TRANSCRIPT OF MEETING of STATE LANDS COMMISSION SACRAMENTO, CALIFORNIA December 21, 1961

PARTICIPANTS:

THE COMMISSION

Hon. Alan Cranston, Controller, Acting Chairman
Hon. Hale Champion, Director of Finance
Mr. Frank Hortig, Executive Officer
Mr. Alan Sieroty, Administrative Assistant to Lieutenant Governor Anderson

OFFICE OF THE ATTORNEY GENERAL

Mr. Paul M. Joseph, Deputy Attorney General

APPEARANCES:

Mr. John H. Dawson, City Attorney for the City of San Juan Capistrano
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MR. CRANSTON: The meeting will come to order.

Lieutenant Governor Glenn Anderson is hung up in the fog in Los Angeles and so are various other people who wish to be here representing San Clemente and adjacent communities in regard to an item involving an annexation in the San Clemente area. In view of the inability of these people to be here this morning, or perhaps all day, it is thought it might be wise to postpone action on that matter until our January meeting in Los Angeles, at which time we will be closer to those interested and there will be an opportunity for all those who wish to be here. It is our understanding that there are no time or calendar problems involving this annexation that would cause any hardship by this delay. I would like to know if there is anyone here that objects to this proposal.

MR. DAWSON: Mr. Chairman, I came up here representing the opponents and I believe all of them ....

MR. CRANSTON: The opponents?

MR. DAWSON: The opponents, yes, with the exception of Ken Sampson, who is the Harbor Commissioner down there.

MR. CRANSTON: What is your name?

MR. DAWSON: John H. Dawson, City Attorney for the City of San Juan Capistrano,

MR. CRANSTON: Would you object to our putting the matter over until January? Then we can advise people at the airport that they don't need to be desperate and don't need to come up.
MR. DAWSON: Only the consideration of the time -- I am afraid you have not less than forty or more than sixty, is that correct, Mr. Joseph?

MR. JOSEPH: Right.

MR. CHAMPION: We have been informed there is no legal time problem in this action.

MR. JOSEPH: Once the meeting is set up, it may be postponed.

MR. DAWSON: It may be postponed; but, frankly, there is no obligation on the part of the City of San Clemente to postpone the meeting. They are, I understand, postponing the meeting to await your decision.

MR. HORTIG: May I interrupt. "At a regular meeting of the City Council of the City of San Clemente held Wednesday, December 6, 1961, it was moved by Councilman Wrightman, seconded by Councilman O’Hearn and unanimously carried that the public hearing of December 20, 1961 shall be further continued until such time as a report from the State Lands Commission is received."

MR. DAWSON: Well, under those circumstances, gentlemen, in spite of the fact that I wandered up here on the Greyhound bus in the fog, I can see no formal objection to your postponement. However, I am in a position to express to you the position of the Board of Supervisors, the Harbor Commissioner and Capistrano Beach. In fact, I think I can give you the position of San Clemente, but I don’t think that
would be quite ethical.

MR. CRANSTON: They have hanging in the air a request that they not act until we act, so wouldn't they be considered to be under constraint?

MR. HORTIG: They do not have a formal request as such, but in view of the Commission's announcement at the last meeting here in Sacramento, cognizance was taken of this in the City Council resolution I just read to you and they are obligated to continue until such time the Land Commission can hear and report on the matter.

MR. CHAMPION: This wire that I received from the City of San Clemente indicates their City Council is meeting this morning and is hoping to have some word on our action, so they should be advised.

MR. CRANSTON: Our deferral is so the City of San Clemente can present their side, as well as the opponents, so obviously in fairness they will not act until they have heard from us.

MR. DAWSO: I agree and I don't ever like to distrust my opponents; but I would make one further suggestion, if the Commission would see fit, and that is to send a written communication by way of resolution or otherwise that unless the hearing is postponed until further word from the Commission, that if they go ahead, this would be considered as a protest. This would protect our people and I can see no objection to it. I represent two city councils and I think you know how
the wind blows.

MR. CHAMPION: I think that colors our future action. I think just advising them is sufficient, will cover it.

MR. DAWSON: I think you are right. We have resort to the courts later in any event, so I make no further objection.

MR. CRANSTON: It would appear that no formal action is necessary and I think a clear record has been made of this matter this morning. We will recess for a moment and advise the City Council of San Clemente and the people in the airport as best we can.

(Very brief recess)

The meeting will now reconvene and we will take up the regular calendar.

Item 1 is confirmation of minutes of meeting of September 14, 1961.

MR. CHAMPION: Move approval.

MR. CRANSTON: Moved, seconded and adopted unanimously. Item 2 -- Permits, easements, and rights-of-way to be granted to public and other agencies at no fee, pursuant to statute. Consideration is the public benefit. Applicant (a) State of California, Division of Highways -- modification of right-of-way entry permit P.R.C. 2525.1 to extend effective date of authorized occupancy until new State Lands Commission management policy for school lands has been determined.

MR. CHAMPION: Move approval.

MR. CRANSTON: Moved, seconded and adopted unanimously.
MR. CRANSTON (continuing) Item 3 -- Permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental policies of the Commission: (a) Calney Pipe Line Company -- amendment of legal description in Lease P.R.C. 2702.1, San Bernardino County, to conform to the as-built location of the pipeline; (b) John A. Fitzgerald -- two-year renewal of Lease P.R.C. 595.1, tide and submerged lands of Middle River, San Joaquin County, total rental $300; (c) Michael L. McInnis, et al -- amendment of legal description of Lease P.R.C. 2256.1 covering a small craft marina on Suisun Slough, City of Suisun, Solano County, to provide more exact delineation of the leased area, to assist in lessee's financing and protection of his investment; (d) Don McMillan -- cancellation of Lease P.R.C. 1974.1, tide and submerged lands of Klamath River, Humboldt County, effective 12/29/61, rental delinquent; (e) P. G. & E. -- 49-year right-of-way easement for overhead wire crossing, 0.25 acre submerged lands, Fay Slough, Humboldt County, total rental $580.16; (f) Pacific Gas and Electric Company -- 49-year right-of-way easement, 0.06 acre submerged lands of Battle Creek, Tehama County, for gas transmission line, total rental $100; (g) Pacific Gas and Electric Company -- 49-year right-of-way easement, 0.09 acre submerged lands of Sacramento River, Shasta and Tehama Counties for gas transmission line, total rental $125.44; (h) Pacific Gas and Electric Company -- 49-year right-of-way easement, 0.13 acre submerged lands of Sacramento River, Shasta County, total
rental $482.65; (i) Phillips Petroleum Company -- deferment of drilling requirements, Oil and Gas Lease P.R.C. 2205.1 to 8/10/62, to allow time to evaluate geological and geophysical information to determine if further development work is feasible; (j) Richfield Oil Corporation -- deferment of drilling requirements Oil and Gas Lease P.R.C. 1466.1 to 7/1/62, to allow time to determine whether additional development drilling is justified; (k) Richfield Oil Corporation -- deferment of drilling requirements, Oil and Gas Leases P.R.C. 308.1 and P.R.C. 309.1, through 6/30/62, pending lease modifications required to provide for pooling for drilling and production purposes now under review by the staff.

MR. HORTIG: Mr. Chairman, on the next item, lease of Signal Oil and Gas Company, the P.R.C. number should be 1551.1 instead of 155.1 as shown.

MR. CRANSTON: Item (l) Signal Oil and Gas Company -- deferment of drilling and operating requirements, Oil and Gas Lease P.R.C. 1551.1, through 6/30/62 to permit additional studies to determine whether further exploration operations are justified; (m) Signal Oil and Gas Company -- geological survey permit for period 1/1/62 through 4/30/62, tide and submerged lands in San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego counties; (n) United States Borax and Chemical Corporation -- two-year prospecting permit 150 acres school lands, Inyo County; (o) Jay J. Vachon -- ten-year ark site lease, tide and submerged lands of Petaluma
River at Black Point, Marin County, annual rental $65; (p)
Welles Whitmore, III, and Margaret Whitmore -- 15-year lease
6.67 acres tide and submerged lands Vallejo, Solano County, for
operation of pier and boat shop, annual rental $738.

Motion is in order.

MR. CHAMPION: I'll move approval as this is presented
by the staff.

MR. CRANSTON: It has been moved and seconded to
approve all items of Item Classification 3 and so ordered
unanimously.

Item 4 -- City of Long Beach approvals required pur-
suant to Chapter 29/56, 1st E.S. (a) Town Lot. Increase in
cost covering property to be purchased from Mobil Oil Company
(2nd Phase). Addition No. 3 to estimate. Proposed authoriza-
tion: estimated subproject expenditures from 12/21/61 to
termination of $41,210, with $25,962 (63%) estimated as sub-
sidence costs.

MR. CHAMPION: Move approval.

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

Item 5 -- 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 inter-
est has been reported by those agencies in any of the lands
proposed for sale. (a) ....

MR. HORTIG: Mr. Chairman, as to item (3) in this
tabulation, if you would pass it at this time there is a
supplemental report to make. This is the proposed land sale
to William D. Jessup and Charles S. Jessup.

MR. CRANSTON: Number (1) Imperial Irrigation District--
appraised value $400, bid $400; (2) Imperial Irrigation Dis-

Section (b) -- Selection and sale of vacant Federal

(c) Selection of vacant Federal lands on behalf of
the State. (Applicants do not desire to proceed with acquisi-
tion of the lands); (1) 120 acres in San Diego County, pursuant
to application of Edward E. Keeler; (2) 40 acres in San Bernar-
dino County, pursuant to application of Jean Elizabeth Day.
And that concludes this item.

MR. CHAMPION: Move approval of those items in
Item 5 with the exception of (a) (3).

MR. CRANSTON: Moved, seconded, and so ordered.
Approval is made unanimously.

MR. HORTIG: As the Commission has before it on
pages 31 and 32 of the agenda, the mechanical problem has
arisen of varying import during any specific years as to the
effect of legislation granting tide and submerged land areas
by the Legislature, which areas in some instances have in
effect prior existing State Lands Commission leases and these
leases are not always necessarily recognized specifically in
the statutes and, therefore, the question always arises as to
whether the grantee is to receive future returns from such
existing leases, is also entitled to past amounts that have
been collected by the State of California; or the converse --
whether the grantee is not, in fact, entitled to any payments
of these amounts.

It has been found that there is sound legal authority
for the State Lands Commission either to retain any prepaid
rentals in connection with these grants or to pay them over
to the political subdivision.

The staff suggestion in this respect is that such
prepaid rentals should be retained by the State as a matter
of uniform policy. Though it may be argued that such rentals
should be payable to the grantee since they cover a period
when title will be vested in the grantee, it is also true that
the advance payments were received by the State according to
contract and should be retained; the revenue from the property
was developed prior to the time the grantee had an interest
in the lands; and grants by the Legislature, especially in
recent years, provide for a broader spectrum of localized
purposes, uses and benefits as of the effective date of the
grant. In the absence of specific provisions in the granting
statute, it does not appear that it should be considered that
it was the intent to make a gift of rentals previously estab-
lished and collected by the State for statewide general funding.
Therefore, it is recommended that the Commission adopt the following policy: In all instances where an area of tide and submerged lands granted to a political subdivision of the State contains leases let by the State prior to the effective date of the grant, any rentals applying to future lease periods which have been paid or which are past due due to the State by the lessee prior to the effective date of the grant shall be retained by the State unless there are specific provisions in the granting statute regarding the leases being transferred and the disposition or proration of such prepaid rentals are defined therein.

MR. CHAMPION: I concur in this. The impact of this would be only where the rentals are prepaid. If there were still rentals to come on the leases, we would not receive them -- they would go to them?

MR. HORTIG: After the date of the grant, yes sir.

MR. CHAMPION: Is it my further understanding that in the usual kind of grant involved here we get no consideration at all in return for this grant, so in effect we would be giving up something, a potential source of revenue? We can properly consider this a sort of quitclaim deed. We are giving up a source of revenue to the local people.

MR. HORTIG: This has been the case without exception heretofore.

MR. CHAMPION: Without any compensation?

MR. HORTIG: Without any compensation to the State.
MR. CHAMPION: I move approval of the recommendation.

MR. CRANSTON: I second the motion.

MR. SIEROTY: I am in sympathy with the objectives we are trying to reach but I am not sure this is the proper way of doing it. I would think that in the ordinary situation a prepaid rental ought to go to the owner of the property and if title passes prepaid rental ought to be paid in an escrow or in some form to the new lessor because there is going to be a lessee whose rights will still be on that property and the owner of the property would be entitled to a rental fee. I think that what we feel here is that a political subdivision is getting some kind of special break and the State is entitled to this money, but I think it ought to be done in a different way. I think if we have a prepaid rental, it should be in terms of a consideration; or provided in the statute where the grant is made that the prepaid rental should remain with the State. In other words, I would consider the ordinary legal implications that prepaid rental ought to be paid over to the grantee.

MR. HORTIG: I would concur with staff member Sieroty completely as to the applicability of the statutes to the conditions which he described, which is where there is a fee transferred with the land. These are lands conveyed in trust by the Legislature -- not only in trust, there is a reversionary title retained in the State in all of these grants, in that the grantee does not become the owner of the land in fee.
simple, absolute. They are loaned by the State in trust for specifically announced trust purposes. Additionally, in later years, the Legislature has invariably required an evaluation and report by the State Lands Commission ten years after the grant to determine that the grantee has applied and developed the lands to the trust purposes. Absent a favorable report by the Lands Commission, the trust grant terminates and the land revert to the State. So it isn't a clearcut simple case of a transfer in fee, under which circumstances I would concur that the matter of prepaid rentals would be handled exactly as outlined by Mr. Sieroty.

MR. CHAMPION: Beyond that, with some exceptions I think I would oppose the legislative grant to deprive the State of income without some form of compensation. The grants are being made for the wider use you specify, but the State is giving up something in order to permit the locality to do that and I don't see any reason for us to give up a source of income, particularly that which we have already received. That may come from my peculiar relationship with the State of California.

MR. JOSEPH: Mr. Chairman, there is a further difficulty here in that I understand from this calendar item that this money goes into the general fund. There has been no appropriation of the money for payment. There may be difficulty in that regard.

MR. CRANSTON: Are there any further comments? (No
response) If not, approval of the staff recommendation has been moved and seconded and is adopted.

Item 7 -- Authorization for supplementary agreement between Remington Rand and State Lands Commission, in the sum of $25,000, for completing project of indexing lands under the jurisdiction of the United States, pursuant to Section 127, Government Code.

Frank, do you have any comments? I guess there is nothing to say except we need the money to complete the project.

MR. HORTIG: And we have the money -- but the staff needs the authorization of the Lands Commission to enter into the contract in this amount, the Executive Officer's authorization for contracting independently being limited to $2,000.

MR. CRANSTON: Will you, with your peculiar relationship, make a motion on this?

MR. CHAMPION: I will move approval.

MR. CRANSTON: Approval is moved, seconded and approved unanimously.

Item 8 -- Confirmation of transactions consummated by the Executive Officer.

MR. HORTIG: As shown on page 35, these consist of prior approvals of two assignments of grazing leases completed in accordance with the statutes and, therefore, confirmation of the approvals of the assignments is recommended.

MR. CHAMPION: Move approval.
MR. CRANSTON: Moved, seconded and adopted.

Item 9 -- Informative only, no Commission action required.

(a) Report on proposed Parcel 5 oil and gas lease -- no bids received.

Do you have any comments, Frank?

MR. HORTIG: Not beyond the report on page 36, which is completely negative.

MR. CRANSTON: Item (b) -- report on status of major litigation. Anything to report there?

MR. HORTIG: Again, not in addition to the outline of the status of the various cases as they are listed on pages 37 and 38 of the agenda.

MR. CRANSTON: Then we will proceed to the supplemental calendar. Item 30 has been disposed of. There is one other item not indicated that Mr. Hortig will present.

MR. HORTIG: As the Commission will recall, there was a previous authorization for publication of notice of intention to receive bids for an oil and gas lease on a parcel designated as Parcel 6, Santa Barbara County. The bid invitations are open; the bid closing date currently specified is February 7, 1962.

The particular parcel, as well as other unleased areas in western Santa Barbara County, require for their proper development and operation adequate pipeline capacity to transport the natural gas which is produced either directly...
in condensed zones or in conjunction with oil that is being
developed on existing leases in the same area.

An application is presently under consideration by
the Public Utilities Commission of California as to certifica-
tion of additional pipeline facilities in this area.

Pending certification and construction of a pipeline,
development in the area has been virtually stopped because
there already has been developed production capacity in excess
of present pipeline facilities. Therefore, it is difficult to
justify economically additional development -- which, however,
as a matter of contract is required under existing State leases.

Therefore, until there is a resolution of the problem
of establishment of the additional pipeline capacity, it would
appear that any Commission lease offers in the area, where
successful development of the lease requires such additional
pipeline capacity, might not receive adequate bid evaluation
or a prospective lessee would be required to consider writing
his own insurance as to operating and production difficulties
because of lack of pipeline capacity.

For these reasons it is suggested that the Commission
authorize indefinite deferral of the date for receipt of bids
for oil and gas parcel 6, now set for February 7, 1962.

MR. CHAMPTON: I so move.

MR. CRANSTON: The motion has been made to defer,
postpone action on the parcel stated by Mr. Hortig, for the
reasons stated by him. I second the motion and it is so
ordered unanimously.
MR. CRANSTON (continuing) Frank, did we have to take
up that Item 5, (a)(3) -- Jessup?

MR. HORTIG: Yes, sir. Subsequent to preparation of
the agenda recommendation to the Commission for consideration
of private sale of the specified lands to William D. Jessup
and Charles S. Jessup, the Department of Fish and Game re-
ported to the State Lands Division a potential Fish and Game
interest in the parcel, which interest is amplified by letter
of December 13th from Deputy Director Harry Anderson of the
Department of Fish and Game, which I will read:

"This is to amplify on my letter of
December 6, 1961 regarding your file number
Work Order 3590.3, sale of State public lands,
transmitting property bulletin Number Sacra-
mento Work Order 7578, in accordance with a
recent phone conversation between Fred Jones
and Ken Smith.

Secretary of Interior Stewart Udall has
established the Lower Colorado River Land Use
Office at Yuma, Arizona to develop land use
plans for Federal lands along the Colorado
River. Secretary Udall has also created the
Lower Colorado Land Use Committee, composed
of representatives of California, Arizona
and Nevada, to study and coordinate land use
plans of individual municipalities, counties,
states, and Federal agencies for ultimate
development of a coordinated and integrated
plan of use of Federal lands.

Scattered throughout the Federal lands,
of course, are various parcels of State lands.
Sacramento Work Order 7578 (and this is the
file number for the Jessup application here)
refers to one of these. This particular parcel
lies within one of several blocks of public
domain lands along the river that we feel have
high wildlife and recreational values. The
"ultimate planning for the Federal lands immediately surrounding this piece of State land will, however, depend upon the recommendations of the Land Use Committee.

It would appear that management would be enhanced by incorporation of this parcel of State land. For that reason, we suggest the State Lands Commission consider withholding action of sale of this piece until the Colorado River Land Use Plan is completed.

(signed) Harry Anderson, Deputy Director"
is not necessary for public use as herein contemplated. The land would at that time be sold to the applicant if the applicant so options.

MR. CHAMPION: I move — a rather complicated motion. I would move that we deal with this matter in the way set forth by Mr. Hortig.

MR. CRANSTON: Second the motion. It is so ordered.

Is there anything else before we come to time and date and place of next meeting?

MR. HORTIG: No sir.

MR. CRANSTON: I would like to defer fixing that date until we can discuss it with Glenn, because I have a conflict on that date. The next meeting is shown on the 25th and I have a County Treasurer's meeting.

MR. CHAMPION: I have the same conflict.

MR. HORTIG: The staff will undertake to determine a mutually satisfactory date for all Commissioners.

MR. CRANSTON: Is the normal time the last Thursday in the month?

MR. HORTIG: That's right.

MR. CRANSTON: We have a similar problem in February.

MR. HORTIG: We have a suggestion there — that Thursday, March 1st in Sacramento, would be a satisfactory date because the regular meeting date would be the 22nd of February, which is a holiday, and also there are five Thursdays in March, which would still space the meetings.
MR. CRANSTON: I have a conflict with the Board of Equalization meetings. Is the normal schedule not the last Thursday but the fourth Thursday?

MR. HORTIG: The fourth Thursday, yes sir.

MR. CRANSTON: If there is no further business the meeting will stand adjourned. Thank you all very much,

ADJOURNED 10:47 A.M.

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I, LOUISE H. LILLICO, reporter for the Office of Administrative Procedure, hereby certify that the foregoing nineteen 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 December 21, 1961.


[Signature]

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA