TRANSCRIPT OF MEETING of STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA
MARCH 25, 1959 -- 9:00 A.M.

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PARTICIPANTS:

THE COMMISSION:

Messrs. Bert W. Levit, Director of Finance, Chairman
Glenn M. Anderson, Lieutenant Governor
Alan Cranston, Controller

F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL

Messrs. Paul M. Joseph and
Leonard M. Friedman,
Deputies Attorney General

APPEARANCES:

Mr. E. E. Pyles,
Vice President, Monterey Oil Company

Mr. D. W. Heeren,
Tidewater Oil Company

Mr. L. B. Wheeler,
Long Beach Harbor Department

Mr. Joseph Ball,
Special Counsel, City of Long Beach

Reporter:
Louise H. Lilllico
Division of Administrative Procedure
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MR. LEVIT: The meeting will please come to order — meeting of the State Lands Commission. The first item of business is the confirmation of the minutes of the special meeting of February 11 and of the meeting of February 24. Are there any corrections or additions?

MR. HORTIG: No staff corrections.

MR. LEVIT: Minutes will stand approved. Item No. 2 involves permits, easements and rights-of-way without consideration pursuant to statute. Do you want to run through those, Mr. Hortig?

MR. HORTIG: Yes. Calendar item reported on page 1 relates to a proposed permit to San Diego Gas and Electric Company to authorize the dredging of a navigation channel in San Diego Bay at National City, San Diego County, which navigation channel is required to permit oil barges to be brought in to unload fuel for the local power plant. The lands adjoining the area on which the channel is to be dredged have heretofore been granted by the Legislature in trust to the City of National City and the City of National City has approved the project.

MR. LEVIT: You can go right on unless there's some question.

MR. HORTIG: All right, sir. Page 2 -- Division of Highways has requested authorization to dredge approximately 1,900,000 cubic yards of fill material for construction of the Interstate Highway, to be dredged from tide and submerged...
Lands in Carquinez Strait near Benicia. The consideration for this permit would obviously be the public use and benefit, as well as the improvement in navigation.

MR. LEVIT: In each of these cases you recommend approval?

MR. HORTIG: Yes sir.

MR. LEVIT: Let the record show the Governor is here now.

MR. HORTIG: Pages 3 and 4 relate to proposed grant to the Alameda County Flood Control District for certain unsold State swamp lands in Alameda County. The permit as recommended was specifically authorized and directed to be issued by Chapter 1275 of the Statutes of 1949. The County has now made application pursuant to that specific statute for the issuance of the permit for location of flood control channel, which is recommended.

Page 5 reports the application of Noyo Harbor District for a 15-year permit for the construction and maintenance of a mooring dock on tide and submerged lands in the Noyo River, Mendocino County. The primary initial public use which will be made, at no charge, is the mooring of the 83-foot U. S. Coast Guard cutter which is stationed at the mouth of Inyo Harbor for Coast Guard protection. It is recommended that the permit be issued to Noyo Harbor District.

Page 6 -- Yolo County has applied for a bridge right-of-way across tide and submerged lands on Elk Slough for a
bridge and use in connection with the county road system.
It is recommended that a 49-year life-of-structure permit
be issued to Yolo County for this bridge. The life-of-
structure permits provide that it shall be for the life of
the structure and in this case not to exceed 49 years. If
the area is not used for the bridge proposed or for a lesser period, the permit terminates automatically.

Page 7 -- The City of Palo Alto has applied for authorization to dredge Mayfield and Wilson Sloughs in connection with the City's operation of the City's boat harbor. The Corps of Engineers have approved this project as being in the interest of navigation and one slough does pass through a portion of adjoining San Mateo County and the County has indicated no objection to this program and has also recommended, as do the staff, the issuance of the permit.

Page 8 -- The U. S. Corps of Engineers and the San Mateo County Harbor District jointly ..... 

MR. LEVIT: San Diego ...

MR. HORTIG: San Mateo ....

MR. LEVIT: There is an error in the calendar.

MR. HORTIG: There is an error in the index. The calendar item is correct. It is a joint application by the U. S. Army Corps of Engineers and San Mateo County Harbor District for authorization to construct and maintain two rubble-mound jetties designed to create a harbor in
Halfmoon Bay. This is a project that Congress has authorized the U.S. Corps of Engineers to proceed with and the jetties would be maintained on tide and submerged lands of the State. Issuance of the permit is recommended.

Pages 9 and 10 relate to an application from the County of Lassen to augment areas under the County's control at Eagle Lake in connection with development of a small craft harbor and additional recreational facilities. Eagle Lake below the low water line is under the jurisdiction of the State Lands Commission. The County has already received a use permit on adjoining U.S. Forest Service lands on the upland and also the Small Craft Harbor Commission have recommended a State loan in the amount of $65,000 for the construction of this project; and it is recommended that the Commission authorize the occupancy of approximately 53 acres of State land in Eagle Lake adjoining the upland in conjunction with the development of this county recreational project. *

This completes the group of permits, easements and rights-of-way recommended to be granted to public and other agencies at no fee, pursuant to statute and rules and regulations.

GOV. ANDERSON: Any objection to these recommendations? If there are no objections, it will be so ordered. What is the next calendar item?

MR. HORTIG: Page 11 -- Monterey Oil Company and the

*Mr. Levit left the room during description of pages 9 and 10
Texas Company are joint lessees in a State oil and gas lease in Orange County, which lease was issued pursuant to public bidding in 1945. On October 14, 1958 the Commission authorized a deferment of drilling requirements to March 15, 1959, in order to minimize the congestion that would occur on the 75-foot drilling island if drilling operations were continued during the time required for the construction of a wharf to be used in conjunction with a pilot water flood project. Due to severe storms causing extensive loss of time and damage to work already completed, the work has fallen behind schedule and, in addition, well-operating difficulties have necessitated placing of additional equipment on the island for rehabilitation of the wells which would make it utterly impractical to conduct drilling operations at this time.

In view of these circumstances, Monterey as operator has requested a further deferment until June 15, 1959 and it is recommended that this deferment be granted.

GOV. ANDERSON: When was this storm? When did this happen?

MR. HORTIG: Specifically, we can have more detail from our files, Governor, or Mr. E. E. Pyles, Vice President of Monterey Oil Company, is here. These storms were all this winter.

GOV. ANDERSON: It just seems kind of long to me -- on a lease originally drawn in 1945 they should be a little
MR. HORTIG: Oh -- no sir, there has been placement since issuance of the lease -- there has been placement on the island and drilling and production on at least twenty-six wells.

GOV. ANDERSON: When did they actually start?

MR. HORTIG: Early in '46.

GOV. ANDERSON: In other words, it has been in active operation?

MR. HORTIG: It was in continued and full and active operation, strictly in accordance with the terms of the lease, until this deferment granted October 14, 1958 -- which was granted as a temporary deferment to permit some additional placements on the island.

GOV. ANDERSON: How many deferments have they had?

MR. HORTIG: This is the first or second. Do you recall, Mr. Pyles?

MR. PYLES: Second.

MR. HORTIG: Second, but they are on production. They are all producing. The State's royalties are continuing to be accumulated. The deferment is requested only as to drilling of a new project.

GOV. ANDERSON: (To Mr. Cranston) Do you wish to consider this item?

MR. CRANSTON: I don't know. Have we done this in the past?
MR. HORTIG: Well, the last meeting, which was the first time we considered them in this form, we considered them en bloc.

GOV. ANDERSON: If there is no objection we will proceed.

MR. HORTIG: Pages 12 and 13 cover a proposal by Standard Oil Company of California to quitclaim the major portion or 740 acres of a total of 960 acres leased pursuant to competitive public bidding on June 30, 1952. Pursuant to the lease and in full compliance with the lease terms and conditions, to date thirteen wells have been drilled into the leased land. Eleven of these have been placed in production and are continuing on production. A little over a year ago, the Commission granted a deferment of further drilling requirements subject to the express condition that during the period of deferment the lessee would perform one of the following actions: Either initiate development on the lease; quitclaim the undeveloped lease area; or present new adequate bases for any further consideration of deferment. The lessee has determined and the staff has concurred with respect to the geological, production and economic analyses that it is not feasible for the lessee to proceed with any further development on the undeveloped 740 acres heretofore leased. The lease provides that the lease may be surrendered and terminated, or any portion of the demised premises may be surrendered, upon
the payment of all royalties and obligations due and payable to the State and provided rules and regulations relative to the abandonment of oil and gas wells have been met. These conditions have been complied with by the lessee. Therefore, it is recommended that the Commission authorize the acceptance of the quitclaim and termination of Lease P.R.C. 735.1 as to the 740 acres enumerated, the balance of the developed area to be retained, consisting of approximately 220 acres and eleven producing wells, to continue to be subject to all conditions and performance requirements of the remaining lease.

