

MEETING
OF THE
CALIFORNIA STATE LANDS COMMISSION

ORIGINAL

LEGISLATIVE OFFICE BUILDING
ROOM 102
1020 N STREET
SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 17, 1995

3:15 P.M.

Nadine J. Parks
Shorthand Reporter

MEMBERS PRESENT

Gray Davis, Lieutenant Governor, Chairman

Kathleen Connell, Ph.D., State Controller
(By Speaker Phone from Los Angeles)

Theresa Parker, Chief Deputy Director of Finance,
for Russell S. Gould, Director of Finance

Staff:

Robert Hight, Esq.
Executive Officer

Jack Rump, Esq.
Chief Counsel

Dwight Sanders
Chief
Division of Environmental Planning & Management

Gary Gregory
Marine Facilities
Long Beach

Bill Morrison
Assistant Executive Officer

Jan Stevens, Esq.
Deputy Attorney General

Sharon Shaw
Executive Secretary

Lynda Smallwood
Calendar Coordinator

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P R O C E E D I N G S

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CHAIRMAN DAVIS: All right. I'm going to gavel this meeting of the Lands Commission to order. The Secretary will note that the Director of Finance is represented, the Lieutenant Governor is here. The Controller is here by the magic of telecommunications.

EXECUTIVE OFFICER HIGHT: Just so we can make sure that the Controller is here --

CHAIRMAN DAVIS: Controller, can you hear us?

(Thereupon, a spokesperson, not readily understood over the speaker phone, explained the Controller would be called to the phone.)

CHAIRMAN DAVIS: Just say we're ready to proceed. I was a little premature that we were all present.

(Thereupon, a technician attempted to make connection with the Controller in Los Angeles, after which the following proceedings were had.)

CHAIRMAN DAVIS: Controller, we're ready to begin the Lands Commission meeting.

COMMISSIONER CONNELL: Yes, we're here.

CHAIRMAN DAVIS: All right. Then, all three members of the Commission are present, and the Secretary will so note.

EXECUTIVE OFFICER HIGHT: Okay. For the record,

1 Mr. Chairman, Item No. C82, C93, C80, C79, and 96 are pulled
2 from the regular agenda.

3 We have a letter that we just now received -- and
4 we're trying to make some sense out of -- on Item C85. And,
5 I guess, who wants to explain what our issue is here?

6 CHAIRMAN DAVIS: Let's remove it from the consent
7 calendar and put it on the regular.

8 EXECUTIVE OFFICER HIGHT: Yes.

9 CHAIRMAN DAVIS: Now, the items that you just
10 pulled off the consent calendar, are they pulled from the
11 meeting entirely or just off of the consent calendar?

12 EXECUTIVE OFFICER HIGHT: Meeting entirely.

13 COMMISSIONER PARKER: I move the consent calendar.

14 CHAIRMAN DAVIS: Hearing no objection, the consent
15 calendar is approved unanimously.

16 MR. RUMP: Mr. Chairman, because of the
17 teleconference today, I would suggest that we have to take a
18 roll call vote.

19 CHAIRMAN DAVIS: A vote, all right. I'd be happy
20 to call for a vote. By the way, can we do this before we
21 approve the minutes?

