TRANSCRIPT OF MEETING OF STATE LANDS COMMISSION SACRAMENTO, CALIFORNIA

March 10, 1958 ---- 10:00 a.m.

PARTICIPANTS

THE COMMISSION:

Messrs. John M. Peirce, Chairman
Harold J. Powers
Robert C. Kirkwood

STATE LANDS DIVISION

Mr. F. J. Hortig, Executive Officer
Mr. Kenneth C. Smith, Supervising Land Title Abstractor
Mrs. Julia T. Stahl, Secretary

OFFICE OF THE ATTORNEY GENERAL

Mr. Howard S. Goldin, Deputy Attorney General

GUESTS:

Senator Richard Richards
Assemblyman Richard T. Hanna

APPEARANCES:

Mr. Harold A. Lingle, City Attorney
City of Long Beach

Reporter:
Louise H. Lillico
Division of Administrative Procedure
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MR. PEIRCE: The meeting will come to order. I want to take recognition of the presence of Senator Richards. We are glad to have you here, Senator, and to have your participation in that portion of the agenda in which you are especially interested.

The first order of business is the confirmation of the minutes of the meeting which took place in Los Angeles February 11th. Copies have been mailed to members of the Commission. Any corrections?

GOV. POWERS: Is there any?

MR. KIRKWOOD: No.

GOV. POWERS: If not, I move that they be approved as written.

MR. PEIRCE: The minutes will stand approved as written. So will be the order. Do you want to discuss the matter of the next meeting, Mr. Hortig?

MR. HORTIG: Mr. Chairman, this is as yet indefinite for recommendation to the Commission as such, in that at a staff review of oil and gas leasing policy held approximately February 26 and 27, which was attended by Mr. Kirkwood and at which time Governor Powers was out of State on official business and you were not available (so we understood), it became apparent that considerable time and effort should and would have to be devoted to a review of the matters which were there discussed, in order that a proper recommendation may be made to the Commission at a
meeting to consider oil and gas leasing policy; such recommendation to be based both on staff consideration of appropriate lease terms and conditions and also reviewed by the Attorney General's office as to legal sufficiency and compliance with the statutes. The Attorney General not having had opportunity to review the transcript of the hearings on February 26 and 27 -- these are just being submitted to the Attorney General -- the date of setting the next meeting for the Lands Commission, either for that purpose or the next regular meeting for a full agenda, necessarily is still very tentative and will be reviewed with you gentlemen as soon as it can be determined when the review and approved material can be obtained from the office of the Attorney General.

MR. PEIRCE: When the Attorney General's report is completed and his advice concerning the proposed lease form is received by the Commission, is it contemplated that the two consultants whom we retained will again meet with us for further advice with respect to the matter?

MR. HORTIG: Hopefully for final advice, yes.

MR. PEIRCE: For final advice .. and you believe that we will receive this report from the Attorney General's office later this month?

MR. HORTIG: We are striving for that.

MR. PEIRCE: At that time a meeting of the Commission will be arranged, a special meeting, and we will make our
decision with respect to what steps should be taken.

    MR. HORTIG: That is the program.

    MR. PEIRCE: Are there any questions?

    MR. KIRKWOOD: As I understand it, John, once the
A. G.'s material is received, then Frank will have every-
thing in his hands with which to make his recommendation to
us and that will take him a little time after that, and he
will have a formal recommendation which will be a calendar
item. Is that it in effect, Frank?

    MR. HORTIG: I have a hopeful modification, Mr.
Kirkwood, to this extent, that we are reducing what are
the staff recommendations as they now exist to terms and
conditions in the proposed lease form, which will be the
one submitted to the Attorney General's office -- so that
recommendations to the Commission, preparation of final
recommendations to the Commission, should only necessitate
inclusion of such modifications as may be recommended by
the Attorney General on legal bases. We are attempting to
run these things concurrently, in order to make the rather
close time schedule which we have set ourselves.

    MR. PEIRCE: I want to take recognition of the
arrival of Assemblyman Richard Hanna. We are very glad to
have you here and feel free to participate in our discussion
to whatever extent you may desire, Mr. Hanna.

    MR. HANNA: Thank you.

    MR. PEIRCE: Now, Mr. Hortig, in what order do you
desire to handle the agenda today?

MR. HORTIG: If the Chairman please, in keeping with normal procedure heretofore for the State Lands Commission of considering items in an order which will best serve the personal appearances and the number of people attending with respect to specific items, it would appear well to consider first the item appearing on page 1 of the calendar.

MR. PEIRCE: Page 1 on the agenda.

MR. HORTIG: As the Commission will recall, on October 8, 1957 the proposed adoption of new sections for the rules and regulations relating to bid disclosures and administrative procedures in taking of bids was re-referred to the staff for further consideration. The form of these proposed additions, as published pursuant to the requirements of the Government Code, is attached as Exhibit A hereto. Further, in the reconsideration the proposed rules and regulations were reviewed with the office of the Attorney General and with all interested oil and gas industry organizations. This resulted in an informal opinion of the office of the Attorney General, which informal opinion is attached also as Exhibit B of this calendar item. The conclusions in this opinion are repeated here:

"(1) As to proposed Section 1913, this section is ready for Commission action. There is one modification suggested by counsel for the Texas Company, which
modification is legally unobjectionable, but is purely a matter for the Commission's discretion."

