

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ORIGINAL

1020 N STREET
ROOM 102
SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 3, 1995

2:00 P.M.

Vicki L. Medeiros, C.S.R.
Certified Shorthand Reporter
License No. 7871

A P P E A R A N C E SCOMMISSION MEMBERS PRESENT

Honorable Gray Davis
Lieutenant Governor
Chairman

Dr. Kathleen Connell
State Controller
Commissioner

Mr. Russell S. Gould, represented by
Ms. Theresa Parker
Director of Finance
Commissioner

STAFF PRESENT

Mr. Robert Hight, Executive Officer
Ms. Danille Woern, Executive Secretary
Mr. James Trout, Assistant Executive Officer
Mr. Charles Warren, Assistant Executive Officer
Mr. Jack Rump, Chief Counsel
Mr. Jan Stevens, Deputy Attorney General

PUBLIC SPEAKERS

Curtis Talbott
John Williams

I N D E X

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CHAIRMAN DAVIS: We're calling this meeting of the Lands Commission to order, and the Chair notes that all the Members are present, for the record.

I would like to begin by acknowledging the presence of Linda Molt-Patterson, who is an Examiner of the Coastal Commission as well as Shirley Dunlop, Huntington Beach Councilwoman.

Are you folks speaking to an item here?

There are several people who want to speak, but first I'd like a motion to approve the minutes of the last meeting?

COMMISSIONER CONNELL: I move that we approve the minutes.

COMMISSIONER PARKER: Second.

CHAIRMAN DAVIS: So, ordered. That will be a unanimous vote.

On the Consent Calendar there are several people that want to speak on Item 15. Without objection, I would like to pull Item 15 off of the Consent Calendar and put it last on our agenda, which is after the Consent Calendar and Regular Item 58, and if there are no objections, that is the way we will proceed.

COMMISSIONER PARKER: On the motion on the Consent

1 Calendar, absent Item 15.

2 EXECUTIVE OFFICER HIGHT: Mr. Chairman, for the
3 record, Item C32, 39, 53, 59, 57 and C8 are off the agenda,
4 so with the motion, with that clarification of the motion
5 would be appropriate.

6 COMMISSIONER PARKER: Theresa has moved the
7 Consent Calendar minus the items that the Executive Officer
8 just indicated.

9 COMMISSIONER CONNELL: I'll second.

10 CHAIRMAN DAVIS: Very good. The motion passes
11 unanimately.

12 That brings us to Item 58. We have at least two
13 people who have indicated that they want to speak. Before
14 we get to them, I would like the Executive Officer to give
15 us the report.

16 As I recall, there was a concern that the Board
17 Members expressed last time that had to do with the validity
18 of the variable royalty formula that was before us in the
19 papers that were presented prior to the meeting that we have
20 an Attorney General opinion recommending that we have two
21 independent consultants, and if you would elaborate on that.

22 EXECUTIVE OFFICER HIGHT: Yes, Mr. Chairman, you
23 have done a very nice job of summarizing it.

24 CHAIRMAN DAVIS: Fine. Save your salary.

25 EXECUTIVE OFFICER HIGHT: At your request, we have

1 two reports, one from Dr. Robert Deacon, Professor of
2 Economics at the University of California at Santa Barbara,
3 and one from Peter Ashton, Cambridge, Massachusetts. Both
4 of these individuals have reviewed the Commission's
5 proposal, and I think rather than trying to summarize what
6 they say, if you would have both of them give a brief
7 presentation, we'll start with Dr. Deacon.

8 CHAIRMAN DAVIS: Fine. Thank you, doctor.

9 Take that chair on the end.

10 DR. DEACON: Thank you.

11 I have reviewed the analysis completed by the
12 State Lands Commission staff as well as the royalty
13 agreement. I also listened to the tape of the last
14 Commission meeting to find out what the issues were
15 concerned by staff, and I'll direct my analysis and remarks
16 to those issues.

17 The principal conclusions on my analysis I have
18 actually put on a slide, and I would like to turn this on.
19 I will not take too long.

20 Basically, I have five points there. The first is
21 just a general observation.

22 I think it's not terribly profound, perhaps, but
23 it's important to keep in mind nonetheless, and that is the
24 idea that a higher flat royalty rate would not necessarily
25 translate into larger State revenues. Similarly, a lower

1 royalty rate would not necessarily translate in lower
2 revenues.

3 The basic reason is that the State's revenue is a
4 product, and royalty rate and the rate of output versus
5 total production, and the royalty rates are certainly
6 well-known to depress production, and raised high enough it
7 is possible for the royalty rate to actually reduce output
8 and reduce total revenues.

9 Again, I don't want to dwell on that, but it is
10 important to keep in mind.

11 I also just tried to analyze and determine what
12 the best royalty schedule would look like in the State's
13 point of view, and by best, I mean what royalty schedule
14 would match State revenue taking into account the fact that
15 any royalty is going to depress production to some extent.

16 The analysis is contained in the report that I
17 submitted. Very briefly, I found that the best royalty rate
18 in the State's point of view would have two features.

19 First of all, the royalty rate would increase as
20 price increases. So, you have a higher percentage and
21 higher prices.

22 Regarding the bottom end of the range, the royalty
23 rate would approach zero as the price falls to the
24 break-even level for whatever particular field you are
25 looking at.

1 The intuition behind that basically is that
2 production is most price-sensitive around the break-even
3 point. So, if you have a large royalty around the
4 break-even point, you are going to reduce production perhaps
5 dramatically in some. That's the rationale for it.

6 As far as the proposal is concerned, the proposal
7 does satisfy those features, or it has those two features.
8 To that extent, it is not consummate with what would be best
9 from the State's point of view.

10 I'd have to point out that there are literally
11 millions of royalty schedules that would satisfy these two
12 criteria. I did not have the information at the time
13 available to try and determine which one of those would be
14 best. This is something, of course, that the State Lands
15 Commission staff is working on extensively.

16 Third, I looked at available petroleum price
17 forecasts, and in my opinion, they are highly unreliable. I
18 don't think they are sufficiently reliable to really
19 usefully inform the Commission as to this policy or any
20 other.

21 I have a figure in the report that gives some
22 evidence of that, and I would be happy to put a slide up,
23 but petroleum price forecasting is probably less successful
24 than forecasting earthquakes.

25 What I did do was to look at the history of real

1 inflation adjusted petroleum prices from the Huntington
2 Beach field over the period that I felt was relevant for
3 this decision. I picked the period from March 1986 to
4 roughly the present.

5 I adjusted those prices to account for inflation
6 and expressed them in 1995 dollars. I just looked at the
7 probability distribution for different prices and said,
8 okay, what would happen if that probability distribution
9 remained stable between now and the year 2008.

10 So, I'm not claiming that the price sequence is
11 going to fall just the way that it did in the past, but just
12 the probability that the \$15 a barrel price is the same as
13 it was before the entire distribution, and based on that
14 assumption of more or less stable petroleum market regimes,
15 I then calculated the probability of the State's achieving
16 different royalty rates, and I found the most likely royalty
17 rate the one that is expected to receive on average is
18 between 14.9 and 15.5 percent on a sliding scale.