22 We also need to approve the minutes.

23 COMMISSIONER PARKER: I apologize.

24 CHAIRMAN DAVIS: You withdraw that motion?

25 COMMISSIONER PARKER: Yes.

1 CHAIRMAN DAVIS: And give me a motion to approve
2 the minutes.

3 COMMISSIONER PARKER: Okay.

4 CHAIRMAN DAVIS: There's a motion to approve the
5 minutes.

6 COMMISSIONER CONNELL: I'll second it.

7 CHAIRMAN DAVIS: The Controller seconds it. Do we
8 need a roll call on that?

9 MR. RUMP: We might as well.

10 Chairman Davis?

11 CHAIRMAN DAVIS: Aye.

12 MR. RUMP: Controller Connell?

13 COMMISSIONER CONNELL: That's an aye.

14 MR. RUMP: Chief Deputy Parker?

15 COMMISSIONER PARKER: Aye.

16 CHAIRMAN DAVIS: All right. Passes unanimously.
17 Now, we'll entertain a motion on the consent
18 calendar.

19 COMMISSIONER PARKER: I move we adopt the consent
20 calendar.

21 COMMISSIONER CONNELL: I second it.

22 CHAIRMAN DAVIS: All right. We'll have a roll
23 call vote on the motion that's been made and seconded.

24 MR. RUMP: Chairman Davis?

25 CHAIRMAN DAVIS: Aye.

1 MR. RUMP: Controller Connell?

2 COMMISSIONER CONNELL: Aye.

3 MR. RUMP: Chief Deputy Parker?

4 COMMISSIONER PARKER: Aye.

5 MR. RUMP: It passes, Mr. Chairman.

6 CHAIRMAN DAVIS: All right.

7 That takes us to Item 97.

8 EXECUTIVE OFFICER HIGHT: The room is clearing.

9 (Thereupon, there was a pause in the
10 proceedings while members of the audience
11 exited the hearing room.)

12 CHAIRMAN DAVIS: Would you be kind enough to just
13 keep your voices down so we can continue the meeting?

14 Mr. Hight?

15 EXECUTIVE OFFICER HIGHT: Yes.

16 CHAIRMAN DAVIS: Explain the item before us.

17 EXECUTIVE OFFICER HIGHT: Mr. Chairman, Item 97 is
18 a series of memorandums of understanding with the Bureau of
19 Land Management relating to the Desert Protection Act that
20 Congress passed last year.

21 Included within the desert, the Commission has a
22 total of 338,000 acres of land under its jurisdiction. This
23 is 465 parcels of fee ownership surface land and 185
24 parcels, totaling 70,000 acres of mineral rights.

25 They are shown on these maps. The red areas are--

1 CHAIRMAN DAVIS: Does the Controller have --

2 EXECUTIVE OFFICER HIGHT: Yes. The Controller has
3 a copy of this map.

4 CHAIRMAN DAVIS: All right.

5 COMMISSIONER CONNELL: Yes. Thank you for asking,
6 Mr. Chairman. I have the map.

7 EXECUTIVE OFFICER HIGHT: As you can see, there
8 are a lot of parcels. Each one of those will have to be
9 evaluated as to value in order to make an appropriate
10 exchange with the Federal Government.

11 The Federal Government at the moment has a total
12 of 1,392,000 acres of land scattered throughout California
13 that they have, at the moment, put on the list that is
14 exchangeable with the Commission.

15 The staff of the Commission will go through a very
16 long process in order to categorize these lands as to
17 appropriate use and exchange.

18 Once this process is done, staff will come back to
19 the Commission with categories of various kinds of lands
20 that we would suggest that you take, and we will brief you
21 as this process goes along.

22 It will be probably a four- or five-year process,
23 with parcels being exchanged on a go-forward basis. We'll
24 keep up a running tally, if you will, of the value that we
25 have given up and the value that we have taken.

1 CHAIRMAN DAVIS: Now, I gather that we're going to
2 use the same appraisers that the Department of Interior is?

3 EXECUTIVE OFFICER HIGHT: That's correct.

4 CHAIRMAN DAVIS: And they'll go through the
5 competitive bidding process?

6 EXECUTIVE OFFICER HIGHT: Yes. They will go
7 through the Federal process.

8 CHAIRMAN DAVIS: All right. So, we'll basically
9 use whatever appraisers they select?

10 EXECUTIVE OFFICER HIGHT: Yes.

11 CHAIRMAN DAVIS: And that's consistent with our
12 laws and regulations?

13 EXECUTIVE OFFICER HIGHT: Yes.

14 COMMISSIONER CONNELL: Mr. Chairman, I have a
15 question.

16 CHAIRMAN DAVIS: Sure.

17 COMMISSIONER CONNELL: Is there any priority that
18 we're assigning to the way we select the land; in other
19 words, is the return on -- of the sale of land a senior
20 priority, followed by protection of endangered species? Or
21 how do we rank the various sites that are available to us?