(Mr. Levit returned to the meeting at this point)

GOV. ANDERSON: If there is no objection we will proceed.

MR. HORTIG: Page 16 -- Pacific Gas and Electric Company have requested the issuance of a mineral extraction lease pursuant to competitive public bidding which would permit the high bidder to dredge a part of the channel in Suisun Bay adjacent to intake units of the Pittsburg power plant. It is estimated that approximately 50,000 cubic yards of fill material would be removed and the ultimate disposition of the fill material would be on Pacific Gas and Electric Company property. The Corps of Engineers have authorized the operation as a benefit to navigation, and it is recommended that the Commission authorize the offer for lease pursuant to competitive public bidding for the
extraction of fill material at a minimum royalty of three
cents per cubic yard.

Page 17 -- Construction Aggregates Corporation has
been a lessee under a mineral extraction lease issued in
1952 pursuant to competitive public bidding, authorizing
the removal of sand and other fill material from specified
shoal areas in San Francisco Bay. The lessee has not, in
fact, heretofore removed any material under this lease but
has paid the minimum royalty which would be required on
minimum production under the lease terms, and the lease
has been continued from year to year. This last year,
under a sublease, for the first time there were to be opera-
tions in fact for the removal of specified areas. A certain
tank ship association filed objections with the Corps of
Engineers contending that the proposed operations, although
previously authorized by the Corps of Engineers, would now
constitute a hazard to navigation. So the entire matter of
mooring the necessary barges, dredges, and so forth in the
operating area is under review by the Corps of Engineer.'s
and until there is an affirmative decision our lessee can-
not proceed to dredge in San Francisco Bay. Therefore,
it is requested that the requirement for extraction opera-
tions be waived for the lease year ending February 13, 1959.

In view of the fact that there was no competition in
bidding at the time of the lease offer; the fact that the
lessee actually prepays an advance annual rental of $900
and continues to do so, it is recommended that the lease be continued in existence pending this study by the Corps of Engineers as to whether operations may be re-initiated in the future.

MR. LEVIT: How long is this lease for?

MR. HORTIG: It was issued for a twenty-year term in 1952. It has to 1972.

MR. LEVIT: So we are only proposing a waiver of the minimum requirements for one year.

MR. HORTIG: Yes sir -- until we know what else is to be considered.

The next item, referring to page 18 -- Moe Sand Company -- is the identical problem with respect to a lease which was issued in 1957 and upon attempted operations there is the same objection to this type of operation, which is also being studied by the Corps of Engineers; and, therefore, it is recommended that the operating requirements under Mineral Extraction Lease P.R.C. 2036.1 be waived for the lease year which ended November 11, 1958, all of the terms and conditions and performance requirements under the lease to remain unchanged.

MR. LEVIT: There must be some question whether we could forfeit the lease anyway if they were prevented from doing the minimum work by the Corps of Engineers.

MR. HORTIG: That is probably true, sir. The other alternative, of course, is to suggest that the lessee submit
a quitclaim and they might also be prevailed upon to do so voluntarily; but the net effect would be that we would also lose the prepaid annual rental and have another vacant piece of San Francisco Bay -- which we hope to be able to operate on as soon as we have completed these hearings with the Corps of Engineers.

Page 19 -- An application has been received from Shell Oil Company for a right-of-way easement over tide and submerged lands in the Pacific Ocean near Capitan, Santa Barbara County. The applicant has a lease from the adjoining upland owner, which lease runs for the length of the applicant's oil and gas installations on the upland; and therefore they are requesting a concurrent 25-year right-of-way easement on the adjoining tide and submerged lands in order to permit installation of a pipe line for submarine loading of petroleum products. On the basis of the appraised value of the land and the established rental rates for such right-of-way easements, the calculated rental annually would be $183.41 and it is recommended that this easement be issued under these conditions. There have been no local objections to the installation.

MR. LEVIT: For this type of thing, I am a little curious about these small rentals. I made a comment about it last time. Why should the State tie itself up for that length of time for such a nominal rental?

MR. HORTIG: Number one: This is a matter which is
under study and will be reported on in toto as to all leases, lease rentals and their applicability at the April meeting of the State Lands Commission. This recommendation is, of course, in accordance with our existing rules and regulations and prescribed administrative procedures.

Number two: In connection with these operations, lessee actually has a pipe line in place in this location under a 25-year lease issued pursuant to former Section 675 of the Political Code, which right-of-way expired February 12, 1959, this year, at a very nominal rental which was prescribed by the Legislature at that time. Actually, there is considerable difference between the rental rate previously paid and this rental rate recommended here on behalf of the Commission.

MR. LEVIT: This just confirms my feeling that it doesn't make too much sense to handle it this way. In other words, I can visualize a situation where a large investment might be necessary that wouldn't be made without an assurance that the installation could remain where it was for a reasonable length of time; but that doesn't apply here at all. In other words, the installation is in. It was made on the basis of a 25-year lease, so that the installer is not out anything. He knew exactly what he was getting into when he went in there and now we propose to tie the thing up for 25 years more for $180 a year.

MR. HORTIG: ... which is substantially in excess of
what the original rental was, plus the fact that without this right-of-way easement the operations on a complete marine loading terminal would be stopped.

MR. LEVIT: You don't understand my point at all. I am not suggesting that we toss them out of there at all. I am simply suggesting that I can see no justification, or no important justification, for the State tying itself up for 25 years for such a nominal rental. I mean there is nothing in it financially as far as the State is concerned. Why tie the State up? It doesn't strike me as being good business. Now, if this were an original installation I can see a different situation might arise regardless of whether the rental would be $200 or $2000; but in this case I don't see what it has to do with the continuance of the installation. I am not proposing that we not permit them to stay there under a short term arrangement, but this I don't understand.

MR. HORTIG: Well, if I may outline it very briefly this way, Mr. Chairman .......

MR. LEVIT: Especially since we are in the process of studying these rental situations, what is the occasion for tying us up for 25 years thirty days before we are going to decide whether the rentals are going to be entirely different?

MR. HORTIG: We are, of course, in an awkward transition period and timing period, and under those circumstances I can only recommend that this and any similar applications...
we have should necessarily then be withheld until the
Commission has determined whether the previously applicable
rental schedule should continue to apply in the future.
This is all we have recommended here for this particular
installation.

In connection with our study, we might mention as
far as we have gone -- of course, the original rates and
as are recommended here were based on general statewide
experience in relation to real estate valuations statewide
and actually at the time of their establishment there was
serious contention that the State's rates were higher for
rights-of-way than people could go and get the same author-
ity for on privately owned lands; and this is, in part at
least, so far borne out in our study and in our most recent
independent appraisals with respect to tide and submerged
lands -- although these happened to be in San Francisco Bay,
far removed from these particular tidelands, -- the lease
value as recommended by professional appraisers to our
applicants were at lower rates than the currently prescribed
rental rates of the State Lands Commission. However, we
must report to the Commission when we have a determination
and either a confirmation or revision, and, as I say, it is
now scheduled for the next meeting.

MR. LEVIT: I am not trying to prejudge the point at
all. I may be completely wrong on the rental proposition.
I am perfectly willing to hold off any judgment until I see
what the report shows; but what I am saying is, in this case I just can't see any point to acting on a 25-year lease at this particular point. Why can't it be a one-year lease at this time, to get it out of the way? I am not proposing at all that we do anything to hurt these people or to make life difficult for them, but I just don't see any justification for tying it up for 25 years when we are in the process of investigating what the rentals should be.

MR. HORTIG: The staff would be happy to recommend one of two alternatives. Technically, this installation has been on tide and submerged lands without benefit of any documentation since February 12th anyway ...

GOV. ANDERSON: The lease ran out on February 12th of this year?

