TRANSCRIPT OF MEETING
of
STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA

NOVEMBER 15, 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
Don Rose, Executive Secretary to the Lieutenant Governor
Kenneth C. Smith, Public Lands Officer of State Lands Division

OFFICE OF THE ATTORNEY GENERAL:

Mr. Jay L. Shavelson, Deputy Attorney General

APPEARANCES:

(In the order of their appearance)

Mr. Ralph N. Kleps, in behalf of Deep Springs College
Mr. Francis C. Whelan, Attorney-at-law, representing Adrienne C. Burke
Mr. F. J. Shafer, Texas Company

Reporter: Louise H. Lillico
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MR. CRANSTON: The meeting will please come to order. The Lieutenant Governor is Acting Governor of the State in the absence of Governor Brown at the present time and is required elsewhere at present. He probably will be with us later in the morning but I think we should proceed without him.

The first item is confirmation of the minutes of August 25, 1960. If there is no objection, they will be considered as approved.

Item 2 is permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental and fee policies of the Commission. Item (a) is Columbia-Geneva Steel Division of United States Steel Corporation of San Francisco. If there is no comment, we will run through those in each classification and then vote on them as a group. Item (b) is Columbia-Geneva Steel Division of United States Steel Corporation of San Francisco. Item (c) ....

MR. HORTIG: Mr. Chairman, at that point, item (c) -- the request for approval of crude oil sales contract for Honolulu Oil Corporation, it is recommended that action be deferred at the request of the applicant and with the concurrence of the Office of the Attorney General, for further discussion of some of the legal interpretations involved.

MR. CRANSTON: That will be held aside?

MR. HORTIG: Yes sir.

MR. CRANSTON: Item (b)?

MR. HORTIG: (c).
MR. CRANSTON: (c). Item (d) - J. H. Marion; item (e) Pacific Gas and Electric Company; item (f) James H. Zacharias, et al., and item (g) Trustees of Deep Springs, Administrators for Deep Springs College...

MR. HORTIG: Mr. Chairman, before going to item (g), may I ask if the Chairman might inquire if there are any representatives of the Small Craft Harbors Commission that wish to make any appearance on item (f). This is one of the type leases on which Small Craft Harbors has been informed and, lacking any objection, that lack of objection is considered by the State Lands Commission as approval of the leasing program.

MR. CRANSTON: Is there anyone here representing Small Craft Harbors? (No response) Apparently not. Then we are on Deep Springs.

MR. KLEPS: Mr. Chairman, I would like to say a few things with respect to that item. I want to say I am appearing here in a private capacity. Actually, I am appearing as one part of whose education was due to the institution whose interest is at stake. There are two minor items that have already been discussed with the staff and have been taken care of. One is the actual name in which the matter should vest. This is an unincorporated association, board of trustees under a deed of trust, and all the property they own is listed with the specific names of the acting trustees now and their successors, and they would like to have title in those granted names.

MR. CRANSTON: Is that properly arranged?
MR. HORTIG: Yes sir.

Mr. KLEPS: The other matter has to do with a restrictive clause with respect to the use of the easements. It says that -- this is item or clause four on page 3 of the draft I have here -- that the easement shall be used for the sole and exclusive purpose of transmitting water across the premises to the Deep Springs College, and they would like to have that restrictive "to the Deep Springs College" eliminated, so it would read: "... for the purpose of transmitting water across the described premises to the property owned by the trustees of Deep Springs ..." or, eliminating that entirely, simply making it "... for the purpose of transmitting water across the described premises."

MR. HORTIG: Mr. Chairman, I have our staff memorandum on the same subject, expressing concurrence and nonobjection and recommending that the second recommendation of Mr. Kleps is acceptable and the description would be solely "for the purpose of transmitting water across the described premises, together with rights of ingress and egress."

MR. KLEPS: Now, the third thing ....

MR. CRANSTON: Mr. Whelan, would you like to comment?

MR. WHELAN: Well, if the purpose is merely to conform with the use of the premises, the premises being owned in the names of these individuals for trust purposes -- if that is the purpose of it, it seems to me to be thoroughly satisfactory. This matter was considered, of course, that it was for college
purposes and for public educational purposes, and that was the understanding that I had understood the easement was being granted by the State -- for this purpose.

MR. CRANSTON: That is the purpose as far as we are concerned.

MR. CARR: Is there any other possible interpretation?

MR. KLEPS: I don't think so.

MR. HORTIG: Staff counsel did not indicate any other possible interpretation either, Mr. Carr.

MR. CARR: What were your misgivings directed toward?

MR. WHELAN: I just didn't know. I understood this property was a college and it was only proper that the water should be continued to be made available for that purpose; and it was my understanding that the trustees were acting on behalf of the college; and so, while I didn't have anything to do with the construction, with the language of it, it carried out, as I understood, what the real purpose of the easement was, to wit, for college purposes and actually "for transmission to Deep Springs College" it would seem to me to have been satisfactory. This is the first time that I have any knowledge about it. I just wonder why the necessity of the removal of the qualification.

MR. KLEPS: I think, Mr. Chairman, that the term "for Deep Springs College" is not accurately descriptive of the total purposes of the institution; in fact, it isn't a technically accurate term. It isn't referred to as a college.

This is an institution that exists under a deed of trust. It...
might be possible to think of some restrictive language that would be better, but our thought was that there was no need to do more than to say this easement was designed to take water across the described premises to the property owned by the college, by the lessee.

MR. CARR: In other words, the right-of-way goes with the property. There might be a change in the structure of the college. The idea is that the easement for transmitting the water, transporting the water, goes along with the land.

MR. KLEPS: That's right.

MR. CARR: I think that's right.

MR. HORTIG: I believe there is another point that might clarify and eliminate Mr. Whelan's concern. It is believed that all parties know that the trustees own farm land irrigated by this pipeline and ditch of long existence, and these are the structures for which the easement is proposed to be issued. Therefore, the words "to the Deep Springs College" may be too restrictive, since particularly the trustees are entitled to irrigate all the lands they own by use of the pipeline easement, so long as they don't alter its size or location, which they wouldn't of course do and could not do in the form of the easement proposed today.