22 EXECUTIVE OFFICER HIGHT: The number one priority
23 will be revenue to the Teachers' Retirement System. Under
24 the trust by which the Commission holds the land, the major
25 issue is revenue production, not wildlife enhancement.

1 So, any land that the Commission takes has to have
2 a value for commercial use, which could include sale to
3 someone as a wildlife habitat. But its primary mission is
4 dollars.

5 COMMISSIONER CONNELL: Thank you.

6 EXECUTIVE OFFICER HIGHT: Yes. And, as I said, as
7 soon as we have a compilation or a partial list of various
8 options available for the Commission, we will come back for
9 more discussion, and clarification, and direction.

10 CHAIRMAN DAVIS: All right. So, basically, this
11 is an information item to explain to us you're about to
12 embark on the process.

13 EXECUTIVE OFFICER HIGHT: Yes, and request for
14 authorization to sign the memorandums of understanding,
15 which enable this process to go forward.

16 COMMISSIONER PARKER: Bob, this is consistent with
17 our fiduciary responsibility we also have, as members of the
18 Commission, for overseeing the School Land Bank for the
19 State Teachers' Retirement Pension Fund?

20 EXECUTIVE OFFICER HIGHT: That's correct. Any
21 dollars that we would take would go into the School Land
22 Bank Fund, with which the Commission then can purchase
23 additional land for revenue production.

24 COMMISSIONER PARKER: So, we have a fiduciary
25 responsibility to the Fund.

1 EXECUTIVE OFFICER HIGHT: Correct.

2 CHAIRMAN DAVIS: And I understand we act as
3 trustees for the safety of the Retirement System in this
4 process.

5 EXECUTIVE OFFICER HIGHT: That's correct..

6 CHAIRMAN DAVIS: Are we going to have any informal
7 consultation with them as we go down this road?

8 EXECUTIVE OFFICER HIGHT: Yes. We have almost
9 monthly meetings with them, basically telling them where we
10 are, getting their input into any -- into the process and to
11 options that they think would be available or best useful
12 for the Fund.

13 CHAIRMAN DAVIS: Okay.

14 COMMISSIONER PARKER: Mr. Chairman, I would add
15 that it's my understanding, also sitting on STRS, that there
16 has been excellent cooperation between the staff of the
17 Commission and also STRS on the provisions of the California
18 Desert Protection Act.

19 So, I think the staff are well positioned in those
20 two organizations to move forward on this particular
21 project, and that serves their best interest.

22 EXECUTIVE OFFICER HIGHT: Thank you.

23 CHAIRMAN DAVIS: Do we need to hear any advice or
24 guidance as to the action that you want us to take today to
25 prepare the memorandum or the mou?

1 EXECUTIVE OFFICER HIGHT: Just a moment to approve
2 would be all that's necessary.

3 CHAIRMAN DAVIS: All right. Is there any staff
4 recommendation or --

5 EXECUTIVE OFFICER HIGHT: Staff recommends that
6 you authorize the approval of the memorandums.

7 CHAIRMAN DAVIS: Is there anyone in the audience
8 who would like to make for or against this matter?

9 Any comments from the Commissioners?

10 Do we have a motion?

11 COMMISSIONER CONNELL: I move the staff
12 recommendation.

13 COMMISSIONER PARKER: Second.

14 CHAIRMAN DAVIS: All right. The motion's been
15 made and seconded. And since we're doing a teleconference
16 here, the secretary has to call the roll.

17 MR. RUMP: Chairman Davis?

18 CHAIRMAN DAVIS: Aye.

19 MR. RUMP: Controller Connell?

20 COMMISSIONER CONNELL: Aye.

21 MR. RUMP: Chief Deputy Parker?

22 COMMISSIONER PARKER: Aye.

23 MR. RUMP: It's been approved, Mr. Chairman.

24 CHAIRMAN DAVIS: All right. The matter's
25 concluded.

1 EXECUTIVE OFFICER HIGHT: Okay. The last matter
2 is Item No. C85, which is the authorization for a subsea
3 abandonment program.

