

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
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MEETING  
STATE LANDS COMMISSION  
STATE OF CALIFORNIA

ROOM 447  
STATE CAPITOL  
SACRAMENTO, CALIFORNIA

MONDAY, AUGUST 12, 1991  
9:50 A.M.

Nadine J. Parks  
Shorthand Reporter



I N D E X

	<u>Page</u>
1	
2	
3	1
4	
5	
6	2
7	
8	2
9	
10	
11	2
12	
13	3
14	
15	4
16	7
17	19
18	19
19	
20	19
21	
22	21
23	23
24	24
25	24

1	INDEX, continued. . .	<u>Page</u>
2	<u>Calendar Items</u>	
3	Item 22 Randy Chadock	
4	Applicant	25
5	Questions/Comments	27
6	Item 24 Peter Pelkofer	
7	Legal Staff	37
8	Gail C. Schulze, Esq.	
9	Sewell, Krueger & Styer	37
10	Ernesto Perez, Esq.	
11	Counsel for Sacramento Marina	
12	Delta Owners Association	40
13	Questions/Comments	42
14	Commission Action	45
15	Item 25 Charles Warren	
16	Executive Officer	45
17	Commission Action	45
18	Item 26 Charles Warren	
19	Executive Officer	45
20	Commission Action	46
21	Item 27 Charles Warren	
22	Executive Officer	46
23	Commission Action	46
24	Executive Officer's Report	46
25	Adjournment	51
	Certificate of Shorthand Reporter	52

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1126 BRACSHAW ROAD, SUITE 240  
SACRAMENTO, CALIFORNIA 95827  
TELEPHONE (916) 362-2345

P R O C E E D I N G S

--oOo--

1  
2  
3 CHAIRMAN MC CARTHY: Good morning, ladies and  
4 gentlemen. Welcome to the meeting of the State Lands  
5 Commission.

6 On my left is Commissioner Stancell, Department  
7 of Finance. On my right is Commissioner Tucker,  
8 representing the State Controller's Office. My name is  
9 Leo McCarthy.

10 Several consent items have been removed from the  
11 consent calendar: Item 4, Item 13, Item 16. Also, from  
12 the regular calendar, Item 23 has been removed.

13 Any other changes, Mr. Warren?

14 EXECUTIVE OFFICER WARREN: Mr. Chairman, I have  
15 some indication that there is one witness who wishes  
16 to speak on opposition to consent calendar Items 9 and 10.  
17 And for that purpose, perhaps, let me -- may I confirm  
18 that?

19 CHAIRMAN MC CARTHY: Yes, please.

20 EXECUTIVE OFFICER WARREN: Lee Piper? Mr. Piper,  
21 are you in opposition to those items?

22 MR. PIPER: Nine and ten, yes.

23 EXECUTIVE OFFICER WARREN: Yes.

24 CHAIRMAN MC CARTHY: So, 9 and 10 will be removed  
25 from the consent calendar and placed on the regular

1 calendar.

2 EXECUTIVE OFFICER WARREN: Also, consent calendar  
3 Item 11 is removed from the consent calendar and  
4 transferred to the regular calendar.

5 CHAIRMAN MC CARTHY: Consent Item 11 will be  
6 removed from consent and placed on the regular calendar.

7 EXECUTIVE OFFICER WARREN: That will be it,  
8 Mr. Chairman.

9 CHAIRMAN MC CARTHY: All right. With those  
10 changes, the remaining items on the consent calendar,  
11 without objection, are adopted.

12 The minutes of the previous Commission meeting,  
13 without objection, are approved.

14 And let's begin the regular calendar, which now  
15 is Item No. 9. Mr. Warren?

16 EXECUTIVE OFFICER WARREN: Item No. 9 and 10.

17 CHAIRMAN MC CARTHY: We'll take Items 9 and 9  
18 together. And then I'm going to ask Mr. Piper and  
19 Mr. Stowe to join us up here in a moment. Let's have  
20 scaff open.

21 EXECUTIVE OFFICER WARREN: All right. The  
22 presentation will be by Mr. Willard.

23 MR. WILLARD: Mr. Chairman, Item No. 9 is an  
24 application by Atlantic Richfield for a consent to pooling  
25 of certain lands they have under lease in Humboldt

1 County along the Eel River. The area involved in the  
2 pooling would cover approximately 28 acres of State  
3 lands. And Arco has requested our consent for the  
4 approved pooling of those lands.

5 This is a subsurface lease of the bed of the  
6 Eel River and allows no drilling on the surface of the  
7 lands, strictly subsurface lease.

8 And the staff recommendation is for approval.

9 CHAIRMAN MC CARTHY: All right. Mr. Piper and  
10 Mr. Stowe. Mr. Piper and Mr. Stowe, would you please come  
11 forward. I don't know if your testimony is related.  
12 If it is, you can go in whatever order you choose. So,  
13 would you please come up to the table here and use the  
14 microphone?

15 Are you gentlemen on the same side of the issue?

16 MR. PIPER: No, sir. He represents the oil  
17 company. My name is Lee Piper. I'm a property owner in  
18 that location. He represents the other side.

19 CHAIRMAN MC CARTHY: Why don't we have the  
20 affirmative side first, which follows from the staff  
21 presentation. Mr. Stowe, you want to testify?

22 MR. STOWE: My name is Kevin Stowe. I'm with  
23 Arco Oil & Gas Company out of Bakersfield. I'm a land  
24 man there. And basically, we're pooling 480 acres total  
25 of which -- excuse me --

1 CHAIRMAN MC CARTHY: Do you have a chair?

2 (Thereupon, a chair was found for  
3 the witness.)

4 MR. STOWE: We have a pooled unit, approximately  
5 480 acres. And of that, 28 acres is a State Lands lease  
6 on the Eel River, which runs along the east boundary of  
7 that pooled unit.

8 There are two wells in the unit, both of which  
9 are gas and both of which are currently shut in. And we,  
10 by pooling this -- the acreage here, we hope to put those  
11 wells on production.

12 Part of our State lease agreement asked us to  
13 have written consent from the State Lands Commission prior  
14 to pooling.

15 CHAIRMAN MC CARTHY: All right.

16 MR. PIPER: Thank you very much.

17 CHAIRMAN MC CARTHY: Mr. Piper.

18 MR. PIPER: Yes, sir. First, I'd like to present  
19 in evidence -- this is a plat map in the Humboldt County  
20 area. The drilling activity and the pipeline -- I want to  
21 combine 9 and 10, okay? One of them's the pipeline  
22 agreement; one of them's the lease agreement.

23 It's all supposed to take place down in this  
24 area here. I want to state that these lines here is  
25 Coastal Commission jurisdiction, and running through here

1 is what's been zoned as navigable river. Okay?

2 I've got other information here. I need to show  
3 you this to you so you'll get an idea of what exactly  
4 is going on. This is what I maintain the State lands  
5 property running through here. In the 1850s, the Lands  
6 came through there, did a survey, and determined this is  
7 State lands here. I've got two illegal gravel companies  
8 on the east side of the river conducting illegal gravel  
9 operations. And my property is over here on the west  
10 side.

11 I'd first like to read to you a letter that I  
12 submitted to the Humboldt County Supervisors on August  
13 26th, 1989. It was written to Stan Dixon, who was  
14 Supervisor of the 1st District.

15 (Reading Rapidly)

16 Dear Stan: Per our conversation of August 17th,  
17 1989, I respectfully submit the following text and  
18 enclosures. After having purchased a 103 year-old farm-  
19 house along the wild and scenic Eel River three years ago,  
20 I observed solid waste being buried, possibly toxic,  
21 along the river channel, possibly contributing to a higher  
22 than average Humboldt County cancer rate in Alton, while  
23 being subjected to trespassing and theft of gravel on my  
24 land. After having contacted various governmental  
25 agencies, including the Coastal Commission, the Army Corps

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1 of Engineers, the Humboldt County Health Department,  
2 the Department of Fish & Game, the County Assessor, on  
3 or about March 1st, 1988, I went into the Building  
4 Department to check on any permits issued to Charlie  
5 Hanson of Hanson's Coffee Shop and Weiner (phonetic) Road  
6 Company of Alton, and the Alton operation of Eureka Sand  
7 & Gravel, the individuals apparently responsible for the  
8 activities I had observed taking place on the wild and  
9 scenic and river.