Our own comment there is that the modification suggested consists of an addition to the third paragraph of Section 1913 to allow an attorney-in-fact or agent authorized to enter into contracts to execute bid proposals, in addition to the previously suggested authorization for bid execution, an officer or officers of the corporation authorized to enter into contracts for the corporation.

Turning to the conclusions of the informal opinion:

"That portion of the proposed Rule 1913 relating to the disclosure of contractual relationships is controversial. Whereas we believe that the adoption of the proposed rule in its published form would be legally proper and defensible, we have suggested that the fourth paragraph of Section 1913 be rewritten for purposes of clarification. However, we recognize that it is within the discretion of the Commission to require disclosure of the identities of all persons or entities participating in management, operation or control under the joint bid, together with those having any financial interest in the joint bid."

The revised language relating to the disclosure of contractual relationships detailed in the proposed Section 1913 is as follows:

"All persons, firms, or corporations who will participate in management, operation or control under the joint
bid shall be specified in the bid. Others need not be specified.

(2) The proposed Section 1914 also is ready for Commission action. As published, the section is consistent with our evaluation of the law. Whether it is necessary is a policy determination for the Commission. Our opinion is that it is mere surplusage.

(3) The proposed Section 1915 is ready for Commission action and apparently no opposition has been voiced thereto. The statutory formalities have been followed and this rule is consistent with law."

It is the staff recommendation that the Commission adopt a resolution in the form set forth -- which, in summary, recommends that Section 1913 be adopted in revised, clarified form as suggested by the office of the Attorney General; that Section 1914 not be adopted because it would be surplusage; and that Section 1915 be adopted as drafted. I believe there may be some discussion, Mr. Chairman.

MR. PEIRCE: Is there a representative of the Texas Company present who desires to speak with respect to the modification of the language in this proposed regulation? (No response) Have you any written communication from the company urging the adoption of this verbiage which you consider surplusage?

MR. HORTIG: No sir. I believe we need clarification
there, Mr. Chairman. We have written communication from
the Texas Company suggesting the addition of the language
relating to attorneys-in-fact or agents authorized to enter
into a bid proposal, which will be an addition to Section
1913, which is recommended both by staff and is found un-
objectionable by the office of the Attorney General.

The surplusage consists of proposed Rule 1914, not
Rule 1913, sir.

MR. KIRKWOOD: What was 1914?

MR. HORTIG: 1914 related to declaration of forfeit-
ures and the problem -- which can be amplified by the
Attorney General's representative if the Commission so
desires -- was that the proposed rule as originally drafted
was felt not to be in accord with the provisions of the
statute; and when the rule was amended to be in accord with
the provisions of the statute, it resulted in a simple re-
statement of what is already in the statute.

MR. PEIRCE: We have before us the recommendation of
the staff. Is there anyone present who desires to be heard
with respect to this matter before the Commission takes
action thereon. (No response).

GOV. POWERS: I move we accept the recommendation,
Mr. Chairman.

MR. KIRKWOOD: I'd second that.

MR. PEIRCE: Motion has been made and seconded that
the recommendation of the staff be approved and so will be
the order. Next item, Mr. Hortig?

MR. HORTIG: Mr. Chairman, would you inquire whether a Mr. Walter Reese or representative is present?

MR. PEIRCE: Mr. Walter Reese or anyone representing him? (No response) Apparently not.

MR. HORTIG: Then it is suggested that the Commission refer to page 34 of the calendar. If I may summarize for the Commission, the items appearing on pages 34 through 41 of the calendar all relate to requests for approval of additional costs to be expended in conjunction with subsidence projects, to be expended by the City of Long Beach in the continued operation or completion of projects which the Commission has already heretofore approved on a fiscal year basis. These additional costs have been made necessary, first, by storm damage to subsided facilities, also due to the fact that previously approved estimated costs were exceeded by actual contract bids when contract bids were received, or that augmented facilities have to be installed in order to accomplish the originally intended subsidence protection.

Therefore, it is suggested that the Commission may wish to consider the group of calendar items relating to Work Orders 10,026, 10,028, 10,031, and 10,032 as a group, inasmuch as they are all in the same form for proposal to authorize expenditures to cover additional costs under projects heretofore authorized by the Commission; these
approvals to be subject to the standard reservation condi-
tions of the Commission -- that the amounts to be allowed
ultimately as subsidence costs deductible pursuant to
Chapter 29 of the Statutes of 1956 will be determined by
the Commission upon engineering review and final audit
subsequent to the time when the work under any of these
items is completed.

MR. PEIRCE: These items conform with the policy
previously adopted by the Commission with respect to sub-
sidence expenditures?

MR. HORTIG: Yes sir, and relate solely to projects
heretofore approved by the Commission for operation up to
June 30, 1958.

MR. PEIRCE: There is no controversy with respect to
these items?

MR. HORTIG: No sir.