4 The Commission has a number of subsea wells that
5 were drilled in the early fifties and sixties. And the oil
6 companies involved would like to abandon these wells.

7 Just a few minutes before this Commission meeting,
8 we received a letter from the air district, which I have not
9 had an opportunity to read yet, so Dwight and Jan can
10 explain it.

11 COMMISSIONER CONNELL: Can we ask again, Mr.
12 Chairman, what item you're on?

13 EXECUTIVE OFFICER HIGHT: 85.

14 CHAIRMAN DAVIS: C85.

15 COMMISSIONER CONNELL: Oh, thank you. 85. Thank
16 you.

17 CHAIRMAN DAVIS: It was pulled from the consent
18 calendar pursuant to a letter the Commission received
19 shortly before we convened.

20 MR. SANDERS: Commissioners, my name is Dwight
21 Sanders, I'm staff to the Commission, Chief of the Division
22 of Environmental Planning and Management.

23 In essence, the letter implies that the findings
24 that the Commission is being asked to make, with respect to
25 the subsea well abandonment program, do not allow the air

1 pollution control district to require mitigation for impacts
2 that -- an impact that has been identified within the
3 environmental impact report as we're required to as lead
4 agency.

5 Under current rules and regulations, activity of
6 abandoning subsea wells and flowlines is exempt from the
7 Santa Barbara County Air Pollution Control District permit
8 process. They so notified us in responding to the draft
9 environmental impact report, indicating that no permit would
10 be required from their district for this activity.

11 They opined, however, that the Commission itself
12 ought to apply mitigation for an impact that the district
13 itself is currently exempting from their own authority.

14 As lead agency, we have indicated that for one
15 well abandonment activity, absent the exemption, the
16 district would probably require mitigation for an impact.
17 However, the fact is that the current rules and regulations
18 of the district exempt this activity from their permit
19 authority. And it's our understanding and information that
20 the district has already issued a letter of exemption from
21 their permit process to the only applicant which would,
22 under other regulatory circumstances, have an impact.

23 The district is, in effect, by this letter,
24 indicating that the wording of our mitigation measure would
25 not allow them -- well, would not allow them to subsequently

1 or to apply mitigation. And they further, in addition to
2 that, indicate the Commission ought to, through an authority
3 as lead agency, apply a mitigation requirement for the
4 impact.

5 Staff believes that the mitigation measure, as
6 currently worded, would afford the district every
7 opportunity, should their rules and regulations change, to
8 apply a different standard to the activity than they
9 currently now apply.

10 The only possible change to eliminate any
11 confusion in this regard might be to indicate in our
12 findings that the mitigation applies to the district's rules
13 and regulations rather than "existing" rules and regulations
14 to eliminate any confusion as to whether we are freezing an
15 issue in time.

16 Other than that modification, which would be the
17 elimination of the word "existing," as it currently exists,
18 in view of our findings, I can say it is staff's opinion
19 that the mitigation measure affords the district every
20 measure of discretion that it may choose to, in the future,
21 apply.

22 I reemphasize again that under the current rules
23 and regulations of the district, this activity is exempt and
24 they have so issued a letter of exemption to one of the
25 applicants.

1 CHAIRMAN DAVIS: Jan, have you had a chance to --

2 MR. STEVENS: Well, we've had a full ten minutes
3 to --

4 CHAIRMAN DAVIS: -- discuss it before the meeting,
5 right?

6 MR. STEVENS: Mr. Chairman, we've had some time to
7 discuss and deliberate on this ten minutes before the
8 meeting. And our office did not participate in the
9 transaction, so I apologize for not being fully up on this
10 measure.

11 But as I understand Mr. Sanders' presentation and
12 the letter, the Santa Barbara Air Pollution Control District
13 has come in today and suggested that there are unavoidable
14 adverse impacts, significant impacts, that are inconsistent
15 with its clean air plan and should be more fully discussed
16 in the EIR; but that, nevertheless, it's insufficient for
17 this Commission to find that these impacts can be mitigated
18 by requirements imposed by the Santa Barbara Air Pollution
19 Control District, because the district has seen fit to
20 exempt these activities. A somewhat circular position.