10 In 1979, a conditional use permit was granted  
11 to Charles Hanson referencing the Department of Fish &  
12 Game letter of November 14th, 1979, we are concerned about  
13 the potential adverse effects of expansion of the  
14 project may have on wildlife utilizing adjacent riparian  
15 vegetation and critical habitat type.

16 The letter further states, as a condition, before  
17 the permit is revised, we would like to see some  
18 definable boundaries beyond which expansion of the batch  
19 plant/rock crushing operation and any other ancillary  
20 facilities will not expand. The boundaries should be  
21 completely outside the riparian streamside habitat and  
22 should be fenced to keep the project from spilling over  
23 its boundaries.

24 On December 3rd, 1986, the Planning Department  
25 sent a letter to Daniel E. McLaughlin of Eureka Sand &  
Gravel referencing Case No. CUP 83-85, notifying

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1 McLaughlin that the application has been in suspense  
2 because of no response to the department's letter  
3 dated August 1st, 1985.

4 The letter further states the Department has  
5 administratively dead-filed this application. The project  
6 is now officially withdrawn without prejudice. There were  
7 no building permits issued for the batch plant expansion  
8 and buildings being constructed on Hanson's operation.

9 At this time, I formally filed a complaint with  
10 the building inspector. Three weeks later, during the  
11 third week in March, I then went to the Building  
12 Department and spoke with John Roberts, building  
13 inspector.

14 I requested an on site inspection of the  
15 activities occurring on the Eel River. I learned that no  
16 surface mining and reclamation permits or plans or permits  
17 were ever submitted, applied for, or granted. I also  
18 learned that Hanson's landfill with burnt out cars and  
19 trucks on the riverside of the levee --

20 EXECUTIVE OFFICER WARREN: Mr. Chairman, pardon  
21 me. I just happened to observe that this letter appears  
22 to be four or five pages. And I'm not at all sure -- I  
23 haven't heard anything as yet relevant to the issue  
24 before the Commission.

25 I just wonder if there's some way we can

1 summarize the points relevant to this item; otherwise,  
2 you may be here an inordinate amount of time.

3 CHAIRMAN MC CARTHY: Mr. Piper, is there  
4 anything in -- the matters you're raising are matters  
5 of concern. What I'm interested in doing, is there  
6 anything in the letter that has direct bearing upon the  
7 issue in front of us?

8 MR. PIPER: Yes, sir. If you want me to, I  
9 can, you know, forego the letter and just try to summarize  
10 here for you. I've been fighting with all these local  
11 agencies. I should state that in '88, I also wrote  
12 to the State Lands Commission as well as some other --  
13 California Coastal Commission, California Department of  
14 Fish & Game, Humboldt County Department of Public Health,  
15 State Lands, Army Corps of Engineers. I've been fighting  
16 this matter now since 1986, when I purchased the  
17 property. I've gotten absolutely no response in regards  
18 to the gravel operation. I should state that the whole  
19 point I'm trying to make here is first comes the Eureka  
20 Sand & Gravel operation down here, then the Hanson illegal  
21 operation here. Thence, comes county lands -- this is  
22 where they want to put the pipeline. Okay?

23 I submitted -- in 1989, like I say, I testified  
24 in front of the supervisors. As we speak, right this  
25 very moment, these illegal gravel operations are continuing.

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1 Okay? They're continuing to destroy the rest of the --

2 CHAIRMAN MC CARTHY: How are they related to the  
3 matter in front of us?

4 MR. PIPER: Okay. The matter in front of us  
5 here, I wanted to first set, you know, show you that I've  
6 gotten absolutely no help from these local agencies. My  
7 last place to come here is State Lands.

8 Now, as I mentioned to you, down here is  
9 Eureka Sand & Gravel, and then comes Hanson property,  
10 then comes county property, okay? Now, county, their  
11 deed only says it goes up to the bank. The county right  
12 now is claiming all the way into the middle of the river.  
13 I learned that the county's got deeds from this point  
14 all the way up through Fernbridge all the way up through  
15 Fortuna into Fernbridge. They've got the next six miles.  
16 Okay?

17 What they're attempting to do here, sir, is --  
18 what the gravel operations have been doing is they've  
19 closed off three of the main channels. Right now they've  
20 got illegal roads across these channels. Okay?

21 CHAIRMAN MC CARTHY: Is Arco a graveling  
22 operation?

23 MR. STOWE: No, sir.

24 MR. PIPER: Arco is trying to put a pipeline in,  
25 which is right here, right above the gravel operations.

1 They want to dredge out the river -- Okay? -- as part  
2 of the operation. Army Corps of Engineers does not  
3 approve any dredging operations.

4 What I'm trying to maintain is --

5 CHAIRMAN MC CARTHY: Who wants to dredge the  
6 river?

7 MR. PIPER: Arco. Part of Arco's plan is to  
8 dredge part of the river. And these illegal gravel  
9 operations are in the process of trying to dredge in the  
10 river. I maintain --

11 CHAIRMAN MC CARTHY: Just a moment, Mr. Piper.  
12 Would you tell us anything you know about Arco dredging  
13 the river?

14 MR. STOWE: Yeah, that pertains to Item C10, which  
15 is the pipeline item. And what that is is we plan to  
16 channel a hole -- we had first looked at underground  
17 pipe. And that doesn't work, because, basically, the  
18 river bottom is full of cobble. So, what we plan to do  
19 is open a trench 30 feet deep, lay the pipeline in the  
20 trench, and bury the trench back to its original  
21 condition.

22 And it would all take place in the period of  
23 about two months. We had planned to do that this year.

24 CHAIRMAN MC CARTHY: You're not withdrawing any  
25 gravel.

MR. STOWE: No, we will not be withdrawing any

1 gravel. All the gravel that's taken out will be  
2 replaced back into the original condition.

3 The only gravel that will be withdrawn, the  
4 possibility of, is Fish & Game has asked us to trench out  
5 not a hole, but basically a -- what do you call it? -- a  
6 deviation in the river in order to make it a resting spot  
7 for the fish, the salmon, as they migrate upstream.

8 So, that gravel will probably be laid out  
9 along the river bed or used in the trench as well. But  
10 we will refill the trench. We plan no gravel sales or  
11 dredging.

12 CHAIRMAN MC CARTHY: Okay. Mr. Piper, why don't  
13 you close on what your main point is.

14 MR. PIPER: Only the main point is there's a  
15 massive land grab going on right now. The county's  
16 trying to grab about five miles of State lands. The  
17 lease that you're entering into with Arco is a lease for  
18 property that is deeded to me. Okay? The State Lands  
19 is foregoing all the State lands and allowing these illegal  
20 gravel companies to take adverse possession.

21 Sir, two weeks ago, there was a survey done down  
22 there, and I tried to go out and take pictures of it  
23 Saturday. And I was thrown off public property. Okay?

24 CHAIRMAN MC CARTHY: Excuse me.

25 MR. PIPER: Yes, sir.

1 CHAIRMAN MC CARTHY: Do we know anything about,  
2 Mr. Warren, about what Mr. Piper is talking about here,  
3 about any other gravel companies or mining companies using  
4 State-entitled lands without permit?

5 MR. PIPER: I've got the letter here, sir.

6 CHAIRMAN MC CARTHY: Just a minute, Mr. Piper,  
7 please.

8 MR. WARREN: Let me put that question to Mr. Frey.  
9 Do we have information about dredging activities along  
10 this section of the river?

