TRANSCRIPT OF MEETING
of
STATE LANDS COMMISSION
LOS ANGELES, CALIFORNIA
OCTOBER 27, 1960

PARTICIPANTS:

THE COMMISSION:

Messrs. Alan Cranston, Controller, Chairman
Glenn M. Anderson, Lieutenant Governor
John E. Carr, Director of Finance
F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Mr. Jay L. Shavelson, Deputy Attorney General

APPEARANCES:

(In the order of their appearance)

Mr. E. J. Guidotti
Member, Sonoma County Board of Supervisors

Mr. F. B. Sarles
Consulting Engineer, Sonoma County

Senator Richard Richards

Mr. J. Barton Hutchins, representing
Edwin W. Pauley

Reporter:

Louise H. Lillico
Division of Administrative Procedure
<table>
<thead>
<tr>
<th>ITEM CLASSIFICATION</th>
<th>ITEM ON PAGE OF CALENDAR</th>
<th>PAGE OF TRANSCRIPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twenty-five year award to Mr. F. J. Hortig</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

1 - Permits, easements, and rights-of-way -- no fee

(a) Archibald, J. O. | 22 | 1 | 3-A |
(b) Imperial Beach, City of | 24 | 2 | 3-A |
(c) Sacramento County, Dept of Public Works | 16 | 3 | 3-A |

2 - Permits, easements, leases, and rights-of-way -- fee

(a) Nolan, Leo J. | 10 | 5 | 3-A |

MOTION ON AMENDMENT TO (a) | 5 |

(b) Pacific Gas & Electric | 18 | 6 | 6 |
(c) Shell Oil Company | 23 | 7 | 6 |
(d) Spaulding, L.B., et al | 9 | 8 | 7 |
(e) Spight, Lindsey H. | 11 | 9 | 7 |
(f) Calif. Elec. Power Co. | 4 | 10 | 7 |
(g) Calif. Interstate Tel. Co. | 5 | 11 | 7 |
(h) Trustees of Deep Springs | 6 | 12 | 8 |

MOTION ON CLASSIFICATION 2 | 10 |

3 - Sales of Vacant State School Lands

(a) Division of Highways | 7 | 14 | 10 |
(b) Day, Grace M. | 1 | 16 | 11 |
(c) Gallo, Anthony E. | 2 | 17 | 11 |

- continued -
<table>
<thead>
<tr>
<th>Item Classification</th>
<th>Item on Calendar</th>
<th>Page of Calendar</th>
<th>Page of Transcript</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 - Selection &amp; Sales</td>
<td>State Park Commission</td>
<td>21</td>
<td>18</td>
</tr>
<tr>
<td>(a) State Park Commission</td>
<td>21</td>
<td>18</td>
<td>12</td>
</tr>
<tr>
<td>(b) Rocca, Curtis Mitchell</td>
<td>3</td>
<td>19</td>
<td>12</td>
</tr>
<tr>
<td>5 - Remission of resolution in Minute Item 21 of 1/21/60, etc., authorization to issue patent to Elinor H. Black</td>
<td>8</td>
<td>20</td>
<td>12</td>
</tr>
<tr>
<td>6 - City of Long Beach Projects</td>
<td>Pier &quot;A&quot;, Fire Station</td>
<td>13</td>
<td>24</td>
</tr>
<tr>
<td>(a) Pier &quot;A&quot;, Fire Station</td>
<td>13</td>
<td>24</td>
<td>15</td>
</tr>
<tr>
<td>(b) Back Areas, Piers A-D, etc.</td>
<td>13</td>
<td>24</td>
<td>15</td>
</tr>
<tr>
<td>(c) Town Lot, Pump Sta. No. 1</td>
<td>13</td>
<td>24</td>
<td>16</td>
</tr>
<tr>
<td>7 - Authorization to issue grant deed to Robert O. &amp; Kathleen D. Acuff</td>
<td>12</td>
<td>28</td>
<td>16</td>
</tr>
<tr>
<td>8 - Approval settlement with Earl Snider</td>
<td>20</td>
<td>29</td>
<td>17</td>
</tr>
<tr>
<td>9 - Determination re T&amp;S lands in Bodega Bay (Ch. 1064/59)</td>
<td>15</td>
<td>31</td>
<td>20</td>
</tr>
<tr>
<td>10 - Authorization re OHWM Coronado Beach</td>
<td>14</td>
<td>32</td>
<td>25</td>
</tr>
<tr>
<td>11 - Authorization re public hearing Ventura County on proposed oil and gas lease terms &amp; conditions</td>
<td>17</td>
<td>33</td>
<td>26</td>
</tr>
<tr>
<td>12 - Approval 1961-62 budget</td>
<td>19</td>
<td>34</td>
<td>28</td>
</tr>
<tr>
<td>13 - Report on status of litigation</td>
<td>25</td>
<td>37</td>
<td>28</td>
</tr>
<tr>
<td>14 - Confirmation next meeting</td>
<td>57</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- continued -
### SUPPLEMENTAL CALENDAR

<table>
<thead>
<tr>
<th>Item On Calendar</th>
<th>Page Of Calendar</th>
<th>Page Of Transcript</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confirmation of oil and gas lease form - Santa Barbara County</td>
<td>26</td>
<td>29</td>
</tr>
</tbody>
</table>

**MOTION**

Proposed oil and gas leases - Santa Barbara County | 27 | 41 (Discussed along with item above)

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<table>
<thead>
<tr>
<th>Calendar Item</th>
<th>Page of Calendar</th>
<th>Page of Transcript</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>16</td>
<td>11</td>
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<tr>
<td>Confirmation next meeting</td>
<td></td>
<td>57</td>
</tr>
</tbody>
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MR. CRANSTON: The meeting will please come to order.

In lieu of the raise for the Executive Officer that has sometimes been discussed, we have a twenty-five year award for twenty-five years of distinguished services for Frank Hortig. I'd like to just briefly summarize what his quite remarkable career has been with the State Lands Commission:

He first took temporary employment with the State in the Division of Highways way back in 1930 and was there again in '35 and '36. On July 25, 1935, he was appointed engineering aid in the State Lands Division and was soon assigned as a trouble shooter at the Huntington Beach Tidelands Oil Field, thus his continuous service has been linked with that vital and important field.

On July 16, 1940, he was assigned by the State Lands Commission to the supervision of all field operations for the State Lands Division. In November 1950 he was appointed in the just-then-established classification of Mineral Resources Engineer, as head of the Mineral Resources Section. He served from the period January 8, 1954 to April 3, 1956 as the head of the Mineral Resources and Civil Engineering Sections of the Division.

On March 11, 1957, he was appointed Assistant Executive Officer of the whole Lands Division and on July 15, 1957 he was appointed as Executive Officer of the State Lands Commission and Chief Administrative Officer of the State Lands
Division.

He achieved his twenty-five years of service on March 10, 1960, and in keeping with the slowness with which the government moves, it took us until this date to get around to give him the award.

He served in the armed services, U. S. Navy, during the period '43 to '46, and was released to inactive duty with the rank of Lieutenant, subsequently promoted to Lieutenant Commander.

The growth of the activities of the Lands Division during the time that Frank has served has been truly remarkable. In the period from '34 to '35 to the present, the staff has grown from nine employees, with a budget of $31,000 and with revenues remitted to the treasury of $292,000 in that first year (only $292,000 coming to the State); at the present time we have 104 employees, budget of $924,000, and, most importantly, revenues accruing to the State of over $15,000,000 in the last year, which is sort of an average figure, I believe. During the time when he was serving as Executive Officer, the position he presently holds, the income record for all time was realized in '58-'59, when $75,000,000 was remitted to the State of California.

At this time it is a pleasure to me to award Frank this pin and also this certificate honoring him for his distinguished service to the State of California over many years. This is signed by Governor Brown, by Lieutenant Governor
Anderson, by John Carr and myself, and by Frank Jordan. Frank, it's a pleasure to give this to you and more to work with you. Thank you very, very much.

By a sheer coincidence, which I can't quite believe, Frank's wife Helene is in the audience. Helene, would you stand up? (Applause) I think she does honestly believe it is a coincidence, but somebody must have guided her to this room on this occasion since it is the first time she has attended a State Lands Commission meeting.

Thank you very much, Frank.

MR. HURTIG: Thank you. If I may, Mr. Chairman -- from the development statistics which you have cited it must be apparent that there have been many challenging opportunities during those years, which have formed the basis of a very interesting career for me. However, I hasten to assure the Commission that the quantity and complexity of technology and administrative problems of the Commission remaining unsolved are increasing rather than decreasing, so there is still an abundant supply for the future. Particularly, I wish to thank the Chairman for his very kind comments and the members of the Commission individually and collectively for their guidance and cooperation.