21 Basically, I think Mr. Sanders has identified a
22 viable option, which is to reiterate and clarify that it is
23 the responsibility of the Santa Barbara Air Pollution
24 Control District to provide for the mitigation offsets that
25 would, in effect, mitigate the impacts caused by this

1 pollution. And that could be taken care of -- I think very
2 clearly -- by simply modifying the mitigation measure
3 identified on page 29 and again on 31 to delete under its
4 existing rules and regulations, and simply say the applicant
5 shall enter into, if required by the APCD, a legally binding
6 contract for bona fide offset credits.

7 The only alternative, I think, would be for the
8 Commission itself to impose these kind of requirements, and
9 the air pollution control is really the responsibility of
10 the district and not the Commission.

11 CHAIRMAN DAVIS: All right. Is there any
12 opposition to proceeding along the lines that the Attorney
13 General has suggested?

14 COMMISSIONER PARKER: Mr. Chairman, can I ask a
15 question?

16 Mr. Hight, when we originally had the air quality
17 district respond to the EIR -- it's my understanding it was
18 months ago -- was the raised then about whether this oil
19 company might be a candidate for mitigation?

20 EXECUTIVE OFFICER HIGHT: No. This is the first --

21 COMMISSIONER PARKER: So, this is new information,
22 and this is the first time that we've heard it today?

23 EXECUTIVE OFFICER HIGHT: Yes.

24 COMMISSIONER PARKER: So, you're presuming, in
25 that sense, the air quality district didn't know this at the

1 point in time that they had essentially signed off on this
2 project?

3 MR. SANDERS: If I may intercede for Bob here, as
4 I indicated in my statement, the district, in response to
5 the draft environmental impact report, gave us in writing
6 their position that no permit would be required for these
7 activities by their district.

8 COMMISSIONER PARKER: And so, I presume that,
9 since then, they have now discovered that one of these
10 companies may be exceeding the air quality requirements.
11 And since they can't do mitigation, they're asking us to do
12 mitigation?

13 EXECUTIVE OFFICER HIGHT: We don't know the
14 former, but definitely the latter. We don't know that
15 anybody is or is not going to exceed a requirement.

16 COMMISSIONER PARKER: Mr. Chairman, my only
17 concern -- I have no problem with the suggestion of the
18 Attorney General on how to proceed. I'm a little bothered
19 for the applicants here from the standpoint of learning all
20 of this today, and how they might react to now being put in
21 a situation of maybe some unknown of the air quality
22 district imposing something on them or not imposing
23 something on them.

24 I'm not sure what we can do about that. But I do
25 think it's unfortunate that we're learning all about this

1 and dealing with it today.

2 CHAIRMAN DAVIS: I haven't even seen the letter.
3 Is there a copy of the letter?

4 MR. SANDERS: Yes, sir.

5 CHAIRMAN DAVIS: Can we fax one down to the
6 Controller?

7 COMMISSIONER CONNELL: I don't have a copy.

8 CHAIRMAN DAVIS: No. I said, "Can we fax one down
9 to the Controller."

10 COMMISSIONER CONNELL: Certainly.

11 CHAIRMAN DAVIS: What's your fax number,
12 Controller?

13 COMMISSIONER CONNELL: I wish I could tell you
14 that, Mr. Chairman. I'll go get it for you in a moment.

15 (Thereupon, the fax number was
16 exchanged.)

17 CHAIRMAN DAVIS: (Addressing the Controller)
18 We're just reading the letter now. That's why you're not
19 hearing anything. The letter will be down within about 30
20 seconds.

21 COMMISSIONER CONNELL: Thank you.

22 (Thereupon, the Commissioners read
23 the district's letter.)

24 CHAIRMAN DAVIS: So, the effect, Jan, of your
25 suggestion would be to do what?

1 MR. STEVENS: Would be to, in effect, toss it back
2 to the Air Pollution Control District of Santa Barbara
3 County, which has the authority to deal with it.