MR. HORTIG: Yes. Another one month's lack of documentation would not be serious and it could be reconsidered in connection with possible revised rental schedules at the next meeting; or, as you have suggested alternatively, the recommendation that the right-of-way easement be renewed at this time under the existing schedule for a period of only one year and then be subject to scrutiny one year hence under the then established policies of the Commission with regard to rights-of-way.

MR. CRANSTON: I move we let it go over one meeting.

GOV. ANDERSON: Just let it hang over.

MR. LEVIT: Then if there is no objection we will
take that off the calendar. I'd like to ask one more
question. You come in with all these recommendations for
approval. Do you ever have any of those that you do not
recommend for approval or that you disapprove without pre-
senting to the Commission?

MR. HORTIG: You mean without Commission
approval?

MR. LEVIT: Or that the staff disposes of
without approval?

MR. HORTIG: The answer to both questions is,
yes. In other words, there are applications upon occasion
that have such difficulties that would require recommenda-
tion by the staff that they not be approved and the applicant
decides to withdraw his application and then at a later
time resubmits it on a basis on which the Commission can
approve it.

MR. LEVIT: Is that the only basis?

MR. HORTIG: And occasionally there are appli-
cations which the lessee desires, or the applicant desires
to have brought to the Commission for determination as to
whether the Commission agrees with the staff or agrees with
the applicant, in which event you would have before you a
recommendation from the staff that the application not be
granted for the stated reasons. The applicant would there-
upon make his presentation as to why he feels it should
and the Commission would be the arbiter.
MR. LEVIT: Well, since we have these meetings reasonably often, it might be a good idea to report in one part of the calendar, even for information only, those applications which have been made and where they have been withdrawn or something of that kind, with a note as to whether they were withdrawn after objections by the staff.

MR. HORTIG: My immediate recollection is we have not had any such since January.

MR. LEVIT: In other words ninety percent are actually granted, then?

MR. HORTIG: Well, ninety-nine percent of them. The applicant consults with the staff first as to what the statutory and regulatory requirements are and the form in which the application shall be submitted; and at that preliminary conference if there are any difficulties with respect to approval, these are discussed and ordinarily reconciled before the thing actually gets into the formal application before the Commission.

MR. LEVIT: But there is no problem -- anybody that wants to come to the Commission for approval, even when the staff has recommended disapproval, there is no problem getting on the calendar?

MR. HORTIG: No sir.

MR. LEVIT: O.K. Let's go on to (g).

MR. HORTIG: Well, here we have an application for a pipe line. This is to be located adjacent to Carpinteria
Valley in Santa Barbara County, appraised on the same basis as the preceding application, but here there is contemplated a new installation which would require a tremendous investment and which pipe line easement is going to be necessary in order to bring ashore from an offshore State lease the products that are going to be produced on the State lease. Therefore, I feel this is in a different category than the item we considered immediately preceding because it is not an independent commercial venture of the applicant. Actually, he is in this operation because he is an oil and gas lessee of the State of California and is going to have to get his production from his offshore platform or island to mainland storage for further processing and transportation; and in conjunction with the issuance of this particular tidelands lease pursuant to competitive public bidding, it was provided in the offer that any rights-of-way across other State lands, other than those on the oil and gas lease, which would be ultimately necessary to operate the State oil and gas lease, would be provided under the established rules and regulations of the Commission.

MR. LEVIT: Well, that last statement settles it, doesn't it?

MR. HORTIG: Except you could hold for one month and see whether our revised schedule does anything.

MR. LEVIT: Well, this is about what -- $40 a year for fifty years?
MR. HORTIG: That's right.

MR. LEVITT: O. K.

MR. HORTIG: Page 22 -- Application for right-of-way easement for overhead electric transmission lines across a section of vacant iate school land, which is desert land in the Mesquite Hills in the Soda Lake area of San Bernardino County, and the appraised value of the land is down to the point where the minimum rates applicable under the current schedule of the Commission would apply, giving a calculated total rental payable in advance for a 49-year easement of $1,920, and this is for an overhead transmission line over the land without complete negation of use of the surface or subsurface.

Page 23 -- Application from an individual, Floyd C. LeRoy, to lease one acre of submerged lands along the left bank of the Sacramento River at Tehama, Tehama County. Again, the computed annual rental on established rental bases would be less than $100. A minimum annual rental of $100 is prescribed and under the rules would be applicable in this instance; and in view of the fact that minor installations are contemplated to be placed, in terms of floating docks and walkways, it is recommended that a thousand dollar performance bond be required to assure both the maintenance of these facilities in safe condition and their ultimate removal at the time of termination of the lease.

Page 24 -- Application for lease, Tidewater Oil; and
this, again, is for the construction and maintenance of a wharf to support the pipe lines in conjunction with an established petroleum marine terminal at Gaviota, Santa Barbara County. The tidelands installation in this case would be new and require considerable investment. The upland terminal facilities have been located here for many years. This can be characterized as approximately midway between the conditions applying to the Standard Oil application for a pipe line and the Shell Oil application for a pipe line.

MR. LEVIT: Any reason why we can't put this over for a meeting? I mean would it inconvenience the situation in which the Tidewater Oil Company finds itself?

MR. HORTIG: Well, Tidewater has no installation on tidelands at the present time. This would mean that whatever the stage of their developments or plans for proceeding, they would be delayed.

MR. LEVIT: What are they? What is the stage? Suppose we don't want to delay them. Would this actually delay them?

MR. HORTIG: There is a representative here from Tidewater.

MR. LEVIT: What is your name, sir?

MR. HEEREN: D. W. Heeren, Tidewater Oil.

MR. LEVIT: What I asked was whether or not putting this over to the next meeting of the Commission would delay
the actual installation involved here.

MR. HEEREN: It might to some extent but if the Commission wishes, we will go along.

GOV. ANDERSON: I personally would like to see any of these that could be delayed, delayed until after that meeting. When you look at the figures here, the monthly rental is pretty low. Maybe I am entirely wrong on it.

MR. LEVIT: Well, if you don't feel that the delay would cause any particular hardship and you are willing to agree to that, I would prefer to see what we come up with in this report before we make the decisions.

MR. HEEREN: We already have the permit from the county, as well as the Army Corps of Engineers, for the installation.

MR. LEVIT: You say you do have the permits? That wouldn't be affected by putting this over for a meeting here?

MR. HEEREN: No. The only question is the annual rental fee?

MR. LEVIT: Yes, I think that's all it would concern.

MR. CRANSTON: Frank, what is the procedure in matters like this as far as public attention or interest is concerned? Or as far as those interested in the beauty of the coastal area? What is being done?

MR. HORTIG: First, applications are accepted pursuant to the rules and regulations only from the owner of the
adjoining upland or his licensee or permittee, so that the owner of the adjoining upland knows what is being proposed for placement immediately offshore from his property.

Second, where there is to be any projection above the surface of the water, there is published a public notice by the U. S. Corps of Engineers with respect to hearing any objections which may be proposed with respect to navigation interests, if there is an obstacle to navigation being created by such a construction.

Those are the only general notices and the only ones required under current statutes. There are several measures pending before the Legislature (as a matter of fact, two of them are in committee this morning -- the balance of our staff are attending committee hearings) which would require, virtually, notice to the legislators and the local coastal areas involved and even interior areas of any type of lease or encumbrances proposed by the Lands Commission and any other bureau or commission of the State of California.

MR. LEVIT: O. K.

MR. HORTIG: Page 25, gentlemen. It is suggested that the consideration of this calendar item be deferred pursuant to a request from Senator M. McCarthy, in whose district the proposed project is located. The deferment of consideration has been requested to give the County of Marin an opportunity to review the compatibility of the proposed program in conjunction with any county program for recreational development.
This is an outgrowth of the same type of thing you posed in your questions.

MR. L.VIT: This is going over, then?

MR. HORTIG: Yes. Page 27 is an application for a one-year extension from March 18, 1959 to March 17, 1960 for a lease that was issued in 1949 with a right to renew for twenty-three periods of one year each upon prescribed terms and conditions. The actual rental proposed for the additional year is still compatible with the existing schedule by the Commission and one year hence on reapplication this would be subject to review by the Commission in connection with any revised schedule that might be in effect. Therefore, it is recommended that this one-year extension be granted because the land is actually in use in connection with a boat-building facility, which would be seriously hampered if the lease were not renewed without extensive prior notification.