19 The present flat rate is 15.5 percent rate applied
20 to all production. I found that there would be a 17.3
21 percent probability of experiencing rates below 15.5 percent
22 and roughly 77 to 83 percent probability of rates above 15.5
23 percent.

24 I think looking at the average royalty rate is not
25 the best statistic to really focus on here, because lower

1 royalty rates apply to lower price regimes. Higher royalty
2 rates apply to higher price regimes.

3 You are better off, I think, looking at the
4 royalty revenue per barrel. In other words, take a price
5 you have a certain probability associated with it and figure
6 out the round rate at that price, multiply the two together,
7 and then you then get a royalty revenue per barrel, and you
8 get the distribution for that as well.

9 When I did that I found that the average royalty
10 revenue per barrel under the sliding scale was between \$2.51
11 and \$2.67 per barrel, as compared to the current \$2.47 per
12 barrel. If you continue the current regime, you'd get an
13 average revenue per barrel \$2.47, assuming again that this
14 distribution of prices remains stable.

15 There is a spread of these numbers and that
16 results from another feature of the royalty proposal that
17 the State would market its own crude, and on a high end of
18 that rate, that \$2.67 figure assumes that the State gets 45
19 cents per barrel more marketing its own crude than it would
20 under the current regime in which it doesn't market its own.
21 That 45-cent difference was based on State Lands Commission
22 analysis that I looked at.

23 Finally, just to reiterate what I think the
24 important point is that the effect of the royalty schedule,
25 the policy in the State revenues will come largely from its

1 effect on output and not on price. If you look at the
2 royalty revenue per barrel on the sliding scale, it seems to
3 be a little bit higher than what you get in the current flat
4 rate, but they are both very similar.

5 The real dramatic difference would be on the
6 output side of things, and the notion that the sliding scale
7 mitigates the possibility of premature abandonment and
8 allows a large volume of production, and the staff analysis
9 indicates that the volume of production would increase by 28
10 million barrels under the sliding scale.

11 CHAIRMAN DAVIS: Let me ask you a question.

12 Clearly, if we market our own crude, which I
13 gather is available if we reach any accommodation with this
14 owner, that will generate savings for the State.

15 Did you compare apples to apples to factor that
16 out?

17 DR. DEACON: My understanding is that the current
18 royalty agreement doesn't do that.

19 It's just basic royalty on the --

20 CHAIRMAN DAVIS: Assuming we could achieve an
21 agreement with Shell, any change in the formula to which we
22 agree assuming that would give us that option?

23 DR. DEACON: If you could do that separately.

24 In that case, the relevant point to compare would
25 be the \$2.47 versus the \$2.51. Both of those are basically

1 the same price distribution.

2 You could basically bump the \$2.47 up by 16 cents
3 per barrel and compare that to \$2.67. They both
4 basically -- they still wind up coming out very, very close,
5 and still, I guess, in that case the sliding scale would be
6 about four cents ahead flat rate.

7 CHAIRMAN DAVIS: Were we planning to do that?

8 EXECUTIVE OFFICER HIGHT: Yes.

9 COMMISSIONER CONNELL: Mr. Chair, I have a
10 question.

11 I found both of the studies that were performed
12 very helpful in answering questions that were raised in the
13 last session. A question that I have, Doctor, in
14 relationship to your study, in reading your study, in your
15 conclusion, I feel comfort in, and I happen to agree that
16 the sliding scale does provide the incentive.

17 My only concern is at what point does it not
18 provide adequate incentive to go that extra mile to get the
19 extra last barrel of production? Do we see a -- does
20 incentive occur at any point on the sliding scale?

21 DR. DEACON: You would, even under the best
22 possible scheme from the State's point of view -- we had
23 actually talked about some sliding scale, there would still
24 be a disincentive for production and a disincentive that
25 grows as the price grows.

1 As long as you are basically collecting tax on the
2 output, which is the absolute, amounts to, I don't know if
3 there's any way to avoid that.

4 COMMISSIONER CONNELL: Do you have any sense of
5 when that disincentive sets in?

6 DR. DEACON: What this scheme is trying to do, I
7 think, is trying to keep it away from the break-even point,
8 because that's where it's really most severe.

9 At that point the field shuts down and no one gets
10 anything. As to exactly what level it becomes most severe,
11 I don't really know.

12 CHAIRMAN DAVIS: Theresa.

13 COMMISSIONER PARKER: Depending on and how many
14 opportunities they have elsewhere, and what is happening
15 generally in the world market.

16 CHAIRMAN DAVIS: Any other questions?

17 Thank you, Doctor. We appreciate the report.

18 EXECUTIVE OFFICER HIGHT: Next is Peter Ashton.

19 MR. ASHTON: Thank you.

20 I would like to start by saying I enjoyed the
21 conclusions that Dr. Deacon put up there, and with one
22 possible exception, I agree with them all, and I think my
23 analysis, although it comes from the issue a little bit
24 differently in the analysis that I undertook, basically
25 takes a slightly different approach, I think we've come to

1 the same conclusion, and I think really basically for the
2 same reasons.

3 My analysis or the objective of my analysis was
4 obviously to evaluate this proposed sliding scale. I would
5 like to point out that a lot of my interest in this comes
6 from the fact that I believe this is a very innovative
7 approach to trying to align the interests of a property
8 owner or an oil field owner and oil producing entity.

9 I am hopeful that these types of innovative
10 approaches can be taken on a more wide spread basis. Pardon
11 my interest in all of this.

12 The issue in my mind is that if you look at a
13 royalty that is based on a sliding scale, in other words,
14 it's not varying to the price of oil to truly determine the
15 economic benefit or economic effect, you need to get some
16 idea of what you expect the future oil prices to be.

17 You heard Dr. Deacon already say that that is a
18 very difficult proposition to deal with. Although my
19 approach basically looks at future oil price forecasts, I am
20 not sitting here as an economist and advocating any of those
21 forecasts as being inherently reliable or a definitive
22 statement of what oil prices are going to be even next week
23 or next year.

24 But nevertheless there really are only two
25 approaches. One is to look at the forecast of future oil

1 prices, and the other is to basically look at what the oil
2 prices have been in the past.

3 I'll tell you, because I've done some oil price
4 forecasting, the way most oil price forecasters work in some
5 sense, at least from an economic as opposed to a political
6 standpoint, is they tend to look at what past history has
7 taught us. So, they are still tied somewhat.

8 Nevertheless, what I did was I tried to collect
9 information on oil price forecast. The most important issue
10 being that I had to find for my analysis because of the
11 nature, because of the asymmetric nature of the sliding
12 scale, the fact that it drops more rapidly as oil prices
13 fall than it increases as oil prices go up.

14 It was important to get forecasts that basically
15 gave us a distribution of expected prices in the future. I
16 point this out, and take pride in my report, that just
17 having a best estimate of a future oil price could give you
18 misleading results about what the expected royalty and
19 expected royalty per barrel could be.