4 The district could take a variety of actions. It
5 would revoke the exemption hereto granted, I believe; amend
6 its rules and regulations to include this activity within
7 that scope, or it could independently enter into a contract
8 on board action.

9 I'm not familiar with their rules and regulations,
10 so I can't be more precise as to that.

11 There's one other alternative that that's
12 available, of course, that is the Commission could itself
13 impose these conditions and enter into a contract.

14 But, as a matter of purview and expertise, it
15 appears to me that the district has the responsibility for
16 this and could assume jurisdiction if it chose to do so.

17 CHAIRMAN DAVIS: All right. What about the point
18 made earlier that, at least as regards to one applicant, an
19 exemption has been granted?

20 MR. SANDERS: That's correct. It has been
21 granted.

22 CHAIRMAN DAVIS: As it applies to the other
23 applicants, it need not be granted?

24 MR. SANDERS: They are under consideration. The
25 requests for the same exemption are currently under

1 consideration by the district as we speak, in effect. But
2 one exemption has already been granted, and it is that
3 company and that company alone, absent the rules and
4 regulations, that might be subject to the offsets.

5 In other words, the air pollution control district
6 has already exempted the only potentially violating company.

7 COMMISSIONER PARKER: So, if we were to take the
8 action suggested by the Attorney General, then that company
9 would only be in jeopardy if the air quality district
10 decided, in a sense, take action to reverse its waiver and
11 impose on them some mitigation requirements.

12 MR. SANDERS: I think what Jan is suggesting is
13 that, by clarifying the mitigation slightly, that you state
14 that fact; that if the district should decide at a later
15 date that something is required, they would have the
16 wherewithal to do so. This Commission would not be
17 eliminating or modifying that opportunity.

18 CHAIRMAN DAVIS: Well, do we have the power to do
19 that anyway?

20 MR. SANDERS: At this point, we have the power to
21 merely state the facts, and the facts are that, under
22 current rules and regulations, these activities are exempt.

23 Were they not exempt, then this one particular
24 applicant out of six -- their emissions are .2 tons over an
25 existing standard, which is not currently being applied.

1 COMMISSIONER PARKER: If we were to have taken
2 action on this, as it was presented to us in the consent
3 calendar -- which we pulled it -- would it have precluded
4 the air district from coming back and essentially changing
5 its requirements that might impact this particular oil
6 company?

7 MR. SANDERS: No, ma'am, not in my opinion. Jan
8 can react on his own. But, in my opinion, it would not.

9 COMMISSIONER PARKER: So, our choices are really,
10 in that sense, are really to approve it, which doesn't
11 change the air quality district's role from the standpoint
12 of coming in and assessing some mitigations against them, or
13 to essentially step in and to provide -- decide to impose
14 some mitigation requirements.

15 MR. SANDERS: That is, I think, accurately stated.

16 MR. STEVENS: I think deletion of the phrase
17 "under its existing rules and regulations" eliminates any
18 possibility of argument that the legal position of the
19 applicants is frozen in time as of today, when the district
20 has a regulation exempting this activity.

21 So, I believe it doesn't preclude the district's
22 ability in the future to assume jurisdiction over this.

23 EXECUTIVE OFFICER HIGHT: A representative of the
24 applicants is here and maybe this would be an appropriate
25 place to hear from him.

1 CHAIRMAN DAVIS: If we're going to take an action,
2 other than what was proposed by the intent of the placement
3 on the consent calendar, I think the applicant is entitled
4 to be heard, and I think anybody representing the district
5 or the public is entitled to be heard.

6 So, if we have someone from the applicant group
7 that wants to address, they're welcome.

8 MR. HOLLIS: Good afternoon, Chairman and
9 Commissioners, my name is Whitt Hollis. I work for Arco Oil
10 and Gas Company. I am one of six -- or our company is one
11 of six companies that your Commission requested years ago to
12 jointly enter into a program whereby one jack-up rig would
13 be brought into the area of operation and then jointly
14 moved from one activity to the other.

15 So, my first point I'd like to stress is that this
16 is, in reality, six individual companies or six individual
17 projects. By the sheer nature of the request of the State
18 Lands Commission staff to have one vessel conduct all of
19 that activity, we find ourselves here years later before
20 your Board with a last-minute request from the air pollution
21 control district, which all abandonment activities inside
22 Santa Barbara County under the existing rules and
23 regulations are exempt.

24 CHAIRMAN DAVIS: They may not at some future point
25 unexempt them?

1 MR. HOLLIS: The APCD is currently proposing a
2 rule change which would require abandonment activities to go
3 from a nonexempt to a --

4 CHAIRMAN DAVIS: I'm not suggesting that they do
5 that, but I mean --

6 MR. HOLLIS: Right.

7 CHAIRMAN DAVIS: -- you don't dispute that they
8 have the power to change their rules prospectively.

9 MR. HOLLIS: The promulgation process is underway.
10 Whether or not they do adopt that or not is in the future
11 somewhere.

12 Another point of clarification is, under the rules
13 and regulations, we do not believe that a request for an
14 exemption is necessary. The rules clearly state abandonment
15 activities are exempt.

16 However, Phillips, which has representatives here,
17 is the company that people are talking about of having a
18 project of theoretically 25 tons. Our project is five tons.
19 We have also put in a letter requesting -- just, if you will
20 pardon the phrase, but dot the I and cross the T. However,
21 our position would be a rule change in the future could
22 still cause questions about that exemption letter being set
23 in stone, if you will.

24 Therefore, we urge your Commission to adopt the
25 item as it went before the -- on the consent calendar.

1 Because, in our opinion, the question of whether or not
2 these projects will ever actually ever be able to be done is
3 in jeopardy due to whether or not offsets are available.

4 MR. SANDERS: Or required.

5 MR. HOLLIS: Or required, or available, whatever.
6 This is simply a matter for our company of taking well that
7 was put in place subsea in 1963. It performed very well. A
8 lot of revenue was generated in royalties to the State. And
9 now we're just asking to go back in there with a jack-up and
10 abandon that one well, a minor matter.

11 And, again, if our project was looked at by
12 itself, it would be one well, a matter of a few weeks, and
13 clearly exempt under all rules and regulations. And we
14 cannot express strong enough our concern about the process
15 causing us to end up having offsets that are, one, not
16 available or, two, seriously questionable whether or not
17 legally required.

18 I'd defer to any other representative to speak.
19 Thank you very much.

20 CHAIRMAN DAVIS: Thank you. Are there any
21 questions?

22 COMMISSIONER PARKER: Mr. Chairman, I have one.
23 My understanding is that these are six individual projects,
24 but they all rise and fall together; is that correct? So,
25 if one oil company was in question, would the balance of the

1 projects be able to go forward?

2 MR. HOLLIS: Is that a question to me?

3 COMMISSIONER PARKER: Yes.

4 MR. HOLLIS: I believe it can seriously jeopardize
5 the whole project going forward, but it will be a question
6 of economics as to the companies jointly agreeing to share
7 the mobilization and demobilization of the rig. That's
8 probably where the practical answer lies.

9 COMMISSIONER PARKER: So, obviously, even if the
10 air district doesn't have a problem with you exceeding the
11 air quality standards, you could be impacted because another
12 oil company, which is part of this project, may --

13 CHAIRMAN DAVIS: It would increase your
14 operational cost, right?

15 COMMISSIONER PARKER: Right.

16 CHAIRMAN DAVIS: If perchance Phillips is not
17 approved, then you have five companies sharing the cost
18 rather than six.

19 MR. HOLLIS: The sheer fact of the request of the
20 Commission to have the companies jointly share a rig has had
21 us have to do very serious legal concerns about an antitrust
22 implication of jointly going out there and agreeing to share
23 one rig. And we'll be meeting for two days, Thursday and
24 Friday, to work -- continuing on the contract between the
25 six companies to deal with that.

1 So, from just one aspect, we have the EIR, and
2 then the responsible agencies and the permits before the
3 various other agencies we need tot get. But a whole other
4 matter for us is the issue about trying to work together and
5 not violate any antitrust acts, but yet share this agreement
6 and, in turn, share, prorate our costs; so, yes.

