

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ORIGINAL

CONSUMER AFFAIRS BUILDING
1020 N Street, Room 102
Sacramento, California

Wednesday, January 17, 1990
10:30 A. M.

Ronald J. Peters
Certified Shorthand Reporter
License Number 2780

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1 COMMISSION MEMBERS PRESENT

2
3 Mr. Gray Davis, State Controller, Chairman

4 Honorable Leo T. McCarthy, Lieutenant Governor

5 Mr. Jesse R. Huff, Director of Finance, represented by
6 Mr. LaFenus Stancell, Assistant Director

7 STAFF PRESENT

8 Mr. Charles Warren, Executive Officer

9 Mr. James F. Trout, Assistant Executive Officer

10 Mr. Robert C. Hight, Chief Counsel

11 Mr. W. M. Thompson, Chief, Long Beach

12 Ms. Gail Moore, Commission Executive Secretary

13
14 ALSO PRESENT

15 Mr. David B. Judson, Deputy Attorney General

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PROCEEDINGS

1
2 CHAIRMAN DAVIS: All right. We will convene this
3 meeting of the State Lands Commission of January 16th. I
4 am reliably informed that the Lieutenant Governor --

5 ACTING COMMISSIONER STANCELL: Seventeenth.

6 CHAIRMAN DAVIS: The 17th, excuse me. I am
7 reliably informed that the Lieutenant Governor is on his
8 way so we will just get a few housekeeping things out of
9 the way.

10 We have the minutes of the previous meeting of
11 December 12th in front of us and I will entertain a motion
12 to approve the minutes.

13 ACTING COMMISSIONER STANCELL: Since I wasn't at
14 the meeting, I can only assume that they are correct. I
15 will move approval of them.

16 (Laughter.)

17 CHAIRMAN DAVIS: Hearing no objections, the
18 minutes are adopted.

19 Also, staff informs me that items C2b, C9, C21 and
20 C26 have been taken off calendar. Are there any others?

21 EXECUTIVE OFFICER WARREN: None, Mr. Chairman.

22 CHAIRMAN DAVIS: Let me make those changes myself
23 here.

24 Next, we will take up the Consent Calendar.

25 Can you hear me now?

1 Next we will take up the Consent Calendar which
2 includes items C1 through C15. Does anyone care to make a
3 comment or does anyone want to speak on those?

4 It's good to see you.

5 LIEUTENANT GOVERNOR McCARTHY: It's good to see
6 you, too.

7 CHAIRMAN DAVIS: We are presently dealing with the
8 Consent Calendar.

9 If there is no comment or concern over the Consent
10 Calendar, is there a motion for approval?

11 ACTING COMMISSIONER STANCELL: I move the Consent
12 Calendar.

13 CHAIRMAN DAVIS: Hearing no objections, the
14 Consent Calendar is approved unanimously.

15 Now, as we start with Item C1 -- or rather C16 --
16 I will ask the Executive Officer to explain that item. It
17 involves a Lucille Peck.

18 EXECUTIVE OFFICER WARREN: First off, Mr.
19 Chairman, would it be appropriate for me to announce to the
20 audience that any folks who wish to address the Commission
21 sign an attendance record sheet and bring it forward to us?

22 CHAIRMAN DAVIS: Yes, it would.

23 EXECUTIVE OFFICER WARREN: I have two before me
24 presently, one of whom wishes to speak on this item.

25 Item 16, Mr. Chairman and Commissioners. is for

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1 the purpose of considering a staff recommendation to
2 increase the annual rental regarding a lease, number PRC
3 4244 and a protest of such increase by the State's lessee.

4 The existing rent, \$225 per annum, is proposed to
5 be changed to \$720 per annum as to lessee's use of a .328
6 acre parcel of tide and submerged land in the Sacramento
7 River at Sutter Island in Sacramento County.

8 I would like to point out that the present rental
9 of \$225 was set by this Commission in 1976. At the five-
10 year rent review period in early 1980, the staff proposed
11 that the rent be increased to \$590, along the lines of the
12 value of the parcel. The applicant at that time appeared
13 and protested the increase, and the Commission at that time
14 decided not to increase.

15 This is another five-year rent review period. The
16 determination of fair rental value has been made by staff
17 at \$720 and it is on which we will ask the Commission to
18 adopt.

19 CHAIRMAN DAVIS: All right. We will hear from
20 Lucille Peck.

21 MS. PECK: My goodness, I didn't think I'd be the
22 first one to speak here this morning.

23 I am Lucille Peck from Courtland and I'd like to
24 address you, Mr. Davis, and all the gentlemen here.

25 First, I want to thank everyone at the State Lands

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1 for being so gracious and nice to me in this project. So I
2 think they are doing a good job in the Commission and so I
3 am very grateful for that.

4 My objection to this rent increase is that I just
5 really have a small business there at present. I have had
6 a lot of reconstruction to do and everything and gone
7 through the loss of members of my family, and I am trying
8 to get back and get things together again.

9 But it just seems to me that when you consider the
10 State Lands' request for the rent increase, and I am sure
11 you have your reasons, and then you have property taxes and
12 insurance and the rest of it, the value of your property,
13 it tends to be a little much for a small business. I think
14 it's too much.

15 But so whatever conclusions you make today, I hope
16 you consider that it's, the dock itself, right now is not
17 functioning. We have had to do a major repair on it and
18 hopefully we will get it back in operation again soon. But
19 I just think it's a service dock.

20 There aren't permit boats there. There are no
21 boats there. So if you would consider a lesser amount, I
22 would certainly appreciate that kind of consideration.

23 CHAIRMAN DAVIS: What is the source of revenue?

24 MS. PECK: There is none right now.

25 CHAIRMAN DAVIS: Charlie.

1 EXECUTIVE OFFICER WARREN: I understand that the
2 dock is connected to a convenience store and facility --

3 ASSISTANT EXECUTIVE OFFICER TROUT: On the
4 uplands.

5 MS. PECK: Yes, on the uplands, uh-huh.

6 EXECUTIVE OFFICER WARREN: I'd also like to point
7 out that the maintenance of these facilities on the
8 property is required by the lease, and all such lessees are
9 obliged to undergo whatever is necessary for maintenance,
10 whatever that expense may be.

11 And finally, that there are other lessees who have
12 had to maintain their properties and had to face the same
13 situation in terms of the properties as the applicant, and
14 we think that on the grounds of parity and equity, that our
15 recommendation should be approved.

16 CHAIRMAN DAVIS: So all the lessees have to absorb
17 the cost of maintenance.

18 EXECUTIVE OFFICER WARREN: Yes, sir, that's their
19 obligation.

20 CHAIRMAN DAVIS: How was the figure arrived at,
21 the \$720?

22 EXECUTIVE OFFICER WARREN: Fair market appraisal
23 by our appraisers.

24 CHAIRMAN DAVIS: Mr. Stancell.

25 ACTING COMMISSIONER STANCELL: What was the reason

1 for not granting or recommending a rent increase for the
2 first review, the first five-year review?

3 EXECUTIVE OFFICER WARREN: Well, staff recommended
4 a rate increase. The Commission saw fit not to grant it.

5 ACTING COMMISSIONER STANCELL: Well, yes. What
6 was the rationale for that that the Commission used for
7 that?

8 EXECUTIVE OFFICER WARREN: Very seldom do we ask
9 the Commissioners for their rationale.

10 (Laughter.)

11 ACTING COMMISSIONER STANCELL: They didn't want to
12 say publicly why they decided to be so generous?

13 EXECUTIVE OFFICER WARREN: I think they found Mrs.
14 Peck very appealing, is what I suspect.

15 ACTING COMMISSIONER STANCELL: Okay.

16 EXECUTIVE OFFICER WARREN: I am sorry. I don't
17 mean to be flip but I just don't know, Mr. Stancell.

18 ACTING COMMISSIONER STANCELL: I was just curious
19 about that.

20 CHAIRMAN DAVIS: You weren't on that Commission,
21 were you, either, then?

22 LIEUTENANT GOVERNOR MCCARTHY: I don't remember
23 that, no.

24 CHAIRMAN DAVIS: Okay. Let me ask one question.
25 Does this dock, or has it ever, or do you expect that folks

1 will use it for service or for what?

2 MS. PECK: Well, probably for service. I don't
3 see any long-term dockage there because it isn't that type
4 of dock in the first place, but when my husband was killed,
5 that's one place, one business I had to give up to maintain
6 the rest of my life and keep that going. Then I had leased
7 it to some people and that was unsatisfactory and the
8 property became very downgraded and so finally I had just
9 gone through a legal process to remove them and so this
10 last year I spent \$17,000 just upgrading the dock because
11 it had just literally broken in two.

12 And so my intention is to start operating again
13 myself. I just cannot see people, unless you have huge
14 developers or people like that who seem always interested
15 in something like that, and I would be giving up more than
16 just a little bit. It has historical value and it has been
17 in the family since 1848. And it means a lot to me and my
18 family and the rest of my family.

19 CHAIRMAN DAVIS: I understand that, but we have to
20 balance our concern for your personal situation against our
21 obligation.

22 MS. PECK: Yes, I understand that.

23 EXECUTIVE OFFICER WARREN: Just a question. The
24 dock is also used by boats for refueling, where you sell
25 fuel for refueling?

1 MS. PECK: Mainly that, but you can imagine how
2 much gas you have to pump to keep up all those expenses,
3 and you would be doing that and never come out in the black
4 doing that.

5 CHAIRMAN DAVIS: Well, I would propose, and I
6 don't know how my fellow Commissioners feel about this, but
7 I would propose that we split the difference between the
8 two, but that is only my opinion and I will entertain any
9 other thoughts you might have to resolve this issue.

10 ACTING COMMISSIONER STANCELL: Well, what would be
11 the basis of splitting the difference?

12 CHAIRMAN DAVIS: Just as the 1980 Commission did
13 that.

14 (Laughter.)

15 ACTING COMMISSIONER STANCELL: I just wanted to
16 make sure I understand.

17 CHAIRMAN DAVIS: I don't know. I am open to
18 whatever resolution you may have.

19 ACTING COMMISSIONER STANCELL: I see it as just a
20 cost of doing business. We shouldn't be in the business of
21 subsidizing businesses, and it's not consistent with our
22 policies as we treat others in the same situation.

23 CHAIRMAN DAVIS: Leo.

24 LIEUTENANT GOVERNOR MCCARTHY: This is your first
25 leadership decision.

1 (Laughter.)

2 CHAIRMAN DAVIS: All right. I will move from the
3 Chair to make a motion, or allow myself to make a motion,
4 that we split the difference.

5 So is there a second to that or what do you want
6 to do?

7 EXECUTIVE OFFICER WARREN: That would be \$475 per
8 year Mr. Trout advises me if you wanted to split the
9 difference between the two, or we could go back to the rent
10 level that we suggested five years ago, the \$590.

11 LIEUTENANT GOVERNOR MCCARTHY: That's fine.

12 EXECUTIVE OFFICER WARREN: Whichever one you want
13 to choose. That's another option that you might want to
14 consider.

15 CHAIRMAN DAVIS: Well, all right. Let me withdraw
16 my motion and take the staff's recommendation for the \$590
17 figure and offer that as a motion.

18 ACTING COMMISSIONER STANCELL: Is that the staff's
19 recommendation?

20 CHAIRMAN DAVIS: Well, in 1980 it was.

21 (Laughter.)

22 CHAIRMAN DAVIS: I like to pay attention to staff
23 where I can, even if it is maybe a decade late.

24 (Laughter.)

25 LIEUTENANT GOVERNOR MCCARTHY: We don't want the

1 staff to feel, Mr. Chairman, that we never listen to them.

2 (Laughter.)

3 CHAIRMAN DAVIS: I wasn't here in 1980 but it made
4 good sense.

5 Do we have a second or do we vote?

6 LIEUTENANT GOVERNOR McCARTHY: Sure.

7 CHAIRMAN DAVIS: Oh, all right. So the
8 Commission, two to one, votes for \$590 rent.

9 EXECUTIVE OFFICER WARREN: Thank you, Mr.
10 Chairman.

11 MS. PECK: May I ask for what period of time?

12 EXECUTIVE OFFICER WARREN: Five years.

13 CHAIRMAN DAVIS: Five years.

14 MS. PECK: I thank you very much. Thank you.

15 CHAIRMAN DAVIS: All right.

16 Item 17. Can you explain that, Charles?

17 EXECUTIVE OFFICER WARREN: Yes, Mr. Chairman.

18 This item is to approve the Fifth Amendment and the Second
19 Renewal of a General Lease-Commercial Use for a period of
20 ten years, beginning April 1, 1990, of a .115-acre parcel
21 of tide and submerged lands located in Sunset Bay, Orange
22 County, for the continued operation and maintenance of a
23 commercial fuel dock facility.

24 The consideration is set forth at one cent per
25 gallon for the first 100,000 gallons of fuel sold, and a

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1 one and a half cent per gallon thereafter. Also, five
2 percent per annum on all other gross income attributable to
3 the leased premises with a \$4,050 minimum annual rental.

4 It has also provided a five-year rent review and
5 no opposition is known.

6 CHAIRMAN DAVIS: All right. Does anyone care to
7 speak on this item?

8 Is there a motion to adopt the staff
9 recommendation?

10 ACTING COMMISSIONER STANCELL: So moved.

11 CHAIRMAN DAVIS: All right. Hearing no objection,
12 that item is approved.

13 Item 18.

14 EXECUTIVE OFFICER WARREN: Item 18 is to approve
15 acceptance of a lease quitclaim deed and termination of a
16 ten-year General Lease - Industrial Use, effective April
17 30, 1990, on a 38 plus acre parcel of tideland and
18 submerged land located offshore from El Capitan State Beach
19 in Santa Barbara County.

20 This is abandonment of the marine terminal. The
21 county has made extensive conditions concerning its
22 abandonment. We are involved to the extent that the lessee
23 will be permitted to leave a portion of the pipeline,
24 anchors and chains on site at or below bedrock.

25 The company has provided us with an indemnity

1 agreement in case any of those objects cause harm to any
2 citizen. Mariners have been notified of the location, the
3 approximate location of the objects.

4 CHAIRMAN DAVIS: Is there any rent that we are
5 charging for leaving those items in place?

6 EXECUTIVE OFFICER WARREN: None, no.

7 CHAIRMAN DAVIS: Staff doesn't think that's
8 appropriate?

9 EXECUTIVE OFFICER WARREN: No.

10 CHAIRMAN DAVIS: Would anyone like to speak on
11 this item?

12 Any objections to it?

13 Hearing none, is there a motion to accept it?

14 LIEUTENANT GOVERNOR MCCARTHY: Motion.

15 CHAIRMAN DAVIS: All right. It is approved
16 unanimously.

17 Item 19.

18 EXECUTIVE OFFICER WARREN: Item 19 is to approve
19 staff revisions to the standard lease covenants for surface
20 leasing.

21 The changes relate to payment and modification of
22 the rental, assignments/subleasing and bankruptcy,
23 insurance, and topics such as that. It is not
24 controversial in nature.

25 CHAIRMAN DAVIS: All right. Does anyone care to

1 speak on this?

2 Is there any opposition to the staff
3 recommendation?

4 ACTING COMMISSIONER STANCELL: So moved.

5 CHAIRMAN DAVIS: All right. The recommendation is
6 approved.

7 Item 20.

8 EXECUTIVE OFFICER WARREN: Item 20, Mr. Chairman
9 and Commissioners, is the other item on which a speaker
10 slip has been received and the item is on calendar for the
11 purpose of considering the staff recommendation that an
12 authorization to applicant permitting salvaging of the
13 vessel Brother Jonathan, sunk in waters off Crescent City,
14 be revoked.

15 The reason for the staff's recommendation for
16 revocation of this permit is the applicant's failure to
17 comply with significant conditions that were imposed on the
18 permit when it was first granted back in September of '88.
19 The permit enabled the applicant or the permittee to seek
20 what is known as a Doblner safe and its contents aboard the
21 vessel.

22 The failure of applicant to comply with permit
23 conditions pertaining to its failure to post bond, to
24 provide insurance and no plan for conserving either the
25 salvage or minimizing damage to the vessel, which is on the

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1 National Historic Vessel list, and we think that such
2 failures are significant and that the permit should not be
3 left outstanding.

4 CHAIRMAN DAVIS: All right. Mr. Knight, I
5 believe, Don Knight, is here and wants to testify.

6 MR. KNIGHT: Yes, Mr. Chairman, thank you very
7 much.

8 Mr. Chairman, Mr. McCarthy, Mr. Stancell, before
9 we begin, I would like to take this opportunity to thank
10 the Commission for allowing me to speak. I would also like
11 to have the Commission entertain the possibility of a
12 continuance or a stay on this since our counsel is not due
13 back in Diamond Bar until this afternoon. He has been out
14 for four days. And we just received a letter from Mr.
15 Pelkofer on Friday, and we really have not had an
16 opportunity to put together a decent defense for the
17 continuation of the authorization for the permit.

18 There is more issues at hand here than just the
19 fact that number one, it's an impossibility to take a look
20 at the historic record until you can pronounce the name of
21 the safe correctly, and it is Dobluer, which is a French
22 term for the family that was developing safes during the
23 18th Century, 19th Century, and it has been construed here
24 in America to be referred to as a Dobluer type safe.

25 CHAIRMAN DAVIS: Let me interrupt you just a

1 second.

2 MR. KNIGHT: Yes.

3 CHAIRMAN DAVIS: If this Commission was willing to
4 put the item over a month, would you be in a position to
5 speak to the concerns the staff has raised, namely lack of
6 a bond and insurance?

7 MR. KNIGHT: We have applied for the bond, and, in
8 fact, Morris and Dee has sent us a copy and I believe that
9 Mr. Pelkofer has the copy with him. The bond is underway
10 and the insurance policy is underway.

11 I have spoken with Betty Louie this morning and
12 indicated to her that within a 30-day period I can complete
13 items five, six and seven, and obviously items one, two and
14 four would have to wait until 30 days prior to us
15 beginning another operation.

16 CHAIRMAN DAVIS: The Lieutenant Governor just
17 mentioned something which I think is important. Why have
18 you waited so long, this permit was granted over a year,
19 before seeking a bond or insurance?

20 MR. KNIGHT: Well, it has been very difficult to
21 seek a bond or insurance without proper funding. We had a
22 contract go sour on us basically, a contractor for \$500,000,
23 to do the project properly and complete the project. It
24 was a package put together by Melvin Fisher in Florida and
25 some of his compatriots, to support the operation, and at

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1 the last minute, the end of November of 1988, Mr. Fisher
2 reneged on his contract. We currently have a suit going
3 against Mr. Fisher for damages.

4 Without funding, obviously it's very difficult to
5 continue the project. We now are in contract with a new
6 investor here on the West Coast that seems to be much more
7 concerned about number one, preserving the site as what we
8 are, and I think that Mr. Pelkofer and Mr. Walker will
9 confirm with you that so far we have left the site
10 untouched. All we have done to date is just mapping and
11 surveying, and it is my intention to continue to do that
12 until we have located our primary target. Once we locate
13 the primary target which --

14 CHAIRMAN DAVIS: Lieutenant Governor.

15 LIEUTENANT GOVERNOR MCCARTHY: Mr. Chairman, if
16 the applicant wants his counsel here and he is telling us
17 that it's impossible -- normally, you know, we have a rule
18 that we have to mail out notices at least ten days in
19 advance, and we try to follow the law very precisely.

20 MR. KNIGHT: I see.

21 LIEUTENANT GOVERNOR MCCARTHY: You are telling us
22 you received notice of this meeting on Friday?

23 MR. KNIGHT: I received a letter from Mr. Pelkofer
24 on Friday. I believe the notification of the meeting had
25 come the Monday previous.

1 LIEUTENANT GOVERNOR MCCARTHY: Okay. So you
2 received notice of the meeting, or he did, representing
3 you, ten days before this meeting?

4 MR. KNIGHT: Yes.

5 LIEUTENANT GOVERNOR MCCARTHY: But you are saying
6 he couldn't arrange his schedule so as to be here to
7 represent you?

8 MR. KNIGHT: He had something else going back
9 East.

10 LIEUTENANT GOVERNOR MCCARTHY: Okay, that's
11 reasonable from my point of view, but I would, speaking as
12 one Commissioner, be interested in knowing just how
13 diligent you were in seeking the bonds and fulfilling the
14 other requirements we are talking about here, and whether
15 you notified the Commission that you were having
16 difficulties with the original party in Florida that you
17 intended to be a partner in this matter, and whether you
18 sought some understanding from the Commission staff that
19 handles such matters so that when we reached this point, a
20 year and a half after now, they would have been conditioned
21 to whatever problems you were encountering and maybe view
22 it in a different light.

23 If you have not advised them, you have not shown
24 due diligence, is what we usually look for in these things,
25 and I am not going to be sympathetic to your request.

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1 MR. KNIGHT: I understand, sir.