11 MR. FREY: Recently, we were contacted by  
12 several organizations to investigate the State's claim to  
13 areas which are being mined near Mr. Piper's property.  
14 We have not finished our investigation on that right now.

15 There are apparently several gravel operations  
16 in the vicinity.

17 CHAIRMAN MC CARTHY: Without a permit?

18 MR. FREY: Well, we don't know if they're on our  
19 lands or not yet, Mr. Commissioner.

20 CHAIRMAN MC CARTHY: And when will you finish  
21 your investigation?

22 MR. FREY: Well, we just started. I think it'll  
23 probably be several weeks.

24 CHAIRMAN MC CARTHY: All right.

25 EXECUTIVE OFFICER WARREN: I would like to

1 assure the Commission, as the Commission is well aware,  
2 that we've recently undertaken to identify all illegal  
3 dredging operations on the rivers where State Lands has  
4 jurisdiction, has the fee ownership, and to the point where  
5 action has been instituted on alleged transgressions on  
6 the Russian River.

7 We would be more than anxious to have whatever  
8 information the witness can provide us about the aggregate  
9 mining activities. Because if, as it develops, they are  
10 occurring on State waterways, we will aggressively  
11 pursue all our rights in that area.

12 We can assure him of that. But we do not, in  
13 this instance, see any conflict between the project that  
14 is before us and those activities. We would like to  
15 work with the witness on those. All right?

16 MR. PIPER: Okay.

17 EXECUTIVE OFFICER WARREN: And we are undertaking  
18 now to determine the State's ownership interest in that  
19 stretch of the river.

20 MR. PIPER: I ask, then, sir, if we could have a  
21 postponement on this until all these matters are  
22 resolved. And I'd like to state --

23 CHAIRMAN MC CARTHY: Mr. Piper, that's not a  
24 reasonable request. This item before us has nothing to  
25 do with any of the possible illegal gravel operations that

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1 you're referring to.

2 MR. PIPER: Okay, sir.

3 CHAIRMAN MC CARTHY: You've just had an offer  
4 to work with you on those to obtain any evidence that  
5 such is occurring.

6 MR. PIPER: The point I want to make is there's  
7 been a study done up in Washington State on some of the  
8 big rivers up there. And they've found that there's two  
9 levels of gravel. Okay? There's an upper layer of  
10 gravel that moves about every hundred years. There's  
11 a foundation level of gravel that is ancient. It's been  
12 there for -- since time began. And these dredging  
13 operations are going 40-foot deep. There's a levee on  
14 my side of the river. There's a levee on the other side  
15 of the river.

16 I maintain, sir, if they do the dredging, it's  
17 going to undermine the levee. I mean, I think we need  
18 to take a look and see what effect we're doing here,  
19 before we go ahead with this project. This is stuff  
20 that's never been done before. And this is the wild and  
21 scenic Eel River, sir, as designated by law. This expires  
22 this year. We need to look at these matters.

23 CHAIRMAN MC CARTHY: Mr. Piper, I don't know how  
24 much you're aware of what this State Lands Commission has  
25 been doing in the last several years. But we have been

1 very aggressively protecting under the public trust  
2 doctrine the public's recreational and environmental  
3 rights in all navigable waterways.

4 So, if you have some -- and our staff has a lot  
5 of technical people on it to look at the very kinds of  
6 questions you're raising, with an eye towards protecting  
7 those public rights.

8 So, we thank you for your testimony. Any  
9 questions by members of the Commission? Mr. Tucker?

10 COMMISSIONER TUCKER: For staff. Just so I'm  
11 clear on this, I take it, looking at the list of lessors  
12 here, that Arco's project only impacts those lessors,  
13 and that it's withdrawing some mineral rights -- some  
14 gas from underneath their property. They're not crossing  
15 their property or locating a well on their property, or  
16 anything like that other than the State lands?

17 MR. HIGHT: The State would be a portion of the  
18 large pooled area. And I can't speak to where the wells  
19 are.

20 ASSISTANT EXECUTIVE OFFICER TROUT: Look on page  
21 150, If you look at page 150 in your package, it shows  
22 the outlines of the unit and the location of the two wells,  
23 and shows the boundary of the unit running around the  
24 right bank or the easterly bank of the river.

25 COMMISSIONER TUCKER: Their wells are not on

1 Mr. Piper's property?

2 MR. PIPER: But their pipeline is to go across  
3 my property, sir.

4 COMMISSIONER TUCKER: The pipeline is?

5 MR. STOWE: Excuse me for a second. Without the  
6 benefit of a microphone -- but we have two wells in the  
7 pooled area. The Christiansen 215 there to the west  
8 and the Christiansen 115 to the east, located close  
9 together. Two and one.

10 Mr. Piper's property lies in this vicinity right--  
11 in this vicinity there (indicating on map).

12 Our pipeline crosses his surface on the uplands  
13 portion about 525 feet across his property, continuing on  
14 up to a point which all of these owners here have signed  
15 oil and gas leases and pipeline right-of-way agreements,  
16 including Mr. Piper, both oil and gas lease and the  
17 pipeline right-of-way agreement.

18 MR. PIPER: Excuse me, sir, but I have submitted --

19 CHAIRMAN MC CARTHY: You'll have an opportunity  
20 to close, Mr. Piper. This is not -- go ahead.

21 COMMISSIONER TUCKER: Did he sign the agreement  
22 or was that something that ran with the property?

23 MR. STOWE: We signed an oil and gas lease  
24 originally, and then later on, when we went to put the  
25 pipeline in, we went back and signed a separate pipeline

1 right-of-way agreement.

2 COMMISSIONER TUCKER: With Mr. Piper.

3 MR. STOWE: With Mr. Piper.

4 COMMISSIONER TUCKER: Okay.

5 MR. STOWE: The pipeline course continues on up,  
6 and this is the point where it crosses the Eel River.  
7 And this is the point here, from this point to this  
8 point (indicating on map), where it would be trenched  
9 across the river. And then we have a Humboldt County  
10 levee, which we're jacking and boring underneath, since  
11 we wanted to get through there without disturbing the  
12 levee.

13 Coming across here to the Caltrans Highway 101,  
14 which we are jacking and boring across there as well.  
15 The whole thing was approved by the Humboldt County  
16 Planning Commission as lead agency; and since, the Coastal  
17 Commission's also approved it.

18 COMMISSIONER TUCKER: Okay. I just want to be  
19 clear on what we're approving. We're approving the  
20 crossing of the river.

21 MR. STOWE: Right. Right here.

22 COMMISSIONER TUCKER: And we're approving the  
23 withdrawal of gas from underneath our property.

24 UNIDENTIFIED SPEAKER IN AUDIENCE: Excuse me.  
25 We already have a lease there. That approval was given a

1 year ago. The other -- all we're doing is agreeing to  
2 pool our interest with the other oil and gas interests  
3 in the area, an existing oil and gas lease.

4 COMMISSIONER TUCKER: Okay. So, we've already  
5 approved the lease to cross the river and the lease for  
6 the drilling?

7 MR. STOWE: No. What we're approving here is  
8 two things: One is the declaration of pooling for all  
9 the leases in the area. And then, two, we're approving  
10 the trench to go -- the 500-foot surface lease basically  
11 to go across the river.

12 COMMISSIONER TUCKER: Okay. So, we're not  
13 approving any activities that are occurring on any lands  
14 other than State lands.

15 MR. STOWE: Right, sir.

16 COMMISSIONER TUCKER: Okay. Thank you.

17 CHAIRMAN MC CARTHY: Mr. Piper, do you want to  
18 close succinctly?

19 MR. PIPER: Yes, sir. I'd like to state first  
20 of all that I have filed a declaration of forfeiture  
21 regarding my lease and pipeline agreement with Arco,  
22 because of their failure to live up to the terms of the  
23 agreement. I filed with Mr. Stowe three months ago, two  
24 months ago, one month ago (sic). We've had a couple of  
25 letters here. Additionally, I'd like to state that the

1 lease that you are approving today, sir, is for lands  
2 that are deeded to me. I maintain that you are  
3 relinquishing State lands to these illegal gravel  
4 operations. And I've got all the evidence to substantiate  
5 that.

6 And, secondly, you are approving a 40-foot  
7 dredging activity for them to be able to put their  
8 pipeline across the Eel River. They're going to be  
9 dredging 40 feet into this ancient gravel, sir.

10 COMMISSIONER TUCKER: I'll move the item.

11 CHAIRMAN MC CARTHY: Commissioner Tucker moves.  
12 Commissioner Stancell supports. The authorization is  
13 granted. Thank you very much.

14 Item No. 11.

15 EXECUTIVE OFFICER WARREN: Item No. 11,  
16 Mr. Chairman and Commissioners, is to approve a  
17 prospecting permit for minerals other than oil and gas  
18 and geothermal on 320 acres of lands administered by  
19 the Fish & Game Commission.

20 This is for exploratory core drilling. And we  
21 recommend approval.

22 There's a Mr. Fred Balderston.

23 CHAIRMAN MC CARTHY: Mr. Balderston, would you  
24 like to testify on this, sir?

25 MR. BALDERSTON: Yes, sir. Governor McCarthy,

1 members of the State Lands Commission, on July 21st,  
2 I wrote to Mr. Warren indicating our concerns about this  
3 negative declaration proposal, and laying out a few points  
4 on which it was our view that the proposed negative  
5 declaration document was at fault.

6 We have a concern about exploratory drilling  
7 and even a deeper concern about potential future open-pit  
8 mining by Tenneco Minerals Company.

9 I would like today to submit a brief addendum  
10 to our July 21st letter. The addendum deals with the  
11 question of road access to the area in question and the  
12 Tenneco Minerals exploratory operation.

13 There is no easement to Sierra County for the  
14 county maintained roads through our property, which  
15 stretches southward from Highway 49 to our south boundary,  
16 approximately two miles farther south.

17 And we want to make sure that the State Lands  
18 Commission is aware that no such easement exists. There  
19 has been light usage of the customary formal usage. But  
20 if a material change in the pattern of usage were to  
21 occur with any future open-pit mining, we would be  
22 greatly concerned, and we certainly wish to reserve the  
23 right to object to such in the future.

24 Also, we want to be sure that the Commission is  
25 aware that even exploratory drilling may be environmentally

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1     damaging in the event of contamination of surface water  
2     purity.

3             And we finally want to bring to the attention of  
4     the Commission a proposal about this whole Antelope  
5     Valley area, that Sierra County adopt a formal  
6     coordinating role in conjunction with permits and other  
7     matters, because there is not only Sierra County, but the  
8     Department of Fish & Game and the National Forest Service,  
9     all three of which are concerned with these matters at  
10    various times.

11            So, I would like to submit our addendum letter  
12    and request that the Commission maintain a close eye  
13    on these matters. We originally anticipated that there  
14    would be a need for postponement of this issue, because  
15    of the inconsistencies in timing of the drilling  
16    activity. Those matters have been partially resolved,  
17    we believe, by stipulations which the Department of Fish  
18    & Game has indicated it would make.

19            Thank you very much.

20            CHAIRMAN MC CARTHY: Thank you. I also have  
21    requests from Mr. Tom Young and Mr. James Good.

22            MR. GOOD: Mr. Young will cover our presentation.

23            CHAIRMAN MC CARTHY: All right. Mr. Young.

24            MR. YOUNG: My name is Mr. Tom Young. I'm the  
25    project manager of the project with Tenneco Minerals

1 Company.

2 I want to say that we conducted a similar program  
3 to this one on adjacent ground last year, of which you  
4 approved the project. And at that time, we drilled 41  
5 holes on 13 drill sites. The project was a success in  
6 terms of the data acquisition that we were able to do  
7 and in the reclamation plan that followed. All the sites  
8 are reclaimed. Most -- or all agencies have concluded  
9 and applauded our efforts to bring the ground back to  
10 an applicable status at this point.

11 This permit is going -- has been in the works  
12 since February to drill on this adjacent ground here. We  
13 are constrained on our permits to drilling through this  
14 next Friday on the 16th, at which time a hunting season  
15 conflict with our drilling will occur. We also -- the  
16 permit allows us to drill in a window in September  
17 between hunting seasons.

18 This particular program is an expensive one  
19 for Tenneco. It has no cost to the State whatsoever.  
20 The State will benefit, if a discovery is made, in terms  
21 of royalties on the ground if we are able to go through  
22 the environmental process at that time, which is a  
23 separate issue in a mining scenario.

24 So, at this point, it looks like a win/win  
25 situation, that we can operate -- explore the ground at

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1 this point, and if there is a discovery, we'll have to go  
2 through the entire environmental impact study system to  
3 ascertain a ~~min.~~ (sic).

4 So, I recommend that we approve the project  
5 today so that we can get started on our drilling.

6 CHAIRMAN MC CARTHY: Questions by members of the  
7 Commission? Commissioner Tucker.

8 COMMISSIONER TUCKER: When they complete their  
9 work, will we get a report back on exactly what happened  
10 in terms of the restoration and cleanup, refilling the  
11 holes, all that? Some kind of specific verification?

12 MR. YOUNG: Mr. Willard here is with State Lands.  
13 He should answer that question I think.

14 MR. WILLARD: Yes. Indeed we did, we inspected  
15 not only during the drilling operations, but we inspected  
16 subsequent to the operations.

17 COMMISSIONER TUCKER: I'm asking on this, can  
18 we get a report back?

19 MR. WILLARD: Oh, on this particular project? Oh,  
20 yes, indeed. We plan to do the same operation that we did  
21 before. That is, inspect not only during drilling  
22 operations, but subsequent to ascertain whether or not  
23 proper reclamation has been obtained.

24 COMMISSIONER TUCKER: What I'd like to see is that  
25

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1 we put on the calendar that we notify whoever it is that  
2 came in to testify that, you know, here's the report.  
3 This is our perception of what occurred, and ask them if  
4 they have any comments or other information different  
5 from what we observed.

6 MR. WILLARD: Certainly. No problem.

7 CHAIRMAN MC CARTHY: Did you intend to include  
8 that we would send a copy of the report, the assessment  
9 on the restoration effort to Mr. Balderston?

10 COMMISSIONER TUCKER: Yes.

11 CHAIRMAN MC CARTHY: Any other questions?

12 The matter's before the Commission. Mr. Stancell  
13 moves. Mr. Tucker seconds. The authorization is  
14 granted.

15 Next item.

16 EXECUTIVE OFFICER WARREN: The next item,  
17 Mr. Chairman, is Item 22, which will be presented by  
18 Mr. Kiley.

19 Item 22 is essentially, Mr. Chairman,  
20 is a staff recommendation that we deny an application for  
21 the continued construction of a recreational docking  
22 facility in Sutter Slough in Sacramento County.

23 Photographs of the slough and the facility, which  
24 has been partially complete, without permission, are in  
25 your packet. Is Mr. Chadock here?

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1 MR. KILEY: Apparently, I had a voice.

2 EXECUTIVE DIRECTOR WARREN: The project itself  
3 has been reviewed by Fish & Game, which has expressed  
4 strong opposition to the proposal, because the site is in  
5 an area designated as a shaded rivering aquatic cover,  
6 which is essential habitat for several species of fish,  
7 including those on the endangered species list.

8 CHAIRMAN MC CARTHY: Mr. Chadock, would you like  
9 to come up and join us, please? Mr. Randy Chadock? Why  
10 don't you have a seat, sir.

11 EXECUTIVE DIRECTOR WARREN: I might say that,  
12 before Mr. Chadock speaks, on page 357 of your packet,  
13 paragraph 18 sets forth the principal objections of the  
14 Fish & Game on the project.