Page 28 -- The Commission has a series of ark sites leased along the bank of Corte Madera Creek, principally in Marin County and one of these ark site leases, on which the Commission leased the ground and the arks are the personal property of the occupier, is now so located that the area is blocking the construction of the Bon Air Bridge by the City of Larkspur. The City of Larkspur has acquired the personal property of the State's lessee and now desires to have the ground lease assigned to the City of Larkspur,
continuing with the terms and conditions of the lease because one of the rental provisions was an augmentation made necessary by the installment of a sanitary sewer installation for the benefit of these ark sites and collected on an annual assessment basis. The City of Larkspur proposes to continue with this lease and pay the assessment for this portion of the sewer installation, in order that the State not suffer any loss from that installation.

MR. LEVIT: That concludes Item 3. We have, then, for approval Items (a) through (m) exclusive of three items that have been withdrawn or put over -- Item (f), Shell Oil Company; Item (j), Tidewater; and (k) Charles Hover. Is there a motion for approval?

MR. CRANSTON: So move.

GOV. ANDERSON: Second.

MR. LEVIT: The items are approved. Number 4 -- City of Long Beach projects.

MR. HORTIG: Page 29, gentlemen. The Commission on June 11, 1958 conditionally approved costs to be expended during the '58-'59 fiscal year for projects which included necessary subsidence remedial work, which required advance approval by the Commission under Chapter 29. The specific projects were designated Pier E, Channel 2 Properties, and Subsidence Studies. The additional amounts which it has been determined are going to necessarily be expended in connection with these projects for the fiscal year ending
June 30, 1959 over and above the amounts heretofore approved are reflected in the schedules on pages 30, 31 and 32.

It is recommended that the Commission approve such costs proposed to be expended by the City of Long Beach subject to the standard reservations that the actual amount to be allowed ultimately as subsidence costs will be determined by the Commission upon an engineering review and audit subsequent to the time when the work on any of these items is completed.

MR. LEVIT: Does this involve approval of any specific completed items?

MR. HORTIG: No sir. These are continuing projects.

MR. LEVIT: Why do we have to have any motion at all since we have already conditionally approved the costs?

MR. HORTIG: You have conditionally approved the costs with specified ceilings at the time and these amounts are over and above the previously approved ceilings.

MR. LEVIT: What are we doing -- raising the ceilings?

MR. HORTIG: Yes sir. You are adding, or would add to the approvals the amounts on pages 30, 31 and 32, stating that the total additional amounts expended by the City of Long Beach may not exceed the amounts tabulated on pages 30, 31 and 32 and stating that the amounts actually to be allowed as subsidence deductions will be determined when the project is completed.

MR. LEVIT: This is a '58-'59 item?
MR. HORTIG: Yes sir, and the amounts here recommended for approval have an approval terminal date of June 30, 1959.

MR. CRANSTON: This has no effect at all on State revenue?

MR. HORTIG: Ultimately, yes, to the extent that subsidence costs are determined to be a specific amount, 25% of which is deductible by the City of Long Beach from the revenues returned to the State.

MR. LEVIT: Item (d).

MR. HORTIG: Page 33 -- Analogous to the problem just discussed with one addition, in that it has been determined that additional amounts will have to be expended to maintain the Town Lot area project in a state of efficiency. The Town Lot area project, however, distinct from the previous three projects the Commission considered, has not heretofore been determined to be one on which the Lands Commission can approve any subsidence deductions. Therefore, the advance approval of this item in augmentation of the prior approvals as recommended is subject to the same heretofore standard reservation -- that 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. This is a matter of mechanics necessary in view of the fact that Chapter 29 does not authorize the City of Long Beach to
expend funds and ever be in a position to hope to recoup unless they have advance approval of the Commission, so the conditional advance approval is recommended in this case.

MR. LEVIT: Well, what is it that we are being conditional about? Is it the fact we don't know how much it is going to amount to?

MR. HORTIG: We don't know that we are ever going to have an authorization or have a legal determination that the Commission is authorized to allow subsidence deductions for a project of this specific nature. However, in the event it should be determined legally in the future that the Commission is authorized to do so, then it is necessary that Long Beach have had a prior approval of the project in toto so that they can still collect their subsidence deduction. However, inasmuch as the preponderance of the present thinking in the Attorney General's office is that this project will not qualify, it has also been a condition of approval on this project heretofore to not authorize the current withholding by the City of any funds.

MR. LEVIT: This has come up before, has it?

MR. HORTIG: Yes sir, ever since this project was started.

MR. LEVIT: Well, how long are we going to give conditional approvals when we don't think there is any legal liability or any legal authority on the part of the Commission
to do it?

MR. HORTIG: We might ask Mr. Friedman.

MR. FRIEDMAN: This Town Lot project has some peculiar characteristics in this respect: The City of Long Beach goes out and buys privately owned parcels in this Town Lot area for the purpose of filling parcels and as part of a subsidence protective project and the City of Long Beach originally applied to the Lands Commission for approval as subsidence costs of the cost of acquiring these properties and the cost of filling them -- which would have meant that the State oil revenues would bear 25% of the cost of buying and filling these properties. On the other hand, when the project is completed the City of Long Beach will have in its hands some fairly valuable improved real estate, 25% of the cost of which would have been defrayed by the State and there is no legal means by which the State can get back a share of money equivalent to its outlay.

I don't think the matter is a case of eligibility or ineligibility for subsidence costs. It is the matter of determining the amount of subsidence costs in light of the fact that Long Beach will have in its hands an improved piece of real estate of such and such value and that value will have to be taken into account in determining the ultimate subsidence to be allowed. Of course, there is a possible eligibility for some share of the cost of the project as subsidence costs, but that can only be determined in the
light of the appraised value of the real estate on completion of the project. It was figured that Long Beach should not be permitted to deduct any part of these costs from oil revenue and that on completion of the project a new look would be taken at the entire project and account could be taken of the value of the property at that time.

MR. LEVIT: Well, it seems to me we are getting two points confused here — one is the question of a legal eligibility of these costs in the first place. Now, I thought from what I heard a few minutes ago that that was the reason this was conditional, because we were uncertain as to whether these costs could qualify at all. Now, you say that there is no question about the costs qualifying but that the question is as to the amount because the value of the property would have to be offset against the cost. Well, of course, if the value of the property exceeded the cost of acquisition, this wouldn't qualify at all, would it? This project that we are talking about here only involves the cost of the land, doesn't it?

MR. HORTIG: That's correct. Well — the cost of the land and subsequent filling.

GOV. ANDERSON: And the relocating of properties on there.

MR. HORTIG: And properties and facilities on there that must be relocated in order to make it a useful property — raise railroads, utilities.
MR. LEVIT: This has been going on for quite a while. I am just curious why we haven't come to a conclusion as to whether they qualify. I don't see the purpose in putting off for thirty years the matter of whether they qualify.

MR. FRIEDMAN: I think it is more a matter of allocating costs as between subsidence costs and non-subsidence costs, and as to whether Long Beach is going to make a profit on it.

MR. LEVIT: Why aren't we determining that?

MR. FRIEDMAN: I don't think you can until the project is completed.

MR. LEVIT: Well, we can determine the principles to be applied.

MR. HORTIG: Well, the principles have been under discussion but haven't been concluded.

MR. LEVIT: How long have they been under discussion?

MR. HORTIG: Do you recall the first time?

MR. WHEELER: No, I don't. It has been in process since July of '56.

MR. LEVIT: Are we to take it that it is Long Beach's position that they should receive the State's portion from the State and still make a profit on the properties in the long run if the value exceeds the amount expended on it?

MR. WHEELER: Well, from our estimates, the property will not exceed the amount we are paying for it. The value isn't as great.
MR. LEVIT: That begs the question. I am asking - I am not talking about that. I am talking about why we should give conditional approval and then you fellows sit back in the bushes and say the State ought to pay this and "we are not willing to give you a profit." Suppose we say it is a proper State cost, providing credit is coming for the eventual value of the property? Is that unreasonable?

MR. WHEELER: I think there is the idea there that we don't know how you can get it -- the mechanics.

MR. LEVIT: There is an offset.

MR. WHEELER: That's it. That's what is under discussion now.

MR. LEVIT: How long have these discussions been going on?

MR. HORTIG: Two years.