20 What I tried to do basically was look at oil price
21 forecasts that gave a distribution of expected prices, and
22 admittedly with some of the forecasts, I had to kind of make
23 some assumptions from a statistical standpoint of what the
24 distributions were, and I have laid those all out in my
25 report.

1 Basically, I have looked at three different
2 forecasts from the Department of Energy: one from the
3 Society of Petroleum Engineers; one from a set of economic
4 and trade groups; another one from Neeman Brothers
5 Investment Banking firms; and then I also generated my own
6 distribution, which is based on the average distributions of
7 these forecasts.

8 In doing that I calculated what I see from these
9 distributions to be the expected real growth rates. Again,
10 these are all inflation adjusted as the proposed price
11 adjustment and the sliding scale.

12 I see that there is something of a range of
13 expected real growth rates in oil prices from a negative 1.6
14 percent to a best estimate of a positive 2.5 percent. These
15 are summarized on page 7 of the report.

16 What I then did was to apply what was then, back
17 early March, I believe, the current price, then \$14.45. My
18 understanding now is it's up to almost \$16 a barrel, as a
19 basis for projecting future oil prices using these
20 distributions and then, therefore, the future royalties on a
21 per barrel basis.

22 I did that using each of the different forecasts
23 and calculated basically a per barrel revenue using and
24 applying the sliding scale royalty.

25 Then I obtained data from the State Lands

1 Commission staff showing me what the best estimate that they
2 had on the incremental production in the fields on an annual
3 basis and simply projected these price forecasts and the
4 royalty forecasts and multiplied them by the incremental
5 production to give me the total forecasted revenues that the
6 State could expect to receive by this proposal.

7 Because, as you heard Dr. Deacon say, that the
8 real thing that drives this economically is the incremental
9 and additional production of this revenue coming forth.

10 Basically, I reached three conclusions from this
11 analysis. The first is that the average expected royalty
12 rate using the average of the various price forecast
13 distributions would be 16.4 percent of incremental revenue
14 that could be gained by the State would be \$71 million.

15 Looking at the range of forecasts that we looked
16 at, the range is a somewhat broader range than Dr. Deacon
17 presented, because, again, we are dealing with the future
18 price forecasts, but the range is in the order of 12 to 17
19 percent in expected royalty, and the revenue range ranges
20 from a low of an additional \$44 million to a high of \$78
21 million.

22 Based on that, I see this as being a very good
23 deal for the State that leads to both a higher royalty
24 revenue per barrel, that is an appropriate measure, as well
25 as additional production and, therefore, more total revenue

1 to the State.

2 Two other things that I briefly mentioned in the
3 report that I did try to test for in terms of some of the
4 provisions of the proposal was, one, I did try to test the
5 sensitivity of the sliding scale by looking at something of
6 a more symmetrical sliding scale to see what applying the
7 price forecast, what kind of an impact that would have on
8 the expected revenue for the State, and I found that
9 actually it was a very minimal impact and that gets at a
10 little bit of your question in terms of sort of what the
11 optimal sliding scale is.

12 I have no way of knowing whether this is exactly
13 the optimum, but it shows that we are probably not too far
14 away from it.

15 Then finally, I also tested whether the use of a
16 general measure of an adjustment for inflation, a general
17 producing price index makes sense as a means for inflating
18 crude prices, which is what is in this proposal.

19 I found that absolutely it makes sense as long as
20 if you have an expectation that there would be some real
21 price break in oil prices over time, and that clearly was
22 the case based on both my experience as an economist in
23 terms of what people are looking at these days in terms of
24 oil prices as well as what the forecasts themselves that we
25 looked at basically showed.

1 CHAIRMAN DAVIS: I don't have any questions.

2 Good analysis, and I appreciate the work that you
3 put into it.

4 COMMISSIONER CONNELL: I am going to say that I
5 particularly enjoyed the section on the sensitivity
6 analysis, because that's really what we are trying to do is
7 figure if we have a way of predicting optimum scales.

8 It becomes a bit more difficult when you have as
9 many variables as you do in the model.

10 I thought that was an interesting exercise, and I
11 think it confirmed in my mind that, given what we can
12 possibly know, the probabilities of where we are, that we
13 probably have the best royalty schedule that we can get to
14 encourage production and ensure that the State is getting
15 adequate return on its investment, so to speak.

16 I appreciated your report. Thank you.

17 COMMISSIONER PARKER: I just want to add one
18 further comment to the one's that have been made echoing
19 that I appreciate both of your reports.

20 But I would also add my appreciation from the
21 standpoint of having these reports done so quickly and at
22 what I understand was at a minimum cost to the State Lands
23 Commission.

24 EXECUTIVE OFFICER HIGHT: Correct. They both
25 volunteered their time for this project.

1 I think they are to be commended for doing that.

2 COMMISSIONER CONNELL: I certainly hope you get
3 this in an academic journal so you can get proper
4 promotional opportunities at the academic institutions,
5 since you are affiliated with.

6 Having been a former academic, I realize how
7 important this valuable research can be in the non-monetary
8 sense.

9 MR. ASHTON: You understand the non-monetary sense
10 very well.

11 CHAIRMAN DAVIS: Thank you again.

12 Can we hear from the Attorney General now?

13 MR. STEVENS: We have reviewed the transaction.

14 There is a letter in your file, Mr. Hagger, the
15 author of the letter is here for questions, but we certainly
16 find that it's in the best interest of the State, it's been
17 clearly demonstrated that the sliding scale is advantageous,
18 and secondly, even lower rates on some oil are better than
19 no royalties on no oil or higher royalties on no oil.

20 So, we definitely approve of the transaction.

21 CHAIRMAN DAVIS: And do you recommend it, and I
22 gather based on the letter?

23 MR. STEVENS: We find that there is substantial
24 evidence to indicate to support the finding that this is in
25 the State's best interest.

1 We feel that it is.

2 EXECUTIVE OFFICER HIGHT: Mr. Chairman, I don't
3 know at this point whether Shell cared to say anything or
4 not.

5 I think that at this point the staff would
6 recommend the Commission approve the item as presented.

7 COMMISSIONER CONNELL: I move the staff
8 recommendation.

9 COMMISSIONER PARKER: Second.

10 CHAIRMAN DAVIS: I support it. It's unanimous.

11 I do want to commend staff and the two experts
12 that took their time to assure us that this departure from
13 the norm was, in fact, in the State's best interest, and to
14 the extent that you can determine anything that's going to
15 occur in the future with any reasonable degree of assurance,
16 you have done that.

17 While this is an exception for that case of
18 abandonment on the horizon, it may be a better way to
19 proceed.

20 EXECUTIVE OFFICER HIGHT: We will be facing this
21 issue just because of the nature of our fields sometime in
22 the future.

23 So, we have learned a lot from this process.

24 CHAIRMAN DAVIS: Good. That is adopted
25 unanimously.

1 The only other item before us is the item that we
2 pulled off of the Consent Calendar to allow the people here
3 to speak to it.