MR. PEIRCE: Mr. Lingle, they meet with your approval?

MR. LINGLE: Yes sir, they do.

MR. KIRKWOOD: Move the approval.

GOV. POWERS: Yes, I would second.

MR. PEIRCE: Moved and seconded that the recommenda-
tion of the staff be approved and so will be the order.

MR. KIRKWOOD: Are any of these moving toward the
day, Frank, when we make a final determination?

MR. HORTIG: Yes, they certainly are moving toward
the day with respect to some of the prior approvals in
specific areas and specific sub-projects, where the work has been completed. These projects are under review for this final closing, depending upon agreement on the engineering review and final audit. These have been a matter of extensive conferences between the staff, Lands' staff, the City of Long Beach, and the Harbor Department of Long Beach. In general, there has been agreement. There are some basic phases that have stopped final and complete determination as yet, which require some further legal opinions, that thread through the entire nature of the operation; but these are also being worked on and in the reasonably near future it is anticipated that the first of the projects that has been completed will have had final approval and been closed out -- which will certainly set the precedent for the balance of these operations.

GOV. POWERS: We have legislation coming up on it also.

MR. HORTIG: Page 42, gentlemen. The Commission has heretofore authorized on a monthly basis the conduct of a subsidence remedial project by the City of Long Beach titled "Town Lot Project". This project has not been processed sufficiently heretofore to be proposed in its entirety for approval as a project to be conducted on a fiscal year basis. This is still the category of this project and, therefore, the Long Beach Harbor Department has again submitted a request for current expenditures for
property purchase, building removal, earth fill contract costs, pontoon bridge east approach construction, and the necessary force account costs associated with these items.

It is recommended that the Commission conditionally approve the Town Lot area project as a subsidence project and the costs proposed to be expended therefor for property purchase, building removal, earth fill, pontoon bridge east approach construction, and force accounts associated with this construction, as shown on Exhibit A attached; subject to the condition, however, that the amount to be allowable ultimately as subsidence costs deductible under Section 5(a) of Chapter 29, Statutes of 1956, First Extra Session, will be determined upon an engineering review and final audit subsequent to the time when work has been completed; also no estimate shall be presently made of the amount of subsidence deduction ultimately to be allowed by virtue of said acquisitions and said work; further, the City of Long Beach is not authorized to withhold any portion of the cost of the Town Lot Project until Commission approval has been had; and, finally, that the staff be authorized to execute appropriate written instruments reflecting the Commission's conditional approval.

MR. KIRKWOOD: This is the same as we did last month?

MR. HORTIG: This is the same as has been done by the Commission since September 1957 on a monthly basis.

MR. POWERS: Moved.
MR. PEIRCE: Moved and seconded that the recommendation be approved and so will be the order.

MR. HORTIG: Page 44. By Supplementary Decree and Order of the Superior Court of the State of California dated June 6, 1957, it was ordered, adjudged and decreed that the State Lands Commission may lawfully approve subsidence expenditures disbursed by the City of Long Beach from April 1, 1956 through July 5, 1956 so as to qualify the same as subsidence costs within the meaning of Section 1(f) of Chapter 29 of the Statutes of 1956, First Extra Session.

On February 3, 1958, the Port of Long Beach requested approval of costs, including subsidence costs, of work done in the period April 1, 1956 to July 5, 1956 within the Long Beach Harbor District. The projects have received initial staff review and are considered to contain some subsidence costs as defined in the statutes, but not necessarily all those costs as estimated by the Port of Long Beach.

After this initial review by the staff, disagreement exists with Long Beach Harbor Department on the degree of subsidence costs contained in the work contained in the Town Lot Project. This is the same project which you gentlemen just approved conditionally for one month in the preceding calendar item. Pending receipt of review by the staff of additional background material on this project, procedures have been followed by the State Lands Commission...
on monthly approvals subsequent to July 1957, whereby no
estimate is presently made as to the amount of subsidence
deduction, and no deduction can be made by the City of
Long Beach until Commission approval has been had. Such
procedure is also suggested in the following recommendation:

Therefore, it is recommended that the Commission condi-
tionally approve the costs expended by the City of Long
Beach including subsidence remedial work under projects as
indicated in Exhibit A attached and hereby made a part
hereof, for the period April 1, 1956 to July 5, 1956, sub-
ject to the standard conditional reservations in approvals
by the State Lands Commission for projects of this type;
and also subject to the conditions pertaining peculiarly
to the Town Lot Project, that no estimate shall be made
presently of the amount of subsidence deduction ultimately
to be allowed by virtue of said property acquisition and
said work, and the City of Long Beach is not authorized to
withhold from revenues due the State any portion of the
costs of the Town Lot Project until Commission approval has
been had.

MR. KIRKWOOD: Is this something that Bruce Allen
has reviewed, or has he been interested in this at all?
This does affect -- of course, it is ordered by the Court,
as I understand it -- but it does affect the amount of
money received by the State?

MR. HORTIG: That is correct, but of course ...
MR. KIRKWOOD: It goes against the first thirty million, or whatever it was, subsidence.