2 LIEUTENANT GOVERNOR McCARTHY: So that's what you
3 are going to have to demonstrate if the Chairman and Mr.
4 Stancell agree that we should allow your counsel to appear
5 here and if he appears here, whether you appear here,
6 unless you make the due diligence case, from one point of
7 view, you are not going to win this one.

8 MR. KNIGHT: It may be rather difficult because my
9 correspondence with the Commission primarily is telephone
10 calls periodically to Mr. Walker, and we discuss it.

11 LIEUTENANT GOVERNOR McCARTHY: Clearly there will
12 be some memos or notes on such things, if there is, and if
13 you have showed due diligence, and I am speaking for one-
14 third of this body.

15 MR. KNIGHT: And of course the meeting that we had
16 in October with Mr. Pelkofer, Mr. Walker and Betty Louie,
17 that at that time they had indicated to us that they were
18 willing to, since they were trying to execute this on the
19 25th of July of 1989, that it obviously would be extended
20 to 1990 --

21 LIEUTENANT GOVERNOR McCARTHY: I wasn't really
22 asking you to make that case now since you are asking us to
23 postpone this so you can have your counsel here.

24 MR. KNIGHT: Yes.

25 LIEUTENANT GOVERNOR McCARTHY: I am only advising

1 you that if you don't want to waste a trip for both you and
2 your counsel, please be prepared to show due diligence,
3 because if you are not able to show that, you might want to
4 save your travel fare as far as one vote is concerned.

5 CHAIRMAN DAVIS: No. I think that the Lieutenant
6 Governor's sentiments accurately describe my state of mind
7 in that the Commission gave you the permit expecting some
8 activity to occur and nothing has occurred, so we are not
9 disposed to just let that permit sit out there. We would
10 rather take it back and give it to somebody else who is
11 going to move more expeditiously.

12 MR. KNIGHT: We understand, Mr. Chairman.

13 Also understand our point of view that we have
14 spent the better part of four years physically trying to
15 gain enough data. We have spent over \$50,000 so far, a lot
16 of it our own money, to try to ascertain just exactly what
17 the parameters of the site are, how badly the wreck is
18 broken up, where, obviously, our primary target is, and it
19 was on the recommendation of Mr. Walker that we proceeded
20 in this direction in the first place to gain the salvage
21 permit, and that was to seek our primary target in the open
22 field. We are still looking for that.

23 We are not trying to do anything around the
24 Commission or anything like that. In fact, each time that
25 I go to Crescent City, I contact the Coast Guard

1 specifically. In fact, this last time was with the
2 Executive Officer of Edisto, Mr. Murphy, and let them know
3 that we are on site and let them know exactly what we are
4 doing.

5 CHAIRMAN DAVIS: All right. Thank you. There are
6 at least two votes and maybe three votes to continue this
7 matter a month.

8 MR. KNIGHT: We would appreciate that very much.

9 CHAIRMAN DAVIS: Excuse me. Charlie.

10 EXECUTIVE OFFICER WARREN: Mr. Chairman, before
11 you vote, I'd just like to point out that this matter, this
12 item, was on the October calendar of this Commission and
13 was pulled by the staff in order to accommodate the
14 applicant at that time. Following our accommodating him at
15 that time, we wrote him again setting forth the precise
16 conditions that had to be met and advised him then that if
17 they weren't met by the end of the year, 1989, that the
18 item would be reset on the January calendar.

19 I know it's difficult to deal with the request for
20 a continuance to have counsel, but I am still not quite
21 sure that that is the reason for his request. He also
22 indicated that with the additional time, he could comply
23 with the conditions. I think it would be nice if we could
24 have that clarified at this time. If he wants the 30 days
25 to comply with the conditions and to have the counsel with

1 him at that time, that's fine. If he has no intention of
2 complying with the conditions within that period of time,
3 but merely to have a counsel to explain away his failure, I
4 think he has been amply notified.

5 CHAIRMAN DAVIS: That's a good point.

6 MR. KNIGHT: Well, I have every opportunity of
7 complying with the items in the letter there that requested
8 it, and of course I will have my counsel with me.

9 LIEUTENANT GOVERNOR MCCARTHY: Mr. Chairman, just
10 to bring this to a conclusion, I forgot about the October
11 meeting, so you really have had plenty of notice already
12 and your counsel knew we would be meeting in January and he
13 could have arranged his schedule. So we actually could
14 close this meeting to your prejudice today. But I am
15 willing to vote to give you an additional month to the next
16 hearing, I think you suggested, Mr. Chairman --

17 CHAIRMAN DAVIS: Yes.

18 LIEUTENANT GOVERNOR MCCARTHY: -- and if you show
19 compliance with the conditions by then, we have still got a
20 deal.

21 MR. KNIGHT: We appreciate that very much.

22 LIEUTENANT GOVERNOR MCCARTHY: If you don't show
23 that you can fulfill their conditions by then, sorry.

24 MR. KNIGHT: I understand. I understand.

25 CHAIRMAN DAVIS: Just so that there is no

1 misunderstanding, the minimum that we would be looking for
2 is your having obtained a bond and insurance --

3 MR. KNIGHT: Yes.

4 CHAIRMAN DAVIS: At least by the time the next
5 meeting convenes.

6 MR. KNIGHT: All right. Although Mr. Pelkofer has
7 pointed out in his letter that the bond and insurance is
8 not necessary until 30 days prior to us arriving and
9 getting ready to do work. In his letter of January 8th, he
10 says:

11 "You need not furnish a bond or evidence of
12 insurance coverage until 30 days prior to your actual
13 commencement of work."