MR. WHELAN: That is obviously true and that certainly was known -- that they did operate a ranch. As I understood, the ranch was a part of the college operation incidental to the type of operation of some colleges, such as Thatcher School.
I would like to ask if it wouldn't be just as good for the purposes of the trust, "to the trustees in conformance with their trust."

MR. CARR: Why would it be any better than this language? Why make it more restrictive? Who would be hurt by the language proposed here?

MR. WHELAN: Then may I ask -- my recollection is that .... I'll withdraw that. Does the proposed qualification say "to the lands owned by the individuals under trust"? May I ask counsel if that is what he proposes?

MR. KLEPS: No. As I understand it, the staff preferred and we would accept the deletion of the words "to the Deep Springs College" so that it will read as follows: "The described land shall be used during the term hereof for the sole and exclusive purpose of transmitting water across the hereinabove described premises." As your staff suggested it, I think it does not have any limiting effect at all. It simply indicates that the easement is across this portion of State lands for the purpose of transmitting the water across it.

MR. WHELAN: May I be heard? Then it is an easement in gross rather than an appurtenance to the lands. If it would say "to the lands owned by these individuals" then it would be an appurtenance to those particular lands and that would be satisfactory. This is an easement in gross the way it is worded now.

MR. CARR: Do you object to that?
MR. WHELAN: I think it should be an appurtenance to the lands.

MR. CARR: Why?

MR. WHELAN: This way it could be used for transmission of water to any other lands in the area rather than just to these people.

MR. CARR: Well, would that be bad?

MR. WHELAN: I just thought that the question as it applied to the application was to save the rights which had already been in existence, that is which had been used, and as the easement which had been used is concerned, it is an appurtenance to the lands to which the water is now being brought; and I thought it was to maintain that use rather than to extend it for all and general purposes. If it is as an appurtenance to the lands which are owned by these individuals, then it is maintaining the use which they have been making of this ditch line and pipe line in the past.

MR. KLEPS: I might comment to the board that this property and this easement have actually been in use since 1869 and predecessors in interest, for example, of the trustees first brought water across this land before the State of California acquired title to it; and the trustees are convinced that if this were litigated out, they might have rights that antedated the State's. We don't think the language used here is, in other words, going to limit the right of the trustees based on their predecessors', but we don't like to see any
limitation put in if one is not needed.

MR. WHELAN: I believe with respect to the prior use prior to the State, that would apply from what I understand to the ditch line, not to the pipe line. As I say, all of the rights -- whether it be for the college or whether the trustees should sell the property -- would be maintained if it was stated it was a pipe line to the lands, not saying to the Deep Springs College but to the lands.

MR. KLEPS: I might say we were proposing as another alternative "... to the property owned by lessee in Deep Springs Valley." That would also be acceptable to us.

MR. WHELAN: That would be satisfactory. I presume they don't own any other property other than this general piece which is part of the general operation.

MR. CARR: Do you have an adverse interest in this, Mr. Whelan? I don't know who you represent.

MR. WHELAN: I am sorry. I represent the applicant, Adrienne C. Burke, which is item 3(a)....

MR. CARR: That's what I wanted to know.

MR. WHELAN: ... and the application to purchase was made and then the application for this easement and other certain easements, utility company easements, were made subsequently to the application for purchase. When this matter was first upon the calendar -- I believe it was last April or May -- the matter of the application of Burke was continued and then during this interim I have had occasion to talk to Mr. Lyon, attorney for
the Deep Springs College, as well as to one of the trustees, and on several occasions to Mr. Blacker respecting the terms of the easement. I did not suggest the particular language. I had no knowledge until this morning that there was any change in the easements as suggested by the staff and as submitted to me and to counsel for the trustees.

MR. CRANSTON: Well, if the two of you have agreed on substitute language, I think that language might be substituted if there is no objection from the staff.

MR. HORTIG: No sir, there would be none in view of the fact, to carry the record back one more step in the interest of completing it -- as Mr. Kleps suggested this language had been suggested by staff -- the genesis or its originator or suggestor is Mr. Lyon, representing the Deep Springs College.

MR. WHELAN: Yes, I so understand.

MR. HORTIG: So the staff certainly have no objection to the alternative language proposed here this morning.

MR. CRANSTON: Did you get that language exactly as agreed to a moment ago?

MR. HORTIG: We have it in the transcript.

MR. CRANSTON: Let's leave it that way.

MR. CARR: Is that agreeable to you?

MR. KLEPS: Yes.

MR. CRANSTON: Is this a 49-year easement or ....

MR. KLEPS: This is the other point I wanted to raise with the Commission. As drafted, this provides a 49-year
easement from the State and at the conclusion of that 49-year
period the right to transmit water across this property based
upon that easement will terminate and the trustees at that stage
will be forced to negotiate with whoever owns the land at that
moment, Mr. Whelan’s client or their successors in interest,
at a point when the whole operation of the institution will be
dependent upon the continued ability to get water across this
piece of property. Now, 49 years is quite a while. I wanted
to ask whether the Commission had considered the possibility
of reserving to the State the right to grant a further easement
at that time, rather than at this time to state that 49 years
is the maximum period the institution is going to be able to
transmit this water and at the conclusion of that period are
going to have to negotiate with whoever owns that property
knowing that the operation of the institution depends for life
or death on the bargain at that moment.

MR. CRANSTON: Mr. Hortig, will you comment on that?

MR. HORTIG: Yes, In the staff reviews with Mr. Lyon,
counsel for the trustees, the question of the easement term was
researched preliminarily. It appeared, although this was not
conclusive from the Office of the Attorney General, that the
maximum authority of the Commission was to issue a 49-year
easement at this time. It was not clear that there either was
or was not authority to consider the retention, in effect, of
the Commission easement in perpetuity, based upon which the
Commission 49 years hence could issue a new easement; and in
the lack of clarity, Mr. Lyon expressed on behalf of the trustees agreement to and acceptability of this 49-year term of the right-of-way easement.

Now, if this is a definite question that has been raised on that by Mr. Kleps this morning and if the Commission wishes to consider this, then in order to be able to inform the Commission we would have to have a deferment of this item in order to refer the question to the Attorney General’s office, as the Commission’s legal consultant, to state conclusively that the 49-year term is the maximum or that there are alternative bases that the Commission could consider as suggested by Mr. Kleps.

MR. CARR: Mr. Chairman, it seems to me that the State in granting this right-of-way should give primary consideration to the established rights of the Deep Springs institution and I fail to see where Mr. Whelan’s client is going to be damaged by making these easements highly protective to the owners of the school, whoever they may be in the future. Their claim to this water, this right-of-way, goes back a long way, much further than the claim of Mr. Whelan’s client. I would be in favor of -- why can’t this easement be granted for 49 years with a reversionary interest to the State rather than to Adrienne C. Burke? Why can’t the reversionary interest be to the State rather than the owners of the property?

MR. HORTIG: Mr. Chairman, if I may presume to answer Mr. Carr in the presence of a gentleman certainly more qualified...
to go into the legal propriety of this situation, this was one of the elements of doubt in the prior review and this was one of the possible alternatives that was researched; and under present law, when vacant State school lands are sold by the Commission, they are sold subject to the easement and with specific inference, if not actual direction in the statute, that the easement rights when they terminate and as to the area over which they terminate, that this is acquired by the purchaser of the lands, who has bought these lands subject to these particular easement rights.

Now, whether the alternative Mr. Carr has suggested could be accomplished would necessarily, I think, and desirably be an item to be included in this research for determination of all questions, if the Commission desires this to be explored in view of Mr. Kleps' suggestion here today.

MR. WHELAN: Of course, I might add, under the terms of the easement the trustees expressly -- the State expressly keeps open the prescriptive rights of the trustees. In other words, by taking the easement from the State there is no admission on the part of the trustees that they do not have prescriptive rights and, as counsel has stated, there is in existence a map (I have seen a copy of a map) which shows what appears to be a ditch and it has on it the words "Gillespie Ditch"* and Mr. Lyon, counsel for the trustees in Los Angeles, has stated that is the location of this ditch line.

MR. CRANSTON: If there is doubt as to where the college

* phonetic
would stand on this matter of the 49 years, I suggest we refer it to the Attorney General.

MR. CARR: The college has been in existence for more than 49 years -- I happen to know somebody who is an alumnus -- and it seems to me they should be protected. In fact, it surprises me that the college didn't ask to purchase this property so they can have perpetuity.

MR. KLEPS: I am not sure anyone can answer that. I am not sure anyone knows where this Section 36 was in reference to this ditch that was here for many years. In fact, when the application came in here, it turned out it was unoccupied State land and there were utility pole lines, etc. This is an isolated part of the State and even the utility companies did not protect themselves.

MR. CARR: I think we should be very sure what we do on this.

MR. CRANSTON: Do you want to make a motion?

MR. CARR: I move we defer it.

MR. CRANSTON: I second it.

MR. WHELAN: Do you have any definite continuance on it?

MR. CRANSTON: We should have information at the next meeting.

MR. CARR: I realize Mr. Whelan is anxious to get this property for his client, but I think prior rights should be settled before we give it away.
MR. WHELAN: I agree, Mr. Carr, and, as a matter of fact, we had some conversations long before this matter came before the board in the first instance, in which I -- with authority from my client -- offered to grant these easements, to enter into an agreement for the granting of them upon the basis which would have been a perpetuity and for a very modest sum -- certainly much less than they must have been put to for the expense of counsel in the meantime -- but they chose not to do it that way; but those offers were made before the application of Burke to purchase ever came before the board. And we also discussed informally the question of granting this easement in perpetuity after the 49-year period. That was after the matter had come before the board, so that it would not be difficult at all to solve this matter.

MR. CRANSTON: I presume it can be solved at our next meeting and then we can dispose of the matter. If there is no further objection or discussion, the motion made by Mr. Carr is unanimously approved.

MR. WHELAN: Is the next meeting in Los Angeles?

MR. CRANSTON: Yes. We now go to approval of all items under heading (2) with the exception of (c) and (g). Do you wish to move their approval, Mr. Carr?

MR. CARR: I move approval.

MR. CRANSTON: Motion has been made, duly seconded and unanimously passed, approving item 2 with the exception of (c) and (g).

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA
MR. CRANSTON (continuing) We now come to Item 3 -- Sales of vacant State school lands. All items here presented have been reviewed by all State agencies having a land acquisition program, unless otherwise indicated, and no interest has been reported by these agencies in the lands proposed for sale.

MR. HORTIG: Mr. Chairman, item (a) is the application on which action would be subject to prior action by the Commission on the Deep Springs easement. Therefore, this should be deferred, leaving only item (b) under this heading.

MR. CRANSTON: Item (b) San Bernardino County Flood Control District - Lands not reviewed with other State agencies as the area is subject to flash floods and the lands previously were withdrawn from sale on behalf of applicant. We have an appraised value and bid of $7,910.40. Is there any comment or discussion on that item? Mr. Carr?

MR. CARR: No, I move the approval of (b). I have some reservations about this next item.

MR. CRANSTON: Item (b) is moved to be approved and seconded, and unanimously so ordered.

Item 4 --Selection of vacant Federal lands for the benefit of the State: Item (a) - 160 acres in San Bernardino County. Application of Maurice William Nolan canceled at his request. Item (b) - 30 acres in San Bernardino County. Application of Lester J. Vilven disqualified for failure to deposit required funds within specified period. Item (c) - 80 acres in San Bernardino County. Application of Lester J. Vilven disqualified for failure to deposit required funds within specified period.
period, John?

MR. CARR: Now, what is the significance of this, Mr. Hortig? That is my question, Mr. Chairman.

MR. HORTIG: The significance would be that there would be added, on approval of the Commission of the selection of the listed lands, there would be added 320 acres of vacant land to the vacant land list of lands under the control of the Commission for disposal pursuant to the trust requirements, which would also consist, therefore, of a 320-acre decrease in the deficiency of the total amount of lands that the Federal Government owes the State but has not heretofore granted.

MR. CARR: Mr. Chairman, I was talking to Mr. Hortig about these lands and some others in informal conversation and pursuant to the action of the board some time back, in which we wanted to get our inventory in shape so we knew what the State now owned and take a second look at it to determine what possible uses other than those agencies with whom we have clearance might have. I think maybe we are going to see some demand on the State for such things as housing aids and what not. I don't know whether they want to live out in the desert someplace, but I think we should get our inventory in clear shape in accordance with our previous policy before we get these lands out on the market. Mr. Hortig, how much does the Federal Government still owe us -- something like 200,000 acres?