15 MR. HIGHT: The entire letter from Fish & Game  
16 is at Exhibit D-2 on 357.33 and 34.

17 CHAIRMAN MC CARTHY: Has Mr. Chadock received  
18 a copy of this Fish & Game objections?

19 MR. CHADOCK: Yes, I do have the r. We had the  
20 Fish & Game last year in May, in '90, we got -- we had an  
21 okay for that Fish & Game. And it was a year later that  
22 they sent us this letter. They didn't even send us this  
23 letter. They sent it to the State Lands, and we received  
24 this letter a month after the State Lands had got it.

25 CHAIRMAN MC CARTHY: Lift the mike up just a

1 little, please, Mr. Chadock.

2 MR. CHADOCK: Mr. Grabber (sic) of the State  
3 Lands gave us a negative declaration here, saying this  
4 project will not significantly affect the environment,  
5 and they sent this to the Fish & Game. And evidently,  
6 the Fish & Game had changed their mind over the year that  
7 they had. We had this copy of this here. I don't know.  
8 I guess it's not a permit, but the Fish & Game, a warden,  
9 and everybody came out to the site and approved what we  
10 were doing.

11 And now we get this thing a year later. What  
12 we're really interested in is why we're being denied the  
13 application. I mean, we did have a problem. Once I  
14 got the Corps of Engineers permit, I called on the staff  
15 at Corps and asked them, you know, if -- that we had the  
16 permit, we misunderstood, that if we could go ahead and  
17 build the dock and the deck. And they said, yes, you can  
18 as far as we're concerned.

19 And at that time, we hadn't any idea that we had  
20 letters from the other agencies and we were trying to  
21 comply with those people, too. And it seems that we have  
22 everybody pretty well ironed out other than the Fish &  
23 Game.

24 And I did talk to -- last week, I talked to  
25 Captain Dixon on this matter, and he seemed to think that

1 we might be able to resolve this matter with the Fish &  
2 Game. And -- but the problem is that we need some more  
3 time. And if this is denied now, I don't know whether  
4 we have to go through this whole thing again. We already  
5 got a lot of money tangled up in just permits with the  
6 Planning Department, Fish & Game, and Corps of Engineers,  
7 and we even -- State Lands, you guys have even did a  
8 survey that we have to give \$2500 for.

9 It looks to me like, you know, this -- you know,  
10 we're not, you know, against that, other than the fact  
11 that we don't know why that -- as long as you people have  
12 made a negative declaration here, we think maybe that if  
13 we could solve the thing with the Fish & Game -- it just  
14 amounts to the fact that, evidently it's what's going  
15 on the ground. And we don't seem to think that we're  
16 hurting any of that staff. And if we could prove that  
17 to the Fish & Game -- we talked to Randy Moore Moory at  
18 the State Lands and he said that if we could get the  
19 Fish & Game to come around to our way of seeing things,  
20 that they would soften their position, too.

21 So, that's where we're at.

22 EXECUTIVE OFFICER WARREN: In response by me,  
23 Mr. Chairman, I'd just like to comment, this matter was  
24 initiated by the Commission on November of 1988. And on  
25 page 357.1, there are literally a page and a half of

1 correspondence representing efforts by State Lands  
2 Commission to obtain compliance with the processes that  
3 the Commission established for such projects.

4 Despite the fact that compliance was not  
5 obtained, the project was initiated and is in the form,  
6 as you see it, depicted in the photographs.

7 Secondly, Fish & Game action -- prior action,  
8 to which the witness made reference, appears to be a  
9 streambed alteration permit, which was given by the local  
10 Fish & Game warden. And I'm advised that the Fish & Game  
11 Department considers streambed alteration permits to be a  
12 nondiscretionary, mandatory action when requested.

13 The letter before you represents the official  
14 and the only position of the Department of Fish & Game  
15 on this issue, reflects concurrence with U.S. Fish &  
16 Wildlife Service's analysis of the biological and other  
17 qualities of Sutter Slough. This is the only development  
18 that is proposed for Sutter Slough. And it is feared  
19 that the unique and vital resource value of this slough  
20 will be degraded not only by this particular project,  
21 but also by subsequent projects that would be encouraged  
22 if this one were permitted. So, you would lose the --  
23 prospectively, you could stand to lose the entire slough.

24 MP. CHADOCK: I'm sorry. But there's only --  
25 there's only two owners of the property right there, and

1 they're miles and miles of property, and they aren't  
2 interested in building docks. They're in the pear farming  
3 business, and they probably wouldn't. They've been there  
4 since the 1800s.

5 And I don't think that we would be changing  
6 anything, you know. They don't even live on the island  
7 where they farm. So, you know, we're not going to  
8 encourage other dock building, because they can't even  
9 subdivide the properties along the river right there.  
10 So, we are the only one in Sutter Slough for miles, and  
11 miles, and miles that could ever think about building a  
12 dock or a decking even.

13 CHAIRMAN MC CARTHY: Mr. Tucker?

14 COMMISSIONER TUCKER: When did the building start?  
15 Does anybody know?

16 MR. CHADOCK: '89, I think. December, '89.

17 COMMISSIONER TUCKER: I'm a little confused.  
18 December of '88, we have this letter from Boating &  
19 Waterways. They say, such a design -- referring to the  
20 changing the design -- such a design is not feasible at  
21 this location. We recommend the facility not be  
22 installed as designed due to the problem it will create.

23 Did you change the design?

24 MR. CHADOCK: We did change design.

25 COMMISSIONER TUCKER: Did they send you another

1 letter?

2 MR. CHADOCK: No, we haven't -- I don't think  
3 I have what you people have right there. I have this  
4 thing -- Mr. Grabber's (sic) all I have. I don't have  
5 this green piece of paper here. Never had one. Who  
6 would have sent me this?

7 MR. KILEY: The Department of Boating & Waterways,  
8 if it was sent.

9 MR. CHADOCK: Yeah, we don't have.

10 MR. KILEY: The staff is not aware that they've  
11 ever withdrawn their objections.

12 COMMISSIONER TUCKER: The letter's addressed  
13 to Dan Black, so I don't know if it ever went to -- who it  
14 went to.

15 MR. HIGHT: The letter's in response to the  
16 Corps of Engineers' public notice process. And typically,  
17 a copy goes to the applicant. But --

18 COMMISSIONER TUCKER: Okay. The other question I  
19 have is, the circulation of the proposed negative  
20 declaration. Given that -- I guess I'm confused on the  
21 sequence, given that the construction had begun, and we  
22 got this -- at least the Boating & Waterways were saying  
23 they had a concern about this back in 1988. And I don't  
24 know whether anybody else had expressed a concern prior  
25 to that. Why do we start this negative declaration

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1 process when there appear to be already objections from  
2 other agencies?

3 MR. KILEY: One purpose of the negative  
4 declaration process is to elicit further comments to find  
5 out in writing specifically what the agencies' comments  
6 are to the environmental effects of the proposed project.

7 In this particular context, the neg dec process  
8 can be viewed as an attempt by staff to gather more  
9 information and more explicit information from the  
10 affected agencies on what's going on. And in this case,  
11 that's what occurred.

12 COMMISSIONER THCKER: We ought to have another  
13 process. I mean, you know, this may not be contemplated  
14 by the law, but it seems like, where, one, the construction  
15 had begun apparently without any approval and, two,  
16 we knew of at least one objection from one agency. It  
17 seems like we'd start a process that says, "Well, we're  
18 inclined not to approve this, and we're looking for  
19 everyone's comments."

20 I mean, right off the bat, if you've got a  
21 construction that has begun where nobody's signed off on  
22 it, or so it seems, it seems like that would raise --

23 MR. CHADOCK: (Interjecting) That was partly my  
24 fault, because we did call back the Corps of Engineers  
25 once we got the permit and asked them if we could build

1 a dock, and did we have a permit? And they said, yes.  
2 Yes, we could as far as they were concerned, we could.

3 COMMISSIONER TUICKER: Yeah. See, those were  
4 the key words, though, "as far as they're concerned."

5 They're saying, well, assuming that that's what  
6 they said, I assume what they're saying is -- and I'm  
7 sure if they gave anything in writing, I would assume that  
8 it also says, you know, there's 10 agencies involved in  
9 this, and you got to get signed off from everybody.

10 MR. CHADOCK: Well, I misunderstood that.

11 COMMISSIONER TUCKER: But as far as we're  
12 concerned, you know, we've signed off and completed our  
13 process, if indeed, that's what happened.

14 MR. CHADOCK: Would it be, you know, we'd like  
15 to continue with this thing. Would it be -- help us any  
16 if we decided to maybe -- that we didn't the floating  
17 dock, if we could just have the deck? You know, what we'd  
18 like to have is a deck. And maybe, if it would ease the  
19 problem with anybody or everybody, if we took the floating  
20 dock out, if we could keep our poles in the water. We have  
21 a lot of money tied up in poles. We haven't discussed this  
22 with anybody, but I thought maybe that, as long as we're  
23 here and discussing this thing, if we didn't have the  
24 floating dock, maybe it wouldn't cause --

25 COMMISSIONER TUCKER: No. What I was going to

1 suggest is that -- if other Commissioners are interested --  
2 that we put this over and you can discuss all of those  
3 kinds of things that you want.

4 My question to staff that there might be some  
5 thought given and an answer brought back to us is, if  
6 we don't approve this thing, you know, as you go up and  
7 down the river, you see these abandoned docks, et cetera,  
8 and we obviously don't have the resources to take them  
9 out. You know, we try and get the landowner to take them  
10 out, et cetera. And clearly, in a lot of those cases,  
11 no one's been successful. What's the program for what to  
12 do with this other than to sue the landowner and ask them  
13 to take it out? But if we're not successful on that,  
14 it seems to me -- I'm not sure where -- if we're better  
15 off with a completed or not completed. I have no idea.  
16 I'm not offering an opinion on it. I just think that we  
17 should have a good idea of where do we go next if we were  
18 not to approve this in terms of successfully clearing the  
19 area, if that was the intention?

20 EXECUTIVE OFFICER WARREN: We would aggressively  
21 seek to require the landowner to remove the trespass.

22 COMMISSIONER TUCKER: Is it double?

23 EXECUTIVE OFFICER WARREN: Yes. Secondly, on the  
24 other abandoned features which vividly cover our waterways,  
25 we have been giving thought to a program which would fund

1 our independently removing those structures. We have been  
2 giving consideration to posing a boat owner's surcharge  
3 to fund the removal of these obstructions to navigation.

4 And we have instituted negotiations with boaters  
5 associations to determine whether or not they would support  
6 the program.

7 We have not concluded those discussions, however.  
8 We feel that given the budget constraints that have been  
9 imposed last year and this year, that to fund such  
10 activities through general funds would probably be  
11 impossible; that some special fund, however, associated  
12 with benefit conferred to the boating public might be  
13 possible.

14 Certainly, there is a problem that needs to be  
15 remedied. And I think that that's the best opportunity to  
16 do so.

17 Insofar as this is concerned, it seems to me, to  
18 argue that because of our limited ability to remove these  
19 trespasses, that we should -- that we should permit  
20 structures, which (a) represent trespasses and (b) which  
21 are clearly biologically damaging, reflected by resource  
22 agencies which advise us, would be not an acceptable  
23 response.

24 COMMISSIONER TUCKER: No, that's not the proposal.

25 EXECUTIVE OFFICER WARREN: Oh, I thought maybe you

1 were suggesting --

2 COMMISSIONER TUCKER: The question is, are we  
3 better off, you know, if we're sure that we can remove  
4 it, if that was the goal, that's fine. If it turned out  
5 that we couldn't, then I think the question is: Well,  
6 you know, which are we better off -- with a partially  
7 completed that sits there forever or completed? And I  
8 don't know the answer to that.

9 But it seems to me that we should know the  
10 answer to that before we start the process. You want to  
11 know where you're going to get to at the end.

12 EXECUTIVE OFFICER WARREN: We start the process  
13 by taking action against the landowner to remove the  
14 trespass.

15 COMMISSIONER TUCKER: Do you have any idea what  
16 it would cost to remove?

17 EXECUTIVE OFFICER WARREN: I have no idea.

18 COMMISSIONER TUCKER: Any idea what the  
19 environmental consequences of pulling those piles out  
20 of the side, et cetera, is there some consequence?

21 MR. KILEY: They would most likely be sawed off  
22 in the removal process, sawed off below the mud line.  
23 That's typically, the pilings are either sawed off or  
24 broken off below the mud line. They tend, if they're  
25 pulled hard, if the piling -- depends on how sturdy the

1 piling itself is. But they can usually break off several  
2 feet below the mud line.

3 In this case, since the pilings are relatively  
4 new, it probably would not be a tremendous project to pull  
5 them out. They could be vibrated out, for example.

6 COMMISSIONER TUCKER: Any sense of what the cost  
7 is to do that?

8 MR. KILEY: Given the incomplete state of the  
9 structure, I don't think it would be tremendously  
10 significant. I don't have a dollar number, though. I  
11 haven't estimated it.

12 COMMISSIONER TUCKER: But you think it could be  
13 restored so that it doesn't represent a hazard or having  
14 a negative --

15 MR. KILEY: I believe so.

16 COMMISSIONER TUCKER: -- environmental impact  
17 by removing it?

18 MR. KILEY: I believe so.

19 COMMISSIONER TUCKER: Okay.

20 MR. CHADOCK: Couldn't we have enough time to  
21 maybe try to resolve this thing rather than go in that  
22 direction? Maybe -- I mean, we're so close to completion  
23 here, that if we could get -- evidently, just the Fish &  
24 Game, and if the Boating & Waterway thing is the problem  
25 with the deck being in the water -- the dock being in the

1 water, we might be able to take it out.

2 CHAIRMAN MC CARTHY: I want to recommend this  
3 to the members of the Commission, that we give the  
4 staff the authorization to proceed as they have requested,  
5 to give Mr. Chadock one month to talk to the Fish & Game  
6 Department if there's a way you can sort this out with the  
7 Fish & Game Department, because we can't cavalierly ignore  
8 their concerns in this matter, Mr. Chadock. I hope you --

9 MR. CHADOCK: I understand that.

10 CHAIRMAN MC CARTHY: -- understand that. Is that  
11 an appropriate way to go? You have one month, sir, to  
12 try to work this out with the Fish & Game Department. We're  
13 going to authorize our legal staff to -- give them the  
14 authority to proceed ahead on this. I don't believe we  
15 have any other choice.

16 And we hope you are successful in sorting out  
17 with the Fish & Game over the next month.

18 Thank you very much.

19 MR. CHADOCK: Thank you.

20 CHAIRMAN MC CARTHY: Next item, 24.

21 EXECUTIVE OFFICER WARREN: 24, Mr. Chairman and  
22 Commissioners, is a renewal of a commercial lease in  
23 Freeport, of a marina. I'd like to be joined in presenting  
24 this by Peter Pelkofer of our legal staff.

25 MR. PELKOFER: Mr. Chairman, members of the

1 Commission, the item, as before you, the staff requests  
2 a modification of the proposal that's being presented  
3 to you. We received late correspondence on Friday  
4 afternoon from the applicant some additional -- an  
5 additional six-page letter seeking to negotiate a  
6 different lease arrangement. We wish some time in which  
7 to work with them on that part of the proposal.

8 You are aware, however, that we are also  
9 in litigation with these individuals, they having filed  
10 a lawsuit against us. And we feel that unless there is  
11 continued pressure, if you will, to resolve this matter,  
12 it will not be resolved. Therefore, staff's recommendation  
13 at this point is that you put the matter over for 30  
14 days; however, give the staff authorization at that time,  
15 if there has been nothing accomplished, to proceed with  
16 an ejection action.

17 CHAIRMAN MC CARTHY: We're going to hear from  
18 Mr. Schulze.

19 MR. PELKOFER: It's Ms. Schulze.

20 CHAIRMAN MC CARTHY: I'm sorry. Ms. Schulze.  
21 Am I pronouncing your name correctly, Ms. Schulze?

22 MS. SCHULZE: It's Schulze. Thank you,  
23 Mr. Chairman.

24 CHAIRMAN MC CARTHY: Schulze.

25 MS. SCHULZE: Schulze.

1           CHAIRMAN MC CARTHY: Schulze. Thank you. Would  
2 you like to testify?

3           MS. SCHULZE: Yes. There has been an ongoing  
4 dispute between the various marina operators and the  
5 State Lands Commission as to the various rates that are  
6 used in the setting of rentals for marinas.

7           Various marina operators have joined together  
8 to form a marina operators association, who have sought to  
9 negotiate with the State Lands Commission. Freeport  
10 Properties apparently is --

11          CHAIRMAN MC CARTHY: Move the microphone more  
12 directly in front of you, please.

13          MS. SCHULZE: Is that better?

14          CHAIRMAN MC CARTHY: Yes.

15          MS. SCHULZE: Freeport Properties is apparently  
16 one of the first leases to come up for renewal during this  
17 negotiation process, which has caused Freeport some  
18 consternation, in that there are no guidelines at the  
19 moment.

20          Freeport Properties would ask this Commission to  
21 become involved in the setting of future guidelines, so  
22 that the rental charge to marinas is done so on a  
23 consistent basis.

24          At the moment, what Mr. -- what the staff is  
25 recommending is that we have 30 days to negotiate or face

1 ejectment.

2 My clients have spent over a half-million dollars  
3 in developing this marina in putting in the improvements  
4 that are there at the present time. It seems rather  
5 onerous to say, either work something out or ejectment.

6 Mr. Perez is here on behalf of the marina  
7 operators association, and I think he would like to address  
8 the Commission.

9 CHAIRMAN MC CARTHY: Would you identify yourself,  
10 sir?

11 MR. PEREZ: Yes, sir. My name is Ernesto Perez,  
12 P-e-r-e-z. I'm an attorney in West Sacramento,  
13 California. And I represent the recently formed Sacramento  
14 Marina Delta Owners Association, which is an unincorporated  
15 association of approximately 13 marina operators primarily  
16 located along the Sacramento River.

17 CHAIRMAN MC CARTHY: Move that mike in front of  
18 your mouth, if you would, please, to make it a little bit  
19 easier on our reporter.

20 MR. PEREZ: Is this better?

21 CHAIRMAN MC CARTHY: Yes, it is. Thank you.

22 MR. PEREZ: Primarily located along the  
23 Sacramento River within the jurisdiction of Sacramento  
24 County, Yolo County border.

25 The purpose of our statement this morning is to

1 urge the Commission to provide additional time on the  
2 matter of the Freeport Marina lease.

3 The basis for our recommendation is that the  
4 association has been in a regular contact with Commission  
5 staff in order to ascertain the fundamental bases by which  
6 the Commission staff calculates individual lease payment  
7 requirements.

8 To that end, I have been in written and oral  
9 contact with the staff. And since March of this year  
10 have been waiting for an overview the staff has agreed to  
11 provide to our association inventorying the various  
12 leases, the various methods by which these payments have  
13 been calculated.

14 Initially, in March, the staff requested that I  
15 wait 60 days in order to receive a response consisting of  
16 this overview. And at about Day 75, I inquired again. And  
17 I have a meeting scheduled tomorrow morning with Mr.  
18 Pelkofer in order to go over the status of work by staff  
19 in progress.

20 Mr. Pelkofer represented to me last week by  
21 phone that the overview is not yet complete. The  
22 purpose of the association organizing itself is to provide  
23 constructive participation with the State Lands  
24 Commission staff in order to achieve some uniformity,  
25 equity, and regularity in the calculation and determination

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SACRAMENTO CALIFORNIA 95827  
TELEPHONE (916) 382-2345

1 of lease payments.

2 So, the recommendation of the association with  
3 regards to the Freeport Marina is that it's inextricably  
4 involved in this discussion with staff, and we have been  
5 attempting to operate in a good-faith manner to come up  
6 with a constructive resolution resolution of this issue.

7 Thank you very much.

8 CHAIRMAN MC CARTHY: Are you the attorney who  
9 brought the lawsuit?

10 MR. PEREZ: No, sir.

11 CHAIRMAN MC CARTHY: So, that's just a single  
12 party that brought the lawsuit, not the association.

13 MR. PEREZ: Correct.

14 CHAIRMAN MC CARTHY: Would staff like to  
15 respond to this? Mr. Warren, would you or anybody else  
16 wish to respond?

17 EXECUTIVE OFFICER WARREN: Just a couple of  
18 points, Mr. Chairman. First, is the policy. I think it's  
19 not unfair to characterize the rental -- marina rental  
20 structure, as proposed by the agency in the past, as  
21 somewhat difficult to understand. They were subject to  
22 individual negotiations. And the result was that  
23 individual marina owners found it difficult to understand  
24 why they might be charged more than others.

25 This point was raised with me on several

1 occasions many months ago. As a result of the  
2 dissatisfactions expressed by the industry representatives  
3 at that time, we have undertaken to develop a unified  
4 and simple rent determination policy.

5 And, as you will recall, the lack of such a  
6 policy was involved in the lawsuit filed against us by  
7 Riverbank. Riverbank was complaining that some other  
8 lessees had received more favored treatment in the  
9 assessment of rentals.

10 Based on that experience, we undertook to  
11 develop a marina fee structure similar to that, identical  
12 to that that we established for Riverbank.

13 What you have before you, as the witnesses have  
14 indicated, is one of the first occasions where that fee  
15 structure will be imposed on a renewing lease.

16 It is the fee structure we propose will be  
17 established for each new lessee and on each -- whenever  
18 the lease is up for rental renewal determination.

19 It's one which will be consistently applied. It  
20 will be fairly applied. It's based upon the fee structure,  
21 as I said, of Riverbank.

22 Insofar as this specific marina is concerned,  
23 they're the ones who filed suit against us in November of  
24 last year. We have tried to move fairly and equitably.  
25 And what we have presented to you today is in response

1 to that approach.

2 I have no objection to further discussions in  
3 this 30-day period. But it would seem to me that  
4 inasmuch as there was at one time an understanding with  
5 the applicant on the adequacy and the suitability of this  
6 renewal, that we move ahead as staff recommends.

7 CHAIRMAN MC CARTHY: Questions of Mr. Pelkofer  
8 from the Commissioners?

9 MR. PELKOFER: I have some fundamental  
10 disagreements with what has been said, but I don't think  
11 this is the place to discuss them because of the lawsuit,  
12 which is pending at this time.

13 CHAIRMAN MC CARTHY: What's the timing on that  
14 lawsuit?

15 MR. PELKOFER: The lawsuit was filed, I believe,  
16 in November. We were given an open extension to respond  
17 to the lawsuit with the idea in mind that the lawsuit  
18 would be terminated at the point at which a lease was  
19 entered. And nothing further has progressed with the  
20 lawsuit at this point; again, on the basis that we felt  
21 that we would solve the claimant's problems -- applicant's  
22 problems, and the lawsuit would be dismissed at the point  
23 a lease was entered into.

24 CHAIRMAN MC CARTHY: Any questions? All right.  
25 We will accept the recommendation of the staff. We'll

1 give 30 days more to try to resolve this matter.

2 MR. PELKOFER: Thank you, Mr. Chairman.

3 CHAIRMAN MC CARTHY: Thank you. 25.

4 EXECUTIVE OFFICER WARREN: Item 25, Mr. Chairman  
5 and Commissioners, is to authorize the State Lands  
6 Commission, as School Land Bank Trustee, to sell and issue  
7 a patent to the State of California for the sale of  
8 4,331 acres of State school lands to add to the existing  
9 Ocotillo Wells State Vehicle Recreational Area. The  
10 consideration for the transfer is \$596,000, which will  
11 be deposited in the State School Land Bank, which we  
12 continue to administer as Trustee.

13 And we request approval.

14 CHAIRMAN MC CARTHY: Questions? Approved as  
15 recommended.

16 26.

17 EXECUTIVE OFFICER WARREN: Item 26, Mr. Chairman  
18 and Commissioners, is two parts: First to approve the  
19 certification of and permit the replacement of the  
20 presently obsolete power cable between Huntington Beach  
21 and Platform Eva. The current power cable is way beyond  
22 its design line. And the new cable is necessary to  
23 accommodate the needs of the platform.

24 The second phase is to approve an assignment of  
25 the lease from Chevron to Union Oil and, as a result of

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1 which, a dispute concerning back rent has been resolved.  
2 And the State will receive the sum of \$309,000  
3 representing the back rent due.

4 We know of no opposition and ask for approval.

5 CHAIRMAN MC CARTHY: Questions? The  
6 recommendation is accepted.

7 27.

8 EXECUTIVE OFFICER WARREN: Bush Oil Company.  
9 This is to seek approval of workover of existing oil and  
10 gas wells on Rincon Island and one onshore well in  
11 Ventura County.

12 There have been some questions about the air  
13 pollution impacts of the project. But those questions  
14 appear to have been satisfactorily resolved, and we ask  
15 for approval.

16 CHAIRMAN MC CARTHY: Mr. Bryant and Mr. Reese.  
17 Do you care to testify?

18 UNIDENTIFIED VOICE IN AUDIENCE: We'll testify  
19 only if it's necessary in answer to any opposition.

20 CHAIRMAN MC CARTHY: Thank you. Questions from  
21 members of the Commission? Anyone else in the audience  
22 wish to testify?

23 If not, the recommendation is accepted. Thank  
24 you, ladies and gentlemen, that concludes --

25 EXECUTIVE OFFICER WARREN: I'd like to distribute

1 to the Commissioners --

2 CHAIRMAN MC CARTHY: We have concluded on Item  
3 27. Item 27 is concluded.

4 EXECUTIVE OFFICER WARREN: That concludes the --

5 CHAIRMAN MC CARTHY: Concludes the regular  
6 calendar.

7 EXECUTIVE OFFICER WARREN: The Executive Officer  
8 would like to have a couple of minutes to make a report.

9 CHAIRMAN MC CARTHY: Please.

10 EXECUTIVE OFFICER WARREN: Mr. Morris, our  
11 legislative liaison, has prepared a summary of the  
12 significant bills facing -- which the Legislature will  
13 address upon its return. I'd like to distribute it to  
14 the Commission.

15 And copies will be given to your staff for review.  
16 This is in line with Mr. Morris' usual fine work in  
17 keeping us informed of what is taking place during the  
18 legislative process.

19 CHAIRMAN MC CARTHY: Excuse me. The audience is  
20 welcome to stay, but is not required to do so. We're  
21 going over some legislation on other matters. You're  
22 welcome to listen in or to leave, whichever. Mr. Warren.

23 EXECUTIVE OFFICER WARREN: I also want to direct  
24 the Commission's attention to the fact that on September  
25 12th, in Washington, D.C., there will be a committee

1 hearing on a proposal by a number of congressmen to  
2 create the Desert Protection Act involving the School  
3 Lands in Southern California. The bill, as presently  
4 proposed, contains language which we have recommended  
5 to ensure that School Lands involved in the creation  
6 of the protected area would be compensated by an exchange  
7 for other Federal lands.

8 We do understand that some staff of the  
9 authors question whether that language should be  
10 retained. We do think it will be -- it's of sufficient  
11 importance for the State Lands Commission to be  
12 represented in Washington at that time, and we would  
13 welcome to work with any -- the Chairman or any  
14 Commissioner he designates in preparing testimony to be  
15 delivered at that time. That is September 13th. We  
16 merely wanted to call your attention to that.

17 Thirdly, the Bureau of Land Management's  
18 Regional Director, Ed Hasting, has submitted to a  
19 number of State and Federal Agencies a proposed  
20 memorandum of understanding to form a council which would  
21 seek to establish guidelines and policies establishing  
22 biological corridors and land aquisition and management  
23 practices.

24 We think that this is a very innovative and  
25 exciting step proposed by BLM and Federal agencies. It

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1 would enable this Commission to work closely with other  
2 related State agencies and Federal agencies in a  
3 collaborative manner. And I would -- copies of the MOU  
4 have been delivered to you. I would like to have your  
5 permission to go ahead and sign the MOU in order to  
6 encourage and to assist Mr. Hasting in his efforts to  
7 get other signatories. We can condition -- your staff  
8 has indicated a couple of points that need to be  
9 clarified, which I think we can do in a letter  
10 accompanying the return of the MOU.

11 If there are any questions arising subsequently,  
12 we could also say that -- well, I'll stop there.

13 CHAIRMAN MC CARTHY: Any reaction of the  
14 Commissioners?

15 COMMISSIONER TUCKER: Can we see the letter?

16 EXECUTIVE OFFICER WARREN: The MOU or the  
17 letter?

18 COMMISSIONER TUCKER: The letter that would go --

19 EXECUTIVE OFFICER WARREN: With the MOU?

20 COMMISSIONER TUCKER: With the exceptions.

21 EXECUTIVE OFFICER WARREN: Yes. That has not  
22 been drafted. We're waiting for your comments, and I'll  
23 incorporate your comments in the letter to make sure --

24 COMMISSIONER TUCKER: I'd just like to see the  
25 letter before you sign it.

1 EXECUTIVE OFFICER WARREN: Very good. We'll do  
2 that.

3 Thank you very much.

4 CHAIRMAN MC CARTHY: All right. So the signed  
5 MOU will not go until we agree on that letter.

6 EXECUTIVE OFFICER WARREN: Yes.

7 CHAIRMAN MC CARTHY: Okay. Anything else?

8 EXECUTIVE OFFICER WARREN: Yes, a couple of other  
9 things. I would like to remind you that on September  
10 11th, the Delta Workshop will be held here in  
11 Sacramento. The Commissioners are invited, and indeed  
12 urged to attend. We think that there will be very  
13 interesting and revealing presentations by those  
14 individuals invited to attend. That's September 11th  
15 in the morning. It's Wednesday, September 11th in the  
16 morning here in Sacramento.

17 Finally, we have last week been notified by  
18 the Department of Finance to report back to it the revenue  
19 impacts of the proposed budget cuts. And it was  
20 suggested that we prepare a budget change proposal to --  
21 how shall I put it -- to make adjustments in the proposed  
22 budget curtailments necessary to ensure and enhance the  
23 revenue producing potential of the agency.

24 We see that as a welcome opportunity, and we can --  
25 definitely, we'll work hard to demonstrate how budget

1 constraints on this agency affects the revenue flow to  
2 the State as a whole.

3 What the ultimate result will be, we don't know.

4 That concludes my Executive Officer's report,  
5 other than to one other thing. I did meet with Mr.  
6 Dean Leshar Friday of Leshar Publishing Company, written  
7 each of you, I believe, concerning the lawsuit this  
8 agency has with Contra Costa. The meeting was very  
9 cordial, very lengthy. He was in good health. He sends  
10 his best wishes to all of you.

11 And I gave him a copy of our Delta report.  
12 He seemed to be interested. He assured he he would read  
13 it. I told him the executive summary was all that was  
14 necessary. We arranged that after the lawsuit, the  
15 legal issues with Contra Costa resolve, we will meet  
16 again to discuss matters of importance to him. It went  
17 very well, and I'm pleased by the reception.

18 That concludes my report.

19 CHAIRMAN MC CARTHY: Thank you very much.

20 (Thereupon, the meeting was adjourned  
21 at 11:03 a.m.)

22 --o0o--  
23  
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