14 We have always been under the assumption here that
15 these two items were the most crucial and this is why we
16 have been endeavoring to work on those rather than items
17 four, five, six, seven and eight.

18 CHAIRMAN DAVIS: Well, isn't that the basis of
19 your concerns, Charlie?

20 EXECUTIVE OFFICER WARREN: Well, that plus others.
21 There are other conditions. For example, no plan for
22 dealing with the salvage has been filed.

23 MR. KNIGHT: It's not easy to find a conservatory
24 that will take something this size, that has the capability
25 of taking something this size, in the United States. It

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1 appears that we may have to go to Ottawa, Canada.

2 CHAIRMAN DAVIS: Would you please sit down with
3 Mr. Pelkofer right now -- and is Mr. Walker here?

4 Just go out and let's just put this matter over,
5 go out of the room, agree between yourselves what items
6 should be completed by our next meeting, come back in and
7 if he is willing to abide by those requirements, we will
8 put the matter over. If he is, we will vote on it now.
9 Okay?

10 Okay. We will proceed on that basis.

11 MR. KNIGHT: Okay. Thank you very much, Mr.
12 Chairman.

13 CHAIRMAN DAVIS: Where are we now?

14 EXECUTIVE OFFICER WARREN: Item 22.

15 CHAIRMAN DAVIS: Twenty-two.

16 EXECUTIVE OFFICER WARREN: Yes.

17 ACTING COMMISSIONER STANCELL: Twenty-one.

18 EXECUTIVE OFFICER WARREN: Twenty-one has been
19 pulled, Mr. Stancell.

20 Item 22?

21 CHAIRMAN DAVIS: Yes. Please proceed.

22 EXECUTIVE OFFICER WARREN: Item 22 is to authorize
23 removal of 3,000 cubic yards of material from within the
24 confines of Lakeside Marina which is located at Lake Tahoe.
25 The removal is for the purpose of providing an

1 access channel to the Marina. The material that will be
2 removed will be dried at the base of the Marina launch ramp
3 and then trucked from the site to be permanently disposed
4 of at a local asphalt plant.

5 I know of no objections.

6 CHAIRMAN DAVIS: Does anyone wish to comment on
7 that?

8 Is anyone opposed to it?

9 Is there a motion to approve the staff
10 recommendation?

11 LIEUTENANT GOVERNOR MCCARTHY: So moved.

12 CHAIRMAN DAVIS: All right. It is approved
13 unanimously.

14 Item 23.

15 EXECUTIVE OFFICER WARREN: Item 23, Mr. Chairman
16 and Commissioners, is to approve a two-year mineral
17 prospecting permit to conduct an exploration program for
18 precious metals and valuable minerals other than oil and
19 gas, geothermal resources, or sand and gravel.

20 The prospecting will take place on approximately
21 640 acres of state school land located in San Bernardino
22 County. I might point out that the prospecting will
23 involve drilling nine holes, each approximately six inches
24 in diameter, to a depth of about 2,000 feet at six
25 locations. The locations will be on roads or trails which

1 already exist so as to minimize any damage to the
2 environment, and the holes will be filled upon conclusion
3 of the drilling.

4 CHAIRMAN DAVIS: Okay.

5 EXECUTIVE OFFICER WARREN: Again, I know of no
6 opposition.

7 CHAIRMAN DAVIS: Does anybody want to speak on
8 this item?

9 Any opposition to it?

10 Well, let me ask one question. Has the county
11 signed off on this?

12 EXECUTIVE OFFICER WARREN: Yes, they have.

13 CHAIRMAN DAVIS: All right. Is there a motion to
14 approve the staff recommendation?

15 ACTING COMMISSIONER STANCELL: Moved.

16 CHAIRMAN DAVIS: That is approved unanimously.

17 Item 24.

18 EXECUTIVE OFFICER WARREN: Item 24, Mr. Chairman,
19 is to approve issuance of a negotiated subsurface State oil
20 and gas lease on 33 acres of tide and submerged land in the
21 bed of Beaver Slough in San Joaquin County.

22 The applicant has the right for development on all
23 the land surrounding the site. If the applicant proceeds
24 with the development, there is a likelihood of drainage.
25 The bed of the slough itself will not be disturbed.

1 Consideration is \$125 an acre per year plus 22 and
2 a half percent royalties on any oil and gas from the 33
3 acres.

4 CHAIRMAN DAVIS: Okay. This is in San Joaquin
5 County. Does anybody want to speak on this item?

6 Is there any opposition to it?

7 Is there a motion to approve the staff
8 recommendation?

9 ACTING COMMISSIONER STANCELL: Yes.

10 CHAIRMAN DAVIS: All right. It is approved
11 unanimously.

12 LIEUTENANT GOVERNOR MCCARTHY: Yes.

13 CHAIRMAN DAVIS: Twenty-five.

14 EXECUTIVE OFFICER WARREN: Item 25, Mr. Chairman
15 and Commissioners is to approve a one-year extension to the
16 amendment of State oil and gas leases PRC 2199 and PRC
17 2894, located in Santa Barbara County.