MR. HORTIG: The total ultimately allowed on subsidence costs will be accumulated and hasten the day when there is a transition -- where there is 25% to 50% subsidence; but the actual and specific amounts to be so allowed are still subject to review and final determination.

MR. PEIRCE: Any further questions? Any comment, Mr. Lingle?

MR. LINGLE: No sir.

MR. KIRKWOOD: No question about this at this point, being what the State has to do, is there?

MR. HORTIG: No sir. I believe that is correct, Mr. Goldin?

MR. GOLDIN: It is.

MR. KIRKWOOD: O.K.

GOV. POWERS: Yes, that's all right.

MR. PEIRCE: All right. The recommendation is approved.

MR. HORTIG: If you gentlemen will refer to page 54, which is a supplemental item on the calendar ....

MR. KIRKWOOD: Is this the one you dropped off this morning?

MR. HORTIG: Yes sir. On February 11, the City of Long Beach presented a request for approval of the expenditure of $40,000 from tideland trust funds for the purpose
of financing City expenditures in connection with a subsidence control program. This request was referred to the staff for review and to the office of the Attorney General for consideration as to qualification for approval under the authority of Chapter 29, Statutes of 1956. From these reviews, it appears that there is a general necessity for the administrative activities proposed by the City of Long Beach in the subsidence control program precedent to initiation of pressure maintenance or secondary recovery operations in the Wilmington Oil Field, which may alleviate or tend to alleviate land surface subsidence.

On this basis, the Commission may give conditional approval subject to subsequent review to determine what portion, if any, of such expenditures for administrative purposes may be properly considered as subsidence costs.

Since this item was calendered and since review discussion of the bases for this conditional approval were completed with the Attorney General's office, it has come to our attention that there may be alleged to be a problem as to the basic authority for the establishment of this particular program by the City of Long Beach; and, therefore, it is desired at this time to modify the recommendation as it appears, to add, in addition to the conditional approval of the Commission for expenditures proposed by the City of Long Beach including subsidence remedial work for the purpose of financing City administrative expenses.
in the conduct of the subsidence control program in an amount not to exceed $40,000 for the period ending June 30, 1958, subject to the condition that the amounts to be allowed ultimately as subsidence costs will be determined by the Commission upon an engineering review and final audit -- it is desired to add to the recommendation the additional condition: On satisfactory demonstration by the City of Long Beach as to the authority for and the proper authorization for the establishment of the basic subsidence study project, this showing by the City of Long Beach to be reviewed with the office of the Attorney General as to compliance with the provisions of Chapter 29.

MR. KIRKWOOD: Administrative expenditures are a part of each of these approvals that we give, Frank?

MR. HORTIG: I didn't hear.

MR. KIRKWOOD: Are there administrative expenditures in all of these items that we have had so far? This isn't a new......

MR. HORTIG: Yes, sir. It is new in the approach only in this sense -- not as to ultimate purpose, but all the approvals heretofore given by the Commission that related to administrative expenses were in the final analysis to the Board of Harbor Commissioners for operations being conducted specifically within the area under their purview. This program contemplates an additional, an entire separate study operation being undertaken by the
City of Long Beach, separate and distinct from the operations heretofore approved and conducted by the Board of Harbor Commissioners.

MR. PEIRCE: How does this recommendation come about? We have previously approved administrative expenditures as a part of the regular projects.

MR. HORTIG: This project that has been developed and is being undertaken is a new project, and a separate and distinct project, under the direction of the City Manager of the City of Long Beach, and it is through his directive and his request that this program is before the Commission, entirely separate from any of the prior applications and approvals which related to requests of the Board of Harbor Commissioners of the City of Long Beach.

MR. PEIRCE: In other words, the difference is the administrative agency involved.

MR. HORTIG: That is correct.

MR. KIRKWOOD: Well, is there a duplication of administrative agencies -- or of effort?

MR. HORTIG: Depending upon the actual direction and the actual scope of the project, there could ultimately be a duplication in my opinion, yes.

MR. KIRKWOOD: What is our responsibility on that?

MR. HORTIG: This is the reason for the staff recommendation for a conditional approval to cover only such expenditures as truly relate ultimately to subsidence, and to
subsidence projects not actually approved and already authorized to be paid for under Harbor Department operations.

MR. PEIRCE: Does this have anything to do with legislation now pending before the State Legislature?

MR. HORTIG: In the sense that material to be developed by this study could be of assistance in connection with the presentation of the legislation and with certain phases of operations which the City of Long Beach would be authorized to undertake. If legislation currently being considered is adopted, such operations could be administered under this subsidence control agency here proposed to be established by the City of Long Beach. They certainly can be interrelated.

MR. PEIRCE: Mr. Lingle, have you any comment at this time?

MR. LINGLE: I am not prepared on administrative aspects of it at this time. The only thing I would request is that so that we can give you a proper answer, if the staff could specifically ask the questions they want, so that we could attempt to come up with as straight an answer for you as possible on that.

