TRANSCRIPT OF MEETING
of
STATE LANDS COMMISSION
SACRAMENTO, CALIFORNIA
SEPTEMBER 14, 1961

PARTICIPANTS:

THE COMMISSION:
Hon. Glenn M. Anderson, Lieutenant Governor, Chairman
Hon. Alan Cranston, Controller
Hon. Hale Champion, Director of Finance
Mr. F. J. Hortig, Executive Officer
Mr. Don Rose, Executive Secretary to
Lieutenant Governor Anderson

STATE LANDS DIVISION:
Mr. Kenneth C. Smith, Public Lands Officer

OFFICE OF THE ATTORNEY GENERAL:
Mr. Paul M. Joseph, Deputy Attorney General

APPEARANCES:
(In the order of their appearance)
IN RE: ITEM CLASSIFICATION 2 (g)
Mr. A. C. Warren, Real Estate and Right-of-way
representative, Standard Oil Company
of California, Western Operations, Inc.
Mr. Paul K. Home, Standard Oil Company of California,
Western Operations, Inc.
continued
APPEARANCES (continued)

IN RE: CLASSIFICATION 5

Senator Edwin J. Regan
representing Warren M. Gilzean

Mr. William Ripley, Department of Fish and Game

Mr. Curtiss R. Preffitt, State of California,
Department of Fish and Game, Game Warden

Mr. Ray Nesbit, Executive Officer and Coordinator,
State Wildlife Conservation Board

Mr. George Difani, representing Associated
Sportsmen of California and California
Wildlife Association

Mr. Graham Hollister, Assistant Secretary
of the Interior, United States of America

IN RE: SUPPLEMENTAL ITEM RE SANTA BARBARA AIRPORT
ANNEXATION

Mr. Stanley I. Tomlinson, City Attorney,
City of Santa Barbara
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DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA
GOV. ANDERSON: The meeting of the State Lands Commission will come to order.

The first item on the agenda is Item Classification 1 - Permits, easements, and rights-of-way to be granted to public and other agencies at no fee, pursuant to statute. First applicant is Applicant (a) - East Bay Municipal Utility District; Applicant (b) - United States of America. Is there any motion on those first two items?

MR. CRANSTON: I move approval.

MR. CHAMPION: Second.

GOV. ANDERSON: It has been moved and seconded. Is there any discussion? (No response) Carried unanimously.

Item 2 is permits, easements, leases and rights-of-way issued pursuant to statutes and established rental policies of the Commission. The first applicant is Warren H. Crowell - assignment of partial interests in oil and gas leases, Santa Barbara County. The first one is P.R.C. 2205.1 to Paul Appleby; second one is P.R.C. 2205.1 to A. E. Weidman; and the third is P.R.C. 2207.1 to Paul Appleby; and the fourth one is P.R.C. 2207.1 to A. E. Weidman.

MR. HORTIG: Mr. Chairman, before the Commission proceeds with further consideration, might we refer back to Item 1(b)? We have just received relative to that item a letter from the Department of Public Works of the County of San Luis Obispo, California, suggesting that there should be further investigation and that on the basis of the information...
which the County has they would feel they would object to the issuance of the permit -- which is now a letter of non-objection by the Commission. However, they realize that they could be overruled by the Defense Department if no other location exists for the testing, and the principal basis for their concern is an expression that the County wishes to be reassured that the tests will not result in any appreciable damage to the fishing grounds and that adequate protective measures are taken with the marine life offshore.

This is an area which is already covered by the statement of non-objection to the United States by the Department of Fish and Game, so this has been evaluated by the cognizant State agency and, therefore, it is felt that the action by the Commission here this morning is correct; but I wished the record to show that the objection had been received from San Luis Obispo County and had been considered on its merits, and that the problems raised by San Luis Obispo County are covered by the types of permits and investigations which have been completed heretofore.

GOV. ANDERSON: If there is no objection the record will so show.

Continuing on with Item 2, Applicant (b) is John A. Dick -- 10-year ark site lease on Petaluma Creek at Black Point, Marin County, effective October 1, 1960 at an annual rental of $65. Applicant (c) is the Globe Exploration Company, Incorporated -- permit for conduct of submarine geophysical
exploration operations from 9/14/61 to 10/13/61; tide and sub-
merged lands in Suisun Bay, Solano County.

Applicant (d) is Pacific Gas and Electric Company —
 amendment of legal description of 6.31 acres in Sacramento and
Solano counties covered by Lease P.R.C. 2539.1.

Applicant (e) is Richfield Oil Corporation — modifi-
cation of submarine geophysical exploration permit P.R.C.
2765.1 (A)(B)(C), Santa Barbara, Ventura, Los Angeles, Orange
and San Diego counties.

Applicant (f) is permit for conduct of submarine geo-
physical exploration operations for the six-month period from
10/15/61 to 4/14/62, tide and submerged lands San Diego, Orange,
Los Angeles, Ventura and Santa Barbara counties. The applicant
was the Standard Oil Company of California.

Applicant (g) is the Standard Oil Company, Western
Operations, Inc. — one-year lease of 81.16 acres of tide and
submerged lands in Santa Monica Bay, Los Angeles County, for
submerged pipe lines and tanker anchorage area, with provision
for new lease to be negotiated effective 9/14/62. Unadjusted
rental of $8,680.29 to be in effect for one year, subject to
lessee making up deficit on basis of appraised value at time
long-term lease is entered into.

MR. HORTIG: Mr. Chairman, directing the attention
of the Commissioners to Item 2(c), on page 14 of the full
agenda it is recited in the recommendation: "It is recommended
..." that authorization be given for the issuance of a
geophysical exploration permit "conforming to all operating conditions (previously) established by the Commission."

The record should show that while all operating conditions previously established for standard types of operations permit approach of the shore line no closer than one-quarter mile, in connection with the subject permit it is proposed to waive this limitation in that there will be a small and limited number of explosive shots discharged under the permit closer than the one-quarter mile. The basis for the waiver is that the Boards of Supervisors of the counties covering the operations adjoining this operation have heretofore authorized the identical operations on the upland, right down to the water's edge; therefore, there would be no useful purpose served in limiting the approach to the shore from the water side, inasmuch as the operators have already been able to place shots right down to the shoreline from the upland.

GOV. ANDERSON: Any further comments? (No response I have a question on Item 2(g) -- the one-year lease.

MR. HORTIG: We also have a further report on item (g), Mr. Chairman.

GOV. ANDERSON: Maybe you better make your report first before I ask the question.

MR. HORTIG: We have, as recently as yesterday, been informed by the U. S. Army Corps of Engineers of the receipt by the Corps of Engineers (not by the State Lands Commission) of an objection by the City of Manhattan Beach, which adjoins
the area of the proposed pipeline easement here suggested, the pipeline fronting on the City of El Segundo. The objections of the City of Manhattan Beach are concerned with possible contamination or despoilation of the beach by reason of unloading, by oil operations, or tankage operations offshore. The Office of the Attorney General has also informed us that in view of the fact of observation of existing operations over many years (and as you particularly, Mr. Chairman, are aware, Standard Oil Company has had an El Segundo oil loading operation in El Segundo Bay), the Corps of Engineers are satisfied that the conditions of concern to the City of Manhattan Beach have not existed and will not exist in connection with the proposed extended operation and, therefore, the Corps of Engineers is going to grant the permit insofar as navigation is concerned, after having received and considered the objection by the City of Manhattan Beach.

As I pointed out, the Lands Commission has not received any such objection but I felt the Commission should be aware that such objection had been made to the cognizant agency controlling navigation interests, the Corps of Engineers, who are going to proceed with the issuance of their permit.

Additionally, I believe it will be of interest to the Commission that actually the existing pipelines and the existing operations which have existed for years are located closer to the City of Manhattan Beach than the proposed new operation. In other words, the lease here proposed will be
located upcoast from the existing pipelines of Standard Oil
Company offshore at El Segundo.

GOV. ANDERSON: How much notification of this do the
communities receive on an application like this? In other
words, how did Manhattan Beach know about this application?

MR. HORTIG: The City of Manhattan Beach was noti-
filed in the first instance many months ago of an original
application by Standard Oil Company of California to locate a
pipeline which, far offshore, would have fronted on the City
of Manhattan Beach. The tide and submerged lands in front of
Manhattan Beach are ungranted State lands, but the City never-
theless filed objection to such location. At that time, then,
Standard Oil Company of California, in deference to the objec-
tion, filed a revised application -- which was again referred
to the City of Manhattan Beach for consideration -- indicating
the proposal to relocate the line so that it would not front
on Manhattan Beach, would front solely on the City of El
Segundo, again on ungranted tide and submerged lands; and it
is pursuant to this last revised application that the City of
Manhattan Beach submitted objections or a statement of concern
to the Corps of Engineers, which the Corps of Engineers feels
need not be of concern to the City in fact.

GOV. ANDERSON: Their concern was not so much that
it fronted on the City of Manhattan Beach -- their concern
was that there would be leakage, spillage, and so on, where
the oil would go on the beach?
MR. HORTIG: That is correct.

GOV. ANDERSON: So technically, whether they move this boundary north of the existent boundary, isn't their prime objection, first, that they just don't want oil spilled along the beaches?

MR. HORTIG: That is correct and in connection with the actualities, over and above the indication by the Corps of Engineers that this has not been the case in the existent operations, under the proposed conditions it will not be the case from any extended operations.

GOV. ANDERSON: Whose responsibility is it to police this, to make sure that this oil isn't leaking out during the time of filling?

MR. HORTIG: The Corps of Engineers.

GOV. ANDERSON: I have been kind of chasing this problem for a long time. When I was in the city government, it was always the State; when I was in the Legislature, it was the State Lands Commission; now that I am in the State Lands Commission, it's the Corps of Engineers. Some day maybe I'll be in the Corps of Engineers and it will be somebody else.

MR. HORTIG: The State Lands Commission is involved in those conditions where the Lands Commission is the lessor for the conduct of an oil and gas lease development. In that event, by the lease contract itself the Commission provides, as contract conditions, that there shall be no pollution.

GOV. ANDERSON: What do we do to control it?
MR. HERTIG: We have continuous inspection of all oil and gas leases, but this does not include operations of a type on a lease where a pipeline would be installed under a permit compatible with other navigable installations, where such permit is issued by the Corps of Engineers and the underlying land is the only thing leased by the Lands Commission for occupancy.

GOV. ANDERSON: So with these pipelines we have no responsibility to see whether they are leaking or not?

MR. HORTIG: We have moral responsibility.

GOV. ANDERSON: Do we have any beyond that?

MR. HORTIG: No sir, not the legal responsibility. There are Federal anti-pollution statutes which also cover the situation, which are administered by the U.S. Army Corps of Engineers. Therefore, the situation is policed in practice by the Coast Guard, who are more likely to detect offshore leakages and these are in turn reported to the U.S. Army Corps of Engineers.

GOV. ANDERSON: What would happen if the State Lands Commission were given some authority in policing these things? If we put these underwater lines, like at Santa Barbara, we're going to have to pass that responsibility to the Corps of Engineers or someone else unless we have some policing agency on this.

MR. HORTIG: This could become a legal problem in this sense -- in that ordinarily State legislation isn't
adopted in a field in which the Federal Government has entered fully, as the Federal Government feels it has in connection with the navigation control under the powers reserved to the Federal Government under the Constitution and with Federal statutes against pollution from any types of operations, which are in effect for all coastal waters of the entire United States. Similarly, of course, the State courts have held that municipalities and counties cannot adopt either ordinances or whatever their form of regulation may be in any wise contravening or impinging on areas already fully occupied by statutes of the State.

GOV. ANDERSON: Can you see any reason why the State Lands Commission shouldn't go beyond the moral responsibility and do some actual policing of leakage on these pipeline loading areas and things of that sort?

MR. CHAMPION: What would we be doing -- reporting this to the Federal Government?

GOV. ANDERSON: No. I am trying to bring it a little closer to us than moral responsibility. If it isn't imagination, cities like Manhattan Beach protest usually after these vessels get closer to their beaches and they try to protest and don't know where to look, and can't get any help. They are always told that if it is from these vessels it is underground seepage and I'd like to see some of this responsibility come back to us.

MR. HORTIG: Mr. Chairman, might I suggest in connection with consideration of a program as you have outlined it,
particularly for the benefit of the other Commissioners, it might be in order to relate all the facts of the southern California situation, with which you are a little more familiar.

GOV. ANDERSON: We are now completing oil wells with pipelines coming in and I am assuming we are going to expect some other agency to police those.

MR. HORTIG: No sir. There is a double policing under those leases issued by the State Lands Commission. We have a policing responsibility under contract and, on the contrary, the lessee could lose his lease because of pollution.

GOV. ANDERSON: Why can't the same thing occur in this instance.

MR. HORTIG: Actually, the only portion of the type of facility considered this morning that has an opportunity to leak or drop any oil as a result of negligent operation would not be the pipeline, which is located on State lands, but only the loading hoses and other connections which are attached to floating buoys -- which, again, are not under the jurisdiction of the Lands Commission, but are under the control of the Corps of Engineers as to navigation control.

GOV. ANDERSON: Couldn't they be brought under our control before a lease is approved?

MR. HORTIG: As a matter of agreement by the lessee, as a matter of contract so negotiated, I would assume they could. They have not heretofore because of the control over navigational interests and noninterference with navigation and anti-pollution from industrial-type establishments (which this is) -- which
control is exercised by the U. S. Army Corps of Engineers.

Now, as to the petroleum industry's share of possibly contributing or proving the extent of negligence, or, happily, non-negligence -- the industry has heretofore supported an independent research study, which has developed methods for sampling this oil which arrives on the beaches, to the real definite concern of the citizenry. The samples can now be analyzed and it can be determined what their source is -- whether from an offshore operation (from which we have had no evidence of spills), or from tankage, or from the offshore oil seeps which unfortunately do exist in southern California and in such location that when Nature disgorges a quantity of oil on the ocean floor it washes up on the beaches and there is no way to prevent this situation -- and El Segundo Bay offshore of Manhattan Beach is well known for this -- and it is impossible to distinguish the difference and have the citizenry understand the difference when Mother Nature puts a load of oil on the beach as distinguished from careless operations, which in these days are at a minimum.

If the Commissioners would care to have any review as to the background of the operations, the actual experience, the citations (if any) that have been issued against the existing operations by the Corps of Engineers for pollution or spillage, the port captain for Standard Oil Company of California (here the applicant) -- the port captain being responsible for the operations and the one being the first one to hear as,
if, and when there is any spillage -- is with us here this morning and could report to the Commission if you have any questions in that direction.

GOV. ANDERSON: No, I personally haven't any questions in that direction. I have had the tour down there many times and I have been shown the places where the tar and oil is supposed to come out of. However, you can often tell the difference when you are swimming on the beaches, when the tar gets all over you, and the cities wouldn't continuously complain if there wasn't something to it; and I would like to bring the responsibility a little closer. I am not opposed to giving this lease -- a one-year lease I understand -- but I would like to see some way where we could bring the responsibility of our agency to do something more than give moral support to prevention of this pollution.

MR. CHAMPION: As I understand it, didn't you say we can do this contractually?

MR. HORTIG: Yes sir.

MR. CHAMPION: Well, why don't we explore it?

MR. HORTIG: This is with mutual consent by our lessee -- but certainly this can be explored, as you suggest.

GOV. ANDERSON: There is also a question on the fee involved. I would like to have you explain what the problem on the fee is. They want a long lease but they are taking it on a year basis until an agreement on the fee can be worked out.

MR. HORTIG: This type of operation, the extent of
the operation, and the period of time over which these lands are desired to be leased present a rather complex series of appraisal questions, and the applicant has the pipeline equipment ready to go. If it is to be installed and placed in operation in the immediate future, this operation must be started immediately before the winter surges in the ocean start; and there already having been extensive delays during the time the earlier objection by the City of Manhattan Beach was considered and during the time that a new and revised application was submitted, the period was nevertheless still too brief in the opinion of our staff to permit a full, objective appraisal report on the area. Therefore, in order to bring it to the Commission at this time in the form where an interim lease could be issued while the actual appraisals are determined, it was presented in this manner.

MR. CHAMPION: We could then be in a position of issuing an interim lease while both this was being done and we could be exploring the other problem.

MR. HORTIG: That is correct.

GOV. ANDERSON: One other question: The existing submarine pipeline -- is that all going to be abandoned?

MR. HORTIG: No sir.

GOV. ANDERSON: In other words, this is going to be an additional loading area?

MR. HORTIG: Actually, the location of the existing line will be a standby for emergency peak capacities and times
of any necessary maintenance on the new facility; but the use
of the existing lines will be less in the future by reason of
installation of the new line. Part of the problem, of course,
is that lines also have to go farther out in the ocean these
days to deeper water anchorage because of the continued produc-
tion of super and super-super tankers, which are turning out
to be the largest things afloat in the world, and larger
capacities are needed to permit operation from these super
tankers and even to permit use tankers to get close enough
shore to tie into an unloading line.

GOV. ANDERSON: I am just rather curious as to why
the other cities didn’t protest. I am thinking of Redondo,
Hermosa — were they notified, or was Manhattan Beach notified
only because it was the adjoining city?

MR. HORTIG: Of course, Manhattan Beach is the next
adjoining area to where the pipeline is to be located and if
there were any hazards expected......

GOV. ANDERSON: Were the other cities notified?

MR. HORTIG: I could not say whether the Corps of
Engineers notified them or not. The representative of Standard
Oil could possibly tell us. We did receive a statement of
nonobjection in general from the City of Los Angeles, recogn-
izing that the control conditions required in the leases by
the State of California and by the permits of the Corps of
Engineers were such that pollution and contamination of the
beaches would be prevented under existing statutes, rules and

regulations, and permit terms and conditions; and, therefore, the City of Los Angeles has a statement of nonobjection in the Commission's files to this operation. Even though they are not the immediately adjoining landowner, the City of Los Angeles does front on Santa Monica Bay at various places, notably the Westgate addition on Santa Monica Bay, which is in the opposite direction from El Segundo, where Manhattan Beach is downcoast; but we do have this statement of nonobjection and the feeling by the City of Los Angeles with respect to their beach program in Santa Monica Bay that they are fully protected as long as the requirements which the Lands Commission includes as standard operating conditions in the leases and the surveillance of the Corps of Engineers are maintained.

MR. CRANSTON: Mr. Chairman, I certainly share your interest and I move that the staff thoroughly explore and immediately report back to us on this matter of pollution.

GOV. ANDERSON: And also in new leases ....

MR. CRANSTON: That would be part of this.

MR. HORTIG: Mr. Chairman, if I may speak of a little background on Mr. Cranston's motion, this also brings to mind the fact that the pollution surveillance does not stop at the point we have discussed this morning, but actually the operation of this and any other pipeline as an industrial facility is also conducted under terms and conditions, rules and regulations of permits issued by the District Water Pollution Control Board for the area, under the State Water Pollution Control Board.
and, last but not least, and acutely sensitive to pollution and particularly in recreation areas, are the pollution facilities of the State Department of Fish and Game. So that actually already we have the Corps of Engineers, the Coast Guard, the State Water Pollution Control Board, and the Department of Fish and Game all exercising authority and necessitating nonpollution.

GOV. ANDERSON: We have some control that they don't have and I think that rather than hope the Water Pollution Board does something and somebody else does something, I think we can do it here if we really want to.

MR. HORTIG: Under these circumstances, of course, the broadest study and recommendation as to a program involving all existent operations, as well as any suggestions for amplification in order to assure that there is complete and effective pollution control will be undertaken by the staff, pursuant to Controller Cranston's motion.

MR. CRANSTON: My motion was purposely broad so whatever areas necessary could be covered.

MR. CHAMPION: I think we ought to tell the staff while we want a broad view, we also want it sharply -- the point Lieutenant Governor Anderson raised -- whether we can see that this is done through our particular authority. We want the broad question, but this is the particular question we are interested in.

GOV. ANDERSON: Are you gentlemen seeking the floor? Will you state your name and who you represent?
MR. WARREN: Mr. Chairman, members of the State Lands Commission, my name is A. C. Warren, and I am the real estate and right-of-way representative of the Standard Oil Company in this application.

May I state that we have been operating these submarine pipelines for nearly forty years. We have not had a fracture of our lines for more than thirty years -- there has been no fracture in a line. The line which we propose now, and which is covered by our application, represents improved construction, improved control in every manner and every way.

We are in full accord with working out some mutual agreement, condition, whereby the State Lands Commission would have concern and assurance as to the method of operation and the control of any pollution. We are in full accord with that.

We would hope, please, that we be permitted to move forward with our construction for the reason that with the coming of the winter season (and we may have winter again in California) the construction, should storms occur, would become extremely difficult.

Now, the concern of the City of Manhattan Beach -- we are more than two miles, measured from the end of our terminal line, more than two miles from the nearest point of their beach property. Their concern is not grounded on fact but is more concern as to the application itself. Actually, there will be a safer condition of operation with a newer line, a stronger line than we have ever had before. It represents the highest
type of engineering and construction. We will work completely, as we have in the past, with the State Game Commission, the Corps of Engineers, the Division of Beaches and Parks, and the State. We are in full accord with working out this same agreement with the State Lands Commission if it be your pleasure.

GOV. ANDERSON: Any questions?

MR. CHAMPION: I have none.

GOV. ANDERSON: Was there somebody else standing up who wishes to make a comment?

MR. HOME: Mr. Chairman, members of the Commission, my name is Paul Home. I am also with Standard of California, and I second Mr. Warren's comments but wish to add this one further point — that it is our desire and hope that the Commission will proceed at this time with the issuance of this interim permit for a one-year period at least, during which period of time we will work out with the State Lands Commission and their staff such reasonable regulations and requirements as may be in order to assure this Commission of the safe and proper operation of any facilities which we place on such lease.

MR. CRANSTON: Mr. Chairman, I move approval of all items under Classification 2.

MR. CHAMPION: Second.

GOV. ANDERSON: You have heard the motion by Mr. Cranston, seconded by Mr. Champion that all items under Item Classification Number 2 be approved. If there is no objection, so ordered. Also the motion by Mr. Cranston, seconded by Mr.
Champion, that our staff report back at a future meeting was carried unanimously.

Moving on to Item 3 -- City of Long Beach -- Approvals required pursuant to Chapter 29, 1956, First Extraordinary Session: Project (a) Back areas, Piers A - D; raise Berth 19, back area (2nd phase). Estimated subproject expenditures from 9/14/61 to termination of $149,700, with $74,850 or fifty percent estimated as subsidence costs. That's the only item.

MR. HORTIG: That's it.

MR. CRANSTON: I move approval.

MR. CHAMPION: Second.

GOV. ANDERSON: Any comment?

MR. HORTIG: No further comment beyond the calendar item.

GOV. ANDERSON: No objection -- it is approved unanimously.

Item 4 is land sales. All items here presented have been reviewed by all State agencies having a land acquisition program and no interest has been reported by those agencies in any of the lands proposed for sale.

(a) Sale of vacant State school lands: Applicant 1, John D. Layman, bid $7,360; item 2, Richard Mednick, et al, $6,320 bid; item 3, Robert Wallace Smith, bid $7,680; item 4, William J. Swallow, Jr., bid $6,090; applicant 5, Paul R. Woods, bid $1,000.

(b) Is the selection and sale of vacant Federal lands.

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The first applicant is George M. LeDelt and Arthur E. LeDelt; bid is $22,200;

And (c) is the sale of swamp and overflowed land in Contra Costa County. The first one is W. P. Baker, et al, bid $7,500.

Any comments or questions on any of these?

MR. CRANSTON: I move approval.

MR. CHAMPION: Second.

GOV. ANDERSON: It has been moved and seconded all of these be approved. If there is no objection, so ordered.

Item 5 is authorization for withdrawal of Exchange Application No. 051653 filed with the U. S. Bureau of Land Management and for rejection of application of Warren M. Gilzean and for return of all deposits of applicant except $5 deposit fee, providing protestants appear before the Commission and submit satisfactory evidence that such action is in the best interests of the public; otherwise staff to be directed to proceed with filing of an appeal with the Director of the U. S. Bureau of Land Management in the usual manner. Mr. Hortig?

MR. HORTIG: Mr. Chairman, in view of the attendance at the meeting this morning (which has already been noted to you) of parties interested, with your permission I will read the agenda item in order to set for full reference the essential details that are to be heard by the Commission this morning.

On December 8, 1955, an application was filed with the Commission by Warren M. Gilzean of Trinity County to acquire
certain vacant Federal land containing 57.99 acres.

On December 16, 1955, the Commission filed an ex-
change application with the United States Bureau of Land Man-
agement in accordance with the provisions of State and Federal
statutes, offering under the application sixty-plus acres of
State land within Trinity National Forest, Trinity County, in
exchange for the Federal land proposed to be acquired. At that
time the values of both the selected Federal and State offered
lands were approximately equal as verified by staff appraisal.

It is understood that the applicant, Warren M. Gilze-
held the subject land under Federal mining laws but because of
his inability to perfect title thereto directly from the United
States under a mining patent, he elected to apply through the
State Lands Commission, in accordance with the procedure in
effect at that time. Normally, lands which are acquired by
the State under this procedure have been sold pursuant to com-
petitive bidding in accordance with the rules and regulations
of the State Lands Commission governing the sale of State
school lands.

From the date of filing of the State's application
with the United States in December 1955, the matter has been
pending before the United States Bureau of Land Management.
The staff appraisal completed in 1955, as a basis of filing the
equal value exchange application, indicates that the land is
traversed by State Highway 299 and the Trinity River. Addi-
tionally, the report shows that approximately four and one-half
acres adjacent to the highway and on the bank of the Trinity River affords an excellent potential commercial site. (These are also shown on the exhibits in the Commission's calendar.)

A decision was rendered by the Sacramento Land Office of the United States Bureau of Land Management on May 16, 1961, rejecting the State exchange application. A copy of this decision is attached hereto. Also attached is a copy of the protest by the State Department of Fish and Game and additional protests are attached, and the tally as of this morning is a total of eight protests submitted, as follows: By Assemblywoman Pauline Davis of the Second District; State Department of Fish and Game, Redding and Sacramento offices; Trinity County Sportsman's Association, Weaverville; the Shasta-Trinity National Forrest of the United States Forest Service, Redding office; the National Park Service, San Francisco office; the Trinity County Planning Commission at Weaverville; the Shasta-Cascade Wonderland Association at Redding; and a Mr. Stanley K. Bishop of Carmel.

Additionally, Assemblywoman Davis has requested as follows: "I respectfully request that my views be included in the written record of this meeting," and she has written as follows:

"I have been notified that the State Lands Commission will hold a meeting at 9:30 a.m. on September 14th in the State Capitol in Sacramento to consider an appeal to the recent decision of the U. S. Bureau of Land Management rejecting State Exchange Application No. 74, S.W.O. 6242 - Trinity County."
The land in question provides the only public campground within 15 miles either way along the Trinity River and furnishes fishermen with direct access to the Trinity River and supplies some of the need for wayside facilities, camping and picnicking. Since the economy of Trinity County, as well as other counties, is greatly dependent upon recreation, it is absolutely imperative that this land be retained in federal ownership to provide accessibility to recreationists.

For these reasons, I am opposed to the exchange of this parcel of land (described as 57.99 acres in Section 1, Township 33 North, Range 11 West, M.D.M., Trinity County) between the Bureau of Land Management and the California State Lands Commission; and furthermore feel that the recent decision of the Bureau of Land Management rejecting the application of the State of California for a land exchange in Trinity County should be upheld.

Sincerely yours,

Pauline L. Davis

Several petitions (returning to the agenda item) were filed with the United States Bureau of Land Management, objecting to the disposal by the United States of the land under the State's exchange application. As with the objections filed with the State Lands Commission, these objections are based upon the fact that the area is desirable and suitable for public use and therefore should be retained under public jurisdiction in order that such use may be perpetuated.

The matter is submitted at this time for a determination as to whether the Commission considers it desirable to proceed with an appeal to the Director of the Bureau of Land Management or if the Commission should forego the filing of an appeal.
appeal and withdraw its application under the circumstances, and in turn cancel the application of Warren Gilzean.

The applicant, Mr. Gilzean, is represented by State Senator Edwin J. Regan, who is here this morning, and a copy of this item was furnished Senator Regan and all organizations and individuals who were listed in the attached decision (attached to the Commission's calendars) in order that all parties in interest would be advised of the Commission's consideration of this matter.

Therefore, the recommendation is before the Commission for consideration (and hearing by proponents and opponents) that it is recommended that the Commission withdraw its exchange application Serial Number 051653 filed with the Bureau of Land Management and reject the application of Warren M. Gilzean and direct the return of all deposits to the applicant except the $5 filing fee, if the parties of interest listed in the decision of May 16, 1961, (that is, the decision of the Bureau of Land Management) who have been notified of this calendar item, appear before the Commission and submit evidence to the Commission that the public would best be served by the retention of the subject 57.99 acres in Trinity County in public ownership. If the said parties do not appear before the Commission or do not offer evidence sufficient to justify the Commission's withdrawal from the transaction and cancellation of the application of Warren M. Gilzean, it is recommended that the staff be directed to proceed with the filing of an appeal.
with the Director of the United States Bureau of Land Management, Washington, D.C., in the usual manner.

GOV. ANDERSON: Now, the applicant, Mr. Warren M. Gilzean, is represented here today, I believe, by Senator Edwin J. Regan.

SENATOR REGAN: That is correct.

GOV. ANDERSON: Senator Regan, would you like to state the case for Mr. Gilzean at this time?

SENATOR REGAN: I think I probably would be doing it in reverse. I think under the form of procedure, unless those who are objecting can make a satisfactory case here, I think you should go on and process the appeal. However, if you wish, I will be glad to present it -- because I think there isn't any question of refuting these letters as being half truths, except it is a good fishing stream. I personally would like to hear some of the men who have written these letters substantiate what they are saying here and then I will have my inning.

GOV. ANDERSON: Then we will have the report of the applicant later. I don't have all the people here (looking through attendance slips) -- I have Ray J. Nesbit, Coordinator of the Wildlife Conservation Board; I have Curtis R. Proffitt, a State Game Warden; and Walter T. Shannon, Director, California Department of Fish and Game. Are there any others who wish to speak on this matter?

MR. DIFANT: George Difani, representing California
GOV. ANDERSON: Any others?

MR. HORTIG: Not that I know of.

GOV. ANDERSON: How do you think they should be called, Frank? Does anyone wish to start off? Would you state your name and who you represent?

MR. RIPLEY: I am Bill Ripley of the Department of Fish and Game, representing Mr. Shannon, Director of the Department. You have in the files a letter of June the 22nd which sets forth most of the facts of the situation in reference to the rejection. I would like just briefly to call attention to several of the factors that are involved in this area that have an important bearing on the conservation of the salmon and steelhead resources of this area.

As has been brought out before, the nearest camp to the area in question is about fifteen miles away, and the nearest desirable camp of equal size and facility is located some thirty miles downstream. That is located at Hayden Flat.

In this area we are talking about on the Trinity River, approximately twenty-five percent of the total resource is taken between Junction City and Helena. Now, the Bureau of Land Management lands that are under consideration here are located in the center of this area. This is an area of about seven miles, encompassed within this general area between Helena and Douglas City. This is a distance of about twenty miles along the river and this piece of land is also in the...
center of this. Fifty percent of the total take of steelhead and salmon comes from this section of the river. Most of the area from Douglas City and Junction City is not accessible to the public -- not generally available to people who do not have local knowledge.

There is another factor that has been added to this situation and that is the building of the Lewiston Dam. Formerly, approximately forty percent of the total catch of this particular system was taken between the area of Lewiston and Trinity Center. This will be shifted downstream, so we have approximately ninety percent of the total fishery of the Trinity system involved in this particular area.

Now, it is important that the people have access to the resource, to harvest it. If there isn't access to the resource, the resource will lie fallow and be unharvested. This is one of the few spots of the total area we are talking about where this salmon and steelhead can be taken. In magnitude, we are talking about some 30,000 fish -- of which approximately 5,000 are salmon, 30,000 steelhead, late steelhead approximately 5,000, and the rest late trout. I am sorry -- I read the wrong figures. That is angler days -- there are some 30,000 angler days in this area, on which some 50,000 fish are taken in this general area.

With the construction of the dam we can anticipate the area will become more important because the cool water which will come from the dam at Lewiston will be advantageous
to the survival of both salmon and steelhead. Use of the hatchery facilities being built at the Trinity Center area will incur the actual production of fish. This will make more fish available for the public and without access area for the public to get in to the stream to fish and for camping facilities for the general public that will utilize this resource, the utilization of this resource will not be fulfilled.

The Department strongly recommends this property stay in public ownership. We have with us Warden Proffitt if you care to get any specific information on the area. Warden Proffitt lives in Weaverville and is familiar with the use of the area and general conditions existent in the area.

GOV. ANDERSON: Thank you. Any questions of Mr. Ripley before we call on Warden Proffitt? (No response)

Warden Proffitt, would you like to state your name and who you represent?

MR. PROFFITT: My name is Ray Proffitt, Warden for the Department of Fish and Game.

MR. CRANSTON: Fish and Game?

MR. PROFFITT: Yes. I am here apparently if you care to ask questions on the area. I have some photos I have taken of the area that show the general area in question, if there are any questions on that.

MR. HORTIG: The Commissioners also have photographs attached to their agenda item of the subject area.

GOV. ANDERSON: Frank, do you have any questions?
MR. HORTIG: No sir, but might I suggest, Mr. Chairman, at this time for the presentation of the material with respect to this situation, the question that the Lands Commission is to decide here this morning is going to revolve, I believe, around determination whether in equity a pending application for a land purchase, pending with the Commission prior to adoption of a moratorium (at which time the Commission directed the staff to process such pending applications to completion), shall be processed completely so that all administrative remedies that are available to the applicant will have been utilized; or whether, at this stage of the proceedings, the composite of the bases or feeling by the public and semi-public agencies who are making presentations here today is such that the Commission feels that the public interest would better be served by terminating this application at this time.

Although the Commissioners certainly will go into the situation and the details to the extent of their individual interests, I don't feel the Commission is going to be considering and does not wish to consider this morning the individual merits of Fish and Game requirements for recreational areas and those of any of the other agencies that come along.

MR. CHAMPION: Why shouldn't we?

MR. HORTIG: You can, but I am not positive that the detail of this is essential to your consideration of whether the composite of the public agencies leads you to cancel the application at this time or to proceed in equity with the...
processing of the application in the normal channels, this application having been caught in the wheels of progress. The Federal policies are different today than they were in 1952 when this application was filed. The application has been on file for six years with the Federal Government and, therefore, the Commission has the question whether the equitable rights, whatever they may be, that the applicant acquired by filing the application at the time should be pursued to the ultimate; or whether there is an overriding public interest represented by the composite total of the presentations made here this morning.

I did not wish to suggest foreclosing any presentations, Mr. Champion.

MR. CHAMPION: Well, anything else would just be paper shuffling.

MR. HORTIG: The opinion of the Department of Fish and Game that this is essential, this is the part that the Commission considers. Whether Fish and Game's decision that this is essential because of "x" number of fish at a certain location -- I wanted to say the Lands Commission is not passing on that.

SENATOR REGAN: May I suggest -- assuming there is complete access to the river, do they still have their objections? Say that the public has complete access. If they have, then I want to know what their objections are after that.

MR. CRANSTON: Mr. Chairman, before asking that
question, which might be an appropriate question to ask, I would like to ask a different question: If the right of appeal were granted through us at this time and there was the appeal to Washington, would the matter, if it was approved in Washington, come back to us for consideration here or would it be closed?

MR. HORTIG: No sir. If the appeal to the Bureau of Land Management were to reverse the rejection of the local district office, then the lands after being listed to the State of California would still be subject to determination on a policy basis by the State Lands Commission as to whether they should be held for public ownership or be made available for private sale to the applicant. This is an area that is completely under the control still of the State Lands Commission.