18 CHAIRMAN DAVIS: What was the amendment to the
19 lease?

20 EXECUTIVE OFFICER WARREN: This will permit a
21 continuation of the suspension of production of that site
22 sought by the applicant pending construction of a facility
23 at Gaviota. So they are, in fact, not producing, and this
24 will permit them to continue not producing. I might point
25 out while they are not producing, they are still paying the

1 State a significant consideration for the lease.

2 CHAIRMAN DAVIS: Okay. Is anyone opposed to that
3 or does anyone want to speak to that item?

4 Is there a motion to approve the staff
5 recommendation on Item 25?

6 ACTING COMMISSIONER STANCELL: Move the staff
7 recommendation.

8 CHAIRMAN DAVIS: Okay. Without objection, Item 25
9 is approved unanimously.

10 Item 26.

11 EXECUTIVE OFFICER WARREN: Item 26 has been
12 pulled.

13 CHAIRMAN DAVIS: Twenty-seven.

14 EXECUTIVE OFFICER WARREN: Item 27 is to authorize
15 the filing of disclaimers in USA v. 104.32 acres of land.
16 As specified in the digest, the State Lands Commission has
17 determined, or the staff has determined, that the State has
18 no interest in the subject lands.

19 CHAIRMAN DAVIS: It is in your department, Mr.
20 Hight. Is there anything that you would like to add to
21 that?

22 CHIEF COUNSEL HIGHT: No, Mr. Chairman.

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

25 Any opposition to it?

1 Is there a motion for the staff recommendation?

2 ACTING COMMISSIONER STANCELL: I move it.

3 CHAIRMAN DAVIS: Approved unanimously.

4 Item 28. The Federal Government is taking our
5 land, is that what this item is?

6 CHIEF COUNSEL HIGHT: Correct, Mr. Chairman, on
7 Item 28.

8 CHAIRMAN DAVIS: I thought they owned about 49
9 percent of the State already.

10 CHIEF COUNSEL HIGHT: I think they own more than
11 50 percent regrettably.

12 This is a condemnation for a fuel dock at
13 Martinez. They will pay us \$262,500, which we will put in
14 the Kapiloff Land Bank.

15 CHAIRMAN DAVIS: Exactly how was that figure
16 arrived at?

17 CHIEF COUNSEL HIGHT: It was the appraised value
18 of the site.

19 CHAIRMAN DAVIS: Fine. Who did the appraising?

20 CHIEF COUNSEL HIGHT: Our staff did.

21 CHAIRMAN DAVIS: Oh, we did?

22 CHIEF COUNSEL HIGHT: Yes.

23 CHAIRMAN DAVIS: All right. Is there any
24 opposition to that?

25 Does anyone want to speak to it?

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1 Do we have a motion to approve it?

2 ACTING COMMISSIONER STANCELL: Of course.

3 CHAIRMAN DAVIS: Okay. That is adopted
4 unanimously.

5 Item 29.

6 CHIEF COUNSEL HIGHT: Twenty-nine, Mr. Chairman,
7 is the authority to extend the existing contract with
8 Diepenbrock, etcetera, who represent the Commission in the
9 GRI bankruptcy.

10 CHAIRMAN DAVIS: Why do we have to extend this?

11 CHIEF COUNSEL HIGHT: This is an amendment to add
12 more money to the contract.

13 ACTING COMMISSIONER STANCELL: That is a typical
14 ploy of attorneys.

15 CHAIRMAN DAVIS: Are they representing the Lands
16 Commission?

17 CHIEF COUNSEL HIGHT: Correct.

18 CHAIRMAN DAVIS: Does anyone want to speak to that
19 item?

20 Any objection to it?

21 All right. Is there a motion to approve the staff
22 recommendation?

23 ACTING COMMISSIONER STANCELL: Go to the
24 Lieutenant Governor.

25 CHAIRMAN DAVIS: How much is this?

1 EXECUTIVE OFFICER WARREN: The contract is for
2 \$60,000 to authorize attorney fees up to \$60,000.

3 CHAIRMAN DAVIS: They are representing us for what
4 reason?

5 EXECUTIVE OFFICER WARREN: They are representing
6 the State Lands Commission in the GRI bankruptcy. GRI is a
7 lessee of geothermal lands that we have in the geysers.

8 CHAIRMAN DAVIS: Why isn't the Attorney General
9 representing us?

10 EXECUTIVE OFFICER WARREN: Because of the
11 subtleties of bankruptcy law.

12 CHAIRMAN DAVIS: So they have signed off on our
13 hiring these people?

14 EXECUTIVE OFFICER WARREN: I don't know if they
15 have signed off on it.

16 CHIEF COUNSEL HIGHT: They have approved in the
17 past, Mr. Chairman, and the Commission has independent
18 authority in this area besides.

19 LIEUTENANT GOVERNOR MCCARTHY: What is at stake
20 for the State of California?

21 CHIEF COUNSEL HIGHT: Pardon?

22 LIEUTENANT GOVERNOR MCCARTHY: What is at stake
23 for the State of California?

24 CHIEF COUNSEL HIGHT: The leases that the
25 Commission currently has in the geysers are at stake in the

1 bankruptcy proceeding. They are being fought over by two
2 competing interests, and it is our desire to make sure that
3 the leases hopefully come back to the State.

4 LIEUTENANT GOVERNOR MCCARTHY: What is the
5 estimated value?

6 CHIEF COUNSEL HIGHT: Of the leases?

7 EXECUTIVE OFFICER WARREN: I don't know. It could
8 be --

9 MR. THOMPSON: Annual revenue up there is about \$4
10 million a year now, so you want to compound that by ten and
11 you will get a ballpark figure.