MR. HORTIG: I might explain, Mr. Chairman, the reason for the supplemental conditional approval recommendation this morning -- Rather than what would appear to be the more direct procedure, to request the City Attorney's
office for a statement of clarification, explanation and basis for authority of this project and withhold action on this project, the problem that has developed there is that the City is proceeding with the actual subsidence control study program. They have established a staff. They will be incurring costs. Therefore, unless there is conditional approval today by the Lands Commission, if it should ultimately be determined that such costs would have been allowable, then the City would lose such credit for such expenditures as are made between today and the date of later determination of approval by the Lands Commission.

MR. PEIRCE: And you recommend the adoption of this recommendation as modified?

MR. HORTIG: Yes sir.

MR. PEIRCE: Mr. Goldin, do you have any comment?

MR. GOLDIN: Only this, Mr. Chairman -- that for the Commission to give this conditional approval, it is necessary that the Commission must concede the general necessity for these administrative activities in order to remedy or prevent subsidence. As a practical matter, neither the Commission's staff nor the Attorney General's office has been furnished with any particulars concerning the nature of the proposed administrative costs relating to subsidence control, so that in approving or in conceding the Commission's power to give this conditional approval, our office
for the purpose of reaching that conclusion assumed the necessity for and the reasonableness of the administrative activities to remedy or prevent subsidence.

MR. PEIRCE: You would have no objection to our adopting this recommendation at this time?

MR. GOLDIN: No, Mr. Chairman, and I furnished to the Executive Officer of this Commission a written statement to that effect.

MR. PEIRCE: Any question, gentlemen?

MR. HANNA: Mr. Peirce...

MR. PEIRCE: Yes, Mr. Hanna.

MR. HANNA: May I ask Mr. Goldin if he would clarify a little more that point as to legality. If I get it right, the activity which is being carried now under the City administration, is there some question as to whether they have the power to set up the type of .......

MR. GOLDIN: Mr. Hanna, I don't believe the question relates to the power of the City to create this administrative office. The question relates as to whether, in fact, the City has created such an office pursuant to the provisions of law. It may be, Mr. Hanna, that the creation of such an office might require an action by the City Council of Long Beach and to my knowledge I know of no such action having been taken to date. Mr. Lingle might have more information in that regard than I do. Are you aware of any City Council action?
MR. LINGLE: No, I am not aware of any action by the City Council. I am not researched on the problem at all, and I would say that if it is possible for us to retain this conditional approval, then we would be happy to go ahead and research whatever problems you may have on it; but I am not prepared to cite you any charter provisions or anything else at this point as to our opinion as to the authority.

MR. GOLDIN: Mr. Lingle, I take it, then, that you are neither satisfied nor dissatisfied that this particular administration office has been created pursuant to the law.

MR. LINGLE: Well, I am going on the assumption that it has been created subject to law, but I certainly would be happy to review it. I am not going to take an adamant policy that you have got to go along and do it all the way, that there can't be any question. I am assuming the City has done it correctly, but if there is a question we would be happy to satisfy your question if possible.

MR. PEIRCE: Any further questions?

MR. HANNA: Would the position of the City of Long Beach be any different after some of these things have been clarified than it is right now if the Commission failed to give a conditional approval?

MR. LINGLE: I believe Mr. Goldin and I are in agreement there, that if we don't have prior approval, don't get some kind of prior approval -- for instance, the money
that could have been given as conditionally approved, if we are later able to satisfy them, then we are able to effect it. If we don’t get some sort of approval, we are going on the assumption that that money is over the dam — we can’t recover it. I would be anxious to have some sort of approval or conditional approval at this time.

MR. GOLDIN: Mr. Hanna, I believe Mr. Lingle is referring to Chapter 29, 1(f) of the Statutes of 1956, First Extra Session, which requires that.

MR. PEIRCE: Any further questions? Are the members of the Commission ready to vote on this recommendation as modified?

MR. KIRKWOOD: I guess it is all right.

GOV. POWERS: I guess, yes.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 10, gentlemen. The Commission has previously granted Tidewater Oil Company a deferment of drilling and operating requirements under Oil and Gas Lease P.R.C. 1744 at Summerland in Santa Barbara County to April 12, 1958, in order to permit the lessee to complete arrangements which were then in process for the drilling of a well under the leased area. A request has been received from Tidewater Oil Company for an additional extension of thirty days to commence operations under the lease, so that negotiations that are still in process for the drilling of the well may be completed and a well commenced or the
lease quitclaimed within this extension period.

It is recommended that the Commission authorize to
grant the Tidewater Oil Company a deferment of drilling
and operating requirements ....

MR. KIRKWOOD: Is that that difficulty of slant
drilling that's causing them the problem?

MR. HORTIG: Yes.

MR. KIRKWOOD: Do they themselves reasonably think
this thirty days will give them ....

MR. HORTIG: This, we are informed, is going to be
it, one way or the other. The land manager of Tidewater
is present if the Commission would like further details.

MR. KIRKWOOD: You are satisfied?

MR. HORTIG: We are satisfied. This is their request
and the staff recommends it.

MR. PEIRCE: You approve it?

GOV. POWERS: Yes.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Mr. Chairman, I am under the impression
that this completes the review of all items on which there
may be personal appearances. If you care to ask whether
there are any further ..... 