MR. CRANSTON: Thank you very much, Frank. We will now proceed with the regular calendar.

The first item to come before us is Item Classification 1 for permits, easements, and rights-of-way to be...
granted to public and other agencies at no fee, pursuant to statute. The first is to J. O. Archibald -- dredging permit in Redwood Creek, San Mateo County. Is there any discussion of that item? (No response) If not, we move to (b) -- Applicant Imperial Beach, the City of -- structure permit for a rock-mound groin, T & S lands of Pacific Ocean, San Diego County; then item (c) -- Sacramento County Department of Public Works -- a dredging permit.

If there is no discussion on any of those items a motion for approval is in order.

GOV. ANDERSON: I'll move it.

MR. CARR: Second.

MR. CRANSTON: It has been moved and seconded to approve them and it is unanimously so ordered.

Item Classification 2 -- Permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental and fee policies of the Commission: Number (a) -- Leo J. Nolan -- a ten-year ark site lease in Petaluma Creek, Black Point, Marin County. If there is no comment, we will move on.

MR. CARR: I'd like to ask a question about this, Mr. Chairman. How many of these ark sites are there, Mr. Hortig?

MR. HORTIG: In round numbers, Mr. Carr, probably fifty. There will be more in the near future because a series of similar leases are being completed for areas that
constitute trespasses on State lands in Mare Island Straits, where people built cottages and recreational sites in error because of lack of certainty of the subdivision boundaries — which were only settled finally by the Superior Court in the county after the structures had been built and it was found that at least a portion of the structures were on State lands. For those occupancies, a series of leases are being negotiated some ten or twelve at the last meeting — and there will probably be more presented to the Commission for approval in the next and other meetings of the Commission.

MR. CARR: Mr. Chairman, there is a great deal of activity in Marin County on the development of these shore lines and I am wondering if the Planning Commission of Marin County has said anything about these things or knows about them, because they are thinking of development as in Newport Beach. I am wondering if this series of leases might be important.

MR. HORTIG: Mr. Carr, the staff agrees this is not the way to plan. In all of the instances where ark sites have been brought to the Commission for approval, these have constituted a lease for a structure that has been on the property for many years. In the original series of ark sites leases which were on Corte Madera Creek, which the Planning Commission hasn't quarreled with, these were completed in 1942 to cover some ark sites which had been occupied for thirty years before, without any revenue to the State.
MR. CARR: Mr. Chairman, I am familiar with that area there and I have no personal interest in it except from the standpoint of the development of the area. If this ark or other arks have been there fifteen years (and I can remember some of them are there for thirty years), why should we extend this for ten years? Why don't we extend them for one year and let the Planning Commission of Marin County get into this, find out what the termination dates of these leases are, because they might have a much better development in that area. I think ten years is too much of an extension. This one ark site lease (and we are only talking about one) might upset an orderly development of a mile of shore line. I wouldn't vote in favor of extending this lease ten years. I would vote in favor of extending it one year, until the county can get into it.

MR. CRANSTON: Do you wish to make an amendment to that effect?

MR. CARR: Yes.

GOV. ANDERSON: I'll second it.

MR. CRANSTON: It has been moved and seconded to change item (a), to change the lease extension from ten years to one year, and the change is approved unanimously.

MR. CARR: And I would suggest this be referred to the Planning Commission of Marin County and see what they have to say.

MR. HORTIG: Mr. Chairman, may I ask Director Carr...
would it be appropriate for the staff to consider this in effect a policy in connection with all renewals for ark site purposes?

MR. CARR: I would say so. That land is too valuable to put it out for $80 a year for one site which might impede an orderly and proper development, might upset the development — and the State needs the money.

GOV. ANDERSON: The policy is not this — but the policy is that the local planning commission have a chance to study it first.

MR. CARR: We might furnish them with the termination dates of these leases, so they may consider it. Charge them a suitable fee ....

MR. CRANSTON: Are there any comments on this? (No response).

We move, then, to item (b) Pacific Gas and Electric Company - 49-year gas pipe line easement, Whiskey Slough, San Joaquin County. Any comments on that? (No response) If not, item (c) - Shell Oil Company -- modification of submarine geophysical exploration permit in Santa Barbara, Ventura, Los Angeles, Orange and San Diego Counties to provide for use of additional types of explosives.

MR. CARR: I'd like to hear the staff comment on that, Mr. Chairman.

MR. HORTIG: Mr. Carr, Shell Oil Company currently holds two valid geophysical exploration permits issued by the
State Lands Commission. The one issued later in point of time arrived when the technology, the approval of Fish and Game Commission for using alternate types of explosives (alternate to black powder) had been agreed upon; so the earlier permit is restricted currently to the use of black powder, and inasmuch as the time has arrived for renewal of application of the permit term, it was felt desirable that the older permit be modified to update it to coincide with the latest type of permit issued by the State Lands Commission.

MR. CARR: Does this latest type of explosive offer any additional hazard, any different hazard, to the marine life than what has been used -- black powder?

MR. HORTIG: Not in the opinion of the State Fish and Game Commission, within the limits prescribed by the State Fish and Game Commission.

MR. CRANSTON: Moving to item (d) -- L. B. Spaulding et al - termination of mineral extraction lease, San Diego County; operation no longer economically feasible. If there is no comment, we will move on to item (e) -- Spight, Lindsey, d.b.a., Diablo Communication Center -- Sublease to Central California Educational Television of portion of a lease of school lands, Contra Costa County, to install two-way microwave relay station. Hearing no comment, we move to item (f) -- California Electric Power Company -- 49-year easement for overhead electric power transmission line, school lands Inyo County; item (g) California Interstate Telephone Company --
MR. HORTIG: Mr. Chairman, if I may interrupt at this point, items (f), (g) and (h) represent the completion of work on applications for right-of-way easements across a section of vacant State school land which the Commission in April of this year withheld from sale until such right-of-way easements were completed and a portion of the land had been arranged to be sold to the Division of Highways, Department of Public Works, as will be detailed in the next following item.

These, therefore, constitute a package elimination of the title conflict problems which were to be resolved as a result of the Commission's having withheld the sale of these specific lands. However, as to item (h), which is part of the sequence — easements required by the trustees of Deep Springs College — counsel for the client is reported to be on vacation and, therefore, his law firm has requested on behalf of the client that action on item (h) be deferred until the next meeting of the Commission.

MR. CRANSTON: May I ask in regard to item (h) — the easements are for 49 years. Is this being done in such a way that the State at the end of the 49 years would be in a position to further extend those easements?

MR. HORTIG: No sir. The present statutes provide that in anticipation of the sale of the balance of the land, on which there is still an application pending, such land
would be sold subject to existing easements and at the end of the 49 years, the control over the easement area would be in the then holder of the surface.

MR. CRANSTON: Is the school being given all the protection it could be given?

MR. HORTIG: Yes sir, and has accepted and is agreeable to, and the counsel for Deep Springs School has expressed complete satisfaction with the procedure here recommended; and the deferment is requested only because he is, as I stated, on vacation.

GOV. ANDERSON: Why would he want a deferment if they are satisfied?

MR. HORTIG: The counsel who is satisfied is the one on vacation. His law firm are unfamiliar with the problem, therefore in an abundance of caution have asked for the deferment.

MR. CRANSTON: A motion is in order for item (a) as amended and through item (g).

GOV. ANDERSON: Is there any overlapping if we find out the school was not satisfied with their portion of it, with the grants of the 49-year leases to the California Electric Power Company and Interstate Telephone Company? Would they in any way conflict?

MR. HORTIG: No sir, and we have in addition complete agreements from all parties that these sales are in fact satisfactory to both the estate and the trustees of the
Deep Springs School.

MR. CARR: Mr. Chairman, I am just wondering—does this withholding of action on item (h) mean that any of this work is being deferred another month? What is the effect of withholding approval?

MR. HORTIG: Only the State Lands Commission approval of the easements is being deferred. No work is being stopped.

GOV. ANDERSON: I will move it.

MR. CARR: Second.

MR. CRANSTON: Moved and seconded that item (a) as amended through (g) be approved; so ordered.

Sales of vacant State school lands. All land sale items here presented have been reviewed by all State agencies having a land acquisition program and, unless otherwise indicated, no interest has been reported by these agencies in the lands proposed for sale. (a) Department of Public Works, Division of Highways.....

MR. HORTIG: Mr. Chairman, this is the land sale item referred to previously, representing a portion of the land required by Division of Highways because they are already occupying and have for years occupied the area for a highway maintenance station. The procedure here recommended is satisfactory to the Division of Highways. The Division is represented here this morning by their attorney, Mr. Pegram, and the only non-standard feature with respect to the recommendation here is that these lands be sold in accordance with
standard Commission practice for a sale to a public agency at
the appraised value without the necessity of engaging in
competitive public bidding.

MR. CRANSTON: If there is no comment on (a),
item (b) - Grace M. Day....

MR. CARR: Should we take those separately? I move
the approval of (a).

GOV. ANDERSON: Second.

MR. CRANSTON: Item (a) is approved unanimously.

Item (b) - Grace M. Day, bid for $14,000.

MR. CARR: There are three parts to this, aren't
there, Mr. Hortig?

MR. HORTIG: (a), (b) and (c).

MR. CARR: 1, 2 and 3 on item (b). Does that call
for three separate actions because we have to confirm two
extensions, or all in one action? I move approval of (b)
with the three actions on page 16.

MR. HORTIG: With the resolution as stated, all
Commission action required will have been taken.

GOV. ANDERSON: Second.

MR. CRANSTON: Approved unanimously. Item (c) -
Anthony E. Gallo, bid of $1,577.40.

GOV. ANDERSON: I'll move it.

MR. CARR: Second.

MR. CRANSTON: Moved, seconded and unanimously
approved. Then, Item Classification 4 -- Selection and sales
of vacant Federal lands: Item (a) State Park Commission, Division of Beaches and Parks -- selection of 120 acres in Santa Clara County; item (b) Curtis Mitchell Rocca -- selection of 640 acres in Shasta County, including sale to applicant at appraised price of $64,480. Motion is in order on those two items.

GOV. ANDERSON: Move it.

MR. CARR: Second.

MR. CRANSTON: Moved, seconded and unanimously approved.

Item 5 -- Recission of resolution in Minute Item 21 of 1/21/60; approval of negotiated sales price of $75 per acre; finding land not suitable for agriculture without artificial irrigation; authorization for Executive Officer to issue patent to Elinor H. Black for cash amount of $238.50, covering three plus acres of swamp and overflow survey, Tulare County. Motion is in order on that item.

GOV. ANDERSON: Will you explain that?

MR. HORTIG: Mr. Chairman, the Commission will recall this particular sales item because it received particularly large press notice, which represented that the Lands Commission was selling valuable land for $2.80 at the time the action was authorized to be completed, whereas the 2.80, or whatever the specific amount is, represented a calculated difference of unpaid interest which might or might not have resulted in a forfeiture of title to the lands. The prior
recommendation to the Commission for consummation of this transaction was based on an opinion from the Office of the Attorney General. Subsequent to this completion and prior to delivery of the patent to the land, further research in the Office of the Attorney General revealed a contra opinion as to authorization to proceed in the manner which had been previously recommended. So, therefore, we are here today recommending that the prior authorization to sell for simply the amount of unpaid interest be rescinded, which payment does not constitute sufficient grounds for conveyance of the lands according to the latest opinion of the Office of the Attorney General, and instead it is being recommended that the lands be sold, authorized to be sold, to the same successors to the party in interest at a negotiated price -- to be sold to these parties in interest because the statutes authorize sale of lands of this type to actual settlers or their successors, and the parties in interest are the actual settlers and it is recommended that the land be sold at the negotiated price of $238.50, thereby clearing title on lands on which the parties in interest and their predecessors had always held and for more than fifty years they paid taxes to the county in which they are located.

MR. CARR: I'll move approval.

GOV. ANDERSON: Second.

MR. CRANSTON: Moved, seconded and unanimously approved.
GOV. ANDERSON: Before we go to other items, on the sale of lands what is the status, Mr. Hortig, of your program of cross-checking all the sales with the other State agencies?

MR. HORTIG: As reported at the last meeting, Governor Anderson, all land sales which are now brought to the Lands Commission are brought only after all other State agencies having land acquisition programs have screened the proposed sales and indicated that they have no specific public use which would be higher than the private sale for which these lands are recommended.

GOV. ANDERSON: So we hold up the sales on most of these lands during the period of checking. Now, would we expect these lands to be put on the market as they are checked in about the same speed as we had before?

MR. HORTIG: When the ultimate program which was heretofore directed by the Commission for a full indexing, classification and evaluation is feasible, then we will go ahead with the full policy.

GOV. ANDERSON: When will that be?

MR. HORTIG: This is predicated on the study program as to the availability and feasibility of using electronic processing equipment in order to process tremendous volumes of data. The program of study on the feasibility of this is being conducted currently by the Organization and Cost Control Division of the Department of Finance under Director Carr.

MR. CARR: May I comment on that? I share your
impatience. I think it is taking altogether too long to get this together and I will have a little consultation to see if we can't speed this up, because I think we need it. I hope to have something more encouraging to report prior to next meeting.

MR. CRANSTON: May I ask if you can all hear what is being said? Will each of you please move your mikes over closer?

We now go to the usual subject of Long Beach -- Classification 6: Item (a) Pier "A", Fire Station, second phase; estimated subproject expenditure from 10/27/60 to termination, $129,800, with $27,258 estimated as subsidence cost. Any discussion on that item?

MR. HURTIG: By definition of "second phase" this immediately classifies the project as one in which the Commission has heretofore approved in principle, and estimates have now been developed so that a realistic estimate can be presented to the Commission as to the potential costs and they have been reported as a total of $129,800, qualified to be expended from tidelands funds pursuant to Chapter 29, of which, as indicated, 21% approximately is estimated ultimately may be subsidence costs -- which will ultimately be allowed if and when final engineering review and audit by the State Lands Commission indicates that the expenditures are so qualified.

MR. CRANSTON: Item (b) is Back Areas, Piers A to
D; raise back area, berth 19; remove Harbor Department Administration Office Building and Garage (second phase); existing approvals under first phase are sufficient to cover first and second phase costs.

MR. HORTIG: This is an informative item to report progress to the Commission and unique in the sense that in the first approval sufficient amount was approved to permit apparent completion, or at least estimated completion, of the operation; but to complete the Commission's records and to indicate that the Commission has been made aware of steps in the process, this item was included for information.

MR. CRANSTON: Item (c) - Town Lot subproject - Pump Station No. 1, First Street at Pico Avenue, second phase; estimated subproject expenditure from 10/27/60 to termination of $35,000 with $22,050 estimated as subsidence costs.

A motion is in order to approve those three Long Beach items.

GOV. ANDERSON: I'll move it.

MR. CARR: Second.

MR. CRANSTON: Moved, seconded and unanimously approved.

Item 7 - Authorization for Executive Officer to issue grant deed at established fee of $10 to Robert O. and Kathleen D. Acuff for mineral reservation made by State Controller on 11/29/46 in sale of escheated lands in Sacramento County. I'd like to ask, Frank, where that $10 fee is
established -- by whom?

MR. HORTIG: By policy directive of the State Lands Commission, which provides that on a determination in the sale of escheated lands sold heretofore with mineral reservation -- if it is determined that the lands do not have, in fact, any current known mineral value (and particularly with reference to parcels of this type, which is a single building lot in the City of Sacramento) that under those circumstances the Commission will issue a deed, as authorized by law, for an arbitrary fee of $10.

MR. CRANSTON: Does that cover our administrative costs?

MR. HORTIG: In these days of inflation, post the time of determination of the policy by the Commission, the answer is probably "barely."

MR. CRANSTON: Motion is in order.

GOV. ANDERSON: So moved.

MR. CARR: Second.

MR. CRANSTON: Moved, seconded and unanimously approved.

Item 8 -- Approval of compromise settlement of $3,037 with Earl Snider as full payment to State for damages occurring by reason of timber trespass on 40 acres of land, Mendocino County.

MR. HORTIG: In timbering operations -- in timber operators working on parcels which they believe legitimately
they have title to, and in areas where survey lines have become obscured over the years or may never have been actually run heretofore, it is extremely difficult to log precisely and, even when everyone is doing it with good intention, not to sometimes accidentally include someone else's trees.

This is what occurred in this particular instance in the operation of a timber operator who skimmed a row of trees, or rows -- how many we can't tell precisely without a survey which would cost more at this time than the total value of the problem -- and the timber operator has since had financial reverses. He has no independent means. It has been determined independently that his financial insolvency is factual and yet his son and brother have volunteered, for the sake of the family, to enter into a compromise settlement with the State to pay the State an amount of $3,037 in settlement of any damages which might be claimed by the State -- which the Attorney General's office feels we could undoubtedly secure a judgment for, but that the judgment would be meaningless in the sense that there could be no way to enforce collection.

Therefore, it is recommended that as a compromise this appears to be the most favorable recommendation we can bring to the Commission because it is also the maximum amount that the son and brother feel that they are willing to offer the State in settlement.

GOV. ANDERSON: How often does this happen? Is
this a practice that is quite common?

MR. HORTIG: It is not too common. It happens quite frequently with small, independent operators, as this gentleman was at the time that this trespass occurred.

GOV. ANDERSON: Is it the feeling that they do this knowingly or unknowingly?

MR. HORTIG: No, the investigation indicated that the trespass was accidental and that the gentleman in all good faith at the time thought he was on his own land, otherwise the staff would not here be recommending settlement rather than litigation. With the major timber operators, this is not a problem generally because out of an abundance of caution they re-establish or establish survey lines, if they have not been established, before they cut; and so, consequently, there are relatively few occasions where there are trespasses by major timber operators. An individual operation probably nominally couldn't justify a survey line and the operator proceeds and hopes he knows where the lines are.

There is still an area of doubt over this dividing line over which this operator cut and, as I said, we have survey estimate costs possibly running as high as $20,000 to determine precisely where this line was -- which might either indicate that we should get less money or possibly a little more money, but certainly not enough to justify a $20,000 survey cost. The most economical and expeditious method of clearing the record would appear to be to accept the settlement.
GOV. ANDERSON: I'll so move.

MR. CARR: Second.

MR. CRANSTON: Moved and seconded, unanimously approved.

Item 9 -- Determination that plan and improvements contemplated for certain granted T&S lands in Bodega Bay would, if completed, constitute substantial improvement within the meaning of the grant, and conditional approval or plan.

MR. HORTIG: Mr. Chairman, starting with 1959 legislative grants of tide and submerged lands, the Legislature uniformly added a condition that after ten years after the grant the Lands Commission is required to make a study of the operations conducted on the granted lands; and if the Lands Commission can report that there have been substantial improvements placed within the terms of the grant and in conformance with the conditions of the grant, then the grantee will thereafter hold the lands. Failing in that, the lands would revert to the State of California.

In 1959, the County of Sonoma received a second grant of tide and submerged lands, of those tide and submerged lands still owned by the State in Bodega Bay, with the special reservation I have just reported, but also additional language that if the county can propose a plan which the Commission can review in advance -- which, again, in turn, if completed would constitute substantial compliance -- the Commission may give such approval and, of course, with such approval the
County of Sonoma is in a much better position to arrange for financing and development.

The plans of the County of Sonoma for this operation have been reviewed by the staff. They were presented by the Board of Supervisors, representatives of the Harbor Commission for the County of Sonoma, and their consulting engineers; and it is felt that the plans do constitute a base, which if completed would constitute substantial improvement within the meaning of subdivision (g) of Section 1, Chapter 1064 of the Statutes of 1959, the granting statute to the County of Sonoma; and, therefore, such approval at this time is recommended.

If the Commission desires any further details on the plan or an expression of the position of the County of Sonoma, Supervisor Guidotti of the County of Sonoma, who is personally familiar with — and this is hearsay from him to me -- and has been fighting for this thing for thirty-two years, is in the audience, as well as the consulting engineer for the Sonoma County Harbor Commission.

MR. CARR: Mr. Chairman, there has been quite a little publicity about this development in Bodega Bay in the papers this last weekend. I would be interested in taking the time, if you would, to hear a report as to just what this project is. I think it would be interesting to know this in the light of the development of other lands of similar types — whether we are going to develop our beaches and parks or
whether the counties are better able to do it. I am personally of the opinion that the counties can do an adequate job.

MR. CRANSTON: Frank, who might make such a report as Director Carr suggested?

MR. HORTIG: Mr. Guidotti, would you feel that your engineer should make this report, or would you....

MR. GUIDOTTI: I would prefer that our engineer do it.

MR. CRANSTON: Did you hear Mr. Carr's comments?

MR. SARLES: No, I did not.

MR. CRANSTON: Mr. Carr, would you briefly state what you would like to hear?

MR. CARR: Yes. I was up in the county over the weekend and read some of the publicity in the papers -- there was a map. I would like to know a little more about what use you would put this to, who is going to pay for the development, who is going to enjoy it, what revenue is coming from it, and who gets the revenue.

MR. SARLES: The proposal, Mr. Carr, is set out in plans which we have filed with your Commission. There has been a proposal placed on the bond election to authorize the sale of two million dollars' worth of bonds. This two million dollars will provide considerable dredging in the harbor, which will -- as you probably know, that harbor is a broad expanse of water at high tide but at low tide there is very little of it that is usable. It is necessary to do a very
considerable quantity of dredging in order to provide usable
deep water for the commercial fishing fleet.

MR. CARR: It doesn't say so here, but I believe
the paper stated the maximum depth to be dredged out was
twelve feet. Would you comment on that?

MR. SARLES: That is correct. It is anticipated
that the work can be done, if authorized by this bond issue,
coincidentally with a maintenance operation by the Corps of
Engineers. The Congress has authorized that expenditure for
the present fiscal year and they propose to award a contract
for maintenance, dredging and repairs to the entrance jetty.
It is felt that there will be considerable advantage to the
county to award their contract for dredging coincidentally
with that work, so that one organization can probably give us
a lower bid than they would if they had to assemble their
equipment and organization for a separate job. It is contem-
plated that this maintenance dredging will provide a deep
channel, not only for the existing commercial fishing fleet
which operates out of Bodega Bay, but for a very considerable
recreational development on the tidelands of the southeast
corner of the Bay.

We are now faced with the various problems of san-
tation and water supply to Doran Park, a county-owned park,
which is well patronized and of considerable benefit to other
counties other than Sonoma County. Analysis of the use has
indicated that more people, perhaps, come from outside the
county to utilize that facility than do from the county itself.

We propose to provide sanitary facilities for the area; we propose to provide potable water for the area; we propose to provide dredged areas of deep water, that is to twelve feet of depth, for the creation of marinas, boat-launching ramps, facilities of that nature; we propose to provide area which can be developed by commercial interests for parking lots, restaurants, things of that type; and the revenues from those will accrue to the County of Sonoma and will be utilized for the retirement of the bond issue if it is approved.

MR. CARR: Are these general obligation bonds of the county?

MR. SARLES: That's correct.

MR. HORTIG: Mr. Sarles, may I supplement your comment? There is also included within the plan, and there are already negotiations which have been completed, which will result in the location of a Coast Guard station within the area of this development.

MR. SARLES: Coast Guard on Bodega Bay, that is correct.

MR. CARR: Mr. Chairman, I move the approval of this. I think as a matter of policy, where a county is taking the initiative and developing these areas, this is a sound policy. I'd move this approval of this item and not wishing to commit the rest of the Commission I would say, as the
Director of Finance, I think it is a good policy. I think we are going to get more recreational areas developed in usable areas without obligation to the State if more counties will do this.

GOV. ANDERSON: Second.

MR. CRANSTON: It is moved, seconded and unanimously approved, and I think all of us join in commending you in what you are doing in the county.

MR. SARLES: Thank you, gentlemen.

MR. CRANSTON: Moving on to Item 10 -- Authorization for Executive Officer to take necessary action to affirm State's sovereign ownership of the accreted lands waterward of the ordinary high water mark established by the Commission's survey of June 1941, bounding uplands owned by Coronado Beach, Inc., on the ocean side of Silver Strand, San Diego County. Any comment on this item?

MR. HORTIG: Mr. Chairman, at the ocean side of the Coronado Peninsula, known generally as Silver Strand, and where also is located the Coronado Hotel, the operators of the Coronado Hotel, Coronado Beach, Inc., have now, as recently as yesterday, submitted a recorded map, recorded in San Diego County, which has in turn been submitted to the Assessor of San Diego County as a basis for levying taxes, indicating ownership of the surveyed lands to be in Coronado Beach, Inc.

The problem arises that the majority, if not the entire area within that survey, by records of the State Lands
Commission is sovereign tide and submerged lands of the State, filled by artificial accretion. So we are faced with, after having reviewed this situation with the Office of the Attorney General, diametrically opposite opinions by the State's attorney and the State's technical staff and the staff and attorneys for Coronado Beach, Inc., as to who owns these lands.

In view of the fact that, unless the State's title to these lands is affirmed, Coronado Beach will undertake improvements and capital expenditures on the land, it would appear completely desirable and almost equitably necessary that this question be resolved before any considerable money is expended in operations on these lands. Therefore, it is recommended that the Commission authorize the staff, in conjunction with the Office of the Attorney General, to undertake the necessary legal actions requisite — probably in the form of a quiet title action, to have in the record a judicial determination as to the ownership of the contested lands.

MR. SHAVELSON: May I ask, Frank, are these tide-lands in this area still owned by the State or have they been granted to the City of Coronado?

MR. HORTIG: They are still owned by the State.

MR. CRANSTON: Motion is in order.

GOV. ANDERSON: So move.

MR. CARR: Second.

MR. CRANSTON: Moved, seconded, unanimously adopted.

Item 11 -- Authorization for Executive Officer to determine
date for and to publish notice that public hearing will be held to consider factors for subsequent Commission determination of proposed oil and gas lease terms and conditions for 2,560 acres T&I lands in Ventura County.

MR. HORTIG: The Commission has heretofore authorized the publication of the notice required by the statutes in those situations where the Commission may wish to consider offering tide and submerged lands for lease, furnishing such notice to any affected cities and counties. Such notice was furnished to the people of Oxnard and to the County of Ventura.

The County of Ventura, in accordance with the statutes, in turn has requested that a public hearing be scheduled and be held with respect to what terms and conditions would be proposed to be included in any lease to be offered in that portion of the offshore Montalvo Oil Field which the Commission has under study for future lease offer.

It can also be reported to the Commission that in turn, for information purposes, both the city officials of the City of Oxnard and representatives of the County of Ventura may inspect other operations under lease from the Commission, in order to see what is being accomplished in fact in modern technology. This inspection will be made on November 14th.

MR. CRANSTON: Motion is in order.

GOV. ANDERSON: I'll move it.

MR. CARR: Is there any discussion on this?
MR. CRANSTON: Is there any discussion on this motion? (No response) Its approval is moved, seconded and unanimously adopted.

Item 12 -- Approval of proposed budget for fiscal year '61-'62 in the amount of $1,179,064, and of establishment of new positions of Associate Counsel and Senior Stenographer-Clerk.

MR. CARR: I will move the approval of the budget.

GOV. ANDERSON: I will second it.

MR. CRANSTON: Approval of the budget is moved, seconded and unanimously adopted.

Item 13 -- Report of status on major litigation -- informative, no Commission action required.

MR. HORTIG: Mr. Chairman, I have a supplement just received, which is in the nature of a progress report from the Office of the Attorney General.

As the Commission will recall, the resolution was adopted at the September meeting expressing the concern of the Commission with respect to the necessity for expeditious resolution of legal questions which are unresolved in the City of Long Beach, particularly with respect to the matter of whether granted tide and submerged lands can legally be committed to unit operations.

Following that resolution, I am happy to report that the City of Long Beach did undertake filings of the initial papers to initiate the legal actions, as was reported
to you by City Attorney Desmond at the last meeting would be
done; and in addition thereto, the clerk in the Los Angeles
office of the Supreme Court notified us on October 17th that
the Supreme Court has determined that they will retain jurisdic-
tion in this proceeding as the court of original juris-
diction. They have issued an alternative writ returnable
January 9, 1961; directed that such writ must be served on
the interested parties by October 27th and any written return
must be filed on or before November 17, 1960 -- all of which
I believe summarizes the fact that the court will have the
question under active consideration, and we certainly hope
expeditious decision, by January 9, 1961.

All the legal steps that can and should have been
taken are now of record, have been taken. For any further
detail, of course, if the Commission wishes it, as you
gentlemen have already noted, City Attorney Desmond is in
the audience this morning.

MR. CRANSTON: Any comments on this item, on
which no action is required? Hearing none, I believe we
move on to a supplemental item, which might be called 13-b,
which relates to the form of oil and gas lease in Santa
Barbara County.

MR. HORTIG: This appears on pages 39 and 40 of
the calendar you have before you.
MR. CRANSTON: Pages 39 and 40 of the calendar -- which amounts, first, to review of what has occurred since March 24, 1960, when the Commission was informed that the Shell Oil Company had nominated nine parcels of tide and submerged lands for oil and gas lease development offshore Santa Barbara County. There then follows a discussion and outline of the few revisions which would occur in the lease form and which amount to the only ways in which this lease would differ from the adoption of the last Commission lease offer in 1958. The final draft of the lease is attached as Exhibit I.

Section 6834 of the Public Resources Code provides that whenever the Commission determines that lands shall be leased for oil and gas a lease form shall be prepared by the Commission; and then there is the following recommendation:

"It is recommended that the Commission approve and adopt the form of oil and gas lease, attached hereto as Exhibit I, as the basic bid-lease form for the issuance of oil and gas leases on tide and submerged lands in the area west of Gaviota and extending to Point Conception in Santa Barbara County, pursuant to Division 6, Public Resources Code."

Are there any comments?

MR. HORTIG: Mr. Chairman, before any other comments or action by the Commission, and particularly for the information of those members of the industry committee who have cooperated with the staff, I should like to clear the record on one item which we have not been able to discuss heretofore, inasmuch as the particular calendar item before
you was not reproduced in its final form until last night.

At the time of last discussion with industry committees, there were certain proposals under consideration for possible modification of the lease, and which it was agreed by staff would be furnished to all interested parties for advance review prior to recommendation to the State Lands Commission. We have already heard some rumblings of concern because no one received any advance copies for review.

As the calendar item here indicates, the areas which we had under discussion for possible modification have been eliminated in major part because the Office of the Attorney General recommended this as the prudent thing to do, lacking clear cut legislative authorization to include these modifications. Therefore, there is no modified language under consideration here today remaining in existence, which might have been discussed in advance with the committee and, therefore, I would like to emphasize the point which you already made -- that there are minimum nominal and primarily modifications of draftsmanship which are the essential variances in the lease form proposed here this morning to the Commission, contrary to the greater number of modifications which were presented to the Commission for consideration at the meeting of September 27th - or 29th.

MR. CRANSTON: Does anyone wish to be heard?

GOV. ANDERSON: Could we be told what the changes are -- the modifications?
MR. HORTIG: Yes sir. They appear on page 40 of your calendar, Governor.

MR. CARR: Is there any objection to reviewing these, this outline here?

MR. HORTIG: No sir, if you wish ....

MR. CARR: I think so. This is a public hearing. For the benefit of those present it might be well to review it.

MR. HORTIG: The first modification proposed for page 2, lines 28 through 30 of the draft as attached to the calendar item, is identical with what was presented to the Commission on September 29th and is a technical clarification to be certain that the Exhibit A which is referred to in the lease is recognized as being a part of the lease and is in full legal language "by reference made a part" of the lease. This is a clarification of draftsmanship as against the former lease form as used.

Page 3, line 13, relates to proposed modification relating to the manner of determination of the price of the oil on which royalties shall be paid. Again, inherited language from earlier leases was utilized in the 1958 draft, which read that this price "shall not be less than the highest price or prices in the nearest field." The "or prices" is not only redundant, it creates an ambiguity -- it makes unspecific, if there is such a term, what can otherwise be obviously specific by restricting the language to referring only to the "highest price" and that the relationship shall
be to the "highest price in the nearest field" producing oil
of like quality and quantity.

Page 8, lines 9 through 12, is again clarification
of the draftsmanship. Having previously, on page 2, made
Exhibit A an exhibit by reference .......

MR. CARR: What line?

MR. HORTIG: Page 8, lines 9 through 12 previously
referred to "Exhibit A attached hereto and by reference made
a part hereof." That language, having been moved to the fore
part of the lease, is now redundant and is stricken as a
repetition because in the first reference to Exhibit A in the
proposed lease form it is definitely and legally included
in the lease.

I should comment that the lease form with the modi-
fications we are discussing here has been reviewed -- its
present form is the form suggested for revision by the Office
of the Attorney General and the form in which it appears before
you gentlemen here this morning has been approved by the
Office of the Attorney General as to form.

Page 19, lines 12 and 17 - "6,000 feet" is substi-
tuted for the number "8,000 feet" as reported on September 29th
and this is no change from that time. To coordinate and give
optimum well spacing in relation to offshore structure costs
and the costs of drilling deep wells, the staff evaluation
indicates that 6,000 feet is a better transition point than
8,000 feet, which would modify the well spacing in that the
lease would now read that wells drilled down to 6,000 feet or less would have to be drilled one for every twenty acres; if they go over 6,000 feet, the minimum wells required to be drilled will be one to forty acres.

Page 25, lines 17 through 19, would be an addition to Exhibit C of the lease form. At the September 29th meeting it was proposed that the provisions with respect to the bidder's specification of bonus offered to be paid would be included within the lease form. The Office of the Attorney General found this to be possibly productive of, or could potentially be productive of, more ambiguities than it might eliminate; and suggested, instead, that the Exhibit C for specification of the cash bonus bid which has been utilized heretofore be continued, but in order to preclude any confusion as a result of modification of bids and, therefore, a difficult decision for the Commission to evaluate, that there be added a restriction that there be no modifications in the bidding by inserting the language:

"It is understood that no variation shall be made in this prescribed form of offer and that the insertion of any additional condition, qualification or provision hereto will invalidate the bid."

This constitutes the sum total of the proposed modifications from the requirements which, as indicated, had been previously adopted and utilized by the prior State Lands Commission in the last offer of tideland oil and gas leases in 1958.
MR. CRANSTON: Are there any questions, comments or suggestions?

MR. CARR: I move the approval.

GOV. ANDERSON: .... second .... (unintelligible)

MR. CRANSTON: Approval is moved and seconded ....

GOV. ANDERSON: I didn't second it.

MR. CRANSTON: Senator Richards.

SENATOR RICHARDS: Mr. Chairman, gentlemen, my name is Richard Richards, attorney-at-law, appearing in that capacity and appearing to ask a few questions, if I may, because I believe a question has been raised by virtue of the last correction mentioned by the staff, to wit, page 25, lines 17 through 19, with reference to Exhibit C, if that is correctly interpreted. My question is: Is the change thus made intended in the minds of the Commission, assuming you adopt this change, to preclude as an effective matter conditional bidding of the kind which was utilized in 1958 in related tidelands properties? May I ask that question before proceeding, if that be appropriate?

MR. CRANSTON: It is my understanding that this language would have that effect, but I would ask Mr. Hortig to comment.

MR. HORTIG: I will answer categorically, Senator, this was the intent, and as to its legal sufficiency the Office of the Attorney General is represented here today and can comment, if you wish, on the theory of this language.
SENATOR RICHARDS: Well, I would like to do exactly that myself, because my appearance here, with the permission of the Commission, will be for the purpose of discussing policy, not just law. Law, of course, can either defeat or expedite the policy that you decide and I think this strikes directly at the root of policy itself.

MR. CRANSTON: I think there is one question we might ask of the Attorney General's representative -- if, in his opinion, insertion of such a provision is necessary under the law.

MR. SHAVELSON: Mr. Chairman, I'd like to answer that question perhaps at a little more length than you anticipated. We haven't decided that as a matter of law it is necessary to preclude conditional bidding. Our position is this: that we are opposed to a situation under which it is left uncertain as to whether or not conditional bidding is to be allowed. We think that it ought to be either specifically forbidden or, if the State Lands Commission decides that as a matter of policy it wants to allow conditional bidding and if upon further study our office in conjunction with the State Lands Division determines that it is legally and practically possible to set up precise terms governing such conditional bidding, then we suggest that such precise terms be inserted. If it's left uncertain as to exactly whether or not conditional bidding will be allowed and what sort of conditional bids will be allowed, we think that the
door is open for a great deal of confusion and a possibility that if a lot of people put in conditional bids and put in different priorities for different parcels, we would get into an almost hopeless confusion in trying to compare the different bids and determine who is the highest bidder, which could conceivably lead to litigation that would delay the granting of leases as to all bids or perhaps force the Commission to reject all bids.

So, therefore, our position is that either conditional bidding should be clearly forbidden -- which is the intent of the present language and what we thought was the policy consideration of the Lands Division -- or, if it is to be allowed, we would like further time to study the problem and see if we can evolve some workable terms for accepting conditional bids.

GOV. ANDERSON: Did not your office approve conditional bidding on the last awards?

MR. SHAVERSON: Yes, ultimately the conditional bids under the particular circumstances of the offers that were received in 1958 were approved. It happened that there was only one bidder that made conditional bids, so that it was easy to determine.

GOV. ANDERSON: But you didn't know that when you gave your approval, did you?

MR. SHAVERSON: Yes, when it was ultimately approved we knew what the circumstances were and we felt that under
those particular circumstances it could be approved legally.

GOV. ANDERSON: You mean the approval last time was based on the fact that you only had one bid in this way and if there had been more you couldn't have approved it legally?

MR. SHAVELSON: Well, there would have been a great deal more difficulty in evaluating the legal situation at that time if there had been more than one set of conditional bids.

GOV. ANDERSON: That sounds rather odd. I didn't know your opinion was based on that fact. Your opinion, I thought, covered even though there was more than one set of bids.

MR. SHAVELSON: It didn't deal expressly with the situation either way, but it was only intended to deal with the specific situation it dealt with. It didn't mention that particular circumstance, but we do feel that there is at least potentiality of challenge if it is left ambiguous; and even though we may feel it is legal and even though a court should ultimately determine that it is legal, we think that there is a potentiality of difficulty, legal difficulty, if the situation is left uncertain.

GOV. ANDERSON: If it were the Commission's policy to allow and permit conditional bidding, do you think it could be written so there wouldn't be any legal question?

MR. SHAVELSON: We haven't gone into that in detail.
because we hadn't been asked to, but we will be able to let you know if it is so determined.

MR. CRANSTON: Mr. Richards.

SENATOR RICHARDS: Thank you. I would only comment on Mr. Shavelson's problem that, of course, there is a problem as his own office has recognized -- since 1958. It is a problem, as he himself says, which should be settled in policy, which makes it a policy in the Commission rather than between attorneys. I would, Lieutenant Governor, agree certainly that the legal question would not rest with whether there was one or more, but the practical question could rest on that; but the law to the degree it has been expressed by the Attorney General is contained in a July 23, 1958 letter from the Office of the Attorney General on the question that arose ex post facto following the opening of bids on this same general group of property. At that time there was what we have loosely termed "conditional bidding." At that time the question was raised and at that time the Attorney General said it was legal and proper, and as a result the State through the Commission should act on it, and you did.

Now, this is again before us as we face opening of new tidelands and I think it should be understood -- because the term "conditional bidding" has a kind of strange ring to it itself, the practical matter that faces us is the same; it seems to me, as far as the State of California is concerned, as when a group of us goes to an auction. As I say, I am not
talking law, but policy. If you have four or five people who
go in to bid on a series of four or five clocks, a very wealthy
man might be able to bid on all five clocks and outbid every-
body else and take those clocks home. Most of us would want
one of the clocks, fully aware we could not pay for all five.
In order to get one, and if we lost the bid on number one, we
would still have money in our pockets to bid on number two;
and thus if the man with a lot of money pulled number one,
we would have a chance against those who have a little less
money and take home number two. And that is what happened
in the 1958 tidelands. This points out that in the oil
industry, as in the case of individuals, there are smaller
and larger groups; but aside from fairness -- fairness is
obviously on the side of the example I have given -- beyond
fairness, and perhaps of greater importance to all of us, is
the interest of the people of the State of California, the
interest of the people represented by all of us -- you, the
Attorney General, and myself -- in regard to getting as much
money as we can from the tidelands bids.

How did conditional bidding work in 1958? The
result is clear. If the opinion of the Attorney General had
been against recognizing the Phillips-Pauley joint bid (which
it wasn't -- it was in favor of it) which was a conditional
bid; if the opinion had been the other way and been against
it, the State would then and there have lost six million
four hundred thousand dollars that we received -- the reason
being that this joint bid, called a conditional bid, was a very simple situation; this group went in and laid all the money they had on the line for one parcel, parcel "D"; if they got it, fine -- if they didn't get it, they were in line for parcels "A" and "E". And they did not get the first parcel and therefore they had stated (and the only condition in their bid was) "If we don't get that first parcel and our money is still around, we want our money on the other parcels." And their money resulted in the high bid for the State of California.

It seems to me, as Mr. Shavelson points out, you might possibly have practical items of confusion. I think it would be utterly foolish for any of us to adopt a policy on the basis of confusion which would preclude the State of California from getting as much money as it could possibly get and, incidentally, open up in all fairness not only to the deepest pocket but to everyone, allowing for cash on the line and allowing, incidentally, for more than one parcel to be put up at one time.

It is because of the adoption by the State -- and I make no comment as to whether this is right or wrong -- for some reason the State has concluded through Commission action and through your predecessors that instead of putting up one parcel of land at a time you want to put up more than one. It is only for that reason that we have the problem. If only one parcel were involved, there would be no problem -- you
and I bid against each other, one of us wins. The other man
around, who walks in day after tomorrow for another parcel,
knows how much money he has to bid because he knows what went
on the first bid. This is the practical manner, if the A. G.
wants to avoid problems. We are now faced with the problem
because of the policy of the State that there is more than
one parcel put up simultaneously. Therefore everyone here in
the oil industry has to consider this as a simultaneous situ-
ation and they can say "Let's go bid on all of them" if they
have unlimited money; but if you don't have unlimited money,
you have to be pretty analytical on which ones you bid. Even
that is all right if you allow the possibility of not bringing
in only those with a great deal of money, if you allow the
possibility of bringing them in by allowing them to say "If
I don't get "A" I might still get "B". In any case, the
highest bidder gets the parcel and that is in the interest of
the State that the highest qualified bidder gets the bid --
not some technicality that precludes him, but some policy
that allows him to bid.

I would refer again to the Attorney General's own
opinion -- which I have every reason to assume has not been
vitiated, has not been changed, has not been overruled by any
court -- and that opinion in the form of an advice letter
points out exactly the various contentions that I have been
making, first, that the basic test for determining a deviation
is substantial is whether it destroys or impairs the
competitive character of the bidding procedure; and this
cites various litigation. We don't want to impair the com-
petitive character of the bidding, to limit the number of
bidders. Any technicality would obviously do that.

To allow for what we call "conditional bidding" is
the reverse -- is to make possible competition in bidding,
which is what we want.

Further, the Attorney General's office points out
that the bid proposal prohibited deviation (that's the
original one in 1958) from its own specific requirements and
there was no deviation from this. The cash bonus offer did
not itself prohibit such deviation. Now that was in Exhibit
C. Exhibit C is still before you, but with one very sig-
nificant change -- the additional insertion of that one
short paragraph, the effect of which, as the staff has just
pointed out and the Attorney General has also asserted, is
to reverse the policy validated by the A. G. in the 1958
bidding procedure which resulted in more than six million
dollars which we otherwise would not have received.

What you would be doing here is important because,
if I may read again from this letter of the Attorney General
in 1958, "Assuming that the inserted contingency clause
departed from the Commission's procedure, there was a deviation
only from an administrative requirement, not from a statutory
procedure." And we all know, as attorneys, that the statutory
procedure has not been changed. Therefore, if this letter
was valid then, and I assume it was, it is valid now.

Again, we are determining basically not the deter-
mination of any attorney of any statute -- we are talking
about administrative procedure, which is your baby, which
puts it smack on the table here as to what is the intelligent
process in determining the procedure on these tidelands that
are going to be opened in Santa Barbara. After this is
opened, then is the time for you to decide to make a change
and stop putting up a lot of parcels all at once. You can
put up one at a time and you have plenty of time to think of
that; but in terms of policy on the opening of this land, as
to the limitation of the chances to the State of more money,
I think it would be a great mistake and I urge you as strongly
as I can not to make the changes on page 25, lines 17 through
19 and, if you will, face squarely the problem of recognizing
the utilization of conditional bids to allow bidders to come
in, so if they miss on number one they can come in on two.

MR. CRANSTON: Are there any questions?

MR. CARR: I do not know whether this is a proper
question to Mr. Richards, but I presume so. It has occurred
to me several times the simplest way to do this and the one
that would result in the most money in the State would be
to put up these parcels one at a time and I am in favor of
that. I am not in favor of conditional bidding, but I am in
favor of putting up the parcels one at a time and I think the
State would get more money.
GOV. ANDERSON: I'll make my statement: I also believe they should be put up one at a time. If they are going to be put up in multiple fashion, I think we have to consider conditional bidding. If there is some way we can consider putting these up one at a time ....

MR. CARR: Isn't it within the purview of the Commission to determine we can put these up one at a time instead of all at one time?

MR. HORTIG: Definitely, Mr. Chairman. Both in response to Mr. Carr's question and for the further information of the Commission for your further consideration here -- and I believe with the concurrence of Senator Richards -- it is patently impossible to offer you gentlemen a complete all-inclusive one-paragraph summary of everything that was in the Attorney General's opinion in 1958. Having stated the impossibility, I will now proceed to attempt it nevertheless. I believe the point of substance for the Commission to recognize here and, as I say, I trust with the concurrence of Senator Richards, is that the Attorney General's opinion did state that the bids as received were not free from doubt as to their legality -- they could be defended in court. There was, of course, no basis under which the Attorney General could write an insurance policy as to what a judicial determination might be, but that in view of all the other circumstances involved (which have already been referred to in general by Deputy Shavelson) it appeared that the solution to
the problem or to the dilemma was that the acceptability or rejection of the bids be considered as a policy matter by the State Lands Commission -- coming right back again to the question of the policy being under the complete cognizance and control of the Commission -- and the Commission make the election of the course to follow; and the Commission made the election of deciding to follow the course of accepting the high bids and awarding the leases thereon.

I think this underscores what Senator Richards has already indicated -- that the primary question here this morning is a matter of policy. Both Mr. Carr and Governor Anderson have touched on the policy. There is no statutory requirement and it would be within the purview of the Commission to determine to offer any lands from here on out one parcel at a time, thereby eliminating any problems for prospective bidders in the sense that they even had to think about conditioning the bid and happily eliminating any potential problems for the staff in trying to evaluate any series of bids and give the report on which bid was in fact high.

I believe Deputy Shavelson has a supplementary statement.

MR. SHAVELSON: Yes. I'd like to clarify what I have said up to now and remark on the general nature of a letter advice from our office. All it is, is an opinion as to what we think the better legal view is. This was a letter written after the fact that the conditional bids had been
received. At that time we told the Commission that the question was not free from legal doubt, but we felt the better view would be to say that the bids were legal and we still feel that they are legal bids, but the question wasn't free from doubt. Now we are faced with the question before the bids are solicited. All we are saying here is that we don't think we should deliberately go forward and create a situation where there is any legal doubt and, furthermore, in 1958 had we received conditional bids from six or eight bidders, each one giving a different priority to his various conditions, I think the problem would have been a lot more difficult than it actually was to resolve; but I want to also say, of course, that we have no right and we are not trying to intimate the better policy. All we are saying is that if conditional bids are to be allowed, they should be allowed under precisely defined criteria and not left in an ambiguous state, which we think might be the situation if this additional language had not been added.

MR. CARR: Mr. Chairman, inasmuch/there is no motion before the Commission -- I would withdraw my motion because it had no second -- I move that we withdraw these parcels and offer them one at a time with as much dispatch as possible; and in commenting on this, I think it reduces the confusion, eliminates the doubt of the legality, will result in more money for the State of California, and I can't help commenting on the emotional situation. This conditional bidding reminds
me too much of the sorority bidding in the University of California -- where a girl puts in first, second and third choices. If she doesn't get the first choice, she might find herself wearing a pin all through her life, a pin she didn't want, but she didn't want to go through life without belonging to a sorority. I think we could spare these oil companies this horrible ordeal.

MR. CRANSTON: I'd like to ask Mr. Hortig -- by putting up these parcels one by one, would it necessarily lead to more income to the State of California?

MR. HORTIG: Mr. Chairman, this objective reply will require, of course, an advance prognostication as to just how badly prospective bidders are going to scramble at one particular time. I would think, certainly, that with one parcel at a time to be evaluated, it could be given the benefit of the full objective evaluation and consideration, of using all the technical resources of any one bidder in connection with that evaluation; so that, over all, probably the bids would -- in the final analysis, one parcel at a time would have individually received more scrutiny than in an instance where numerous parcels are offered and therefore even as bidders might, for financial reasons, have to condition their bids as outlined by Senator Richards, or feel they must rather than selecting a parcel on which to concentrate, they similarly patently not having limitless manpower resources also have limits on their evaluation forces. This is one
factor in addition to the one Mr. Carr suggests the oil companies would be spared -- this could be added to that category.

MR. CRANSTON: Does anyone representing anyone other than or the same people have any other viewpoints to present in regard to this general matter?

MR. HUTCHINS: My name is J. Barton Hutchins. I am with Edwin W. Pauley. I just would like the record to show that Mr. Richards appeared here today for and in behalf of him and Mr. Richards talked to Mr. Pauley as late as fifteen minutes ago about everything he was prepared to say. The Pauley people are back of everything Mr. Richards says.

MR. CRANSTON: Mr. Hortig, I would like to ask this. I know that all of us are eager to move forward in actually opening these oil fields and in opening the bids. This is a new matter that has come before us that the members of the Commission have not had time to fully consider: first, the matter of opening up one by one the fields; and, secondly, the matter of conditional bidding. The Attorney General's office hasn't had time to consider the matter fully and we haven't had any opportunity to see how they would set forth a conditional bid clause if they did put in one.

Since there are millions of dollars involved, I don't think too great speed should be made. I wonder if it would be possible to approve this, except for this two-fold related question -- putting these up one at a time and the matter of conditional bidding, without slowing up our final
schedule?

MR. HORTIG: No sir. Any deferment today or any portion or any segment of what is proposed here today would of necessity slow up the final schedule.

MR. CRANSTON: I did not derive from your answer to me any clear-cut feeling as to whether we would get more money on step-by-step. I think unless you have clear-cut feelings, I would prefer to put this over. I think a deferment of thirty days would be better.

MR. HORTIG: In my reply with regard to clear-cut feelings, I had no intent to be coy and I think intuitively -- and I think this was certainly within the framework of the example cited by Senator Richards -- if you had the same number of bidders and possibly only one clock, there is possibly more enthusiasm with respect to the bidders convincing themselves they want that one clock than if their attention is distracted over five clocks. I certainly can't prove to the Commission that this method would produce more money, but I share the intuitive feeling that this might result in more money.

GOV. ANDERSON: If we would adopt Mr. Carr's suggestion on one bid and try it, if it looked all right on that one continue in that fashion . . .

MR. CRANSTON: Well, it would be an interesting experiment. I think it is rather hard to predict what the outcome would be and I, for one, would like to give it a little
more thought, consider the matter further, before we make a
decision.

MR. CARR: I would urge we put up one parcel for
bid as soon as possible. I think it has quite a bit to do
with our fiscal situation, our budgeting policy, and what
might happen along that line and as it affects our proposed
capital outlay in various directions. I would like to see —
if we are going to lease these oil fields, I would like to
see us begin leasing. I don’t like to see us put it off
thirty days. Thirty days is getting very close to the
Legislature.

GOV. ANDERSON: I am inclined the same way.

MR. CRANSTON: It is my feeling that in a matter
as important as this, where the bids may be high or low
depending on various aspects of the situation; where informa-
tion comes to light, perhaps, from one company to another on
the bid on the first parcel, which may have a great bearing
on bidding on other parcels in the same area, I would like
more time to consider all the ramifications and do not favor
action on the matter today. I think thirty days would be
worth considerably more money to the State. I would like to
cast my vote when I am more acquainted with this matter, since
I had no time to go into this.

MR. CARR: May I ask the Chairman what he proposes
to do in the next thirty days to arrive at a decision?

MR. CRANSTON: I would personally talk to a good
many people, avail myself of all information I could obtain....

MR. CARR: Would the Chairman be prepared to come in with a decision in thirty days?

MR. CRANSTON: I certainly would.

MR. HORTIG: May I suggest, for the information of the Commission, this would mean of necessity, as far as determination of Lands Commission meetings, a possible decision at the December meeting of the Commission because you gentlemen have advanced the November date to November 15th, which both for calendar closing and number of calendar days to elapse is only a small portion of thirty days.

MR. CRANSTON: November 15th would suit me.

MR. CARR: Would we be prepared at that time to have a recommendation from the staff? If we decide to put on one parcel at a time, would we be in a position to decide which parcel?

MR. CRANSTON: I think that would be a relevant factor.

MR. CARR: In what schedule, Mr. Hortig, would we be prepared to put out succeeding parcels? What would our procedure be here -- what would be the timetable?

MR. HORTIG: Well, I am inventing the procedure as I sit here, Mr. Carr, as you appreciate. It would occur to me that if this is the policy route that the Commission desires to develop to the fullest -- in the best interest of the State to eliminate all the complications that have heretofore been
attributed to conditional bidding and to enable an operator to evaluate his position with respect to future bids, as the problem was outlined by Senator Richards -- it would appear that once a sequential series of lease offers were made, that they would have to be spaced so that a bidder, before being raced with his next bid, would know reasonably well whether or not he had a final stake in the prior bid, that he definitely was not or likely was not the successful bidder in the first lease before he would know he had his money available for the second bid.

MR. CARR: That would certainly contemplate putting out the second bid following the acceptance of the first bid, otherwise there would be no point...

MR. CRANSTON: It would seem to me this would be something the oil companies would like to express themselves on to the Lands Commission -- would they like an hour, day or week. I'd like to point out this might lead to leasing of these fields in a much slower schedule than we anticipated. If the oil companies want a slower schedule, that may mean that we may in January not proceed to lease the whole field as we would today; so I feel speed is not necessary today. I would therefore suggest November 15th. It would give me that much time to consider the matter.

MR. HORTIG: Considering all the procedural requirements and the necessity for bringing evaluated bids to the Commission with the recommendations for offering a lease,
which is the first time that a series of bidders actually know
whether or not they have been successful, it would necessitate
a period ranging from a period of sixty days to possibly ninety
days between parcel offers if they are to be offered by parcels,
in a series.

MR. CRANSTON: So actually the result of this policy,
if adopted, is that we would open these fields on a far slower
schedule than if we proceeded to offer them all at once.

MR. HORTIG: This is not the sum total result, Mr.
Chairman, for the sequential series, if they were all under
the same procedure, could run on a schedule -- this could be
of advantage to bidders -- if they were going to be sixty or
ninety days apart. There would be an offer every sixty or
ninety days, so that two or five years down the row there
could have been actually more parcels leased than on the more
spasmodic and larger leasing utilized heretofore.

MR. CRANSTON: The simultaneous opening of other
scheduled areas as compared to several at a time would be
the same. It seems to me there are many matters we can't
analyze or spell out completely at the moment.

GOV. ANDERSON: Mr. Carr, my feeling is that I am
perfectly ready to make a second to your motion, although in
deferece to Mr. Cranston's request for another twenty days
to our next meeting I kind of feel this is what we should do.
I am ready and we could pass the motion that we do them one
at a time. I think that's the simplest and will make the most
money eventually, but I lean a little in going along with
Alan to the next meeting.

MR. CARR: I am perfectly willing to do that. I
am willing to do either one. Out of courtesy and deference
to our Chairman I wouldn't want to ram this down his neck,
but I want to call attention to this fact: I think an
orderly marketing of these oil reserves is a good thing for
the State of California and not being in the oil business I
am perhaps being impudent in suggesting this -- but having
had some experience in marketing bonds, if people are going
to buy this way, they are on notice; they have time for a
more thorough preparation and thorough evaluation and can
make up their minds how much they are willing to shoot. I
think the other smacks a little of the pool table and the
horse track, but inasmuch as you have not seconded my motion
it wouldn't embarrass me to let it die for lack of a second
and I am perfectly willing to withdraw -- whichever seems to
be most diplomatic under the circumstances -- and I hope on
the 15th we can get off the dime.

GOV. ANDERSON: I will be willing to second the
motion on the 15th.

MR. CRANSTON: Thank you very much for your
pleasant diplomatic relations. May I request that the
Attorney General's office give us, as far in advance as pos-
sible, what would be their recommendation on conditional
bidding if conditional bidding were to be something that the
Lands Commission decided was something that would be advisable; and, secondly, I would advise that the staff and individual members explore, and industry give us their thoughts, if they will, on step-by-step opening of parcels versus opening several simultaneously, and recommendations as to the time that would be necessary between parcels if we go step-by-step. I would assume those would be the major issues.

MR. CARR: Mr. Chairman, I might say diplomatically that I have made up my mind on conditional bidding. I am not going to change it.

GOV. ANDERSON: I am agreeable that we put them up one at a time. If we have to put them up in a multiple manner, I would suggest conditional bidding because it brings more money to the State. At least you know our thinking, Frank.

MR. CRANSTON: I will be happy to leave everything in doubt by expressing no opinions. I believe we have covered all items on the agenda.

MR. HORTIG: One exception, Mr. Chairman, and that is possible consideration at this time of the date of the December meeting.

MR. CARR: May I ask, as far as the approval of the contract is concerned, with the reservation of this last paragraph referring to conditional bidding, can we consider that it would be in order to approve the contract and the
MR. CRANSTON: Yes, with the exception of the conditional bidding.

MR. CARR: With the exception of that last paragraph referring to conditional bidding, which will come up on the 15th.

GOV. ANDERSON: There were no objections on the other portions.

MR. CRANSTON: Do you so move?

MR. CARR: Yes.

GOV. ANDERSON: Second.

MR. CRANSTON: So there is approval of the entire contract, with the exception of the paragraph on conditional bidding; and implicit in this, there is no decision as to whether we go step-by-step or at once.

The date, time and place of the November meeting is Tuesday, November 15th, ten a.m. in Sacramento. I would prefer to leave the December meeting until then -- I don't have my calendar with me. If there is nothing further to come before us, the meeting is adjourned.

ADJOURNED 12:00 NOON

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CERTIFICATE OF REPORTER

I, LOUISE H. LILLICO, reporter for the Division of Administrative Procedure, hereby certify that the foregoing fifty-eight pages* contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the State Lands Commission in Los Angeles, California, on October 27, 1960.


* pagination runs to 57, but in error there are two pages numbered "3", one of which has been numbered "3-A" - making a total of 58 pages of transcript.