12 LIEUTENANT GOVERNOR MCCARTHY: Thank you. I move
13 it.

14 CHAIRMAN DAVIS: All right. Second the motion?

15 ACTING COMMISSIONER STANCELL: I vote aye.

16 CHAIRMAN DAVIS: All right. That is unanimously
17 adopted.

18 Now, we will come back to the item that we have
19 put off.

20 EXECUTIVE OFFICER WARREN: There is one other
21 item, Mr. Chairman, Item 30, which is your appointment of
22 delegates to San Francisco BCDC. We recommend you appoint
23 me to be your representative on the Commission and Diane
24 Jones of our legal staff as my alternate.

25 CHAIRMAN DAVIS: All right.

1 ACTING COMMISSIONER STANCELL: I move the
2 recommendations.

3 CHAIRMAN DAVIS: All right. Is there any
4 discussion?

5 Does anyone want to speak to that item?

6 Fine. Approved.

7 EXECUTIVE OFFICER WARREN: That concludes the
8 calendar, Mr. Chairman. We now can go into the Executive
9 Session.

10 CHAIRMAN DAVIS: I wanted to go back to Item 20 --

11 EXECUTIVE OFFICER WARREN: Oh, I am sorry.

12 CHAIRMAN DAVIS: -- and see if there is any
13 resolution.

14 Mr. Pelkofer.

15 MR. PELKOFER: Yes, Mr. Chairman. We have
16 discussed it with the applicant and he has agreed that he
17 will provide the things that we requested, or attempt to
18 provide them within 30 days.

19 CHAIRMAN DAVIS: Those are what specifically?

20 MR. PELKOFER: The ones that are outlined in our
21 letter. Without going into detail, I would verify that his
22 statement is correct, that we do not normally require an
23 applicant to provide us either bond or insurance until 30
24 days prior to his commencement of activity, because it
25 covers the activity itself and it's an undue expense to

1 expect him to have that for a period of time.

2 CHAIRMAN DAVIS: All right. What do we anticipate
3 that he will have to accomplish in 30 days?

4 MR. PELKOFER: The remaining items. If you want
5 me to read them, they are in your exhibit, Mr. Chairman.

6 EXECUTIVE OFFICER WARREN: I think they should be
7 read into the record as to what he has agreed to do.

8 MR. PELKOFER: He is to provide us with an
9 agreement --

10 LIEUTENANT GOVERNOR MCCARTHY: Why don't we just
11 get the page number and ask our reporter to put this into
12 the record.

13 CHAIRMAN DAVIS: I just wonder, is he still here?

14 MR. PELKOFER: Yes, he is here. Mr. Knight is
15 here.

16 CHAIRMAN DAVIS: You are willing to comply with
17 the items that have been put in there?

18 MR. KNIGHT: Items five through eight, yes, sir.

19 CHAIRMAN DAVIS: All right. And that's what you
20 are looking for?

21 MR. PELKOFER: That's what we wish to have, Mr.
22 Chairman, and I should point out that Mr. Knight has met
23 with us on a number of occasions at the Commission.

24 CHAIRMAN DAVIS: All right. You are the one who
25 is telling us to take the thing away so I just want to make

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1 sure that everyone understands what is supposed to be done.

2 MR. PELKOFER: We have done everything we can, Mr.
3 Chairman, to make Mr. Knight understand what it is that we
4 are requiring.

5 CHAIRMAN DAVIS: Fine. I would assume that we
6 have unanimous approval from the Commissioners with the
7 understanding that five through eight will be produced at
8 our next meeting.

9 (Thereupon the items previously agreed to
10 are included in the transcript as follows:)

11 "A list of specific research questions pertaining
12 to the Doblner safe and its contents which will be
13 addressed should the safe be located and salvaged.

14 "Documentary proof of Sea Epic's financial
15 responsibility, capability and solvency, such as its most
16 recent certified independent annual financial statement.

17 "A copy of an agreement or other documentation
18 evidencing your arrangements with a professional
19 conservation facility to fully stabilize the Doblner safe
20 and its contents if salvaged."

21 CHIEF COUNSEL NIGHT: Mr. Chairman, I need to make
22 one brief announcement. Pursuant to Government Code
23 Section 11126.3, the Commission will consider in Executive
24 Session two items that were not previously noticed, Lang
25 vs. The City of Del Mar and U.S. vs. Aranson.

1 CHAIRMAN DAVIS: All right. Is there any comment
2 or any item that you want to bring up?

3 We are closing the public hearing. I just want to
4 see if there is any further public comment from the staff?

5 EXECUTIVE OFFICER WARREN: Nothing further.

6 CHAIRMAN DAVIS: All right. Then we have
7 concluded our public hearing and we will recess into
8 Executive Session.

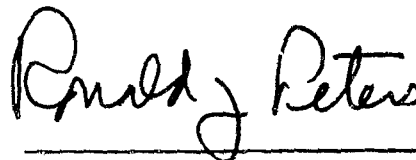
9 (Thereupon the January 17th meeting of the
10 State Lands Commission was adjourned at
11 11:25 a.m.)

CERTIFICATE OF SHORTHAND REPORTER

I, RONALD J. PETERS, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing State Lands Commission Meeting in shorthand and thereafter caused my shorthand writing to be 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 14th day of February, 1990.



Ronald J. Peters

Certified Shorthand Reporter

License Number 2780

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