7 CHAIRMAN DAVIS: And we asked you to do that,
8 because we didn't want six different pieces of equipment out
9 there, and the oil companies have acted to respond to public
10 policy.

11 MR. HOLLIS: Correct.

12 CHAIRMAN DAVIS: And I appreciate that. And that
13 raises a question. Jan, could the Commission just act
14 favorably on this proposal, and then write a letter to the
15 air district saying we believe you have the authority to
16 take whatever action you think is appropriate; that we're
17 acting within our jurisdiction from the facts and evidence
18 before us, and you're the agency that has the responsibility
19 for mitigation.

20 MR. STEVENS: That's an available option,
21 certainly.

22 COMMISSIONER PARKER: Mr. Chairman, under that
23 consideration, will we be adopting the language in the staff
24 recommendation that was in the consent calendar, not as
25 suggested by the Attorney General?

1 CHAIRMAN DAVIS: Yes, and that would be accompany
2 it with a letter --

3 COMMISSIONER PARKER: A letter.

4 CHAIRMAN DAVIS: -- stating that we think they are
5 fully empowered to take whatever actions they think are
6 appropriate, and the applicants have passed muster with us
7 under our applicable laws.

8 EXECUTIVE OFFICER HIGHT: I think that would be
9 very appropriate, Mr. Chairman.

10 CHAIRMAN DAVIS: Controller, do you have any
11 comments?

12 COMMISSIONER CONNELL: I think that you're
13 approaching it the way that I would do it on this issue.

14 CHAIRMAN DAVIS: All right. Let me just invite
15 anybody from the public who would suggest we not take the
16 action; namely, that we approve the action as proposed to us
17 in the consent calendar, but we will send a letter to the
18 air district -- Santa Barbara Air Pollution Control District
19 telling them we think they have all the applicable powers
20 that they're asking us to implement beyond our charter.

21 Plus, we're not prepared to do that today. The
22 letter just arrived. But we think, if they want to do it,
23 they have the power to do it.

24 And you don't see a problem with that approach,
25 Jan?

1 MR. STEVENS: No more than any other alternatives.
2 There's no perfect solution to this.

3 CHAIRMAN DAVIS: All right. Do I hear a motion?

4 COMMISSIONER PARKER: I would make that motion,
5 Mr. Chairman. I think that's the best solution to this.

6 COMMISSIONER CONNELL: I second it.

7 CHAIRMAN DAVIS: All right. We have to have a
8 roll call vote.

9 The secretary will call the roll.

10 MR. RUMP: Chairman Davis?

11 CHAIRMAN DAVIS: Aye.

12 MR. RUMP: Controller Connell?

13 COMMISSIONER CONNELL: Aye.

14 MR. RUMP: Chief Deputy Parker?

15 COMMISSIONER PARKER: aye.

16 MR. RUMP: Motion's passed.

17 CHAIRMAN DAVIS: Motion passes.

18 EXECUTIVE OFFICER HIGHT: Okay. With that, that
19 concludes the open agenda off the Lands Commission.

20 CHAIRMAN DAVIS: I might just add that you would
21 draft the letter and then show it to Jan, the Attorney
22 General --

23 EXECUTIVE OFFICER HIGHT: Yes.

24 CHAIRMAN DAVIS: -- and get approval before it
25 goes out.

1 EXECUTIVE OFFICER HIGHT: Right.

2 That concludes the open agenda, and we'll convene
3 to go into closed session to discuss pending litigation.

4 (Thereupon the open session of the
5 State Lands Commission meeting was
6 concluded.)

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1 CERTIFICATE OF SHORTHAND REPORTER
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3

4 I, Nadine J. Parks, a shorthand reporter of the
5 State of California, do hereby certify that I am a
6 disinterested person herein; that the foregoing meeting was
7 reported by me in shorthand writing, and thereafter
8 transcribed into typewriting.

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

12 In witness whereof, I have hereunto set my hand
13 this 9th day of November, 1995.
14

15 _____
16 Nadine J. Parks
17 Shorthand Reporter
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