MR. PEIRCE: Is there anyone present who is interested
in other agenda items? If you will so indicate, we will
take them out of order so as to accommodate you. (No
response) Apparently you may proceed with the agenda in
The Commission has heretofore authorized continuation of a lease issued for the purpose of extraction of sand and gravel from portions of San Francisco Bay, under which lease there again have been no activities for the lease year ending February 13, 1958. The lease itself requires an advance rental of $900, which has been paid. There is also a specification of performance of minimum operations, consisting of 100 shifts of extraction operations, which it is calculated would amount to a payment of $200 in royalty. Payment of this amount was submitted with the application for deferment of operations, to cover the State's royalty pursuant to the required minimum lease specification. The lessee is interested in continuation of this lease because of the prospect for future operations and there does not appear to be any advantage to the State in potentially cancelling this lease and returning to the State lands another piece of unoccupied land in San Francisco Bay.

It is recommended that the payment be accepted to cover the royalty due the State on the minimum extraction operations as specified in the lease and to grant a deferment of the operating requirements for the lease year ending February 13, 1958, all other terms, conditions and performance requirements under the subject lease to remain
MR. KIRKWOOD: Is that 10 tons figure right? That doesn't sound right.

MR. HORTIG: Of sand, yes.

MR. KIRKWOOD: Ten tons per shift?

MR. HORTIG: No, in a hundred.

MR. KIRKWOOD: How much does a cubic yard of sand weigh?

MR. HORTIG: The problem I can see in your calculation -- this is the net amount that would be removed. There are also mud and sand of various grades which are returned and not finally removed, and the net result of a 100-shift operation achieving a commercial grade of sand reduces to this 6,667 cubic yards.

MR. KIRKWOOD: O.K., but it doesn't make sense to me.

MR. HORTIG: I am also hesitant on the 10 tons -- 6,667 cubic yards is the figure we started from. We will review that and give you a report.

MR. PEIRCE: Is that O.K.?

GOV. POWERS: That's O.K.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 12. On March 3rd, one bid was received from San Diego Gas and Electric Company for a mineral extraction lease on tide and submerged lands in South San Diego Bay, westerly of the City of Chula Vista. The purpose of the lease is to authorize dredging from
the proposed cooling water intake and discharge channels adjacent to an electric generating plant now under construction, and the deposit of such dredged materials on lands owned by the San Diego Gas and Electric Company.

The bidder, San Diego Gas and Electric Company, offered the minimum specified royalty of 3¢ per cubic yard for all material extracted. It is recommended that the Commission authorize the issuance of this extraction lease ....

MR. KIRKWOOD: Move.

MR. PEIRCE: O.K.?

GOV. POWERS: M-m-hm.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Pages 14 and 15, gentlemen, can be considered together. They consist of the problem of two prospecting permits heretofore authorize by the Commission for the statutory term of two years. The Public Resources Code provides, in part, that the Commission may in its discretion extend the term of any permit not exceeding one year. The permittee under these two permits has requested such an extension at no cost.

However, the permittee has failed to comply with the conditions of the permit or to exercise due diligence in the prosecution of the development work under these respective prospecting permits; and, therefore, it is recommended that the Commission authorize rejection of the application for a one-year extension.
GOV. POWERS: I guess that's all right.

MR. PEIRCE: On both?

MR. HORTIG: On both -- pages 14 and 15.

MR. PEIRCE: O.K., Bob?

MR. HORTIG: The applicant was informed that this recommendation would be presented to the Commission, that he could either make a personal or written statement or appearance relative thereto. He has not done so.

MR. KIRKWOOD: O.K.

MR. PEIRCE: The two recommendations are approved.

MR. HORTIG: Page 16. The Commission heretofore authorized a lease -- Smith River, mouth of the Smith River, Del Norte County -- in which a floating dock and jetty were proposed to be constructed and to be completed on or before May 30, 1957. Due to weather extremes, among other things, the project completion date was heretofore extended to February 28, 1958 and there has been reported recent additional extensive storm damage to the almost completed structure; and it is recommended that there be granted an extension to February 28, 1959 in order to complete the construction work.

MR. PEIRCE: O.K.?

MESSRS. POWERS and KIRKWOOD: Yes.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 17. The Southern California Edison Company has applied for a right-of-way easement for an
electric transmission line over properties in Los Angeles County north of and adjoining an easement previously granted to them. In connection with this application, there has been a request for minor modification of the standard form of easement, as normally issued by the State Lands Commission, to reflect the particular and peculiar nature of the operation of an electric transmission line primarily, so that there would be no basis for immediate re-entry and repossession on the property, which is a standard condition of a normal right-of-way easement, which appears to the Edison Company to be excessive and they desire a modification to provide for ninety days in which to remedy a breach before the State can re-enter and repossess the demised premises -- which does not appear unreasonable to the staff nor to the office of the Attorney General.

Similarly, it is desired to provide restrictions as to what types of structures may be placed on the right-of-way underneath the transmission line, so that there can be no difficulties in operation. Under the standard form of right-of-way easement issued by the Commission, the State reserves the right to dispose of or otherwise lease or permit other operations on the right-of-way; and while these are normally considered to be not incompatible with the use of the primary lessee, the Edison Company feels that proper protection is only achieved both with respect to the matter of granting authorizations to remove minerals from the
right-of-way, as well as to erect structures, that there
be specifications of how those operations shall be con-
ducted; and the normal type of right-of-way easement,
which permits placement of project facilities or some other
type of construction, requires normally advance permission
from the State for any additions or substantial alterations;
and the Edison Company again feels that, in its type of
work and emergency replacement necessities contemplated for
the future, it might be desirable to have a basis for giving
a thirty-day notice to the State as to the desire to
modify its facilities rather than the advance permission
to be obtained from the State for additions or substantial
alterations. The right-of-way easement as written would
be restricted to the placement of an overhead electric
transmission line.

MR. PEIRCE: This is in the Angeles National Forest?
MR. HORTIG: Yes sir -- Monrovia Peak.
MR. PEIRCE: Monrovia Peak.
MR. KIRKWOOD: What we are issuing is a new right-
of-way easement, but with these modifications in the
standard ....

MR. HORTIG: That's the proposal, sir.
MR. KIRKWOOD: If that's here in the recommendation,
I move it.

GOV. POWERS: That's all right.
MR. PEIRCE: The recommendation is approved.
MR. HORTIG: Page 19. The Commission in 1953 issued a fifteen-year lease of certain underwater tideland lots covering approximately 441 acres in Marin County, in anticipation that these lots were to be filled and further commercial development undertaken thereon. Subsequently, the lease was amended at increased rental to provide the option to the holders of the lease to meet the high bid in the event the State ever elected or was authorized to sell these particular lots.

Request for additional amendment has now been received to provide for an expanded basis of renewal, for the reason that the present lessees have been unable to date to receive permission from adjoining property owners for the reclamation project and such permission is a requirement prior to issuance of the necessary permit by the Federal government.

Inasmuch as there have been no recent inquiries in connection with State lands in this vicinity and since the adjoining property owners are evidently not yet interested in a reclamation project, it appears to be in the best interests of the State to grant an amendment of the lease to the applicants. However, due to the continued development in Marin County, it is suggested that the lease be amended to fix the new increased rental at $374 annually for only the first renewal period provided in the lease, and that the second and third ten-year renewals be on such
reasonable terms and conditions that the Commission might impose and that this amendment only be granted on the basis that the lessees will have undertaken and will have actually started to reclaim some of the leased lands within the initial ten-year period or else the lease will not be renewed.

MR. KIRKWOOD: These are all enforceable lease provisions if we write them in there?

MR. HORTIG: Yes sir.

MESSRS. POWERS and KIRKWOOD: O. K.

MR. PEIRCE: Recommendation is approved.

MR. SMITH: Page 20. Sale of vacant school land -- forty acres in Siskiyou County. The lands were appraised at $55 per acre and a high bid of $90.20 per acre was received. The first applicant failed to meet the highest bid. Therefore, it is recommended that the Commission find that the forty acres in Siskiyou County is not suitable for cultivation without artificial irrigation and authorize the sale of said land to the highest bidder, Lowell N. Jones, at a cash price of $3,608, with the usual statutory reservations.

MR. KIRKWOOD: O. K.

GOV. POWERS: That's O.K. $90.00 an acre!

MR. PEIRCE: Recommendation is approved.

MR. SMITH: Page 21. Sale of vacant State school land. It is recommended that the Commission authorize the
sale of vacant school lands for cash at the highest offer
in accordance with the following tabulations, such sales
to be subject to all statutory reservations including
minerals. There follows a tabulation of six separate
sales -- which are routine and non-controversial.

MR. KIRKWOOD: I move ..

GOV. POWERS: That's O.K.

MR. PEIRCE: The recommendation is approved.

MR. SMITH: Page 29. Sale of vacant Federal land,
involving eighty acres in Inyo County. It is recommended
that the Commission determine that it is to the advantage
of the State to select the eighty acres in Inyo County;
that the Commission find that said land is not suitable
for cultivation without artificial irrigation; that the
Commission approve the selection and authorize the sale
for cash to Searles Valley Development Company at the
appraised price of $6,000, subject to all statutory reserva-
tions including minerals.

GOV. POWERS: O.K. I'd move that.

MR. PEIRCE: Recommendation is approved.

MR. HORTIG: Page 30. Under the Statutes of 1957,
an additional area of tide and submerged lands fronting the
City of Coronado was granted to that city, consisting of
the additional area enclosed between two pierhead lines
previously established by the U. S. Army Corps of Engineers.
This area has been platted by the staff of the State Lands
Division in accordance with the requirements of the statute and it is recommended that authorization be granted to approve and have recorded the plat of the grant to the City of Coronado in San Diego Bay, California, dated January 1958.

MR. PEIRCE: This is merely correction of a boundary line?

MR. HORTIG: Previously the limits of the area granted to Coronado consisted of ... (sorry, unintelligible) The Corps of Engineers drew a pier head line and the Legislature granted to the City of Coronado this triangle and one condition of the grant is that the area be surveyed by the State Lands Commission.

MR. PEIRCE: We have done so.

MR. HORTIG: We have done so and we are recommending to the Commission that they approve what the staff has done with respect to that.

MR. PEIRCE: We are, in effect, establishing that boundary line?

MR. HORTIG: The boundary line was previously established. We are showing on the map what the Legislature previously granted to them.

GOV. POWERS: That's O.K.

MR. PEIRCE: O.K., Bob?

MR. KIRKWOOD: M-m-hm.

MR. PEIRCE: Recommendation is approved.
MR. HORTIG: Page 31. The Commission is familiar with the Statutory amendments at the last session relating to evaluation of tide and submerged lands where it is proposed that such tide and submerged lands be annexed by a city; and it is now proposed by the City of San Buenaventura to include approximately 182 acres of tide and submerged lands adjoining the upland city limits as a base for establishment of a sewage disposal plant; and from a review of the area -- the location, potential utilization of the tide and submerged lands proposed to be annexed -- it does not appear that there are any grounds for recommending objection by the State Lands Commission to this annexation.

Pursuant to the requirements of the Government Code, the city has requested that the Commission fix the value of the tide and submerged lands of the State and notify the body of its determination. Appraisal of the 182 acres has resulted in an estimated average value of $220 per acre for a total of $40,000.

It is recommended the Commission authorize the notification to the City Council of the City of San Buenaventura and the Board of Supervisors of Ventura County that the present value of the tide and submerged lands proposed to be annexed under the city's Resolution 4789 has been fixed at $40,000, pursuant to the provision for such determination as specified in the Government Code.
MR. KIRKWOOD: This is all we have to do, Frank?
MR. HORTIG: Yes.
MR. KIRKWOOD: If we wanted to protest, we would have to take other action?
MR. HORTIG: Yes.
MR. KIRKWOOD: What is this -- offshore from the present city limits?
MR. HORTIG: It is adjacent to present upland city limits.
MR. PEIRCE: It is for a proper municipal purpose.
MR. HORTIG: And it doesn't extend either up-coast or down-coast to any degree.
MR. KIRKWOOD: They don't need any action by us approving, as long as we are not protesting?
MR. HORTIG: This is analogous to an action taken by the Commission previously in connection with the proposed annexation of tidelands by the City of Richmond.
GOV. POWERS: O.K.
MR. PEIRCE: O.K., Bob?
MR. KIRKWOOD: M-m-mh.
MR. PEIRCE: The recommendation is approved.
MR. HORTIG: Page 32. The Commission may feel that this is an extensive amount of paper to devote to this item, but inasmuch as we have been at it some seven or eight years to clear up an inconsequential item, the ability to feel that we can clear it up takes considerable time to
There had been a grant of lease by the State Lands Commission in Morro Bay. Subsequently, the Legislature granted those lands to the County of San Luis Obispo. The rentals that had been paid or were to accumulate under the Lands Commission leases that were terminated by the legislative grant were only partially paid by the County of San Luis Obispo in view of prior agreement that the County could withhold $375 from payment as stated in Minute Item 16 of the meeting of the Commission on June 21, 1946, appearing in the center of the calendar page, on the basis that these costs would have to be expended by the county in conducting a survey and that these costs would not be collectible from adjoining property owners in the county.

For many years, the county did not report whether or not these amounts were ever collected or uncollectible and the Commission's books have reflected an open charge against the county in the amount of $375. Finally, just this last month, we succeeded in receiving from the county surveyor a letter statement that he had been requested by the Board of Supervisors to inform the Lands Commission that a survey had been conducted at a cost in excess of $750, none of which was collected from the upland owners, and that possibly this could now be the basis of clearing the State Lands Commission's books of this charge.

It is recommended that the Commission accept the
statement of the surveyor and authorize the Executive
Officer to credit the county and close the Commission books.

MR. KIRKWOOD: O.K.

GOV. POWERS: Yes -- I know as much about it now
as I would ....

MR. HORTIG: Eight years of effort to get a letter --
this is what it summarizes.

MR. HORTIG: Page 48. There follows a tabulation of
the right-of-way easements, permits and related authoriza-
tions that have been granted by the Executive Officer pur-
suant to delegation of authority.

MR. PEIRCE: Appear to be in order.

MR. HORTIG: It is recommended that these issuances
be confirmed.

MR. KIRKWOOD: All right.

GOV. POWERS: That's O.K.

MR. PEIRCE: Recommendation is approved. Now does
that conclude the agenda?

MR. HORTIG: That concludes the agenda, Mr. Chairman.

MR. PEIRCE: Is there any further business to come
before the Commission? (No response) If not, the meeting
will stand adjourned.

ADJOURNED 11:15 A.M.

**********
CERTIFICATE OF REPORTER

I, LOUISE H. LILLICO, reporter for the Division of Administrative Procedure, hereby certify that the foregoing 37 pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the State Lands Commission at Sacramento, California, on March 10, 1958.

Dated at Sacramento, California this 11th day of March, 1958.

[Signature]

Louise H. Lillico