TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION
SACRAMENTO, CALIFORNIA
NOVEMBER 22, 1961

PARTICIPANTS:
THE COMMISSION:
Hon. Glenn M. Anderson, Lt. Governor, Chairman
Hon. Alan Cranston, Controller
Hon. Daniel M. Luevano, Deputy Director of Finance
(apppearing on behalf of Commissioner Hale Champion, Director of Finance)

Mr. Frank J. Hortig, Executive Officer

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

APPEARANCES:
(In the Order of their Appearance)

Mr. Fred L. Jones, Game Management Supervisor
Department of Fish and Game

Mr. Wallace A. Pinnick, Attorney-at-Law
Representing:
Capistrano Bay Improvement District
John H. Dawson, City Attorney of
San Juan Capistrano
Louis Viereck, Attorney for Harvey Company
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(In accordance with Calendar Summary)

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**UNCALENDED ITEMS**

Letter to Secy Udall re offshore drilling - 23

Proposed annexation San Clemente 25
GOV. ANDERSON: The meeting of the State Lands Commission will come to order. The first item is confirmation of the minutes of the meeting of August 23, 1961.

MR. CRANSTON: I move approval.

MR. LUEVANO: I second it.

GOV. ANDERSON: Moved and seconded, approved unanimously. Item 2 is permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental policies of the Commission. First applicant, Applicant (a) is the Humble Oil and Refining Company -- deferment of drilling requirements under Oil and Gas Lease P.R.C. 186.1, Seal Beach, Orange County to May 22, 1962; item (b) McKinney Shores Subdivision -- five-year minor structure recreational lease covering two piers, each containing .05 acre of submerged lands, Lake Tahoe, Placer County, total rental $50; applicant (c), Pacific Gas and Electric Company -- 49-year right-of-way easement across 0.05 acre of Sacramento River, Sutter and Colusa counties, for construction and maintenance of gas pipeline, total rental $185.71.

MR. HORTIC: Mr. Chairman, as to item (d) following, we have received (yesterday) a request from Texaco Inc., the applicant under item (d), that the item be withdrawn from the agenda and it is so recommended.

GOV. ANDERSON: Item (d) will be off calendar unless there is objection. (No comment) It is off calendar.

Item (e), Edward C. and Gartha L. Zorn -- approval
assignment from C. C. Norwood and Rena E. Button Norwood of Lease P.R.C. 2610.1, covering 0.93 acre of tide and submerged land, Mokelumne River, Sacramento County.

MR. CRANSTON: I move approval of all items under 2, with the exception of (d), which has been deleted.

MR. LEVANO: Second it.

GOV. ANDERSON: Moved and seconded, approved unanimously. Item 3 -- City of Long Beach approvals required pursuant to Chapter 29, 1956, 1st E. S. First project: (a) Berth 11, Redevelopment (2nd phase) -- estimated subproject expenditures from 11/22/61 to termination of $312,000 with $106,080 or 34 percent estimated as subsidence costs.

MR. HORTIG: Mr. Chairman, if the Commissioners will refer to page 62 of their agenda, there is a supplemental item relating to the City of Long Beach which does require Commission approval and might well be considered at this time to complete the Long Beach considerations.

MR. CRANSTON: Page which?

MR. HORTIG: 62. As the Commissioners will recall, in substance the same application was before the Commission at the last meeting of the Commission but in view of legal questions raised by the Office of the Attorney General on the date of the last meeting it was requested that there be a one-month deferment on the consideration of this item. It is now represented to the Commission, with the recommendation of the staff that the Executive Officer be authorized to certify
approval of an agreement supplementing an existing drilling and operating contract between the City of Long Beach and its Board of Harbor Commissioners and Richfield Oil Corporation, which amendments have heretofore been approved by the Board of Harbor Commissioners of the City of Long Beach and the City Council of Long Beach, and which amendments will accomplish continued and accelerated and controlled water injection operations by Richfield Oil Corporation as the operating contractor for the City of Long Beach in the area known as Parcel A of Long Beach tidelands, which agreement has been in existence for operation since March 12, 1947.

GOV. ANDERSON: What is your pleasure?

MR. CRANSTON: I move approval of both items.

MR. LUEVANO: Second.

GOV. ANDERSON: It has been moved and seconded that both the item on the calendar and the supplemental item on page 62 and 63 be approved, carried unanimously.

Anything further on Long Beach? (No response)

Item Classification Number 4 -- Land items -- sales, selections, etcetera. All land sale 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. Item (a) is the sale of vacant State school lands. Applicant number (i) is J. Stanley Johnson.

MR. HORTIG: Mr. Chairman, concurrently with the
preparation of this calendar item, there was received from
the Department of Fish and Game the following communication:

"This parcel is included within a block of public domain land in the Ord Mountain area, in which we have a considerable interest for wildlife and recreation purposes. We have requested that the Bureau of Land Management consider classifying this area for retention in public ownership and management for wildlife and recreation under Section 7 of the Taylor Grazing Act. We have indicated to the Bureau of Land Management that we anticipate processing a request for a national cooperative land and wildlife management area on these lands.

The topography and vegetation of this Section 16 parcel make it one of the best chukar partridge and quail ranges in the general area. There is public access to and through the parcel over the Lucerne Valley cutoff and Stoddard county road.

We request that the South ½ of Section 16, Township 7 North, Range 2 West be retained in public ownership to facilitate blocking out the surrounding public domain lands.

Sincerely,

W. T. Shannon, Director
Department of Fish and Game"

In view of the general statements and prospective intents of the Department with respect to this parcel, it was requested that the Department of Fish and Game have a representative here today to explain to the Commission and to substantiate this, so that the Commission could properly consider whether these lands should be withheld from sale and should be retained in public ownership in view of requirements to be detailed by the Department of Fish and Game. So, Mr. Chairman, if you find it convenient to call upon the
representative of Fish and Game, you would then have before you
the full background with respect to this item.

GOV. ANDERSON: Is the representative of the Fish
and Game Department here?

MR. JONES: Yes sir.

GOV. ANDERSON: Will you come forward and identify
yourself for the record?

MR. JONES: My name is Fred Jones, Game Management
Supervisor in the Department, representing the Director. I
have a map here that may be of some interest. I wonder what
might be the best way -- would you like it up in front of you
or shall we try to put it up on the wall somewhere?

MR. LUEVANO: It's small. You can hold it and we can
see it.

MR. JONES: The red section there would be the half
of the school section that is under consideration for sale to-
day. The green portions are the public domain lands that we
do have some interest in. Our only purpose of being here today
is to explain to you the public values of this parcel as we
see them, at least the potential and the relation of this parcel
to our cooperative State-Federal land management area program.

I might give you a very brief explanation of this
cooperative land and wildlife management area program, so you
will understand why we are interested in this. About ten years
ago, the Department of Fish and Game began conducting extensive
surveys of unallocated public domain lands in the State to
determine the large blocks primarily, but some small pieces that had substantial wildlife and recreation values. Now, we have requested that these be withdrawn from public sale through the Bureau of Land Management and the Secretary of Interior. Over the past ten years we have requested that twenty-five parcels be considered for withdrawal, for retention in public management. This totals about 850,000 acres.

This primarily did not really get off the ground until last Spring, until Secretary Udall began to exercise his new position. This spring and summer he established seven large wildlife management areas. These 320,000 acres are scattered over the State from San Diego County to Siskiyou County, and the smallest of these is about 23,000, the largest 60,000 acres.

With that expression of interest by the Secretary of Interior, we have proceeded to survey other blocks of unallocated public domain lands which do have high wildlife and recreation values. This is one of those. We have not submitted this as a withdrawal request yet. Under our procedure, we would go through the Fish and Game Commission and we have not done it in the process of submitting other proposals to the Fish and Game Commission. In the potential interest of action on this land, we have submitted reports to them on this parcel and a number of others for consideration in their classification procedure under Section 7 of the Taylor Grazing Act. They have this map and our recommendation as to the values in their hands.

We anticipate next spring presenting to the Fish and
Game Commission a large package of new proposed areas, in order
to give to the Secretary of Interior all areas that are of
interest before his moratorium on land sales expires next
September.

That, in brief, explains our cooperative State-
Federal program. Actually, this has received the support of
the Governor. One of the points of his campaign was to strive
for full public recreational use of public lands in the State.
Now, President Kennedy has also indicated a general interest
in this sort of thing, and Secretary Udall has indicated a
strong interest by establishing these units.

I don't know whether you would be interested in any
particular details on what we consider to be the general details
of wildlife value in this particular area.

GOV. ANDERSON: Now, these green plots -- is it
your intention that this become one solid area of public land
for recreational use?

MR. JONES: Yes, and for other multiple uses --
oil and gas leasing would continue and other uses.

GOV. ANDERSON: In other words, the State would own
the land and lease it out?

MR. JONES: No. The Federal Government would continue
to manage the land, at the present time through the Bureau of
Land Management. The State would obtain some tenure for making
some public land improvements by withdrawing these lands from
sale.
GOV. ANDERSON: The green portion is owned by the Federal Government?

MR. JONES: Yes, and others possibly by the State.

GOV. ANDERSON: How big will this area be in miles? You called this the Ord Mountain area?

MR. JONES: Right. It encompasses 129,900 acres -- the green portion there.

GOV. ANDERSON: Presently; and it is about to build those together by acquiring back the white in between?

MR. JONES: Well, the Bureau of Land Management is interested in conducting exchanges where possible. You know this is a long and tedious procedure.

GOV. ANDERSON: But eventually it would be hoped this would become one solid area?

MR. JONES: It would be hoped, but obviously it would not ever become a solid area because obviously some of those parcels would not want to exchange.

MR. LUEVANO: Would you get use permits? Is that what you apply for from the Bureau of Land Management?

MR. JONES: Under the cooperative program we will operate very likely under a statewide master agreement, which will include arrangements for making capital outlays for water development and so forth.

MR. LUEVANO: Long term?

MR. JONES: We have no detail. What we hope we will be able to include are provisions for reversion to the Federal
Government of any public improvements like roads, with provision that the public will be allowed use in case any of these lands do revert to private ownership at some time in the future, thirty, forty, fifty years.

There is one other thing we hope to do, gentlemen. We have had some discussion with Mr. Hortig and other members of your staff with regard to the part that State Lands might play in this cooperative management area program. On these seven areas that have been established, on the eighteen we have pending, and on the dozen or so that we are working on now for future submission, there are unsold school lands and other State lands. Some of these turn out to be in critical spots so far as public access is concerned; in other words, they control a ridge on which a road might go to provide public access to a large block beyond. In private hands, there are possibilities of really infringing on free public use of these areas, which is, of course, the primary purpose.

GOV. ANDERSON: Why was this held up until the last minute? It would seem to me to be very unfair to the applicant to wait until it comes up for final sale -- after, I assume, we are holding his money -- and at the very last moment have this kind of protest that it be withdrawn come in. I thought these were processed long before they actually got to the Commission itself, and you would take it off before it got to the Commission.

MR. HORTIG: This was one that was processed in the normal routine and the seeming late request from the Department
that it be withheld from private sale had to come in concurrently with the final stages of this proposed processing simply because the Department of Interior program for this type of operation which Fish and Game is interested in integrating was not established until late this year. It did not become effective until late this year, concurrently with normal processing of land applications, and this was one that was pending that the Commission had authorized be processed in the normal routine; and during the course of this, the new Federal program which is going to be of assistance to the Department of Fish and Game was set up; and, actually, as you have heard (as developed by Commissioner Luevano's question) the details have not been worked out.

So we are really in a state of flux with respect to the need or desire for these particular lands. Fish and Game at this time feels -- and from their standpoint very properly -- that it would not be advantageous to sell a parcel as vacant school land within the exterior limits of an area which they are, in effect, studying for public use. So we were caught by the accident of the timing on this, with a new Federal program being made up and the fact this particular parcel was ready to be closed out for sale.

I might recommend to the Commission -- in view of the fact that this question is really one of a series that must be determined in an over-all land administration and sales policy by the Commission, which is under preparation for
submission to the Commission -- that the sale of this particular parcel of land, under these circumstances, might be deferred by the Commission, with the option to the applicant to either have the refund of his deposits or, if he desires, to wait out the development of the land sales policy and leave his money on deposit so that if there were a final determination to sell these lands into private ownership he would still be the first applicant and the high bidder and could receive the lands at that time -- this choice to be up to the applicant.

I must point out to the Commission that in withholding lands of this type until the development of the land disposition policy it should not be misunderstood that there is any commitment that automatically, because of the withholding, these lands are being withheld in perpetuity for public use. There are still going to be specific areas that the Lands Commission is going to find, as a matter of administrative policy and other considerations, require or make it most desirable that the lands still be sold into private use rather than be held for public use; but since this has to be determined in reference to the framework of a full policy which is not yet before the Commission, it would appear proper to withhold the sale at this time without any commitment as to any disposition to be made of it.

GOV. ANDERSON: When will that policy be before us?

MR. HORTIG: Probably shortly after the first of the year.
GOV. ANDERSON: And this will come from . . . .

MR. HORTIG: . . . from the staff to the Commission, for a program to determine what the Commission desires to do and feels is proper.

GOV. ANDERSON: Are you working with the Department of Interior now about what they want and what their program is going to be?

MR. HORTIG: We are aware of the position the Department of Interior is taking and we are recommending to the Commission a State program that can be compatible and be integrated with the Federal program, rather than have two programs going off in diametrically different directions.

GOV. ANDERSON: So if we defer this and let the applicant have an opportunity to defer withdrawal of his deposit or take it out, we are talking about deferring it until not later than March?

MR. HORTIG: To the spring, not later than the spring.

GOV. ANDERSON: Are there any other applications like this on the calendar today?

MR. HORTIG: This is the only one to which there is an exception.

MR. LUEVANO: Are there any other ones in process that we might get requests for withdrawal on?

MR. HORTIG: Probably not. Proportionately, the number will be very small. There are only about fifteen applications remaining unprocessed and they, again, are scattered;
and this is the first in several months of this type that has arisen; and they do arise when Fish and Game and other desiring agencies screen these as a result of our circulating information to the departments when these items are ready to close. We probably have been averaging less than one out of fifteen, so I would estimate we would be surprised if we had more than one conflict out of all the remaining applications yet to come.

MR. JONES: I believe this is the second one, I believe, that we had.

MR. HORTIG: And this is since May the 24th, 1960.

MR. LUEVANO: I'll move that this item be deferred, this one parcel.

GOV. ANDERSON: In concurrence with Mr. Hortig's recommendation?

MR. LUEVANO: Yes.

MR. CRANSTON: Second it.

GOV. ANDERSON: It has been moved and seconded. Any further comments? (no response) If not, then it is carried unanimously.

Applicant (2) is Howard Leighty and Fred Marmie -- appraised $13,440; the bid is the same. Applicant (3) is Joe W. Palmer and Monica M. Palmer -- appraised $16,000, the bid is $16,000.

Do you want to catch the balance of (a) before we take up (b)?

MR. CRANSTON: I move approval of items (2) and (3).
MR. LUEVANO: Second.

GOV. ANDERSON: Moved and seconded. If no objection so ordered. (b) is the selection of vacant Federal lands or behalf of the State. Applicants do not desire to proceed with acquisition of the lands. (1) is 36½ acres in San Bernardino County pursuant to application of Robert Williams Clark; number (2) is 320 acres in San Bernardino County pursuant to application of Joseph A. Uhlenkott; number (3) is request for United States patent to numbered school section, Siskiyou County -- authorization for Executive Officer to issue appropriate request to U. S. Department of Interior, Bureau of Land Management, for U. S. patent in favor of State covering 625 acres in Siskiyou County.

MR. CRANSTON: Move approval.

MR. LUEVANO: Second.

GOV. ANDERSON: It has been moved and seconded -- no comments, approved unanimously.

Item Classification Number 5 is the Huntington Harbour Corporation -- exchange of lands, Huntington Beach, Orange County. Do you want to explain it before we go through (a), (b), (c), (d), (e) and (f)? One explanation can cover it all, can’t it?

MR. HORTIG: One explanation can cover it all, Mr. Chairman. As the Commissioners will recall, in anticipation of the establishment of an Interior harbor landward from Sunset Beach, Orange County, the Commission reviewed the program and
agreed with Huntington Harbour Corporation heretofore to exchange, as provided by law, the bed of a navigable slough for new channel areas to be dredged by Huntington Harbour Corporation — the contract for exchange to be completed and approved for exchange only after the new channels were dredged in fact and the old channels that were to be filled, were filled in fact. These have been accomplished, verified by field inspection by the State Lands Division. All areas to be filled have been filled; all areas proposed to be dredged to provide new navigation channels with greater navigation facility and flexibility than the original channel have been completed, as well as providing for the additional benefits to the State of reclamation and flood control — these have all been completed.

In lieu of retaining operating rights on the former tortuous channel for potential future mineral development, the Huntington Harbour Corporation has offered to exchange for those occupancy rights a selected area of firm, dry land immediately adjoining the State highway, which is of sufficient size and appropriate location to complete development of all reserved minerals if such development ever becomes necessary by the State.

The documentation to approve the final exchange and including the exchange of surface rights on the former tortuous slough for a drillsite which will be available to the State of California for all time for mineral development as, if and when necessary, as well as technical corrections in the legal
descriptions of the areas proposed to be exchanged to correctly reflect that which exists on the ground today and which was not anticipated at the time of the original presentation to the Commission -- this documentation, which it is recommended be authorized for execution, is detailed under items (a) through (f) under Agenda Item 5.

GOV. ANDERSON: Now I'll read the items:

(a) is to amend proposed exchange to reduce area of State lands from 23.2 to 17.91 acres and increase Huntington Harbour lands from 61.3 to 66.47 acres.

(b) is to amend proposed exchange agreement to delete the reservation of future right to occupy surface for mineral extraction and authorize acceptance of specific drillsite.

(c) is guarantee of public access.

(d) is to find that requirements of exchange agreement and of permit to dredge and fill have been met, and that exchange should be consummated.

(e) is find best interest of State to be served by exchange of 0.97 acre of State land for 3.56 acres of Huntington Harbor land.

(f) is to authorize Executive Officer to execute agreement stipulating location of ordinary low water mark and agreement for exchange of lands, and to issue permit to fill.

MR. HORTIG: Mr. Chairman, it should be brought to the attention of the Commission that the Commission's approval is predicated on the condition that there will be a determination
and can be a determination by the Office of the Attorney General that Huntington Harbour Corporation is able to furnish the State marketable title. If they should be unable to do this -- and I am sure I can feel them shuddering all the way up here at the thought -- if they should be unable to do this, there would be no deal; the State would still be in possession of its water course, although actually part filled, and used for navigation before -- and the Huntington Harbour Corporation would have a series of large dredged canals and nowhere to go. There is no thought nor reasonable or unreasonable expectation that Huntington Harbour might not be able to furnish the title. However, this is the final safety factor which has been suggested for inclusion by the State Lands Commission.

GOV. ANDERSON: Is there a motion?

MR. CRANSTON: All State oil interests are preserved?

MR. HORTIG: They are covered.

MR. CRANSTON: I move approval.

MR. LUEVANO: Second.

GOV. ANDERSON: Moved and seconded, carried unanimously. Item Classification 6 -- Authorization for Executive Officer to request Attorney General to file action to quiet title to 80 acres of school land in Imperial County. Mr. Hortig.

MR. HORTIG: Yes sir. If I may refer to page 57, despite the seeming complexity, the problem arises rather simply from the fact of sales cancellations by the Surveyor General as the predecessor in interest to the State Lands
Division, who were the predecessor in interest to the State Lands Commission, and during the time of recordation in the County of Imperial as to the purported sale by the Surveyor General the local tax collector proceeded to encumber the record even further by selling these lands (which technically were still owned by the State) at a tax sale — under which circumstances the Imperial Irrigation District acquired these lands.

Everybody cooperatively recognizes that the only way this is ever going to be unraveled is by quiet title action in the Superior Court of Imperial County. This is also the recommendation of the Office of the Attorney General for procedure and, therefore, it is recommended that the Commission authorize the Executive Officer to request the Attorney General to file the necessary action in order that the record title of this parcel of State-owned land may be cleared once and for all — or, at least, currently.

MR. CRANSTON: I move approval.

MR. LUEVANO: Second.

GOV. ANDERSON: Moved and seconded, carried unanimously. Item 7 is authorization for Executive Officer to accept and record quitclaim deed from United States of America to 631.345 acres of school land in Imperial County. Lands were taken on condition that title revert to State when no longer needed in interest of national defense.

MR. HORTIG: This is a situation, Mr. Chairman, that we never expected to see; but we thought, again in protection
of the State's interests, at the time the land was taken for defense purposes, since the lands were taken at no fee, that this would be a desirable factor. The United States has determined now that these lands are no longer needed for defense purposes and have offered to quitclaim back to the State and the Lands Commission; and it is recommended that the quitclaim be accepted -- which will result in an original 631 acres of vacant State school land coming back to the State and again being characterized on that list, or classified on such list.

MR. LUEVANO: I move approval.

MR. CRANSTON: Second the motion.

GOV. ANDERSON: Moved and seconded, carried unanimously. Item Number 8 -- Proposed oil and gas lease, Santa Barbara County, Parcel 6.

MR. HORTIG: Mr. Chairman, members of the Commission, you will remember an original offer in the sequential oil and gas procedure of the State Lands Commission of a Parcel 1 in the Point Conception area. Parcel 6, being recommended today for authorization to offer by the State Lands Commission is a revised, somewhat relocated expansion of the area that was offered under Parcel 1, for which no bids were received. Patently, the revisions in the size of the parcel and the location are hopefully intended to produce some bidders for this parcel when it is advertised.

MR. LUEVANO: I'll move approval.

MR. CRANSTON: I second the motion. I'd like to ask,
however, how much does this parcel overlap the previous parcel or does it include the previous parcel?

MR. HORTIG: It includes all the previous parcel and is actually a little larger to the west, Mr. Cranston.

GOV. ANDERSON: Any further discussion? (No comment)

It has been moved and seconded, carried unanimously.

Item 9 -- Confirmation of transactions consummated by the Executive Officer, pursuant to authority confirmed by the Commission at its meeting on October 5, 1959.

MR. HORTIG: These items, as reflected on page 60, represent the routine extension of two geological exploration permits previously authorized for issuance by the Lands Commission, in accordance with established rules and regulations. The extensions were only as to time -- no modifications as to purpose.

MR. LUEVANO: No action needed on this?

GOV. ANDERSON: No action needed?

MR. HORTIG: No -- confirmation desired.

MR. CRANSTON: So move.

MR. LUEVANO: Second.

GOV. ANDERSON: Moved and seconded that that will be confirmed -- carried unanimously.

Item Number 10 is administrative and policy matters -- Commission resolution on Fair employment practices. I believe Mr. Cranston, this was yours?

MR. CRANSTON: Yes. Despite the fact we have had no
a Fair Employment Practice Act in California for two years, I gather in some cases some agencies of the State Government have not been fully aware of that act nor implemented its full intent. I have heard no complaint about the State Lands Commission, but nevertheless I thought it might be well to have a resolution and have it on the record for all areas that might be touched by this resolution. For that reason I propose the following resolution:

The policy of the State Lands Commission has been and is nondiscrimination. Every employee in a supervisory or hiring capacity is expected to hire and upgrade employees on the basis of merit, without regard to race, religion, national origin, ancestry, age, or sex.

There are to be no exceptions under the policy.

Nondiscriminatory employment has been found to be not only fair and decent, but sound business practice. Every position in the State Lands Commission is to be filled by the best candidate, whether or not persons of his age, race, etc. have ever held the position in the past.

It is the responsibility of every supervisor to make the intent of this policy truly operative with respect to all positions under his supervision.

MR. HORTIG: Mr. Chairman, a question, please. Mr. Cranston, you are, of course, aware of the fact that there are age limitations on classifications specified by the State Personnel Board, adherence to which certainly would not be
considered discrimination in the manner in which you have phrased this.

MR. LUEVANO: Does the legislation that was passed on this last question of age affect those particular limitations?

MR. HORTIG: In some instances. In some instances they may ultimately result in revision of Personnel Board regulations.

MR. LUEVANO: Are they exploring that matter now?

MR. HORTIG: I must assume they are.

MR. CRANSTON: It might be appropriate for us to suggest they do so if they are not.

GOV. ANDERSON: Do you second this?

MR. LUEVANO: You have moved?

MR. CRANSTON: Yes.

MR. LUEVANO: If you haven't I will.

GOV. ANDERSON: It has been moved and seconded that this resolution be made a part of the policy of the State Lands Commission. It is unanimous.

MR. CRANSTON: In implementation of this, this is a suggestion: The Fair Employment Practice policy of the State Lands Commission is set forth in the attached resolution adopted by the Commission and in the enclosed bulletin of the Fair Employment Practices Commission. The resolution should be distributed to all of your employees. The bulletin should be posted in a conspicuous, well lighted place in each office
of your Division frequented by applicants and employees. Extra copies of the bulletin are available from the Executive Officer of the State Lands Commission. The policy of non-discrimination and content of the bulletin should be reviewed with your supervisors, who, in turn, should review them with their employees to insure universal understanding.

MR. HORTIG: We will comply.

GOV. ANDERSON: Carried unanimously. I have a letter that I would like to have made a part of the record and it is relative to our drilling beyond the three-mile limit, and it is a letter to the Honorable Stewart L. Udall, Secretary of the Interior, Office of the Secretary, Washington, D.C.:

"Dear Mr. Secretary:

As chairman of the State Lands Commission of the State of California, I want to commend you for your action, as announced on November 14, 1961, appointing a four-man Departmental Committee headed by Undersecretary James E. Carr to work with the Department of Justice and the State of California to reach an agreement between California and the Federal Government concerning offshore drilling for oil on submerged lands along the California coast.

The other two members of the California State Lands Commission, State Controller Alan Cranston and Director of Finance Hale Champion, join with me in expressing the unanimous desire of this Commission to cooperate in every way possible in expediting the work of your committee headed by Undersecretary Carr in seeking ways to begin offshore drilling for oil on submerged lands along the California coast.

The agreement between yourself and California’s Attorney General Stanley Mosk to appoint a joint committee from your staffs to study the advisability of an agreement to permit drilling to proceed without objection is an important step forward.

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA
"However, while this joint Federal and State study of the legal aspects of the situation is being made, the California State Lands Commission feels that many technical and policy studies should be undertaken concurrently. I am, therefore, writing to both Undersecretary Carr and yourself to request that the Departmental Committee headed by Mr. Carr meet with the California State Lands Commission at the earliest convenient date.

I discussed this matter personally with Mr. Carr in Los Angeles last week, and I believe we are in full agreement that such a meeting could have fruitful results. By early action in exploring the policies and agreements which must eventually be agreed upon by the Department of the Interior and the State of California, we hope to advance the time table for developing vast potential oil resources now going unused.

We would, of course, be pleased if Mr. Carr's committee would find it convenient to meet with us in California in the very near future.

Very truly yours"

I'd like to send that to Mr. Udall and I'd like to have a motion, if possible, approving the content of the letter.

MR. CRANSTON: I so move.

MR. LUEVANO: Second it.

GOV. ANDERSON: Moved and seconded, carried unanimously. I think that's the last item outside of the next meeting, which I believe we agreed on was December 21st, 10 a.m. at Sacramento.

MR. CRANSTON: December 21st?

MR. LUEVANO: 10 a.m.

GOV. ANDERSON: Wasn't that what we had agreed upon, Mr. Hortig?
MR. HORTIG: This was discussed as a potential date. There had not been a determination and that's the reason we asked for a determination.

GOV. ANDERSON: I don't know why we made it ten a.m. Is nine a.m. all right for the rest of you?

MR. HORTIG: Inasmuch as you are again proposing to hold it in Sacramento, I am therefore proposing that for the people coming up from Los Angeles they can make it with a ten a.m. arrival flight -- which they cannot do at a nine o'clock meeting.

GOVERNOR ANDERSON: Anything else?

MR. HORTIG: I would like to mention, Mr. Chairman -- it is not on the agenda, but the Commission did receive this morning two letters of protest to a proposed annexation, assumedly of tide and submerged lands and one telegram from William D. Moore of O'Melveny and Meyers on behalf of Capistrano Beach Club Company, Capistrano Beach, objecting to a proposal by the City of San Clemente to annex tidelands north and west of that city; and, similarly, a telegram from John H. Dawson, City Attorney of San Juan Capistrano, protesting to an attempted annexation of Capistrano from the three-mile limit to Dana Point.

I bring this to the Commission's attention because they were received this morning, but there is no prospective annexation calendar item, nor is there any uncompleted annexation.

MR. FINNICK: I also came up to bother the Commission
from San Clemente on this question and if I could have a few moments....

GOV. ANDERSON: Now, we do not have an item before us.

MR. PINNICK: I know you don't have. There are certain questions we wanted to put before the Commission and get its thinking on the matter. I don't think it would take very long if I could discuss it with you for a moment.

GOV. ANDERSON: Who do you represent?

MR. PINNICK: Wallace Pinnick. I am/attorney in San Clemente and represent the Capistrano Bay Improvement District. It is a group of homes on the shore, a few hundred of them. I also have authority from Mr. Dawson to represent his city. He is the City Attorney of San Juan Capistrano, a beach community. I also have authorization from Louis Viereck who is attorney for Harvey Company, who own quite a bit of shoreline.

The problem is this: San Clemente is a city that has a frontage on the ocean of about two and a half miles, maybe not quite that much -- I wish I had time to get diagrams. They are asking to annex not only the area, the land on the front and to the three-mile limit, they are proposing all the way to Dana Point. That area outside of the City limits of San Clemente is the ocean frontage of the people that I represent. As you know -- you know the Code better than I do -- the only ones that can object to an uninhabited annexation are
the owners of property in that proposed area and there aren't any owners except the State -- or at least we haven't been able to discover any up to this time. We have in our group people who own piers that extend out into the ocean, but they are taxed on the adjacent shoreline. We have no standing in court.

GOV. ANDERSON: Is this annexation before your Board of Supervisors now?

MR. PINNICK: Under the provisions of the uninhabited portions of the act, it does not go before the Supervisors. We wish it did. That is our problem. We have nobody but the City of San Clemente to protest to and, as I say, under the provisions of the statutes we have no standing to protest even to them.

GOV. ANDERSON: Can I ask a question of our representative of the Attorney General? I thought even these matters came up before the Board of Supervisors.

MR. JOSEPH: That's not my impression.

GOV. ANDERSON: Wasn't the last one that we had in Santa Barbara -- this was the city ....

MR. HORTIG: County Boundary Commission.

MR. PINNICK: San Clemente has gone through the Boundary Commission, which has supervisors on it.

GOV. ANDERSON: So, in fact, you have had that hearing?

MR. PINNICK: That hearing; but, of course, the Boundary Commission's authorization is only to determine
whether the boundaries are correctly outlined. They have no authority to say "No, you can't annex this territory." It is an unusual section of the law in that when you go after submerged lands or tidelands there are no property owners and the only one that determines whether the annexation can go through or not is the City Council of the city seeking the annexation.

Now, that's our problem. We want to induce the Lands Commission to do as they did in the Santa Barbara case and protest the annexation of the lands by San Clemente; and, mind you, we do not wish this protest to be made as to the area of tidelands adjacent to the City of San Clemente. We believe it is right and proper they should have those; but those that extend beyond the city limits and go to the other communities, we do not believe the State Lands Commission should allow that without some protest.

One last question: The reason that we came here so precipitately and perhaps so unprepared is because of this uncleanness in the law. I talked to Mr. Hortig's office, Mr. Blacker there, and several people in other agencies. They admit there are these unusual provisions. You have just set your next meeting for December 21st. San Clemente set the protest hearing for December 20th. This is going to be an accomplished fact on December 20th.

MR. HORTIG: Except possibly -- and in deference to my legal colleague across the table, I'll practice law without a license -- administratively, at least, in the past we have
been informed by the Office of the Attorney General, and in
view of the modifications to the annexation statutes relating
particularly to proposed annexation of tide and submerged lands
under the jurisdiction of the State Lands Commission, that such
annexation cannot be effected until there has been a protest
hearing held based on consideration of the protests, if any --
based on the value of the tide and submerged lands proposed
to be annexed; which statute also requires that the value of
such tide and submerged lands must be appraised by the State
Lands Commission and reported to the proposed annexing author-
ity on application of the proposed annexing authority.

We have had no application from the City of San
Clemente. The City of San Clemente cannot, it would appear,
hold a protest hearing at which they can consider the appraised
value of the tide and submerged lands which must be made by
the State Lands Commission, simply because the State Lands Com-
misson hasn't appraised it, simply because they have not been
asked to appraise it.

MR. LUEVANO: So our rights are not affected?

MR. HORTIG: This annexation protest hearing cannot
be held without an appraisal by the State Lands Commission.

MR. JOSEPH: I am not familiar with the proceeding.

I know there is an appraisal provision.

MR. PINNICK: I have done quite a bit of law on this
and I know there must be an agreement on the value of the
annexed land. If there is not, the annexing body must suspend
its procedures and file in court as to a declaration of value. However, that is merely an administrative thing. I don't see any area of disagreement. If this Commission puts a value on these tidelands for tax purposes, it is probably going to be zero. Certainly the City of San Clemente is not going to disagree with you. Furthermore, the time limit is not set out in the law. It does not say "before the protest," I beg to differ with you there. I wish it did — it could not follow the protest hearing. They have already set this protest hearing. Their attorney has done it without requesting the evaluation procedure. It is set for December 20th. This Commission does have the right to protest such annexation, but the law does not say what steps it should take in protesting. Does it make an affirmative protest? In the Santa Barbara annexation, I understand this Commission did take an affirmative stand and did protest the annexation; but the law doesn't say how it must protest.

They are going to send up their resolution after December 20th and the necessary papers, and file them with the Secretary of State; and unless they get into a disagreement on the valuation -- we have a pier out there we are hoping will give us some standing in court, but if we could have the Lands Commission come in and help determine it, it would help us.

GOV. ANDERSON: Why can't you look into this? Do you have to wait until you are officially notified?

MR. PINNICK: That's another point, Governor Anderson.
There is no way they are supposed to notify you -- that's not required. The only thing that's required is that they agree with this Commission on the annexation -- no necessity that they advise you of the annexation.

MR. HORTIG: First, patently, Governor, every other annexation of submerged lands and tidelands considered by the Commission has been pursuant to notice. Certainly, if not spelled out in the law, there are adequate procedural precedents established by all other communities who have heretofore annexed tide and submerged lands since the Government Code has been in the stage it now is; this on the basis of at least all other attorneys' interpretation of what the statutes require, including the Office of the Attorney General.

On directive of the Commission, definitely the staff could undertake an immediate investigation. My suggestion is that ...

GOV. ANDERSON: Check that portion of the law, too.

MR. HORTIG: I wouldn't want the Commission to give us, in effect, a blank check; but suggest to the Commission that if staff investigation in conjunction with the Attorney General's Office determines that there are unresolved questions and that there are areas in which the Lands Commission might and properly should take action if they had been properly notified and they have not been before the closing protest date as outlined by Mr. Pinnick, that the staff be authorized to transmit a letter to the City Council of the City of San...
Clemente, stating the Lands Commission's position to be desirous of having an extension, at least, of this hearing in order that the problems on which the Lands Commission must make findings may be properly and expeditiously resolved before the City closes the door technically on this situation. I wouldn't believe they could do it validly, but I would say it would be very much simpler to keep the door open while the problems are unresolved, rather than wait until it is an accomplished fact, if this gentleman's legal analysis is correct.

MR. PINNICK: I didn't trust my own view on this opportunity to protest to this body. I talked to Mr. Blacker in your Los Angeles office. I discussed this with Mr. Goss, who I understand is now a judge and who is probably less interested.

MR. CRANSTON: That will be stricken. He will have interest until he becomes a judge.

MR. PINNICK: I congratulate him. I have never met him. I have searched the law and we don't find provision for notice. Since this thing is set for December 20th, evidently the City of San Clemente doesn't believe after their research that this is required.

MR. CRANSTON: Do you feel what Mr. Hortig proposes would give you an opportunity to protect your interests?

MR. PINNICK: Anything that Mr. Hortig proposed would probably be the correct approach.

GOV. ANDERSON: You would ask an extension of time
from the City so that proper procedural steps could be taken?

MR. HORTIG: That's correct.

GOV. ANDERSON: If they say they are going ahead with their annexation proceedings on the 20th, that we would then make a protest at that time?

MR. PINNICK: I really would appreciate it if it could go that far.

MR. HORTIG: Protest not on the annexation, but protest as to closing the annexation without having given the necessary notice and brought the full matter for consideration to the Commission, to the extent the Commission is authorized to consider it. If there were then an arbitrary closing of the hearing, nevertheless, then the staff recommendation would be to have the Attorney General seek to attack the proceedings by quo warranto proceedings -- something we have had to employ successfully in the past where earlier municipalities, before the Code was as detailed as it is, did such things, proceeded without notifying anyone on the theory if they didn't tell them they couldn't protest and therefore they had a valid annexation. The courts have explained to these municipalities that this is not the case -- that they cannot, by simply forgetting to tell the Lands Commission or whoever is concerned, avoid protest by this means. This is the basic defect in this thing.

MR. LUEVANO: Your recommendation is basically procedural -- it doesn't go to the question of the annexation?
MR. HORTIG: That's right.

MR. PINNICK: One other question: The Code provides that if more than fifty percent of the owners of privately owned land in the uninhabited area protest, then the annexation must be dismissed. Of course, as I have explained, we have found no privately owned land in the submerged land area. The Code goes on to say that if more than fifty percent of the publicly owned land -- if there is a protest by the proper body as to more than fifty percent of the publicly owned land, then they must dismiss the proceedings. I believe that it either implies or then states if no such protests are received at the time when notice is filed for the protests that the annexation is complete and all they have to do is file their final documents with the Secretary of State. That's why I would very much like, if they will not set over this December 20th meeting to give this body time to study -- it's like San Francisco calling all the areas south of the city their tidelands -- if they won't hold up, I would ask this body to put in a protest. Protests can be withdrawn, if at a later time you determine you have no protest. You have here oil rights, marine rights. It's a phenomenal thing. One of the Boundary Commissioners said this is immoral. Maybe it isn't it may be legal and immoral too.

MR. CRANSTON: Mr. Chairman, I move the decision of the Lands Commission be that which was stated by Frank Hortig, namely that we investigate the matter; that we seek a delay to
explore it; if we find we can't get that delay, that we then submit a formal protest to give us time to explore it.

MR. LUEVANO: I second it. May I ask a question?

In filing a protest, must you give a reason for the protest?

MR. HORTIG: This, of course, would be developed in conjunction with the Office of the Attorney General. In view of the fact that apparently -- this I have derived from Mr. Pinnick's statements -- the only area proposed to be annexed is tide and submerged lands, that there are no privately owned lands and that fifty percent of the value protesting with respect to the tide and submerged lands is sufficient to stop the proceedings, in this case the protest of the Lands Commission would be as to one hundred percent of the value, whatever the dollar value may be, and this couldn't help but be effective.

MR. PINNICK: You don't have to give reasons, as I understand it. You simply say you don't want to be under the administrative proceedings of that city.

GOV. ANDERSON: Moved, seconded, carried unanimously. Any other items before the Commission? (No response) If not, we will adjourn until our next meeting December 21st, ten a.m.

ADJOURNED 10:25 A.M.
CERTIFICATE OF REPORTER

I, LOUISE H. LILLICO, reporter for the Office of Administrative Procedure, hereby certify that the foregoing thirty-five pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION at Sacramento, California, on November 22, 1961.