There is, of course, the alternative possibility that the appeal would be rejected, in which event the lands would continue automatically in public ownership under the jurisdiction of the Bureau of Land Management until the Bureau of Land Management made some other disposition of those lands.

MR. CRANSTON: If approved in Washington, the matter would come back to us for final consideration?

MR. HORTIG: Yes sir.

MR. CRANSTON: Let me ask you, then, is the situation here that we are presently being asked to let the applicant have his day in Washington on appeal?

SENATOR REGAN: That's correct.
MR. CRANSTON: So as to the matter of what our policy might be -- as to whether or not this might remain in public domain -- is that a matter that would be more germane if it were approved and given back to us? Then we would hear from Fish and Game and from the applicant and what our policy would be -- would it be more germane to decide it at that time?

MR. CHAMPION: To that I'd like to add just another question and we can get them all answered at the same time: By passing this on, does this become an appeal of the State of California? In other words, are we representing a policy that we are supporting this claim?

MR. HORTIG: It would be an appeal by the State of California, Mr. Champion, but a normal appeal in the normal sequence of events, as has been utilized many times in the past by the State in accordance with established Federal and State regulations. This would not establish a precedent.

MR. CHAMPION: I am not talking about a precedent. I am talking about a policy. Is our action representing a policy -- that this is the State's policy; we want to do this; or are we, in effect, when it comes back -- if we change our minds, are we in the position of reversing ourselves in State policy?

MR. HORTIG: If I may essay a composite answer to your question and Controller Cranston's, because your questions are interrelated -- there has to be a cutoff point and as you Commissioners are aware, as of May 24, 1960 the State Lands
Commission imposed a moratorium on acceptance of any further applications for the purchase, exchange or selection of State lands, to be followed by a staff report and a future policy determination by the Commission as to an over-all State program with respect to land disposition, and with the directive to the staff that existent applications be processed to completion in the normal course of events. If this appeal under this subject application were to be processed, this would have been the normal course of events but for objections which here have been voiced.

The second phase, then, is while certainly it is not improper to consider this here this morning, Mr. Cranston’s suggestion carries considerable merit in that a determination of policy by the Commission is yet to come and possibly by the end of this year, with respect to the total land disposition program. Therefore, from the standpoint of timing the integration of the determination with respect to this parcel, as well as all other pending applications, could probably be more properly completed in the light of all the facts and recommendations when the over-all policy is determined; and this timing, therefore, would be implemented by giving, as Mr. Cranston said, (or could be implemented) by giving the applicant his day in court with the Federal Government without either committing the State to new policy or committing the State to a policy to continue on this basis or setting a precedent.

SENATOR REGAN: Mr. Chairman, I think if you want to
interrupt and let me make a presentation, on the basis of what
you say I think you will be satisfied as far as the State is
concerned.

GOV. ANDERSON: I think we should hear the other
people.

MR. CRANSTON: The question is whether we should hear
either side. I am not certain whether we should hear now or
in the future. The people are here and perhaps it is inconveni-
ent to ask them to come back another time. Perhaps it would
be more proper if we can do this -- without any commitment of
the State, which I certainly wouldn't be prepared to do without
hearing all sides -- but if we can hear all sides with the
view that we are not setting a policy at this time, and review
it.

MR. CHAMPION: I think we would want to preserve it
in the record, so it would be clear we are not setting a policy.

GOV. ANDERSON: Frank, can this be done? The Bureau
of Land Management has now rejected our application. Now
what we would have to do would be to file an appeal to have
them reverse their action.

MR. HORTIG: That's correct.

GOV. ANDERSON: Now, how can you file something and
still remain neutral -- file an appeal to their action and
still say we are not involved?

MR. HORTIG: Only to the extent, Governor -- and
then we can have comment and further detail by Land Specialist
Deputy Paul Joseph here -- I believe the record could be preserved, and it would be Mr. Joseph's chore to preserve it, that in this processing it is processing to complete the exercise of all administrative rights and processing to completion a pending application which had been pending for many years with the State Lands Commission under a directive to process to completion, whatever that may be, of the applications pending May 24, 1960.

MR. CRANSTON: Could we hear from Mr. Joseph?

MR. JOSEPH: I am Paul Joseph, Deputy Attorney General, Sacramento office, and I have a slight familiarity with these public land matters. This apparently is an application of the State under Section 8 of the Taylor Grazing Act -- an exchange for State public land of reserved Federal public lands. The applicant applies to the State and the State applies to the Federal Government, and this application has reached the point where the United States Land Office at the lowest level has rejected the application in the public interests.

Now, there is considerable doubt whether this is a proper rejection on that ground by the United States Land Office under Section 8 of the Taylor Grazing Act. The appeal to be taken will be an appeal by the State of California. The applicant to the State will have no part in the appeal at all, although the State will be appealing on his behalf; and those objections in the public interest and various other grounds having been presented to the State, and the United States Land
Office must be cognizant of them, it would be my idea that if the State Lands Commission begins an appeal here it will be taking a policy on appeals.

When an application is received, there is an application from someone to the State. The State Lands Commission has no part in the approval or disapproval at that stage, but more or less automatically the staff makes an application to the United States Land Office. The first opportunity that the State Lands Commission has to approve or disapprove the application is when the application is approved by the United States and it comes then to the State Lands Commission as to whether the land will be accepted from the United States and the exchange gone through or not; or, in the case of rejection such as in this case, this is the first opportunity of the State Lands Commission to say whether it wants to go on or not to go on with its application. It has never been given an opportunity to say that before; and here I should think that the State Lands Commission is determining its policy with respect to this particular application at this time that is before it. If it goes on with the application, I should think it is approving the continuance of the application and if the application to the United States Government is successful, the Lands Commission will again have an opportunity to say whether or not the State's applicant should obtain the land. But at this time, it seems to me that there is a policy question involved -- whether the State Lands Commission wants to go on with this thing or not.
GOV. ANDERSON: In other words, your feeling is if we make the appeal then we will actually be taking a position on the public policy?

MR. JOSEPH: It is my feeling, definitely.

GOV. ANDERSON: You don't feel there is any way we can make the appeal and at the same time disassociate ourselves from the application itself?

MR. JOSEPH: The State applicant is likely to have some rights here in this thing if we go on with this thing and the State gets the land.

MR. CHAMPION: We are also in the position of putting something off which we are going to have to decide and I think we have most of the parties here before us and the record here before us today.

MR. HORTIG: With the addition, if I may venture to comment on Mr. Champion's comment, Mr. Chairman, that the over-all policy is yet to be considered and determined by the Commission and the later phases of the current application are certainly going to be an integral part of such final determination of an over-all policy and, therefore, the Commissioners would have the problem -- if they are to make, in effect, a policy determination on this subject today as a result of full hearing and all, rather than proceeding with the appeal, reserving what can be reserved in the record -- that such policy determination of necessity would be on a piecemeal basis; and it is a little difficult to forecast today how the
determination by the Commission would integrate or might not reasonably integrate with the full policy determination for an over-all land disposition program to be considered by the Commission in the future.

MR. JOSEPH: May I say one thing more? I didn't emphasize very much, but the State of California has not been extremely successful with appeals of this type -- in these cases, appeals from one of these exchanges. There is a pretty good indication the State could be successful in the appeal case because these considerations of public interest and so on are supposed not to be relevant to the State application for an exchange, but there has been, as Mr. Hortig said, somewhat of a change in the public land policy of the United States in the last few years and it has been detrimental to State applications; but if we go on orthodox grounds, the State should be pretty successful in this appeal.

MR. CRANSTON: Mr. Chairman, it appears that whatever we do now will have policy implications, so I gather we better proceed.

GOV. ANDERSON: Any questions of the warden, Frank?

MR. HORTIG: No sir.

MR. CRANSTON: Do you have any statement to make?

MR. PROFFITT: That's just about it -- if there is any questions to be asked.

MR. CHAMPION: Maybe some will be raised as we hear testimony.
GOV. ANDERSON: The other one is Mr. Nesbit. Will you state your name and who you represent, Mr. Nesbit?

MR. NESBIT: Yes. I am Ray Nesbit, the executive officer and coordinator of the State Wildlife Conservation Board, and the Board is responsible for a capital outlay program for fish and game conservation, including access for desirable public utilization of the wildlife resources. We consider access as an important part of wildlife management.

In addition, the growing need for outdoor recreational opportunities and facilities to accommodate California's rapidly mounting human population is so well recognized it hardly requires mention.

One of the programs of the Board is to provide angling access to inland waters of the State, including the major rivers, lakes and reservoirs. To date more than seventy of these access projects are in use or under construction.

These include such projects as all rivers, such as the Trinity, which has an important salmon and steelhead run.

The Bureau of Land Management property that is the subject of this State exchange application provides one of the few good public accesses to the Trinity River in the general vicinity of Junction City. I should like to point out this is not the only public land along there. There is quite a lot of public land along the river, but I believe most of it does not provide access and there is insufficient parking.

It is too steep.
We consider this land has high value for public fishing access and other recreational use and would protest the sale into private ownership of such badly needed public land of this type. An inspection of the site indicates that the land already receives heavy use by the public. It is used as a public campground and day use area. The land on the east side of the road is the only land available for parking area and other use such as camping and picnicking. The land on the west side of the road would not afford complete access because there would be no adequate parking. I think we would have a situation like on the Delta -- the fishermen could get to the water, but no place to park their car. The entire area has a use for public camping area. Across the highway would be a safety hazard as well.

In accordance with various requests from organizations, the Wildlife Conservation Board is interested in acquiring this land by lease or in fee and developing it for public purposes. This would include development of access roads and parking areas and sanitary facilities, and possibly making it also available to a concessionaire.

In view of the further consideration of the State exchange application for this land, we request that full consideration be given to the high public values and it is to the interest of the State to retain it in either Federal or State ownership.

GOV. ANDERSON: How much is being used now?
MR. NESBIT: I have, Mr. Chairman, seen the parcel and used the parcel, but I think Warden Proffitt, who lives near it, could better answer.

GOV. ANDERSON: You mentioned the Wildlife Conservation Board is interested in acquiring this?

MR. NESBIT: Yes.

GOV. ANDERSON: When did the interest start?

SENATOR REGAN: That's what I want to know, too, and how.

MR. NESBIT: We were first approached on this about a year ago. We have been approached several times since then.

SENATOR REGAN: By whom, may I ask, Mr. Chairman?

MR. NESBIT: Yes, the Shasta-Cascade Wonderland Association.

SENATOR REGAN: Yes, I thought so. I am the attorney for them and I think I know something about that, too. We will develop it.

MR. NESBIT: It has been recommended for acquisition or retention in public ownership especially by the regional office of the Department of Fish and Game in Redding.

GOV. ANDERSON: How long has this been used as a public camp and day use area -- the last twenty or thirty years?

MR. NESBIT: Again, Mr. Chairman, I would have to defer to a local resident up there. I live in Sacramento and I am not that familiar with the parcel.

GOV. ANDERSON: If this were acquired by a private
party and he developed this for campers and for fishermen, and so on, and access roads were made up there, do you think there would be more or less facilities available under this operation than under the present?

MR. NESBIT: I couldn't answer that. It would depend entirely upon the type of facility. If they have in mind a resort that would cater to the fishermen, I presume they could.

GOV. ANDERSON: There could be more than there is today?

MR. NESBIT: If they have in mind a resort of a private nature, it could very well preclude fishing use.

MR. CRANSTON: The question that Senator Regan asked be proposed earlier: Would your objection be continued if there were some binding arrangement for public access?

MR. NESBIT: I think this depends on the definition of public access.

SENATOR REGAN: Mr. Chairman, may I say this: We are not interested in the river. We would be willing to withdraw it from the application. It's the worst part of the river here. It's an old dredging pile. I think some of the people testifying don't even know the land. We are not interested in the river. There is only 600 feet in one place and 1,100 in another, and the United States has a hundred miles in public ownership along there. This is fantastic when you hear what we have to present. I can't see how these people get into this.

MR. NESBIT: Mr. Chairman, I am familiar with the
SENATOR REGAN: I have fished every foot of it.

MR. NESBIT: I think the main public interest in here is seeing that there is sufficient parking space available. If only the land area between the road and river were available, it still would not provide parking and you would have the same situation you have down considerable stretches of Highway 299, where you don't have parking.

MR. CRANSTON: Would you describe who the State Wildlife Board is and when it was created?

MR. NESBIT: In 1948 by the Legislature for the purpose of providing capital outlay for conservation projects. There was at that time and still is a capital outlay from pari-mutuel. The main development is fish hatcheries. About six million has been spent on that, and waterfowl areas about five million; and public hunting accesses and also the development of lakes for fishing — all for the public. The composition of the Board is the president of the Fish and Game Commission, Mr. Jimmie Smith; the Director of Fish and Game, Mr. Walt Shannon; and the Director of Finance, Mr. Hale Champion. In addition, there are six advisory members — three members of the Senate and three members of the Assembly.

MR. CHAMPION: As a member of the Board, I hesitate to show ignorance of these proceedings, but we haven't had a meeting since I have become Director. Has this ever been on the agenda of the Board — as to whether this should be acquired?
MR. NESBIT: No sir, it has not. This is in the planning level, normally handled on the staff level, and completed projects are presented.

MR. CRANSTON: I'd like to ask if Senator Regan is one of the three Senate members.

SENATOR REGAN: No, I am not.

GOV. ANDERSON: Any further questions?

MR. CHAMPION: However, Assemblywoman Davis is one of the three Assembly members.

MR. NESBIT: That's correct.

GOV. ANDERSON: Any other questions of Mr. Nesbit, Mr. Hortig, or any members of the staff?

MR. HORTIG: No sir.

GOV. ANDERSON: Mr. George Difani.

SENATOR REGAN: To save time you might ask George the same question. We are not interested in the fishing in the river. What is their position?

MR. DIFANI: My name is George Difani and I appear to represent the Associated Sportsmen of California and the California Wildlife Association. These are both large organizations. The Sportsmen group have advised me to advise the Commission that we are in favor of the decision made by the Bureau of Land Management, which opposes the sale of the land along the Trinity River applied for by Mr. Gilzean. We feel this land should be held in public ownership because if it goes into private ownership certainly the availability for the
public to get in to the river in large numbers and park their
cars -- and this area would provide parking for large numbers
along with the day use -- I think we all recognize if the land
goes into private ownership, even with an access as Senator
Regan has mentioned, it wouldn't provide camping facilities;
and the Department people have pointed out the advantages that
will accrue to the public due to the improved fishing.

I also want to point out if this land is acquired by
the Wildlife Conservation Board in connection with Trinity
County -- and apparently all the public agencies in the county
have indicated their opposition to the land going into private
ownership -- Trinity County could enter into an agreement with
the Wildlife Board to maintain the area, as has been done in
many other areas where fishing is available on lakes and streams.
We have that in numerous counties of the State.

I see that all of the sportsmen groups have indicated
that they oppose private ownership and I am inclined to think
it could be developed by the Wildlife Board, acquired from
BLM and then an agreement entered into where the maintenance
and upkeep would be done by Trinity County. It is also possible
under the circumstances to have concessions on the area if the
number of people would warrant it.

I don't know what Senator Regan has in mind in refer-
ence to access for the public, but certainly with the increased
number of people going to the Trinity River and the increased
fishing due to the Federal installation there of the dam at
Lewiston, and the fact that the testimony has been made here that this is probably the largest area of land which is easily accessible — It is true there are large areas of government land, government-owned land, along the river, but as I understand it and have been advised, it is pretty steep and practically inaccessible by the public; the fishermen would have difficulty getting into the river in any of these other areas. That's ....

SENATOR REGAN: George, you know better than that.

MR. DIFANI: Well, Senator, there is no question in my mind with that number of acres .......

SENATOR REGAN: Four and a half acres you are talking about. Four and a half acres is level, the rest is mountain — only four and a half acres we are talking about, Mr. Chairman. That's what they are talking about — four and a half acres.

MR. DIFANI: We are talking about the possibility — I have been advised that at least fifty areas could be provided for camping facilities for people who wanted to stay three or four days or a week. Of course, that would also provide numerous other parking facilities for the daily fisherman who comes to fish.

GOV. ANDERSON: You mentioned concessions. If it was taken over by the Bureau, is it big enough to sustain concessions? Wouldn't these almost have to be run by an individual operator?

MR. DIFANI: That depends on the area. That has been
GOV. ANDERSON: I am thinking of an area this size. Is it big enough to sustain a concession?

MR. DIFANI: That would be dependent upon the concessionaire and the number of people using it and it would also depend, in this case, on Trinity County, who would have to enter into an agreement to do the maintenance after the Wildlife Board acquired the land and developed it for the parking area and the sanitary facilities, and so forth. That could be done if it was in State ownership.

SENATOR REGAN: I think one question is very important. Since I can't cross-examine him, would you, Mr. Chairman, or somebody ask: What does he know about any agreement between the State and the Federal Government that anybody can ever acquire it? Maybe the witness can answer that.

MR. DIFANI: No, I can't.

SENATOR REGAN: We are just barking up a tree.

MR. DIFANI: We are appearing here today to keep in public ownership a piece of ground on both sides of the river that we want to be able to get out on and park a car.

GOV. ANDERSON: There is a probability it might never reach State ownership.

MR. CHAMPION: I think Mr. Nesbit could give some light on that. There have been some substantial changes in policies on these lands.

MR. DIFANI: There is no question that the national
policy on national recreational areas has been changed since
the Democrats took over. I am proud of that.

MR. NESBIT: Mr. Chairman, I will try to elicit that.

There is a new policy and the Department of Interior has an-
nounced -- the Secretary has announced that they will sell to
the State for public purposes such as these parcels of land,
that can be developed for two dollars and a half an acre, and
we are interested under this new procedure. We have contacted
the Secretary of Interior and we have had some favorable expres-
sion from them in this regard.

As a matter of fact, today in the audience is with us
from Washington, D.C. the Special Assistant to Secretary Udall,
Mr. Graham Hollister, and I think he may be able to enlighten
you further on this policy.

GOV. ANDERSON: Is Mr. Hollister here? I understand
Mr. Hollister is a cousin of our State Senator.

MR. HOLLISTER: That's right, sir. What Mr. Nesbit
said is true....

GOV. ANDERSON: Would you identify yourself?

MR. HOLLISTER: Graham Hollister, Assistant Secretary
of the Interior, and it is now the policy of the Department of
the Interior, wherever recreation and education is concerned,
that states can buy from the Bureau of Land Management any pub-
lic lands for $2 1/2 an acre, or rental of $50 an acre per year;
and it is a policy that is being advertised so that states, and
even as far down as counties, can be aware of this and can
avail themselves of this opportunity.

GOV. ANDERSON: Thank you. I think before hearing from the applicant's side, it has been suggested and, I believe, rather wisely that we recess for five minutes, so that our secretary can refill her pen.

RECESS 11:12-11:20 A.M.

GOV. ANDERSON: The meeting will come to order.

Senator Regan.

SENATOR REGAN: I'll try and shorten this as much as possible, Mr. Chairman, but I'd like to see that some of the issues that have been presented are clarified.

Number one, we want to bear in mind that prior to any adoption of policies of the Bureau of Land Management or any policies that appear to be coming up, as testified here today, by some of the State Departments, which are slightly nebulous, Mr. Gilzean as the owner of an unpatented mining claim in the County of Trinity, which he had purchased many years before, decided he would like to have title to it. This is nothing novel; this has been going on for a long time. Many exchanges have been filed with the State and have been going through.

The land was owned by the Red Hill Mining Company in the early days and was mined up to about World War II. At that time mining stopped. In fact, as I recall, Herbert Hoover was the engineer for the Red Hill Mining Company. Mr. Gilzean was one of the placer mining operators on the property and when
they broke down he bought this land for $1600. That is not particularly germane here, but that's what he paid for it, and subsequently made this application to the State.

I say this -- that notwithstanding anything else, the man is entitled to his day in court. He is following the procedure of the State of California and the way other people have been doing this and probably will continue to do this, except for the moratorium in the State here.

As I recall -- and perhaps Mr. Hortig can give you this information -- when I was formerly Chairman of the Committee on Public Lands of the Senate, we found some close to half million acres that still belongs to the State but the Federal Government won't give it to the State because they haven't surveyed it. So there is still a lot of land that should have come to the State of California under the law, but that is neither here nor there in this case.

Let me tell you how absurd this becomes -- what the witnesses say. I have a map here -- In the first place, let's take the over-all picture in the State. The State has one million four hundred thousand acres of land, of which forty-eight million acres still belong to the Federal Government -- forty-eight percent of all the land in the State in excess of that. In Trinity County, where this case is before us now -- Trinity County has within its boundaries 1,981,440 acres. That's the entire acreage of Trinity County. The United States today owns 1,505,894 acres of that land in Trinity County -- seventy-six
percent of the entire acreage of the County. What we are try-
ing to show and what we would like to do is show the impact in
a State like this that has sixteen million five -- and is going
to have forty to fifty if those who project in the future are
correct (that's what we are working on in the water program)--
who are going to be in Trinity County. Every county like
Trinity, Shasta, Modoc, are entitled to their share of local
economy and will never get it if they don't have a tax basis
and every time a man makes an application we have these spurious
arguments.

In the first place, if anybody wants to take out the
river acreage we will do it. We want a piece of land, where
the man can have a piece of land to do business. If they want
the river they can have it, but there is a constitutional right
nobody has mentioned. Furthermore, we couldn't stop them from
fishing there if it goes to patent.

If you will look at this map you will find the pink
places which are privately owned and then we tried to block in
some in blue -- or that is green -- of the public land along
that river. I know that river and have fished most of the river
not only there but in Humboldt County -- I am counsel for the
Hoopa Indians and we have our problems and the State has prob-
lems in that Indian reservoir -- there isn't any place in that
geriver you can't fish; and this business about not being able to
park your car, everybody I know that comes to Trinity County
and wants to fish goes to the river and you find cars lined up.
When the Department of Fish and Game talks about protecting 25,000 fish here, so many thousand fish here—why did they allow 500,000 silver salmon to be taken the first year they closed Trinity Lake? Where the Stewart Forks came in, these fish were land-locked. We tried to tell them they couldn't spawn, but they let them take them—fifty or seventy fishermen casting and each one taking salmon out of the lake. We are talking about conservation and there is certainly no conservation in this matter of what we are talking about or in the matter of Mr. Gilzean.

Right now the Federal Government has now closed the upper spawning grounds because of the Trinity Dam, but there are thirty or forty miles under that. All the land there has been taken off the tax rolls, so Trinity County is completely crippled, and when I say seventy-six percent is owned by the Federal Government, the State of California has some too, so there is very little land that is subject to taxation, so the economy of the County can be sustained.

I have editorials and I have news items in the press that were placed there by the Shasta-Cascade Wonderland Association, asking sportsmen and so on to get interested in this thing and send in a protest. Well, there are a few protests, you see. We did not ask anyone to appear here because we felt that under the equities of the situation we would be entitled to our day in court and the appeal would be perfected; but I can assure you that as far as local government is concerned
there will be plenty of protests when it is presented, if they find there is going to be a policy on the part of the State of California -- and it appears now to be a parking policy to prevent getting some land on the tax rolls by citizens of the United States. This has nothing to do with the national parks, national forests. The BLM does a good job, tries to do a good job of managing the lands, because its policy was to get most of it on the tax rolls into private ownership. This has nothing to do with the wilderness area in Washington. As far as all this back country, the minerals and everything, they are now locked up in the national forests and are under the Wilderness Bill. We are not objecting to that because we feel these should be preserved for the economic benefit of the United States; but when somebody uses these subterfuges here to try to stop a man from getting a piece that is four and a half acres -- Mr. Hellister tells me he paced it off and there is about six acres -- Let's take seven or ten, a piece of land that could be used and go on the tax rolls to do exactly the same thing that the public ownership would do, I don't see the State's position in this.

I am not talking about the Lands Commission. I am talking about the agency of Fish and Game. There isn't anything in this record where Fish and Game has told you this is going to be detrimental. You certainly can't read that in the statement of Mr. Shannon, or the testimony today, and they have the burden of proof in the item here, which they haven't
prove, but I want to talk about equities. We are not talking about the President's problem of protecting the wild life. We are all for that, but this is not germane to this.

Pauline Davis has sent a letter. You read Pauline Davis's letter and you will find the same language that you find in the other letters that came here. I say, in all due respect to Pauline, who is a friend of mine, she doesn't know anything about the fishing down there or this piece of land either -- and a lot of the expressions you get here, they don't know anything about it either.

What I am hoping to show is that the equities show a man, who since 1955, has a possessory right in the real property. If he has had for six years the State working with him to perfect this, and then if the State Lands Commission say "we don't know about the policy, so maybe we better not appeal," I think it is high time we get this established.

Under the law of the United States, as I understand it, they cannot prevail -- the Government cannot prevail in this instance. The terms of the Act itself I don't know would lend itself to the protest and the adversing as done by the Bureau in this case -- so that the man is entitled, as any other citizen would be, to his day in court.

Let me show you this map. I would like you to ask Fish and Game if they know of any place along the Trinity River where anybody is denied fishing. (Illustrating to Commission) Here at Lewiston is the dam. As you go through,
the public lands are here. You see little places in red. Now
those are not on the river. These are off -- some are, but
not many. Most of them you will find in the white or green
here. The river along here travels close to the highway, so
there is access -- absolutely complete -- and we are talking
about the access to this little piece of land, where there
is from Weaverville to the coast 109 miles and by the meander-
ing of the stream you can see how much more you have. The
whole stream is open to fishing and good fishing, too --
excepting, I might say, the fishing isn't good on this piece.

GOV. ANDERSON: What does the pink represent?

SENATOR REGAN: That's private ownership.

GOV. ANDERSON: And what is the green?

SENATOR REGAN: Public. Most of this is green --
all Federal land. We just wanted to show you the stream.
There is access all along.

GOV. ANDERSON: Where is this parcel?

SENATOR REGAN: (indicating on map) Right here.

MR. CHAMPION: Senator, you mentioned the possibil-
ity of exempting or taking out of your application land which
they might be interested in. Is there any possibility of an
agreement here between the owner and the people who would like
to develop, say, a Wildlife Conservation facility?

SENATOR REGAN: Along the river?

MR. CHAMPION: Yes.

SENATOR REGAN: We would exempt it or amend it out
any time. This never was a question.

MR. CHAMPION: Could this now be done?

SENATOR REGAN: If they wanted it -- but I think
they want the campground site.

GOV. ANDERSON: They say this is the only place
within fifteen miles.

SENATOR REGAN: That's hogwash.

GOV. ANDERSON: Where are the other available areas?

SENATOR REGAN: I'd like to take you up there fish-
ing and show you. The whole thing is available.

GOV. ANDERSON: But this is on the river and the
highway together. This is the river without the highway.

Where . . . .

SENATOR REGAN: In green there, along the river.

MR. CRANSTON: Well, the specific statement was that
it is the only place within fifteen miles where you can park
and easily have access to the camp grounds and river.

SENATOR REGAN: If you add to that "presently
developed campites" then the answer is "yes." Who is going
to develop the campsites when the Federal Government owns the
land? If you let that land go into private ownership you
will find out how fast that will develop there. They just
can't get title to it.

MR. CHAMPION: Is this the intention of your client --
to develop facilities along there?

SENATOR REGAN: Yes, that's what he wants to do --
and we certainly want more people to build hotels, resorts, and so on. There is a crying demand for it and it is not going to be satisfied with the Federal Government coming in and building a camp ground. The people have 1,505,000 acres of land they can go out and camp on; but the point is, somebody has to start building the hotel and motel facilities and the fishermen want them. Everybody doesn't have a trailer behind him; he wants to go to a hotel.

The equities in this thing are on the side of the applicant and he is entitled to his day in court -- and not only that, I think he will prove it. I have a lot of other things -- I think I mentioned if there is a question that maybe the people in that area would be all in favor of this.

This is whipped up with some statements in the newspapers. I'll flood this place with people to see that there is an adequate tax base in all the northern California counties. You will have to hire somebody to open the mail which would say "Yes, put it on the tax rolls." But we didn't feel it was our duty to do that here today.

This is something familiar to me. I was counsel for the Interstate Association for Public Land Counties for many years (that was the ten western states). I was president for many years. I have in my office up here in one of the offices in the old building some very interesting statistics on this whole thing, by reason of the fact that this land will not get on tax rolls -- and it has no impact on Wildlife
Conservation. I think it is the duty of the State to assist this man to go on with his appeal.

MR. CHAMPION: Senator, a lot of facts are involved here and they mostly involve the Department of Fish and Game and the Wildlife Conservation Board. I wonder if it wouldn't be possible to have the facts involved and some understanding worked out -- what the local people want, what is the best for handling fishing in that area.

SENATOR REGAN: May I say this: I am not afraid of this but I don't think we should put this out to a petition situation in an area like that.

MR. CHAMPION: That is not what I am trying to say. This Board is not competent to judge matters of Fish and Game and what is best or not -- best for them. I would hope from discussion of people who are competent to judge we might get an opinion. The opinion of what is best comes from the Department of Fish and Game -- you question some of the things they said.

SENATOR REGAN: You let me cross-examine them.

MR. CHAMPION: Again, I don't think this is a matter for us to judge. It is a matter for experts in that field, people who have competence on that in the State, and we have to pass on that policy. I'd like to see whether or not there is any change in the position of the Department of Fish and Game or the Wildlife Conservation Board. If there were not, I'd feel the policy of the State with regard to this sort of
thing should be set there and we should accept their policy; 
but I think probably you have grounds here to open this question 
and discuss it with them, and see whether or not they want to 
take that position. We really have some factual issues we 
cannot decide on.

SENATOR REGAN: I'd like to ask Fish and Game if we 
amend out of the application the entire river frontage, what 
is their position? If they are talking about access to fishing, 
they have the whole thing. What else do they want? If they 
start talking about campgrounds, we are going to find out where 
it is their business.

MR. RIPLEY: We realize that the access we are talking 
about is not specifically the access to the river, because 
there is, as has been pointed out -- there is adequate access 
insofar as the individual fisherman is concerned to get down 
to the river.

SENATOR REGAN: That's a new one. It doesn't say so 
in your letter, or Shannon's letter.

MR. RIPLEY: In addition to that, we realize there 
is a great deal of public land in that area. However, the one 
fact we would like to bring out -- there is not very much flat 
land in the whole area within reach of the river for the public 
to use. People who fish in this area come long distances; some 
come from the big urban areas, even from southern California. 
When they come they usually bring their families. The kids 
and wives have to have some place to stay while father goes
fishing. If they don't, the fishing is not taken advantage of. The individual fishermen in an area like this do have access from the road. The family unit, which prosecutes a lot of our fishing in the State of California, may not have facilities if this is not developed as a public campground, or at least a private campground. If it is, in that respect it might assist the situation. This is not access to the individual -- it is the access to the portion of the river to the general public that comes long distances.

GOV. ANDERSON: What is the adequacy for fishermen who want to stay in a hotel?

MR. RIPLEY: I can't answer that.

MR. CRANSTON: In Mr. Beck's letter to the Lands Commission (from the Department of Interior) there is a statement that the area provides the only camp grounds within fifteen miles either way along the Trinity River; topography of the Trinity River is such that available recreation sites are few and far between. Does that mean in fifteen miles in either direction there is no facility where people can camp?

MR. RIPLEY: Whose letter is that?

MR. CRANSTON: Walter Q. Beck.

MR. RIPLEY: I can't speak to that.

MR. CRANSTON: However, on this question of fifteen miles either way --

MR. RIPLEY: It is thirty miles from the information I have.
MR. PROFFITT: There is a small campsite at the Big Bar area -- perhaps ten or fifteen miles down the river.

SENATOR REGAN: In order not to be confused, would you say "developed" site?

MR. PROFFITT: These are now developed.

MR. CHANSTON: What I mean is land suitable for development. Is this the only one?

MR. PROFFITT: This is one of the few flat places around the river with trees and shade. Hayden Flat is the only area now developed comparably.

GOV. ANDERSON: How far is that?

MR. PROFFITT: Approximately thirty miles.

MR. CRANSTON: And there is no developable . . .

MR. PROFFITT: I can't say that. This is the only piece of property involved so far in this question. It is a very desirable piece of flat property.

GOV. ANDERSON: These other lands that are areas which in the future could be developed, are these under Federal ownership now or who owns them?

MR. PROFFITT: I do not know.

SENATOR REGAN: Most of them.....

MR. HORTIG: Of necessity, they would be Federal-owned.

GOV. ANDERSON: Are there other lands, Frank, that could be developed for campsites?

MR. HORTIG: As a matter of geography and as a matter
of degree and how much development it would take to flatten out a bumpy piece of ground compared to this flat four to six acres, as the warden says this is probably the most highly suitable piece of property for development now.

GOV. ANDERSON: If there isn't any other area in there and yet there are other areas that can be potentially developed, we find ourselves caught between them.

MR. CHAMPION: The question is: Is it better to sleep in a bed at a price or on the ground for free?

SENATOR REGAN: I think there would be a lot of developed campsites if the Forest Service had the money. I think they would tell you "Yes, we could develop a lot more if we had the money in the budget." But that's not our problem. You let us have the land and we will put hotels and things in there. There is no problem of budgeting.

MR. HOLLISTER: Mr. Chairman, I came out to California particularly to look into some infestation problems. In doing this, I had reason to look at this, and I think since this area is developing a head of steam, I think it would behoove you to go and see this area. We are all going to have different views. I disagree with some of Senator Regan's thoughts in some instances; in other, I disagree with Fish and Game. I think you will find the canyon is steep, the road is steep, and camping facilities are nil; and what BLM lands are available there could be purchased beyond this piece at two and a half -- could they be developed, so the State is in a position
to take advantage of these and get at least some tax revenue from sales tax and what not? But the expenditure would be so large on the terribly steep areas. There are some lands the Commission might possibly purchase. I noticed on the other side of the river (check me on this, Senator) there are some lands that could be dredged and flattened out.

SENATOR REGAN: That's correct.

MR. HOLLISTER: They could be developed, but also the individual could do the same.

SENATOR REGAN: There are a lot of lands, as anybody can see, that are federally-owned.

MR. HOLLISTER: Not only Federal lands, but private lands across the highway. There are potentials there, but I think this is reaching somewhat into the distance — but I think it would be well for the members of the State Lands Commission to familiarize themselves with this other than with maps.

MR. CHAMPION: My point is we really aren't the competent judges on this. We have Beaches and Parks and Fish and Game, and this is also a fairly busy Commission. I think we have to rely on the people the State hires in these fields to make these judgments, or at least report to us what their judgments are.

SENATOR REGAN: Wouldn't it be profitable or equitable, since the State has had this in its hands since 1955, that you would say "Go on and perfect the appeal"? As I interpret the
remarks of the Attorney General, there is a legal point in favor of the applicant that should be pursued, as he probably would prevail -- or could.

MR. CHAMPION: However, Mr. Joseph also pointed out at the outset that the Commission takes a policy on this, and I don't think as a member of the Board I am prepared to do that.

SENATOR REGAN: Let me say what I didn't get to say when the last witness was up here. If Fish and Game is going to take a position on the rest of the available land of Trinity County that it is taking on this, and is to oppose for the reasons given in the letter Fish and Game has sent in there, then there is going to be some trouble as far as local government and Fish and Game is concerned because what I have interpreted the remarks to mean is they would oppose every application of putting the land on the tax rolls, and I want a copy of the language used the last time -- I think it is deplorable that it would be said.

MR. CHAMPION: In the light of all this, in order to get some resolution here, I would like to move that the Board refer this matter to the Department of Fish and Game for review and for a subsequent recommendation in the light of some of the questions that Senator Regan has raised, and that this Board withhold action until such time this has been done.

SENATOR REGAN: And, further, if you would in your motion -- if the river front is relinquished, what is their position on it?
MR. CHAMPION: Yes, subject also to the possibility of an agreement on land use in this area and a change in the application, if that is legally feasible.

MR. HORTIG: May I ask of staff a question before action is taken on this motion, purely as a mechanical matter. There are appeal times and dates set and we would want to be certain that by this action we did not exhaust appeal time if it should be ultimately determined to perfect an appeal.

MR. SMITH: October 31st the appeal must be in Washington.

MR. CHAMPION: We do have another meeting before that time.

MR. HORTIG: October 26th, which is only five days before the appeal would have to be filed.

MR. CHAMPION: The appeal certainly could be prepared.

MR. HORTIG: The appeal could be prepared in prospect, yes sir.

MR. CRANSTON: I second Mr. Champion's motion.

GOV. ANDERSON: You have heard the motion, then, that this subject matter be referred to the Department of Fish and Game for review and report back to us, so this can be acted upon at our next meeting.

MR. CRANSTON: I would like to specifically ask that that report include, on this thirty-mile strip, what else is available in that strip.

SENATOR REGAN: I think you ought to get on the
whole river, too, because people will go steelhead fishing.

If you park your car and go steelhead fishing, you are not going to stand in one place. You will be moving up and down.

MR. CRANSTON: That is related to where else there would be parking and adequate access in this thirty-mile strip.

MR. CHAMPION: I think we would ask Fish and Game to comment on every question raised in this record, so we have a full report.

SENATOR REGAN: Would you also ask them how they get in the picture here and who is importuning them to do it, same as the Wildlife Conservation Board. I think we are entitled to know, as well as other agencies, You had in the record today that unless they proved their point, the Commission should go forward.

MR. CHAMPION: I think you have everything in the record.

GOV. ANDERSON: And, further, if the river frontage were relinquished, what would that do. Moved and seconded.

If there is no objection, unanimously carried.

SENATOR REGAN: When will that report be coming in? I'd like to be present.

MR. HORTIG: October 26th, Los Angeles. It will be presented publicly October 26th.

GOV. ANDERSON: The next item on the agenda is Item 6 -- authorization for Executive Officer to approve map entitled "Plat of the North Property Line of Pacific Gas and Electric..."
Along the Sacramento River, Vicinity of Pittsburg, Contra Costa County, California" dated April 1961 and to enter into agreement with Pacific Gas and Electric Co. fixing the boundary line between State lands and lands owned by said company along the Sacramento River in the vicinity of Pittsburg, Contra Costa County.  Frank, any comment on that?

MR. HORTIG: Only in amplification, as stated in the full calendar item, Mr. Chairman, that the form of proposed agreement to establish the boundary line between Pacific Gas and Electric as the private landowner on the upland and the State Lands Commission as the administrating agency for the State lands in the Sacramento River has also been approved by the Office of the Attorney General.

GOV. ANDERSON: What is your pleasure?

MR. CRANSTON: I move approval.

MR. CHAMPION: Second.

GOV. ANDERSON: Moved and seconded. No objection, so ordered.

Item 7 is authorization for Executive Officer to enter into three preferential mineral extraction leases with California Minerals Corporation for specified areas covered by Prospecting Permits P.R.C. 2445.2 in Fresno County, P.R.C. 2446.2 in San Benito and Fresno Counties, and P.R.C. 2599.2 in Fresno County.

MR. HORTIG: The prospecting permits which were authorized by the State Lands Commission in this particular
instance provide, as do all prospecting permits under the
mineral leasing laws of the State of California since 1921,
that in the event of discovery of commercially valuable deposits
of minerals within the limits of the permit that the permittee
is entitled to a preferential lease. It has been determined
by field inspection and analysis and sampling that commercial
deposits of asbestos-bearing ore have been found within the
limits of these prospecting permits and, therefore, it is
recommended that the Commission authorize the issuance of the
preferential mineral lease to the permittee, as provided by law.

MR. CRANSTON: I move approval.

MR. CHAMPION: Second.

GOV. ANDERSON: Moved and seconded -- no objection,
approved unanimously.

Item 8 -- Proposed oil and gas lease, Ventura County,
Parcel 5. Frank?

MR. HORTIG: The Commission will recall in connection
with the proposal with respect to offering an area for lease at
Montalvo, Ventura County (subsequently annexed in part within
the exterior limits of Oxnard), the Commission had directed
that beside the public hearing there be detailed review with
the local authorities as to the desirability of offering the
proposed oil and gas lease. The public hearing was held, no
objections to the offering of a lease by the Lands Commission
were voiced; and, uniquely, I am happy to report for the record
that the City of Oxnard is on record recommending and looking
forward to the Lands Commission offering the parcel of tide and submerged lands for lease, recognizing that further development would be of economic benefit to the City. The same is the stated position of the County of Ventura.

It is, therefore, recommended that authorization be granted to publish notice of intention to receive bids.

MR. CRANSTON: I so move.

MR. CHAMPION: Second.

GOV. ANDERSON: It has been moved and seconded. If there is no further discussion, approved unanimously.

Item 9 -- Authorization to file action against Pacific Fluorite Co, of California for trespass and unauthorized removal of minerals from State school lands in San Bernardino County.

MR. HORTIG: As a result of land appraisal activities in the desert area of San Bernardino County, a trespass was discovered on a parcel of vacant State school land, from which it has been determined that heretofore extensive amounts of material were mined and sold by the Pacific Fluorite Company; and the Office of the Attorney General, on the report of our field examination, has recommended that necessary legal action be taken to protect the State's interests in this matter.

Therefore, it is recommended that the Commission authorize the Executive Officer to request the Office of the Attorney General to take necessary legal action, first, to eject Pacific Fluorite Company of California from the designated...
section; (2) to quiet the State's title; and (3) to obtain accounting for rents and profits which have been derived by Pacific Fluorite Company from State lands without authorization.

MR. CHAMPION: I so move.

MR. CRANSTON: Second the motion.

GOV. ANDERSON: It has been moved and seconded—no objection, approved unanimously.

Item 10 is confirmation of transactions consummated by the Executive Officer pursuant to authority confirmed by the Commission at its meeting on October 5, 1959.

MR. HORTIG: As the Commissioners can see from the brief report on page 46, one assignment of an existing commercial lease for docking facilities and one extension of a geological exploration permit were the only actions taken by the Executive Officer for which confirmation is sought for the record.

MR. CRANSTON: Move approval.

MR. CHAMPION: Second.

GOV. ANDERSON: Moved and seconded. No objection, approved unanimously.

We have one more supplemental item added to our calendar: Proposed annexation by the City of Santa Barbara, Designated as Santa Barbara Airport Annexation -- W.O.2400.35. Frank, do you want to read this in its entirety?

MR. HORTIG: I believe this would expedite presenting the matter to the Commission if I may, Mr. Chairman.
GOV. ANDERSON: Mr. Hortig will read the entire ites.

MR. HORTIG: On September 1, 1961, the State Lands Commission and the Office of the Attorney General received notice that the City Council of the City of Santa Barbara proposes to annex certain territory designated as Santa Barbara Municipal Airport, together with certain tidelands, pursuant to formal City Council resolution. Time and place for hearing of protests is set for September 26th. By letter dated September 6, 1961, pursuant to another resolution of the City Council, the City of Santa Barbara requested the State Lands Commission, in accordance with Government Code Section 35313.1, to make a valuation of the tidelands proposed to be annexed.

These tidelands proposed to be annexed consist of a corridor strip 300 feet wide, containing approximately 238 acres, extending southerly from the ordinary high water mark of the Santa Barbara Airport area a distance of approximately 6,900 feet, and thence extending at a right angle easterly a distance of approximately 27,700 feet where the corridor would join tide and submerged lands presently within the city limits of Santa Barbara.

The territory sought to be annexed includes only 500 feet below the land surface and below the land surface of the ocean floor. The area below 500 feet is not proposed to be annexed. A preliminary report from the Office of the Attorney General indicates that exclusion of all property more than five hundred feet below the land
surface and of the ocean floor would create horizontal stratification of governmental jurisdiction which is not known in law. In addition, it is felt by the Office of the Attorney General that the Legislature never considered or intended that such a division of authority could be established.

Future State Lands Commission administrative problems would be minimized if the territory sought to be annexed were limited to the surface of the ocean floor, as proposed originally by the City of Santa Barbara, instead of to 500 feet below the surface.

In view of the late receipt of the City’s valuation request dated September 6th it has not been possible to complete a valuation report for consideration by the Commission at this meeting today, September 14th. Approval of any valuation report by resolution of the Commission is required by law.

(Parenthetically at this point, I should add that such evaluation report would be particularly germane only in the event that the Lands Commission were to protest at the annexation hearing now set for September 26th, because values are the basic element on which protests may be founded.)

MR. CHAMPION: Are there any other grounds?

MR. HORTIG: That is the only ground specified in the statute. Lands Commissions heretofore have proposed other grounds for objection in the public interest. In this instance we feel that the recommendation now to be made to the Commission would resolve the problems of public interest, leaving
only the ground of value, and if there is to be no protest then the actual proportionate values are secondary to any other consideration to be undertaken by the City.

It is recommended, then, that the Commission authorize the Executive Officer to inform the Council of the City of Santa Barbara that it would not oppose the proposed annexation of the tide and submerged lands on the condition that the proposed annexation be modified to include only the surface of the land of the ocean floor instead of 500 feet below the surface of the ocean floor.

I should like to refer back to the recitation on the previous page, that the purpose of this recommendation is that it is felt that this program would minimize any future State Lands Commission administrative problems in the territory sought to be annexed, which problems we cannot forecast with any accuracy at the present time. Neither can the City of Santa Barbara, the annexing agency, warrant that there might not be problems involved in annexing to as much as 500 feet below the ocean floor -- which, in turn, would be minimized if only the surface of the ocean floor would be annexed.

The second phase of this problem, which has already been raised, having covered the administrative responsibilities of the Lands Commission, are the legal questions -- which patently it is felt and recommended should be, by authorization to the Executive Officer, referred to the Office of the Attorney General to take whatever legal action is necessary, if any, to
City Attorney Tomlinson is here to discuss this matter with the Commission this morning, and particularly with respect to his reaction to the staff recommendation relative to the basis for nonobjection by the Commission.

GOV. ANDERSON: In our previous annexations in that area, what has been the depth of the land -- like Oxnard, was that surface only?

MR. HORTIG: To the center of the earth.

GOV. ANDERSON: Have all of these annexations been to the center of the earth?

MR. HORTIG: Yes sir.

GOV. ANDERSON: Why did you recommend surface, rather than going to the center, here? Why did you deviate?

MR. HORTIG: Prior annexations in general did not involve any potential for oil and gas or other developments, while the area proposed to be annexed in this instance is within the Santa Barbara Sanctuary area, which might necessarily and desirably, and even with the consent of the City in future be traversed by pipelines and other subsea developments that we even can't envision at the present time, by reason of operations conducted farther offshore some distance from the sanctuary area. Therefore, because of the potentials of the total area, and the Ventura-Santa Barbara submarine basins being one of the large petroleum provinces in the State of California in distinction to the quality of the other areas that have
had heretofore been considered for annexation, it was felt that if a program to minimize any future State Lands problems -- even conflict between State Lands Commission administration and the City's desire to administer or control the annexation -- could be devised, as we feel we have here, it would minimize difficulties for State Lands and cooperatively not create any new difficulties.

GOV. ANDERSON: Is that the reason we are doing it, or are we just trying to cut down the assessed valuation of the land being annexed?

MR. HORTIG: Oh, no sir. There was no thought of cutting down the assessed or appraised valuation.

MR. CHAMPION: The City isn't interested in this except as a route, is it?

MR. TOMLINSON: Link of contiguity.

MR. CHAMPION: It is a very interesting annexation.

GOV. ANDERSON: Have we ever gone out before to establish contiguity? This is the first time we have ever gone out in the open ocean....

MR. HORTIG: The analogy is there. They are both ocean routes, but in San Diego Bay there were no tide and submerged lands under the jurisdiction of the State Lands Commission.

GOV. ANDERSON: I think there is a little difference in going out in the bay rather than in the ocean. They could go out at Goleta -- they could go out contiguously 400 feet to
Summerland and you could have a bunch of channels out in the ocean. This is different than going across a strip of bay as in San Diego. In the past we have made it a policy to give cities tidelands that front on their beach.

MR. HORTIG: This has been the general legislative policy at their request.

GOV. ANDERSON: Since I have been on it, this is what we have done. They say "We want the beach contiguous to our city." Now, if they incorporate beyond the city, we can't give it to them.

MR. CHAMPION: We can give it to them ....

MR. HORTIG: I think I should underscore that the Chairman did put his finger on probably the crux of the entire problem -- that we could have something that would make the picture involved in the future.

GOV. ANDERSON: We are starting something here that kind of frightens me. I mean, I have been fairly close to city government and the attempt to keep them as contiguous as possible for tax purposes and everything else; but your city would be one of the first to protest if Goleta went down and tried to establish contiguity and annex Summerland. You would say this isn't good government.

MR. TOMLINSON: Mr. Chairman, my reaction to this discussion of this point is just this, simply: This is a legislative question. When these unusual or unique or possibly in some cases abuses of annexation law have occurred, the
Legislature has responded promptly. However, it's our duty to proceed under existing law. We rely on the San Diego situation, as very ably pointed out in the opinion of the Attorney General given at the time. We rely on that implicitly for the strip portion of this annexation.

I have never in my own mind distinguished between the situation of a bay such as San Diego or open ocean. I think that, of course, both are under the jurisdiction of the Lands Commission. The State of California owns the territory being annexed or proposed to be annexed. The big thing, possibly the thing that has alerted the members of the Commission, particularly the Chairman, is the horizontal feature of this annexation.

I will be perfectly frank and candid. There is certainly no secret. The case of the People versus the City of Santa Barbara terminated by denial of hearing in the Supreme Court early last month, determined that the owner of subsurface mineral rights is entitled to protest to the value shown on the last equalized assessment roll. This principle the City resisted. There is no point in reviewing that litigation, but under this airport we have this very unique, unusual, probably uncommon and rare situation, of an immense gas storage field, where gas is injected, stored under pressure, and removed at will. A portion of this is under the airport. A large majority of the airport territory lies over this Goleta gas field. Now, if the owner of these mineral rights -- and
there are native mineral rights and gas rights involved as well as the artificial and imported and injected gas rights involved in the assessed valuation — we know that owner will protest this annexation. It is our duty to avoid that — we have to.

The owner is taxed by the county. The City, under these circumstances, in order to have jurisdiction over its own airport (some 900 acres) in the absolute absence, as a matter of fact, of any alternative route or means of reaching contiguity or obtaining contiguity, the only alternative was to repeat the three-mile deep course used before in the other annexation.

GOV. ANDERSON: Are you speaking of San Diego?

MR. TOMLINSON: No, I am speaking of Santa Barbara.

MR. CRANSTON: You said "the City's own airport"...

MR. TOMLINSON: The City owns the airport in fee. They obtained fee from private parties and the Federal Government after the war.

MR. CRANSTON: May I ask your reaction to the staff's recommendation that it be a surface annexation, omitting the 500 feet?

MR. TOMLINSON: I can certainly say the City of Santa Barbara is going to cooperate with the State Lands Commission and the State of California in any way it can. However, we do not recognize the real necessity for distinguishing between the simple surface, eliminating everything below the surface and annexing only the surface. In other words, 500 feet is uniform, is a uniform depth of exclusion throughout the entire...
annexed strip.

MR. CHAMPION: Could you divide them without any legal problems or complications? ..... 

MR. TOMLINSON: I am not sure I can.

MR. CHAMPION: ... so that you could be surface here and go to 500 feet under the airport?

MR. TOMLINSON: I believe I would be within the purview of the five percent rule. I can't estimate at this moment how that would work, or example, if we modify this description to exclude the airport area to the extent of below 500 feet, exclude that, and then exclude everything below the tidelands portion of the description -- whether we would get into the five percent rule for modification of description during annexation procedure at the time of protest, I'd have to get the engineering figures on that.

Incidentally, I want to make it very clear -- Mr. Hortig read the report; and as I understood him to read it, he said "238 acres" of tidelands involved. It is 2.38.

MR. CRANSTON: How did you arrive at the figure of 500 feet?

MR. TOMLINSON: By general discussion, many hours, with interested possible potential protesters; and taking into consideration that so far as the airport is concerned, the normal and routine subsurface structures, pipelines, and other things pertinent to an airport should be protected. In other words, there was this question -- Do we take just the surface
of one foot. Somebody comes along and says "What happens if a big windstorm comes along and blows off a couple feet of dirt? Have you got any City of Santa Barbara left?" This whole thing has provoked comment. So, by trial and error, a figure of 500 feet was arrived at. And, incidentally, so far as the mineral rights are concerned under the airport -- and I assume this is true of the tidelands (I am almost convinced it is) -- the Vaqueros Sands and the upper limited Vaqueros zone is at the 4300-foot level, so their assessed valuation, being geologically and scientifically determined as to location, would be entirely safe.

GOV. ANDERSON: Why did you conclude to not go down to the center of the earth?

MR. TOMLINSON: To avoid protest by an overwhelming amount. In other words, Governor, there is not one dime of surface fee ownership in this valuation.

GOV. ANDERSON: Then if you went to the center of the earth, the appraised value of it would be high?

MR. TOMLINSON: Three-quarters of a million dollars of private ownership.

GOV. ANDERSON: It is the basic reason, then, Frank...

MR. HORTIG: Not in the case of our distinguishing 500 feet or one foot.

GOV. ANDERSON: I asked you why we didn't go to the center of the earth -- was it because of the appraised value, and you said it wasn't.
MR. HORTIG: Then I didn't understand your question.

GOV. ANDERSON: If we went to the center of the earth the State of California would have enough appraised value, be big enough a protestant to throw the whole thing out.

MR. TOMLINSON: We don't know what the State's value would be. A 300-foot strip would be a great deal less evaluation than at the time we discussed the 1957 evaluation. However, the private protests that come at the termination of the proceedings, fifty-one percent of private protests under the new statute terminates us in the airport proper. Subsurface mineral rights, or whatever they appear in the State Lands assessment roll, overwhelmingly close out any other possible private non-protesting evaluation. For the simple reason that the City of Santa Barbara owns the airport, the surface, then, is publicly owned. Publicly owned property is in competition with publicly owned protesting property. What I mean to say, public-owned non-protesting evaluation is in competition with public-owned protesting valuation.

It is my personal opinion that the evaluation of this 2.38 acres, being valued as it would have to be by some formula -- I am talking about the tidelands now -- would not be a public figure that would overwhelm the surface valuation and non-protesting valuations of publicly-owned property on the surface, including the small property on the corner belonging to the Board of Regents.

MR. CRANSTON: I am talking about if you would make
a surface annexation in the tidelands and then go as far as you wish at the airport.

MR. TOMLINSON: Certainly there is no interest below the bottom of the ocean.

MR. CRANSTON: Would you be willing to amend the application?

MR. TOMLINSON: I am sure the City would be willing to cooperate.

MR. CRANSTON: I move approval that there be a surface acquisition to the airport and then 500 feet........

MR. TOMLINSON: No -- You mean surface on the tidelands strip. The Commission would not be concerned with the situation in the airport.

MR. CRANSTON: Do what you wish at the airport, but with the tidelands area to be surface. It seems to me the City owns the airport and should do what they want with it.

MR. CHAMPION: There is another question before we proceed. As I see it, we are not really called upon to make the resolution that we protest at this time. In other words, we have to say that we will protest unless this is done.

MR. CRANSTON: And we will not take action if this is done (make it surface in the tidelands).

MR. CHAMPION: And we take no position on the desirability of the annexation at all, but we will protest if this is not done.

MR. ROSE: It says it is not known in law to have an
annexation below 500 feet. Do we have a precedent as far as tidelands are concerned of the surface only? Is there a precedent to that? Is that known to law?

MR. CRANSTON: This is their problem.

MR. HORTIG: In other words, to what thickness do you take this horizontal strip.

MR. ROSE: If this motion is passed, then the State Lands Commission would be taking a "hands off" position as far as any future development there is concerned, just like any other citizen that just decided not to protest, but the 300-foot corridor would always be there and belong to that city and any other city that came in would not have any right to cross it.

GOV. ANDERSON: They could go under it, obviously. If Gaviota wanted to reach inland there, they could go down 300 or 500 feet and go across. I think something is being done that isn't good, but I don't think this Board has any jurisdiction over it.

MR. TOMLINSON: It is born of necessity, I assure you.

MR. CRANSTON: Let me put this in for the record:

This does not touch the beaches involved, Goleta would still have its beach.

GOV. ANDERSON: Has this area protested this annexation?

MR. TOMLINSON: Not this annexation -- the last one.

GOV. ANDERSON: In other words, you have exhausted every other way of getting there, such as the highway --
Mr. Tomlinson: Oh, yes. We could go on top of the mountain.

MR. CHAMPION: I assume whatever action is taken will go through a lot of examination by the Attorney General to go through the legality of the proceedings involved.

MR. TOMLINSON: I am sure -- reasonably sure -- the Attorney General would agree with me that it is essentially a legislative problem -- that if it is deemed to be evil, the Legislature must do something about it; and I, of course, am not of a mind that it is evil. I think it is contiguity within the law, and again relying on the Attorney General's previous opinions with respect to San Diego I find this similarity.

MR. Joseph: Well, there is some likelihood that this horizontal annexation can't be done. -- the annexation of the whole business or none at all.

Gov. Anderson: That is why I was wondering why it didn't go down to the center of the earth like the others.

MR. Joseph: I think the reason is that fifty percent of the landowners can protest and the indication is that these owners of the mineral rights will protest; so to do away with these protests they are only taking the upper level where the mineral owners don't own anything, to do away with the protests.

Gov. Anderson: But do they know they will have protests?

MR. Joseph: They know they will have protests.
MR. HORTIG: They have been told there would be.

MR. JOSEPH: As I understand it, these people pro-
tested before and the City says the mineral owners haven't any
right to protest.

MR. CRANSTON: We might protest if it goes to the
center of the earth; even if it is in the sanctuary, with
technological developments.

MR. JOSEPH: That's where the assessed value comes
in, because fifty-one percent of the owners of the valuation
of the land can protest. Owners of land valued at fifty-one
percent can protest and stop the annexation. It is to do away
with that, as I understand it.

MR. TOMLINSON: That's right -- because the mineral
rights are so highly valued as far as the area under the airport
is concerned, and 4300 feet down there are no comparable valua-
tions to match them. It is a freak situation. I don't think
you will find it again in the whole State of California.

MR. HORTIG: Mr. Chairman, may we also clear the
record -- the 238 acres within the area shown on the map, as
reported in the calendar item, appears to be a correct
calculation.

MR. TOMLINSON: 238 acres?

MR. HORTIG: 238 acres. While the strip is only
300 feet wide, it is over seven miles ....

MR. TOMLINSON: I lost a zero, I am sorry.

MR. HORTIG: This accumulates acreage rather rapidly.
MR. TOMLINSON: My arithmetic is defective this morning. I must have dropped a decimal point.

GOV. ANDERSON: Did you get the motion?

MR. CHAMPION: It is seconded.

GOV. ANDERSON: Moved and seconded? That meets with the approval of the staff? No objection, so ordered.

MR. CHAMPION: I would hope that the record will be very clear that we haven't taken any position that this is a desirable way to do business. This is our interest in the thing and we backed it on that.

MR. HORTIG: The motion, for staff's information, was revised to be in the affirmative -- that there is a protest unless, rather than as stated in the draft of the motion.

MR. CHAMPION: Yes.

MR. HORTIG: That there would be no protest if ....

MR. CRANSTON: And, affirmatively, there will be no protest if amended.

GOV. ANDERSON: Next item, then, is date, time and place of next Commission meeting -- Thursday, October 26, 1961, in Los Angeles.

MR. CRANSTON: May I ask if nine thirty would suit you?

GOV. ANDERSON: Nine thirty would be fine. No objection -- that will be our next meeting -- nine-thirty a.m. in Los Angeles. Meeting adjourned.

ADJOURNED 12:30 P.M.

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CERTIFICATE OF REPORTER

I, LOUISE H. LILlico, reporter for the Division of Administrative Procedure, hereby certify that the foregoing eighty-six pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION held in Sacramento, California on September 14, 1961.

DATED: September 18, 1961.

[Signature]

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA