepared to present the program to you. I
21 would like to ask Dwight Sanders to present the program for
22 dealing with the Roripa in the shore zone at Lake Tahoe.

23 CHAIRMAN McCARTHY: Just one moment, please.

24 Is there a Mr. Peter Brierty in the audience?

25 What item did you wish to speak on, Mr. Brierty?

1 MR. BRIERTY: Item 64.

2 CHAIRMAN McCARTHY: Would you mind coming up and
3 filling out one of these witness pages?

4 Thank you very much.

5 All right. Mr. Sanders.

6 MR. SANDERS: Thank you, Mr. Chairman.

7 As Claire described, this is a Staff Proposal for
8 seeking direction from the Commission to process various types
9 of applications that the Commission has before it for work up
10 at Lake Tahoe.

11 Specifically, those actions fall into five major
12 categories: One, of existing piers under permit; two, renewal
13 of permits for existing piers; three, application to permit
14 existing piers that are currently not under lease to the
15 Commission; four, repairs, extensions, modifications of
16 existing permitted piers where such activities affect the lake
17 bed below the low water line, which is below the area
18 inhabited by the endangered species; and five, new
19 construction, or reconstruction with or without modifications
20 where those activities affect both the shore zone and the bed
21 of the lake.

22 Staff was ready to come before you in March with
23 this program, and in the process of putting that together,
24 discovered the listing of an endangered species at Lake
25 Tahoe. The species, as the Executive Officer has indicated,

1 is the Tahoe Yellow Crest. It is endemic to the Tahoe area
2 alone, and that is all the more reason for its significance.

3 The program, as proposed to you, would allow staff
4 to process all applications that come accompanied with a
5 permit from the Tahoe Regional Planning Agency. That agency is
6 currently permitting activity within the lake with the
7 exception of new piers that would be proposed in identified
8 fish habitat, fish restoration or fish spawning areas.

9 The program would honor TRPA's, if you will, not
10 acceptance of applications for those types of facilities. It
11 would, however, allow staff to process all of the forms of
12 activities with the exception of one; and that would be
13 deferred to the development of Roripa Enhancement Plan which
14 would in effect create an active program to enhance the
15 survival of the species at Lake Tahoe. That plan would be
16 developed through an academic institution within the next
17 three to five months, at which point the plan would be, if you
18 will, offered to applicants that have piers that would affect
19 the Roripa habitat.

20 If the applicants signed on to the plan, staff could
21 then process the applications under CEQA, indicating that no
22 substantial impact would occur to that habitat since it is, in
23 fact, being enhanced by the plan.

24 All other forms of facilities that I have outlined
25 for you would be capable of being processed by the Commission,

1 if this item is accepted. Along with the processing comes an
2 agreement between applicants and the Commission where by the
3 shore zone area, which is the major habitat of the species,
4 would not be disturbed unless the Commission was notified and
5 given an opportunity to respond to such notification.

6 Staff would also perform a public trust
7 determination or investigation at the time of application to
8 determine that the facility that is being proposed is not only
9 consistent with the aspects of the public trust but would not
10 interfere with any other trust uses up at Tahoe.

11 That, Mr. Chairman, unless there are questions,
12 concludes staff presentation at this time. We would certainly
13 answer questions after.

14 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, may I,
15 before we get started, give you a brief rundown on what
16 follows 27.

17 Items 28 through 44, with four exceptions, are
18 dependent on your action on Item 27. Three of the exceptions
19 are 30, 40 and 42, which have been pulled, as you have noted.
20 The reason they were pulled was because they lacked, as I
21 understand it, a certificate from Fish and Game.

22 Item 43 is not effected by Item 27 and should be
23 acted on independently. It's only an assignment.

24 CHAIRMAN McCARTHY: All right. Now, I have two
25 witness slips, Ms. Dena Schwarte, and Greg Lien.

1 Are you on the same side of this issue? Are you on
2 opposite sides of the issue?

3 MR. LIEN: Completely different parties.

4 CHAIRMAN McCARTHY: You're welcome to both come up
5 or whatever you want to do.

6 Mr. Greg Lien.

7 MR. LIEN: Thank you and good morning, Mr. Chairman.
8 I wanted to just make some very brief comments. At
9 the outset, let me say that I have appreciated working with
10 Mr. Sanders of your staff. I believe that they have
11 identified a positive approach to the problem that we do have
12 in trying to work our way through the mine field of
13 regulations that we do need to address, particularly in an
14 environmentally sensitive area, such as Lake Tahoe, with its
15 overlapping agencies and restrictions.

16 The one point that I do want to address today is the
17 very limited time within which we need to proceed with repairs
18 of certain structures at Lake Tahoe that are vitally in need
19 of that repair.

20 TRPA independently imposes a construction season
21 that lasts between July 1 and October 1 of each year.
22 October 1 is very rapidly approaching. Mr. Sanders has just
23 indicated to you that it will take three to five months to get
24 this program under way.

25 The problem, again, is that many structures are

1 currently sitting in an unsafe condition at Lake Tahoe, piers
2 primarily. Their owners are, frankly, quite worried about the
3 liability issue if someone were to be injured on one of those
4 structures.

5 As a parenthetical note, the contracts that they
6 have entered into with your agencies, the permits or the
7 leases, if you will, require them to make those repairs to
8 keep those structures safe.

9 Again, our worry is liability. Can we do anything
10 to move the program ahead more vigorously, perhaps more
11 quickly than your staff has outlined because we feel that it
12 is very, very critical.

13 Secondly, the fees.

14 CHAIRMAN MCCARTHY: Excuse me. Commissioner Tucker
15 has a question.

16 COMMISSIONER TUCKER: What about that, Dwight?

17 Can't we address the maintenance of existing
18 facilities?

19 MR. SANDERS: Mr. Chairman, the maintenance of
20 existing facilities are, in fact, provided for in this
21 particular program that we have proposed to you.

22 In fact, even under the -- recognizing Mr. Lien's
23 point of leases requiring the maintenance, that discussion is
24 on page 436 of your Item, under "Maintenance Of Existing
25 Facilities."

1 Staff feels that the Endangered Species Act even
2 under those maintenance conditions obligates us to look at
3 those proposals to see that they do not damage the habitat of
4 the endangered species up at Lake Tahoe.

5 COMMISSIONER TUCKER: I understand that.

6 How long will it take you?

7 MR. SANDERS: Those piers can be evaluated upon the
8 submittal of required information.

9 I think what Mr. Lien is really referring to in his,
10 quote, "maintenance," unquote, is reconstruction of the pier
11 which involves a little bit more than replacing just planking
12 or one or two pilings. So, it is not in essence a standard
13 maintenance of a facility. It's a total removal and total
14 reconstruction attendant with all the physical impacts of that
15 particular activity.

16 EXECUTIVE OFFICER DEDRICK: Commissioner, I believe,
17 and correct me if I'm wrong, Dwight, but the twelve items that
18 are here for your approval are in the main, the repair,
19 reconstruction items which fit, which are in such a way that
20 they not do damage near the shore zone where the habitat
21 exists.

22 The three items we pulled do not have a certificate
23 from Fish and Game to prove they were not.

24 COMMISSIONER TUCKER: The answer to the question is
25 that it's not three to five months to get the program going;

1 the program is going as of today, but it takes a different
2 period of time depending on the nature of the request. Some
3 requests are approved quickly and others take more time.

4 MR. SANDERS: There are six Items in the category of
5 maintenance called reconstruction, but those occur in the low
6 water, out in the bed of the lake and do not involve the piers
7 and can be dealt with in this manner.

8 Projects are considered in the program as it goes
9 forward from today.

10 CHAIRMAN McCARTHY: All right. Do you have anything
11 else?

12 MR. LIEN: I appreciate the staff's consideration on
13 the timing. We are worried that the people who are needing to
14 do the construction between low and high water, that they find
15 a solution.

16 The other point is, I suppose, a plea for the fees
17 to be reduced. \$2500 by way of contract is ten times more
18 than that which TRPA would charge.

19 Thank you.

20 CHAIRMAN McCARTHY: Any questions?

21 Thank you, Mr. Lien.

22 Ms. Schwarte, do you wish to make a statement?

23 MS. SCHWARTE: I'll pass on this one.

24 CHAIRMAN McCARTHY: Thank you very much.

25 Anybody else in the audience wishing to comment on

1 this issue?

2 I think we will address this one first and then
3 address the others as a group.

4 COMMISSIONER TUCKER: The other issue that we have
5 discussed, and I think it's important in this, is that it be
6 publicized aggressively by staff, and we discussed this
7 before, so that realtors, or anybody else who might be dealing
8 with these properties, are on notice to give notice to people
9 who may be purchasing the property, so that, to an extent, we
10 can avoid it, where we don't have situations where people
11 think they buy a place that has a pier, and somebody has told
12 them, yeah, it's no problem putting a pier in, and then
13 suddenly they find out that they come into one of these
14 categories that will take quite a while or impossible to be
15 built.

16 It's an important thing for us to do as much as we
17 can to get the word out to other people about this program.

18 EXECUTIVE OFFICER DEDRICK: Commissioner, upon your
19 approval of this program, staff, following up on that
20 suggestion you made earlier, intends to notify all realtors in
21 the area, or anyone we know who handles Tahoe property, to
22 tell them precisely what the program is and what is
23 significant about this project.

24 CHAIRMAN McCARTHY: Will that be a condition in any
25 sales document, or is that a voluntary action on the part of

1 each real estate commissioner?

2 I think that Commissioner Tucker was suggesting that
3 we make a point that each prospective buyer would know of the
4 pier reconstruction.

5 MR. HIGHT: Mr. Chairman, it would be an item that
6 we would attempt to notify all the appropriate realtors in the
7 area.

8 I don't believe it's an item that we can legally
9 make a condition of any private sale agreement.

10 CHAIRMAN McCARTHY: No way to require notice?

11 MR. HIGHT: We thought about it and would we
12 couldn't find an answer, but we'll continue to explore that.

13 CHAIRMAN McCARTHY: Item 27 is approved.

14 Now, is there any legal or appropriate reason why we
15 should not take all of the remaining Items, minus 30, 42 and
16 43?

17 EXECUTIVE OFFICER DEDRICK: You don't need to
18 include 43. 30, 40 and 42 are the pulled Items.

19 43 is one you should act on.

20 CHAIRMAN McCARTHY: Is there any reason why we can't
21 take those as a group and vote upon them?

22 Any questions from the audience?

23 If not, all of the Items are approved.

24 EXECUTIVE OFFICER DEDRICK: 28 through 44, except
25 for the pulled Items.

1 CHAIRMAN McCARTHY: Minus 30, 40 and 42.

2 EXECUTIVE OFFICER DEDRICK: Correct.

3 CHAIRMAN McCARTHY: All right.

4 Now, we're on Item 45.

5 EXECUTIVE OFFICER DEDRICK: Item 45, this is an
6 award of a Royalty Oil Sales Contract for the Huntington Beach
7 area to Ultramar Refining Company. The bid is thirty cents
8 above the posted price.

9 CHAIRMAN McCARTHY: Any questions by the
10 Commission?

11 By the audience?

12 All right. The Item is approved.

13 Next?

14 EXECUTIVE OFFICER DEDRICK: Item 46, this is a
15 proposed sale of royalty crude oil from a variety of leases in
16 Santa Barbara County with a twenty-five-cent minimum.

17 CHAIRMAN McCARTHY: Okay. Any questions by the
18 Commission?

19 By the audience?

20 Okay. The Item is approved.

21 At Commissioner Tucker's request, Item 47 is
22 postponed until the next Calendar.

23 Item 48.

24 EXECUTIVE OFFICER DEDRICK: Item 49 is the fifth
25 modification of the '88-'89 plan and budget for the Wilmington

1 Oil Field, and it requires your approval.

2 CHAIRMAN McCARTHY: Any questions on 48?

3 Item 48 is approved.

4 49.

5 EXECUTIVE OFFICER DEDRICK: Item 49 is approval of a
6 letter agreement amendment to an existing gas purchase
7 agreement for Chevron to sell gas to PG&E for the price that
8 PG&E will pay them.

9 CHAIRMAN McCARTHY: Any questions from the Members
10 of the Commission or members of the audience?

11 The Item is approved.

12 50.

13 EXECUTIVE OFFICER DEDRICK: Item 50, Tri-Valley Oil,
14 the approval of a subsurface oil and gas lease on Piper Slough
15 and Taylor Slough in Contra Costa County.

16 CHAIRMAN McCARTHY: Any questions from Members of
17 the Commission?

18 Members of the audience?

19 Item 50 is approved.

20 Item 51.

21 EXECUTIVE OFFICER DEDRICK: Item 51, Santa Fe Energy
22 Company, this is another negotiated oil and gas lease on
23 submerged lands in San Joaquin County.

24 CHAIRMAN McCARTHY: Any questions on Item 51 all
25 right.

1 We'll acknowledge the presence of Mr. Roger Narinian
2 who has indicated to us that he doesn't need to testify if
3 there are no questions on the Item.

4 Is that correct, Mr. Narinian?

5 All right. Thank you.

6 Any questions?

7 The Item is approved.

8 52 is off the Calendar.

9 53.

10 EXECUTIVE OFFICER DEDRICK: Item 53, this is for the
11 United States Borax Company, approve extensions of prospecting
12 permits in Inyo County in the location of their existing
13 deposits.

14 CHAIRMAN McCARTHY: Any questions on Item 53 from
15 the Commission or the audience?

16 If not, the matter is approved.

17 Item 54.

18 EXECUTIVE OFFICER DEDRICK: Item 54, this is Joelen
19 Enterprises. It's a one-year extension of a dredging permit
20 to dredge 3900 cubic yards from San Diego Bay at Crown Isle,
21 in San Diego County.

22 CHAIRMAN McCARTHY: Any questions from Members of
23 the Commission or the Audience?

24 If not, Item 54 is approved.

25 55.

1 EXECUTIVE OFFICER DEDRICK: 55 is the County of
2 Orange Harbors, Beaches and Farks, authorize dredging of a
3 maximum of 33,300 cubic yards in the Dana Point Harbor.

4 CHAIRMAN McCARTHY: Any questions from Members of
5 the Commission?

6 Members of the audience?

7 If not, 55 is approved.

8 56.

9 EXECUTIVE OFFICER DEDRICK: 56 is the Southwest
10 Marine. This is to authorize the dredging of 212,020 cubic
11 yards of material in San Francisco Bay with the soils disposal
12 at Alcatraz in the Corps of Engineers approved dump.

13 CHAIRMAN McCARTHY: Questions by Members of the
14 Commission?

15 The audience?

16 Item 56 is approved.

17 57.

18 EXECUTIVE OFFICER DEDRICK: Item 57 is the Santa
19 Barbara County Flood Control Water Conservation District to to
20 authorize dredging of a maximum of 50,000 cubic yards at the
21 mouth of Goleta Slough, Santa Barbara County.

22 CHAIRMAN McCARTHY: Questions by Members of the
23 Commission.

24 Anyone in the audience?

25 All right. 57 is approved.

1 58.

2 EXECUTIVE OFFICER DEDRICK: 58 is the Tahoe Keys
3 Property Association, a dredging item, a maximum of 3,000
4 cubic yards at the Tahoe Keys West Entrance Channel, in El
5 Dorado County. Disposal of an upland cite in this case.

6 CHAIRMAN McCARTHY: Questions by Members of the
7 Commission?

8 The audience?

9 58 is approved.

10 59.

11 EXECUTIVE OFFICER DEDRICK: 59 is Homewood High and
12 Dry Marina. This authorizes the maximum of 3500 cubic yards
13 of dredged material at the location of that marina in Placer
14 County.

15 CHAIRMAN McCARTHY: Questions by Members of the
16 Commission?

17 This was one of Items that you were interested in,
18 Ms. Schwarte. Is there no dissent on this?

19 Do you wish to testify?

20 MS. SCHWARTE: I would like to ask a question.

21 CHAIRMAN McCARTHY: Any questions by Members of the
22 Commission?

23 The matter is approved.

24 Excuse me. You want to make a comment? I'm sorry.

25 MS. SCHWARTE: I just wanted to ask a question.

1 It wasn't in the written staff report. I have the
2 nex' two dredgings. I represent two dredging projects,
3 Homewood and El Dorado Improvement Corporation.

4 We did receive a call in my office suggesting that
5 there would be a hundred percent bond to put up for these
6 projects.

7 EXECUTIVE OFFICER DEDRICK: That is for Item 60,
8 which is the next item.

9 CHAIRMAN MCCARTHY: Why don't you just stay there
10 and we'll get to that.

11 Item 60.

12 EXECUTIVE OFFICER DEDRICK: Item 60 is El Dorado
13 Improvement Corporation and Ski Run Marina. This is the
14 dredging of 1245 cubic yards in the interior of the marina.

15 Staff is recommending a \$40,000 bond to cover the
16 full cost of dredging to assure performance. The reason staff
17 is making this recommendation is because Ski Run Marina has in
18 the past dredged a channel into Tahoe without permit from the
19 State Lands Commission or any notification to the State Lands
20 Commission, and we feel that that justifies or requires us to
21 pay a little more attention to Ski Run than we do many people
22 up there and make sure that they don't violate the conditions
23 of their permit this time.

24 CHAIRMAN MCCARTHY: Any questions by Members of the
25 Commission?

1 Ms. Schwarte.

2 MS. SCHWARTE: I just wanted to make a statement
3 that, first of all, I thought that it was both projects and
4 I'm relieved to hear that it is only one now.

5 The problem here is that we have got two different
6 applicants. The person who was responsible for dredging the
7 channel was not the same entity as applying for the inner
8 harbor permit. That was Lake Tahoe Cruises for the Tahoe
9 Queen, the maintenance dredging of the channel, and they did
10 not have a permit.

11 I represent El Dorado Improvement Company, who is
12 responsible and manages the marina. We are asking for permits
13 and we will do it legally. I really feel that this is a
14 penalty put upon my client that I object to.

15 CHAIRMAN MCCARTHY: Would staff like to respond to
16 Ms. Schwarte?

17 MR. HIGHT: Mr. Chairman, it was our understanding
18 that El Dorado Improvement was a party in the prior dredging.

19 MS. SCHWARTE: Because they leased the pier, they
20 are the owners of the pier, and they leased it to Lake Tahoe
21 Cruises.

22 They do not need to have that channel maintained for
23 any activities that they conduct at the marina other than what
24 Lake Tahoe Cruises does. Lake Tahoe Cruises paid for the
25 dredging, and they were the applicant.

1 CHAIRMAN McCARTHY: It was still your lessee who did
2 the illegal dredging?

3 MS. SCHWARTE: Yes.

4 CHAIRMAN McCARTHY: I think our staff's position was
5 that you, as the lessor, had responsibility for the dredging.
6 You shared the responsibility that did occur.

7 Normally we do not charge a performance bond, but
8 when this unfortunate dredging happened before, I think it is
9 the staff's recommendation -- you say it's \$40,000?

10 EXECUTIVE OFFICER DEDRICK: That covers the cost of
11 the dredging project.

12 CHAIRMAN McCARTHY: Any questions Members of the
13 Commission?

14 Do you care to add anything else, Ms. Schwarte?

15 MS. SCHWARTE: I guess I have to accept it that way
16 if that's the way it comes down. I feel that there is a major
17 mitigation project that is going along with this, that wasn't
18 part of our application; but all the agencies up at Lake Tahoe
19 know about it, that is costing \$15,000, which coming out of my
20 client's pocket right now to do scientific experiments on
21 water quality.

22 I would like to see some recognition given for
23 that. We're doing that with the University of California at
24 Davis.

25 Whatever.

1 I think they are trying cooperate.

2 EXECUTIVE OFFICER DEDRICK: Those are separate
3 problems.

4 The issue that staff feels very strongly about here
5 is that that was a blatantly illegal act and resulted in
6 substantial damage. In fact, some of the reason for the need
7 for dredging inside the marina at this time is a result of the
8 spoils from the illegal dredging.

9 We feel very strongly that it's very difficult to
10 enforce at Tahoe. We do not have adequate inspections. If we
11 allow those lessees who clearly have violated the law to go on
12 without any means of recourse by the Commission, we're really
13 encouraging people to take that step.

14 One of the things that I have been talking to staff
15 about is that we may come back to you in the future with a
16 recommendation that some level of bonding, performance
17 bonding, be put on all of the dredging projects at Lake Tahoe
18 because of the sensitivity of the area.

19 Basically, we feel that it's really important that
20 when really blatant things occur that the Commission take a
21 firm stand, and that's why we're making that recommendation to
22 you.

23 CHAIRMAN McCARTHY: Questions by Commissioners?

24 The item is approved.

25 Thank you, Ms. Schwarte.

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61.

EXECUTIVE OFFICER DEDRICK: 61 is another dredging operation. This one is in the San Joaquin River at Andrus Island by the Delta Bay Club of only 450 cubic yards.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

Or the audience?

61 is approved.

62.

EXECUTIVE OFFICER DEDRICK: 62, Star Harbor Homeowners Association. Again, this is a dredging operation, Placer County, 800 cubic yards.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

By the audience?

62 is approved.

63.

EXECUTIVE OFFICER DEDRICK: 63, Fireman's Fund Company, 500 cubic yards, again, at Tahoe, the Lake Tahoe Marina Resort, Placer County.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

Or the audience?

63 is approved.

64.

1 EXECUTIVE OFFICER DEDRICK: Item 64, Southern
2 Pacific Company is the Applicant. They are applying to
3 deposit 15,000 cubic yards of materials, which is a mixture of
4 trona and dirt, which was dumped as a result of the train
5 accident in San Bernardino. They are asking for permission to
6 redeposit that material in the bed of Owens Lake.

7 The trona was originally taken from Owens Lake under
8 a lease with Lake minerals and it's a valuable mineral
9 resource.

10 The train was carrying a lot of trona, and when the
11 train wrecked, it dumped the trona along the track. To
12 cleanup the mess, they had to pick up -- about half of it is
13 trona and half of it is junk and dirt from beside the railroad
14 tracks.

15 The health agencies, in San Bernardino County -- I
16 believe the county health person is here.

17 The State Department of Health have tested the
18 material and found it nontoxic. We have -- we believe that
19 they now have a permit from the Great Basin Unified Air
20 Pollution Control District for a part of the project, and also
21 from the Lahontan District.

22 We could go into a lot of detail on this, but
23 basically, the people living in San Bernardino are very
24 concerned about the trona being there, and so SP is trying to
25 move it back to where it came from, except it also has some

1 dirt with it.

2 CHAIRMAN McCARTHY: We have three witness sheets,
3 Mr. Robert Taggart of Southern Pacific Transportation Company;
4 Mr. Peter Brierty, of the County of San Bernardino,
5 Environmental Health Department; and Mr. Paul Evans of the
6 Duffy Street Disaster Committee.

7 Am I reading that correctly?

8 Are all of you on the same side?

9 Is there a different point of view on this issue?

10 You're all in favor of this item before the
11 Committee; is that correct?

12 Mr. Taggart: I have no need to testify then.

13 CHAIRMAN McCARTHY: That's what I was getting at.

14 All right. Please step forward.

15 Mr. Evans?

16 MR. EVANS: I'm Paul Evans, and I live on Duffy
17 Street.

18 It seems that all of the testing of the trona by
19 toxicologists, they found that -- let me retrogress.

20 When the train crashed, there was a fuel spill of
21 diesel and some of the trona was soaked with the diesel fuel.
22 That was moved, and we have been told in the community that is
23 removed to a dump site.

24 Since that time, the trona has been moved to the
25 west of our homes. This map here shows exactly where the

1 trona was placed. The arrow pointing as to the prevailing
2 winds, points, I believe, northwest.

3 Prevailing winds have been blowing due east. It's
4 blowing right at my house. I live in house track 59. You can
5 see from that map the trona blows right across my residence.
6 There are also houses on the other side, the whole tract 39
7 and 48.

8 It seems that all the analysis has shown that the
9 levels of benzene cyanide truly are insignificant, but there
10 is 80 percent of the community who have been stricken with
11 raspy voice, as I have, flu-like symptoms, burning eyes,
12 burning throat.

13 A month after the train crash, I had occasion to go
14 to a hospital out of the area and have some blood work done, a
15 work up, and it was found that I had a high incidence of CO2
16 tension, that is the CO2 taken from the blood and absorbed by
17 the lungs. It was explained by a doctor at Norden Air Force
18 Base, Dr. Griffin, that the alveolus is on the end of the
19 bronchial tube, and the reason why the CO2 doesn't get from
20 the artery to the alveolus is high resistance in the alveolus
21 itself.

22 It's not picking up the CO2. With that, and my
23 bicarbonate level is raised as a reaction to something in my
24 lungs. This is just one individual out of 80 percent of the
25 community that is affected by something in the area. Prior to

1 the being trona being moved, I did not have this problem I am
2 just one physical specimen.

3 The trona also has a PH of 9, has affinity for
4 mucous membranes. We were also told that it is nontoxic and
5 nonhazardous, but, in fact, the trona has been placed on a
6 nonporous plastic, called visqueen plastic, so it won't seep
7 into the ground.

8 There seems to be a lot of concern of it going into
9 the water table. We're told that it is nonhazardous and
10 nontoxic, but, in fact, we have these symptoms.

11 I guess the bottom line is, we do not want to see
12 this trona. We would like to see it out of our community, but
13 we wouldn't like to see it moved to a place in close proximity
14 of another community.

15 CHAIRMAN McCARTHY: Okay. Thank you very much.

16 Any questions of Mr. Evans?

17 Thank you, Mr. Evans.

18 Did anything Mr. Evans had to say suggest to either
19 of the other two witnesses that they wanted to make comment or
20 should the Commission now act on the matter?

21 MR. TAGGART: On behalf of Southern pacific, we are
22 willing to stand on the competent medical evidence and
23 toxicology testing, unless there are questions, and I would be
24 pleased to respond to any questions.

25 CHAIRMAN McCARTHY: Does staff have anything further

1 to add?

2 MR. HIGHT: Mr. Chairman, as part of the conditions
3 of the permit, Southern Pacific will remain responsible for
4 any hazards or toxics that show up after the material is
5 placed in the lake in the event that there is something that
6 shows up. They are responsible for removing it to another
7 site.

8 We believe, at this point, that you may validly act,
9 and that Mr. Duffy's (sic) concern about appropriate residence
10 or areas --

11 CHAIRMAN McCARTHY: Mr. Evans.

12 MR. HIGHT: Mr. Evans, yes.

13 There isn't a community near the lake that would be
14 affected.

15 CHAIRMAN McCARTHY: Commissioner Tucker.

16 COMMISSIONER TUCKER: My understanding is that this
17 is going back to the place where it came from; is that right?

18 MR. HIGHT: That's correct.

19 COMMISSIONER TUCKER: And this is similar material.
20 There is lots of this material in the area right now?

21 MR. HIGHT: Yes, lots of similar material.

22 COMMISSIONER TUCKER: And Southern Pacific will
23 continue to be responsible if the Lands Commission were to
24 determine, or any other public agency were to determine, that
25 for some reason putting it back there had some negative impact

1 on the environment, Southern Pacific is responsible for that?

2 MR. HIGHT: That's correct.

3 COMMISSIONER TUCKER: Forever?

4 MR. HIGHT: Yes, forever.

5 COMMISSIONER TUCKER: Okay. The one thing I wanted
6 to add, I received communication from a number of people
7 representing the area. They are very anxious to get it out of
8 there, and I think that, combined with the fact of the
9 reassurances that we have received from the health officers
10 that it's not toxic material, combined with the fact that it's
11 same material as all the rest of lake bed, it's my assumption,
12 but it seems to me that it's reasonable for the Commission to
13 approve this.

14 It's important to the community to get the material
15 out of there.

16 CHAIRMAN McCARTHY: One final point, of the 15,000
17 cubic yards, 6,000 is trona?

18 EXECUTIVE OFFICER DEDRICK: Yes, about 7,000.

19 CHAIRMAN McCARTHY: About 7,000 is trona and other
20 8,000?

21 EXECUTIVE OFFICER DEDRICK: Dirt from the side of
22 the road bed, I guess. They are going to sift it to get out
23 any large things like railroad ties and pieces of wreckage.
24 For that process they needed air pollution control.

25 CHAIRMAN McCARTHY: The total time frame for the

1 total removal of the stockpiles in the area? Mr. Taggart,
2 maybe you could help us on that.

3 Do you have a rough idea of how many weeks it will
4 take?

5 MR. TAGGART: We're ready to go to work today.
6 Thirty days total.

7 CHAIRMAN McCARTHY: Any other questions?

8 MR. EVANS: I have a concern about this trona being
9 disturbed because we're having a very unusual wind condition
10 at this time, and the people in the community are concerned
11 about the trona.

12 CHAIRMAN McCARTHY: Why don't you step up to the
13 microphone, Mr. Evans, and see if we can give you an answer.

14 Why don't you repeat it?

15 Did the reporter get the question?

16 All right. Mr. Taggart, why don't you answer the
17 question.

18 MR. TAGGART: We have had air monitoring devices out
19 in trona pile itself, stockpile area, as well as in the
20 community, which is located between an eighth and a quarter of
21 a mile, depending on where the houses are located from the
22 stockpile area.

23 We monitor these air monitoring devices each day.
24 There has been a high degree of particulates noted in the air;
25 however, every one of those has been analyzed as part of the

1 smog problem in the San Bernardino area.

2 As far as the particulates that could be apportioned
3 to the trona, those monitoring have been ND on the scale,
4 which means non-detectible.

5 There simply -- in order for an individual to be
6 harmed by a poisonous substance, you need two things. Number
7 one, you need exposure. There is no exposure. Winds or no
8 winds, if there is nothing in the air, and we're monitoring
9 the air and measuring the air on a daily basis.

10 The second thing you need, of course, is a dosage of
11 a toxic substance. All of the toxicological and medical,
12 including the Department of Health Services requirements, have
13 been that substance itself is nontoxic.

14 As far as dust going in the air, we would take
15 whatever measures are deemed appropriate to control the dust,
16 just as you would if you were raking leaves in your backyard.

17 I mean that only as a nontoxic kind of arrangement.
18 We would spray water, which is the appropriate method to be
19 used to keep down the dust as the trucks are loaded with the
20 material.

21 CHAIRMAN MCCARTHY: Mr. Brierty, do you have
22 anything to add?

23 MR. BRIERTY: My name is Peter Brierty. I am the
24 Division Manager of the Hazardous Material Division, and I'm
25 here to support the negative declaration, and the finding made

1 by staff who worked very diligently to review all of the
2 findings that we had made available. The most appropriate
3 location is back at the mining site for this material, that's
4 where it came from.

5 I'm here to support the Lands Commission staff
6 negative declaration.

7 CHAIRMAN McCARTHY: Any other questions by Members
8 of the Commission?

9 COMMISSIONER TUCKER: In terms of responding to the
10 issue raised, my assumption is that the Air Pollution Control
11 District will monitor the moving of the material to assure the
12 quality --

13 MR. BRIERTY: Yes. In Southern California, they are
14 the provider of monitoring for fugitive dusts or nuisance
15 dust, for PM10 under the standards for hazardous air
16 pollutants.

17 COMMISSIONER TUCKER: Will they be on the site?

18 MR. BRIERTY: I will make sure that they are there.
19 This is of extremely high visibility nature in the San
20 Bernardino area, and we will make sure that the South Coast
21 District area representatives are on site.

22 CHAIRMAN McCARTHY: Why don't you take a step to let
23 Mr. Evans' group know who is coming out to the area.

24 Okay.

25 Anything else on this matter?

1 The Commission is ready to act.

2 Approve the recommendation.

3 Item 65.

4 EXECUTIVE OFFICER DEDRICK: Item 65. This is a
5 Memorandum of Agreement between the State Lands Commission and
6 the State Historic Preservation Office to give us the input we
7 need on cultural resource in exchanges with the Forest
8 Service.

9 CHAIRMAN McCARTHY: Questions by Members of the
10 Commission?

11 Or members of the audience?

12 65 is proved.

13 66 is off Calendar. 67.

14 EXECUTIVE OFFICER DEDRICK: 67 is one of Bob's
15 disclaimers.

16 CHAIRMAN McCARTHY: Any questions by Members of the
17 Commission or members of the audience?

18 Recommend that we disclaim is approved.

19 68.

20 EXECUTIVE OFFICER DEDRICK: 68 is authorize
21 Interagency Agreement with State Controller's Office to
22 provide technical assistance not to exceed \$85,000. The
23 \$85,000 from the Controller's Office to the State Land
24 Commission.

25 CHAIRMAN McCARTHY: Do we have to pay interest on

1 that?

2 EXECUTIVE OFFICER DEDRICK: I don't think so. We
3 are getting it for free.

4 CHAIRMAN McCARTHY: Any questions from Members of
5 the Commission?

6 Approved as recommended.

7 69.

8 EXECUTIVE OFFICER DEDRICK: 69 is partly where it
9 goes. This is to approve the contract with Paul Ideker
10 Associates for the work that they are doing for a variety of
11 projects, including the CCORS and the Off Shore Pollution
12 project, but not limited to those.

13 Paul also does a lot of training.

14 CHAIRMAN McCARTHY: Questions by Members of the
15 Commission?

16 Audience?

17 Approved.

18 70.

19 EXECUTIVE OFFICER DEDRICK: Item 70 is delegate the
20 authority to execute the majority of the contracts that are
21 left. We ran out of numbers because this is a big Calendar.

22 Basically, Department of Justice contract, blue
23 prints, helicopters and health and welfare data center.

24 CHAIRMAN McCARTHY: Any questions on Item 70?

25 Approved as recommend.

1 71.

2 EXECUTIVE OFFICER DEDRICK: 71. This is delegation
3 of authority to the Executive Officer to execute an
4 interagency agreement with the University of California to do
5 archeological, literature review on archeological aspects of
6 potential trades with the United States Forest Service.

7 CHAIRMAN McCARTHY: Questions on 71?

8 Approved as recommended.

9 72.

10 EXECUTIVE OFFICER DEDRICK: 72. This is an
11 Interagency Agreement between the Department of Parks and the
12 State Lands Commission for enforcement services.

13 If our legislation passes, it give the Commission
14 the authority to do enforcement and actions. We will no
15 longer need this kind of a contract, but we need it until that
16 legislation becomes effective.

17 CHAIRMAN McCARTHY: Questions from the Commission?

18 Or the audience?

19 72 is approved.

20 73.

21 EXECUTIVE OFFICER DEDRICK: 73 is and Interagency
22 Agreement for Legislative Monitoring Services with the
23 Lieutenant Governor's Office.

24 CHAIRMAN McCARTHY: Any questions?

25 Approved.

1 74.

2 EXECUTIVE OFFICER DEDRICK: Item 74 is an assignment
3 of lease for a commercial marina located in the San Joaquin
4 River at Andrus Island. The Assignor is the Schillings, and
5 the Assignee is the Key Lease Corporation.

6 It is out of order because it came in late, but it's
7 an easy one to handle, so we put it on the end of the Agenda.

8 CHAIRMAN MCCARTHY: Questions?

9 74 is approved. That's it.

10 Thank you, Ladies and Gentlemen.

11 EXECUTIVE OFFICER DEDRICK: Thank you,
12 Commissioners.

13 (Thereupon the meeting of the
14 State Lands Commission was adjourned
15 at 12:30 p.m.)

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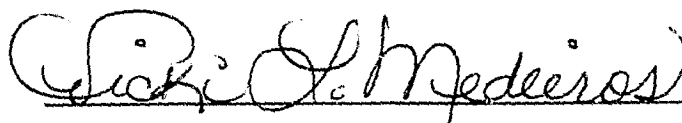
CERTIFICATE OF SHORTHAND REPORTER

1
2
3 I, VICKI L. MEDEIROS, a Certified Shorthand Reporter
4 of the State of California, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me, Vicki L.
7 Medeiros, a Certified Shorthand Reporter of the State of
8 California, and thereafter transcribed into typewriting.

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

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 fifth day of August, 1989.

14
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17 

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19 Certified Shorthand Reporter
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