MR. SMITH: Approximately 150,000 acres in lieu.

MR. HORTIG: This would be a 320-acre decrease in
that amount they owe us.

MR. CARR:  Percentagewise .....

MR. HORTIG:  It is a step in the right direction.

MR. CRANSTON:  There is actually no action required.

MR. HORTIG:  Yes, there is approval required by the
Commission. Unless we have that, these transfers are not
valid.

MR. CRANSTON:  Approval and selection is moved and
seconded, unanimously so ordered.

Item 5 - City of Long Beach:  Item (a) Approval of
adjusted average price of $0.21205 per MCF as the reasonable
wholesale market value of tideland dry gas received by the
Municipal Gas Department of the City of Long Beach during the
period November 1, 1956 through June 30, 1959; approval of
tentative price of $0.2348 per MCF, for period from July 1, 1959
until next price determination is made, subject to revision if
warranted.

MR. HORTIG:  Mr. Chairman, by way of brief explanation,
the Commissioners will recall that under Chapter 29 of the
Statutes of 1956 the State receives a 50% interest in the net
value of the oil produced from tidelands by the City of Long
Beach under operating contracts, and concurrently the State re-
ceives 100% of the value of the dry gas which is produced in
conjunction with that oil production. The calculation of the
amounts to be received by the State representing 100% of the
value of the dry gas are by statute to be calculated on the
reasonable wholesale market value of tidelands dry gas as determined jointly between the City of Long Beach and the State Lands Commission. The rates here proposed for approval by the State Lands Commission have been established through extensive negotiation, technical review, the employment both by the City and the State of consultants in the gas marketing field, and complete review by the Office of the Attorney General; and the rates here proposed have been adopted by resolution of the City Council of the City of Long Beach to be applicable if the State Lands Commission concurs herewith.

MR. CARR: I move approval.

MR. CRANSTON: Approval has been moved, is seconded, and without objection it is so ordered.

Item 6 - Authorization for Executive Officer to issue patent to the Housing Authority of the City and County of San Francisco covering lands valued at $3,700 in 1959, in exchange for filled and unfilled tide and submerged lands, known as Parcel 84, appraised in 1959 at $5,200, all located within the Hunters Point Reclamation District in the City and County of San Francisco.

MR. HOHTIG: Mr. Chairman, the summary statement which you have just read is completely correct. You have just been handed a revised edition of the full calendar item, which revision has been recommended by the Office of the Attorney General here in Sacramento after review of the previously completed calendar item, in order that (for the same facts which you have
just recited) the Commission's resolution will completely implement and authorize the actions required under the statute which provided specifically for this type of exchange with the Federal Housing Authority -- on consummation of which the State will have received lands of greater value than the unfilled tide and submerged lands which the State would transfer to the Housing Authority for use in conjunction with the housing development in the southern portion of San Francisco Bay in the City and County of San Francisco. The proposed resolution of the Commission, therefore, would read:

"It is recommended that the Commission grant approval to conclude the exchange transaction outlined above:"

(and, parenthetically, I might state that this was authorized to be initiated by Commission action on July 30, 1959)

"...Determine that as of December 31, 1957 the value of the land to be conveyed to the State of California (Exhibit B attached hereto and made a part hereof) was of equal or greater value than the lands to be conveyed by the State of California to the Housing Authority of the City and County of San Francisco (Exhibit A attached hereto and made a part hereof).....

(and again parenthetically, the lands to be received by the State have been appraised previously at $5,200, while the lands to be relinquished have been appraised at $3,700)

"... To authorize the Executive Officer to proceed with preparation, execution and delivery of the State patent, subject to the usual constitutional and statutory reservations, to said Housing Authority when the Housing Authority delivers a grant deed to the State of California conveying the lands described in Exhibit A; and authorize the Executive Officer to accept a deed in the form substantially as in Exhibit C attached hereto and made part hereof."
And again, parenthetically, the form of deed attached hereto has been reviewed -- prepared and approved by the Office of the Attorney General.

MR. CRANSTON: Approval is moved by Mr. Carr, seconded, and without objection it is so ordered.

Confirmation of transactions consummated by the Executive Officer pursuant to authority confirmed by the Commission at its meeting of October 5, 1959. Frank?

MR. HORTIG: Mr. Chairman, on pages 25 through 27 are listed essentially routine administrative items which have been completed under delegations of authority from the Commission in terms of approval of assignment of pier sites, ark sites, and assignments of prospecting permits; a grazing lease; and the issuance of a controlled burning permit which has previously been authorized concurrently by State Division of Forestry.

MR. CRANSTON: This needs a motion of confirmation?

MR. HORTIG: It is desired.

MR. CRANSTON: Mr. Carr moves confirmation of that and it is seconded. So ordered.

We now come to the supplemental calendar item on page 28. It is the form of oil and gas lease and leasing procedure, Santa Barbara County. Frank?

MR. HORTIG: As the Commissioners will recall, in Los Angeles on October 27th action was deferred on the adoption of a final or complete adoption of a combined bid lease form for oil and gas lease offers and on authorization which had been
proposed on that date for publication of notice of intention to receive bids for specified parcels of tide and submerged lands in Santa Barbara County. The staff was requested to report on an evaluation of three alternative types of lease offers. Actually, in the interim, a fourth type had been suggested -- auction bidding. However, it appears that auction bidding is not authorized by statute for Commission oil and gas leases and, therefore, the three types contemplated for evaluation on October 27th are all that are reported on here.

The first would be unconditional bidding on a multiple lease offer; the second procedure would be conditional or contingent bidding; and the third would be that for which we have adopted the terminology of "sequential bidding" as a short form of a basis of offering one lease at a time and offering such leases in a continuing sequence.

If the Chairman will approve, I would suggest that I read the calendar item because it does summarize and I believe will have a minimum possibility of omitting any essential factors:

In summary, evaluation of all factors relating to unconditional bidding (that is, one above) indicates that it might be impossible to establish optimum conditions in the best interests of the State for this type of offer and also the time requirements of the processing schedule, which are prescribed primarily by statute, result in a spasmodic lease-offer schedule which makes long-range planning ineffective for
both the State and the bidders.

Conditional or, as it is sometimes alternatively
described, contingent bidding (which is type two just referred
to) with conditions included at the option of the bidder, would
have a high potential for producing a series of offers in which
the high bidder could not be identified as required by statute.
The Office of the Attorney General has reported on the legality
and feasibility of conditional or contingent cash bonus bidding.
Again, in summary, there is no legal prohibition against the
invitation of conditional or contingent bids. However, unless
permissible conditions were limited and prescribed by the Com-
mission, thereby limiting any alleged advantage to a condi-
tional bidder, there would be some possibility of successful
legal attack upon the awarding of a particular lease. In
addition, it appears that there are likely to be substantial
administrative difficulties and drawbacks in any system of
conditional bidding.

Evaluation of sequential bidding procedure, type
three referred to, shows that this system can have the highest
degree of practicability simultaneous with being in the best
interests of the State and the best interests of the majority
of potential bidders.

A comparative schedule of the principal factors and
contentions relating to conditional or contingent bidding and
sequential bidding is attached as Exhibit A. A tabulation of
criteria for effective sequential bidding is attached as
Exhibit B, and comparisons of schedules for sequential bid offers, evaluating programs at two-hour intervals and thirty-day intervals are attached as Exhibit C. The combined form of bid-lease proposed for future lease offers is attached as Exhibit D.

Therefore, it is recommended, first, that the Commission rescind all partial approvals with respect to combined bid-lease form which were given at the meeting of October 27th and approve and adopt, pursuant to the applicable portions of the Public Resources Code, the combined bid-lease form attached hereto as Exhibit D as the form to be utilized for tide and submerged land oil and gas lease offers. (I would like to inject there that this proposed lease form is identical with that which the Commission had under consideration on October 27th.)

(2) It is recommended that the Commission determine that it is the intention of the Commission to receive bids for individual tide and submerged land oil and gas leases at intervals of not less than thirty days in as continuous a sequence as is reasonably practicable, with the sequence of offering specific areas to be determined solely by the Commission.

(3) Authorize the inclusion in each lease-offer of an option to all bidders except the apparent high bidder to have the required bid deposit refunded upon written request and relinquishment by such bidder of any rights of interest in the particular lease offer.
The item following, if this procedure is adopted by the Commission, specifies procedure to be followed. The following calendar item would recommend the location and the details necessary with respect to the first parcel proposed to be offered for lease under the system hereunder discussion.

MR. CARR: Mr. Chairman, in order to get this before the house, I move the approval of recommendations 1, 2, and 3.

MR. CRANSTON: I second the motion. Discussion is now in order if anyone wishes to make any comment. Are there any queries anyone wishes to express? (No response) If not, we are ready for the question and it is my understanding that the Lieutenant Governor, were he here, would vote for the approval. Is that right, Don?

MR. ROSE: I am quite sure.

MR. CRANSTON: Then it will be approved by those present, with the intent that it would have been unanimous had the Lieutenant Governor been present.

We come to supplemental calendar item on page 36.

MR. HORTIG: In accordance with the actions proposed and approved in the preceding calendar item, it is recommended that the Commission authorize the Executive Officer to offer a parcel of tide and submerged lands in Santa Barbara County for oil and gas lease, pursuant to Division 6 of the Public Resources Code. The lease award is to be made to the qualified bidder offering the highest cash bonus payment in consideration of the issuance of an oil and gas lease. The bid-lease form to be
utilized for the following described parcel shall be the form approved and adopted pursuant to the preceding calendar item in this calendar. The proposed lease area is not within the known geologic structure of any producing oil or gas fields.

I wish to explain to the Commission this is not a finding or requirement of current statute, but is recited here for the information of the Commission as to the type of land proposed to be offered.

There follows the parcel description given in California coordinate system coordinates for Zone 5 of a parcel lying immediately easterly of Point Conception, containing approximately 4,250 acres; also being the westernmost of the four parcels that the Commission had under consideration for potential lease offer at the meeting of October 27th. It is shown in blue in the maps attached to the Commissioners' calendars. It is also in blue on the wall map on the wall behind me. The landward, or northerly, boundary of the parcel is the ordinary high water mark of the Pacific Ocean, which is the standard boundary location for tide and submerged land parcels offered by the State Lands Commission; and the seaward, or southerly, boundary of the recommended parcel is a line parallel to the ordinary high water mark and seaward therefrom three nautical miles.

The statutes also provide that the Commission shall determine the annual rental which shall be not less than one dollar per year, and this rate of rental is recommended for
the subject lease offer.

(Governor Anderson came in at this point)

MR. HORTIG (continuing) The Commissioners also have attached to their calendar, on the page following the map, a tentative leasing schedule -- which is a theoretical schedule, but can be applied actually if the Commission authorizes this particular lease offer today, by translating the Commission authorization to offer Parcel 1 as being Parcel 1, the parcel described and proposed for lease offer today -- with the possibility of offering successive parcels on a continuing schedule so that if the Commission today authorized the lease offer of the first parcel, with a first publication of notice of intention to receive bids on December 1 and a recommendation to the Commission to offer the second parcel at the December meeting (the date for which is still to be set, but the normal meeting date would be December 22, the last Thursday in the month), followed with a recommendation to the Commission to authorize offering of Parcel 3 on January 26, 1961 (again the last Thursday of January), bids could be received on the first parcel on February 3, 1961 (which would be the first Friday of the month) with a high degree of probability of the Commission being able to award the lease on Parcel 1 at the February meeting on Thursday, February 23rd, if that be the final determined date; at the same time recommendation to the Commission and authorization to offer Parcel 4; bids received on Parcel 2 on March 3, 1961, again the first Friday, and at the
March meeting of the Commission (which nominally would fall on March 30th, again a Thursday), with the award of a lease on Parcel 2 and a recommendation to the Commission for authorization to offer the fifth parcel in the sequence, and so on.

This could establish a fairly normal routine, resulting in receipt of bids on the first Friday of each month starting in February 1961 and award of a lease to the highest qualified bidder on the last Thursday of each month, or the regular Commission meeting date, also starting in February 1961.

MR. CRANSTON: Motion is in order to approve Calendar Item Number 19.

MR. CARR: So move.

GOV. ANDERSON: I will second it.

MR. CRANSTON: It has been moved and seconded to approve. Is there any discussion? (No response) If not, approval is unanimously ordered.

In order to make as clear as possible what the Lands Commission has done and hopes to do in the future, I have a policy statement that I would like to read, which has been cleared with the other members of the Lands Commission.

On September 29 it was announced, for the information of the industry interested in bidding on future tideland oil and gas leases, that the Commission had concluded that the interests of the State would be served best by inviting cash bonus bids for leases to be considered in Santa Barbara County westerly of the Elwood Oil Field.
Again, for the information of potential lease bidders, it appears desirable to emphasize that there are potential advantages which should result from the Commission's initiative in the establishment of the leasing program authorized today. Particularly, it should be apparent that one of the foremost advantages should be the feasibility of effective long-range planning, both by industry and by the State, in exploration and development under a continuing and augmented leasing program.

It is the expectation of the Commission that it will seek the orderly development of the tidelands by taking the initiative in the opening of new parcels in the future for leasing without necessarily waiting for industry nominations. This program would be intended to supplement and complement, not to replace, active industry area nominations or other effective suggestions for the best possible offshore development in the interest of the people of California.

Frank, there has been some question, apparently, as to the intentions of the Lands Commission in regard to the other areas in Santa Barbara that were nominated by Shell but have not yet been offered by the Lands Commission for bidding and for leasing. I wish you would briefly clarify our intentions as of this moment in that regard.

MR. HORTIG: Mr. Chairman, the Commission has never considered, nor have the staff recommended, that that portion of the area considered by the Commission for oil and gas leasing east of Gaviota should be withheld for any extended period.
of time from oil and gas lease offer. At the October 27th meeting, when it was suggested that the Commission might consider lease offers or should consider lease offers at that time only westerly of Gaviota, this staff suggestion was predicated on a desire to be able to complete discussions with the County of Santa Barbara as to possible modification of the offshore restrictions as to locations of platforms and other fixed structures which have heretofore been included in lease offers east of Gaviota. This, of course, has been unfortunately accepted as a standard — a limitation that no structure shall be placed closer than one mile to shore.

On a review of the water depths in the parcels remaining to be leased, it was recognized that an arbitrary one-mile safety zone, or "beauty" zone, as the County of Santa Barbara has proposed, would necessitate putting platforms — if platforms were to be used for the development of the lands, it would necessitate the placing of these platforms in water twice as deep as that in which any platform has been constructed to date. Those platforms which have been constructed in the California offshore to date already demonstrated what a large price tag comes with these platforms and, therefore, it would be extremely difficult to estimate with any reasonable accuracy what the price would be resulting from the necessity of placing the platform in water two and three times as deep as actually has been developed heretofore from platforms.

Under these circumstances it was felt desirable that,
rather than to accept without further review the one-mile limitation, it might be feasible on further study with the County of Santa Barbara to reach an agreement where, in some locations, it might be possible by such agreement to place platforms closer than the one mile. Whether this goal can be accomplished, we do not know yet -- but the County is cooperating. The County of Santa Barbara are willing to consider specific proposals by the staff of the State Lands Commission and recommendations, which they may or may not accept; and the staff are to present such a report for County review as soon as it can be completed. Staff work on this study has been underway for the last two months and as soon as a determination has been made by the County as to acceptability of recommendations or nonacceptability, then the staff will be in a position to recommend to the Commission the final conditions under which the areas easterly of Gaviota may be leased.

It is reasonable to anticipate, and this is certainly the staff goal, that with the program adopted by the Commission today for offering parcels sequentially, by the time the area which is already cleared and ready to be offered for lease has been offered -- that by that time (and this is westerly of Gaviota) there will be conclusions which can be reported to the Commission, so that the areas easterly of Gaviota could be offered in the same lease sequence without breaking the routine in what we hope by then will be a nominally routine program and a continuous leasing program.
MR. CRANSTON: Are there any queries or comments on the action taken by the Lands Commission in this regard or contemplated in the future?

MR. CARR: Mr. Chairman, may I ask a question? Mr. Hortig, do you contemplate in discussing this problem with the Santa Barbara County officials just the placing of platforms closer than one mile, or do you contemplate discussing with them the possibilities of using any of this technology whereby they develop oil wells on the bottom and after the wells are brought in you do not have structures above the surface of the water, thereby annoying the ducks and being an eyesore to the tourists?

MR. HORTIG: Mr. Carr, the latter phase of bottom-completed wells -- which are being evaluated by actual operations, as you know, off the northwest coast of South America currently -- has already been relayed to Santa Barbara officials as a possible approach in certain instances where justified economically for development off the Santa Barbara coast. It is not considered that either under existing leases or leases proposed to be offered that there is any legal bar or public objection to proceeding with such development anywhere along the Santa Barbara coast. Therefore, the question -- and almost the sole question -- that is being considered by Santa Barbara County officials is whether fixed platforms or other fixed structures may properly be located closer than one mile to the shore east of Gaviota. Your other area of problem does not
appear to be a problem in Santa Barbara County and, as I say, there do not appear to be any objections on the part of Santa Barbara County, nor are there any legal objections, to contemplating bottom-completed wells, irrespective of the distance or closeness to the high water mark.

MR. CRANSTON: If there are no further comments or queries on this point, I believe we have two remaining supplemental items, the first being Number 16 on page 37, relating to electronic data processing. Frank?

MR. HORTIG: Mr. Chairman, you gentlemen will recall Mr. Carr's statement at the meeting of October 27th that he would undertake a review and there would be a report to you gentlemen today on the status of review being conducted by Division of Organization and Cost Control of the Department of Finance with respect to the adaptability and desirability for using data processing equipment -- primarily, or initially, with respect to accomplishing the inventory and classification and land indexing tasks which are the responsibility of the Land Title Record Section of the Lands Division in Sacramento; and, secondly, the desirability for utilization of electronic data processing equipment in the balance of the operations of the State Lands Division.

As a result of Mr. Carr's comment to you gentlemen that this review would be made, it was made and a preliminary report from Organization and Cost Control Division has been received by the State Lands Division, in which they conclude...
that data processing may effectively and profitably apply in the State Lands Division to all the engineering and accounting problems; and particularly in the case of land sales and record work, a specific system has been recommended for installation in Sacramento consisting of a Royal McBee Card Sort and Microfilm System, which could be installed at a cost of less than $22,000 -- with operating costs estimated at approximately $8,100 annually -- to permit immediate processing and, therefore, in the near future final collation of all the index and record data for lands under the jurisdiction of the State Lands Commission, all of which would be centralized in the Land Title Record Section here in Sacramento.

Additionally, while different types of electronic data processing systems are available and all of them could possibly or probably be utilized for the balance of the mathematical, computational activities of the State Lands Division, it is not clear as to which system actually would produce the best and most efficient results in terms of work performed as against dollar cost, including the problem of speed of accomplishment and therefore reduction in the future of backlog, of which the State Lands Division has an oversupply.

In order to determine which of the data processing systems might be recommended by Organization and Cost Control for operations other than land indexing, it is suggested that a service contract be authorized under which work would actually be performed under such service contract initially on a Bendix
calculating system -- which would result both in current work load of the State Lands Division being accomplished and it would demonstrate the feasibility of utilizing this particular instrumentation. It would also permit cost studies for the accomplishment of these solutions, on which the Organization and Cost Control Division could in the future base a recommendation as to the specific type of system to be utilized by the State Lands Division on a lease arrangement, under which the State Lands Division would have its own computation center, rather than have the work performed under continuing service contract.

Accomplishment of both of these factors -- the establishment of a system in Sacramento and the service contract to have work performed and determine what the future system for the balance of the Division should be -- have been estimated to require current financing in a total amount of $35,840, as tabulated on page 39 of your calendars; and, therefore, it is recommended that the Executive Officer be authorized to submit a request to the Department of Finance for a deficiency authorization in the amount of $35,840 against the State Lands Act Fund, for the purpose of providing funds for the installation and use of electronic processing equipment at the Los Angeles and Sacramento offices of the Division. Expenditure of the funds provided is subject to the approval of the Department of Finance. It is further recommended that the Executive Officer be authorized to enter into a contract with Bendix Corporation.
to provide electronic computer and programming and analysis services at a cost not to exceed $3,640 (which item is included in the total amount of $35,240).

MR. CARR: Mr. Chairman, at our last meeting I would have voted for this recommendation with exuberance, but after observing the antics of the tote board on election night, I am not so sure. By the way, who got the Hawaiian Islands, does anybody know?

GOV. ANDERSON: Does this only now apply to the lands under the jurisdiction of the State Lands Commission? I had understood our original direction was to have a cross check on all State lands and I understood your remarks limited it pretty much to the State Lands Division. This may be a step forward, but this is not what my original interest was, because John and I are on various commissions that handle real estate and no one knows what they are doing. This is my problem.

MR. HORTIG: I created that impression and it is obvious that I did, and it was an unfortunate limitation. With respect to the indexing and classification and having available to the State Lands Commission indexes with respect to lands under the index jurisdiction of the State Lands Commission under the proposed system, there would be included in the indexes and therefore available for whatever program studies and policy determinations as to disposition (in which the Lands Commission and your other boards and commissions would be interested) indexes for which the Commission already has statutory
responsibility of all State lands with the exception of escheated lands, which are under the jurisdiction of the State Controller; tax-deeded lands, which again are under the jurisdiction of the Controller; and highway lands, which are indexed only in the records of the Division of Highways, Department of Public Works. But all State-owned lands owned for all other purposes, such as fair sites, agricultural sites, agricultural exposition sites, lands owned by Fish and Game, toll bridge authorities, Department of Education, institution sites, and all, are currently in indexes of the State Lands Commission and would be made effectively usable as a result of the establishment of this system with respect to all those classifications of lands.

GOV. ANDERSON: But the Department of Highways under the Department of Public Works would not be under this?

MR. HORTIG: No sir.

GOV. ANDERSON: Would this apply to other Department of Public Works' agencies? You mentioned the toll bridge authorities.

MR. HORTIG: That's right. The only statutory exception in Public Works is Highways.

MR. CARR: Mr. Chairman, I agree with the Governor here. We have a good deal wider overlapping program.

GOV. ANDERSON: You remember that one piece of property down off Contra Costa there? I am on three different agencies in the operation and selling and disposal of that land.
It's kind of foolish, I think.

MR. HORTIG: Governor, if I may suggest -- The ultimate on this program, and we haven't proposed this to the Controller yet, but without in any wise changing jurisdiction or responsibility, after this system is established it would be recommended that there be considered that integrated in the system for index purposes only there be integrated also the index relating to escheated lands -- under which circumstances, then, there would be only three places that anyone would have to go in the State of California to find out absolutely everything with respect to what is known as to the record status of any parcel of land in which the State has interest. The one minor exception -- and actually this does not normally get into, I believe, the operation of any other boards and commissions any more than it does in the operations of the State Lands Commission -- would be the tax deeded lands, which, while nominally they come under the jurisdiction of and are processed and handled by the State Controller's office, are primarily a county concern. That being the case, we would have only two places to refer to an index with respect to any State-owned lands in which there might be an active State interest and that would be the Highways index as to highways and the State Lands Commission index as to all other State lands.

GOV. ANDERSON: Now, you mentioned Education a moment ago. Would that include the State colleges?

MR. HORTIG: Yes sir.
GOV. ANDERSON: Would it include the Regents, the Universities?

MR. HORTIG: It already does. In other words, these lands are already indexed and are under the index jurisdiction of the Lands Commission, but it is mechanically difficult to get at or construct a tabulation or analysis out of these indexes -- which would be made feasible by the installation of this processing system.

GOV. ANDERSON: I am sorry. I interrupted, John. You started off ....

MR. CARR: Not at all. This is a step in the direction of carrying out the policy. I think what we had in mind was to get a single place, not just two, but eventually get a single central source of information as to what lands the State owned and something of a description of their nature and availability for various purposes. Wasn't that what we wanted? I think this is a step in the right direction. Is there some legal obstacle to incorporating the inventory of the Highway Department into this single index?

MR. HORTIG: They are excepted by statute from being in the index made by the State Lands Commission.