4 EXECUTIVE OFFICER HIGHT: This is an item to
5 approve an application by Tuscarora Gas Transmission Company
6 to cross various sovereign and lieu lands in Northern
7 California.

8 I think it would be best served to hear first from
9 Mr. John Williams, who is with the pipeline company.

10 CHAIRMAN DAVIS: Mr. Williams, are you here and
11 would you come forward to speak?

12 EXECUTIVE OFFICER HIGHT: I think I made a name
13 mistake, Mr. Chairman.

14 I thought I had a card from the pipeline
15 applicant.

16 Mr. Williams, you're not --

17 MR. WILLIAMS: No, sir, I am not.

18 EXECUTIVE OFFICER HIGHT: I apologize.

19 CHAIRMAN DAVIS: Is there someone representing the
20 Applicant who can speak to this issue?

21 The staff had this matter on Consent, which
22 presumes staff support, but since people are going to speak
23 in opposition to it, if you would like to briefly explain to
24 the Commission Members the merits of this proposal, you are
25 invited to do that.

1 You don't have to.

2 EXECUTIVE OFFICER HIGHT: Mr. Chairman, let's go
3 to Mr. Talbott.

4 This is a four-inch natural gas pipeline that runs
5 across Northern California. The Commission's involvement
6 here is really very limited.

7 It crosses the Pit River in five different places
8 and then crosses lieu lands in eight places in Lassen
9 County. What we have are rural snips of this pipeline, and
10 as I understand it, and I will not speak for Mr. Talbott, he
11 would like us to somehow move the line, and our ability to
12 do that is extremely limited.

13 Other than that, I do not know what Mr. Talbott's
14 concerns are. So, maybe we should go there first.

15 CHAIRMAN DAVIS: All right.

16 Is Mr. Talbott here?

17 Would you please come address the Commission.

18 MR. TALBOTT: The first thing I'd like to say is
19 I'm not in opposition.

20 I had to check that on the application to speak
21 box, but I'm all for the project.

22 I'm in opposition, I guess, to the routing that
23 has been promoted. I see you have a copy.

24 I submitted a map along with my comments to the
25 Commission for review. This kind of simplifies things

1 pretty well.

2 My basic opposition is that the pipeline has been
3 routed down on my private land, which is basically untouched
4 native lands that are adjacent to the National Wildlife
5 Refuge, instead of on the west side of the road, which would
6 be to the city-owned and county-owned properties, which
7 are -- well, right there is a landfill, there's a garbage
8 dump, there is a sewer plant.

9 That's basically all that's over there. The land
10 is not what I'd call valuable, no commercial value other
11 than to the State.

12 So, Tuscarora has been very cooperative in talking
13 to me about this, but we have not been able to come to any
14 kind of satisfactory arrangement. One of the things we wish
15 to do is run the pipeline not only across but down my side
16 of the road, but across two of the only pastures that I have
17 where they cross the Pit River.

18 My suggested alternate course is basically 50 feet
19 away on the other side of the road and cross the same two
20 forks of the Pit River and crosses again on public land,
21 which are not objected to.

22 The Public Works Commissioner, and Scott Kessler,
23 the landsman out, there both for the county and the city
24 have no objections to running the pipe through their
25 property.

1 So, that's where we are at. I have been very
2 cooperative with them in letting them come on my land,
3 letting them make their investigations.

4 I still feel that is a better route. I am
5 certainly willing to sit down and talk with them if they are
6 willing to talk about not crossing my pastures and take up
7 the issue.

8 I think also a second issue I have is the
9 corridor, the utility corridor is now on the west side of
10 the road, and now moving over to the east side of the road
11 to my private land widens that corridor and gives them to
12 maybe expanding in the future utilities that might want to
13 come through there. So, that's kind of where my comments
14 are coming from.

15 I want to sit down and talk to these people
16 further and hopefully get this thing settled.

17 EXECUTIVE OFFICER HIGHT: Mr. Chairman, it's my
18 understanding from Tuscarora that there will only be a
19 temporary disturbance of Mr. Talbott's property, that during
20 construction there will be a non-use of that area, but once
21 it is completed, the pipeline will be sufficiently buried
22 that will not prevent any type of operations.

23 CHAIRMAN DAVIS: This is actually being taken
24 under -- are there some negotiations going on with the
25 landowner?

1 EXECUTIVE OFFICER HIGHT: They have the ability to
2 take it under eminent domain.

3 Currently they are negotiating.

4 COMMISSIONER CONNELL: What is the cost factor of
5 doing the alternative route or alternative location?

6 You say that it can't be done. Why not?

7 EXECUTIVE OFFICER HIGHT: I'm not saying that it
8 can't be done.

9 I'm saying that the Commission's role here is not
10 to figure out where this line should go but is to approve
11 the crossing.

12 There has been a procedure that has gone forward
13 to develop what the applicant and FERC thought was the most
14 appropriate place for the line, and for the Commission to
15 come in at this point and second-guess --

16 CHAIRMAN DAVIS: What is our role here?

17 Our role is to do what?

18 EXECUTIVE OFFICER HIGHT: To approve the
19 crossings, the five crossings of the river, and the eight
20 crossings of lieu lands, and we find that the staff has
21 found that they are doing this in an environmentally sound
22 manner, and our land is protected in this process.

23 COMMISSIONER PARKER: Bob, if you could also talk
24 a little bit about the land report, the Environmental Impact
25 Report that was done.

1 EXECUTIVE OFFICER HIGHT: Yes.

2 The Environmental Impact Report that was done did
3 not analyze this route and went through the entire review
4 process. It did not analyze Mr. Talbott's suggestion to a
5 level of sufficiently that the Commission would say we'll
6 approve both and let Mr. Talbott and the Applicant decide
7 which way to go.

8 What is before you is the application by Tuscarora
9 for these sites, and any additional change would have to
10 have supplemental environmental documentation done.

11 COMMISSIONER PARKER: I see.

12 Then if the EIR finds some problems with the other
13 side of the road approach --

14 MR. SANDERS: My name is Dwight Sanders. I'm the
15 Chief with the Division of Environmental Planning and
16 Management.

17 My staff was responsible for directing and the
18 preparation for a joint EIR/EIS for the route in its
19 entirety. Even though the Commission has very limited
20 segments under its jurisdiction, we were most efficient to
21 serve as the California lead agency for the purposes of the
22 California Environmental Quality Act.

23 We did so in conjunction with FERC, which is the
24 Federal agency involved.

25 Ironically, this information provided to me this

1 morning, the original routing of the line in this area was
2 on the west side of the county road. In the course of the
3 investigation of that route, problems of archaeological
4 resource nature and geologic nature were discovered, and it
5 was determined to be more prudent to go to the east side of
6 the roadway in question.

7 The portion of the right-of-way analyzed was, in
8 fact, a preferred, was, is called the preferred alternative
9 for Tuscarora. This is a lateral four-inch lateral line off
10 of a 20-inch pipeline that goes through the vast area of
11 Northern California.

12 So, from the perspective of route planning, there
13 were some environmental difficulties determined to exist on
14 the west side of the county road, and as such, the preferred
15 routing was staged as it was discussed in the environmental
16 document.

17 COMMISSIONER PARKER: I presume that the utility
18 lines that are there were placed at some point in time prior
19 to us looking at the environmental impacts?

20 MR. SANDERS: I frankly am not diverse with the
21 utility corridor that's mentioned by Mr. Talbott, but
22 certainly this alignment was based on factors other than the
23 existence of the utility corridor, and this is a buried
24 pipeline in deference to any other type of overhead utility
25 that may or not be present in the area.

1 There are people here who can speak to that issue,
2 if necessary, but I do not have that information as to what
3 type of utilities are present in that particular corridor.

4 COMMISSIONER PARKER: If we were going to look at
5 any other route within the State Lands purview for the
6 crossing of our lands, there would have to be a new
7 Environmental Impact Report.

8 MR. SANDERS: It would have to be supplemented,
9 because we have analyzed the particular corridor, and that
10 has been closed.

11 There is some latitude within that corridor to
12 move a crossing, but any crossing that's proposed outside of
13 that corridor would need to be supplement.

14 Let me add another point in this regard, the
15 crossings of the Pit River are going to be directionally
16 drilled. In other words, they are going to go underneath
17 the river bed. Although, the alternative for trenching was
18 also discussed.

19 That particular procedure demands a type of
20 alignment that would provide enough latitude for the
21 directional drilling equipment to operate properly. Part of
22 the configuration right-of-way across Mr. Talbott's upper
23 segment of land in question, through which the line would
24 go, was determined on the basis of the need to directionally
25 drill.

1 Frankly, directionally drilling is the
2 environmentally preferred method of crossing waterways than
3 trenching, and it's for that reason that it was the
4 preferred alternative discussed to install the pipeline in
5 this location.

6 So there are, outside of another crossing having
7 to be addressed separately, it may not be feasible in
8 another alternative location to do the directional drilling
9 that is preferable from an environmental standpoint.

10 COMMISSIONER CONNELL: But we don't have a full
11 EIR on the alternatives, is what you're saying?

12 MR. SANDERS: The alternative suggested is a very
13 small segment of the entirety of the pipeline.

14 It is merely a portion of the lateral. No. That
15 particular alignment was not -- it was -- Mr. Talbott's
16 comments were responded to in the Environmental Impact
17 Report indicating why that other alternative might not be
18 preferable from an environmental standpoint.

19 But it was not analyzed to the level of perfect
20 degree necessary for FERC, which is really the agency that
21 has the primary ability to change the routing in general to
22 act.

23 COMMISSIONER CONNELL: What would be required to
24 do that kind of assessment?

25 MR. SANDERS: One would have to do a supplement to

1 the document analyzing the environmental impacts to the same
2 level of details as to the preferred routing.

3 It would not be an extensive analysis, but there
4 may be technical factors that maybe involved in the
5 feasibility that are different from environmental impacts.

6 COMMISSIONER CONNELL: Did you want to say
7 something, Mr. Talbott?

8 The Chair was out of the room and you indicated
9 that you wanted to respond.

10 MR. TALBOTT: Yes.

11 The first comment about the need to go over the
12 whole issues again and redo, I wonder about, because at the
13 time that they were scoping my property, and I gave them
14 permission to go on thinking that they would come to the
15 logical conclusion, which is to put it on the other side of
16 the road, they were talking about covering a swath of 500
17 yards wide.

18 We're talking about a 50-yard wide easement for
19 construction and 50-foot easement for construction and a
20 30-foot wide easement for permanent pipeline. So, I have to
21 believe that they did their 500 yards swath through there.

22 They certainly took into account both sides of the
23 road, so I have to believe that most of the study that's
24 been done probably covered the route I'm talking about, 50
25 feet on the other side of the road is all I'm talking about.

1 The other issue was there was an alternative
2 route, they originally were going to use a small portion of
3 my land, and my understanding was the reason that they
4 weren't able to do that is because they were going right
5 through the middle of the Wildlife Refuge and that was one
6 of the biggest objections, and they have to change the route
7 because of that.

8 I'm not standing here saying I'm not going to
9 submit to this, but I just feel like running a corridor,
10 widening a corridor on private lands when I feel there is an
11 alternative, and I have talked to well drillers in the area.
12 I've talked to people who have done excavation, and they
13 tell me directional drilling under the Pit River or anywhere
14 along the line is going to be about the same.

15 There are areas I can see -- you drive along the
16 river, you can see that they can do basically the same job
17 on the other side of the river as they can on my side.

18 That is my response. I have no data to back it
19 up. I have not been able to get any data from Tuscarora so
20 at least from me there is no technical data that I can
21 provide.

22 CHAIRMAN DAVIS: It may not be possible to answer
23 this question without the supplemental EIR performed.

24 Based on what we now know, are the crossings which
25 are currently envisioned the most environmentally preferable?

1 MR. SANDERS: Within the corridor analyzed, yes.

2 COMMISSIONER CONNELL: You didn't analyze this
3 alternative corridor?

4 MR. SANDERS: That's correct.

5 I cannot speak, and there are people here that can
6 speak to the fact, as to whether Mr. Talbott's alternative,
7 quote, unquote, was within that corridor. It was my
8 understanding that it was not.

9 MR. ABBOTT: Jay Abbott, Resource Management
10 International. We work with the State Lands Commission and
11 the firm that did the Environmental Impact Report and the
12 Environmental Impact Statement under their direction.

13 The document was primarily on a project that went
14 from roughly Klamath Falls all the way down to Reno. So, it
15 was a 140-mile long, 20-inch natural gas pipeline.

16 The issue is that there were three laterals that
17 were also discussed an alternate project about ten miles
18 long, four miles, and in the case of Alturas, about four or
19 five miles long. Those are much smaller, four-inch
20 diameters. They are fairly short.

21 Mr. Talbott lives near the end of the Alturas
22 lateral. The route looked at in that area was looked at
23 fairly generally.

24 In other words, there are some differences in the
25 environmental issues up there, but mostly they are about the

1 same. My response to his letter indicated that there is not
2 a substantial advantage or disadvantage to the route that he
3 is proposing.

4 It's a matter of the mitigation measures in the
5 document that are so strong that the route that is currently
6 proposed would be mitigated to the level of less significant
7 from the environmental standpoint, the burial issues, the
8 preparation of lands, reclamation of lands and all these
9 factors would mitigate the environmental impacts to a very
10 insignificant level since the act of these mitigation
11 measures were employed.

12 So that when this route was repropoed on whom
13 that route would be aligned are not here at the moment to
14 discuss that, the County of Modoc, the City of Alturas and
15 possibly some of the private landowners are not here to
16 speak. Whether or not a supplemental EIR would be required
17 is a matter of some conjecture right now.

18 The environmental issues are very similar in that
19 whole area. I wouldn't want to predispose on that from a
20 professional standpoint until we looked at that a little
21 more carefully.

22 There may be a way that Tuscarora and Mr. Talbott
23 could work together on a reduction of some of his concerns
24 without increasing any environmental impacts simply by the
25 nature of the document.

1 We are able to mitigate those environmental
2 impacts to less than a significant level in this whole area,
3 so, I'm not sure if it is black and white to say that the
4 supplement would be required if there were a change in the
5 route in this area.

6 FERC procedures, Federal Energy Regulatory
7 Commission, procedures allow for minor shifts in the main
8 line, the 20-inch main line, which is much bigger and has a
9 much broader ditch and a much broader land impact without
10 having a supplement to the EIR.

11 I would think in this case that we have found that
12 the environmental impacts are very similar in this whole
13 area, and there would be a way to work with the landowner
14 and the --

15 CHAIRMAN DAVIS: Are there any discussions between
16 the Applicants and landowner?

17 MR. SANDERS: My understanding is that it is
18 ongoing and continual and efforts are open for additional
19 discussions,

20 MR. TALBOTT: The problem is that the only thing
21 that ever gets fed back to me is we could put it deeper.

22 It doesn't address the issue of the fact that they
23 are going to come right out in the middle part of the most
24 valuable part of my land, my pastures. That's about the
25 only issue that they have been able to offer, and the deeper

1 doesn't address some of my concerns I have not only about
2 the wildlife but for future plans that I have to put an
3 irrigation system and I want to be able to dig down.

4 CHAIRMAN DAVIS: They have to come to terms with
5 you for the value of your property that they would be taking
6 an easement, and I have a feeling that they have to get, and
7 I do not know how long eminent domain --

8 EXECUTIVE OFFICER HIGHT: The pipeline company has
9 an authority for eminent domain, and depending on the
10 procedure they used, it could happen in a matter of three or
11 four months.

12 COMMISSIONER CONNELL: Can't we encourage this
13 discussion to occur between the Applicants and the landowner
14 here to scope out what potential there is for an alternative
15 route?

16 I am concerned that you have raised some serious
17 concerns, and I guess philosophically we try and avoid using
18 personal property if we can find public rights-of-way.

19 This is just the way I happen to view these
20 things, and I'd like to get a greater sense of whether we
21 can accommodate some of your concerns and still meet the
22 Applicants desire to move forward.

23 CHAIRMAN DAVIS: Why don't we hear from the
24 Applicant before we respond to any concerns.

25 MR. GALBRAITH: My name is Gregory Galbraith. I'm

1 Project Manager for Tuscarora Gas Transmission.

2 We have been -- I guess what I would like to say
3 is two things up front. Of course, given enough dollars and
4 time you could construct a pipeline anywhere, but the
5 alternative of Mr. Talbott is doable from an engineering
6 standpoint.

7 We have invested quite a lot of time in the
8 environmental report, a lot of time and energy and dollars,
9 and we feel the route is without a doubt the best route from
10 the engineering and construction standpoint.

11 We have some constraints in there that must be
12 dealt with. We have two river crossings and a railroad
13 crossing that we have to put the pipeline underneath, and
14 the river crossings, as this gentleman said, the river
15 crossings are scheduled for directional drill.

16 These crossings will require additional work
17 space. They are a different technology, and we'd like to
18 have straight runs to deal with these constraints.

19 The way our route is laid out currently is the
20 best construction solution to that particular problem.

21 The other thing we want to avoid, of course, is
22 there are a couple of rocks beds out there that we have had
23 to move downhill on Mr. Talbott's property to avoid
24 trenching through rock. Those are the main reasons why we
25 have elected to stay with the route and try our best to try

1 to negotiate a solution with Mr. Talbott.

2 We have tried to address his concerns, and he has
3 mentioned several, and we have offered to go to any lengths
4 really to try to come to terms and some agreement. We have
5 not been successful.

6 I'd like to state right here that we are willing
7 to go to any length at this point in time to resolve this.

8 I would like to -- I must say at this point we are
9 under an extremely tight schedule. We have committed to our
10 customers to serve gas by November first of this year.

11 Since the project conception, the schedule has
12 been very tight, and we have conducted ourselves accordingly
13 in environmental review to meet this 1995 calendar
14 construction season. That is critical to us.

15 To delay even a month pushes us out of the
16 construction season and into another year.

17 I would like to continue to and Tuscarora will
18 continue to discuss solutions with Mr. Talbott.

19 CHAIRMAN DAVIS: You have to come to terms with
20 him or go eminent domain, and that would probably cause you
21 to miss the construction season.

22 MR. TALBOTT: There is an issue here that I don't
23 know -- we are talking about the whole project here.

24 I am sure Tuscarora is aware that the City of
25 Alturas has not given them a contract for the gas line. At

1 this point in time the City has not even voted for this
2 thing.

3 There has been a deposit made that's refundable.
4 It is a big issue in town with all the folks. It looks like
5 they are going to have a problem meeting the 500 requirement
6 that was part of their contract.

7 I understand Tuscarora has kind of improved the
8 contract to that degree, but one of the things that it
9 really hinges on, even the need for this pipe, is there is a
10 vote coming up for a prison supposedly inside the city
11 limits now which would be a new construction that would
12 probably give an opportunity to get some gas usage up to the
13 kind of quantities that would be required even to make this
14 pipeline feasible.

15 What I have been wondering about all along was
16 what would be the problem of not running the lateral at this
17 time, hanging onto the pipe and waiting for such time as we
18 actually have a contract and really the need the place for
19 Alturas to have this gas.

20 I would say there is a very strong chance that
21 this may not even be approved. Maybe the pipe should be
22 there and waiting for them in the future. That certainly
23 makes sense.

24 But my remark might be that maybe we can stub it
25 off there at the main line, four miles down from my place,

1 and let it wait until it is resolved. I don't know if this
2 fits this argument or not.

3 MR. GALBRAITH: Two things, first, I'd like to say
4 we have been working with the Alturas City Council quite
5 extensively, and I am not familiar with those particular
6 negotiations.

7 We have offered to work a deal with those folks to
8 as the load comes up, ramp up.

9 We anticipate that we will have the service
10 agreement with those folks by the time they start
11 construction. It is my understanding that we are close on
12 that.

13 CHAIRMAN DAVIS: When do you need if we don't give
14 you approval today?

15 When are you planning to actually begin
16 construction?

17 MR. GALBRAITH: We plan to start construction mid
18 June, and that's on the mainline.

19 EXECUTIVE OFFICER HIGHT: When on this segment?

20 MR. GALBRAITH: On this segment, in September.

21 The laterals we will do pretty much right around
22 the first of September.

23 MR. ABBOTT: There are problems with constraints
24 on the construction of the project that relate to seasonal
25 activities, the Fall consequence that are important from the

1 environmental standpoint that the project move ahead this
2 summer as opposed to be delayed for a slight bit.

3 That is trying to keep it from being rushed in the
4 last minute and trying to get it finished by the end of this
5 year. So, there are environmental benefits to be
6 considered.

7 COMMISSIONER PARKER: I'm wondering what about
8 given what the consultants have said that there is given our
9 involvement from State Lands standpoint is very small given
10 the broader issues on deciding this, and I'm wondering
11 whether or not there is flexibility in the EIR report for us
12 to essentially take action on our purview within what is the
13 flexibility of the EIR which would allow some movement and
14 that then these further discussions between the gas company
15 and the landowner and then the local communities can
16 function outside of our process.

17 We would be comfortable within our purview and our
18 responsibility of complying with the proposed project.

19 CHAIRMAN DAVIS: I'm not sure I understand.

20 COMMISSIONER PARKER: They are proposing to go
21 through State lands and cross the river in a variety of
22 places, in certain places, but I think there is flexibility
23 within the EIR that that could move to some degree, and I'm
24 just saying that to the extent that they continue their
25 negotiations which might mean some movement.

1 It would still be within what we have the
2 authority to essentially approve given the EIR as it is
3 today.

4 CHAIRMAN DAVIS: But would it encompass the kind
5 of movement that Mr. Talbott is suggesting?

6 EXECUTIVE OFFICER HIGHT: That is the question
7 that at this precise moment we can't clearly answer.

8 Maybe in two minutes we could figure it out.

9 There is another option, we would approve
10 everything except for these two crossings. That would not
11 delay the building of the line, and we can figure out how
12 much flexibility we have and then come back with these two
13 crossings.

14 As I understand these are the only two crossings
15 in that area that you are concerned about.

16 MR. STEVENS: Yes. As I understand it, you have
17 two actions before you, Mr. Chairman.

18 One is to certify the Environmental Impact Report.
19 We haven't participated in your study, but it seems to be
20 extremely general.

21 It seems to cover the impacts involved
22 irrespective of those two crossings.

23 The second is to grant State leases or permits for
24 13 specific parcels and crossing that involve the pipeline.
25 You could certify the EIR and withhold action on all or part

1 of the individual permits that you are being asked to act on
2 here.

3 You could leave out the two, as Mr. Height
4 mentioned.

5 CHAIRMAN DAVIS: If we did that, what benefit
6 would result in these negotiations?

7 EXECUTIVE OFFICER HIGHT: Hopefully, the parties
8 could get together and come to an agreement.

9 I think, being honest, the down side is if the
10 line is moved, then we will hear from other parties who say
11 we don't want it moved there.

12 MR. TALBOTT: I have talked to the folks at the
13 public planning department and utilities that own that
14 property.

15 They have objections to that pipeline going there.

16 EXECUTIVE OFFICER HIGHT: Fish and Wildlife would,
17 we believe, object.

18 COMMISSIONER PARKER: Who do not have the benefit.

19 MR. SANDERS: That's correct.

20 The other affected parties are not similarly
21 present.

22 CHAIRMAN DAVIS: The proposal made by the
23 Executive Director seems to achieve many of our purposes and
24 certifies the EIR and approves most if not all of the permit
25 requests before us.

1 EXECUTIVE OFFICER HIGHT: That would not impinge
2 upon your construction schedule, correct?

3 I assume that you are going north on your
4 construction?

5 MR. GALBRAITH: That's correct.

6 We would like to take care of the mainline first.

7 EXECUTIVE OFFICER HIGHT: You understand that the
8 action that the Commission may take is approve the mainline
9 and approve the lateral up to the two Pit River crossings?

10 CHAIRMAN DAVIS: We are not not approving it.

11 We're just not approving the two river crossings
12 and will revisit this in June.

13 EXECUTIVE OFFICER HIGHT: We would approve up to
14 Mr. Talbott's property, just not beyond his property.

15 MR. SANDERS: The two Pit River crossings are, in
16 fact, on each side of the parcel, one of the major parcels
17 in question.

18 MR. TALBOTT: The situation is that it's private
19 land on both sides of the road up until it approaches right
20 where they cross, across the road from that point the land
21 on the west side becomes all public lands and the lands that
22 I'm talking about.

23 Had there been a landowner on the other side, I
24 wouldn't be standing here today, because one of us is going
25 to have to give in, but in this situation here, the position

1 is that if maybe it goes down the other side of the road,
2 and we can find it in the EIR's study to allow that or some
3 other compromise, then everyone would be happy, and we're
4 not going to affect any other landowners.

5 CHAIRMAN DAVIS: If someone would make that
6 motion, I will support it.

7 COMMISSIONER PARKER: I would be happy to make
8 that motion.

9 EXECUTIVE OFFICER HIGHT: The Commission would
10 authorize the eight crossings on lieu lands in Lassen
11 County, and three of the five crossings on the Pit River,
12 being those crossings that are approved would be the
13 southernmost three crossings of the Pit River.

14 CHAIRMAN DAVIS: And also certify the EIR.

15 EXECUTIVE OFFICER HIGHT: And also certify the
16 EIR, yes.

17 CHAIRMAN DAVIS: Is there anyone in the audience
18 that would speak against that motion?

19 MR. STEVENS: Just for additional clarification, I
20 understand the EIR would go through items one through four
21 before they finish this calendar, and that items five and
22 six relating to the lease would be modified pursuant to Mr.
23 Hight's description.

24 EXECUTIVE OFFICER HIGHT: Mr. Williams.

25 MR. WILLIAMS: My name is John Williams. I am

1 here today for the Steam Fitters Local 342.

2 The action before the Commission today is to
3 certify that the final EIR complies with the State CEQA Act.
4 I would like to raise a question about that final EIR,
5 whether it deals sufficiently with a couple of important
6 issues.

7 The first issue that I would like to speak about
8 briefly is the question of pipeline accidents, explosions
9 and fires. To the degree that this was dealt with in the
10 EIR, it was only discussed in the context of public safety
11 and possible injuries to human health because the pipeline
12 is generally in an isolated lightly populated area that did
13 not seem to be a big concern, but we are concerned that the
14 issue of the pipeline explosion and fires may represent a
15 significant impact to natural resources, also. This was a
16 topic not discussed sufficiently in the EIR.

17 The second issue that I'd like to bring up, the
18 comments that we made regarding the EIR's failure to discuss
19 the status of the proposed Williamson Act withdrawals, we
20 feel this is a significant impact. It did not appear when
21 the document was distributed to the California Department of
22 Food and Agriculture, who has jurisdiction over that topic.

23 The reply and response to that comment was the
24 text had been added to page 5-144, but in the final EIR,
25 there is no page with that notation. At that section,

1 between 5-136 and 5-146, there are merely pictures and maps,
2 so it appears that that concern was not responded to at all.

3 Thank you very much.

4 CHAIRMAN DAVIS: You are here challenging the
5 adequacy of the EIR?

6 MR. WILLIAMS: Yes, sir.

7 CHAIRMAN DAVIS: Have you brought the omission
8 that you brought to our attention to the attention of the
9 Department of Agriculture.

10 MR. WILLIAMS: I talked to Mr. Walker about this
11 hearing.

12 He told me that the time had passed to provide any
13 further written comment on this particular document and that
14 this would be the opportunity for oral comments.

15 CHAIRMAN DAVIS: Is Mr. Walker in our --

16 EXECUTIVE OFFICER HIGHT: Yes. Curt Walker.

17 MR. SANDERS: I think Mr. Chairman's question,
18 however, was not as a comment to the document, but whether
19 Mr. Williams had brought this issue to the Department of
20 Agriculture, and so it was not -- Mr. Walker, of course,
21 feels that the public review period for this document has
22 ended as signified by the preparation of the final EIR.

23 However, Mr. Williams is not constrained at any
24 point in time regarding the Williamson Act to the Department
25 of Agriculture. At least under my understanding, the

1 Department of Conservation has a very prime responsibility
2 with respect to the Williamson Act, and the document was
3 distributed to that Department.

4 MR. ABBOTT: The Williamson Act related to the EIR
5 is significantly is that you submit the document to the
6 Department of Conservation, and the issue they deal with is
7 whether a property that is in the Williamson Act is being
8 chosen simply because it's rural and not because it's the
9 best to put the project.

10 I am not familiar with the issue he is raising.

11 I would admit to an error in the document that the
12 indication that would be referenced in the final EIR was not
13 that. It was a clerical error on our part, and we stand in
14 error there.

15 We did not find that those omissions had any
16 effect on the impact or the mitigation analysis or anything
17 relating to findings of the environmental sufficiency.

18 MR. SANDERS: We stand behind the document and
19 recommend that the Commission find it adequate under the
20 provisions of the California Environmental Quality Act and
21 under the National Environmental Quality Act.

22 CHAIRMAN DAVIS: All right. Are there any
23 questions of this witness?

24 MR. WILLIAMS: Thank you very much for your time.

25 CHAIRMAN DAVIS: Do you have any comments, Jim?

1 MR. STEVENS: No.

2 I was unfamiliar with this transaction in the
3 first place, and certainly with the omissions concern to the
4 extent that one may be a clerical one and involving
5 responses to comments that were made in the course of the
6 process, it seems to me that we might be able to remedy that
7 by supplying those pages of findings now.

8 Certainly I think that record should be before the
9 Commission when it makes the decision on the Environmental
10 Impact Report.

11 As to the Williamson Act issue, I notice that
12 there are now nine other agencies involved in the approval
13 of this pipeline, and I think that the Department of
14 Conservation does have the principal responsibility for the
15 implementation of any Williamson restrictions that are
16 applicable here, and it's not the principal responsibility
17 of this Commission.

18 CHAIRMAN DAVIS: What are you suggesting to be
19 before us before we act?

20 MR. STEVENS: As I understand it, comments,
21 responses to comments that were inadvertently omitted from
22 the final document.

23 MR. ABBOTT: It would essentially be a narrative,
24 if you will.

25 MR. SANDERS: But as Mr. Abbott has indicated, the

1 clerical omission in no way had an influence on the final
2 conclusions reached in the document as to the significance
3 of the impact, the adequacy of the mitigation for those
4 impacts or the level of impact remaining after the
5 application of mitigation.

6 COMMISSIONER PARKER: Can we consider the
7 document, though, as a document corrected, having the
8 clerical errors corrected from the standpoint of consider
9 the document with whatever amendments that would need to be
10 added to correct that?

11 There were pages left out in error.

12 MR. ABBOTT: No.

13 It was a matter of simply not putting the
14 additional information that Mr. Williams offered in the
15 document. The document even without his comment correctly
16 analyzed the impacts and correctly analyzed proposed
17 mitigation measures were defined the lack of significant
18 impacts.

19 COMMISSIONER PARKER: It's really adding an
20 amendment for the report to include those pages, correct?

21 MR. ABBOTT: Yes.

22 CHAIRMAN DAVIS: What we would be including are
23 his comments or the answers to his comments?

24 MR. ABBOTT: The pages that might effect would
25 simply be the State Lands Commission would prefer this

1 correction in the final document.

2 MR. SANDERS: As information rather than to have
3 the response.

4 EXECUTIVE OFFICER HIGHT: It's his comments to the
5 final EIR.

6 His comments actually appear in the EIR. They
7 appear in the comment section.

8 We say, yes, we'll add those comments to the body
9 of the document, and they are simply transferred into the
10 body of document. It's maybe a matter of, I guess, ten or
11 so words.

12 CHAIRMAN DAVIS: Jim, are we to presume the
13 information?

14 MR. STEVENS: Yes, if those comments are part of
15 the entire record, and if the findings adequately cover
16 those comments, which I am told they do, then you are all
17 right.

18 CHAIRMAN DAVIS: If we chose, we are on safe legal
19 ground in adopting and certifying or adopting the motion
20 offered by the Executive Officer?

21 COMMISSIONER PARKER: I renew the motion as stated
22 by Bob.

23 COMMISSIONER MILLER: Just for discussion purposes
24 anyway, I just want to make sure that if we adopt your
25 motion we will keep open the ability to respond to Mr.

1 Talbott's concerns.

2 EXECUTIVE OFFICER HIGHT: Yes.

3 His issue is the pipeline company does not have
4 the ability to build across that area and --

5 COMMISSIONER MILLER: But the Applicant can
6 continue to proceed with the project. They are not going to
7 tell us in 30 days, I'm sorry, and beyond that to change now
8 costs a billion dollars.

9 COMMISSIONER PARKER: They are still going to have
10 to deal with that.

11 CHAIRMAN DAVIS: We are going to have to revisit
12 it in June.

13 EXECUTIVE OFFICER HIGHT: They have to come back
14 to the Commission.

15 I can think of one way they can get around this,
16 and I don't know that I want to make -- put that on the
17 record.

18 COMMISSIONER MILLER: Go ahead.

19 EXECUTIVE OFFICER HIGHT: I'm just trying to tell
20 you that there is a remote possibility they could go around
21 the Commission even with this option, not within this time
22 frame, I don't believe.

23 They can condemn Mr. Talbott's land and run right
24 up to our river.

25 CHAIRMAN DAVIS: They have that option already.

1 COMMISSIONER MILLER: This motion would not have
2 any effect on that.

3 EXECUTIVE OFFICER HIGHT: Right.

4 CHAIRMAN DAVIS: I asked Mr. Williams, and he
5 responded when I asked if there was any public opposition.

6 Is there any further public opposition to this?

7 Hearing none, the secretary would call roll.

8 MS. WOERN: Chairman Davis.

9 CHAIRMAN DAVIS: Aye.

10 MS. WOERN: Mr. Miller.

11 MR. MILLER: Aye.

12 MS. WOERN: Ms. Parker.

13 COMMISSIONER PARKER: Aye.

14 CHAIRMAN DAVIS: I will assume that we will put it
15 on our next meeting and to have updated information.

16 Is there any other matters to come before the
17 Commission?

18 If not, we stand adjourned.

19 (Thereupon the meeting was adjourned at 3:20 p.m.)

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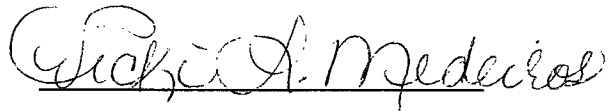
CERTIFICATE OF SHORTHAND REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, 1995.



VICKI L. MEDEIROS

Certified Shorthand Reporter

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