MR. LEVIT: Why shouldn't we settle this thing by agreement before we give any more of these approvals, conditional or otherwise?

MR. HORTIG: I might point out, Mr. Chairman, that the preceding items the Commission has considered are also conditional approvals. The item under consideration here has the one additional step and it has been found necessary in the case of these Long Beach projects to give conditional approvals because there are no precise engineering and accounting data available at the start of a project.
MR. LEVIT: I am not suggesting, Mr. Hortig, that there wouldn't be a place for conditional approvals under proper circumstances. I am merely pointing out that the problem here is one, it seems to me, that involves a legal question and involves negotiation and agreement. Now, I just can't understand the State being willing to go along on these conditional approvals and not expecting to get the protection that its legal advisers say it is necessary to get. Why should we put this off for twenty or thirty years and then have to litigate it at great expense when we could make the arrangements right now?

MR. HORTIG: Number one -- from the standpoint of the protection that our legal advisers tell us we have to get, this is actually the genesis of the language in here. That's where it came from.

MR. LEVIT: That doesn't appeal to me.

MR. HORTIG: Number two -- the twenty to thirty years' putting off I don't believe is actually going to be realistic. Number three -- the answers are going to have to be found certainly and the data for the answers are going to be available when this project is completed. Now, do you have an estimate of years to complete the Town Lot project at this time?

MR. WHEELER: No, I don't at this time.

MR. LEVIT: I don't care whether it is twenty years, five years, or two years. What is the difference?
point is that we are asked to give a conditional approval here to a matter that it seems to me ought to be determined before we give the approval. In other words, should the State buy these properties, or pay a part of the cost of these properties, without having an agreement from Long Beach; or commit itself possibly in the future to pay for these properties, without having a committal from Long Beach that the values of the properties, after they are worked on and filled and so forth, will be taken into consideration and the State credited with any excessive values or the State given an interest in those accreted values?

I don't see why we have to wait and decide it later. Long Beach is coming to us now and asking for an approval, and it seems to me this is the time to say to Long Beach: "Do you intend to take the position that if these properties double in value or you haven't actually been out anything, that you are in pocket, that you not only are not going to give us any of the money you are in pocket but you are actually charging us for a portion of the price of ......

MR. BALL: May I say something?

MR. LEVIT: Yes.

MR. BALL: Now, these commitments do not commit the State to spend any money and the State is not losing any money. It means that Long Beach is protected in the expenditure of the money by the approval.

MR. LEVIT: That's the point.
MR. BALL: Just a minute. We have to get their approval or we have to go to court. We don't have any other alternative.

MR. LEVIT: Yes you do.

MR. BALL: No, we don't.

MR. LEVIT: You have the alternative to agree with the State as to what happens if there is an accretion on the property.

MR. BALL: Now you are talking about a legal problem that the State Lands Commission can't pass on. This goes not to a question of bargaining with the City. It goes to the statute as to whether there is a right to the City. That is not going to be decided by your not giving us conditional approval. If you don't give conditional approval, it means you are going to throw Mr. Friedman and our office into a law suit.

MR. LEVIT: It takes two to make a law suit.

MR. BALL: No -- we want to avoid it. The conditional approval means simply this -- that the State is not spending its money. Mr. Hortig will make sure that there is no deduction from the State's money until it is settled what the amount is. Perhaps the City will negotiate a settlement. At the present time if the City asked me to render a legal opinion as to whether they could settle with the State, I would say the City of Long Beach doesn't have any right to do that at this time. We don't know where we stand and
rather than enter a negotiation and settle, I am afraid we would have to have litigation -- and that's what I want to avoid.

MR. LEVIT: Might as well have it now as later.

MR. FALL: No, we don't need to have it.

MR. LEVIT: If we can settle it now, we can do it just as well as later.

MR. BALL: No, we can't. We are not in a position to advise our clients that they can settle it. In other words, you see, this is a question purely ......

MR. LEVIT: Are you saying, Mr. Ball, that our position here is purely ministerial -- that we must approve these things whether or not we feel the State is being properly protected?

MR. BALL: Well, no, you can use your discretion. This item we claim is eligible for subsidence costs -- we claim it is eligible. We apply for permission to spend the money and we take the position the State pays 25%. That's what the statute says.

MR. LEVIT: If it's eligible.

MR. BALL: Yes. That's our position. Now the State comes along -- Mr. Hortig, exercising good business judgment, says "Wait a minute. There is going to be a profit made here at the end of the line here. We don't know, after you move all these things and spend the money, maybe that land will be worth more than you paid for it and we want to
reserve the right to claim it." We say: "All right, that's all right with us. We don't agree that under the statute you are entitled to it, but maybe you are right."

Maybe the City attorney would have to so advise the City. At the present time, we are not in a position to advise the City to agree with the principle that the State is entitled to 25% of the profits.

MR. LEVIT: Why should you when we continue these approvals?

MR. BALL: We wouldn't anyway. We would have to go to court. We claim it is eligible and the State would have to pay 25%. What this means -- through this arrangement we are avoiding litigation. We don't want to go to court. We have enough to argue about -- Mr. Friedman and I have enough to argue about without this.

MR. FRIEDMAN: I get my salary one way or the other.

MR. LEVIT: I have certain obligations as a member of this Commission.

MR. BALL: I am trying to explain this to you.

MR. LEVIT: This business of granting conditional approvals, frankly, doesn't appeal to me in the first place. I am willing to concede that there may be situations where an emergency arises and it is justified to grant a conditional approval, where you don't have time to get things settled first; but where you know exactly what the problem is, where you have already been talking about it for two
years and you are still postponing the evil day of
deciding whether the State is entitled to an interest at
least to the extent of its 25% contribution in any profit
realized by the City from these expenditures, I say that
the time to determine it is now and I can't follow along with
your idea that this is going to precipitate litigation.
I think if it is going to precipitate anything it is
Going to .......

MR. BALL: You mean not to use discretion -- that
you wish to withhold approval, to force settlement; and
we will not be so forced. This is purely a legal matter,
not a discretionary matter. If you wish to ask Mr.
Friedman for an opinion under the statute as to whether
or not these projects are eligible for 25% subsidence
contribution, that's purely legal. The other is good
businessman's judgment, which you are attempting to read
into the statute. Maybe you can, but it's probably going
to be a law suit.

MR. LEVIT: Let me ask you this -- if it's purely a
legal matter as to whether these projects qualify for a
25% portion, what difference does it make whether the Com-
mission gives its conditional approval or not, because if
you go ahead with it and you are entitled to it and we
have violated the statute in not granting the approval,
you would still be protected, wouldn't you?

MR. BALL: Well, we are protected when we spend the
money if we have approval of the Commission.

MR. LEVIT: The Commission has to follow the law if these projects are eligible and there is no legal problem. In other words, if you resolve the legal problem that the project is eligible, the Commission doesn't have discretion arbitrarily not to allow participation, does it?

MR. BALL: No, they don't and I suppose if we applied and you arbitrarily refused consent to the project, I suppose we could mandamus the Commission. These are things we want to avoid. We want to get along.

MR. LEVIT: The difference is, Mr. Ball, you want to avoid it; I want to prevent it.

MR. BALL: You want to precipitate it.

MR. LEVIT: No, I don't want to precipitate it. I want to get it out of the way so we won't be facing this litigation in the future.

MR. BALL: You see, Long Beach takes the position that this may never amount to anything. These subsidence costs are tremendous when you have to raise that land twenty feet, fill it, move all these utilities, move service structures, and then end up twenty feet higher. You have to put the cost of the dirt and fill on top of it. Long Beach doesn't think there is going to be a big profit.

MR. LEVIT: O. K. So we agree we don't want anything unless you make a profit. Can't it work both ways? Can't you agree if you do make a profit that the State would get
back a percentage of the profit to the extent of what it put in? Does that sound unreasonable?

MR. BALL: Now, Mr. Chairman, you are not advising a public body, as I am. I am advising the City of Long Beach, a municipal corporation, that has certain rights under these statutes. I can't advise them in accordance with good business judgment, the way I would settle a personal entry law suit. I have to advise them: "Your rights are so and so under this statute."

MR. LEVIT: I represent a third of a public body.

MR. BALL: They have to know this is their right under the statute.

MR. LEVIT: This apparently is nothing new and I'll state my position now -- that I will not withhold my approval of this item on this calendar today, but that I will say that if this comes up again I am going to seriously consider -- I may be wrong, but I'll think about it -- I'll seriously consider holding this type of approval until such time as the condition in the matter we are talking about here is resolved.

MR. CRANSTON: Mr. Chairman, might it not be advisable to see if a statute could be drawn and submitted to the Legislature? If there is a profit it doesn't seem fair that we wouldn't get our share of it. An amendment to the statute would cover it.

MR. LEVIT: Well, if the statute isn't amended we still
have the same problem.

MR. CRANSTON: Yes, but an amendment could cover the situation so far as future incidents like this are concerned.

MR. LEVIT: Well, maybe it could. I don't know.

Mr. Friedman would have a better idea about that than I would.

MR. FRIEDMAN: Well, the rub comes in the fact that in order to get any costs at all or State revenue, the City of Long Beach has to have advance approval or nothing. It can't spend the money first and then come to the Commission; and since the Commission by its past action indicated that it did not want to hold up this project, could not by any means determine how much money was involved, they evolved this technique of conditional approval.

MR. LEVIT: I understand that and I am not terribly averse to conditional approvals where there are reasons involved; but it's the other kind of condition -- I don't see why reasonable people can't dispose of conditions like that in advance -- the one I particularly directed attention to. I recognize you have got a situation down there that doesn't lend itself to continual bickering and delay. You don't know how much you are going to spend, you have to have advance approvals and figure out the amounts later; but that's a little different than this situation.

MR. FRIEDMAN: My assumption here has been that because this project has been approved as one aimed at subsidence
protection -- that was the past action of the Commission --
the problem here was how much was to be allocated as an
ultimate subsidence cost.

MR. LEVIT: Well, to put it another way: If you
came in with a situation like this, Mr. Ball -- if you
asked for approval of a particular type of project and
our advisers in the Attorney General's office said "It's
clear to us that it doesn't qualify" I wouldn't vote a
conditional approval on that.

MR. BALL: You would have to vote against it then.

MR. LEVIT: I would; and yet the same argument should
be made -- why should we give conditional approvals and
let it be litigated later? I'd like the Attorney General
to be prepared to give us an opinion before we have this
problem again, as to whether or not the State is obligated
under the law to contribute a portion of these costs with-
out any interest in reimbursement from the retention of
the title by Long Beach and the possible accretion in
value.

MR. CRANSTON: I'd like to add that if you find the
negative, that you consider whether an amendment to the
law would be in order.

MR. FRIEDMAN: Yes.

MR. WHEELER: There will be a request on that for
the next fiscal year's work coming up very soon.

MR. LEVIT: Well, this has been going on for two
years. You ought to be able to figure it out before the next request. Project (e)?

MR. HORTIG: Page 35 reports request by the City of Long Beach for approval to expend, from the City of Long Beach's share of the harbor trust funds, an amount not to exceed $3,375,000 for municipally owned water injection facilities to serve the four upper zones of two of the six fault blocks, II and III, of the Wilmington Field. The project, as proposed here and as recommended for approval by the staff, is the culmination of engineering studies conducted pursuant to an approval in December 1958 by the Commission of costs not to exceed $100,000 to be expended by the City for an engineering study of a field-wide water injection system, subject to the determination by the office of the Attorney General as to whether the proposed expenditure could be authorized pursuant to Chapter 29; and the office of the Attorney General has previously reported on that question that the use by the City of Long Beach -- the use of its own share of tideland oil revenues to finance, engineer and construct and operate a fieldwide injection water supply system is legally unobjectionable in principle.

The engineering study by the City's consultants has been reviewed by the staff, is concurred in, and the four major upland operators in the Wilmington Oil Field are signatories to an agreement to purchase water from this City
injection plant to be used in repressuring the Wilmington Oil Field. It is estimated that the sales of water from the plant will amortize the plant in ten years. In other words, the City in ten years will own the plant on which they advanced the capital expenditure from their own share of the tidelands revenues in the first instance and will recoup their costs. Therefore, it is recommended that the Commission approve the expenditure by the Long Beach Harbor Department of not to exceed $3,375,000 for a municipally-owned water injection facility -- with one condition: This approval is to be subject to the condition that any plans for the location and operation of new water source wells for the subject project will be submitted for engineering staff review, because these plans are not ready today and will only develop as the program is put into effect.

MR. LEVIT: We have for approval ....

MR. FRIEDMAN: May I interject at this point, Mr. Chairman? I think there is a bit of erroneous terminology which has crept in here. The project which is under discussion is a supply system, a supply of injection water. It is not a water injection system. The injection wells, as I understand it, will be financed as part of the general program of unitization for repressurization in the Wilmington Oil Field. This is strictly a water supply system.

MR. LEVIT: I think we understood that.
MR. FRIEDMAN: I would appreciate very much if the resolution of the Commission were slightly amended to preserve that differentiation here. Down here at the bottom of par. 35, where there is a reference to "... municipally owned and operated water injection facilities ..." I would recommend that that read: "Municipally owned and operated injection water supply facilities."

MR. LEVIT: Water injection supply facilities?

MR. FRIEDMAN: Source wells and distribution systems which will carry the water out to the wells.

MR. HORTIG: With one additional amendment, Mr. Chairman, if I may, to strike ".. and operated .." because that was the original proposition but the total operation may ultimately eventuate where another operator may operate for the City. The facilities will at all times be municipally owned and it is with respect to that, that the expenditure of funds is being approved.

MR. LEVIT: Would you say "water injection supply facilities"?

MR. FRIEDMAN: "Injection water supply facilities." It is a rather ponderous phrase.

MR. LEVIT: All right. I think we all know what we mean. Is there a motion to approve Items (a) to (e) of No. 4?

MR. CRANSTON: So move.

GOV. ANDERSON: Second.
MR. LEVIT: That will be approved. Item 5.

MR. HORTIG: Page 37 -- As the Commission, or certainly the Chairman, is aware -- certain auditing phases in connection with the operations at Long Beach have been conducted for the State Lands Commission under a service contract with Division of Audits of the Department of Finance. There are now budgetary proposals that the Lands Commission have its own internal audit staff effective July 1, 1958 ...

MR. LEVIT: '59, isn't it?

MR. HORTIG: ... '59, I am sorry ... and to provide an effective cutoff date and to permit the audit group from the Department of Finance to complete a post audit which will actually complete the records through June 30, 1958, to be completed on or about May 31, 1959, an augmentation of the service contract in the amount of $5,000 is required. Budgeted funds in the amount of $6,000 are available in the Commission's budget for this purpose and this augmentation of this service contract with the Division of Audits is recommended.

MR. LEVIT: In other words, this is an auditing review of the tidelands financial operation?

MR. HORTIG: In Long Beach, and was made necessary by the fact that we had a built-in backlog as of the date that the Commission was put into Long Beach by Chapter 29. The statute became effective in July of '56 and already the
Commission was accountable for the actions of Long Beach back to February 1956 and in the transition of administration and getting the records down to date, the staff of the Lands Commission as it existed then was augmented by this service contract in order to bring post auditing down to a point where we might, with expanded staff in the future, take it over on behalf of the Commission. We are about to be in that position.

MR. LEVIT: Is this a post auditing operation?

MR. HORTIG: Yes sir. The current audit -- the current accounting is being conducted by the staff of the State Lands Commission. This service contract only provided for post audit.

MR. LEVIT: Is it now planned that you are going to do in the Lands Commission not only the auditing but the post auditing?

MR. HORTIG: Audits will still do post auditing of the Lands Commission as such. One of the difficulties with this -- and the Controller (Mr. Kirkwood) has heretofore questioned just that point -- that this places the Division of Audits of the Department of Finance in an anomalous position of doing work for the Lands Commission and then having responsibility for post-auditing the same work.

MR. LEVIT: Is there a motion to approve Item 5?

MR. CRANSTON: So move.

GOV. ANDERSON: Second.
MR. LEVIT: Approved. Sales of vacant school lands.

MR. HORTIG: Pages 39, 40 and 41 relate to recommendations for the sale of vacant State school lands pursuant to competitive public bidding at a bid price equal to the appraised value of the land. There was only one bid in each instance and it is recommended the sales be authorized.

MR. LEVIT: Let's go on to No. 7 then.

MR. HORTIG: Page 42: The Commission had heretofore selected 40 acres of Federal land in Kern County pursuant to an application of the Mojave Unified School District, who desired to acquire the land. The school district subsequently withdrew its application. It is recommended that the Commission authorize, under the authority which they have, that the staff proceed with the completion of the selection to obtain title in these lands for the State and to place these lands on the vacant land list, to be sold in accordance with established rules and regulations for such sales.

MR. LEVIT: Number 8.

MR. HORTIG: Chapter 2012, Statutes of 1957, authorized the Commission to sell a Chain Island, located at the confluence of the Sacramento and San Joaquin River....

MR. LEVIT: What is sovereign land?

MR. HORTIG: Lands to which the State succeeded to title by virtue of its sovereignty. Tide and submerged lands are sovereign lands as distinguished from proprietary lands.
and Chain Island falls into this category. It's an island that formed in our sovereign lands after title vested in the State of California. Specific statutory authorization for the sale and offer was followed. One bid has been received. The land was appraised at $5,226 and some odd cents. The bid was for a total of $5,258.20, submitted by A. Russell Gallaway, Jr. of Sacramento. The island has a lease on it from the Lands Commission and the sale is subject to this lease, which still has come years to run. A sole bidder offered this high bid and it is, therefore, recommended to be sold to the high bidder.

MR. CRANSTON: What is the lease for?

MR. HORTIG: It is a recreational permit for dock facilities.

GOV. ANDERSON: That's $125 an acre.

MR. HORTIG: Slightly above -- $125 and some odd cents.

GOV. ANDERSON: What kind of property is this?

MR. HORTIG: It is marshy tule grass, approximately fifty acres, that actually in the course of years have moved downstream as the debris which fixed itself to the island was brought down by flood waters. It is essentially uninhabited and at high stages of the river there is no solid ground.

GOV. ANDERSON: So it has virtually no other use than this?

MR. HORTIG: Duck hunting is probably its highest and
best use.

MR. LEVIT: Number 3.

MR. HORTIG: Page 46 -- Under Section 6307 of the Public Resources Code, the Commission is authorized and previously directed the Executive Officer to proceed with an exchange of lands between the State and Leslie Salt Co., lands in Alameda County intended for the improvement of navigation, for flood control purposes, and in aid of reclamation. The statutory provisions require, as adopted in 1955, that the land to be received by the State shall be of equal or greater value than the lands conveyed by the State. Appraisals made as early as 1954 indicated a State land value of $23,800 and the Leslie Salt Co. value of $32,100. These appraisals have been subsequently updated. The appraisers who made the initial report have affirmed the lands are still at the same value as originally appraised and that any appreciation in value extended equally to the Leslie property and to the State property. The Commission had approved this transaction in 1955, but in a manner in which it could not be completed.

Therefore, it is recommended that the Commission rescind its action s of January 21, 1955 and May 19, 1955 and determine, as required by the Act, that the exchange of lands between the State of California and Leslie Salt Co. as hereinafter provided is in the best interests of the State and for navigation and flood control purposes, and
as an aid in reclamation; and that the lands to be conveyed to the State are of equal or greater value than the lands to be conveyed by the State to Leslie Salt Co.; further, pursuant to the statutes, that the Commission authorize the acceptance from Leslie Salt Co. of a deed to the lands to be conveyed to the State; to execute and deliver to Leslie Salt Co. a patent to those certain sovereign lands of the State which are to be transferred to Leslie Salt Co. in exchange; and to accept a 40-foot easement from Leslie Salt Co. for access from the existing 400-foot flood control channel to the old bed of Alameda Creek, which is now completely dry and filled, but which technically under the law has an easement for navigation on it.

MR. LEVIT: You have these documents, before you accept them, edited by the Attorney General?

MR. HORTIG: Yes, they have been prepared in conjunction with the office of the Attorney General.

MR. LEVIT: All right. 10 ....

MR. HORTIG: Page 59. On completion of the exchange which was just outlined to you gentlemen, then the Commission is in a position to consider the request of the Alameda County Flood Control and Water Conservation District for permission to use and occupy the 400-foot-wide strip of land westerly of the town of Alvarado in Alameda County for flood control purposes. This application is pursuant to the specific statute for the benefit of the district, Statutes
of 1949.

MR. LEVIT: I wonder if this will prevent what happened in the past when ... (sorry, few words unintelligible to reporter) when our bus sank in the flats of Alameda County.

MR. HORTIG: Customarily, yes, although there are areas that will not be protected.

Therefore, it is recommended that the Commission authorize permission to issue permit to the Alameda County Flood Control and Water Conservation District for flood control purposes.

MR. LEVIT: 11...

MR. HORTIG: Page 62.

MR. LEVIT: Well, this is a little different sort of thing. Let's take up Items 6 through 10. Is there a motion to approve?

MR. CRANSTON: So move.

GOV. ANDERSON: Second.

MR. LEVIT: That will be approved. Number 11.

MR. HORTIG: On February 24, 1959, the Commission directed the staff to submit recommendations relative to amending certain provisions of the Commission's rules and regulations covering the sale of school and swamp and overflow lands for the purpose of streamlining the procedure by which these lands were sold and particularly to prevent excessive and long-time deposits by applicants when filing applications to purchase. Attached hereto as Exhibit A is...
a draft of proposed rules and regulations which would accomplish three major changes: elimination of the requirement that an applicant deposit his initial minimum offer in cash; (2) elimination of the preferential right of sale to the first applicant, as under present regulations; and twenty days from receipt of written notice in which the applicant must deposit funds to meet the appraised value.

Governor Anderson raised the specific question previously of holding long-term deposits. This would eliminate that. Deposits would be required only immediately preceding the time the lands were going to be advertised for competitive public bidding and therefore it could be estimated that deposits would only be held a maximum of ranging from thirty to sixty days hereafter, rather than circumstances where we have found ourselves holding deposits for as much as a year and a half heretofore.

Inasmuch as the present provisions proposed to be amended are in the Commission's rules and regulations, revision of the rules and regulations under the Administrative Code requires public hearing and the normal procedure would be to invite written presentations on behalf of anyone interested with respect to the proposed revised rules and regulations; then submittal of staff report on these written presentations and oral hearing, public hearing, at a meeting of the Lands Commission as to the format of the rules to be finally adopted; and their final adoption thirty days
thereafter and filing with the Secretary of State, when such amended rules would then be in effect. So what is recommended at this time is authorization to the Executive Officer to start the procedures for consideration of amendments to the Commission's rules and regulations, to accomplish the purposes outlined in this recommendation.

MR. LEVIT: Can we set the public hearing now, or is there ... 

MR. HORTIG: No, there is publication, petition receipt and notice ...

MR. LEVIT: Well, you will set it?

MR. HORTIG: We will set it for the first meeting of the Commission we can get to after the procedure.

GOV. ANDERSON: Just so I can follow the procedure -- a person goes out and locates some State land he wants to bid on; he then finds six months ago the State made an appraisal of that. What does he have to put down at that time?

MR. HORTIG: At that time, if the appraisal was within six months?

GOV. ANDERSON: What is it normally? Is it normally older than six months?

MR. HORTIG: Six months and older we normally reappraise.

GOV. ANDERSON: Let's say you appraised it a year ago, so you have a rough idea of what it is worth. Assuming $100,000 is what you have appraised it for, what does he
have to put up under what you are recommending now?

MR. HORTIG: $5 filing fee and $250 initial expense deposit to cover the reappraisal.

GOV. ANDERSON: Now, then ....

MR. LEVIT: One question at this point, Governor, if I may ... Does this $250 only cover the appraisal expense?

MR. HORTIG: Yes sir.

MR. LEVIT: Suppose that he just doesn't put up his money within the time, the twenty days that you provided for in here, would the $250 be returned to him?

MR. HORTIG: Less expenses incurred to that date.

MR. LEVIT: Why shouldn't the $250 be forfeited under those circumstances?

MR. HORTIG: The entire $250?

MR. LEVIT: Yes.

MR. HORTIG: Actually the analogous procedure to date has simply been to forfeit or retain the actual expense the Commission had incurred to that date.

MR. LEVIT: He puts up his money now he has to put up the full purchase price ...

MR. HORTIG: ... plus a $250 deposit.

MR. LEVIT: If he changes his mind, can he get his money back now?

MR. HORTIG: Less incurred expenses.

MR. LEVIT: Any time before the bid is made?

MR. HORTIG: Yes sir.
GOV. ANDERSON: Now, then, does he have any prior right on this with this application?

MR. HORTIG: No.

GOV. ANDERSON: No prior right, so he just actually starts action on it?

MR. HORTIG: Because he is interested he starts action.

GOV. ANDERSON: Then the State comes in with its final appraisal.

MR. HORTIG: Right.

GOV. ANDERSON: Then he has how much time to put up his money?

MR. HORTIG: Then he has twenty days.

GOV. ANDERSON: And anyone else can come in and raise that and he has the prior bid?

MR. HORTIG: No, he no longer has any preference right by the proposed revision.

GOV. ANDERSON: So that all he gets for his $255 is some action by the State to be able to sell it at whatever it is appraised to be.

MR. HORTIG: That's right. If he is the high bidder, he gets the land; and if he isn't the high bidder, he gets all his money back and the high bidder pays all the expenses.

MR. JOSEPH: I am Paul Joseph, Office of the Attorney General. I talked to Mr. Smith about this matter and he said apparently a part of the rule was omitted.
MR. HORTIG: There is a certain specific work/s in a draft which was pointed out by Mr. Smith, apparently since he talked to Mr. Joseph. In view of the fact we have to hold these public hearings and we bring back the specific form of the language which is considered for adoption, the particular words with which we are concerned would be considered at the time of the public hearings and if desired can be reinserted and then brought to the Commission. In other words, the Commission is not bound to these specific words proposed here in the proposed rules and regulations.

MR. LEVIT: That's of course true.

MR. JOSEPH: I called attention to the fact -- it was the third specification on page 62 -- that when they put up the balance was not set forth in the proposed amendment; but, of course, it is true that at the public hearing -- or at the hearing, whatever it is -- that change may be made.

MR. LEVIT: Well, but that is part of the specification of what the draft is proposed to accomplish. Shouldn't you make that change before you actually start proceedings?

MR. HORTIG: We can -- either way. I might call attention of the Commission and Mr. Joseph to the bottom of page 64. It is already provided in very general terms, not twenty days, but "... said applicant shall have an opportunity to deposit an amount equal to the appraised
Are they sealed?

HORTIG: They are all sealed bids and during the applicant could submit additional bids. In this, he could raise his own original offer.

ANDERSON: Originally it was that he made a bid and someone else topped it, he was given the same back and go over that. This is being?

HORTIG: It is proposed that it be eliminated.

is figured this preference right has long since purpose. We have applications in quantity and have them in greater quantity than we have and the actual preference right was originally in order to give someone the incentive to start when we got $1.65 and $2 an acre. Actually,
value." This is what is to be accomplished and he has twenty days to do it.

MR. LEVIT: I think you should clear it up, since it is one of the rules. That's what you had in mind.

MR. JOSEPH: Yes, the twenty days should be in.

MR. LEVIT: You can work it out.

MR. HORTIG: As a matter of fact, we do have it in on our office drafts. It was left out of this inadvertently.

GOV. ANDERSON: After the figure has been set and with twenty days to make their offer, the original applicant would only be entitled to one bid and all others would be entitled to one bid. Are they sealed?

MR. HORTIG: They are all sealed bids and during the period the applicant could submit additional bids. In other words, he could raise his own original offer.

GOV. ANDERSON: Originally it was that he made a bid and then when someone else topped it, he was given the right to come back and go over that. This is being eliminated?

MR. HORTIG: It is proposed that it be eliminated because it is figured this preference right has long since served its purpose. We ...ve applications in quantity and will shortly have them in greater quantity than we have land anyway; and the actual preference right was originally established in order to give someone the incentive to start bidding, back when we got $1.65 and $2 an acre. Actually,
there had to be a development of interest and some incentive. The net result under our current system has been to find that in 90 to 95% of the cases the first applicant meets the high bid; or in only 5 to 10% of the cases does a second or other applicant who actually bid higher in the first instance have an opportunity to buy the land, with the result that the people who are actually concerned with the economics of this invariably ask whether there are any pending bids or submit -- and this is happening to us every week -- submit an additional bid, saying "If you already have another bid on this land, don't file this because we don't want to be the second bidder. If we are the first bidder, all right." The net result is that it has actually decreased competition.

MR. LEVIT: Well, we are not proposing to act on these rules today. You are just submitting them for the information of the Commission.

MR. HURTIG: And requesting authorization to proceed with the hearings.

MR. CRANSTON: What is the nature of the public notice you give with regard to this?

MR. HURTIG: Published in newspapers of general circulation -- in this instance in Sacramento, Los Angeles, and ....

MR. CRANSTON: Just a normal legal notice?

MR. HURTIG: Normal legal notice, plus copies of the
notice to everyone who is on our requested mailing list (I think we have a considerable file) in the event of any amendments to rules and regulations; plus copies to all the press associations, who give these things fairly wide distribution; and the land trade journals.

MR. CRANSTON: General press releases are put out in addition to the formal legal notice?

MR. HORTIG: Yes.

MR. LEVIT: Then a motion would be in order to authorize the Executive Officer to initiate procedures for amendment of the rules as discussed here today. I don't see, Mr. Hortig, that you need any further authorization as suggested in the last paragraph. I think that's all that is necessary.

MR. HORTIG: Well, actually the last paragraph could just as well have been incorporated in the first paragraph. It relates to the procedures for hearing on the rules.

MR. LEVIT: I don't think it adds anything at all. Procedures for hearing on the rules -- if you are going to initiate and follow through these procedures, that's all you are going to do.

MR. HORTIG: That's correct. We cited this for the information of the Commission as to what is being authorized.

MR. LEVIT: Do we have a motion on that?

MR. CRANSTON: So move.

GOV. ANDERSON: Second.
MR. LEVIT: Item 12.

MR. HORTIG: The Commission's survey staff has recently completed survey of the mean high tide line along the shore of the Pacific Ocean in Santa Barbara County, primarily to determine the position of the shoreward boundary of the adjoining offshore leases which were issued in approximately July and August 1958, to provide for recording of the survey maps in the affected areas, so they may be of public record and known to all. It is recommended that the Executive Officer be authorized to approve and have recorded the said survey maps.

MR. LEVIT: Is there a motion?

MR. CRANSTON: So move.

GOV. ANDERSON: Second.

MR. LEVIT: Motion is carried. Number 13 is the summary of legislative bills.

MR. HORTIG: Informative only -- no action required; and the same with the last item appearing on page 74 -- status of major litigation.

MR. LEVIT: These are all set forth in your report?

MR. HORTIG: Yes sir.

MR. LEVIT: Unless there are questions, I think that the Commission will perhaps be satisfied with the summary content.

MR. HORTIG: I'd like to call the attention of the Commission on page 75 to item 4. Lest there be confusion,
we have again one Carl Whitson versus the State of California among others. Mr. Whitson was versus the State of California before, at which time he contended all the Long Beach tideland proceeds and the other State oil and gas proceeds should be going to the Federal treasury. The Federal court dismissed that action. The fashion this spring is to contend that all the proceeds should go to Long Beach. So we can assume, there being three alternatives and Mr. Whitson now having explored two, Mr. Whitson not being successful in this one he can say everything in Long Beach belongs to the State. He has tried two of them.

MR. LEVIT: The Long Beach people aren't here, so we can't ask them. Is there anything else to come before the Commission or any question on these matters of legislation?

MR. CRANSTON: Mr. Chairman, I would like to ask that the recommendations of the staff on our leasing arrangements and rates be submitted as far in advance as possible of the next meeting, so we will have time to study them.

MR. HORTIG: Yes sir.

MR. LEVIT: That will be done and if there is nothing more, we will adjourn.

MR. HORTIG: If I may reaffirm, gentlemen -- the next meeting of the State Lands Commission is Thursday, April 30, nine a.m.
MR. LEVIT: Is there any objection to that date -- Thursday, April 30, nine a. m. here?  (No response)
The meeting is adjourned.

ADJOURNED 10:55 A.M.

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CERTIFICATE OF REPORTER

I, LOUISE II. LILlico, hearing reporter for the Division of Administrative Procedure, hereby certify that the foregoing sixty-two pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION of the State of California held on March 25, 1959 at nine o'clock a.m. at Sacramento, California.


[Signature]

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA