TRANSCRIPT OF 
MEETING 
of 
STATE LANDS COMMISSION 
SACRAMENTO, CALIFORNIA 
SEPTEMBER 30, 1963 

PARTICIPANTS: 

THE COMMISSION: 

Hon. Hale Champion, Director of Finance, CHAIRMAN 
Hon. Alan Cranston, Controller 

and 

Representing Hon. Glenn M. Anderson, Lieutenant Governor: 
Mr. Alan Sieroty, Executive Secretary 
Mr. Douglas Baker, Administrative Assistant 

Mr. F. J. Hortig, Executive Officer 

OFFICE OF THE ATTORNEY GENERAL: 

Mr. Howard S. Goldin, Assistant Attorney General 

SENATE PERMANENT FACTFINDING COMMITTEE ON NATURAL RESOURCES: 

Senator Virgil O'Sullivan 

CITY OF LONG BEACH: 

Mr. J. C. Spence, Jr., Assistant City Attorney 
Mr. M. D. Hughes, Director of Petroleum and Subsidence Control Operations, Long Beach Harbor Department 
Mr. W. A. Smith, Assistant Chief Petroleum Engineer, Long Beach Harbor Department 
Mr. Harold A. Lingle, Deputy City Attorney 

INDUSTRY REPRESENTATIVES: 

Mr. William R. Gardner, Humble Oil and Refining Co. 
Mr. J. Barton Hutchins, Pauley Petroleum, Inc. 

NOTE: THIS TYPED TRANSCRIPT INCLUDES ONLY CALENDAR ITEMS TWO AND THREE. CALENDAR ITEM ONE HAS BEEN REPRODUCED SEPARATELY IN MIMEOGRAPHED FORM.
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### Uncalendared

- Statement re Long Beach Fair
- East Wilmington Oil Field

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**Office of Administrative Procedure, State of California**
MR. CHAMPION: The meeting will please come to order. Lieutenant Governor Anderson is absent on a trip to the Far East. Did I see Mr. Baker here a minute ago? Mr. Baker will sit with the Commission without a vote.

We have before us three items on the calendar, but before we begin that calendar Mr. Cranston has been looking into another matter for the Commission and will make a statement for the Commission at this time.

MR. CRANSTON: This statement is in regard to the Long Beach Fair. This fair could be a great economic and cultural asset to the State of California under proper circumstances. There is a large degree of confusion about the fair and the relationship of the Lands Commission and tidelands oil in financing this fair, and therefore at this time it would seem appropriate to clear the air a bit on this matter and so I have a written statement on the subject.

I believe it should be noted for the record that no matter concerning the Long Beach International Exposition is or has been before the Lands Commission for official consideration or action.

Despite the repeatedly expressed concern of the Commission that premature reliance was being placed upon a financing plan open to major legal objections and subject to possible disapproval by the Commission on other grounds, the Exposition's management has apparently continued to act on the assumption of eventual approval without ever making a
formal request to the Commission for approval.

The fact is that we have been advised only that at some future, unspecified date a plan will be submitted to us which in effect would underwrite the financing of the fair by pledging tidelands oil trust funds against any loss that might be sustained by entrepreneurs who are now putting risk money into this venture.

We are aware, too, that a ballot proposition has been submitted to the people of Long Beach, and been approved by them, which would authorize the actual investment of tidelands oil revenues in the fair. This could not be done without Lands Commission approval.

In order to avoid misunderstanding and to expedite clarification of these matters, whether they are brought to us officially or not, we have asked the Attorney General for his opinion on the legality of any proposal to use tidelands funds for these purposes.

The legal question is not the only possible basis for disapproval by the Lands Commission, however. Unfavorable and unverified reports have been reaching our ears for some weeks concerning the operation and financial condition of the proposed World's Fair. We have heard stories that management representatives, or individuals allegedly speaking for management, have implied that Commission approval of whatever plan is ultimately submitted by the Fair is a certainty. That is far from the truth.
Outside the area of unverified reports, there is the factual analysis by the City Auditor of Long Beach of the Fair management's bookkeeping methods and procedures. This report reveals certain highly unsatisfactory conditions and is of deep concern to us.

I have made this statement in order to clarify the present situation and to serve public notice that this Commission has not only not approved -- either formally or informally-- any financing plans of the Long Beach International Exposition, but that it feels there are critically important questions of legality, management and public policy yet to be answered.

MR. CHAMPION: Senator O'Sullivan is sitting with us here today by invitation. As you know, there was a Senate subcommittee established during the last session to look into the whole problem of new tidelands leasing; also the related question of the replacement of the present L.B.O.D. contract. Senator O'Sullivan is sitting with us today informally to participate in the discussion of these matters.

Is there anyone here from Long Beach who would like to ask any questions on this statement by the Commission on this International Exposition at Long Beach, or would like to make any comment on it?

MR. SPENCE: I believe not, Mr. Chairman.

MR. CHAMPION: All right, I believe in order to expedite the discussion this morning, I think we will take up the other two items -- which I think will be very brief --
with regard to U. S. versus Anchor; then we will proceed with full discussion on the Long Beach matter.

Do you want to take those up?

MR. HORTIG: Yes, Mr. Chairman. On Item 2, starting on page 4 of the Commissioners' calendars, the exhibits therein referred to are being distributed to you by Mr. Kreft currently. This method of presentation was adopted because there are numerous exhibits in connection with the other agenda items and we felt it desirable to keep them separated for matters of clarity.

In essence, pursuant to the authorization by the Legislature under Chapter 1847 of the Statutes of 1963, which authorized a settlement of the case United States of America versus Anchor Oil Company, et al, certain documents have had to be prepared in connection with or preliminary to presentation to the court, at which time a dismissal with prejudice of this action is to be received as against the United States of America in the compromise of this litigation.

The documents consist of stipulations as noted — stipulations one and two respectively: One, for judgment of settlement between plaintiff and defendants; and, two, for "Judgment Vesting Title in that Certain Condemnation Action to be Filed," the area to be condemned to be part of the area required by the United States Navy in connection with the U. S. Naval Shipyard, and the acquisition of these parcels for a nominal value, being reflected as a real value in the
settlement of the Anchor litigation and as part of the stipulation for dismissal of Anchor litigation.

These stipulations have been approved by and actually prepared by the Office of the Attorney General as a settlement of the action. However, various co-defendants, that is private defendants, in the matter have insisted on the acceptance of these documents by the Lands Commission over and above the preparation and approval of the stipulations by the Attorney General.

A full set of the settlement documents, including the proposed judgment of settlement and the proposed complaint and judgment vesting title in the condemnation action, have just been delivered to you gentlemen and have been reviewed by the staff of the Lands Division. Both the Attorney General's Office and the Commission staff advise the settlement documents are in compliance with the settlement authorized by Chapter 1847 of the Statutes of 1963.

In addition, the same statutes authorize the City of Long Beach to withhold the sum of $1,200,000 from oil and dry gas revenues otherwise due and to become due to the State, and to remit this amount to the United States as the State's share of the settlement. The City has asked the Commission for authorization for the release of so much of the money accumulated to September 30, 1963 and the balance of any moneys owing to be remitted from revenues which will be accumulated in October 1963.
On these bases, it is recommended that the Commission approve the form and content of each of the Anchor settlement documents, including the aforementioned stipulations and agreement, to be signed by the Attorney General in effectuating a settlement of the Anchor case; and, in conformity with the Statutes of 1963, Chapter 1847, the City of Long Beach be authorized to remit forthwith to the United States oil and dry gas revenues from tide and submerged lands due to the State on September 30, 1963, and that said City be further authorized to deduct from similar funds due to the State for the succeeding "month" (this was a typographical error and "month" was substituted in the copy before you) and remit to the United States on November 1, 1963, the balance of any moneys owing to the United States by the State under said Anchor settlement.

MR. CHAMPION: Now, all of these documents entirely conform to the settlement that the Commission previously agreed to by resolution?

MR. HORTIG: And to the statute which finally authorized the settlement.

MR. CHAMPION: During the '63 session of the Legislature?

MR. GOLDIN: That is right, sir.

MR. HORTIG: That is right.

MR. CRANSTON: Noting the amendment correcting that error, I move approval of the staff recommendation.
MR. CHAMPION: If there is no further comment or question, the resolution stands approved unanimously.

Do you want to take up the third item?

MR. HORTIG: Calendar Item 3 appears on page 6 and exhibits thereto will be delivered to you gentlemen again. As the Commissioners will recall, on September 16, 1963, the Commission approved the form and content of two deeds conveying the State's reversionary interest in certain parcels of tide and submerged lands to the United States as part of the settlement of that same Anchor case.

These deeds had been reviewed by counsel for the United States -- at least special counsel at Los Angeles had indicated satisfaction with them prior to their presentation to the Commission. In subsequent review by higher authority in the United States Department of Justice, it was felt incumbent that three words be added in the middle of a paragraph in one of the deeds. It is the paragraph which relates to Parcel U and Parcel U is defined therein in practically every sentence except one. It is the desire of the United States that this be amended to include in that one sentence the additional words "to Parcel U." It is not felt that there is any change in the form of the deed; that there could not have been any misunderstanding. On the other hand, this will satisfy the United States and, therefore, it is recommended that the Commission by resolution approve the amendment hereinafore requested and, as amended, the form
and content of the deed of conveyance attached thereto, just delivered to you, as conforming to the provisions of Chapter 1847, Statutes of 1963, Section 2(c); and approve the forwarding of the amended deed to the Governor in lieu of the deed heretofore approved on September 16, 1963, to be executed by the Governor in the manner prescribed by the aforementioned statute.

MR. CHAMPION: Is there any question or comment on this?

MR. CRANSTON: I move approval.

MR. CHAMPION: I'll second it and it will stand approved.

MR. CHAMPION: Now to turn to the major business of this particular hearing, which is the matter of the drilling and operating contract on the Long Beach Harbor tidelands parcel.

(Calendar Item 1 -- Drilling and Operating Contract Long Beach Harbor Department Tidelands Parcels, Board of Harbor Commissioners, City of Long Beach, Wilmington Oil Field -- L.B.W.O. 10,190 -- Discussion on this item has been reproduced in mimeographed form, pages 1 through 53)

MR. CHAMPION: Is there anything further to come before this meeting?

MR. CRANSTON: I'd like to ask, as a matter of information, if there is anything to report on the East
Wilmington Oil Field.

MR. LINGLE: Last Tuesday the City Council, after its Oil Committee had considered all of your suggestions on it, adopted a position arming the contract which the City had originally presented to the Lands Commission, with the exception that they looked with favor upon the 12 1/2% selloff.

MR. CHAMPION: Is this a firm position which is now ready to be reported to us, or is there to be further discussion in Long Beach?

MR. LINGLE: There was a resolution adopted, which the City Clerk mailed to the Lands Commission, so as far as I am concerned it is a firm position.

MR. SIEROTY: Mr. Champion, there was an article in the paper which stated that one of the reasons why the City Council took this position was they had not been formally aware of the State Lands Commission's position. If they haven't been formally aware of our position, maybe we should adopt some resolution or something.

MR. HORTIG: May I comment on that? The Lands Commission's communication with the City Council has, all during the period of negotiation on all these contracts, been through the City Attorney's Office of the City of Long Beach. The City Council was fully aware of all the documentation and all the reports of the Lands Commission through the City Attorney's Office; but this press report quotes two councilmen,
who suddenly personally feel that possibly some other type of communication channeling should have been invoked. This was news, I think -- I'll ask Mr. Lingle -- it was probably news to him and it certainly was news to us that there was a feeling of lack of communication.

MR. LINGLE: Obviously, I can't report on what individual councilmen thought; but the resolution that the City Council adopted made no mention about this problem. It was discussed, and I having been here and there did my best to relate what I thought was the Lands Commission's position and all I can say is, although there was discussion at the time, that the resolution which they adopted makes no mention about any channels of communication.

MR. CHAMPION: Does it provide any reasons for refusing to consider the Lands Commission's position in this matter?

MR. LINGLE: No, sir, I think that went on in their own minds. The staff of the City had gone into lengthy consideration of your proposals and there was discussion and recommendations as to which of the proposals could be accommodated and which could not; and when the City Council deliberated on it, as was their duty, this was the ultimate outcome of their deliberations -- but they themselves individually did not express whatever their reasons may have been.

MR. CHAMPION: And there was no statement that certain conditions were acceptable and certain others were
not in terms of their final action?

MR. LINGLE: Yes, there was the one condition of the 12\% selloff.

MR. CHAMPION: Where do you or the City Council now consider the matter rests?

MR. LINGLE: I don't know.

MR. CHAMPION: That would have been my answer if you had asked me. Let me make a suggestion, if I may, in regard to the channel of communication to the City Council of Long Beach. I think it would be very useful for the Lands Commission to have an exchange of views -- perhaps for us to make clear some of the reasons for what we proposed to do; perhaps for them to make clear those problems which, in their minds, make it impossible for them to accept our proposals -- either with the Council or, perhaps, in the first instance we might do it with the Oil and Gas Committee if that is the committee which is concerned with these matters.

I would be glad to invite them to meet with the Lands Commission for a public discussion and I think probably the Lands Commission would be willing to have that in Long Beach or the Los Angeles area, in order to discuss fully the issues involved as between the two proposals. Would you relay that invitation and see what response you get?

MR. LINGLE: Certainly I will.

MR. CHAMPION: Thank you very much. Anything further to come before the Commission? If not, we stand adjourned.

ADJOURNED 12:40 P.M.
CERTIFICATE OF REPORTER

I, LOUIS H. LILLICO, reporter for the Office of Administrative Procedure, hereby certify that the foregoing eleven pages, plus pages one through fifty-three on Calendar Item 1 (Drilling and Operating Contract Long Beach Harbor Department Tidelands Parcels - L.B.W.O. 10,190) which have been reproduced on stencils in order to be mimeographed, 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 30, 1963.

Dated: Los Angeles, California, October 4, 1963.

[Signature]

Louise H. Lillico
STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA

SEPTEMBER 30, 1963

 ITEM 1 -- DRILLING AND OPERATING CONTRACT (LONG BEACH HARBOR DEPARTMENT TIDELANDS PARCELS), BOARD OF HARBOR COMMISSIONERS, CITY OF LONG BEACH, WILMINGTON OIL FIELD -- L.B.W.O. 10,190
TRANSCRIPT OF THAT PORTION OF THE MEETING OF THE STATE LANDS
COMMISSION HELD IN SACRAMENTO, CALIFORNIA ON SEPTEMBER 30, 1963
CONCERNING:

ITEM 1: DRILLING AND OPERATING CONTRACT (LONG BEACH HARBOR DEPARTMENT
TIDELANDS PARCELS), BOARD OF HARBOR COMMISSIONERS, CITY OF LONG BEACH,
WILMINGTON OIL FIELD -- L.B.W.O. 10,190.

PARTICIPANTS:

THE COMMISSION:
Hon. Hale Champion, Director of Finance, Chairman
Hon. Alan Cranston, Controller
Mr. Alan Sieroty, representing Hon. Lieutenant Governor
Anderson

Mr. F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Mr. Howard S. Goldin, Assistant Attorney General

APPEARANCES:

CITY OF LONG BEACH:

Mr. J. C. Spence, Jr., Assistant Attorney,
City of Long Beach

Mr. M. D. Hughes, Director of Petroleum and Subsidence
Control Operations, Long Beach Harbor Department

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SENATE PERMANENT FACTFINDING COMMITTEE ON NATURAL RESOURCES:

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Mr. William R. Gardner, Humble Oil and Refining Company

Mr. J. Barton Hutchins, Pauley Petroleum, Inc.

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MR. CHAMPION: Now, to turn to the major business of this particular hearing, which is the matter of the drilling and operating contract on the Long Beach Harbor tidelands parcels. We are still in a difficult time situation with respect to this matter. We are trying to move it as expeditiously as possible but we still have some problems in so doing, and I don't expect that we will be able to conclude action on this matter today. We want, however, to hear from everyone.

Among the problems, I understand, is the fact that industry representatives have not had what they consider to be adequate opportunity to be heard on this matter, although we have had some very recent communications. I think probably what we will try to do today is to hear as much as we can. If we do have problems and differences, we will try to work them out this week and act on them at a special meeting next week. Just how difficult that will be we will know more about today.

We also recognize in some cases industry representatives will not be in a position to state their entire position in this case because they have had the final documents for so limited a time, so we will make it possible for these people to file their positions with the staff during the coming week, so everyone will have an opportunity to be heard on this before we take our final action. However, we want everyone to know we do consider this to be an urgent matter. We have discussed this matter several times -- the reason for that urgency; the need to get a contractor -- to get him operating, so there is no break in the continuity of operation of this parcel.

MR. SPENCE: Mr. Chairman, may I make a statement?
My name is John Spence, Assistant City Attorney, Long Beach.

I'd like to call to the attention of the people present that shortly after the Commission was given copies in a so-called rough form on July 25th, these other people, when they requested it, were given copies of the very same agreement. There has been very little change since July 25th in the so-called final draft. The changes have not been in substance, but as to form. So if they have studied the draft of July 23rd -- that's the date of it -- 1963, they are thoroughly familiar with the theory of this contract.

MR. CHAMPION: I am not trying to raise this question. I hope there won't be any changes, but I want to be sure that everyone who wants to make a comment on this has a chance to do so before the Commission takes a final action; and I think if we take that final action within a week, it will remove every possible problem in that respect and also keep to a reasonable dead line as far as Long Beach's problems are concerned.

MR. CRANSTON: Mr. Chairman, I'd like to stress one point you went into. If there are parties who have comments they wish to make, we would strenuously urge they be made as soon as possible to the staff, and not be reserved until our subsequent meeting. If somebody comes in with a strong point just when we are having a meeting to take final action, that will delay things.

MR. CHAMPION: It is our present intention, if at all possible, to take action at the subsequent special meeting.

MR. SPENCE: Mr. Chairman, may I interrupt one more time? For the benefit of prospective bidders, we want to call their attention to the fact that we propose to have a bidders' meeting shortly after the notice inviting bids. We have a kit to hand out to the prospective bidders when they ask for copies of the contract, which will show the economic background, the
accounting procedures; it will give them all the data that is pertinent that we have been able to assemble. So they will have an opportunity for some sixty days to make this study. We also propose that we have a bidders' meeting once a week, say on a Thursday. When they have any questions on economics or accounting, they can assemble in the board room at Long Beach and we will answer any of their questions. So everyone will have an opportunity, whether they are familiar with Wilmington Field or not, to have the background that will make them able to make a bid.

MR. CHAMPION: With those preliminaries, I think, Mr. Hortig, if you will take up the agenda item and staff recommendations......

MR. HORTIG: In view of the Chairman's preliminary remarks, I believe another preliminary is in order. Before presenting the contract for the Long Beach Harbor parcel, it would appear desirable to review briefly the fundamental concepts and principal factors of the proposed contract on which you are going to consider.

Operations in the area under the proposed contract are not for development of a new field, but for continuation of production and completion of development started twenty-five years ago. This prior development program for the majority of the production and payment of the complete capital investment by the Harbor Commission from tideland oil funds requires a continuity in many phases of the program.

Without this requirement for continuity, such as in the case of an initial development, selection of a development and operating program could be made from a broad combination of alternatives. However, in view of the important continuity requirement and the committed investment of public funds, the
contract recommended for consideration has been drafted to eliminate administrative difficulties experienced in the expiring contracts, and to optimize the revenue return to the city and the State.

Because of the pre-existing conditions, I wish to bring to the attention of the Commission this contract cannot be equated directly with any other form of contract or lease for initial development.

With that preliminary, and in view of the late release of the agenda item, Mr. Chairman, perhaps the situation might be expedited and everyone would be completely informed if I read the prepared agenda item:

The City of Long Beach, in accordance with the provisions of Section 10, Chapter 29, Statutes of 1956, 1st E. S. has submitted the following documents for approval by the State Lands Commission prior to publication of notice to bidders:

1. Drilling and Operating Contract (Long Beach Harbor Department Tidelands Parcel). (Refer to Exhibit C)

2. Notice Inviting Bids for Entering into the "Drilling and Operating Contract (Long Beach Harbor Department Tidelands Parcel)" for the production of oil, gas and other hydrocarbons from certain lands lying within the Harbor District of the City of Long Beach, California. (Refer to Exhibit D)

3. Bid for entering into the "Drilling and Operating Contract (Long Beach Harbor Department Tidelands Parcel)" for the production of oil, gas and other hydrocarbons from certain lands lying within the Harbor District of the City of Long Beach, California. (Refer to Exhibit E)

4. Bidder's Bond. (Refer to Exhibit F)

In 1939, 1942, and 1944, the Board of Harbor Commissioners, acting for and on behalf of the City of Long Beach, entered into agreements with Long Beach Oil Development Company providing for the drilling of oil wells and for the production of oil, gas, and other hydrocarbon substances from certain tidelands and submerged lands located in the Long Beach Harbor District. Subsequently, these agreements were consolidated by amendments to effectuate expiration of all agreements on March 20, 1964.

The Board of Harbor Commissioners of the City of Long Beach must obtain a responsible contractor in order to provide continued production operations and maintenance of existing petroleum facilities and for the drilling of additional wells and construction of additional facilities, and to
take, account for, and pay to the City for all of the oil produced from or allocated to such lands.

The lands covered by this proposed contract lie completely within the limits of the Long Beach Harbor District and include all harbor tidelands presently developed, plus approximately 2,100 acres of undeveloped tidelands. (Refer to Exhibit A). Within the developed harbor tidelands, 600 wells are producing nearly 40,000 barrels of crude oil per day. State revenue from this production (before deduction of subsidence costs) is presently in excess of $800,000 per month.

The bid for this proposed drilling and operating contract would be awarded to the qualified bidder who agrees to pay to the City the highest percentage of net profits. No "cash bonus" or "advance production payment" is to be required. Net profits shall be computed by subtracting development, operating, and maintenance costs, certain taxes and insurance premiums from the value of the crude oil produced from or assigned to the subject lands.

All such oil shall be valued, accounted for, and paid for at the higher of either (1) the price equal to the arithmetical average of the prices posted by continuing purchasers in the field - (Parenthetically, "continuing purchasers" have been defined as those continuously purchasing one thousand barrels of oil per day) - provided that there are two or more such continuing purchasers posting in the field; or (2) the price equal to the arithmetical average of the prices posted by Standard Oil Company of California, Union Oil Company of California, Texaco Inc., and Socony Mobil Oil Company (or by such of said companies as may be posting in one or more of the following named fields: Wilmington, Huntington Beach, Signal Hill, and Inglewood fields) for oil of like gravity. If there are not two or more of such companies, each posting a price for oil in two or more of such fields, then all of such oil shall be valued, accounted for, and paid for on the basis of the highest of the following prices: (1) the price equal to the arithmetical average of the prices posted by continuing purchasers in the field (provided that this criterion shall be applicable only in the event there are two or more such continuing purchasers in the field; or (2) the price equal to the market price generally prevailing and paid in the field; or (3) the price equal to the arithmetical average of the market prices generally prevailing and paid in the Wilmington, Huntington Beach, Signal Hill, and Inglewood fields for oil of like gravity.

MR. HORTIG: (continuing) Mr. Chairman, at this point it would appear appropriate to read for the record two letters received by the staff this morning relating to this particular phase of the proposed contract.

The first is from Richfield Oil Corporation, addressed to Honorable Alan Cranston:
"We have seen a draft of Section 18.3 of the proposed
'Drilling and Operating Contract (Long Beach Harbor Depart-
ment Tidelands Parcel)' which we understand will be con-
sidered by the Commission at its meeting on September 30,
1963.

The first sentence of the proposed section reads as
follows:

'All of such oil shall be valued, accounted and paid
for on the basis of the highest of either the price
equal to the arithmetic average of the prices posted by
Continuing Purchasers in the Field or the arithmetic
average of the prices posted by Standard Oil Company
of California, Union Oil Company of California, Texaco
Inc. and Socony Mobil Oil Company, Inc., or their
respective successors, in the Wilmington, Huntington
Beach, Signal Hill and Inglewood fields, for oil of
like gravity on the day such oil is run into the Con-
tactor's tanks and/or pipeli

Richfield Oil Corporation has long purchased substan-
tial amounts of oil in the Wilmington Field, such purchases
currently amounting to about 20,000 barrels of oil a day.
We are contemplating the posting of prices in the Wilmington
Field, and we respectfully request that our name be included
with those of the companies specifically mentioned in com-
puting the average of posted prices."

MR. HORTIG: (continuing) The second letter, dated
September 26, 1963, also addressed to Mr. Cranston (from
Standard Oil Company of California, Western Operations, Inc.):

"The Standard Oil Company of California holds a 28.5% inter-

The Standard Oil Company of California holds a 28.5% interest in the Long Beach Oil Development Company which
currently operates certain Long Beach Harbor Department
tidelands parcels. As a stockholder, we hope to partici-
pate in the benefits of a Long Beach Oil Development Com-
pany bid on the proposed new contract for these parcels,
and to purchase from Long Beach Oil Development Company a
portion of the oil produced therefrom.

Under the existing contract the crude oil is priced
at the average of the prices posted by certain companies on
the date of delivery. We understand that consideration has
been given to modifying this to a highest posted price
basis. If such a modification is made, it will prevent
Standard from participating in the bidding on the proposed
new contract in any way.

The 'average' posted price basis which has been used
since the existing contract was awarded in 1939 has resulted
in payments which have reflected the true market price, and
has been equally fair both to the City and State, and to
the contractor.

From Standard's standpoint, changing the basis of pric-
ing crude oil from 'average' to 'highest' posted price
would not only create a number of financial, business and
"legal risks in regard to the oil taken under this contract, but would also create serious problems with respect to all of our crude oil acquisitions in the State of California. For these reasons, if a 'highest' posted price basis is included in the crude oil pricing clause, Standard cannot bid, participate in bidding, or have any interest in any bid on this contract.

We would greatly appreciate it if you could arrange to have this letter read into the record at the next meeting of the State Lands Commission, presently scheduled for September 30, at which the above contract will be considered.

Yours very truly,

H. G. Vesper

MR. HORTIG: (continuing) I would like to bring to the attention of the Commission the fact that the letter just read from Standard Oil Company of California, dated September 26th, which was received by staff this morning, referring to average prices, follows by approximately a week and a half later the staff's suggestion and recommendation, as developed between the staff of the State Lands Commission and the Long Beach Harbor Commission for a broadened average price base, as reflected in the agenda you have before you. The problem of consideration of a specification of a highest posted price basis has, therefore, been eliminated from staff recommendation approximately a week and a half ago -- although, of course, there was no public announcement thereon and this is actually the first public announcement in view of the fact that this is the first time that the agenda item complete with exhibits has been available to the Commission and available for public presentation this morning.

Returning to the agenda item:

The price for valuing each delivery of oil as determined by either of the above methods shall be computed to the closest tenth of each degree of API gravity and the closest tenth-of-a-cent per barrel.

The City reserves the right to take in kind any percentage up to and including 12½% of the oil produced from or assigned to the subject lands. This right is exercisable
upon 180 days written notice. The taking of oil in kind
may be discontinued upon 180 days written notice or a lesser
period if mutually agreed upon by the City and Contractor.
Any oil taken in kind by the City shall be valued in the
same manner as other oil produced or assigned and such
value shall be used in computing net profits.

Under the terms of this proposed contract the Board of
Harbor Commissioners will retain control over the rates of
production of oil and gas and the rates of injection of
water or other substances.

The City and the Board (or either) and the State will enter
into agreements requiring consultation on major operational
and policy matters with the Commission. The contract pro-
posed authorizes such City-State agreements.

All of the operations conducted by the Contractor, and all
structures erected by the Contractor shall be in a first-
class, good workmanlike and efficient manner and in accord-
ance with good oil field practices among responsible opera-
tors. All equipment, machinery, facilities, materials and
supplies shall be first class and of not less than American
Petroleum Institute Standards.

Each bid submitted shall be accompanied by a satisfactory
Bidder's Bond in the amount of $509,000 as evidence of the
bidder's good faith and as a guarantee that the bidder will
sign and execute the Drilling and Operating Contract within
15 days after it is presented for signature.

The Board of Harbor Commissioners reserves the right to
reject any or all bids and return all Bidder's Bonds accom-
panying such bids.

The contractor shall furnish the City a faithful performance
bond in the principal sum of $2,000,000. The Board, with
the approval of the State Lands Commission, may in the
future permit the amount of this bond to be reduced.

The term of this proposed contract shall be for 24 years,
11 months and 8 days from the anticipated effective date of
March 20, 1964. Computing from said effective date the
termination date will be February 28, 1989. The Contractor
shall have the option to terminate this contract 180 days
after it can be shown to the satisfaction of a majority of
the total membership of the Board of Harbor Commissioners
that it is not profitable for the Contractor to continue
operations. If the Board finds that continued operations
under this contract are not profitable for the City, the
Board may, upon 180 days written notice, terminate the
contract. Once the Contractor or the Board has given such
notice to terminate the contract, neither party may act uni-
laterally to revoke such notice of termination.

MR. HORTIG: (continuing) Again, I bring to the atten-
tion of the Commission the reference on the prior page to
the effect that the City and the State or the Board and
the State "will enter into agreements requiring consultation
regarding major operations." One of the agreements to be entered into is with respect to review and concurrence by the Commission with respect to the findings of the Board in the event of proposed earlier termination of the contract.

Continuing agenda item:

The Board of Harbor Commissioners and the City Council of the City of Long Beach have approved the proposed Notice and Bid Form in principle.

MR. HORTIG: And again, on specific inquiry to the Office of the City Attorney of Long Beach, this approval in principle is deemed to have been sufficient -- that despite modifications in form which have been developed and are included in the proposal before you, it is felt that no further approval by the Board of Harbor Commissioners or the City Council would be required in order to utilize the contract and to proceed with bidding after the State Lands Commission has approved the contract.

Agenda item:

The staff has reviewed the technical provisions and accounting procedures of the proposed contract and has found them to be reasonable and equitable.

The submitted documents have been reviewed as to legality by the Office of the Attorney General, who has advised that said documents comply with applicable provisions of law as to legal sufficiency, and may be approved by the State Lands Commission. (See Exhibit B attached)

Under the provisions of Section 10(a), Chapter 29, Statutes of 1956, 1st Extra Session, the award of the operating contract pursuant to the offer under the contract being considered today must be approved by the Lands Commission.

MR. CHAMPION: Is there anything before I open the matter? Any questions from the Commission or Senator O'Sullivan? Let the record show that Mr. Sieroty is now sitting for Lieutenant Governor Anderson for all purposes except that of voting.

Do you have any further comment, Mr. Goldin, before
we open the matter?

MR. GOLDIN: No, sir.

MR. CHAMPION: All right. Would you like to make a statement, Mr. Spence, representing the Harbor Commission of Long Beach?

MR. SPENCE: Yes. My only statement on behalf of the City of Long Beach is this: That it is imperative that we get this contract approved, so that we can get it out to bid, with sufficient time for the bidders to evaluate their bid and get it back; so that the bid can be opened; the staff of the Lands Commission can review it and make their recommendation as to who the highest responsible bidder is; the award of the contract made to the contractor in sufficient time for that contractor to get his machinery going, so he can take over operations on March 20, 1964. We felt that the latest possible date was the date the Commission has set for the hearing today.

MR. CHAMPION: Before we open this up generally, there was one question raised. You read two letters during the presentation of the agenda item and I think disposed of the second one as having already been taken care of in the drafting of the contract. The first was the request of Richfield that it be included among those posting prices. Is there any objection to that? Is there any reason why that shouldn't be done?

MR. HORTIG: The immediate staff reaction is that this would broaden the base for determining the market value of the product and under these circumstances, since this was the goal in the specifications in the contract, that the addition of Richfield to the listing should be acceptable and advantageous.

MR. CHAMPION: What is the feeling of the City?

MR. SPENCE: The City has the same feeling.

MR. CHAMPION: All right. Then we can take it for
granted it will be included in the document we act upon.

MR. HORTIG: It will be included.

MR. SIEROTY: Mr. Chairman, may I ask for what reason
they were excluded?

MR. SPENCE: They were not posting.

MR. HORTIG: Mr. Sieroty, before you arrived this morn-
ing, we read for the record a letter from Richfield reporting
that it is their intent in the future to post and therefore
requesting to be considered for inclusion in the group. This
letter is dated September 27th, just received this morning.

MR. CHAMPION: I think that clears the matters. Is
there anything else -- any other correspondence to the Commis-
sion on this subject which needs to be dealt with?

MR. HORTIG: No other comments have been received in
correspondence, Mr. Chairman.

MR. CHAMPION: I think, then, we are ready to hear
testimony of anyone who might like to come forward to comment --
whether they wish to seek change, or express approval, or any-
thing else. I have no list before me. (No response) Are there
representatives of most of the potential contractors in the
industry present? I'd just like to know whether this is a
representative silence or not.

MR. GARDNER: Mr. Chairman, my name is William R.
Gardner, Humble Oil and Refining; and while I realize the real
pressure that is on this thing to get going, your suggestion that
it be delayed one week to give the industry a chance to look at
the documents seems very sound in view of the complexity of the
instruments and the fact that some of the companies have not had
a chance to review them.

MR. CHAMPION: Thank you very much, Mr. Gardner.

MR. SIEROTY: May I ask, Mr. Hortig, what has been the
timing so far as giving the proposed contract to industry? How
long has industry had an opportunity to review the documents?

MR. HORTIG: If Mr. Spence would care to respond, I
might point out, before you amplify on this, Jack, that a full
complete package of the final language proposed to be considered
by the State Lands Commission agenda item and exhibits was not
available to the State Lands Commissioners until this morning
and that same documentation, therefore, has not been previously
available to any interested industry member -- although there
has been preliminary information as to substantially the total
factors to be included, which, I believe, is the element on which
Mr. Spence wishes to answer.

MR. SPENCE: Mr. Chairman, I referred earlier to our
draft of July 23, 1963, which was delivered to the staff of the
Lands Commission on that date and to the members of the Commiss-
ion on the 25th of July. Any company that requested documents
or copies of that draft, as I understand it, have been furnished
then by the management of the Long Beach Harbor Department. If
you would like to have me read the names of the people who have
requested and received those documents, I would be very happy to
do so. Shall I read that list, to give you an idea of who has
had an opportunity -- requested copies and has read them and
studied them, presumably, because they have received them?

MR. CHAMPION: All right.

MR. SPENCE: Henry NeCasek, an attorney-at-law -- I
don't know what's principal is; Pauley Petroleum Company; Rich-
field Oil Corporation; and then, of course, the staff of the
Lands Commission; Shell Oil; Phillips Petroleum; Franwin Oil and
Gas; Union Oil; Sage Oil; Mobil Oil; Signal Oil and Gas; Standard
Oil; Texaco; a Mr. George Trammel, an attorney in Long Beach --
I don't know what his principal is; a Mr. R. N. Richey, Littleton,
Colorado; Mr. John L. Connolly of Long Beach; Orion Oil Company;
Union Pacific Railroad Company; Mr. C. C. Albright of Long Beach -- I do not know whether he has received it on his own behalf or what; Powerine Oil Company; Mr. H. F. Dangberg; and Drilling and Exploration Company. Other than those names, I don't know that anyone that has requested copies of the contract of July 23rd has not received it.

MR. CHAMPION: Was there adequate notice to the industry that copies were available?

MR. SPENCE: I can't answer that. I will have to ask Mr. Hughes about that.

MR. HUGHES: They received the notice at the last Land's Commission meeting, or the one in July -- because they called as a result of that hearing. They either called in or wrote in for copies of the various documents.

MR. CHAMPION: All right. It would seem to me there ought to be some more regular procedure than that, but that is not really a matter before us.

MR. SPENCE: Of course, when we advertise for bids, that is the official notice to the industry.

MR. CHAMPION: By that time the terms of the contract have been approved.

MR. SPENCE: Yes.

MR. CHAMPION: Is there any further comment? Senator O'Sullivan, are there any questions you would like to ask about the proposal before us?

SENATOR O'SULLIVAN: I was kind of interested in the matter of difference of opinion -- and I'll address this to Mr. Hortig -- between highest posted price and average posted price, which is what you have in this agreement. When you talk about the method of pricing the oil, you are talking about the average posted price as against the highest posted price?
MR. HORTIG: That is correct, sir.

SENATOR O’SULLIVAN: You don’t take into consideration the price that isn’t a posted price, is that right?

MR. HORTIG: Any price that is paid that isn’t a posted price is not normally on record and available to any governmental agency.

SENATOR O’SULLIVAN: What is a posted price?

MR. HORTIG: A posted price is an offering posted by a buyer of oil for a field, distributed publicly, announcing the intent to pay certain prices for certain qualities of oil.

SENATOR O’SULLIVAN: Where and when is it posted?

MR. HORTIG: Whenever a company desires to buy oil in the field. Patently, the larger companies who must have a continuing supply of oil have continuous postings. They are modified from time to time, but they have continuous postings in the major fields in California.

SENATOR O’SULLIVAN: Is there any statutory procedure for posting?

MR. HORTIG: No, sir.

SENATOR O’SULLIVAN: Is there any administrative regulations for posting?

MR. HORTIG: Governmental administrative regulations? No, sir.

SENATOR O’SULLIVAN: Well, how do you tell when something is a posted price?

MR. HORTIG: When Standard Oil or the Union Oil Company, or Texaco, or Socony Mobil mimeograph in quantity and distribute them to all potential sellers in the field and to all the State offices and public offices who have an interest in the price that is being offered; and mail such a document which says: "Prices offered by Standard Oil (or XYZ Company), effective
"7 a.m. such and such date, for various gravities of oil in the various fields, are tabulated and listed on this sheet of paper."

SENATOR O'SULLIVAN: This is an offer, isn't it?

MR. HORTIG: That is correct.

SENATOR O'SULLIVAN: And as such, it is not a completed transaction or sale, is it?

MR. HORTIG: No, sir.

SENATOR O'SULLIVAN: What you are doing is basing your prices here on a series of an average of the offers made by a given number of companies, is that right?

MR. HORTIG: Identified as "continuing purchasers" and in our definition and qualification they must be purchasing at least a thousand barrels of oil per day.

SENATOR O'SULLIVAN: Are there any provisions or regulations setting up or requiring that there have been a transaction or sale on the basis of each and every one of these posted prices?

MR. HORTIG: No, sir; but in order to qualify as a continuing purchaser under the proposed contract form . . . . .

SENATOR O'SULLIVAN: Where does it say that?

MR. HORTIG: In the definitions in the contract, sir. Mr. Goldin, do you have a ready reference to that?

MR. GOLDIN: Page 6, subdivision (c).

SENATOR O'SULLIVAN: "In the absence of information to the contrary, it shall be deemed that every purchaser posting prices in the field is such a continuing purchaser."

MR. HORTIG: Yes, sir - because we cannot always be certain that every operator . . . .

SENATOR O'SULLIVAN: In the absence of information to whom?

MR. HORTIG: In the absence of information available
to the administrators of this contract, which would be the Long
Beach Harbor Commission.

SENATOR O'SULLIVAN: The basic method by which you
arrive at a price here is not upon the requirement of the actual
existence of a sale of oil, is it?

MR. HORTIG: It is if there is information.

MR. CHAMPION: There is a simple answer to that ques-
tion. The requirement here is that the posting be by one who has
been buying a thousand barrels of oil per day; so the sale is not
immediately tied to the qualification for their posting. They
are not exactly the same but there is a requirement that they be
buying in the field.

SENATOR O'SULLIVAN: I ask the question again: There
is no requirement here that the posted prices, upon the average
of which you are going to base the prices of the oil, actually be
represented by an actual sale of some oil? Reading the language
in this contract, you don't have a sale at any posted price and
you still have set up a standard by which you are selling the
State's oil?

MR. HORTIG: This is correct, if the major oil com-
panies in California did not buy oil in these fields -- and there
isn't a major oil company in California who isn't under compul-
sion and must necessarily, to continue their business, buy in
these fields.

SENATOR O'SULLIVAN: But this doesn't address itself to
the crux of the question. You have just stated that you don't
have to have an actual sale at this posted price or any one of
these posted prices you are going to average; is that right?

MR. HORTIG: On the basis of absent information ...

SENATOR O'SULLIVAN: Under this document, you don't
have to have an actual sale under any one of those posted prices
you are going to average; still you use them in the formula on
the price at which you are going to sell the oil. That's cor-
rect, isn't it?

MR. HORTIG: In words, yes sir; practically, no.

SENATOR O'SULLIVAN: I don't know what your practice
is, but I am reading the contract as it exists -- and the con-
tracts list the rights of the parties, I presume?

MR. HORTIG: That is correct.

SENATOR O'SULLIVAN: And we don't have a right that
there actually have been a sale at these posted prices that you
are going to average -- and I am speaking of the State, which is
the only person I am interested in at the particular moment.

MR. SPENCE: Perhaps I can answer this from informa-
tion that has been handed to me, Senator. There is absolutely
no way of determining the price paid for a bucket of oil or
40,000 thousand barrels of oil here or any other place, unless
you can obtain that information from the seller and the purchas-
er. It isn't a matter of public record as to what one of the
posting companies or any other company pays for oil -- either
buys or sells the oil. That is a matter between the private
parties and there is no way that the City or State can find out
what that price is.

MR. CHAMPION: Let me ask something else. I'd be
interested in Mr. Hortig's statement. He said, "Practically,
no." What is the practice with respect to the sale of oil at
posted prices in the industry? What is the practical result of
the system now used in posting? Are most sales consummated on
the basis of the posted prices?

MR. HORTIG: Most of the large sales in the Los Angeles
Basin are consummated at the posted price. This is the experi-
ence of the State in accounting for royalties in fields adjoining
and surrounding the Wilmington Field, and this has been the experience of the Long Beach Oil Development in the sale of oil under the currently existing contracts.

MR. CHAMPION: What is the responsibility of someone who has made a posting to take it at that price? Is there any?

MR. HORTIG: There is no responsibility. Someone comes and accepts the oil, and they accept and pay for it at that price or they reject it.

MR. SIERTOTY: We had testimony in prior hearings that people have paid above the posted price -- premiums; or people have been paid under the posted price.

MR. HORTIG: Correct.

MR. SIERTOTY: So the significance of the posted price to me seems doubtful as a test for pricing the oil which will be taken from the City and the State.

Now, Mr. Spence has raised the point -- "Well, we just don't have any other way of determining it." I am not sure this is so, if we decide on another gauge; and as one suggestion along this line, I'd like us to consider eliminating the first of the alternatives here. What we have done here in this contract is to set up two alternatives -- if I can find it here. The first alternative is to take the higher of two provisions, both of them apply to posting. Now, there is a second alternative which takes into consideration those two alternatives but adds a third one as well, which is number (2) there: "The price equal to the market price generally prevailing and paid in the field."

Now, I don't see any reason why the State shouldn't be entitled to receive at least the price generally prevailing and paid in the field.

MR. CHAMPION: The recommendation calls for taking the highest of the formulas.
MR. SIEROTY: No, Mr. Chairman, not in the event there is posting. There is an alternative schedule here. Under the first schedule, if there is posting by two or more companies then we do not look to the general market price -- we only look to the posted price section. We take two standards -- one is the average of the posted prices, the other is the average of the posted prices in other fields.

Now, in the event that there are not two posters, then we go to the second alternative. What I am suggesting is that we forget the first alternative and think in terms of the second alternative, which will bring into effect the second point here -- "The price equal to the market price generally prevailing and paid in the field."

We may have to acquire information as to the general market price and when we have a need for determining that market price we will find ways to determine it. If we didn't have any need to determine the market price, we wouldn't. I think this will cause us to have better information on what is the prevailing price.

MR. HORTIG: Mr. Chairman, as you will recall, from reading Standard Oil Company's letter this morning -- and admittedly, this is a self-serving statement based on analysis by the Standard Oil Company of California and has not been verified independently by the State Lands Commission or the Harbor Commission, although other verifications have been undertaken which resulted in our recommendation -- it is felt that the new contract, by providing a broader base and providing for the highest average and not simply the price in one location, is going to give a truer reflection of the market value of the product in the entire Los Angeles Basin and not only in the Wilmington Oil Field. In comparison therewith, Standard reports as its experience under the existing contract:
"The average posted price basis which has been used since the existing contract was awarded in 1939 has resulted in payments which have reflected the true market price and has been equally fair to both the City and State and to the contractor."

Now, the proposed contract, by broadening the base, is going to reflect the competitive results of supply and demand and what effect they have on prices as offered by the price posters for purchases of crude oil which these companies must make in California if they are going to keep their refineries in operation and if they are going to sell the gasoline. Frankly, a simple yardstick on what is posted price -- it is the lowest price that a refiner can offer and still get the crude he needs to run his refinery; but, nevertheless, this is a measure of market value for the product and as long as there is a measure, and we have no other measure, it was felt that in developing the price bases for these contracts alternatives were listed in the order they were, without having to become involved in having a State price determination board or something else that does not exist yet, to determine every day the fair market value of crude oil produced in California -- that as long as they furnish a broad enough base of posted prices that were being offered in open competition by the major producers of crude oil in California, these be used as a yardstick; and if the day should come when such offers are not posted and are not made and a measure must be had, then we would have to undertake the extremely more difficult procedure of determining the fair market value of the product.

MR. CRANSTON: How was it proposed to do so had we been forced back to this alternative?

MR. MORTIG: That is a problem we would have to face at the time we got there. We have really no concept as to the mechanics and how deeply we would have to search. We have found
no specifications anywhere nor any determinations by any other governmental agency including the Secretary of Interior, that are clearly related to the prevailing or fair market value of the product. A method for making that determination would have to be developed under this contract if suddenly there were not at least two companies posting in each of two fields in the Los Angeles Basin. This is a possibility, although not a likelihood within the term of this contract.

MR. CHAMPION: Mr. Goldin:

MR. GOLDIN: Yes, sir. Mr. Cranston, I think we started in the direction that you have indicated. This contract has a specific provision on page 32, starting with line 27, which states that the contractor, if requested by the Board of Harbor Commissioners, shall promptly inform the Board of the prices used in valuing and the volume of all purchases and sales made by or to the contractor with respect to oil in the Wilmington Oil Field and the other fields that are designated in the contract.

Now, this is the first step in imposing upon the contractor a contractual obligation to divulge information, the need for which has never existed to date.

It is also proposed that if and when the East Wilmington Unit becomes a reality we will get a great deal more information with respect to anybody acquiring an interest under that contract, so we can build up a substantial source of statistical information from which we can compute generally market price; but to my knowledge, this information is not available at the present time.

MR. SIEROTY: I would say this also, in answer to Mr. Cranston's question: Of course, he visualizes the time when posting isn't done, but at the present time posting may be
evidence of a market price. In addition, under this contract, 12\% of the oil may be sold off. Presumably this would be sold off to the highest bidder, so the City would have some bidding process. So this would give us some additional information — although maybe not typical of the prevailing market price in the area.

MR. CHAMPION: There will not necessarily be such sales. The possibility exists, but in operations to date there have been none.

MR. HOSTIG: Additionally, if I might add, of course the market value for an accumulation of small purchases amounting in the aggregate to 12\% of the production because of particular refinery supply problems, and so forth, can be an entirely different value than can be offered competitively in the industry for 40,000 barrels a day for one hundred per cent.

MR. SIEROTY: Excepting we have set one thousand barrels as being the test of a continuing purchaser in the field.

MR. HOSTIG: Actually, continuing purchasers have been purchasing more than that, as reflected in Richfield's letter read earlier today with a request to be accorded a place in the listing to be averaged. They are reporting purchases in the Wilmington Field of 20,000 barrels a day.

MR. CHAMPION: Mr. Goldin, may I ask another question? To go beyond what we have required here in obtaining further information as to actual prices paid, in order to determine the prevailing market price, would that require new substantive law by the State?

MR. GOLDIN: At the very least, yes.

MR. CHAMPION: At the very most, we might not be able to get such law?

MR. GOLDIN: That's correct, because this may be a
matter of private business into which we may not make inquiry;
but I certainly do not want to dogmatically assert that it is
not a proper subject for legislation.

MR. CHAMPION: But this is as far as we can go at
present?

MR. GOLDIN: That's right -- imposing the contractual
obligation in the contract.

MR. CHAMPION: Is there any further comment or ques-
tion on this aspect of the contract? Mr. Hutchins.

MR. HUTCHINS: My name is Hutchins -- J. Barton
Hutchins. I am with Pauley Petroleum, Inc. As one of those who
has applied for and received a copy of the proposed contract
from the manager of the Harbor Department, we would certainly
appreciate another week at least, in which to take a further
look at this. We would suggest if possible, without suggesting
that the lady be put to extra work, that the minutes of this
meeting be available before that time also.

MR. CHAMPION: What can be done about that?

(Off-the-record discussion with reporter)

MR. SPENCE: Mr. Chairman, I'd like to read a state-
ment into the record on the City's position. I might be repeat-
ing myself somewhat, but I want to make it clear why average
posted price should be used.

We feel -- the City of Long Beach Board of Harbor
Commissioners feel that the average posted price should be used
for four reasons:

First, this concept most nearly represents the fair
value of the oil. Two, it will get a better bid for the City
and State. Three, a review of the price structure in the last
thirteen years would have resulted in a difference of only
17/100 of a cent per barrel from that if the highest posted
price were used. The contract provides that the oil should b:
valued at one-tenth of A.P.I. gravity. This provision, in effect, upgrades the value of each barrel of oil by approximately three cents. It is, therefore, more advantageous to the City and State than any possible benefit that could result from the use of the highest posted price. Historically, the average posted price worked very satisfactorily under the Long Beach Oil Development drilling and operating contract for the past 24½ years and the Richfield Oil Company's Parcel A, the tideland tract, since 1947.

Fourth, the average posted price will protect the successful bidder against what I say is a phony or non-bonafide posting of prices and because of this would result in a substantially more favorable bid to the City.

MR. SIEROTY: Mr. Chairman, I think Senator O'Sullivan's question was going not so much to the average posted price or the highest posted price. The question was whether the posted price should be the basis, and I agree with him. I think we ought not use the posted price as the test. I think that these standards by the oil industry serve their purpose but do not serve ours. We want at least the average market value. If we don't get the highest price paid, we should at least get the average price paid. I don't think the posted price is the one we should use, even if it has been used for twenty-five years. Maybe it has worked well, maybe it hasn't; we want the reasonable market price. I would suggest we throw away the posted price, use them as tests, and get the true market value.

MR. CHAMPION: Have you any suggestions how this can be done competently on any administrative basis that we now have?

MR. SIEROTY: Yes, I do. First of all, I would suggest that we take the second alternative, which leaves posted price for some idea of value ......
MR. CHAMPION: I am speaking of the mechanics.

MR. SIEROTY: I think the staff of the State Lands Commission would have to find ways of finding this value. As mentioned earlier by Mr. Goldin, let me mention two sources of information we have. On page 32 of the contract, as Mr. Goldin mentioned, the contractor or any other party who is a part of the contractor has to furnish information as to purchases that he makes in the field. Secondly, if we, the City and State, do take advantage of this 12 1/2% sell-off provision, this would give us some indication. Now, we may have meetings in which we will ask industry people to give us information on their sales and maybe other ways. We will find ways, I am certain, of determining this information -- as the State finds ways of determining other information.

MR. CHAMPION: Would you like now to speak to this point?

MR. SPENCE: I think I would be only repeating myself on behalf of the City when I say there is no way we know of that we can force third parties, contractual parties, to reveal to us or to the State or any body else what they are paying for oil in any of the fields. That is their own business and they certainly have no intention of telling us what their relationship is with their purchaser or seller.

MR. CHAMPION: As I understand your previous statement, I assume the Standard letter and other comments go to this. Is there a substantial question if we leave this in an uncertain area, that this will hurt the bidding situation?

MR. SPENCE: Not only that -- I don't know who is going to bid on this contract unless you have an average posted price.

MR. CHAMPION: This is a familiar problem of State
government -- the establishment of an administrative standard
that is ascertainable to people not in government, for purposes
of making a business decision.

SENATOR O'SULLIVAN: What companies have refused to
bid on the highest posted price?

MR. SPENCE: Standard Cil has already done so.

MR. CHAMPION: What is the objection to the highest
posted price?

MR. SPENCE: Somebody else in the engineering section
will have to answer that. I am not familiar with that.

MR. HUGHES: It would be far more difficult to deter-
mine the prevailing market price.

SENATOR O'SULLIVAN: I didn't ask that.

MR. CHAMPION: The Senator's question is: Who has
refused to bid on the highest posted price?

MR. SPENCE: I don't know who has refused, but certain-
ly any interested bidder would adjust his bid accordingly and
bid a lesser amount if he were uncertain as to the price he would
have to pay for this oil.

MR. CHAMPION: I think the answer to this, Senator, is
that this is a new proposal and not one to which we have any
industry response.

SENATOR O'SULLIVAN: May I ask another question: Do
any of you have information from any of the companies that they
won't bid at the highest posted price?

MR. HUGHES: No, sir. I don't have any information
from any company they won't; except they will adjust their bid
downward on the basis of the highest posted price -- one company
in addition to Standard.

SENATOR O'SULLIVAN: Any others?

MR. HUGHES: Not that I know of.
SENATOR O'SULLIVAN: Any of you know of any other company that won't bid? You say you lost the difference of 17/100 per cent.....

MR. HUGHES: Of one cent per barrel.

SENATOR O'SULLIVAN: ... over the life of the contract.

What does that amount to in terms of dollars?

MR. SMITH: My name is W. A. Smith, with the staff of the Long Beach Harbor Department. It would approximate $300,000 over the life of the contract.

SENATOR O'SULLIVAN: Prospectively or retrospectively?

MR. SMITH: This is the historical difference which has existed for the past thirteen years.

SENATOR O'SULLIVAN: Was that application of those figures made prospectively or retrospectively?

MR. SMITH: Prospectively.

SENATOR O'SULLIVAN: You don't know what it would be retrospectively -- what it would amount to?

MR. HORTIG: "If I may amplify, Senator O'Sullivan, there is, of course, the additional feature in the proposed contract that is under consideration -- one under which the City and State would share in the percentage of the net profits. The highest net profits bid would receive the award of the contract. Under these circumstances, then, it can be reasonably expected, that with a certain price base, even though it be a lower price base, that a higher percentage of net profits can be bid -- without the necessity of taking insurance on the bid by any prospective bidder to take care of vagaries in the prices and unpredictable variations in the pricing, if the pricing is to be determined by any other procedure than that which has been standard in the industry for as long as there has been a petroleum industry in California."
MR. CHAMPION: May I say one thing? I think what the Senator asked for could be ascertained on the basis of this difference. You should be able to give him a figure without too much difficulty of what historically that would have meant over the life of the old contract.

MR. HORTIG: This is true, but the problem before the house is that under the old contract, one of which was awarded at an operating percentage of fourteen and a fraction per cent and another at about five per cent, leaving for the City about ninety-five per cent -- had that contract at that time required highest posted price, how much would the ninety-five per cent been discounted?

MR. CHAMPION: You can surround the figures with whatever qualifications you wish, but I think the Senator is interested in that figure. I think all these considerations can be pointed to in the meaning of that figure, but the figure is quite ascertainable.

MR. SMITH: The figure is ascertainable -- 250 million barrels of oil on the L.B.O.D. contract -- if you apply the 160 cent, it would be something around $400,000. I would like to point out in addition, if we agree that any prospective bidder is given a nondefinitive basis for the value of the oil, if he protects himself against this -- which I think it is reasonable to expect -- that a difference in his bid of slightly over one tenth of one per cent would more than offset the difference that we are speaking of generated by 17/100 of a cent per barrel; and if he were to protect himself to the extent of one per cent, we would be talking of a loss to the City and State of two and one-half million dollars.

MR. CHAMPION: Thank you.

SENATOR O'SULLIVAN: As I understand it, the position
of the staff and the Long Beach Harbor Department is that it is impossible to ascertain the market value of oil in the Wilmington or the Signal Hill Field on any particular day at any particular time, in any particular month, with any degree of accuracy.

MR. SPENCE: On the basis of the price paid.

SENATOR O'SULLIVAN: On the basis of the price paid?

MR. SPENCE: Yes.

SENATOR O'SULLIVAN: There is no market -- there is no public market for oil that is available to the public, that is based upon actual sales; is that right?

MR. HUGHES: The major purchasers in the field are posting and we know that that's the price that they are paying for the oil. That determines the market price.

SENATOR O'SULLIVAN: May I interrupt and ask: If you don't know what they sell for, you don't know whether any transaction ever takes place under the posted price?

MR. HUGHES: We know that they have agreed to pay the price they are posting for the oil and that they are purchasing oil in the field, and they are paying that price for it.

SENATOR O'SULLIVAN: Is there any requirement when they post that offer that if it is accepted a contract be made?

MR. HUGHES: I know of no instances where they are paying more.

SENATOR O'SULLIVAN: Is there any requirement that if they post an offer that they actually consummate a sale?

MR. HUGHES: They don't have to buy the oil, no.

SENATOR O'SULLIVAN: They don't have to buy the oil?

MR. HUGHES: No.

SENATOR O'SULLIVAN: And no seller has to sell any oil at that price if he didn't make an offer?

MR. HUGHES: He doesn't have to sell and the buyer
doesn't have to buy; but if he does buy, he has to pay the posted price.

SENATOR O'SULLIVAN: If he buys, he will pay the posted price?

MR. HUGHES: His posted price.

SENATOR O'SULLIVAN: How do you know?

MR. HUGHES: We only know from selling oil to purchasers who post and they do pay the posted price to the City.

SENATOR O'SULLIVAN: And you have been selling oil to them and they consistently buy at the posted price; is that right?

MR. HUGHES: Yes -- based on the average of the prices posted by various companies in the field.

SENATOR O'SULLIVAN: Then sometimes they don't buy at their posted price; is that right?

MR. HUGHES: It's possible; but I don't know of cases where they are paying more than the posted price or less than the posted price.

SENATOR O'SULLIVAN: Then almost without exception, in your experience, they have purchased at the posted price; is that right?

MR. HUGHES: Well, to the best of my knowledge, yes.

SENATOR O'SULLIVAN: How many transactions do you know of?

MR. HUGHES: The only transactions I know of are the transactions down in the Harbor area of the Wilmington Field.

SENATOR O'SULLIVAN: And how many barrels of oil were involved?

MR. HUGHES: Well, there is about 40,000 barrels a day in the Harbor area, in the Harbor tidelands; there is about 15,000 barrels a day on the City tidelands.
SENATOR O'SULLIVAN: And do you manage the sale of all of those on the City tidelands?

MR. HUGHES: Yes. It's under a contract that is operated and administered by the Harbor Department.

SENATOR O'SULLIVAN: Does that contract require that they take it at the average posted price?

MR. HUGHES: The average, or the highest price paid by the contractor for any oil in the field.

SENATOR O'SULLIVAN: So under that particular arrangement, they are required by a contract to take it under the posted price?

MR. HUGHES: Yes.

SENATOR O'SULLIVAN: Is that right?

MR. HUGHES: That's correct.

SENATOR O'SULLIVAN: So that your evidence would not obtain to the situation we have referred to here, would it?

MR. HUGHES: No, it would not.

SENATOR O'SULLIVAN: Thank you.

MR. SIEROTY: May I ask a question? Mr. Spence, do you know whether the City of Long Beach has other oil wells on the uplands from which it receives revenue?

MR. SPENCE: Yes.

MR. SIEROTY: What is the pricing mechanism there?

MR. SPENCE: I can't answer that, but I think there is somebody here that can. Mr. Lingle of the City Attorney's Office is familiar with this.

MR. LINGLE: We have some where we have highest price. Those are markedly different type contracts.

MR. SIEROTY: Highest posted price?

MR. LINGLE: Highest price posted and paid in the field.
SENATOR O'SULLIVAN: Posted and paid.

MR. CHAMPION: In what way are those contracts different?

MR. LINGLE: For instance, they are similar to your State leases, where we put something out to lease. We had a small field or small amount of oil and we had nothing like the vast amount of oil here. It wasn't where somebody was buying oil -- they were going into the exploratory aspect of the oil. If they found oil, it more than made up -- the price became insignificant. I shouldn't say insignificant, but it didn't have the total effect on the market of this one,

SENATOR O'SULLIVAN: Are all the City of Long Beach contracts tied to a posted price?

MR. LINGLE: I couldn't speak for all of them but I know about a lot of them. I haven't any knowledge of any that aren't tied to a posted price.

SENATOR O'SULLIVAN: Some of them are highest posted price?

MR. LINGLE: Some of them are.

MR. SPENCE: There is a royalty. They are not on net profits.

MR. CRANSTON: Alan, would you amplify on your statement that you heard statements that prices were paid both above and below the posted price?

MR. SIEROTY: Yes, I believe if we go into the testimony of the hearings which were held on the East Wilmington Field, there was testimony that some people pay up to ten cents above posted price or that they received lower than posted price for their oil. So I think it raises some question as to whether the posted price is the price that is paid. It may be an offering price, but the question arises: Is this the price
that is paid?

MR. CRANSTON: I have one other question I'd like to ask. When I asked some time ago as to how we would ascertain the price equal to the market price generally prevailing and paid in the field, under alternative (2), the clause at the bottom of page 32 (line 22) was cited as one step toward that. Supposing that were the only measure open to us, how accurate a measuring stick would that be.

MR. HORTIG: I can only answer that that particular producer's experience would be somewhere near the prevailing market price. His particular requirements at the time, his refinery demands, his other commitments might have him a considerable difference above or below what might be considered by an economist as a true market value. Even Webster's definition for market value is: "The average value of a commodity in a given market during a short period of time," which is certainly our experience in the State Lands Commission -- having royalties calculated on posted prices by purchasers in the field, exactly in accord with this definition.

MR. CRANSTON: Would this at times reflect only a very small percentage of what was actually occurring?

MR. HORTIG: It would, of course, vary depending upon the relative quantities of oil being produced in the Los Angeles Basin and on the Long Beach tidelands. It is for that reason, in order that a small percentage could not control the entire situation, it was proposed that this broader base of similar oil in the Los Angeles Basin, by producers all of whom contribute to the supply in the Los Angeles Basin, would be used as a more realistic measure of the economic value of the oil in the Los Angeles Basin and not simply this Long Beach Oil Development or Harbor tideland development.
MR. CRANSTON: You do indicate we could be misled if
we were to rely totally on this as a measuring stick?

MR. HORTIG: The one operator alone, yes.

MR. SMITH: It depends on who the successful bidder is.
The successful bidder might be somebody who is buying very little
in the Los Angeles Basin. You would have an extremely limited
base to establish a price.

MR. SPENCE: The contractor might not be buying one
barrel of oil under this contract.

MR. CRANSTON: The further apparent fact is that under
present law we might be unable to gain any further accurate in-
formation on this subject.

MR. SPENCE: Yes, sir. I certainly agree with Mr.
Goldin's remarks about the right to require private parties to
display or disclose this information. He said he wasn't dog-
matic on the subject. I'll go so far as to say I am. I don't
think you can.

MR. CHAMPION: Are there any comments, questions or
suggestions to come before the Board on this subject?

MR. SIEROTY: On the pricing or on the whole?

MR. CHAMPION: On the whole subject of the contract?

MR. SIEROTY: Yes. Mr. Spence, let me ask a few ques-
tions about the reasons why a gross profits clause was not in-
cluded in the contract. This is a net profits contract only and
now I understand one of the reasons that was proposed is that at
some point the termination clause might be exercised earlier if
there were a gross profit; but other than that, I understand
there are other reasons. I'd like you to expand on that a little
bit.

MR. SPENCE: That's merely a policy matter. I don't
make these policies, so I'll let somebody else answer that
question.
MR. SMITH: I would say the basic reason for making this a net profits contract is to make the contractor's interest as nearly parallel as possible with the interest of the City and State; in other words, make him dependent on profit for his remuneration. There was one statement you made earlier which I don't believe is quite accurate. I believe, in fact, if we had a contract based on gross income -- a percentage of gross or at least part of the remuneration based on the gross -- it would probably result in later termination rather than earlier; and it was resolved that in having the contractor's interest identical with that of the City and State would result in the best operation.

MR. SIEROTY: On this point, what I was thinking about, not to eliminate the net profits picture but to have a gross royalty -- guaranteed minimum. Let's take a figure of 16-2/3%; how would that affect it?

MR. SMITH: Well, this in our opinion would not result in a better bid from the standpoint of the City and State; and if you are talking about a guaranteed minimum to the City and State, that is true. It would result in earlier termination. I think it should be kept in mind that under the terms of this agreement the City, through its Board of Harbor Commissioners, will administer the operation and the contractor has little or nothing to say about the operation as far as the major expenditures and things of this sort; and if he has nothing to say about it and cannot control the profitability of the operation, it does not seem right for him to have to guarantee the City any profit.

MR. SIEROTY: Well, let's say in the first ten years of this contract -- wouldn't you anticipate that the City and State would be receiving at least 16-2/3% of the gross revenues?
MR. SMITH: That is correct.

MR. SIEROTY: But you think at some future time it might be less profitable and thereby termination would become earlier?

MR. SMITH: That is correct. During the 25-year term of this contract we anticipate this operation to certainly, if not reach, at least approach termination due to economic conditions; and a 16-2/3% guarantee to the City and the State would move this date forward by five or perhaps ten years.

MR. SIEROTY: In other words, you think this may be producing less than 16-2/3%?

MR. SMITH: That is the probability; that is correct. You must remember we are in the second 25-year life of this field, so we are talking about a 50-year life.

MR. SIEROTY: The reason I thought a gross profit might be a good idea is because I understand we might expect some very high bids in terms of percentage of profit returnable to the City and State -- figures of 90, 95 and even 100% having been mentioned. Now, if this is so, that we do receive such bids in the high nineties or even 100% or anywhere in that area, the interest of the contractor and the City and State is not identical. Actually, he has very little interest in the net profits. They may be entirely secondary to him. He may be interested primarily in the supply of oil and the question of what profit he is going to make out of this contract may be very unimportant.

So, therefore, the reason I thought the gross profits might be something we could consider is that it does protect the City and State; at least it gives a minimum here, and it's just a further protection -- and I am just throwing it out for further consideration.
MR. HUGHES: I'd like to comment on Mr. Sieroty's statement. One reason that we rejected the idea of a guaranteed minimum to the City and State was because we felt that it would adversely affect the net profits bid that the contractor or the bidder might make, because it will reduce, then, the money available for reimbursing the contractor for all of his expenses and consequently he will take that into account in making his bid and I believe will submit a lower net profit bid to the City and the State.

MR. CHAMPION: Do you have further questions, Mr. Sieroty?

MR. SIEROTY: I don't have this before me, but I recall that in the contract there is a provision regarding subcontractors. At the present time, under the contract there is no requirement that these be put out for competitive bidding. Maybe you would like to comment a little about that. Under all State and City bids, competitive bidding is required. Where the contractor has very little interest -- and this may be untrue, but for the purpose of this question assume that the contractor comes in with a figure of 98 or 99%, so I am saying he has very little interest in the net profits -- he has very little interest in maintaining a low cost operation, and the awarding of subcontracts can be a very important aspect of this operation. Subcontracts could be awarded that were very lucrative to the subcontractor and where the contractor could receive some benefit at some other time from the subcontractor. So I'd like you to comment on what protection provisions there are in the contract.

MR. SPENCE: First, the Board of Harbor Commissioners controls these operations and expenditures; secondly, if the Board of Harbor Commissioners determines that any work under
this contract requires competitive bidding, they can require the contractor to submit it to formal competitive bidding. At the present, they get informal bidding and they submit that to the Board of Harbor Commissioners for approval; and it is anticipated that the same will prevail, as a matter of administration, under this contract. In any event, as I pointed out, any time that the Board of Harbor Commissioners requires the contractor to put this subcontract work up to formal competitive bidding, they may do so.

MR. CHAMPION: May I ask what volume of the work done presently is under subs?

MR. SPENCE: I'll have Mr. Hughes answer that.

MR. HUGHES: The payroll is about the only expenditure that the contractor makes directly. That runs about $250,000 a month and the average expenditures, I believe, run around eight or $900,000 a month. That's all sub-contract. I'd like to add here that if the contractor were required to put everything out to bid -- all services and all purchases -- it would become completely unworkable.

MR. SIEROTY: Mr. Chairman, there is a provision in the contract that the Board has the sole discretion to require the contractor to submit items for public bidding. Maybe it might be advisable to be the subject of one of the side agreements Mr. Goldin has worked out. I don't know whether this would be legal for us to do or not, but it would be something to consider.

MR. CHAMPION: Well, if it would be unworkable for the Harbor Commission alone, I can imagine your comments. What are your comments? I think you should be more specific than to say it is unworkable.

MR. HUGHES: There are so many items and equipment that have to be purchased for oil operations, there are so many
services that have to be performed, that to award these on competitive bidding in every instance would keep the contractor continually calling for bids. We have probably six or seven hundred supply companies from which equipment is purchased of one type or another, and there is almost that many different service companies that are required from time to time; and where you are calling for competitive bids from so many companies on so many items of equipment, I think you are going to just tie your hands and do a poor job of operation.

MR. CHAMPION: Do you have any audit review or anything comparable that gives you a good idea as to whether or not those subcontracts are being let at the proper level?

MR. HUGHES: Yes, they are audited all the time and they are all approved by the Board; but in many instances the contractor takes quotations from the vendors -- supply companies, service companies -- and then submits those to the Harbor Board for approval. Many larger items or major contracts, subcontracts, are awarded on the basis of competitive bids; but there are numerous -- hundreds and thousands -- of small items that would be very unwieldy.

MR. CHAMPION: You do follow competitive bidding on...

MR. HUGHES: ... major items.

MR. GOLDIN: Mr. Chairman, Section 12.4 requires that the contractor is precluded from profiting from purchases. There is an obligation imposed upon him to buy at the lowest net price and he must get the highest net price when he is selling. It seems to me that it isn't too difficult to acquire evidence from somebody willing to give the City a better deal, in which event there may be a default under the terms of the agreement.

MR. CHAMPION: Let me ask you, Mr. Hortig, in our
review of the operation as it is now constituted, do we go deeply
into the operations in our audit, in order to have any rational
judgment in this matter?

MR. HORTIG: At least, Mr. Chairman, on a spot-check
basis on the day to day operations, in these purchases and
handling of various services, to ascertain that they are being
acquired at a currently reasonable level; and we have had no
reports that I can recall out of our audit reports where any of
them, even in the minor items . . .

MR. CHAMPION: This is a spot audit?

MR. HORTIG: That is correct; and, of course, the
major items which should require detailed audit and had subse-
quent payments are awarded in the first instance on the basis of
competitive bidding.

MR. SIEROTY: Well, I think maybe something could be
made a little more specific as to what is a major item, perhaps.
Maybe there is something that could be done to assure that there
will be competitive bidding on some of these items.

MR. SMITH: It would seem to me, if this is appropriate
at all, that this should be the subject of the so-called side
agreements. We feel that this agreement, which is between the
Board of Harbor Commissioners and the prospective contractor,
gives the Board of Harbor Commissioners the right to require
competitive bidding on any item and it would serve no purpose to
attempt to specify in here which of those items might be re-
quired to go to competitive bidding. There is no way of knowing
what type of operation we will have down there in twenty years.
There may be new processes, new equipment, that we can't even
anticipate now.

MR. SIEROTY: It sounds like a good suggestion.

MR. CHAMPION: Do you have any further suggestions or
questions?
MR. SIEROTY: Not on this. Section 30.2 has to do with the contractor's right not to have to make expenditures if the amount of the expenditure would be greater than could be reimbursed in six months. Is that because of the termination clause? Does that tie in with that?

MR. SMITH: Yes.

MR. SIEROTY: Now, the City can go ahead and make the expenditures and charge it against the contractor?

MR. SMITH nodded.

MR. SIEROTY: On the question of the 12½% selloff, if the City should sell this off I wonder if any thought has been given to the situation that could arise if the City should sell it off at a price higher than the price we use as the gauge for pricing out the oil that the contractor takes. Would the City be making a profit over the operation or would that all be attributable to the field?

MR. SMITH: If you will refer to page 31, 18.2, I think it is rather specific, on line 4. It says: "If taken in kind by the City, such oil shall be valued in the manner herein-after provided in subsection 18.3 hereof and such value shall be used in computing net profits." So that in the event that we were to get a higher price for any of this 12½%, the difference of the valuation under 18.3 and the price we are actually getting would accrue to the City and State alone.

MR. SIEROTY: One more problem: What is meant by "unprofitable" in section 4, with the right to terminate?

MR. SPEENCE: I can't answer that any other way than the words themselves: When it is no longer profitable for the City to continue or the contractor to continue.

MR. SIEROTY: You can't be any more specific than that?
MR. SPENCE: No, sir. As a matter of fact, it is either profitable or it isn't profitable. The books and records will show that.

MR. SIEROTY: Well, what is the test of profitability?

MR. SPENCE: The question of whether they are losing money or making money.

MR. CHAMPION: In other words, the factor of volume would not enter into it. If the contractor should determine that the volume of oil did not interest him any more, that could not be used as determination of "non-profitable."

MR. SIEROTY: I would bet this is at least as indefinite as any proposal we have on the market price of the oil -- the question of "not profitable," and I don't know whether it can be made any more specific but I am just saying it is going to be a problem.

MR. CHAMPION: Isn't that a dollars and cents problem?

MR. SMITH: It seems to me it is a factual determination -- an audit of the corporate books would indicate that.

MR. SIEROTY: What plans will we have if the contractor terminates on this basis? What can then be done?

MR. SPENCE: This is what we would propose to do: We would propose that when it is that close that we can anticipate such a status, that we (that is, the Board of Harbor Commissioners of the City of Long Beach and the City Attorney's Office) will have a draft of contract that we will have ready to submit for the process such as we have under this contract; so that within the 180-day period we can get out another contract and have it ready to go. We can't anticipate what kind of a contract it will be. It might be so far down the road that it will be simply a stripping contract or some other kind of contract that we can't anticipate at this time. It would require
considerable thought. We would have to update it from time to
time as time went on, so when we got to the point we would have
something concrete to submit to the Lands Commission; and we
would anticipate that from time to time this type of proposal
will be submitted by the City to the State Lands Commission staff
so they will know what is going on at all times.

MR. SIEROTY: Mr. Goldin has suggested that the State
be involved in the approval of termination. Howard, I wonder --
do you mean in both instances -- in other words, where termina-
tion comes by way of the contractor's exercise of that provision
or in the event that the City wants to exercise it?

MR. GOLDIN: In either instance.

MR. SIEROTY: In either instance the State Lands Com-
mission would have to approve of the termination rights?

MR. GOLDIN: I regard that as so akin to a modifica-
tion or an alteration of the contract as to necessitate State
Lands Commission approval.

MR. SIEROTY: So the contractor would have to satisfy
not only a majority of the Harbor Board, but also a majority of
the State Lands Commission that this contract was not profitable?

MR. GOLDIN: That is correct; and although Mr. Hortig
mentioned the possibility of aside agreement to that effect,
another alternative -- and perhaps a more practical one -- would
be to provide for such approval by the Commission in the contract
itself.

MR. CHAMPION: Another question in that same area:
I was curious as to the language used by the staff's recommenda-
tion: "Once the Contractor or the Board has given (the 180
days' notice) to terminate the contract, neither party may act
unilaterally to revoke such notice of termination." Is it in-
tended here that this binding on the one who gets the notice?
It says, "neither party." The thing I am trying to get to:

Suppose we should contest such determination that it was not profitable and thereby attempt to stop the notice of termination. That language doesn't mean to indicate we couldn't do so?

MR. SPENCE: Mr. Champion, the notice doesn't go out until that determination has been made ....

MR. CHAMPION: I see.

MR. SPENCE: ... and the reason for that, of course, is that having once given the notice the determination has been made that is the time when we have to go into this other situation that I just mentioned, and we can't let the contractor get down to the 179th day and change his mind. This has to be out to bid and ready to go within 180 days.

MR. CHAMPION: So the primary purpose is really to attempt to prevent a change of mind on the part of the contractor?

MR. SPENCE: After the determination has been made and has been indicated.

MR. SIEROTY: I'd like to ask whether the side agreements have been gone into in much detail. Have you worked out what are the major policy considerations which will be made by the City with the consultation and approval of the State Lands Commission?

MR. HORTIG: Not beyond the scope as stated in the agenda item relating to policy problems. As you realize, we have been working against a deadline here and the first problem is to get a contract going. We did flag this for the attention of the Commission, that this is the intent and understanding as between the parties, which can be arrived at concurrently and doesn't have to be completed before we go forward and get this contract on the road in the form under which it can be advertised for bid.
MR. CHAMPION: Let me ask you this: The intention, as I would understand it, is to have the same (wherever they are applicable) side agreements as are contemplated in the new field. This is the general area of the side agreements, and where they are applicable, as they would be in most cases, you would have the same side agreements in both contracts?

MR. HORTIG: In principle, that is correct. Because of differing factual situations there will be some differences in details.

Again, I want to point out to the Commission that the Commission has complete control in this situation, because even if they approve the contract and it goes to bid, the award of the contract is subject to approval by the Commission after the bids have been received. In other words, having a hypothetical situation which I am sure won’t arise, if we didn’t have satisfactory side agreements at that time, I am sure the Commission would not approve the awarding of the bid.

MR. SIEROTY: I have one more comment, Mr. Chairman. I was happy to see a provision here for an anti-discrimination clause and I’d like to suggest one word be dropped from that clause, the word "hereunder." The contract reads: "... in conducting operations hereunder."

MR. CHAMPION: Can we control any practice except under the contract?

MR. HORTIG: I don’t think that is very fair to the contractor, Mr. Sieroty. All I think we can ask is that he comply with this contract. I think the State policy takes care of that.

MR. SIEROTY: This would be conforming to State laws.

MR. CHAMPION: Well, there are other state laws on that.
MR. SIROTY: I don't think it hurts to put it in the contract, though -- two remedies instead of one, or maybe three instead of two.

MR. CHAMPION: Do you have any comment on that, Mr. Spence?

MR. SPENCE: Yes. I don't think it is fair to the contractor to put that provision in there.

MR. SMITH: We have no authority to police his operations elsewhere.

MR. SPENCE: We have absolutely no authority to police his practices either in the State of California or outside the United States of America.

MR. SIROTY: That is right. Mr. Goldin, is there any remedy for failure to abide by that provision in the contract?

MR. GOLDIN: No, there is not. This being not a State contract, we took the position of requesting the City's acquiescence in the State policy of inclusion of standard language, which I believe will be in all State contracts; but there is no prescribed remedy, and I have doubts as to the effectiveness of inserting a provision other than that normally prescribed by other provisions of law.

MR. CHAMPION: Limiting it to the activities hereunder -- in other words, to this contract area -- what would be the remedy of the State in the case of discrimination?

MR. GOLDIN: Well, we could contend that the contractor was guilty of a breach so as to constitute a default under the contract.

MR. CHAMPION: That is the whole remedy under the contract provision itself, regardless of what other provisions may have been made by law?

MR. GOLDIN: Yes, Mr. Chairman.
MR. CHAMPION: The others would be under the Fair Employment Practices Code. The others would be under the law without reference to the contract.

MR. GOLDIN: That's right.

MR. CHAMPION: Any further questions?

SENATOR O'SULLIVAN: You would have specific performance under that last clause?

MR. GOLDIN: We would certainly try to invoke it.

SENATOR O'SULLIVAN: Why is twenty-five years the term?

Is there any particular reason?

MR. GOLDIN: Long Beach charter requirement sets a maximum for this type of contract.

MR. SPENCE: The reason we have 24 years, 11 months and 8 days is at the request of the accountant, who is very much disturbed that the Long Beach Oil Development contract expires on March 24, 1964 instead of on the first of April or the 31st of March. It makes it easier from an accounting standpoint.

SENATOR O'SULLIVAN: I am speaking of the substantive reason for a term of twenty-five years.

MR. SPENCE: Section 229 (x) of the City Charter prescribes that it shall not exceed twenty-five years in the Harbor District.

SENATOR O'SULLIVAN: All right. Now we have got the maximum. Why should it be as much as twenty-five?

MR. SPENCE: Why should it be?

SENATOR O'SULLIVAN: Yes.

MR. SPENCE: That's an engineering question. I think I will have the engineers answer that.

MR. SMITH: Under the anticipated operations, the period of high profitability will be early in the contract and we feel that it is desirable to retain the bidder or the contractor
that we get at this time for as long as possible, because we will be getting a bid which will be based on present worth in the early part of the contract and therefore will get a more favorable bid to the City and State; and we feel having it as long as possible, twenty-five years, it will make money for us to the end. In other words, if we were to resubmit this, say, in fifteen years, conditions will be degenerated to some extent and we could expect a lesser bid to the City at that time.

MR. CHAMPION: You would get less then out of the volume situation.

MR. SMITH: There would be no advantage -- the peak production would have been past.

SENATOR O'SULLIVAN: Who has the contract now?

MR. SPENCE: The existing contract?

SENATOR O'SULLIVAN: Yes.

MR. SPENCE: L.B.O.D.

SENATOR O'SULLIVAN: Who is that?

MR. SPENCE: L.B.O.D. is a Nevada corporation. As I understand it, it consists of Signal Oil and Gas Company, Standard Oil Company of California, Humble Oil Company, Continental Oil Company, The Termo Company, and Macrate Oil Company. Mr. Hughes has just handed me a note that breaks down their percentages, if you would like to have that.

SENATOR O'SULLIVAN: Could we have that?

MR. SPENCE: Standard Oil has 28.5; Signal Oil and Gas has 57.0, that being because of the fact that they have purchased or acquired the interest of Hancock Oil Company; Humble Oil Company, 8.5; Termo Company, 2.0%; Macrate, 2.0%; and Continental, 2.0%.

SENATOR O'SULLIVAN: Do they have anything left in the way of interest in the capital equipment or anything?
MR. SPENCE: No, sir; all the capital equipment is owned by the City of Long Beach in trust for the State of California. Any property they might own would be personal property they have in their warehouse that they haven't been reimbursed for. I don't know how much that amounts to, but that is their problem.

SENATOR O'SULLIVAN: Well, will we have to reimburse them for it?

MR. SPENCE: No, sir -- not unless they use it on the subject lands for oil operations.

SENATOR O'SULLIVAN: If they fail to bid this contract and get it, as far as we are concerned we are clear with them?

MR. SPENCE: Yes, sir. They will have to dispose of their personal property.

SENATOR O'SULLIVAN: We don't owe them anything and they don't owe us anything at the closing of the elapsed period or term of the original agreement; is that right?

MR. SPENCE: I assume that is correct. Let me ask Mr. Eshmaur. There will be a delay in payment for money that is due as of March 20, 1964, but not for anything thereafter nor for any of the property they own for which they have not been reimbursed.

SENATOR O'SULLIVAN: Is that money due on the due date, the closing date of the contract?

MR. SPENCE: The twentieth of the following month.

SENATOR O'SULLIVAN: Is there a provision for interest in the event it isn't paid on the due date?

MR. SPENCE: I don't believe so -- no. They are paid out of oil.

SENATOR O'SULLIVAN: They are paid out of oil?

MR. SPENCE: Yes, that's where they get their payment -- out of oil. So it will be out of oil prior to March 20, 1964.
Senator O'Sullivan: If they owe us money after that
date, is there a provision made that we get paid?

Mr. Spence: If they owe us money, we will get it.

Senator O'Sullivan: Will we get interest?

Mr. Spence: I don't believe there is any provision
for interest in the existing contract. I really can't answer
that, Senator. The staff advises me there is no such provision.

Senator O'Sullivan: You have worked, have you, on the
other contract for its life?

Mr. Spence: No, sir. I have been in the City Attorney's Office since February 15, 1955. I have not worked on the
contract.

Senator O'Sullivan: Who has?

Mr. Spence: Mr. Phil Brady.

Senator O'Sullivan: Is he here?

Mr. Spence: No, sir. He is Assistant City Attorney, officed in the City Hall.

Senator O'Sullivan: Have our relationships, as far as
you know, with this company been good?

Mr. Spence: As far as I know they have, yes.

Senator O'Sullivan: No problems?

Mr. Spence: Not that I know of.

Mr. Sierody: May I ask a question? It has probably
already been answered, but I want to ask it a different way.
Senator O'Sullivan asked why we picked the term twenty-five
years. It seems there are some provisions that perhaps may not
be in the contract or, rather, they could have been in had the
term been shorter; had the term of the contract been at ten or
fifteen years -- I don't know at what point this operation would
tend to be less profitable; let's put it that way -- but had the
term of the contract been less, we could have had a provision
for gross profit instead of net and we need not have that provi-
sion excusing the contractor paying beyond six months. Could you
tell me again why the contract could not have been written for a
period which was a period of assured profitability?

MR. SPENCE: I'll let Mr. Smith answer that. I think
he directed his remarks to that very same question before.

MR. SMITH: Well, at the risk of repeating myself, it
was our belief that a high volume of oil at the high profitabil-
ity that we anticipate in the first five or ten years particularly
will attract the maximum bid that we could hope to get; and we
hope, of course, that the operation will remain profitable to the
contractor for as long a period as possible, so that we can enjoy
that more favorable bid to the City on this operation for the
longest period of time possible.

We saw reason to arbitrarily limit this period of
time in which we would operate under a favorable bid to some
arbitrary ten or fifteen years, because it is a foregone conclu-
sion, I believe, that when this contract or if this contract
were to come up for renewal and rebidding in fifteen years, if
the profitability was less and the oil was down that we would
expect a poor bid and therefore would suffer between the differ-
ence in the bids during the last ten-year period.

MR. HORTIG: I'd like to amplify on that. I think your
question, Mr. Sieroty, presupposed, and certainly a shorter period
contract would be desirable related to a segment of peak produc-
tion, where production reached a peak and started to drop off
again. In this particular instance, since we are in the second
twenty-five years, peak production has been passed, and while a
substantial part of the production or the majority of it will be
achieved in the next ten or fifteen years, nevertheless there
is a continuing decline -- which is in effect even now and every
day here on out the available production will decline. There
will not be another peak under this contract.

MR. SIEROTY: One more question: The contractor is
excused from any liability resulting from doing things that the
City tells him to do regarding subsidence. N.T., Mr. Golfin, do
you know that clause that is? I'll tell you why I asked: I
think this clause is written pretty broadly.

MR. SPENCE: Section 26, page 41 to 44.

MR. GOLDIN: Mr. Sieroty, I think the policy determina-
tion for excluding damages allegedly due to subsidence may be ex-
plained in this way: You will recall that the Legislature in
1963 in Chapter 1847 authorized a settlement of the Anchor litig-
ation. In Section 3 of that statute there is a legislative
finding that since the contractors operated in the manner pre-
scribed by the City and without negligence, waivers of the right
to invoke the indemnity provisions of that contract were author-
ized. In the light of this legislative finding, we deemed it un-
likely that it would be possible to hold contractors accountable
for alleged subsidence damage when they followed orders given by
the City, and we thought the deletion of this type of indemnifi-
cation would have a tendency to enhance the bid -- whereas the
inclusion of such liability might have a tendency to depress the
bid.

MR. SIEROTY: The point I wanted to raise is: This only
exempts the contractor from liability for that area of damages
resulting from subsidence; in other words, it is narrowly drawn.

MR. GOLDIN: I believe the exemptions were just two-
fold: One, with respect to subsurface trespass, and the other
with respect to subsidence damage.

MR. CHAMPION: Does anyone else have anything further
to add? (No response) I think, then, the problem is to set the
time for the next meeting. Mr. Hortig, do you have a suggestion?

MR. HORTIG: Yes, Mr. Chairman. In the interim, we
have checked your calendar and that of Mr. Cranston, the two mem-
ers here. I haven’t been able to discuss this with Mr. Sieroty;
but Thursday, October 10th, at ten a.m., here would be available
both for Mr. Cranston and yourself. Would this be satisfactory,
Mr. Sieroty?

MR. SIEROTY: Fine.

MR. CHAMPION: I think that will mean there will be
ten days available to those who wish to submit further observa-
tions or raise other questions. While there are ten days avail-
able, I’d like to ask anyone who has comment to make or who has
a question to raise that they raise it as early as possible before
that date. We really do want to arrive at a final conclusion.
We won’t preclude further testimony at that October 10th meeting,
but I think in order to have the staff information and analysis
and to give Long Beach officials and our own staff an opportunity
to look at this material and to reply to it before the 10th, that
we should ask everyone possible to cooperate in speeding up this
process.

Just as soon as you know what you want to say, if you
will, let us have it in writing, so we can have our staff and the
officials of Long Beach ready to respond or supply the answers
or reply to the arguments.

MR. SPENCE: Mr. Chairman, may I make the request that
in order that we may not be in the dark as to what these respect-
tive suggestions may be, when they direct their proposals to the
State Lands Commission staff, we would very much appreciate it
if they would send us a copy so we can study it without delay.

MR. CHAMPION: I think that is an excellent suggestion
and we would ask that those who wish to comment provide copies of
that comment to Long Beach.

(End of item)