MR. SHAVELSON: Section 6219 of the Public Resources Code. Offhand, I think it merely exempts the Commission from the duty and it wouldn't prevent it undertaking it. There might be a little problem there.

MR. CARR: With this program of the water plan and
the acquisitions for rights-of-way for canals and things, I think it would be even more desirable that we have a single source of information to which anyone can go having any interest in the subject to determine quickly and accurately just what lands we have. Our policy — I think what we were trying to do was accelerate the disposal of the lands which we considered inappropriate for the State to use, in order to get them on the tax rolls and into commercial use; and at the same time make sure we hadn't sold anything or got rid of anything that we might have to turn around and buy at two or three times the price.

MR. HORTIG: There is, of course, Mr. Carr, a third facet; and this is the one that would produce the bulk of the records, has produced the bulk of the records in the index and increased the desirability of a mechanical system to process the records, and that is those indexes of State lands over which the Lands Commission does not have any jurisdiction, which are under the jurisdiction of other State government but for which the Lands Commission has the responsibility to index and maintain.

MR. CRANSTON: John, do your election night studies and others lead you to support or reject this motion?

MR. CARR: I'll support this.

GOV. ANDERSON: I'll second it.

MR. CRANSTON: It has been moved and seconded to approve recommendations contained in supplemental calendar item 16, and it is unanimously so ordered. We now have one
final supplemental item, item 17, which also relates to oil.

Frank?

MR. HORTIG: If I may presume to suggest, Mr. Chair-
man, it relates to oil negatively in that the Commission has
been informed previously the United States Navy had asked the
Army Corps of Engineers to establish under authority to control
navigation a set of regulations which would permit the Commander
of Pacific Missile Range in Santa Barbara County to exclude as
necessary for the Pacific Missile Range any navigation activity
on the tide and submerged lands fronting on the Pacific Missile
Range, which now comprises approximately 40 miles of coastline,
such exclusion authority to be available three miles out, or
effectively covering 120 square miles of tide and submerged lands.

The last public hearing on objections with respect to
the manner in which the regulations were proposed to be estab-
lished was held on June 8, 1960, at which time under the author-
ity of the Commission I presented the views of the Commission
relevant to the problems that would be created in terms of ex-
cluding future exploration and possible oil development in this
120-square-mile area at any time that the Commander of the
Pacific Missile Range felt it was necessary or desirable because
of the missile testing program. The Navy representatives agreed
that these problems had not been considered heretofore and in
this connection it was suggested that any regulations under
consideration be promulgated only after a mutually satisfactory
program for appropriate multiple Federal-State use for offshore
tide and submerged lands had been established pursuant to inter-government consideration of the interrelated operating problems.

That wordy recommendation was taken into consideration by the U. S. Corps of Engineers and the next thing that was heard of the proposal or heard from the proposal that there be intergovernment consideration for the establishment of a mutual usage program was a notice dated October 26th, saying that on November 11, 1960 the regulations to exclude at the request and desire of the Commander of the Pacific Missile Range would be in full force and effect.

The administrative situation has been reviewed with the Office of the Attorney General and it was concluded that there is no basis for direct immediate action that could be taken by the State Lands Commission, since it appears that the regulations as promulgated have met with all the regulatory and administrative requirements of Federal law. It is suggested that a later modification of these regulations may be proposed if, in any later development, they interfere with development of petroleum offshore work, particularly if such operations have actually been impeded.

MR. CRANSTON: Is there any such interference at this time?

MR. HORTIG: We have not had any actual case of interference. We have outstanding issued permits for exploration offshore and which existed prior to adoption of these
exclusion rules, and whether the operators holding those permits would still request from the Pacific Missile Range -- would request opportunity to go in and explore -- of course is not known today; and if they did request, if they would be permitted to explore effectively is not known.

MR. CRANSTON: Have there been no explorations in this area?

MR. HORTIG: Not recently, and not, practically speaking, since there has been a Pacific Missile Range.

MR. CRANSTON: When was it established?

MR. HORTIG: Roughly, not over two years ago, I believe. It sort of grew. There were minor activities and then all of a sudden after about a year of suddenly growing there it was.

MR. CRANSTON: Are there any questions or comments on this point? (No response) If not, I believe we have come to the point where we fix the time and place of the next meeting, is that right?

MR. HORTIG: Yes sir.

MR. CRANSTON: The regularly scheduled meeting would be in Los Angeles December 22nd, is that right?

MR. HORTIG: That's right.

MR. CRANSTON: Is there any difficulty? Ten o'clock.

MR. SHAFER: Mr. Chairman, my name is F. G. Shafer, representing Texaco. It is not clear in my mind whether this sequential bidding would follow parcel by parcel to the east
from this one proposed today or will we not know until the
date comes, the first Friday in the month, which is the next
parcel to be put up for leasing?

MR. HORTIG: If I may answer, Mr. Chairman, the first
Friday isn't the significant date. It would be nominally the
Commission meeting date. In other words, on December 22, which
has just been adopted here, it will be expected there will be
a staff recommendation as to which parcel located where shall
be the next one in the sequence to be offered by the Commission.

MR. SHAFER: That answers my question then. We will
not know in advance of these meetings what the next parcel is
to be.

MR. HORTIG: No sir, but under the tentative schedule
outlined you will have sixty days after notice to consider each
parcel inasmuch as starting with the parcel authorized today
there will be a sixty-day period before bids are received and
the next parcel will be recommended within thirty days. There-
fore, while there is sixty days between first publication and
receipt of bids, the receipt of the bids will be staggered by
thirty-day intervals, the same way the recommendations for
offering will be staggered thirty days.

MR. CRANSTON: Under this schedule, you will know
which the second and third parcels will be before we receive
bids on the first parcel.

MR. SHAFER: Thank you.

MR. CRANSTON: Any further questions or comments?
(No response) If not, just to make it clear, the next meeting is in Los Angeles December 22nd at ten o'clock. If there is nothing more to come before us, we now stand adjourned.

ADJOURNED 11:30 A.M.

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CERTIFICATE OF REPORTER

I, LOUISE H. LILlico, reporter for the Division of Administrative Procedure, hereby certify that the foregoing forty-five pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION in Sacramento, California, on November 15, 1960.

DATED: Sacramento, California, November 17, 1960.

[Signature]

LOUISE H. LILlico

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA