

REPORTER'S TRANSCRIPT

Meeting of The

STATE LANDS COMMISSION
of the
STATE OF CALIFORNIA

Hele~~c~~ on Wednesday, November 6, 1963, 10:00 A.M.

AT LOS ANGELES, CALIFORNIA

Room 1138 State Office Building
107 South Broadway

PARTICIPANTS

STATE LANDS COMMISSION:

HON. HALE CHAMPION, Director of Finance, CHAIRMAN

HON. GLENN M. ANDERSON, Lieutenant Governor, MEMBER

HON. ALAN CRANSTON, State Controller, MEMBER

Staff: MR. ALAN SIEROTY, Executive Secretary to
the Lieutenant Governor

MR. F. J. HORTIG, Executive Officer

MR. F. W. KREFT, Assistant Executive Officer

MR. KENNETH C. SMITH, Public Lands Officer

OFFICE OF THE ATTORNEY GENERAL:

MR. HOWARD S. GOLDIN, Assistant Attorney General

APPEARANCES:

MR. R. F. KARSHNER, Shell Oil Company

MR. DELBERT J. SARGENT, Niland, California

MR. DAVID E. PIERSON, Director of Public Works,
Imperial County

MR. ORLANDO B. FOOTE, County Counsel, Imperial County

MR. HAROLD LINGLE, Deputy City Attorney, Long Beach

I N D E X

| <u>Calendar Item No.</u> | <u>Description</u> | <u>Page of Calendar</u> | <u>Page of Transcript</u> |
|--------------------------|--|-------------------------|---------------------------|
| - | Confirmation of Minutes | - | 3 |
| 5 | Permits, Easements, and rights-of-way - at no fee | | |
| 6 14 | (a) Delta Tel & Tel | 1 | 3 |
| 7 6 | (b) Parker Valley Tel. | 2 | 3 |
| 8 7 | (c) Parker Valley Tel. | 3 | 5 |
| 9 20 | (d) USA, Corps of Engineers | 4 | 5 |
| 10 21 | (e) United States of America | 5 | 5 |
| 11 | Permits, Easements, Leases & Rights-of-Way - per established rental policies | | |
| 12 19 | (a) Arizona Public Service Co. | 6 | 5 |
| 13 28 | (b) R.H. Emmerson & Son | 7 | 6 |
| 14 24 | (c) John A. Fitzgerald | 8 | 6 |
| 15 9 | (d) Howard Hunt and Adam Nataifie, partners | 9-10 | 6 |
| 16 12 | (e) William I. Moore | 11 | 6 |
| 17 13 | (f) Pacific Gas & Elec. | 12 | 6 |
| 18 27 | (g) Occidental Petroleum | 13 | 6 |
| 19 22 | (h) Phillips Petroleum | 14 | 7 |
| 20 23 | (i) Phillips Petroleum | 15 | 7 |
| 21 8 | (j) Phillips Petroleum | 16-17 | 7 |
| 22 15 | (k) San Clemente Sport-fishing, Inc. | 18 | 7 |
| 23 11 | (l) Shell Oil Company | 19-21 | 7 & 21 |
| 24 10 | (m) Charles Vogel | 22 | 8 |
| 25 29 | (n) Signal Oil and Gas | 23-24 | 8 |

| | <u>Calendar Item No.</u> | <u>Description</u> | <u>Page of Calendar</u> | <u>Page of Transcript</u> |
|----|--------------------------|---|-------------------------|---------------------------|
| 1 | | Selection of Vacant Federal Lands, SBD County | | |
| 2 | 2 | (a) Charles Joseph Gosselin | 25 | 30 |
| 3 | 3 | (b) George McCarthy | 26-27 | 30 |
| 4 | 4 | (c) Ralph G. Hurwit | 28 | 30 |
| 5 | 5 | (d) Nathan A. Bertram | 29 | 30 |
| 6 | 1 | Rejection of application filed by DELBERT J. SARGENT, land in Imperial County; Exchange Application #65, etc. | 30-33 | 30 |
| 7 | 17 | Amendment of Paragraph 22 | 34-36 | 71 |
| 8 | 18 | Proposed Oil & Gas Lease, Orange County, Parcel 16A | 37-38 | 72 |
| 9 | 26 | Authorization for Exec. Officer to publish notice | 39 | 73 |
| 10 | 16 | Authorization for Exec. Officer to execute agreement | 40-44 | 74 |
| 11 | 25 | Confirmation of transactions by Exec. Officer | 45 | 75 |
| 12 | 30 | Informative only: (a) Report on status of major litigation | 46-48 | 75 |
| 13 | 31 | Attempted Garnishment of State Tidelands Revenues, City of Long Beach | - | 80 |
| 14 | - | Meeting in P.M. with the Long Beach City Council | - | 76 |
| 15 | | ***00000*** | | |
| 16 | | | | |
| 17 | | | | |
| 18 | | | | |
| 19 | | | | |
| 20 | | | | |
| 21 | | | | |
| 22 | | | | |
| 23 | | | | |
| 24 | | | | |
| 25 | | | | |
| 26 | | | | |

1 LOS ANGELES, CALIFORNIA, WEDNESDAY, NOVEMBER 6, 1963, 10:00 A.M.
2

3 09000
4

5 CHAIRMAN CHAMPION: The meeting will please come to
6 order.
7

8 First order of business is Minutes of the last
9 meeting. What is the pleasure of the Committee?
10

11 MR. CRANSTON: Move for approval.
12

13 GOVERNOR ANDERSON: Second.
14

15 THE CHAIRMAN: Minutes to stand approved.
16

17 Item 3, permits, easements, and rights-of-way to
18 be granted to public and other agencies at no fee, pursuant
19 to statute. Consideration is the public benefit.
20

21 (a) Delta Telephone and Telegraph Company -
22 Easement, 0.13 acre tide and submerged lands of Sacramento
23 River, Sacramento County for construction and maintenance of
24 submerged telephone cable.
25

26 (b) Parker Valley Telephone Company - Easement,
27 10 feet wide and 510 feet long, across Colorado River, San
28 Bernardino County for overhead telephone cable.
29

30 GOVERNOR ANDERSON: Are these public agencies?
31

32 MR. HORTIG: No, sir. They are telephone corporations.
33

34 GOVERNOR ANDERSON: Both of them? Is it our policy
35 to grant them easements like that at no cost?
36

37 MR. HORTIG: It is not policy, Governor. It is
38 prescribed by the statutes in the Public Utilities Code
39 that telephone and telegraph companies are entitled on
40

1 application to receive easements.

2 GOVERNOR ANDERSON: Do they determine the size of this?

3 MR. HORTIG: No, sir. The staff of the State Lands
4 Division does, holding these to a minimum for practical
5 operation for the purpose for which the lands are sought.

6 THE CHAIRMAN: Do we have any authority to determine
7 conditions, such as whether it should be overhead or under-
8 ground, or --

9 MR. HORTIG: Generally no. This is determined by one
10 of the two concepts. In some areas where planning
11 commissions and zoning are applicable, this is determined by
12 local authority, and in the case of these two applications
13 and the location across desert areas immediately adjoining
14 the Colorado River, there has been no question of application.

15 THE CHAIRMAN: I didn't mean to raise the question. I
16 was curious about that.

17 MR. HORTIG: Additionally, the other one that determines
18 overhead crossing on navigable waters it determines, the U.S.
19 Army Corps of Engineers, that this is sufficient navigation
20 clearance, which has been determined in both of these
21 instances by the Corps of Engineers.

22 THE CHAIRMAN: I was just raising an academic question.
23 If we wish to say for other reasons that bother this case --
24 and I don't know of any reason to do so -- that we wanted
25 a cable underground, could we insist on a cable underground?
26 Otherwise it doesn't seem to me that there is any reason for

1 us to pass on these. It is just a formality required by the
2 Code.

3 MR. HORTIG: It is authorized by the Code, but it is
4 desirable that they be passed on for a record of occupancy,
5 as to a record of occupancy of State Lands.

6 THE CHAIRMAN: (c) Parker Valley Telephone Company -
7 Easement, 10 feet wide and 655 feet long, across Colorado
8 River, Riverside County for overhead telephone cable.

9 (d) United States Army, Corps of Engineers -
10 Permit to dredge approximately three million cubic feet of
11 beach-fill material from Anaheim Bay, Orange County, from
12 November 1, 1963, to July 31, 1964 beach erosion control
13 project.

14 (e) United States of America - Life-of-structure
15 permit for deposition of three million cubic yards of beach
16 fill material on 280 acres tide and submerged lands at
17 Surfside and Sunset Beach, Orange County for protection of
18 Orange County shoreline from Anaheim Bay to Newport Beach.

19 GOVERNOR ANDERSON: I so move.

20 MR. CRANSTON: Second.

21 THE CHAIRMAN: Stand approved.

22 Item 4, permits, easements, leases, and rights-of-
23 way issued pursuant to statutes and established rental
24 policies of the Commission.

25 (a) Arizona Public Service Company - 49-year
26 easement, 0.33 acre submerged lands of Colorado River, San

1 Bernardino County for construction and maintenance of over-
2 head wire crossing. Total rental, \$306.25.

3 (b) R. H. Emmerson & Son - Acceptance of quitclaim
4 deed covering parcel of tide and submerged lands of Mad
5 River Slough, Humboldt County, under expired Lease P.R.C.
6 1970.1.

7 (c) John A. Fitzgerald - 1-year renewal of Lease
8 P.R.C. 595.1, 0.378 acre tide and submerged lands of
9 Middle River, San Joaquin County used as a fishing resort.
10 Annual rental, \$150.00.

11 (d) Howard Hunt and Adam Natalie, partners -
12 2-year prospecting permit, 94.127 acres vacant school lands,
13 San Bernardino County, for all minerals other than oil and
14 gas, at standard royalty rates.

15 (e) William I. Moore - 5-year grazing lease,
16 13,830.66 acres school lands, San Bernardino County. Annual
17 rental, \$207.46.

18 (f) Pacific Gas and Electric Company - 49-year
19 easement, 0.25 acre tide and submerged lands of Burns Cut-off,
20 San Joaquin County for construction and maintenance of
21 overhead wire. Total rental, \$1,150.03.

22 (g) Occidental Petroleum Corporation - 15-year
23 subsurface easement, 36 acres tide and submerged lands of
24 New York Slough, Contra Costa County to drill for gas under
25 Browns Island by directional drilling. Annual rental,
26 \$476.64.

1 (h) Phillips Petroleum Company - 49-year easement,
2 7.774 acres tide and submerged lands of Santa Barbara
3 Channel, Santa Barbara County for submarine flow lines
4 from Well No. 4, State Oil & Gas Lease P.R.C. 2933.1.
5 Annual rental, \$220.84.

6 (i) Phillips Petroleum Company - 49-year easement,
7 5.636 acres tide and submerged lands of Santa Barbara
8 Channel, Santa Barbara County for submarine flow lines from
9 Well No. 5, State Oil & Gas Lease P.R.C. 2933.1. Annual
10 rental, \$160.10.

11 (j) Phillips Petroleum Company - Deferment of
12 drilling requirements under Oil & Gas Lease P.R.C. 2207.1,
13 Santa Barbara County, through June 21, 1964 to allow time
14 for studies to determine whether further drilling is
15 justified.

16 (k) San Clemente Sportfishing, Inc. - 5-year
17 minor-structure permit, 8 acres submerged land in Gulf of
18 Santa Catalina, near San Clemente Municipal Pier, Orange
19 County for mooring buoys for commercial sport fishing and
20 charter boats. Annual rental, \$240. To replace permit that
21 expired March 4, 1962.

22 (l) Shell Oil Company - Geophysical exploration
23 permit for period October 24, 1963, through April 23, 1964 --

24 MR. HORTIG: Mr. Chairman?

25 THE CHAIRMAN: Yes.

26 MR. HORTIG: May I interrupt? The application for

1 geophysical exploration permit is requested to be deferred
2 for consideration at this meeting, for the reason that
3 legal questions had been raised as to the applicability
4 of existing geophysical exploration permits heretofore
5 issued by the State Lands Commission. Under those
6 circumstances the staff feels that the Lands Commission
7 should not consider issuance of additional permits in the
8 same form as --

9 THE CHAIRMAN: Have the applicants agreed to defer this
10 to another meeting?

11 MR. HORTIG: No, sir.

12 THE CHAIRMAN: Why don't we hold this and take it up
13 after we go through the rest of these items then, give the
14 applicants a chance to say. For the moment let's not
15 consider that then under Item 4. We will take it up again
16 after we have discussed the other items.

17 Charles Vogel - Assignment from Nancy H. Helmers
18 of Lease P.R.C. 682.1, covering Ark Site No. 11, Corte
19 Madera Creek, Marin County.

20 (n) Signal Oil and Gas Company - Execution and
21 issuance by Executive Officer of an "Amendment and
22 Modification of Exchange Oil & Gas Lease 392.1 P.R.C.
23 Secondary Recovery" providing for establishment of royalty
24 rate for "secondary oil" resulting from water-flood operation,
25 as authorized by Sections 6830.1, 6830.2, and 6830.3 of the
26 Public Resources Code added by Chapter 979/61.

1 GOVERNOR ANDERSON: Could you develop this last one a
2 little bit? Is this the first time we have established
3 policy on this type of thing?

4 MR. HORTIG: This is correct, sir. This is pursuant
5 to the first application under statutes of 1961, which for
6 the first time authorized the operation under the State Oil
7 & Gas Leases in the form here proposed.

8 If I may give to the Commissioners charts which
9 may be helpful, a very brief summary under existing State
10 Oil & Gas Leases, all of which have now been issued,
11 pursuant to competitive public bidding, and all of which
12 require a sliding royalty scale determined by the rate of
13 production from a lease. In other words, there is a
14 minimum royalty specified. In the subject lease under
15 consideration the statutory minimum was 12-1/2 per cent,
16 and this is specified in the contract, and a sliding scale
17 on above 12-1/2 per cent whenever the production exceeded
18 something on the order of 80 barrels per day per well
19 average. No ceiling specified, but the practical effect of
20 the sliding royalty scale in this particular lease is such
21 that in all probability no wells would ever be developed
22 that would produce a calculated sliding royalty scale in
23 excess of 50 per cent. At the time this lease was issued
24 in 1938 there had been no active development of any so-called
25 secondary recovery or water flooding projects. The basic
26 theory is simply that after a field has reached a particular

time in its life it can be determined to probably be economical to inject salt water or other solutions under pressure into the formation where the oil remains, and wash out or sweep out oil which might otherwise remain underground and not be pumped up by the normal or primary oil recovery processes. This feature of artificial stimulation or augmentation of production is the feature that is classified as secondary recovery, or secondary production. Inasmuch as such a secondary recovery operation, which in this instance will be conducted at the sole cost of the lessee, inasmuch as this is an oil and gas lease where all operating costs are borne completely by the lessee, the secondary recovery operation will be the cost to the lessee and will also, when it is put into effect, result in a stimulation of the production rates from the wells that are in existence under this lease. This artificially stimulated rate of production under the existing lease terms and conditions would have to be used to calculate the royalty rate. In other words, under -- prior to 1961 an operation of this type would have had to be undertaken by a lessee under conditions where he not only invested the money to secure the stimulation of production and to produce additional oil which would not ordinarily be produced, both for the benefit of the lessee and the State. But because of having undertaken the operation and increased the production rate, he would also have to pay a higher

1 calculated penalty oil rate, the double burden, economic
2 burden, of a higher oil royalty rate, and the capital costs
3 in operating costs of a secondary oil operation don't
4 ordinarily result in a condition where such an operation
5 can be undertaken.

6 In 1961 the legislature modified the Public
7 Resources Code to provide that, with the approval of the
8 Lands Commission, modification agreements can be entered
9 into with respect to any existing State Oil & Gas Lease,
10 whereunder the lessee will pay the calculated royalty rate
11 that would have been applicable had the lease produced under
12 primarily oil recovery procedures, and pay a royalty on the
13 additional secondary oil recovery, the stimulated augmented
14 production, at a rate not less than the minimum royalty
15 rate specified in the lease.

16 As I stated previously, the minimum royalty rate
17 in this subject lease is 12-1/2 per cent. Under the
18 proposal and the modification agreement that is before you
19 and as shown on the first chart in the folder I just handed
20 to you, it would be proposed that the balance of the
21 primary oil, which is shaded in yellow on the upper chart,
22 which would under normal lease operations be produced at
23 royalty rates ranging from approximately 15 per cent, if
24 this operation is undertaken starting in January, 1964,
25 down to 12-1/2 per cent minimum, with a weighted average
26 royalty rate applicable during that period of 13.19 per cent.

1 The proposal of the lessee, and this has been reviewed as
2 to the economics, the technical feasibility, by the staff
3 of the State Lands Commission, and as to legality of the
4 proposed amendment agreement by the Office of the Attorney
5 General, the proposal would be to produce that same
6 unrecovered primary oil, shaded in yellow in the upper
7 diagram and also in the lower diagram, in a shorter period
8 of time at the same weighted average oil royalty rate, and
9 ranging again between approximately 15 per cent down to
10 12-1/2 per cent, and thereafter pay the average weighted
11 royalty rate that would have been applicable to the primary
12 oil for the remaining oil which will be truly secondary
13 recovery oil, which has been recovered simply because of the
14 injection of salt water.

15 Under the proposed operation by our lessee, it is
16 proposed that this weighted average royalty rate, and this
17 weighted average royalty rate is offered by our lessee as
18 being an equitable oil royalty rate, on oil that the State
19 would otherwise not have any interest in because it would
20 not be produced but for the secondary operation, and proposed
21 to pay the same weighted average oil royalty rate as they
22 will pay on the remaining primary oil. Inasmuch as this
23 13.19 per cent is in excess of the minimum required by the
24 statute, which is the 12-1/2 per cent, the proposed
25 amendment and authorization for this operation is recommended.

26 GOVERNOR ANDERSON: Why do you say they would not produce

1 that? Wouldn't they have ordinarily waited until the
2 field depleted itself, and then used the secondary recovery
3 procedure to get that additional oil out at that time
4 without having to pay a higher rate?

5 MR. HORTIG: Not ordinarily, Governor, because actually
6 the farther down toward the economic limit in a field on
7 primary recovery, the less efficient secondary recovery
8 becomes, and therefore, having waited until the point you
9 suggested, at which time the average oil royalty rate would
10 have been a minimum on primary oil on 12-1/2 per cent, it is
11 estimated that waiting and initiating secondary recovery
12 at that time would result in less future barrels recovered,
13 although admittedly at a lower oil royalty rate, and the
14 interest, of course, of lessees and the State is to achieve
15 the maximum barrels recovered, and the --

16 GOVERNOR ANDERSON: Well, then --

17 MR. HORTIG: The additional barrels which will be
18 recovered by starting the project at this time is of
19 economic advantage to the lessee to the point where the
20 lessee is willing to pay it, the higher average royalty
21 rate for those barrels, rather than wait to the point of
22 having reached the minimum royalty rate which would be
23 applicable to a lesser number of barrels in the future.

24 GOVERNOR ANDERSON: What has been the practice then up
25 to the present time? Have they just not utilized secondary
26 recovery in many cases and just let it -- under the new law,

1 the point, what it has been in the past?

2 MR. HORTIG: There have been no secondary recovery
3 operations on any oil and gas lease.

4 GOVERNOR ANDERSON: They have just abandoned the field,
5 is that it?

6 MR. HORTIG: No. We have had no abandonments of field,
7 except one instance, a field which was started to be developed
8 actually in 1896 and went off production in about 1940, but
9 on the newer leases and including this, as a pioneering lease
10 under the State Lands Act, indeed this was the first lease
11 issued under the State Lands Act by the State of California
12 in 1938, this being the first lease, and it has not been
13 abandoned and is still on production. It is also proposed
14 that this be the first lease where secondary recovery will
15 be applied. This was not economically feasible until the
16 statutes were amended in 1961.

17 GOVERNOR ANDERSON: I am not clear. Do you mean there
18 haven't been abandoned wells because they ran down on their
19 production and just dropped them at the time; recovery might
20 have stepped in at that time and taken over?

21 MR. HORTIG: They have not been abandoned leases that
22 were issued by the State Lands Commission under the State
23 Lands Act.

24 GOVERNOR ANDERSON: How about in private operation where
25 they have not been by the State?

26 MR. HORTIG: In private operation there have been some

1 secondary operations of various types, primarily experimental,
2 not a major field that is under secondary recovery, full
3 secondary operation, I believe in California to date,
4 although there is more experimental work.

5 GOVERNOR ANDERSON: What do they do when they are
6 dealing with the State? Do they develop their secondary
7 recovery at the same time like you are suggesting here?

8 MR. HORTIG: Yes, sir. Well, we now have facing the
9 Commission a total range of both, primarily privately owned
10 fields, fields owned in fee by private sources that have
11 been abandoned where no secondary recovery operations were
12 ever tried. We are in that stage in development of oil
13 fields in California, where various experimental types of
14 secondary recovery operations are in effect and being tried
15 in various again privately owned fields. We have the
16 application for secondary recovery for the first State
17 tideland lease before you today, and in connection with the
18 proposed East Long Beach unit development, the City of Long
19 Beach proposes a method of operation there where in effect
20 secondary recovery would start on the day that primary
21 recovery starts.

22 GOVERNOR ANDERSON: Subsidence is involved in that,
23 but you are setting a policy here that could deal all over
24 the State, where subsidence wouldn't, wouldn't necessarily
25 be a question.

26 MR. HORTIG: This is correct. And subsidence is not

1 necessarily involved in the Long Beach situation, but the
2 argument is presented and can't be gainsaid, that if it
3 should be involved, then if pressure maintenance is the
4 method of forestalling it, then it will be forestalled by
5 starting the pressure maintenance or secondary recovery at
6 the date that the primary recovery starts.

7 THE CHAIRMAN: No, it is my understanding that it was
8 the development of this situation which led to the new
9 statute, to the new authorization.

10 MR. HORTIG: The development of which situation,
11 Mr. Chairman?

12 THE CHAIRMAN: Well, the fact that we were entering
13 this period.

14 MR. HORTIG: That is correct.

15 GOVERNOR ANDERSON: Which period is that?

16 THE CHAIRMAN: This period in which we would begin to
17 have application of secondary recovery -- that they were
18 not proceeding with this in the absence of legislation --
19 made it possible, or economically feasible.

20 Is there any further question, comment on these
21 items?

22 MR. CRANSTON: I move approval with the exception of
23 the item numbers withdrawn.

24 THE CHAIRMAN: With the exception then of Item -- I
25 think it was (1) under 4, Mr. Cranston moves approval.

26 GOVERNOR ANDERSON: I will second it, but I would like

1 the staff to get me a little more information on how this
2 is going to work, in both private and public development.
3 We are setting a policy here that can be pretty far-reaching,
4 I think.

5 MR. HORTIG: I think the crux of the matter, Governor,
6 is that if you'll refer to that first graph sheet there,
7 the oil that is shaded in green is oil that would never be
8 produced under this lease but for approval of the project
9 by the State Lands Commission in the form in which it is
10 before you, that oil would irrevocably remain underground
11 and would never come out.

12 GOVERNOR ANDERSON: Well then, you are assuming then
13 that these newly experimental secondary recoveries of
14 previously abandoned wells are not going to bring anything
15 out of there, or bring out as much as you would --

16 MR. HORTIG: I don't believe I stated that the new
17 applications of secondary --

18 GOVERNOR ANDERSON: You mentioned that there was
19 experimental secondary recovery now being started by private
20 concerns in --

21 MR. HORTIG: That is correct.

22 GOVERNOR ANDERSON: -- in previously abandoned wells.

23 MR. HORTIG: I am afraid to telescope things, I tried
24 to state that we had fields which had been abandoned on
25 which no secondary recovery attempts had ever been made.
26 There have been some fields that are approximately in the

1 same age relationship, same age relation to their total
2 production as this State tidelands lease is, where private
3 interests are trying various types of secondary recovery
4 operations, including the salt water flooding type of
5 operation which is here proposed. And then finally we have
6 under consideration what may be an ultimate of secondary
7 recovery, but operation data alone will tell whether it is
8 economically desirable to, in effect, start secondary
9 recovery concurrently with primary recovery, even in areas
10 where there may be no threat of subsidence.

11 GOVERNOR ANDERSON: Well, these present private attempts
12 then, I think in the second group we are talking about, to
13 work in the fields that have been abandoned or that have
14 been depleted, you are assuming then they are not going to
15 be successful, or they could do the same thing in here and
16 get the amount that you expect to get out of successful
17 secondary recovery here.

18 MR. HORTIG: Well, the group where operations are being
19 conducted experimentally and hopefully economically
20 successfully are in fields where it is expected about the
21 same type of results will be obtained as they are expected
22 to be obtained under this particular State lease. These
23 are not --

24 GOVERNOR ANDERSON: So we would get this if you didn't
25 adopt this policy, and they start a secondary recovery at
26 that time?

1 MR. HORTIG: No, but if you don't adopt this policy,
2 Governor, pursuant to the law there will be no secondary
3 operations ever attempted, because the lessee cannot without
4 this amendment economically justify a secondary recovery
5 operation. They can't afford both the capital cost and the
6 penalty royalty rate which would be assessable due to their
7 own efforts, if their lease is not amended in accordance
8 with the statutory authorization.

9 GOVERNOR ANDERSON: We are not talking about the same
10 thing.

11 MR. SIEROTY: Mr. Chairman, may I ask a couple of
12 questions?

13 THE CHAIRMAN: Yes indeed.

14 MR. SIEROTY: Try to clarify something. I understand
15 that -- is this correct, Mr. Hortig, that that statute under
16 which this modification is proposed, this 1961 statute
17 refers only to situations where secondary recovery is
18 proposed by the lessee?

19 MR. HORTIG: That is correct.

20 MR. SIEROTY: In other words, there is no modification
21 proposed until the lessee wants to engage in secondary
22 recovery?

23 MR. HORTIG: That is correct.

24 MR. SIEROTY: Now what we do is to take the average
25 royalty that would be received, as the lessee, had the
26 lessee not engaged in secondary recovery, is that correct,

1 and take that, that royalty rate and we apply that to both,
2 in this modification proposed, to both the recovery under
3 primary and secondary recovery?

4 MR. HORTIG: Actually we collect for the primary oil
5 the same royalty rates that would have been collected had
6 secondary recovery not been employed, and then take the
7 average of that and apply it to any secondary recovery oil,
8 which by definition is oil that would not have been
9 recovered at all but for the initiation of the secondary
10 recovery project, at the cost of the lessee, and thereby
11 receive --

12 THE CHAIRMAN: I think Mr. Hortig is just agreeing with
13 you. I don't think there is any difference.

14 MR. SIEROTY: Right, I think that's correct.

15 Now the problem comes as a result of this water
16 flooding, the primary recovery is condensed into a shorter
17 period of time, and the rate of recovery is, rate of
18 production is higher, so that a higher royalty rate would
19 have applied ordinarily under the existing lease?

20 MR. HORTIG: Right.

21 MR. SIEROTY: But this modification allows for that
22 recovery to come quicker than ordinarily would be done if
23 there were no secondary recovery, and the same royalty, the
24 same total royalties would be received by the State for
25 the primary recovery as if it went over a period of many,
26 many years.

1 MR. HORTIG: This is correct. And in addition thereto,
2 royalty on secondary oil which would not ever be recovered
3 but for the initiation of the additional operations at the
4 cost of the lessee, cost to the lessee.

5 THE CHAIRMAN: Are there any further questions on this
6 item? Mr. Cranston has moved, and Governor Anderson has
7 seconded approval of all the items under 4 with the
8 exception of (1); they will stand approved unanimously.

9 Now let's turn again to the item which I did not
10 finish reading. We will put it before the Commission in
11 order to take up the discussion. Shell Oil Company -
12 Geophysical exploration permit for period October 24, 1963,
13 through April 23, 1964, on tide and submerged lands of
14 Sacramento River and Suisun Bay including Grizzly and
15 Honker Bays, Montezuma Slough, Middle Slough, New York
16 Slough, and other adjacent bays, sloughs, and rivers, in
17 the counties of Napa, Contra Costa, Sacramento, San Joaquin,
18 and Solano.

19 Now, as I understand it, Mr. Hortig has recommended
20 on behalf of the staff that we defer this for a later
21 meeting subject to -- because we have had, we are now having
22 problems on what legal obligations there are on the company,
23 and there are other permits of this kind, and until that
24 dispute is settled you don't wish to take this one up; is
25 that the staff position?

26 MR. HORTIG: That is the staff position, Mr. Chairman.

1 THE CHAIRMAN: Is there a representative of Shell Oil
2 who would like to speak on this, for this question?

3 MR. KARSHNER: Yes, sir. Mr. Chairman, Commissioners,
4 my name is R. F. Karshner, representing Shell Oil Company
5 in this matter. I'd like to point out that our refusal
6 order, if you recall, was not based on a matter of being
7 noncooperative, but to avail ourselves of an opportunity to
8 present to you for consideration a modification which we
9 think would be acceptable to you and certainly to us. On
10 September 20th --

11 THE CHAIRMAN: Has this been discussed with staff, or
12 is this a new proposal at this time?

13 MR. KARSHNER: Well, it was briefly discussed, discussed
14 with Mr. Hortig.

15 THE CHAIRMAN: I see. Excuse me.

16 MR. KARSHNER: Certainly. We made an application on
17 September 20th for this permit. The request for permit
18 was reviewed by the staff and presented on the items of
19 the calendar as Item number 11 in your full situation, with
20 a recommendation for approval.

21 Subsequent to that we obtained a Fish and Game
22 permit. There were no objections raised by any county
23 agency regarding this permit, and we were advised yesterday
24 that due to a problem arising on a permit which we now have
25 in existence for geophysical work in the coastal area from
26 Point Conception north to the California-Oregon border, that

1 this permit would have to contain the same provision. We
2 would like to offer to you the --

3 THE CHAIRMAN: Same provision as what, as the one in
4 dispute?

5 MR. KARSHNER: As the one in dispute. We are setting
6 up to proceed with our operations, and we would like to
7 consider a modification of the provision in question, which
8 would conform with the statute Section 6826 of the Public
9 Resources Code, and which we believe would satisfy you and
10 certainly be acceptable to us, and with your permission
11 I'd like to show you what that is, if I might.

12 THE CHAIRMAN: Fine. Would you also provide staff with
13 a copy of it. Is there only one copy?

14 MR. KARSHNER: Well, I had three, but I have to give
15 one to the staff, and here's one for the chairman. Frank,
16 this is the permit that is in question. We have here a
17 geophysical exploration permit for California, from
18 Point Conception to the California-Oregon border. In this
19 permit under section twelve is a provision that calls for
20 the provision to the State Lands Commission staff certain
21 information when they call for it, predicated -- with the
22 sole purpose of its determination of whether the area or
23 any portion thereof embraced within the permit lie within
24 the known geological structure of producing oil and gas
25 field. This is the provision, and this is the permit, sir,
26 that is in question at the moment. We would like to have you

1 issue us a permit on the application before you, eliminating
2 the controversial language so that we can proceed with our
3 work, and this would qualify under the statute of the
4 Public Resources.

5 THE CHAIRMAN: In other words, you are asking us to
6 change our policy with respect to acquiring this geological
7 information?

8 MR. KARSHNIK: Well, in a sense this is true. The whole
9 question at the moment is whether the bottom portion of this
10 provision is a -- what we again said ourselves, and the
11 State Lands Commission --

12 THE CHAIRMAN: I don't think the elimination of the
13 requirement really settles the discussion.

14 MR. KARSHNER: Well, it does not eliminate it, sir.
15 It allows the issuance of the permit. This is not a
16 condition which is really to our benefit and not yours.

17 MR. SIEROTY: We can't hear very well.

18 MR. KARSHNER: I'm sorry.

19 | THE CHAIRMAN: Mr. Hortig?

20 MR. HORTIG: Mr. Chairman, I believe I can summarize,
21 and Mr. Karshner --

22 THE CHAIRMAN: Well, let's let the Shell representative.

23 MR. KARSHNER: Well, we feel that you may consider
24 this whereby we can eliminate the controversial part in the
25 permit to be used, and we can go forward with the work. We
26 do not feel that this would be detrimental to the State of

1 California.

2 THE CHAIRMAN: Mr. Hortig?

3 MR. HORTIG: The staff position there, the point that
4 Mr. Karshner has made, is that there is not a universal
5 understanding as to what the permits include, and therefore
6 it appears that the only feasible and desirable method for
7 clarification is to have complete review of the legal
8 questions which have been raised by Shell Oil Company, and
9 a presentation to the Lands Commission of any necessary
10 modifications on permits to be issued in the future.

11 THE CHAIRMAN: I think it would be helpful to the
12 Board if we knew of the character or at least the nature of
13 the argument. What is the point, the simple point at issue
14 in this dispute?

15 MR. HORTIG: The central point at issue is simply that
16 the statute requires that the lessee, the permittee, shall
17 make available for inspection all factual and physical
18 exploration results, logs, and records resulting from
19 operations under the permit for the confidential information
20 of the Commission. And permit forms as originally adopted
21 by the Commission included the additional language which
22 Mr. Karshner has suggested for the purposes of this one
23 permit be dropped out, but which is in existing permit, but
24 which may or may not be of any legal effect, inasmuch as
25 this language, the statutory basis for the language was
26 actually amended out of the statutes in 1957; so therefore

1 we are faced with a legal question, whether these words are
2 applicable in the manner which Shell contends, in that Shell
3 Oil Company has refused the Lands Division access to
4 geologic information, seismic information which has been
5 obtained under existing permit.

6 THE CHAIRMAN: They have refused it?

7 MR. HORTIG: Yes, sir.

8 MR. KARSHNER: Excuse me, I don't believe that's quite
9 true, sir. We have had a request to provide certain data,
10 and we in examining the permits and regulations have it
11 under consideration as to whether we are actually required
12 to do so, in the light of language that appears in the
13 permit itself.

14 MR. HORTIG: If I may quote --

15 THE CHAIRMAN: In other words, let me try to get
16 through my point here. You are saying that your real
17 question is, then, whether the information you are being
18 asked for is for the sole purpose described here, for the
19 sole purposes of determining whether the permit lies within
20 the known geologic structure. The question is, you are
21 raising the question in your argument on this point to the
22 staff, as to whether they are asking for that information
23 for this sole purpose, or as to whether this information
24 goes beyond what it would need to know for this sole
25 purpose?

26 MR. KARSHNER: That is correct.

1 THE CHAIRMAN: Then it would seem to me that your
2 presentation actually does not -- would really leave the
3 Commission, would leave the situation harmless as far as
4 the Commission is concerned. In other words, this is a
5 limiting factor upon the Commission, not upon the company.

6 Do I follow this right, Mr. Goldin?

7 MR. GOLDIN: What I was checking, Mr. Champion, was the
8 provisions of the California Administrative Code which
9 embody the rules and regulations of the Commission, and I
10 notice that Title II, Section 2100, subdivision (f) recites --
11 I am trying to find the specific section. It is subdivision
12 (g) which says "Prior to the issuance of any permit under
13 this section, each prospective permittee is required to
14 accept in writing all terms, conditions, and provisions
15 thereof." And the preceding subdivision (5) says "The
16 Commission reserves the right to inspect and, upon demand
17 by the Commission, the permittee shall make available for
18 such inspection, all factual and physical exploration
19 results, logs, and records resulting from the operations
20 under the permit, for the confidential information of the
21 Commission for the sole purpose of its determining whether
22 the areas or any portion thereof embraced within the permit
23 lie within a known geologic structure of a producing oil
24 or gas field."

25 MR. HORTIG: May I call your attention, Mr. Goldin,
26 and Commissioners, to the fact that the section which you

1 read applies to geological survey permits, and we have
2 under discussion a geophysical exploration permit for which
3 there is no comparable or corollary rule and regulation.
4 Again, this highlights the situation, I believe, Mr.
5 Chairman, that we have legal questions as to what the
6 intent.

7 THE CHAIRMAN: Well, I recognize there are legal
8 questions. What I am trying to establish is whether or
9 not there is any jeopardy to the position of the Commission
10 or its staff in proceeding as the representative of Shell
11 has suggested, or whether it is simply a matter of your
12 not wanting to --in other words, if the matter is going to
13 be settled on this other, and it would be settled in the same
14 terms here, are we involved in anything in holding up this
15 permit that enhances or detracts from our legal position,
16 or are we simply delaying it because we don't want to
17 enter another because we haven't got the old one settled,
18 a matter of pressure on the matter.

19 MR. HORTIG: Inasmuch as the amendment, information in
20 amendment was discussed for the first time at approximately
21 9:30 a.m. this morning with Mr. Karshner, we haven't been
22 in position to determine whether or not we would have any
23 additional legal problems as a result of amending one
24 permit for one purpose, while other permits have --
25 continue existence with this identical language and under
26 which we have received -- I must respectfully disagree with

1 Mr. Karshner --

2 THE CHAIRMAN: You said that you don't know whether
3 this would hurt our legal position?

4 MR. HORTIG: I do not.

5 THE CHAIRMAN: What is your position? Do you have any
6 further observations on the subject as to whether or not
7 granting the permit under circumstances suggested by
8 Mr. Karshner would in any way hurt the State's legal
9 position?

10 MR. GOLDIN: Mr. Chairman, I do not know. I am of the
11 opinion that the State has the right to insist upon such
12 disclosure, but I cannot at this time venture an opinion on
13 the specific question which you asked me. I simply do not
14 know.

15 THE CHAIRMAN: Well, the answer is that certainly the
16 State would be protected.

17 MR. KARSHNER: That may be true, Mr. Champion. However,
18 the modification that we are asking here conforms with your
19 own requirements.

20 THE CHAIRMAN: The problem is here, I think, that the
21 staff has not had adequate time to handle this to make
22 certain that our legal position would not in some way be
23 harmed, and in the absence of such a determination I think
24 it would be very hard for the Commission to grant your
25 request. What is the --

26 GOVERNOR ANDERSON: Why don't we defer it, get together

1 at the next meeting?

2 MR. HORTIG: I recommend that.

3 MR. CRANSTON: I second your motion.

4 GOVERNOR ANDERSON: Did you get my motion, that it be
5 deferred until the next meeting?

6 THE CHAIRMAN: That will be the order, then.

7 MR. KARSHNER: Thank you for your time.

8 THE CHAIRMAN: Thank you.

9 Item 5, selection of vacant federal lands, all in
10 San Bernardino County, for the benefit of the State, under
11 lieu land applications where applicants decided that they
12 did not wish to proceed with acquisition of the lands.

13 (a) 100.00 - Charles Joseph Gosselin

14 (b) 584.07 - George McCarthy

15 (c) 38.14 - Ralph Gabriel Hurwit

16 (d) 157.81 - Nathan A. Bertram

17 What is the pleasure of the Committee?

18 GOVERNOR ANDERSON: I move approval.

19 MR. CRANSTON: Second.

20 THE CHAIRMAN: Stand approved.

21 Item 6, rejection of application filed by
22 Delbert J. Sargent to acquire 130.125 acres Federal land
23 in Imperial County; approval for return of all deposits
24 to the applicant except filing fees; authorization for
25 withdrawal of Exchange Application No. 65, Serial No.
26 0133945, filed with the U.S. Bureau of Land Management.

1 Lands in question being acquired by County of Imperial
2 directly from U. S. Bureau of Land Management; that agency
3 suggested that State withdraw its exchange application in
4 order that the lands involved might be transferred to County
5 of Imperial.

6 Do we have some appearances on this matter?

7 MR. HORTIG: Yes, Mr. Chairman, both on behalf of
8 the State's applicant, Mr. Delbert J. Sargent, and for the
9 County Council and Board of Supervisors of the County of
10 Imperial.

11 THE CHAIRMAN: Do you have any staff comments to offer
12 before these presentations?

13 MR. HORTIG: A brief summary as to the subject matter
14 of the discussion. The State filed with the Department
15 of Interior, Bureau of Land Management, an application
16 at the request of Mr. Delbert J. Sargent to secure 130
17 acres of Federal land in approximately 1955, 1956.
18 Actually this was a second application under different
19 procedures as required by the Bureau of Land Management,
20 the first application having been filed approximately in
21 1954.

22 GOVERNOR ANDERSON: Is that Mr. Sargent's first
23 application, '54, some eight years ago?

24 MR. HORTIG: That is correct. Mr. Sargent has a
25 development on the lands pursuant to an original authori-
26 zation by the Bureau of Land Management, a permit or license,

1 and has a development of a tropical fish hatchery in
2 connection with expansion of this development, in order to
3 provide a fee title to himself to provide for financing,
4 requested that these applications be filed in order that
5 he might acquire title to the land.

6 Subsequently the County of Imperial acquired from
7 the Federal Government directly lands adjoining the lands
8 being sought by Mr. Sargent, and subsequent to that
9 acquisition, and as of what date, Mr. Smith, was the purchase
10 application for the remainder of the lands by the County
11 of Imperial?

12 MR. SMITH: 1959.

13 MR. HORTIG: And as of 1959 made direct purchase
14 application on behalf of the County of the remaining lands
15 in the whole section that had not previously been acquired
16 by Imperial County, including those lands being sought by
17 Mr. Sargent since 1954.

18 GOVERNOR ANDERSON: When did the County first get
19 involved?

20 MR. HORTIG: 1959.

21 GOVERNOR ANDERSON: That's their first entry into it?

22 MR. HORTIG: Yes. This matter has been discussed
23 with the Bureau of Land Management, who have stated that in
24 view of pending exchange application by the State, that all
25 conditions of exchange applications under Section 8 of the
26 Taylor Grazing Act be met. The Bureau of Land Management

1 feels it would be mandatory on the Bureau to approve the
2 exchange application and deliver the lands to the State,
3 which would subsequently be sold to Mr. Sargent. However,
4 in view of the public application, the public interest and
5 benefit by the County of Imperial, that the Bureau of
6 Land Management would deliver the lands sought by Imperial
7 County to Imperial County if the State withdrew its
8 application for benefit of private sale. This then simply
9 because the State Lands Commission is the agent to process
10 applications under these statutes, has put the State Lands
11 Commission in a situation where they are faced by a
12 question of their applicant that they proceed with perfection
13 of the application and sale of the land to a private
14 individual, and the County of Imperial proposes to the
15 Lands Commission that the Commission in the public interest
16 should withdraw the application from the private interest
17 in order to permit the County to perfect its application.

18 THE CHAIRMAN: If the State did not act, in this case
19 to withdraw, would the Bureau of Land Management feel that
20 it must go through with the exchange, and that eventually
21 the land would go to Mr. Sargent; if the County still
22 wanted it, it would then be in the position of having --
23 having been there Mr. Sargent's property?

24 MR. HORTIG: That is correct.

25 THE CHAIRMAN: That's the alternative for the County.

26 MR. HORTIG: Right.

1 GOVERNOR ANDERSON: What kind of improvement does
2 Mr. Sargent have?

3 MR. HORTIG: I think Mr. Sargent or his representative
4 should reply to that.

5 GOVERNOR ANDERSON: What happens to the improvements;
6 in other words, if we were to withdraw there and it became
7 a property of the County?

8 MR. HORTIG: We can assume these would be conveyed to
9 the County, and I think the County has explored this
10 proposition and can report on it. There is a --

11 THE CHAIRMAN: Let's begin by hearing from Mr. Sargent,
12 if he is present and ready to speak.

13 MR. SARGENT: Your Honorable Body, gentlemen, and
14 The Press: we will continually refer to the calendar item
15 --

16 THE CHAIRMAN: Are you Mr. Sargent?

17 MR. SARGENT: Yes, yes. I'm sorry.

18 The calendar item, now referring to the calendar
19 item, I stipulate that paragraphs number one, two and three
20 are correct. They are history, and they reflect a correct
21 history associated with the property.

22 Now referring to paragraph four, wherein it is
23 stated - "For the past several years Delbert Sargent,
24 the applicant, has had, under a Special Land Use Permit
25 from the United States, a commercial tropical fish hatchery
26 operation". Mr. Smith knows, or should know, that my

1 Special Land Use Permit has been in full force and effect
2 for nine and a half years. The use of the word "several",
3 is misleading. Continuing with paragraph number four, it
4 says, "although it is the Staff's understanding that the
5 United States Bureau of Land Management has refused to renew
6 the permit in view of an expression of interest in the
7 subject land by the County of Imperial". What investigation
8 was made by the Staff to ascertain that I would not be given
9 a new lease? The fact is that I have a new lease.
10 Certainly if there was an understanding, why wasn't I
11 consulted about this? Continuing with this same paragraph,"
12 --

13 THE CHAIRMAN: Excuse me. Are we talking about a lease
14 or a permit? The language of the agenda uses "permit."
15 MR. SARGENT: Permit -- I'm sorry.

16 THE CHAIRMAN: All right.

17 MR. SARGENT: Continuing with this same paragraph it
18 says, "Initially it was the applicant's wish to acquire fee
19 title to the land --". The use of the word "Initially"
20 by Mr. Smith is confusing. If you apply it to the many
21 facts that are not before the Commission, you could be
22 mislead. The word "initially" should be stipulated to
23 mean that it was my intention at that time, and it is still
24 my intention. It should be understood that it is still my
25 purpose, thru the application, to acquire these lands in
26 fee title for the use in my business.

1 Referring to paragraph number five, wherein it
2 says that the offered lands are within the exterior
3 boundaries of Death Valley National Monument, I might add
4 that this land is situated within a Constituted Grazing
5 Area, and are, therefore, extremely desirable to the Bureau
6 of Land Management in their consolidation program. Further,
7 in this paragraph, it says, "No formal action has been
8 taken by the Bureau of Land Management to indicate whether
9 the State's application would be approved or disapproved."
10 It is true that no formal action has been taken by the
11 United States Bureau of Land Management; why is Mr. Smith
12 taking one?

13 Referring to paragraph number six, it mentions
14 my \$20,000 investment; even so, if correct, requires some
15 consideration from the State Department to see what is going
16 on. In reality my investment is three times this amount on
17 the property. The only one that I know that knows about my
18 business is the Internal Revenue Department. Neither Mr.
19 Smith nor any member of his staff has ever called on me to
20 discuss my business problems with them, nor has any member
21 of his staff alerted me that the County of Imperial was
22 negotiating, with the State Lands Commission to dispossess
23 me of my application, and to hand me back my deposit, which
24 I made in good faith, to the State of California and without
25 interest or compensation for the use of my money over a
26 period of ten years.

1 THE CHAIRMAN: May I ask a question before you go on
2 there?

3 MR. SARGENT: Certainly.

4 THE CHAIRMAN: As I read the sentence in which the
5 figure land value is about 20,000, and that's the figure
6 you indicate you think is only a third of what it should
7 be?

8 MR. SARGENT: Yes, sir. I have over \$60,000 invested
9 at this point.

10 THE CHAIRMAN: I think this refers to the date 1957.

11 MR. SARGENT: I grant you that, but no mention has been
12 made of any improvements that I have made since that date.

13 THE CHAIRMAN: Well, in other words, this statement
14 is accurate, but since that time you have another \$40,000
15 approximately invested?

16 MR. SARGENT: That's correct. And no mention was made
17 of any improvements after the \$20,000 mentioned in paragraph
18 number six.

19 Referring to paragraph seven, wherein it states,
20 "The County, by separate application filed directly with the
21 United States Bureau of Land Management, applied for the
22 purchase of 570 acres of Federal land which includes the
23 220.125 acres embraced in the State Exchange application filed
24 for the benefit of Delbert Sargent." Referring to the Code of
25 Federal Regulations number 43, part 147.4 (c), it says and I
26 quote: "The filing of a valid application for exchange

1 under the regulations of this part will segregate the selected
2 public lands to the extent that any subsequently tendered
3 application, allowance of which is discretionary, will not
4 be accepted, will not be considered as filed, and will be
5 returned to the applicant."

6 Now that's quoted from the Federal Regulations.

7 With reference to the segregated lands contained
8 in my application, the question of Imperial County's
9 application as being valid and in full force and effect is
10 a matter of conjecture and would require legal counsel
11 opinion on my part, as well as the opinion of the Attorney
12 General. Again directing to the Commission's attention,
13 Mr. Hortig and his staff have remained silent on pertinent
14 and relevant facts in this calendar report to your Honorable
15 Body as regards to moratoriums which were in effect during
16 the ten year study of this subject matter. Furthermore,
17 with respect to paragraph number seven of this calendar
18 item, the staff has remained silent on the subject of a
19 resolution which became a part of the subject matter and
20 refers to an enclosure, "Exhibit A," a copy of the
21 resolution, which was never brought to my attention by
22 either the Imperial County or the State Lands Commission.

23 Paragraph number eight of the calendar item and
24 paragraph number four of the summary report from Mr. Hortig
25 of the State Lands Division are synonymous. In the summary
26 report made by the Executive Officer Hortig wherein he

1 writes of a resolution by the County of Imperial requesting
2 both the State Lands Commission and the United States Bureau
3 of Land Management to withhold further action on the
4 processing of Delbert Sargent's application until such time
5 as studies could be made to determine the effect Mr.
6 Sargent's activities in the operation of his tropical fish
7 hatchery would have upon the recreational developments
8 proposed by Imperial County -- your attention is again
9 directed to your staff remaining silent of the fact that
10 the Imperial County, prior to the date of acquiring any
11 part of the land in their applications, were attempting to
12 get the State Lands Commission to kill my application.
13 Furthermore, in this same paragraph wherein a request was
14 made, by resolution, for both the State Lands Commission and
15 the United States Bureau of Land Management to make a study
16 of this subject matter. No staff member of either the
17 State Lands Commission or the United States Bureau of Land
18 Management has contacted me as regards to study, or have they
19 informed me of the context contained within the said report,
20 if there be one. Surely, a report of some kind should be
21 in the possession of the State Lands Commission, which should
22 show any effect which might be detrimental as regards to the
23 subject matter. And certainly, if so, I am entitled to
24 a copy for study.

25 Referring now to paragraph number nine, wherein
26 again the subject is of a resolution, Mr. Smith's statement

1 that the county passed a resolution to the effect that they
2 would negotiate with me for a lease so that I would be
3 permitted to continue my operations, quote "on the area
4 which is the subject of this exchange application" unquote.
5 While in reality, the resolution passed by the County of
6 Imperial states in part, and I will quote: "in a portion
7 of that area set forth in application LA 0164346." Unquote.
8 To point up the lack of good faith by the County of Imperial,
9 on July 24, 1963 they issued a map showing their proposed
10 development of the requested 570 acres, on which shows an
11 area they will supposedly allow me to operate. They have
12 squeezed me down to an area smaller than the 30 acres that
13 I now have under lease from the Bureau of Land Management.
14 They did not take into consideration the additional 40
15 acres that I have been trying to get under lease from the
16 Bureau of Land Management for the past several years, of
17 which I need desperately now, to continue a logical
18 expansion program. It seems as an afterthought by the
19 County they have included an area unjoined to my present
20 leased land, marked "area for expansion of tropical fish
21 farm." Aside from the fact that this area is noncontingent
22 to my present operations, it would seem that possibly that
23 this area could be used; but here again they have not given
24 you the true facts. Needless to say, the character of the
25 land is impassable, upon any person's investigation.

26 I would like to show the Commission these two

1 pictures. Now this area is a portion of my present 30-
2 acre lease.

3 THE CHAIRMAN: I think you might just as well give up
4 trying to get this into the record.

5 (Discussion off the record.)

6 MR. SARGENT: I will show you an aerial photograph
7 which was taken September 7, 1959. Now this is the latest
8 one that is available. It will show you the character of
9 the land, and the character of the land is identical as in
10 this present day. However, this shows my establishment as
11 it was in 1957. These are my fish hatcheries, and in
12 addition we have more tanks over in this area, down to about
13 here. Now this is the top mark-out. This is the part they
14 will allow me to operate. Now that is absolutely marsh
15 land. At one time I tried to get through here with a
16 tractor, and it got so deep I had to get another tractor
17 to pull me out. How they expect me to dig tanks eight to
18 nine feet deep in that type of land, is impossible.

19 THE CHAIRMAN: What is the character of your operation?
20 You are producing tropical fish, and in addition are you
21 showing them to the public at the site?

22 MR. SARGENT: Oh, no, no. My business is entirely,
23 I job tropical fish wholesale.

24 THE CHAIRMAN: Well, there is no public visitation?

25 MR. SARGENT: No, h no. And then this is absolutely
26 marsh land here, right down to include the area they have

1 marked out.

2 GOVERNOR ANDERSON: What are these x's up here?

3 MR. SARGENT: That is the 70 acres to this point.

4 THE CHAIRMAN: And they intend to place a golf course
5 around --

6 MR. SARGENT: And they intend to place a golf course,
7 one tee, show what they have, one of the tee's right here.
8 And I spoke of additional acreage of which I requested from
9 the Bureau of Land Management, and they recommended this
10 area; in other words, this area here, so that I could fill
11 this out. And I can't go ahead here anymore until I get
12 this whole thing for these purposes.

13 GOVERNOR ANDERSON: Which would be the ultimate, under
14 the County that they would have, all this within the red
15 line here?

16 MR. SARGENT: This they would have within the mile.

17 GOVERNOR ANDERSON: Within the mile; I see. What do
18 these red lines indicate?

19 MR. SARGENT: That indicates my exchange.

20 GOVERNOR ANDERSON: That's what you want right there?

21 MR. SARGENT: Yes. I am concerned for my employees.
22 Thank you.

23 Attention is called to the second resolution
24 referred to in paragraph number nine. This resolution in
25 its wording is in direct conflict with the State of
26 California Water Code. My position in this matter coincides

1 with the statutes of the said Water Code, to wit: I have
2 a riparian right to that water; they, the County, can not
3 take or regulate that which is not theirs.

4 I will now quote from the "California Law of
5 Water Rights," by Mr. Wells A. Hutchins, a recognized
6 authority on this subject in California, says, "Private
7 property -- the riparian right is a 'right of property,'
8 a vested private right. It is a right of private property
9 vested exclusively in the owner of the abutting land for
10 use on that land, and is not of a political nature."

11 "Holders of possessary rights -- parties holding
12 possessary rights in separate parcels of land, title being
13 in the United States, have the rights of riparian owners
14 in the waters of any stream flowing naturally over both
15 parcels." This, incidentally, was quoted from a court case
16 -- these all were quoted from court cases, incidentally.

17 "Riparian doctrine applies both to the spring and
18 to the natural watercourse that flows away from it. The
19 same rule applies with respect to a spring on one's land
20 that supplies water to a watercourse by percolation through
21 the soil, rather than in a defined channel. In either case,
22 whether through a defined channel or by percolation, the
23 spring supplying the stream is a part of the stream. And
24 so the owner of such land (the defendant in the instant
25 case) quote: 'had the same right in the spring and no
26 greater right therein than he had in the stream below. He

1 had no different or better right to cut off the water in
2 the spring or above the spring than he had to cut it off
3 or divert it from the stream. Any interference with the
4 supply of the stream was an interference with the lower
5 riparian owner's right to have the water continuus to run
6 in the stream to his land!"

7 In reference to paragraph ten; as a challenge to
8 Mr. Pierson of the recreational Department of the County of
9 Imperial, reference a gold course as a feasible item in the
10 recreational area, I have consulted with a foremost golf
11 green architect, secured his services to scrutinize the
12 entire area, and upon request I will furnish this report to
13 the Commission. I have lived on the property since 1954,
14 and I can assure you gentlemen, that golf-green grass is not
15 one of the things that can be grown on the land, due to
16 the high salinity of the soil. You might say, just bring
17 in water and leach the soil, as they have done in other
18 parts of the Valley. The Coachella branch of the All
19 American Canal runs past the land, within a quarter of a
20 mile -- incidentally, I think you saw it on the map, it is
21 above it, but it is commonly known and can be verified by
22 the Coachella Irrigation District that it is impossible to
23 obtain water from said canal, as this land is outside of
24 their Irrigation District. Even if it were somehow possible
25 to convince the Coachella District that they had sufficient
26 extra water to supply said property, would you suppose that

1 the County Supervisors would be able to obtain a better
2 and superior deal than the State Parks and Beaches? The
3 State Parks and Beaches is now spending several millions of
4 dollars to bring water to this area.

5 THE CHAIRMAN: Mr. Sargent, I think probably this
6 matter -- you are perfectly free to go and discuss it, but
7 I think it is largely irrelevant to what this Commission
8 considers. That is, you are talking now about something
9 which must be determined by the electoral body in that
10 county, as to whether it wants this land for public
11 purposes. I think so far as this kind of a discussion, it
12 doesn't really bear on what is before us.

13 MR. SARGENT: My thought in mind was that, what I am
14 trying to show you gentlemen is the unfeasibility of the
15 proposed recreational area. In other words, I can --

16 THE CHAIRMAN: Well, we can't make that determination.
17 The County is the authority for what it wishes to do and
18 things it can do, and we are not -- we can't make a finding
19 on that.

20 MR. SARGENT: I see, I understand.

21 There is just one little thing I'd like to say on
22 this. I consider that something of that nature should be
23 included in the said report, as referred to in paragraph
24 seven, and they make no mention of it in the calendar item.

25 There is just one other thing, I just wanted to
26 show you a little bit how conducive the water is to our

1 business, that the salinity is necessary to our business.
2 It is an ingredient that we would have to install in the
3 water if we did not have it.

4 Referring to paragraph number eleven, the opinion
5 of the Attorney General is spoken as being an enclosure.
6 The only enclosure I received from Mr. Smith is this
7 calendar item. Why wasn't I given a copy of all these
8 enclosures when Mr. Smith sent me this calendar item, so
9 that I could more intelligently prepare my notes? If
10 Mr. Smith bases his authority in getting rid of me on
11 this letter, and he does not send me a copy, just what
12 consideration is the State Lands Commission staff giving me?
13 Certainly, if the Attorney General was not given any more
14 information than what is contained in this calendar item,
15 he was drastically misinformed. It is a moot question, as
16 to what he, the writer of this calendar item says; it is
17 argumentative, it is debatable, it is an item to be tried
18 in court.

19 Reference is made to paragraph number twelve. I
20 feel seriously that your staff, acting as my agent in the
21 processing of my application, has not been persuasive enough
22 in their efforts, by allowing the County of Imperial to
23 sway and influence their thinking and by not pressing in
24 my behalf as a prior applicant. I cannot press it. I was
25 advised by Mr. Woozley, May 26, 1960, of the Bureau of Land
26 Management, at Washington, D.C. through my Congressman, that,

1 and I quote, in part: "In the event negotiation with the
2 State are unsuccessful in bringing the State's offered lands
3 into balance with Federal lands, then, of course, the
4 exchange may not be consummated. As indicated in the
5 foregoing, Mr. Sargent is an applicant of the State of
6 California; his efforts, therefore should be expended in that
7 direction." unquote.

8 On June 2, 1960, I telephoned Mr. Smith and gave
9 him the information contained in said letter. On August
10 30, 1960, I received a letter from Mr. Smith, quoting in
11 part, "I am informed that they are currently awaiting a
12 field classification report," -- unquote. The Bureau of
13 Land Management says that the selected and the requested
14 lands must be brought into balance, and your staff says
15 that the lands are still to be classified. Also, on June
16 23, 1960, I received a letter signed by Mr. E. J. Thomas,
17 Acting Director of the Bureau of Land Management, at
18 Washington, D.C., that states in part and I quote: "But
19 the State will have an opportunity to amend its application,
20 to bring the values into line," unquote.

21 Referring to paragraph number thirteen, it is
22 necessary for me to deny all the allegations made in this
23 paragraph. I have searched the records of Imperial County
24 and I find nothing in these records to substantiate the
25 feasibility of this from the facts set forth in rebuttal
26 of the calendar item, that the Commission is not clearly

1 informed of all the facts pertaining to the subject matter.
2

3 Therefore, as my concluding statement, I wish to
4 say that I feel that the State Lands Commission should take
5 into consideration the following: Counsel is always ready
6 to sue. I cannot see any reason that I should sue the
7 State. I cannot see any reason that I should go out and
8 pick a fight. I am the owner of a \$60,000 investment and
9 I do not have money to squander on law suits -- but -- if
10 necessary, I am going to have to sue. I am going to be
11 advised, by counsel, I am sure, how to assert my rights,
12 if I do not receive them here. Actually, what I would like
13 your Honorable Body to do, is hold this matter in abeyance
14 until such time that the Department of the Interior
processes my case to its entirety.

15 THE CHAIRMAN: Thank you.

16 MR. CRANSTON: I'd like to ask you, do you feel that
17 there is any middle ground here? Is there any other land
18 other than that unacceptable swamp that could be allocated
19 for your use, or perhaps the County, that perhaps we'd have
20 to hear from them as to their views.

21 MR. SARGENT: I have absolutely no objection to the
22 County acquiring the land that is not on my application,
23 the lands, that 220 acres that I have on application, it has
24 been my plan ever since I filed -- that was the reason I
25 filed on that acreage.

26 MR. CRANSTON: Is there any modification of your

1 application that is acceptable from your point of view?

2 MR. SARGENT: I don't believe so, Mr. Cranston, because
3 I have worked too many years -- start my business in there,
4 and it's got to follow a logical pattern.

5 THE CHAIRMAN: In other words, if there were to be a
6 different 40 acres, say, designated by the County, that this
7 still would not be satisfactory to you? You want to stand
8 on the whole application?

9 MR. SARGENT: Well, primarily; my operation is so
10 situated that I cannot move, even if I wanted to move, I
11 couldn't move because of my improvements that are in the
12 ground.

13 THE CHAIRMAN: I am not talking about moving. What
14 you meant was, you showed us on the map what the County had
15 indicated it would provide as additional acreage beyond your
16 present, for your planned expansion, and you explained why
17 that was unsatisfactory land.

18 MR. SARGENT: That is true.

19 THE CHAIRMAN: If the County were to meet that by other
20 land that is adjacent to your present operation --

21 MR. SARGENT: But they have given no indication that
22 they would meet that.

23 THE CHAIRMAN: And we would ask about this too. I think
24 Mr. Cranston simply wanted to explore whether or not you
25 were willing to discuss anything less than your full
26 application.

1 MR. SARGENT: Absolutely not; because it would take
2 that amount of land to process any business into a logical
3 expansion program. I know the question has been raised by
4 the County Supervisors, why I needed so much land. In
5 Tampa, Florida alone there are three large tropical fish
6 farms, one is 640 acres, the Ellsbury is 320 acres, and
7 there is one more of about 190 acres. Now that is all of
8 the ones near and over 200 acres. Now there are more there,
9 and then you go down to Palmetto, there is a 640-acre fish
10 farm there. So acreage may seem to large to you, but it
11 takes a huge, or a large number of tanks to carry out
12 business on that land.

13 MR. CRANSTON: Does your application include that
14 swampy area?

15 MR. SARGENT: Yes, sir.

16 MR. CRANSTON: Do you need that?

17 MR. SARGENT: Not that one particular point, no.

18 MR. CRANSTON: Well, if you don't need that, is there
19 any other portion that you do not need, or are we limited
20 by the acreage that you feel that you must have for
21 appropriate expansion?

22 MR. SARGENT: Well, I might say that it would be an
23 island in the middle of the property.

24 MR. CRANSTON: I didn't ask you that. I said, if you
25 could get along without that, is there some other portion
26 you can get along without also?

MR. SARGENT: No. That, that is the worst piece of ground in the whole mile, the whole square mile.

GOVERNOR ANDERSON: Now you aim to eventually own this
yours f?

MR. SARGENT: Yes, sir.

GOVERNOR ANDERSON: Do you have objection to being a tenant of the County if this developed this way?

8 MR. SARGENT: Personally I don't. Naturally, a man
9 likes to own his own ground -- far and superior to leasing
10 or renting. And the County has -- I don't see where it
11 would be feasible, sir, and I don't see the object of it.
12 Why should the County buy it and then lease it to me? And
13 I can -- thought of purchasing it outright. I would still
14 -- it comes down to the same, I would still, if they were
15 energetic in their aspirations in allowing me to stay there,
16 there would only be one object as far as I can see, is this,
17 that they could dispossess me at their will. Otherwise,
18 there would be no object in me refusing to, the land.

THE CHAIRMAN: Any other questions? Thank you very much, Mr. Sargent.

MR. SARGENT: Thank you.

THE CHAIRMAN: Can we hear now from the staff? I thought
statement that
it was highly unusual, that/ the staff has been silent on.

MR. HORTIG: Mr. Chairman, we have received a request from Senator Quick. That letter which I have before me may be read into the record, and since it leads into the

1 presentation by Imperial County, it would appear appropriate
2 that this be read at this time with your permission.

3 "Reference is made to your next meeting
4 of the State Lands Commission, more
5 particularly to Calendar Item Number
6 ten on your agenda, regarding Exchange
7 Application Number 65, Delbert J. Sargent,
8 Imperial County.

9 As you are aware, the County of
10 Imperial is vitally concerned regarding
11 this, and desired to obtain certain
12 lands in connection with this area
13 for Imperial County. Therefore a
14 representative from Imperial County
15 will appear at your November 6 meeting
16 and present testimony in behalf of this
17 County. It appears that their testimony
18 and application should be given favorable
19 consideration, and I will appreciate
20 your consideration in behalf of Imperial
21 County in this matter. Copies of the
22 report are being forwarded to the
23 chairman and members of the State
24 Lands Commission.

25 Very truly yours, Aaron W. Quick."

26 THE CHAIRMAN: Thank you, Mr. Hortig.

1 Would the representative of Imperial County please
2 step forward?

3 MR. PIERSON: Mr. Chairman, gentlemen, my name is
4 David E. Pierson. I am Director of Public Works for the
5 County of Imperial. I also have with us today Mr. Foote,
6 County Counsel for the County of Imperial, and supervisor
7 of the County of Imperial. I would like to make a short
8 presentation on the planning of the area, and then Mr. Foote
9 will come on from the legal standpoint.

10 The area applied for, this is our application to
11 the Bureau of Land Management, surrounding a hot mineral well,
12 the waters of which are known throughout the country for their
13 therapeutic value. The County of Imperial has obtained a
14 patent from the Federal Government for the 70 acres shown on
15 Map Number M-190.2. It has applied for a patent on the re-
16 maining acreage in this section for the purpose of developing
17 a major recreational area. The hot mineral spa area is in
18 great need of planned and controlled public recreational
19 development. It has heretofore been maintained in an
20 incomplete and haphazard manner. Adequate recreational
21 facilities have not been installed. Despite this, however,
22 the area each winter attracts thousands of persons from all
23 over California and the rest of the country seeking the
24 benefits of the hot mineral baths. As much as 400 trailers
25 have been located in the area and surrounding countryside.
26 This county believes that a well-organized health resort

combined with recreational development and a large senior citizens center may be constructed, as outlined in the attached map, and that maximum public benefit will result in such construction as planned or undertaken on a lease or concession basis under county supervision. The ultimate development around the hot mineral spa area will probably take in many sections of land. Imperial County is planning and developing section 2, will be attempting to establish a nucleus of acreage directly relating to the mineral well. Other incidental and perhaps unrelated projects will follow in adjacent sections under private ownership. The plan effected under Map Number M-190-3 contemplates construction of facilities for trailer parks, triplex rental units and senior citizen dormitories. This complex must be close to the mineral baths in order to provide maximum access to the baths for persons with decreased mobility. The light recreation area, including golf courts, tennis courts, riding stables, drive-in theater, are complementary family uses. In attracting a health resort area flexibility and planning is essential; in view of the desire of the County to develop this area on a lease or desirability basis, I desire to emphasize this flexibility standpoint. The facilities on the attached map, however, have been fully successfully developed in the area, in this area. Maximum benefits of the development of this area may best be accomplished under the control of the County. The

1 precedent for improvements on the property surrounding the
2 spa will be established by this facility. It is believed
3 that the entire region will benefit from the construction
4 of a properly planned and controlled health resort in this
5 section. Thank you.

6 THE CHAIRMAN: Have you had discussions with Mr.
7 Sargent? Has there been any effort to recognize the
8 investment that he has there and what he feels are his needs
9 for expansion, or have there been such negotiations or
10 discussions?

11 MR. PIERSON: I'd like to refer that to Mr. Foote, sir.
12 Yes, he has had negotiations with Mr. Sargent.

13 THE CHAIRMAN: I'd like to hear from Mr. Foote, unless
14 --- do you have any questions? All right, fine.

15 MR. FOOTE: Gentlemen, I am Orlando B. Foote, Imperial
16 County Counsel. And with respect to Mr. Champion's last
17 question, On July 8th or 9th of this year, subsequent to
18 our acquisition of the 70 acres immediately surrounding the
19 hot mineral spa -- when I say "we" -- being two members of
20 the Board of Supervisors and myself -- met with Mr. Sargent
21 with respect to the possibility of negotiating an area for
22 expansion on a lease basis. Mr. Sargent made the same state-
23 ment at that time that he made to you, which was that he
24 felt that he was entitled to the entire 220 acres and that a
25 lease would be meaningless to him, in that --

26 THE CHAIRMAN: Excuse me. Let me ask you this one

1 additional question. We -- leave aside the question of
2 expansion, but look at the present operation and investment,
3 is there any bar to leaving that there, in the kind of
4 development you have in mind; in other words, recognizing the
5 present level of activity?

6 MR. FOOTE: Speaking on behalf of the Board of
7 Supervisors, I think I can safely say that there is no bar
8 to that type of development on a lease basis. The primary
9 concern with Mr. Sargent's acquisition of fee interest is
10 the problem of control of the development. Mr. Sargent
11 operates a tropical fish farm, which is not a hindrance
12 to our proposed development, and as it is presently
13 constituted or as he may consider reasonable expansion,
14 certainly not to the extent of 220 acres, but reasonable
15 expansion.

16 MR. CRANSTON: What reasonable expansion do you feel
17 could be made possible without upsetting entirely the
18 County's interest?

19 MR. FOOTE: Well, that is hard to state right now,
20 Mr. Cranston. I would think that certainly a 20-acre
21 expansion would not injure the proposed development of this
22 area. However, this, of course, is something that would
23 have to be gone into in considerable detail by the plaintiff.

24 GOVERNOR ANDERSON: But you feel that should be on a
25 lease basis and not on a fee title, as far as Mr. Sargent is
26 concerned; why?

1 MR. FOOTE: Very definitely.

2 GOVERNOR ANDERSON: Why?

3 MR. FOOTE: The basic problem, as I said, is control.

4 The County has no objection to entering into a long term
5 lease with Mr. Sargent, we feel long enough in years to
6 protect his investment, as it is substantial, and the
7 Board of Supervisors recognizes that it is substantial.
8 However, in the long run -- and we are talking in terms
9 of many years to come -- the development of this area
10 could be hindered by an operation other than a tropical
11 fish hatchery, could be very directly hindered, and of course
12 if Mr. Sargent has fee title to this area, he is free to
13 dispose of it to whomever he wishes without control. And
14 so the problem is in development of this area which is in
15 the public interest, and as has been determined by the
16 Board of Supervisors to be in the public interest. The
17 problem is in protecting the substantial and the continuation
18 of that development against developments on this, on the
19 area of Mr. Sargent's application, which --

20 THE CHAIRMAN: Or a change in character in the
21 development?

22 MR. FOOTE: Exactly.

23 THE CHAIRMAN: When you are talking about a long term
24 lease, what are you talking about, 99 years?

25 MR. FOOTE: I believe the terms that would discuss that
26 initially with Mr. Sargent were 50 years. I am not too

1 certain about that, but 50 years, this would be an initial
2 thought on the part of the Board.

3 GOVERNOR ANDERSON: If the County were to prevail,
4 what happens, how do you adjust with Mr. Sargent for his
5 investment and his riparian rights and other things?

6 MR. FOOTE: With respect to the riparian rights,
7 Mr. Sargent made reference to several cases dealing with
8 springs. There has been no determination whether the well
9 involved in this is a spring or a well. This is something,
10 of course, that would have to be determined legally.
11 However, Mr. Sargent did some time ago make application to
12 the State Water Rights Bureau for a water right, and that
13 application was rejected, on what grounds, I do not know,
14 but it was rejected. So I question whether or not Mr. Sargent
15 at this time has any riparian rights. He at no time had
16 any more than a five-year experience land lease permit from
17 the Bureau of Land Management, and I am sure that I see how
18 his rights would rise above the length of that permit. And
19 also with respect to Mr. Sargent's present status on the
20 property, he stated that he has a lease or a permit. The
21 permit is for one year, and I am informed by the Bureau of
22 Land Management that it is subject to a 30-day cancellation
23 on the determination of your Body with respect to his
24 current application.

25 GOVERNOR ANDERSON: What about the improvements, his
26 current improvements?

1 MR. FOOTE: Well, we feel that a long term lease would
2 give him a sufficient basis to amortize his investment.

3 GOVERNOR ANDERSON: In other words, you wouldn't give
4 him any cash for his investment, but would give him a loan
5 of rental, so that the effect over a long term period would
6 take care of that?

Tape #2 7 MR. FOOTE: Well, we feel that a long term lease
8 at a reasonable rental would give him an opportunity to
9 amortize his investment.

10 GOVERNOR ANDERSON: What type of a rental have you
11 talked about? Similar to what he has with the present
12 Land Management?

13 MR. FOOTE: Frankly, sir, we haven't talked about it.
14 We haven't discussed it with Mr. Sargent, because Mr.
15 Sargent just flat won't talk in terms of a lease. That's
16 about where we are, so the Board hasn't made any determination
17 of what would be a reasonable rental value, nor have I, nor
18 have any of the persons who have been involved with this
19 planning.

20 THE CHAIRMAN: What would be the County's view of this
21 alternative method of settling this problem, that is, if
22 we were to proceed -- and I have some question about that --
23 but if we were to proceed with the exchange of land and
24 Mr. Sargent were to take title of it, that then would put
25 you in a position of necessarily condemning that which you
26 felt you had to have or had to control; what would be the

1 County's view of that possibility?

2 MR. FOOTE: Well, of course the problem is an immediate
3 one. The area needs development very, very badly, and we
4 have discovered through painful negotiation with prospective
5 investors in that area that the 70 acres immediately
6 surrounding the well itself is just not sufficient to justify
7 the type of operation that is necessary. Condemnation, of
8 course, can run over a rather extended period of time. We
9 have no right of immediate possession, or would have no
10 right of immediate possession were we to institute condemna-
11 tion proceedings.

12 THE CHAIRMAN: Would that not also limit the character
13 of the lease that you could have with respect to private
14 investors?

15 MR. FOOTE: It would, indeed, very directly, under the
16 present circumstances. In other words, if we have to --
17 if we are in a position to condemn prospective area to
18 provide prospective investors, this would certainly limit
19 our ability to develop this area in the manner which the
20 Board proposes.

21 THE CHAIRMAN: Having condemned it for a purpose, you
22 have got to give demonstration?

23 MR. FOOTE: Very definitely.

24 THE CHAIRMAN: Are there any further questions?

25 Mr. Hortig, I'd like to ask another question about
26 present and past policy in this case, where we have had a

1 prior application by private -- and perhaps there is no
2 such precedent -- but where we have had a prior application
3 for by a private party and subsequent interest by a
4 governmental body, which, if they had come in in party our
5 policy would be quite clear if they came in at the same
6 time as the public policy. Our present -- what has been
7 the treatment in the past by the Board if this question
8 where a public body is subsequently indicated after you had
9 had this original filing by a private party?

10 MR. HORTIG: Two instances come to mind, Mr. Chairman,
11 and unfortunately they are on both sides of the issue as
12 to prior action. The prior action by the Lands Commission
13 proceeding with an application or sale to a private interest,
14 on the determination that the showing of public interest
15 wasn't sufficiently superior to justify the rejection; and
16 other instances where despite later requests by public
17 agencies, then private requests where the private request
18 was rejected and conveyance was carried to the public agency,
19 was authorized to the public agency in keeping with the
20 Attorney General's opinion in connection with this pending
21 application that the status of this application is completely
22 under the jurisdiction of the Lands Commission, and that
23 effectively there would be no contravening any vested
24 rights, any vested rights of the part of the private
25 applicant, because there are no vested rights.

26 THE CHAIRMAN: All right, that is -- in other words, we

1 really are in an area here where the Commission, looking at
2 the facts and equities of this thing, can -- is really
3 free legally to move in any direction that it desires; is
4 that correct?

5 MR. HORTIG: Yes. It is a matter of policy, it is a
6 policy determination.

7 THE CHAIRMAN: What is your view of Mr. Sargent's
8 contention that we do not now have an adequate set of facts
9 before us to make such a determination? Do you think that
10 further investigation might better inform us as to some of
11 the equities involved?

12 MR. HORTIG: No, Mr. Chairman, for the reason that
13 practically the agenda item before us was not prepared as
14 a full legal brief or full litigation of this item. It
15 can be stated categorically and without qualification
16 that Mr. Sargent's application has been fully and diligently
17 processed in accordance with the statutes and rules and
18 regulations under which any applications are processed by
19 the Lands Commission.

20 THE CHAIRMAN: I am not questioning that, Mr. Hortig.
21 It seemed to me that in questioning here today we learned a
22 good deal more about the situation than was before us in the
23 agenda item, and I am asking whether there is some merit
24 to Mr. Sargent's suggestion that we might further -- we are
25 called upon here to make, it seems to me, some equity
26 judgments, or we are attempting to bring about a situation

1 where two parties, both of whom have a legitimate interest
2 in this thing -- it is a rather unusual judgment for the
3 Commission to make, and whether or not we have -- it seems
4 to me that there, when we have gotten some of it from
5 questioning, whether there might not be some further facts
6 to be obtained.

7 MR. HORTIG: Well, it would appear to the staff, Mr.
8 Chairman, that aside from minor inconsistencies not bearing
9 on the success or failure of processing application, that
10 any other omissions with respect to the factual situation
11 on behalf of Mr. Sargent, omissions from the agenda item,
12 have been supplied by Mr. Sargent. And the presentation on
13 behalf of Imperial County was not included in the agenda
14 item because the specific data were not available to the
15 staff over and beyond the resolution of Imperial County.
16 But Imperial County representatives here today are filling
17 you in completely on the Imperial County position, so it
18 would appear doubtful that any additional essential facts
19 could be developed by further investigation. It is a
20 unique situation that imposes the responsibility or
21 necessity for the Commission to make this determination,
22 inasmuch as the basic problem, as you have recognized, is
23 as between Mr. Sargent and the County of Imperial.

24 THE CHAIRMAN: I am at the moment, I am in the peculiar
25 position of feeling that this could best be settled by
26 negotiations, and if it can't be settled by negotiation,

1 that I would want to recognize the public interest in this
2 matter and proceed on that basis, but I'd like to -- it
3 seems to me it is a situation which lends itself peculiarly
4 to negotiation and not to an arbitrary finding by us.

5 Yes?

6 MR. FOOTE: May I make one further statement? Orlando
7 Foote, Imperial County Counsel. -- In that regard, we have
8 endeavored, as I indicated, to negotiate with Mr. Sargent,
9 and to no avail. I am somewhat doubtful as to whether or
10 not further negotiation would be helpful in this matter.

11 THE CHAIRMAN: Let me ask Mr. Sargent. This is a
12 hypothetical question, Mr. Sargent, and I speak only for
13 myself and not for the Commission. I would be disposed to
14 vote at this time for the position of Imperial County.
15 However, if in the knowledge that this would be the
16 disposition of the Board, we might provide a month's delay
17 for further discussions between you as to satisfactory
18 solution, would this be helpful to you, or would you rather
19 have us proceed to act today?

20 MR. SARGENT: No, sir, I don't believe it would, for
21 the fact that Mr. Foote seems to set himself up as an
22 authority on my business, telling me how to run my business
23 and telling me what land is required in my business, which
24 I don't think he -- pardon the expression -- knows anything
25 about. As I told you, the reason I took the 220 acres
26 originally -- incidentally, at the time that I applied I

1 could have applied, the whole section was open, I could have
2 applied for the 570 acres, but I didn't. I only took the
3 land that I needed. And I still need the 220 acres for
4 expansion of my business. A 220-acre fish farm is not large,
5 it is considered a medium sized, you might say, in the
6 United States. Right today I can't furnish the -- all the
7 fish that are required in this area. Today this is
8 100,000 fish coming in from Florida every week into the Los
9 Angeles airport. Then you add up on top of that San
10 Francisco, Portland, Oregon, Seattle, Washington -- of
11 course I can use the 220 acres, every bit of it. And he
12 is speaking of adding 20 more acres. To me it's just like
13 a drop in the bucket. Actually it will end up until put me
14 out of business, because I have got to meet these new
15 markets coming up, I have got to work the fish on a smaller
16 margin, it is happening every day.

17 GOVERNOR ANDERSON: How much land have you now?

18 MR. SARGENT: Under lease I have 30 acres, and I have
19 been requesting, trying to get 40 more acres to put in my
20 next batch of tanks, and the County of Imperial have held
21 that up through the Land Management.

22 GOVERNOR ANDERSON: Actually now you are operating with
23 30 acres?

24 MR. SARGENT: Yes, sir.

25 GOVERNOR ANDERSON: What actually could you get by with?

26 MR. SARGENT: Well, I -- I told you honestly, gentleman,

1 it is 220 acres, plus or minus.

2 THE CHAIRMAN: Well, the gift, or the combination of
3 the testimony here is that these two things are eventually
4 incompatible in your view?

5 MR. SARGENT: Yes, but I think you should --

6 THE CHAIRMAN: And in the view of the County, if they
7 are to accept your version of what you need?

8 MR. SARGENT: They could have filed on the property
9 before I did, or at the time I did, but I was there five
10 years before they were, and living on the land, developed
11 that land. It was nothing but marsh land and sagebrush
12 when I went there. I built my home there.

13 THE CHAIRMAN: Thank you. Are there any further
14 questions of Mr. Sargent?

15 MR. SARGENT: And just one other thing -- excuse me.
16 Mr. Foote made a remark that that was not a spring up there.
17 The point to the fact -- now this is quoted from a Cal. App.
18 case --

19 "Water passing through the soil, not
20 in a stream but by way of filtration, is not
21 distinctive from the soil itself; the water
22 forms one of its component parts. In this
23 condition it is not the subject of
24 appropriation. When, however, it gathers
25 in sufficient volume, whether by percolation
26 or otherwise, to form a running stream, it no

1 longer partakes of the nature of the soil,
2 but has become separate and distinct therefrom
3 and constitutes a stream of flowing water
4 subject to appropriation. The water in
5 question here is the stream issuing from the
6 wells, and it is immaterial for the purposes
7 of this discussion whether this stream is
8 supplied by water percolating and filtering
9 through the earth or not; at all events, it has
10 gathered into a stream. No distinction can
11 be made between the water flowing from these
12 artesian wells and that flowing from the
13 springs."

14 "The stream in either case may result
15 from the gathering of water at some point,
16 whether near or distant, which produces
17 the stream, the flow of which is by natural
18 causes forced to the surface. In the one
19 case the aperture or opening through which
20 it finds its way to the surface is the
21 result of nature's forces; in the other it
22 is produced by artificial means; the fact
23 that it is produced by boring a hole in
24 the ground in no wise changes its character.
25 In either case the water flows to the
26 surface naturally."

1 And also Mr. Foote spoke of that I have a one-year
2 lease, but he neglected to tell you that I have at this
3 time in full force an appeal on that reduction of my lease
4 request.

5 MR. CRANSTON: I'd like to ask someone from the County,
6 how many acres are involved in your over-all plans for
7 recreational development?

8 MR. PIERSON: David E. Pierson, Director of Public
9 Works. We have requested 640 acres. We now own 70. Does
10 that answer?

11 MR. CRANSTON: What happens to your plans if these
12 220 acres were held out, on a say, a fifty-years lease?

13 MR. PIERSON: The 220 acres, as far as I know, would
14 virtually kill our plan, and it pretty well surrounds our
15 70 acres.

16 GOVERNOR ANDERSON: How much of the 220 acres could
17 you release and still go ahead with your plans? In other
18 words, he has 30 now and he is applying for 40 more. There
19 seems to be something between that and the 220 acres.

20 MR. PIERSON: I would be inclined to concur with
21 Mr. Foote on this, sir. He expressed an expansion of some
22 20 acres --

23 GOVERNOR ANDERSON: Only 20 acres on top of the 30.

24 MR. PIERSON: On 30. This is a very difficult question
25 to answer at this time, Governor Anderson. Our plan could
26 allow the fish farm to continue. As has been stated, we feel

1 that it should be on a lease basis rather than an ownership
2 basis, for the possibility of change, of a change in the
3 type of usage. I hope this answers your question. If it
4 doesn't, try again.

5 MR. CRANSTON: If your total plan is 700 acres roughly,
6 700 acres?

7 MR. PIERSON: 640, sir, the section.

8 MR. CRANSTON: 640; I find it rather hard to believe
9 that you have to be so rigid as to 20 acres more or less on
10 higher up to quite possibly a substantially/figure that might be
11 provided somewhere there, which is appropriate to his use,
12 without upsetting your plans entirely.

13 MR. PIERSON: We are somewhat in the same position with
14 Mr. Sargent with his rigidity on his 220 acres.

15 MR. CRANSTON: You are?

16 MR. PIERSON: Possibly, that's correct.

17 THE CHAIRMAN: Are there any further questions? Thank
18 you very much. Well, I have stated my view. What is the
19 pleasure of the Board?

20 GOVERNOR ANDERSON: My views are very similar to yours,
21 Hale. I lean to the County's position, except I wouldn't
22 want to vote for it unless I knew, unless I knew a little
23 bit more what they were going to do, what they were going
24 to do in regard to Mr. Sargent. It seems to me that the
25 County is the one that doesn't want to have him have title,
26 because they want control, and yet if they give him a lease

1 it shouldn't hurt them too much, if they could work this
2 lease to meet his interests for the next 49 or even a longer
3 lease than that. In other words, if he has something that
4 is compatible there with their arrangements, even a 99-year
5 lease would be all right, as far as they are concerned,
6 according to what they are talking about, and still give
7 him protection of his interests.

8 I'd also like to know, in addition to the time,
9 I'd like to know what the rental is for this same thing,
10 and with the expanded size, and I'd like to see them somehow
11 get together before we have to vote on this thing here today.

12 MR. CRANSTON: I am not prepared to either reveal my
13 own inclinations or to vote in this matter. I'd like to
14 see them work it out.

15 THE CHAIRMAN: I will see if I can make a Delphic
16 statement.

17 Would it be agreeable to the Commission if we
18 were to take this matter under advisement for 30 days,
19 with the request to both parties to furnish us with their
20 minimum requirements on maps so that we can see the actual
21 situation on the ground, to see whether there is in fact
22 any reconcilable conflict here, or to see if there is not;
23 what the conflicts involve, and what they represent in terms
24 of the loss of the County's position or loss of Mr. Sargent's
25 position. Would that be agreeable?

26 MR. CRANSTON: (Nodded.)

1 THE CHAIRMAN: That then will be the order, and we
2 will see you again a month hence.

3 MR. CRANSTON: If it would be more convenient for the
4 parties involved to do that at our next meeting in Southern
5 California, we might consider that.

6 THE CHAIRMAN: Is that preferable? Do you have a
7 major time problem? You have a major time problem in this?

8 MR. FOOTE: Yes, sir, we do.

9 THE CHAIRMAN: So you'd rather have it earlier than
10 in Los Angeles? That is, if our next meeting is in Sacramento,
11 you would rather have it scheduled then?

12 MR. CRANSTON: We are meeting on the 21st of this
13 month, which is in Sacramento, and on the 19th of December
14 in Los Angeles.

15 THE CHAIRMAN: Would the 19th of December be satisfactory?

16 MR. FOOTE: I think I can fairly state that it would,
17 yes.

18 THE CHAIRMAN: All right. Is that agreeable with you,
19 Mr. Sargent?

20 All right, then that will be the order.

21 Item 7 in the agenda, amendment of Paragraph 22
22 of combined oil and gas bid-lease form to conform to
23 provisions of Chapter 1945, Statutes 1963, which made a
24 significant change relating to the drilling term, which
25 term the Commission must extend from a maximum of three
26 years for a period equal to that required to obtain any

1 required permits from a federal or State agency -- I submit
2 that isn't a sentence. What -- I don't know what I have
3 said. Would you please explain it?

4 MR. HORTIG: Yes, sir. Prior to the 1963 amendment to
5 the Public Resources Code the Commission was authorized to
6 issue oil and gas leases which provided for a drilling term
7 of a maximum of three years, that is, required drilling by
8 the lessee within three years. And at the discretion of
9 the Commission, an extension of time to the lessee of that
10 drilling term, but at the option of the Commission; if there
11 were delays in securing other permits from any other Federal
12 or State agency, that will require in connection with the
13 operation, for example, the placement of an offshore
14 drilling platform. This was optional with the Commission,
15 and the 1963 statutes in effect made it mandatory if
16 these circumstances existed, the Commission must extend
17 the drilling term.

18 MR. CRANSTON: I move approval of the statute.

19 MR. HORTIG: Therefore we modified our lease form to
20 correspond to the statutory modification.

21 THE CHAIRMAN: Mr. Cranston has moved approval.

22 GOVERNOR ANDERSON: Second.

23 THE CHAIRMAN: It stands approved, unanimously.

24 Item 8, proposed Oil and Gas Lease, 3,360 acres
25 tide and submerged lands, Orange County - Parcel 16A.

26 MR. HORTIG: The Commission previously authorized the

1 publication of a notice of intention to offer Parcel 16,
2 the same parcel under discussion here, but this offer was
3 withheld in view of the necessity for amending the lease
4 form as you have just done in the previous item. Therefore,
5 the present motion is to cancel the prior authorization and
6 authorize the offering of the same parcel in accordance with
7 the revised lease form.

8 MR. CRANSTON: I so move.

9 GOVERNOR ANDERSON: Second.

10 THE CHAIRMAN: Stand approved.

11 Item 9, authorization for Executive Officer to
12 publish notice that the Commission intens to consider
13 offering leases for the extraction of oil and gas from
14 approximately 12,600 acres of tide and submerged lands
15 offshore Ventura County.

16 MR. HORTIG: The Public Resources Code requires that
17 if the Commission is to consider offering any area for oil
18 and gas lease, that notice must be given to affected cities
19 and counties in the area under consideration, as to whether
20 public hearing should be held as to special conditions which
21 might be included in the lease form.

22 It is the staff recommendation that the unleased
23 area of Ventura County extending from the Ventura-Santa
24 Barbara County lying easterly to approximately Pitas Point
25 be made the subject of a public notice of intention to
26 consider offering public gas leases. A further presentation

1 has just been received from industry on the possible
2 expansion of the area to be considered. It is the staff
3 recommendation that this be done in two hearings rather
4 than one expanded hearing, and the motion that is before
5 you should not be amended.

6 MR. CRANSTON: I so move.

7 GOVERNOR ANDERSON: Second.

8 THE CHAIRMAN: Stand approved; and the understanding
9 then is that we will consider the request for expansion of
10 the area at the next meeting.

11 MR. HORTIG: In all probability, with respect to
12 authorization of the additional.

13 THE CHAIRMAN: Item 10, authorization for Executive
14 Officer to execute agreement with Lincoln Fidelity
15 Corporation fixing the Ordinary Low Water Mark as the
16 common permanent boundary along a tidal waterway in the
17 vicinity of Surfside, Orange County, between State
18 submerged land and private lands.

19 MR. HORTIG: As shown on the map following page forty-
20 four of your agenda, there is a small section of land
21 previously conveyed by the General Services Administration
22 as upland to private parties, and in contemplation of a
23 marina, marina-type development on the adjoining waterway,
24 it is essential that before the construction of any dredging
25 activity, that the boundary line between the State's land and
26 the upland be fixed, and by agreement it is recommended that

1 this be done as shown on the map and attached agreement,
2 which is authorized to the Commission for approval.

3 MR. CRANSTON: I so move.

4 GOVERNOR ANDERSON: Second.

5 THE CHAIRMAN: Stand approved.

6 Confirmation of transactions consummated by the
7 Executive Officer pursuant to authority confirmed by the
8 Commission at its meeting on October 5, 1959.

9 MR. HORTIG: These actions consisted solely in the
10 extension of two previously authorized geological survey
11 permits for an additional period of time, in accordance
12 with the full conditions prescribed by the Commission.

13 GOVERNOR ANDERSON: I so move.

14 MR. CRANSTON: Second.

15 THE CHAIRMAN: Stand approved.

16 Very briefly, is there anything new on major
17 litigation to be considered?

18 MR. HORTIG: Only in addition to the agenda item before
19 you, which reported that with respect to the case of
20 U.S. vs. Anchor, that the records would be closed on a
21 payment, final payment to be made on November 1st. Such
22 payment has been made, and the Attorney General's Office
23 report is before me that the files have been closed on the
24 Anchor litigation.

25 THE CHAIRMAN: No action is required, I --

26 MR. HORTIG: No.

1 THE CHAIRMAN: I'd like to express publicly again our
2 thanks to the Attorney General's Office for the work that
3 they did in this case.

4 The Board is meeting -- now I guess it is offici-
5 ally a meeting of the Long Beach City Council this afternoon--
6 and the Board will be in attendance and participate in
7 discussion of the proposed operating contract for the
8 East Wilmington Field. This Board had placed -- the present
9 status of this thing is that an operating contract proposal
10 was made to us by the City of Long Beach, which we indicated,
11 although not taking formal action, was not acceptable to us.
12 We offered to the City of Long Beach a proposal which we
13 indicated would be generally acceptable to us, and we are
14 now in the position of dealing with that, with that, in
15 effect, stalemate. I think it proper, although it does not
16 appear on the agenda, to consider at this time what the
17 Commission's position in discussing this matter with the
18 Long Beach City Council will be this afternoon; whether we
19 are to consider that we are discussing just one of the
20 offers, or both of them, or discussing the thing in general.

21 MR. CRANSTON: Mr. Chairman, I'd like to comment, if
22 I may, on this. The purpose of this meeting this afternoon,
23 as I understand it, is to try to get us off of dead center
24 and to move forward on the proposed -- various proposals for
25 the development of the East Long Beach Wilmington Oil Field,
26 and I'd like to say for one, without making any comments

1 where I will stand when the matters come to a decision in a
2 note at the State Lands Commission, I am prepared to review
3 point by point the matters which are presently at issue
4 between the City Council of Long Beach and the State Lands
5 Commission. It is my present thought that on some of the
6 points at issue the State is on the soundest ground; that
7 on others the City is quite possibly on the soundest ground,
8 and that on many of these there is a perhaps a middle ground,
9 not the stand taken by either the City or the State at the
10 present time.

11 To give one example, I now believe that there is
12 a good deal of merit to the City's criticism of the State's
13 proposal for bonus bidding. I, on the other hand, I still
14 believe that there is considerable merit to the State's
15 criticism of the City's proposal for advance payments with
16 interest. I do believe that there are several alternatives,
17 and that quite possibly one of these might be found more
18 acceptable to both the City and the State than anything
19 that is presently before us in the contracts. I believe
20 that on this and other points, if we get together and really
21 examine the points at issue, we should be able to reach
22 agreement.

23 And therefore I make this motion:

24 I move that the State Lands Commission
25 hereby express its desire to enter into a
26 point by point review of the points at issue

1 with the City Council of Long Beach in
2 regard to the proposed development of the
3 East Long Beach Wilmington Oil Field. It
4 is the suggestion of the Lands Commission
5 that this review be commenced at the staff
6 level, and the Commission hereby authorizes
7 the Commission's staff to meet with the
8 City Council's staff for this purpose at
9 a mutually convenient time subsequent to
10 this afternoon's joint Commission-Council
11 session.

12 I move that is the present statement of position
13 by the Lands Commission on this matter.

14 GOVERNOR ANDERSON: I will second the motion.

15 THE CHAIRMAN: It has been moved and seconded that
16 this position be adopted, which I think opens the way to a
17 productive discussion this afternoon by the Long Beach City
18 Council.

19 Is there any discussion or comment from Long Beach
20 on this statement?

21 MR. LINGLE: I am Harold Lingle, Deputy City Attorney.
22 I can only think that your suggestions will lead to progress.
23 I am not authorized to make any statement on their behalf.
24 I know that we have considered it, the points, point by
25 point, and I know the staffs are certainly more than anxious
26 to meet with your staffs.

1 THE CHAIRMAN: Thank you, Mr. Lingle.

2 GOVERNOR ANDERSON: What is the status of this meeting
3 this afternoon? Is this a meeting of the Lands Commission?
4 What is the legal status of it?

5 THE CHAIRMAN: I think under the circumstances that we
6 are the guests of the Long Beach City Council at a regular
7 meeting of the Council. Is that your understanding?

8 MR. LINGLE: It is a regular meeting, a meeting of the
9 Council. I don't know, I can't speak for -- you certainly
10 are guests. (Laughter.)

11 THE CHAIRMAN: Self-invited guests.

12 GOVERNOR ANDERSON: As long as we will be discussing
13 matters, is this in any way in conflict with the Brown Act?
14 Am I correct, is this meeting that we -- is there any
15 guidance that we should have as to what we can or cannot do
16 at this meeting this afternoon?

17 MR. GOLDIN: In my opinion it would not violate the
18 Brown Act.

19 MR. CRANSTON: It certainly won't be secret.

20 MR. GOLDIN: Your meeting today will be open. I am
21 relatively certain that the Commission will not take any
22 formal action this afternoon. I think the purpose is to
23 exchange ideas toward the end of arriving at a constructive
24 solution, and I see no legal impediment to such proceeding.

25 THE CHAIRMAN: With that I think then that the motion
26 stands adopted, and in the absence of any further -- is there

1 any further?

2 MR. HORTIG: There is.

3 THE CHAIRMAN: Oh, supplemental item.

4 Well, the time has been amended to 2:30 instead
5 of 2:00.

6 MR. HORTIG: 2:30 p.m.

7 THE CHAIRMAN: Do you wish to speak on the supplemental
8 item?

9 MR. HORTIG: Yes, Mr. Chairman. As the Commissioners
10 will recall at the request of the office of the Attorney
11 General you gentlemen individually have heretofore executed
12 a letter of understanding which was delivered to the City
13 Attorney's office of the City of Long Beach with respect
14 to the disposition and continued payment of tideland oil
15 funds under the section, under the provisions of Chapter
16 29, 1963, and under the provisions of the Public Resources
17 Code. For your action to have full validity and full support,
18 that is required, it is required that such action be pursuant
19 to a resolution adopted by the Commission at a meeting, and
20 therefore it is recommended that the State Lands Commission
21 ratify, approve and confirm the arrangement with the City
22 of Long Beach pursuant to which, one, the City of Long Beach
23 will forward to the State of California the full statement
24 of tideland oil and dry gas revenue due to the State without
25 deducting therefrom any sums sought to be collected under the
26 provisions of Section 710 of the Code of Civil Procedure, by

1 any alleged or judgment creditors / 2, that if any final
2 judgment requires the City, its officials or employees,
3 to pay any sum in connection with the case of Howard E.
4 Shoemaker, et al., vs. the State of California, San Diego
5 Superior Court case number 238691, the City is authorized
6 to deduct any amount that it or any of its officials or
7 employees are required to pay from any future oil or dry
8 gas revenues due to the State of California; and 3, that
9 the State of California will defend the City, its officials
10 or employees in any action filed against them because of
11 their failure to make payment to the San Diego Superior
12 Court on behalf of Howard E. Shoemaker, et al., pursuant
13 to filings under Section 710 of the Code of Civil Procedure;
14 all as more particularly set forth in the Attorney General's
15 letter dated October 28, 1963 to the Long Beach City Attorney.

16 THE CHAIRMAN: What is the pleasure of the Board?

17 GOVERNOR ANDERSON: I move it.

18 MR. CRANSTON: Second.

19 THE CHAIRMAN: Stand approved.

20 No further matters to come before the Commission --
21 we stand adjourned.

22
23 (Meeting adjourned at 12:30 P.M.)

24
25 00000
26

1 STATE OF CALIFORNIA }
2 COUNTY OF LOS ANGELES } ss.
3

4 I, Margaret L. Lombard, CSR, Hearing Reporter for the
5 Office of Administrative Procedure, hereby certify that
6 the foregoing pages Number 1 through 81 contain a full,
7 true and correct transcript of the stenographic notes taken
8 by me in the Meeting of The State Lands Commission of the
9 State of California, in Los Angeles, California on
10 November 6, 1963.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Margaret L. Lombard
Margaret L. Lombard, CSR
Hearing Reporter

DATED: December 12, 1963.

imwg

TRANSCRIPT

SLC & Long Beach

City Council

OFF SHORE OIL

CONTRACT

November 6, 1963

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

REPORTER'S TRANSCRIPT

**Joint Meeting of The
STATE LANDS COMMISSION
and The
LONG BEACH CITY COUNCIL**

AT LONG BEACH, CALIFORNIA

NOVEMBER 6, 1963, 2:30 P.M.

**PURPOSE: TO DISCUSS VARIOUS ASPECTS OF THE
PROPOSED OFFSHORE OIL CONTRACT**

1 P A R T I C I P A N T S

2 STATE LANDS COMMISSION:

3 Hon. Hale Champion, Director of Finance, Chairman

4 Hon. Alan Cranston, Controller

5 Hon. Glenn M. Anderson, Lieutenant Governor

6 Staff: Mr. Alan Sieroty, Executive Secretary to the
7 Lieutenant Governor

8 Mr. F. J. Hortig, Executive Officer

9 Mr. F. W. Krefc, Assistant Executive Officer

10 Mr. Irwin J. Nebron, Deputy State Controller

11 OFFICE OF THE ATTORNEY GENERAL:

12 Mr. Jay L. Shavelson, Deputy Attorney General

13 Mr. Ernest E. Sanchez, Deputy Attorney General

14 LONG BEACH CITY COUNCIL:

15 Hon. James A. Hayes, Vice Mayor, 4th District
16 (acting as Mayor Pro Tempore)

17 Councilman Raymond C. Kealer, 1st District

18 Councilman Bert Bond, 2nd District

19 Councilman Emmett M. Sullivan, 6th District

20 Councilman William S. Grant, 3rd District

21 Councilman William A. Graham, 8th District

22 Councilman R.E. "Pat" Corbett, 9th District

23 Councilman Robert F. Crow, 7th District

24 CITY OF LONG BEACH:

25 Mr. John R. Mansell, City Manager

26 Mr. Gerald Desmond, City Attorney

27 Mr. Harold A. Lingle, Deputy City Attorney

28 Mr. Leonard W. Brock, City Petroleum Properties
29 Administrator

1 LONG BEACH, CALIFORNIA, WEDNESDAY, NOVEMBER 6, 1963, 2:30 P.M.

2 00000

3 VICE MAYOR HAYES: Come to order. Madam clerk, will
4 you call the roll?

5 (Roll called by the city clerk, indicating Councilmen
6 Graham, Kealer, Bond, Sullivan, Grant, Corbett, and Vice Mayor Hayes
7 present.)

8 THE CLERK: Mr. Mayor, we have the affidavit of posting
9 order of adjournment to be received and filed.

10 (Moved and seconded.)

11 THE MAYOR: No objection; it is so ordered.

12 Ladies and gentlemen, we are gathered here today
13 in an adjourned meeting of the Long Beach City Council, and
14 we are pleased to have with us in attendance at this meeting
15 the members of the State Lands Commission of the State of
16 California.

17 The purpose of this meeting is to discuss various
18 aspects of the offshore oil contract, proposed contract, and
19 to that end we intend to inquire and to present certain
20 matters to this body and to the State Lands Commission.
21 This is an informal meeting. Neither body is intending by
22 this meeting to take any formal action, but it is an
23 exploratory session.

24 For purposes of identification I would like to
25 introduce to each of you, so that all of you are familiar
26 with them, the members of the State Lands Commission and
27 also the members of the City Council. First of all, sitting
28 on the stand here with me, the Chairman of the State Lands
29 Commission and the Director of Finance of the State of
30 California, Mr. Hale Champion. And seated at the end of the
31 council table to my right, the Controller of the State of

1 California, member of the State Lands Commission, Mr. Alan
2 Cranston. And to the left, the Lieutenant Governor of the
3 State of California, member of the State Lands Commission,
4 the Honorable Glenn Anderson.

5 Members of the City Council seated to my right and
6 around the table, Mr. Raymond C. Keeler of the 1st District,
7 Mr. Bert Bond of the 2nd District, Mr. Emmett Sullivan of
8 the 6th District, Mr. William S. Grant of the 3rd District,
9 Mr. William Graham of the 8th District, Mr. "Pat" Corbett
10 of the 9th District. And I am James A. Hayes of the 4th
11 District, presiding today as the Vice Mayor in the absence
12 of the Honorable Edwin Wade, the Mayor, who is visiting
13 the Mayors Conference in Japan.

14 I would like to request each of you who speaks
15 today, because there are many of you here to identify
16 yourself at the time that you speak, so that the reporters
17 are able to identify you in the record. Also I would like
18 each of you to use the microphones in order to make it
19 possible for everyone in the room to hear.

20 I neglected to mention, and I think I should
21 introduce at this time the Executive Officer of the State
22 Lands Commission, who undoubtedly will be speaking consider-
23 able today, Mr. Frank Hortig.

24 Now at this time I would like to introduce
25 Mr. Champion, to make whatever remarks he would care to
26 make at this time.

27 MR. CHAMPION: Thank you. We appreciate very much
28 this opportunity to meet and discuss these matters with
29 you today, and as you said, the Commission itself is not
30 in any kind of a formal meeting, and the remarks we make
31 will be as individuals in this kind of an exploratory

1 session, and when I speak, I included, I do not necessarily
2 speak for the Commission, and that will be true of the other
3 members. We want to enter to a free and full discussion.
4 As a matter of fact, there may even be still some differences
5 of opinion on some various points. The main thing is we
6 want to explore them.

7 One thing that I think is germane to the meeting,
8 the Lands Commission met in Los Angeles this morning, and
9 on the motion of Mr. Cranston we adopted the following
10 resolution:

11 "I move that the State Lands Commission
12 hereby express its desire to enter into
13 a point by point review of the points at
14 issue between the Commission and the City
15 Council of Long Beach, in regards to the
16 proposals for development of the East
17 Long Beach-Wilmington oil field. It is
18 the suggestion of the Lands Commission that
19 this review be commenced at the staff level,
20 and the Commission hereby authorizes the
21 Commission's staff to meet with the City
22 Council staff for this purpose at a mutually
23 convenient time subsequent to this afternoon's
24 joint Commission-Council session."

25 This was unanimously approved by the Commission.
26 The purpose of that is to move us from the situation, "you
27 have a proposal, and we have a proposal," and to try to get
28 a review on individual items to see whether there can be
29 some meeting of the minds. I know members of the Commission
30 in certain areas think that, on review, perhaps some of the
31 things that have been put forth by Long Beach in the past

1 are correct. We probably would agree with some items on
2 review. There are others on which we think that there is
3 a middle ground between the position of Long Beach and
4 of the Lands Commission. In fact, sometimes in a couple
5 of cases that I can think of, I think the middle ground
6 is more desirable than either of our positions just on its
7 own, without regard to its being middle ground. And it is
8 just to discuss that sort of thing that we wanted to meet
9 with you today, and appreciate this opportunity. I would
10 hope that this exploratory session could open the way,
11 in line with this resolution, to the City Council having
12 some sort of similar action, so that our staffs could get
13 back to work after we have broken the ground here this
14 afternoon, and proceed with this matter which is of such
15 great importance both to you and to us. Thank you very
16 much.

17 THE MAYOR: Thank you very much, Mr. Champion. I am
18 sure this will be the means of perhaps getting over some of
19 the rough spots that have been inherent in the past.

20 I'd like now at this time to call upon the
21 Chairman of our Harbor Industries and oil Committee to make
22 a presentation concerning the history of this matter, if
23 you would, Mr. Kealer.

24 MR. KEALER: Thank you very much, Mr. Mayor.

25 Mr. Chairman, members of the Commission, guests
26 and friends: this in brief is a short summary of what has
27 taken place, merely to bring us up to date, and before I
28 even attempt to read it I -- it is my belief and I think it
29 is that of my colleagues that when two agencies get together
30 with the objective of getting something done, areas of
31 agreement can always be found. It is my belief that will

1 happen after this meeting. Also the Mayor called for an
2 adjourned meeting in the event that the Council wanted to
3 act on the very thing you mentioned. We will be in a
4 position to do so. And now with your permission I will
5 read this statement:

6 (Councilman Robert F. Crow entered at this point.)

7 "It seems appropriate at this time, particularly
8 since three of our nine councilmen have taken
9 office since July first of this year, to give a
10 brief resume of the circumstances leading up
11 to today's subject.

12 For a considerable time past - a number
13 of years in fact - it has been believed that
14 oil deposits were present in the area east
15 of Pine Avenue and lying mostly offshore.
16 State officials were interested in ascertaining
17 when the City, as the trustee of the granted
18 offshore lands, would take steps to bring
19 about development of the area. However,
20 with the terrible consequences of subsidence
21 in the harbor district still plaguing the City,
22 it was necessary to attain a full solution
23 of that problem before undertaking a new
24 project which might have similar tragic
25 results. Furthermore, a long standing
26 Initiative Ordinance banning oil drilling in
27 a large part of the City had been extended in
28 1956 to prohibit drilling in the undeveloped
29 offshore area without prior approval of the
30 voters.

31 A new City Council term began in July of

1 1960 and with the prospect good for a full
2 solution in the near future of the subsidence
3 problem, the City Council asked that studies
4 be undertaken to determine what legal or
5 engineering considerations would have to be
6 taken into account. In November of 1960 the
7 City Attorney's office gave the Council an
8 analysis of the legal aspects of the City's
9 responsibilities regarding possible future oil
10 production and regarding subsidence. And on
11 October 21, 1962, the Petroleum and Subsidence
12 Control Division of the Long Beach Harbor
13 Department published an extensive report of
14 their year-long studies and set forth a
15 development plan for the undeveloped townlot and
16 offshore areas of the Wilmington Oil Field.

17 After considerable further study by the
18 Council's Oil Committee and by the City Council,
19 there was prepared an ordinance implementing
20 the Initiative Ordinance by providing a program
21 for the orderly development, from four islands,
22 of the oil reserves both offshore and upland. A
23 special municipal election was called and on
24 February 27, 1962, the measure was overwhelmingly
25 approved by the voters.

26 Immediately thereafter, on March 7, 1962,
27 the first of a great many meetings with State
28 officials was held in the Los Angeles office
29 of the State Lands Division. There it was
30 fully understood that development of the area
31 would only be undertaken on a unitized basis

1 and the first effort to be made was to reach
2 an agreement on the formation of a unit which
3 would be satisfactory not only to the City and
4 State but also -- so that they would be executed -
5 the contracts had to satisfy the owners of the
6 upland property or those to whom they had
7 leased, with six or seven oil companies holding
8 the vast majority of the upland area's rights.

9 From May through August of 1962 meetings
10 were held to work out the necessary Unit and
11 Unit Operating Agreements and the supplementary
12 exhibits thereto.

13 In addition to the creation of a general
14 Management Committee, others were established to
15 cover specific phases of the problems including
16 an Engineering and Equities Committee, a Legal
17 Committee, an Accounting Committee and a Tract
18 Exhibits Committee. During the four months
19 referred to in addition to the meetings of the
20 technical committees there were fifteen meetings
21 of the Management Committee, the last being on
22 August 29, 1962. Full acceptance of the contracts
23 which resulted was arrived at and the Unit and
24 Unit Operating Agreements were printed and
25 published October 1, 1962.

26 At all of such meetings, various State
27 offices were represented but it was made clear
28 by the representatives that they were present
29 as auditors and not as voting participants.

30 Meanwhile, officers of the City Attorney
31 and the City Manager had commenced the drafting

1 of a field contractor agreement which would
2 be put out for competitive bid. The first
3 draft was completed in October of 1962 and
4 distributed to the State Lands Division, the
5 Attorney General and to some forty companies
6 in the oil industry for the purpose of
7 soliciting suggestions, for the City has
8 always kept in mind the necessity of producing
9 a document which would attract a high number
10 of qualified bidders. Therefore suggestions
11 received from the industry were weighed carefully
12 in the production of the final draft of the
13 Field Contractor Agreement which in February
14 of 1963 was submitted to the State Lands
15 Commission for approval and first considered by
16 the Commission at a lengthy hearing on February
17 28. Many suggestions of the State Lands
18 Division and of the Attorney General were
19 included within the final draft and in certain
20 side agreements requested by the Attorney
21 General and approved by the City Council.

22 Discussion on the proposal was taken up
23 at the Commission meeting one month later.

24 Then, at the recommendation of the Commission,
25 on April 15 and April 22, full days were devoted
26 to a public review of the documents - the Field
27 Contractor Agreement, Unit Agreement, Unit
28 Operating Agreement, the Exhibits thereto. The
29 State Lands Division, the office of the Attorney
30 General and representatives of the City
31 participated in the explanation of the documents.

1 to the oil industry and other interested
2 parties. Further meetings of the State Lands
3 Commission took place on April 25 and May 23.

4 In the meantime, the State Legislature
5 was in session from January 7, 1963, and a
6 special committee of five Senators was
7 appointed by the Senate Rules Committee to
8 participate in the hearing conducted by the
9 State Lands Commission on February 28. On
10 March 21 four of the committee members submitted
11 a resolution (SR 100) which requested the Lands
12 Commission to withhold its determinations with
13 respect to all of the documents relating to
14 the proposed oil development program and asked
15 that the General Research Committee of the Senate
16 be directed to make an appraisal of the proposal
17 and to report at the current session of the
18 Legislature.

19 The resolution was adopted by the Senate,
20 a special subcommittee of the Senate General
21 Research Committee was appointed with Senator
22 Virgil O'Sullivan as chairman, the subcommittee
23 employed three Washington lawyers including
24 Oscar L. Chapman to study and report to the
25 subcommittee. On May 18, the report was filed
26 and it was reviewed at a public hearing in
27 Sacramento on June 3, 1963. On June 10, the
28 subcommittee released a progress report. The
29 Legislature adjourned on June 21.

30 The State Lands Commission at its regular
31 meeting of June 27, 1963, directed the Lands

1
2
3
Division to redraft, in conjunction with the
City, the contractual documents with four
principal changes as follows:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
1. Tract No. 1 (the offshore area
between Pine Avenue and the former
Alamitos Beach State Park) to be
offered in five undivided interests
of 45%, 25%, 15%, 10% and 5%, with
the successful bidder for the 45%
interest to be the Field Contractor,
and with cash bonuses on all five
interests.

21
22
23
24
25
26
27
28
29
2. A reservation of the right by
City and State to take 12-1/2% of
production in kind.

30
31
3. An option to the City and State
to take an additional 12-1/2% of
production in kind.

32
33
34
35
36
37
38
39
3. Establishment of a minimum
guaranteed operating profit to the
City and State by specification of a
percentage return of the gross value
of production.

40
41
42
43
44
45
46
47
48
49
4. Consideration of the foregoing proposed
changes was undertaken by the City and, at
its regular meeting on September 24, the
City Council rejected three of the proposals
and approved the second for a reservation of
the right to take 12-1/2% of production in kind.
The City Council then unanimously adopted a
resolution, later transmitted to the Lands

1 Commission, reaffirming its approval of the
2 Field Contractor Agreement in the form as
3 originally submitted with the one modification
4 just referred to.

5 A suggestion was then made that the City
6 Council and the Lands Commission meet together
7 to ascertain if a mutually satisfactory
8 conclusion could be arrived at. May I close
9 this summary by stressing these thoughts:

10 First -- every day that passes without under-
11 taking the development of the field means a
12 delay in the receipt of vitally needed revenues.

13 Second -- the Unit Agreement will have no force
14 or effect, without an agreement for extension,
15 if it is not effectuated by January 1, 1964.

16 Third -- all indications are to the effect that
17 this is a propitious time for letting the area
18 for bid, a situation which might not prevail in
19 the future. Fourth -- the documents submitted
20 for approval - the Unit Agreements prepared

21 by the representatives of the working interests
22 and the field contract prepared by the City with
23 the aid of the Lands Division and the Attorney
24 General - have been prepared by legal, engineering
25 and other experts in the oil development field
26 based on local experience where problems similar
27 to those which must be faced have already been
28 encountered and appropriately handled. Fifth --
29 the public interest in the development of the
30 oil resources has been kept uppermost in preparing
31 the documents which the City believes will prove

even more beneficial from the public standpoint
than the agreements which in the past have
drawn praise as the finest in the history of
the oil industry.

We have prepared and will distribute at
this time pages setting forth the contract
proposals and the Commission's recommendations
in respect to the four facets of the documents
discussed by the Commission at its June meeting.
It may be noted in passing that as to the four
recommendations for change, the final draft of
February 25, 1963, did not vary in these areas
from the draft of October 1962."

That closes my statement. And Mr. Mayor, and
Chairman, should I read this? I have been asked to read
these, the contract proposals.

MR. DESMOND: Mr. Kealer, I would suggest that since there
are four and they are separated in four different proposals
of recommended changes, that you read the one first, and
then see if there are items to be discussed, and then go
to the second one, rather than --

MR. KEALER: I believe it will be found that on each
of these pages that each page contains one of the proposals
and then there is room for notes, if any wish to be taken.

The contract proposes:

Tract No. 1 to be offered in one undivided 100%
interest, the successful bidder to be determined
by ascertaining the highest net profit to be
shared by the City and State with a provision
for \$1 million dollars to be advanced by the
contractor to the City and State over the first

three years of operation, such payments to be treated as advance production payments.

The Commission recommends:

Tract No. 1 to be offered in undivided interests in the proportions of 45%, 25%, 15%, 10%, and 5%. The successful bidder for the 45% interest to be designated as the Field Contractor to assume all obligations of developing and producing the field, and to be the sole beneficiary of the "Administrative Overhead Allowance" (currently proposed at 3%). The 45% interest to be offered for the consideration of a fixed cash bonus in the amount of \$20,000,000, with the biddable element to be the percentage of the net operating profits offered. The remaining undivided interests (25%, 15%, 10%, and 5%) to be offered for the consideration of a fixed percentage of the net profit equal to the net profit bid on the 45% interest, plus payment of a cash bonus as the biddable element. (Each undivided interest holder to assume his pro rata share of the development and production costs, determined by the undivided interest percentage held.)

That is left for notes. If it is the will of your honorable body, gentlemen, I can read the others or I can stop any time you ask me.

On page two in item II the contract proposes:
do you wish to comment on the other one?

MR. CHAMPION: Well, I have a comment on it, if you want to do it now.

1 THE MAYOR: I would think it might be more orderly if we
2 have our observations on each portion of the contract as we go
3 along.

4 MR. CHAMPION: As a basis for discussion on the differences
5 here, I have a couple of suggestions, and these aren't fixed,
6 but I think they offer some principles of meeting the differ-
7 ences here. One is that I think a better way to approach the
8 problem of the initial payment is in this form: To make a total
9 advance production payment as originally suggested by you of the
10 \$51 million dollars to be paid at the time the contracts are
11 awarded, the contractors to recover their share of the advance
12 production payment without interest out of the first net profits.
13 Now I think this meets the tax problem, and perhaps will bring
14 us a greater economic benefit; this in lieu of the bonus
15 arrangement. In other words, we would go to an advance
16 royalty and return some, from that. That's one general
17 principle. Of course, there are a number of details in connec-
18 tion with that.

19 Another suggestion I'd like to make, and that is
20 that these percentages in the undivided interest, I feel very
21 strongly that there should be undivided interest for a number
22 of reasons, but I -- I do have reservations about having no
23 one with a majority control.

24 Let me say this: I don't think there is any problem
25 at all, as I understand it, among us on the unit agreements.
26 I think that there are also substantial advantages, both
27 economic advantages and operating advantages, to having the
28 winner of the major undivided interest have more than 50%.
29 I was going to suggest 60%.

30 I am also concerned that perhaps a breakdown at the
31

1 other end, somewhere where we had heretofore listed 5%,
2 and I don't know exactly where this 5% might come from, but
3 ought to be broken, one 5% segment or 5% from one of the
4 other segments, ought to be broken into smaller portions.
5 This goes into some other problems, but I think probably
6 this would permit some refiners to benefit from this who
7 would not benefit from the 12-1/2% provision for taking
8 in kind. This would give them an opportunity to participate.
9 These are in this general area, these are the two suggestions
10 I'd like to make personally. Perhaps other members of the
11 Committee might like to.

12 THE MAYOR: Mr. Sullivan.

13 MR. SULLIVAN: Mr. Mayor, Mr. Champion, we councilmen
14 are lay people, and we are dependent pretty much on, as some
15 of you gentlemen are technicians, experts in oil production.
16 We have been told, convinced, Mr. Chairman, that our
17 submitting of the proposition of one unit, for 100%
18 interest will bring the greatest number of dollars return
19 to the State of California and the City of Long Beach. We
20 feel that we have submitted to you, and the way of procedure
21 is, is the best form of development under good oil field
22 practices to develop the fields as economically as possible,
23 and also to protect the City against subsidence. But I
24 believe that we would have to be convinced, and I am open
25 for conviction, I have to go with our technicians just like
26 you gentlemen do, I don't have the privilege in my
27 responsibility to say, "Well, let's let a lot of people in
28 the act." I think our responsibility is to try to get the
29 most number of dollars to the people of the State and the
30 City of Long Beach. We are partners. Now, I am open for
31 conviction, if somebody can show me that they have a better

1 form of contract than what we have submitted to you
2 gentlemen for your consideration, I am the first one to say,
3 I will support it. But I don't believe that I, as a
4 Councilman, in my responsibility can support a type of pro-
5 cedure that will lessen the dollar return. I think that
6 that's the responsibility of public funds, and I know you as
7 the Chairman of the Lands Commission have to live with it
8 every day, and it is a great problem, and I think that is
9 where we have this troublesome problem, is that we feel this
10 will bring the most dollar return. Now if there is a formula
11 that will accomplish a better return to the people of the
12 State under these circumstances of good oil field practices,
13 I am for it.

14 MR. CHAMPION: Well, I'd just like to comment briefly on
15 that. I don't think we are far on the facts, at least as I
16 see them. I think there may be a chance that a hundred per
17 cent thing would return the greatest degree. As far as the
18 Lands Commission is concerned, or -- I am again speaking for
19 myself -- I think that is a questionable item. I think there
20 is a lot of speculation as to which way that might go.

21 But, as I think we made clear in the other
22 discussion we have had, we feel that there is an element of
23 public policy in terms of control of all of this oil, and
24 that there must be some provision to make sure that this is
25 not a monopoly situation, even if a monopoly situation would
26 produce the greatest economic return.

27 It would be nice if you could operate government
28 totally like a business, and the dollar decided everything.
29 In some ways it would make it a lot simpler. But we have
30 a good many other considerations in public policy here, and
31 particularly in the oil market, and without going into

1
2 specific percentages, I think that the Commission on prin-
3 ciple all, all believe strongly in the undivided interest
theory, to one degree or another.

4 THE MAYOR: Mr. Cranston.

5 MR. CRANSTON: Yes. Let me say first, that I feel that
6 the sort of discussion we are having right now is primarily
7 designed to lay the groundwork, I would think, for further
8 exploration by the staff. We can now just explore where
9 there is room for further consideration, and I think make it
10 plain that as many of us as possible are not firmly
11 committed to rigid positions that can't perhaps be ironed
12 out in one way or other. I think we will find some position
13 between, and that perhaps cannot be changed.

14 Commenting upon what Hale said, I do believe that
15 an alternate method such as the one that he proposes, so far
16 as the initial cash is concerned, is the middle ground be-
17 tween what we would propose, after you made a different pro-
18 posal, and without committing myself to supporting that at
19 the present time, it seems to me that what he suggested is
20 probably -- and of course it should be acceptable both to the
21 State and the City -- I recommend that we look into it.

22 On the matter of the undivided interest versus a
23 100% share, I don't think that it is possible to really decide
24 which way is going to produce more money. You can build a
25 plausible case for somebody paying more for 100% than he will
26 pay for less, because he wants full control. On the other
27 hand, I think you can make an equally plausible case that you
28 can get heightened bidding, heightened participation, and
29 hence more money by having some undivided interest.

30 I do believe with Hale that a matter of
31 principle is involved here, and that we should not

1 easily depart from the idea of breaking the field up in some
2 fashion in terms of undivided interest. But I am not firmly
3 committed to any great rigid formula, 45%, 25%, etcetera. I
4 think that they should explore what makes the most sense.

5 I do concur with Hale that we should have some smaller units,
6 such as the two-two-one, very small collection of three units,
7 and I am willing to consider what is wiser than 45%. I
8 wouldn't be inclined, I think, to go higher than say, 51%,
9 but again I am not trying to be rigid there.

10 GOVERNOR ANDERSON: Mr. Chairman?

11 THE MAYOR: Are there any other observations on this
12 first point? Governor Anderson.

13 Could you use that microphone, Governor, please?

14 GOVERNOR ANDERSON: Oh yes. First, I'd like to say
15 that I think Hale pretty well gave the general feeling of
16 the Commission. I feel that the -- that we are all agreed
17 on unit agreement, on ~~a~~ unit agreement approach. An
18 advance royalty without interest is one that I hope that we
19 can all agree on, and the break-up of the five per cent into
20 the smaller amounts, again I can't see any reason for having
21 a problem, having a problem on that. The speculation
22 that, as Mr. Cranston pointed out, that the bigger bidder,
23 if you had 100%, would pay more for this hundred per cent,
24 or this monopoly, or control, or whatever you call it,
25 is something that is highly speculative, and if it were
true, I would feel that there would be inherent danger in
what they would be paying for, which would be one of the
things that would concern me. Frankly, I have felt that
open competitive bidding, letting more people in, would
result in more money than if we have the 100% offering,
which would be so big that it would eliminate most of the

1 prospective bidders in California, and this is one thing
2 I do not want to see, and I would rather see it broken up
3 as it was originally suggested, so that we could have more
4 free competitive open bidding in California. And I think
5 that even if it brought in less money, which I am not
6 willing to accept at this time, because I think this, as
7 Mr. Cranston pointed out, you can raise an argument both
8 ways on this, but that even if it did bring in less money,
9 the fact that the interests, the public policy, /.. California, the City
10 of Long Beach, would be establishing a policy against mon-
11 opoly control, I think that in itself has some value,
12 and that is in a sense, in a nutshell, how I feel. I am not
13 even entirely convinced, but this is the sense I feel at
14 the present time.

15 THE MAYOR: Mr. Crow?

16 MR. CROW: I have a question. When the term "monopoly"
17 comes up Governor, on what basis would you, or could you, or
18 have you been advised that such a situation exists? Is it
19 not so that the City of Long Beach and the State of
20 California have surveyed this question quite thoroughly
21 through their legal channels, and perhaps there is something
22 that you could add to it by telling us of what the findings
23 have been. Has there been monopoly, has there not, Governor?
24 A direct question to you, that you have been advised by the
25 Attorney General's office that such a situation does exist?

26 GOVERNOR ANDERSON: I used the word that a 100% offering,
27 a 100% control or monopoly, or whatever you call it -- maybe
28 we are talking about semantics here. When I see a field the
29 size of this being in one hand, to me this tends toward
30 monopoly. It is a large portion of the production of
31 California, and this is the one thing that I am concerned

1 with. I don't want to see any sizeable unit that could
2 influence the production of oil in California, could
3 influence the cost or anything else.

4 MR. CROW: I appreciate that answer, but my question
5 was, have you ever been advised by the Attorney General's
6 office that such a situation exists?

7 GOVERNOR ANDERSON: Such a what?
8 under

9 MR. CROW: A monopoly / these conditions.

10 GOVERNOR ANDERSON: We are talking about something
11 brand new. We are talking about a bigger field than any
12 of us have ever been involved with. This field in itself
13 can be a condition that never existed and can develop into
14 a tendency toward monopoly in California.

15 MR. CROW: But then I would gather that in either
16 event from a research standpoint there has been no criticism
17 of one over the other as far as the legality, or that a
18 monopolistic situation does exist in the City's preference
on this item?

19 GOVERNOR ANDERSON: I would say that the recommendation
20 we made is one that would protect against any monopolistic
21 condition that could develop. We are talking about a field
22 that will be 25% or upwards of the total in the State.
23 There is a lot of oil here.

24 THE MAYOR: Mr. Champion?

25 MR. CHAMPION: I'd like to comment that we have, of
26 course, discussed this with attorneys in the Lands Commission
27 We have not raised this as a legal question, that is, a
28 violation of any statutes. We raised it as a matter of
29 public policy rather than legality. I don't think but that
30 there is any question that we have adequate law to deal
31 with antitrust situations. However, this discussion has been

1 in terms of public policy in the Attorney General's office,
2 and these discussions have felt that this was a serious
3 question of public policy, but not of legality, illegality.

4 MR. CROW: Mr. Champion, we have also done the same
5 thing on our level, and we have been advised that such a
6 situation does not exist, that it would not be a monopol-
7 istic type of contract. That's where I believe that we may
8 be allowed to ask as to who may be right and who may be wrong.

9 THE MAYOR: Well, I think, Mr. Crow, and gentlemen,
10 I think the problem is one of the use of words. I think
11 everyone is agreed that it is a public policy matter that
12 we are talking about, rather than a monopoly in the true
13 legal sense. I believe that members of the Lands Commission
14 have indicated today that they are not talking about monopoly
15 in the true legal sense, but rather as a public policy matter.
16 Am I correct, Mr. Champion? You have not received an
17 opinion from your Attorney General's office or from the
18 members of your Lands Commission that the proposed contract
19 which we have submitted to you is in any sense violative
20 of any of the antitrust laws?

21 MR. CHAMPION: No, we have not, and I don't think that
22 we have ever raised the question, the question that it might
23 be.

24 MR. CRANSTON: I think we are really talking about two
25 separate things, and you, I suspect that you have not been
26 there is or there is not
27 advised by your staff, that is a public policy. You
28 have asked your staff different questions than we have asked
29 our staff.

30 THE MAYOR: That is correct.

31 MR. KEALER: I might just make one statement: In all
32 of my experience in the industry you'd never know where the

1 top dollar is. You just do what you think is the best
2 deal and get the best deal you can, and get the top dollar.

3 Item II is the contract proposes:

4 "The contractor is obligated to take and account
5 for 100% of the production.

6 The Commission recommends:

7 A reservation of the right to elect to take
8 12-1/2% of production in kind, in favor of the
9 City and State, as to all of Tract No. 1. This
10 reservation could constitute the supply for
11 "sell-off" to small refineries as crude supplies
12 might be required in fact.

13 This recommended change approved by the City
14 Council on September 24, 1963."

15 MR. CROW: May I ask a question, Mr. Kealer?

16 THE MAYOR: Mr. Crow.

17 MR. CROW: Mr. Kealer, was it not the intent of the
18 City Council on September 24 when they agreed on reservation
19 of the right to elect to take 12-1/2% of production in kind,
20 so as to satisfy the smaller refineries, was that the
21 intent as far as the Council of the City of Long Beach?

22 MR. KEALER: Yes.

23 MR. CROW: It was.

24 MR. KEALER: Yes.

25 THE MAYOR: Any other comments? Mr. Sullivan.

26 MR. SULLIVAN: Mr. Crow, I am under the impression that
27 there was an informal suggestion by a representative of
28 the Department of Justice that if this did take place, that
29 then would eliminate any possibility of monopoly or freeze-
30 out on the smaller refineries, and I think that that was one
31 of the strong arguments for me to vote for it.

1 MR. CROW: Right.

2 THE MAYOR: Excuse me -- Mr. Champion, go ahead.

3 MR. CHAMPION: Well, I think Mr. Sieroty was probably
4 -- would like to raise the same point that I had in mind.

5 Mr. Sieroty is Lieutenant Governor Anderson's assistant.

6 MR. SIEROTY: Yes, sir.

7 THE MAYOR: Would you push in the side of your micro-
8 phone, please?

9 MR. SIEROTY: I was going to raise this point, however,
10 that under present State law this 12-1/2% "sell-off" would
11 not, could not be used to sell solely to small refiners or
12 small business. The Federal Justice Department did hope
13 that California could somehow use this 12-1/2% to sell to
14 people in their category of small business. They have
15 certain requirements as to number of employees, and refining
16 capacity, but our State law at the present time would require
17 the City and the State to sell to the highest bidder. So
18 this present 12-1/2% "sell-off" reservation we cannot
19 say would satisfy either the Justice Department entirely,
20 or we cannot say that it would satisfy small business
21 entirely, because it will be open to every responsible bidder
22 to purchase oil. I would hope, however, that perhaps the
23 State Lands Commission might suggest legislation which would
24 allow the City and the State to make some provisions for
25 selling to either companies which had not received an
26 interest in the East Wilmington Field, or companies of a
27 certain size, or some other preferential treatment.

28 THE MAYOR: Is there anything further on this item?

29 Item number III, Mr. Kealer.

30 MR. KEALER: Item number III, the contract proposes:

31 "The contractor is obligated to take and account

1 for 100% of the production.

2 The Commission recommends:

3 An option to the City and State to elect to
4 take up to an additional 12-1/2% of the production
5 in kind from all of Tract No. 1 at the
6 approximate time when the development has
7 reached peak production. Election of this
8 option would be dependent upon the basic public
9 interest requirements as determined by the City
10 and State, particularly in consideration of the
11 distribution of the undivided interests, which
12 were offered separately for bid."

13 THE MAYOR: Mr. Champion?

14 MR. CHAMPION: For myself, I think that if other, if
15 certain other precautions are taken, that this would not
16 be necessary, and that then this suggestion might very well
17 be withdrawn. Again it is an effort to protect the small
18 companies, the non-integrated company, and particularly
19 if we are able to divide, have these small interests, this
20 additional 12-1/2% I think would be unreasonable and would
21 hurt economically the kind of net percentage we would be
22 offered by a bidder, and therefore we might very well
23 eliminate that request in the contract if the other pro-
24 visions take care of this item.

25 GOVERNOR ANDERSON: Yes.

26 THE MAYOR: Mr. Anderson says the same. Mr. Cranston?

27 MR. CRANSTON: It would depend upon the undivided
28 interest, but if that can be worked out satisfactorily --

29 MR. SIEROTY: Mr. Mayor?

30 THE MAYOR: Mr. Sieroty.

31 MR. SIEROTY: Might I say that the additional 5% which

1 Mr. Champion mentioned earlier, which would be broken up
2 in the interest of two, two and one, or three and two, or
3 two and a half and two and a half, or however it is done, I
4 believe that this would be more satisfactory to oil producers
5 and refiners than trying to buy oil under the 12-1/2%
6 "sell-off". This would give them an opportunity to
7 participate in the other advantages of oil production,
8 additional allowances, and providing some profit to them.
9 I think this would be a more satisfactory arrangement, and
10 I think it is in this light that the Commission would suggest
11 that we withdraw the 12-1/2%, the ~~second~~ 12-1/2%, sell-off
12 THE MAYOR: Mr. Sullivan.

13 MR. SULLIVAN: Mr. Mayor, I think to go back to item I
14 again, and I think that it is -- if we get over item I
15 between us without any blood flowing, why, I think the
16 rest of this thing will be wrapped up in about five minutes.
17 (Laughter.)

18 MR. SULLIVAN: I think that the State of California,
19 their technicians, the Lands Commission, certainly public --
20 there is a very strong point that Governor Anderson made,
21 public policy, but we get into another thing of public policy,
22 that's public funds. Now you divided this into a lot of
23 small parcels, they are going to have development problems,
24 they are going to have production problems, that's going
25 to increase the cost and diminish the return. Now, how far
26 do you go in this? 20 parcels of 5%? I mean, we can all
27 make argument for all of this. I mean, I think that some
28 real getting together should be made on this point. Maybe
29 there is some alternative in suggesting the bids. I mean, I
30 am not an oil man, and I am serious about this as you gentle-
31 men are, but I don't want to get the City of Long Beach shot

1 down by some legislators by saying that you recommended some-
2 thing that doesn't return the constituents -- and I won't
3 name the county, but we can imagine plenty of this -- that
4 original buy. And who is going to get shot down? We are
5 taking a lot of abuse by these people on some unfounded charges
6 right now, and I think, Mr. Chairman, that going along with
7 Governor Anderson's statement, your statement of Mr. Chairman
8 and the Controller's statement, our views on this, let's see
9 which satisfies the equation on this thing. I think these
10 technicians are qualified. You have them, and we have them.
11 What difference? Maybe we could call on one of our people
12 to make an estimate on that, if that would be of any value
13 -- this is an informal meeting -- ask them what do they think
14 would be the difference? Maybe we could get some help.

15 MR. CHAMPION: I think that would be very helpful. I
16 know on our examination and discussion with the technicians
17 we are admittedly in a speculative area, what percentage of
18 things you would get a maximum return, or at what point some-
19 one might be willing to pay a premium in order to meet a
20 certain -- say a new refinery capacity, or something of that
21 type. We are in an area of speculation, but I think your
22 technicians and ours are in the best position to try to get a
23 consensus on this subject. I'd like to hear what they might
24 suggest.

25 THE MAYOR: Mr. Kealer.

26 MR. KEALER: May I express the feeling of this councilman,
27 and perhaps the others -- I am speaking individually in this
28 matter -- that I felt that the whole philosophy underlying
29 this meeting would be to find areas of agreement. And that
30 can't be done immediately over this table, but we can bring
31 out the salient points that immediately need to be discussed,
and then the Commission's staff and our own officials from

1 the City, representatives from the City could get together
2 and try to find a workable solution to the whole thing.
3 That's my sincere hope that that may be accomplished.

4 THE MAYOR: Yes. Is there anything further as to item
5 number III, gentlemen?

6 Item number IV, Mr. Kealer.

7 MR. KEALER: The contract proposes:

8 "The contractor shall pay over to the City and
9 State amounts in accordance with his bid on
10 a net profits basis.

11 The Commission recommends:

12 Establishment of a minimum guaranteed operating
13 profit to the City and State by specification
14 of a percentage return of the gross value of
15 production."

16 THE MAYOR: Mr. Champion.

17 MR. CHAMPION: I might say about this, and I am speaking
18 quite personally here, as I recall we had in mind the
19 minimum royalty of 16-2/3%. Unless we are all vastly
20 wrong about this field, it doesn't really make any difference.
21 It seems to me that if this is something that if it satisfies
22 people, to be sure that that is this minimum return it could
23 be in the contract. I don't really -- so far as I am
24 personally concerned I don't think it makes any difference
25 at all. I think it is bound to be greater than that, and
26 that the problem that might be raised in terms of the
27 timing of this, if it were put as against the 5%, I don't
28 think there would be any further burden upon the contractor
29 as far as the payments are concerned. I don't think it
30 would affect the bid in any way. On this point at least
31 I am completely loose. It wouldn't make any difference to
32 me if it weren't in the contract at all. I just feel that

1 we are bound to get more than the 16-2/3, that it is a
2 figure set which might perhaps give the public some bottom
3 figure, but I, I just don't think it is meaningful in terms
4 of what we expect to happen to this contract.

5 MR. KEALER: I agree with that, Mr. Champion. I think
6 that the way it will be produced, that you will never get
7 to the terms point, return to where that will have to be
8 invoked, under the length of time that we can, under the State
9 law, make a contract.

10 MR. CRANSTON: Ray, I would like to ask if you think
11 it objectionable, does it do any damage, in your opinion?

12 MR. KEALER: I don't think it will ever be invoked,
13 Alan. If it would satisfy the equation to help people out,
14 where is the hurt?

15 GOVERNOR ANDERSON: Will you object to having it?

16 MR. KEALER: I didn't object to it in the first place,
17 Mr. Anderson.

18 GOVERNOR ANDERSON: Who did?

19 THE MAYOR: Mr. Sullivan?

20 MR. KEALER: The reason it was dropped out, Mr. Crow,
21 was pretty -- pretty much -- and I think you can ask our own
22 technical staff about that -- was that it was not felt -- and
23 using one of our old contracts, Long Beach Oil Development
24 Contract, you never get anywhere near the point where that
25 would ever be invoked, even if it were there.

26 THE MAYOR: Mr. Sullivan.

27 MR. SULLIVAN: Mr. Kealer, the significant point on
28 what the contract proposes is an item called "net profits
29 basis." Now when the oil committee and the City Council
30 reviewed this very strong arguments were made to put in that
31 net profits basis. I asked the question, I think you made
an explanation, that that would tend to perhaps force the

1 contractor into being a little more economical, if it cut
2 into the profits. Is that a correct statement? Am I
3 correct in that?

4 THE MAYOR: Mr. Mansell.

5 MR. SULLIVAN: Is that the reason that was put in,
6 Mr. Mansell?

7 MR. MANSELL: Yes. On the net profit, Mr. Sullivan.
8 and gentlemen, we felt, as does Mr. Hortig, that the over-all
9 operation would be more beneficial on a net basis.

10 GOVERNOR ANDERSON: What would it encourage?

11 MR. MANSELL: It would encourage the contractors as
12 well as the City, because he would be sharing the profit.

13 Now, the point that they bring up here, and there might be
14 some time over this contract where the City would want to
15 operate and the State whereby the return would not be 16-2/3%
16 of the gross. I think that Mr. Hortig and I would be in
17 complete agreement if it would be a minimum of 16-2/3%, in-
18 cluding the cumulative earning capacity over the entire
19 contract, and the advance royalty payment, which would
20 guarantee a 16-2/3 return both to the City and State. I
21 see no objection to that, if it was worded on that basis.
22 But sometime along the line the City and State both might
23 want to operate this field, when the net profits could
24 conceivably be less than 16-2/3, not the gross. We feel
25 that if this would approach either the Harbor or either one
26 of our Harbor contracts, that figure would be some 70% of
27 Richfield, and some 55% of L.B.O.D. of the gross. So we
28 would have no objection if that wording was in that manner,
29 and would so advise the Council, but to eliminate it completely
30 or to put in the 16-2/3 might discourage the operator in the
31 field, the contractor, to continue his operation, if he had

1 to guarantee that toward the tail end of the contract.

2 THE MAYOR: Mr. Champion.

3 MR. CHAMPION: I think it was always in the Commission's
4 minds that it be considered on a cumulative basis, and so
5 I don't think we really have any difference there. We
6 perhaps did not make that clear in the wording of the
7 proposal, but it is my recollection that this was understood
8 that it was applied cumulatively, and therefore would not
9 have any effect.

10 THE MAYOR: Well, Mr. Sullivan?

11 MR. SULLIVAN: Mr. Chairman, would the Commission have
12 any objection to commit bidding on the net profit basis?

13 MR. CHAMPION: No. I think my opening statement made
14 clear that the net, on the net profit basis was satisfactory,
15 at least to me.

16 MR. KEALER: Just on the basis, if the contractor is
17 going to get a net profit he is going to operate as
18 economically as possible, and he is going to get a better
19 bid.

20 THE MAYOR: Mr. Cranston.

21 MR. CRANSTON: Are we agreed then on that 16-2/3 matter
22 then, subject to testimony? That seems to be the case,
23 subject to draft; is that correct?

24 THE MAYOR: It would appear to be so, Mr. Cranston.

25 MR. CRANSTON: On the net profit matter, just to answer,
26 I just want to say that my present belief is, but subject
27 to final decision when we get to the decision point, that
28 the percentage of net profit is a sound way to proceed; but
29 I do not consider myself finally committed therefore.

30 THE MAYOR: Are there any other comments on this?

31 Mr. Kealer

1 MR. KEALEY: No, only that after all of everything has
2 been discussed, I would like to offer a motion that may be
3 acceptable to all concerned, since we are in an adjourned
4 meeting, and that would ~~be~~ to the effect that representatives
5 of the Commission meet with representatives of the City to
6 try to iron these out and bring them to their respective
7 bodies for their feeling and possible approval.

8 MR. GRANT: Is that in the form of a motion?

9 MR. KEALER: I want to wait until everyone has had
10 everything that they wanted to say, Governor, but I feel
11 that this is where we will inevitably have to go.

12 MR. SULLIVAN: Mr. Mayor, I believe that as Controller
13 Al Cranston indicated earlier, we are meeting to discuss
14 a matter and to give some instruction, instructions to the
15 "brain trust" -- excuse me for referring to it that way --
16 to make a deliberation. Now what are we going to ask them
17 what about Item One,
18 to deliberate on? Are we going to give them instructions
19 on that? That's the problem as I see it, what instruction
20 are we going to give them on that?

21 THE MAYOR: Mr. Sullivan, it would appear to me from
22 listening to the observations that are made around the
23 table here today, that the only area of disagreement still
24 remaining is over item I, which relates to the division
25 of the interests. The City's position at the moment is for
26 the 100% interest undivided, and the Commission's proposal
27 or recommendation is for the division 45%, 25%, 15%, 10%, and
28 5%, and apparently this is the area that needs exploration,
29 and the others, if that is resolved, would apparently fall
30 into line.

31 Yes, Mr. Champion?

MR. CHAMPION: I'd like to raise one other point before

1 we go to that. I think that seems to be the case all right,
2 but there is another area of discussion, at least it has
3 been a matter of discussion in the Commission, and I think
4 as between us both in respect to this contract and with
5 respect to the replacement contract which we approved very
6 recently

7 -- and that is this matter of the determination of price,
8 average
9 whether to use the posted price, / posted price, or to go
10 the highest price paid. There still is some uncertainty
11 in the Commission on this, and I would just like to ask the
12 present state of contract proposal as we submitted it to
13 you, was it as average price? I mean, was it on the basis
14 of posted prices?

15 THE MAYOR: Mr. Desmond.

16 MR. DESMOND: Gerald Desmond. The Commission approved
17 the four suggestions which we have set forth. There was
18 also an indication that informally that ultimately the
19 contract would also be drawn on the basis of highest posted
20 price rather than average. I believe that what Mr. Shavelson
21 has prepared for the office of the Attorney General to
22 present to the Commission is on the basis of highest posted,
23 in connection with this contract; differently than, of
24 course, the contract -- we realize that that was not a
25 precedent -- but differently than the contract approved
26 on October 10 for the Harbor area development.

27 MR. CHAMPION: Well, the only thing I wish to add in
28 that situation is that personally unless there is some more
29 satisfactory way than I now know to determine highest price,
30 I would agree on the basis of present knowledge that posted
31 price is the most satisfactory way of doing this. However,
the Commission is not, has not arrived to such a determina-
tion. I just didn't want us to feel that this matter had

1 been closed off, and it might be well for us to discuss
2 these. I think we are still interested in having our staff
3 explore with yours whether there is an administrative way
4 to deal with the problems that are posed by highest prices.
5 I know of none. I am satisfied in the replacement contract
6 that nobody came forward with one; that we took the proper
7 position. However, if there is a way of -- if someone
8 on our staff or someone on your staff knows the way to
9 handle that, I think probably the Commission would be
10 interested in introducing this element into the contract.
11 But as of now, as I say, I don't know any way to do it
12 any better than we did it in the replacement contract.

13 THE MAYOR: Are there any other observations?

14 Mr. Kealer?

15 MR. KEALER: Mr. Mayor and gentlemen of the Council,
16 as you can see, I am very happy that this thing has come
17 the way it has, and the feeling of all of us that the fact
18 that where the two of us would get together, the two bodies,
19 we would find some solution to our problems, because always
20 when two agencies get together with the idea that a problem
21 can be solved, it will be. Now there are a few things here
22 that have to be straightened out. If we are going to talk
23 about undivided interest, how great is it going to be? How
24 small is it going to be broken up? That is a matter for
25 discussion with representation from the City and the
26 Commission, and it is just the Council's pleasure, of course,
27 and I would not even begin to move it if I thought it met
28 with opposition, but I will try this motion for size.

29 Mr. Mayor --

30 THE MAYOR: Mr. Kealer, just before you do that, I was
31 talking informally here with Mr. Champion, and we both feel

it might be helpful at this point if we have the benefit
of his staff's reasoning or understanding, or arguments
concerning the 45%, 25%, 15% and so forth breakdown
before we go into your particular motion.

MR. KEAVER: Well I will be very happy to hear from
him, because -- not being guilty of plagiarism -- somebody
once said, "Your judgement is only as good as your infor-
mation." So let's get all the information we can get.

THE MAYOR: Very well. Mr. Champion, if you would
like to call upon any of the technicians of your staff,
you may do so at this time.

MR. CHAMPION: Thank you. I think also it might be
well if the Commission has the benefit of the views of
your staff on the same subject, so that while we are
leaving them this latitude to operate in, we know generally
what they are going to be talking about.

THE MAYOR: Very well.

MR. CHAMPION: And I'd like to call on Mr. Hortig to
go through some of the arithmetic, and I don't think any of
us can hold him responsible for it, this is highly speculative,
but we ask him to try to make some assumptions and just to
see where he comes out, on the economic effect of breaking
these things up into undivided interests and what would
happen at various breakage points. Frank?

MR. HORTIG: Thank you, Mr. Champion.

MR. CHAMPION: Do you want more than absolution in
advance?

(Laughter.)

MR. HORTIG: No, sir. Actually, for purposes of outlining
a possible area for consideration by the mutual staffs which
I believe was your intent to be covered by my comments,

1 Mr. Champion, specific numerical values probably would be
2 extremely hazardous, but the principles of the matter
3 certainly should be made available so that both the
4 Commission and the council members might know the range
5 of thinking. Practically there are an extreme range of
6 variations possible in estimates on the effect on bids on
7 undivided interests. For a comparator one must select a
8 probably non-existent hypothetical average oil company
9 with an average financial position and refinery needs,
10 and average hopes for expansion in California, etcetera,
11 for the future, who might be desirous of bidding on this
12 tremendous natural resource which has yet to be developed
13 in Long Beach. For such a bidder, depending again on the
14 type of refinery, input capacity, and guaranteed reserves
15 that the bidder would like to select, the more nearly the
16 amount of interest that he can acquire matches his designed
17 economic program for the future, the higher it is, the
18 higher his bid normally is going to be. Conversely, an
19 undivided interest which is substantially smaller in the
20 first instance than the total amount that a particular
21 bidder might like to decide would probably result in a
22 discount factor being applied to the bid. This, of course,
23 in turn would be offset, or could be offset by the
24 accumulation of the remaining bids for the balance of the
25 undivided parcels. I think the factors that both staffs
26 are going to have to consider in this connection are: the
27 selection of the optimum probable, inasmuch as no one can
28 forecast, as Councilman Kealer has already indicated, what
29 the actual bids are going to be, but the optimum probable
30 can be designed, with the reasonable expectation that the
31 practical results will come, fall somewhere near the design

1 value in selecting the size of these parcels, selecting the
2 largest parcel if it is to go in undivided interests, to
3 be the -- this sounds incompatible, but the smallest and
4 the largest, largest parcel to be the smallest one that
5 will still produce the highest bid for that amount of oil,
6 and then subdivide the balance of the parcels. There is
7 considerable room for both speculation and evaluation as
8 to whether such parcels should be above or below 50% in
9 the initial instance, and in this connection it must be
10 realized that even if the largest parcel which would be the
11 one to result in the designation of the field operating
12 contractor were to be specified in the first instance
13 under 50%, there is absolutely no prohibition in the
14 statutes; nor could there be in the contract offer, that
15 would preclude any one bidder from being the successful
16 high bidder for all parcels, no matter how many parcel
17 subdivisions were to be decided upon between the Commission
18 and the City Council.

19 Therefore, again we can only set the ranges for
20 review by staff, by staff to select the optimum parcels,
21 optimum size of parcels to reflect the degree of considera-
22 tion which the Commission feels should be given to public
23 policy in terms of the maximum size of parcel to be offered,
24 and hold this to a size which will not, if possible, unduly
25 discount the bids for the principal and field operating
26 contractor parcel.

27 The balance of the divisions would then necessarily
28 have to fall into line. Additionally I think the staff
29 certainly --

30 MR. CHAMPION: Frank, for purposes of illustration, let
31 me name a figure and see if you can justify it. Say we

1 should say that the major parcel, that that ~~which~~ would
2 go to the -- to the winner of the bid on it, would be the
3 operating contractor; say we should ask of him a 60% bid.
4 Now what are the factors involved in that, first, in terms
5 of possible discounting of the bid because of the size,
6 or the possible increase by virtue of the other, the other
7 bids that would be coming in, and second, what would be the
8 logic, both operating and economic, of fixing something
9 at that size?

10 I will take the responsibility for the 60%. You
11 explain it.

12 MR. HORTIG: Yes, Sir. I believe by "60% bid" you
13 meant a bid for 60% interest; is this correct?

14 MR. CHAMPION: That's right, as the basic bid. This
15 would be the operating contractor.

16 MR. HORTIG: In evaluating such a bid, if we assume
17 first a bidder who both had the ~~capacity~~ and the intention
18 to operate in California and utilize the total production
19 of the east, the Long Beach unit, which is estimated to
20 reach a peak of possibly 150,000 to 160,000 barrels per day,
21 a substantially higher bid would be received for an
22 initial parcel size larger than 60%.

23 Or, conversely, getting into an affirmative
24 answer to your question, a bid for a 60% parcel by such
25 an operator would be discounted and would be lower, and
26 again on selection of most probable values could be on the
27 order of 15 to 20% lower than the bid would have been for
28 a 100% parcel. These again now are predicated on the
29 assumptions which -- I can't go in detail on this
30 hypothetical average oil company.

31 Going below 60% for the initial parcel would not --

1 not only result in an expectation and a probability that the
2 bid would be further discounted, but that the discount
3 rate would become even more rapid to the point that very
4 probably below 50% the rate of discount would be very
5 severe in comparison to the rate of discount on a parcel
6 size ranging from 100% down to 60%.

7 MR. CHAMPION: Let me ask you about the offsetting
8 factors involved. At least in your view, and I must
9 confess in mine, there is a discount involved in going
10 down to 60%. Are there offsetting factors which would
11 tend in the whole bid to restore that, and specifically
12 of the fact that you are going to bring more, there are
13 more qualified bidders for the other size parcels, so there
14 is more total money in the market for the over-all bid, is
15 this -- and are there other factors, are there other factors
16 which would tend to compensate for that discount?

17 MR. HORTIG: There are both factors which would tend
18 to compensate and there are other possible factors depending
19 upon the actual identity of the bidders, which would
20 discount bids for the remaining parcels. Generally these
21 would break down into two categories: hypothetical bidder
22 A, who on getting the 60% parcel or the 40%, or whatever
23 it was, who really needs more oil, would be bidding
24 enthusiastically to acquire the balance of the interest
25 up to the amount of oil that his ~~design~~ program indicates
26 he wants for a guaranteed reserve, offsetting in part the
27 discount because of not having received the total block
28 of oil that he felt he needed in the first instance. On
29 the other hand, the possibility of receiving augmented bids
30 by a great number of bidders as a result of having produced
31 large scale competition by subdividing into a great number of

1 parcels is subject to the hazard that inasmuch as the
2 contracts will of necessity require a taking and paying for
3 oil which is a commodity which is only of use to the oil
4 industry as crude oil, you could reach a saturation point
5 where you really run out of potential customers and bidders
6 for all of the number of parcels that this thing could be
7 broken down into, and, as has been discussed, the possible
8 limitations to the point where the smaller operators who
9 would really like to acquire such a parcel cannot afford
10 in the light of their present refinery programs wherein
11 at least a portion of the refinery input is imported oil
12 at a lower competitive price, he can't afford to pay a
13 substantially higher price for Long Beach crude, even in
14 terms of a bid for a parcel. This could be a discount
15 factor again. So the ramifications again are simply going
16 to reduce to what Councilman Kealer said earlier: going
17 to have to design an optimum program, all other things
18 being equal, and hope this is going to produce the highest
19 dollar.

20 MR. CHAMPION: Would this be a fair summary of your
21 position on this last business, this business of increased
22 participation: up to a point increased participation would
23 tend to offset the discount, but if you pushed it too far
24 you lose the benefit of that added participation; in other
25 words, you have got to be careful not only at what size you
26 set the 60%, if that's the figure you chose, but you have
27 got to be very careful about the distribution of the
28 remaining parcels?

29 MR. HORTIG: That is correct.

30 THE MAYOR: Mr. Champion --

31 MR. KEALER: Mr. Champion, would you, after reply to

1 your question, I merely wanted to ask Mr. Hortig, it is
2 perfectly in line with your question of breaking these up
3 into many smaller parcels, there is another hazard that
4 the big operators, that in the event, such an event where
5 he couldn't meet his obligations and he defaulted, then the
6 major operator has to assume that obligation, and with
7 their plans and their other royalties, it could increase
8 the hazard to the major operators; is that correct, Frank?

9 MR. HORTIG: Definitely.

10 MR. SIERGTY: Uplands --

11 THE MAYOR: Mr. Sieroty.

12 MR. SIEROTY: Isn't this also true -- I am speaking
13 now of the point about having small interests, and Mr.
14 Kealer raised the question of what happens if one of the
15 small interest holders would fail, when does the field
16 contractor have to pick up that interest? What would happen
17 if one of the working interest owners on the uplands also
18 failed, what is the -- is there a difference between these
19 two situations?

20 THE MAYOR: Are you asking Mr. Kealer?

21 MR. SIEROTY: Well, ask Mr. Kealer or Mr. Hortig.

22 THE MAYOR: Go ahead, Mr. Hortig.

23 MR. HORTIG: I don't believe there would be a
24 comparability of working interest owners on the uplands.
25 Actually the interest holders, the undivided interest
26 holders are participants in the proceeds of the development,
27 which would take place solely on the tide and submerged
28 lands, with allocations of production under the unit plan
29 to the holders of the upland properties. So there could
30 be no equivalent default on the part of any member of the
31 contractual team on the uplands, as there could be in connection

1 with an undivided interest holder under the tideland
2 operating contract as outlined by Councilman Kealer.

3 THE MAYOR: Mr. Champion.

4 MR. CHAMPION: I think probably this indicates a kind
5 of discussion we have had, and I'd like to say only one
6 thing more about it, for myself, and that is this: as
7 you know, this matter has been under legislative scrutiny
8 as well as before the State Lands Commission, and it is
9 pretty -- it was clear at least from some of the positions
10 taken, I think would likely be, we as a -- the Commission
11 agrees with this statement of public policy in general, of
12 this part of the so-called Chapman Report, and the
13 subsequent remarks in the State Senate Committee, research
14 committee on this subject. So that even if there were a
15 determination that this discount was not quite compensated
16 for by some of these other factors, I think the Commission
17 would still find itself -- I know I would find myself still
18 in a -- in a very firm and committed position as far as
19 some form of undivided interest approach.

20 I think very likely that this would immediately
21 -- that if we were not to work this out, that we would find
22 ourselves in a discussion, perhaps not only of this matter
23 but of a number of other matters before the legislature.
24 It would almost certainly become a matter of legislative
25 consideration, and in the discussion of wanting to get
26 top dollar, but recognizing also this public policy, I
27 would hope that the Council would keep in mind this, this
28 added instruction, resolution, what have you, that
29 we have from the legislature. They are very much interested
30 in this as a matter of policy, and I don't think we would
31 feel free, even if there were, even if there were some dollars.

1 involved, to depart from this policy without prior
2 consultation with the legislature on the subject. And
3 I - this is a strong inhibition on any action we might
4 take in this area, in which we did not have an undivided
5 interest.

6 THE MAYOR: I would like to ask one question, if I
7 could, of Mr. Hortig. Mr. Hortig, if I understand your
8 statement, you have indicated that a 60% bid would bring
9 some 15-to 20% lower in the bid than the 100% undivided
10 operator. You also indicated that a 50% interest would
11 bring about a rate of discount that would be quite severe.
12 Could you give us some analysis of what percentage below
13 100% that might be offered, which could conform with the
14 public policy suggestion that's been made by Mr. Champion
15 and the other members of the Commission, which would not
16 bring about any appreciable discount in the bidding price?

17 MR. KEALER: Mr. Mayor, may I ask that the question be
18 more explicit? I think if you would ask Mr. Hortig this
19 question, it would tell you exactly how he felt with
20 respect to how much better or not better that it would be,
21 but also the fact that you would still have other undivided
22 interest, although they would be smaller, so if there were
23 -- if the major undivided interest were 80% and you broke
24 the remaining 20 up into small ones, I think if Mr. Hortig
25 could answer that pretty clearly --

26 THE MAYOR: Well, rather than my giving him the example,
27 I wanted him to give me one.

28 (Laughter.)

29 MR. HORTIG: Mr. Mayor, I hope I stated that the range
30 of estimates and the percentage of discounts and so forth
31 were arrived at in connection with projections of the

1 economic impact on a "hypothetical and very probably, with
2 my luck, non-existent oil company. But that these could
3 happen under the -- and would happen under the assumed
4 circumstances, if the economic conditions, the refinery
5 demand, the future market demand, and all the factors that
6 go into this situation. As Chairman Champion already
7 stated earlier in these proceedings, and I believe Governor
8 Anderson also, that even if it can be demonstrated and
9 could be estimated that a 100% interest would produce the
10 maximum bid and therefore anything less than 100% is
11 automatically going to produce a lesser, a lesser bid of
12 the type on which you raised your question, that there
13 would be serious concern in the area of public policy
14 as to what had produced the factors that had produced this
15 maximum bid for the 100% interest, which would require
16 other considerations in limitation on the bidding other
17 than simply the maximum dollar return.

18 THE MAYOR: Well, Mr. Hortig, I consider a 15% or a
19 20% discount quite severe.

20 MR. (Unidentified.): Mr. Mayor.

21 THE MAYOR: Just a moment.

22 At what particular amount do you think the dis-
23 count would be somewhat non-appreciable?

24 MR. HORTIG: This would be a specific range of investi-
25 gation that the staff of the Lands Commission would like to
26 undertake and report to you in conjunction with your own
27 staff.

28 MR. MANSELL: Mr. Mayor --

29 THE MAYOR: Mr. Mansell -- oh, excuse me -- Mr. Sieroty.

30 MR. SIEROTY: Thank you. No, I would like to state a
31 disagreement with Mr. Hortig's analysis on this point,

1 because I think it assumes something which is quite
2 speculative, and that is, somebody can go into the California
3 market who is seeking 90,000 to 100,000 barrels a day of
4 production, and I think that there may be other ways of
5 looking at this, which cause there not to be a discount.
6 As a matter of fact, cause there possibly to be an increase
7 by splitting it up. So I would like to make that clear.
8 Basically I feel that there would be more, there would be
9 more competition for 60,000 barrels, there would be more
10 parties who could be interested in 60,000 barrels than
11 there would be at 90,000 to 100,000 barrels, and now
12 60,000 barrels is roughly 40, 45%, and I think we have to
13 keep in mind too that any bidder here is not precluded
14 from bidding on subsequent undivided interest, even though
15 the Chapman Report indicated a preference for preventing
16 one bidder from achieving more than one interest, but under
17 State law at the present time he cannot preclude a bidder
18 from being the successful bidder on the entire amount.
19 100%, so that a bidder can go in and bid again if he
20 wants that 90,000 or 100,000 barrels a day, and is likely
21 to be likely to pay more for that extra amount. So I
22 wanted to state here that if he was clear, that I think
23 that this discount of 15 to 20% is quite speculative, and
24 it is the result of one situation which may or may not
25 occur.

26 THE MAYOR: Mr. Crow.

27 MR. CROW: I feel -- I get undertones, Mr. Champion, of
28 the guide that the legislature might put upon the action
29 of such contracts, one way or another, and I am somewhat
30 confused about public policy. May I have the effrontery
31 to ask you, is there such a thing as public policy as far as

1 the State legislature is concerned, relative to this
2 particular question that we are discussing today?

3 MR. CHAMPION: I won't try to unravel the various
4 actions that were taken by the legislature at the last
5 session. There were several, and some of them were different,
6 differing in character. To my knowledge there is no
7 full finding by the legislature as to a total body on this
8 matter. However, a good many people expressed interest
9 in this. They asked that the legislature -- that the
10 Lands Commission keep certain guidelines in mind when
11 working on this contract, and have made it quite clear
12 that they will have a continuing interest in whether or
13 not we have observed these guidelines.

14 Now, it might be that upon consideration by
15 the entire legislature, that we would take some different
16 position. But as to the expressed positions which have
17 come to us in the form of a resolution from the research
18 committee, which I think is probably the most direct
19 comment on this matter; this is not an expression of the
20 whole legislature. It is an expression of the committee
21 of the legislature to which, as Mr. Grant knows, we pay
22 substantial attention.

23 MR. CROW: Well, we have somewhat the same problem,
24 Mr. Champion. We are trying to -- when we instruct the
25 City Manager and request the City Attorney's office to do
26 certain things for us, we -- they naturally are guided,
27 influenced by the somewhat feeling along, feeling and
28 sentiment of the Council. I was just wondering to what
29 extent this, this feeling went, as far as expressing what
30 we have referred to on many occasions today as public
31 policy, as to whether the outline as has been presented

1 the Commission's recommendations is the public policy, insofar
2 as the State legislature is concerned?

3 MR. CHAMPION: Well, let me say this: it is always
4 easier, of course, to find public policy directions in
5 those things on which you actually agree. In this case
6 I don't think there is any difference between the Commission
7 and those legislators who have spoken on this matter. We
8 agree with them.

9 MR. CROW: In other words, the legislatures that have
10 contacted this Commission, you are in general agreement
11 as to what the recommendation that the Commission is
12 extending at this time?

13 MR. CHAMPION: On the undivided interest matter.

14 MR. CROW: On the undivided interest. Now there has
15 been said that even though a lesser amount of return has
16 been made available, I would say that by that assertion or
17 statement that there is a moral issue involved here, other
18 than a direct responsibility to the constituents, to the
19 State and county, the government, to bring about the best
20 possible return from any type of investment that we would
21 enter into of this nature.

22 MR. CHAMPION: I wouldn't characterize -- at least
23 my feeling about it -- as having any moral connotation one
24 way or the other. It is our view of the oil market, of
25 the responsibilities of the State in dealing with a whole
26 area of the economy, and in the context of the laws and
27 instructions under which we operate, it is not -- it is not
28 so much moral as a judgement that ~~the~~ public is better
29 served by what we are proposing.

30 MR. CROW: Even though there is a less return?

31 MR. CHAMPION: Yes; although I would like to point out

1 that this matter of the less return, as I tried to point
2 out when Mr. Hortig was speaking, that when he talked about
3 the 15 to 20% discount he is talking about the initial
4 impact in that first major bid, and it would be our hope
5 that whatever was finally worked out, that that would be
6 pretty substantially made up in the total pattern of the
7 bidding. We don't think that the discount would be in this
8 15 to 20% area if we worked out a total work pattern, good
9 pattern of bidding, so that we are talking about in our
10 judgement, I think, or it is my judgement, a much smaller
11 amount of difference of discount that might be involved
12 because of following just this public policy.

13 MR. CROW: Well now, this gentleman over here in some-
14 what, rebuttal to the undivided interest says that there is
15 a strong possibility that the return to the City and the
16 State will be greater. I would ask then, do you have
17 any figures to substantiate such remark? What is there
18 that you can aid us with today that would prove your
19 position over the other faction?

20 THE MAYOR: Mr. Sieroty.

21 MR. SIEROTY: No, I have no figures to substantiate this,
22 but I am suggesting also that the figures that you have
23 just heard, referring to a 15 and 20% reduction, are not
24 substantiated by the figures here. What I am saying is
25 that these are both speculations, these are both ways of
26 looking at a particular problem. I think it depends how
27 you look at it. It depends on what factors you have in
28 mind as to how you characterize what might happen. So I
29 am suggesting another approach, and I think the approach
30 that I am suggesting is just as valid as the one that has
31 been suggested previously.

1 THE MAYOR: Mr. Cranston.

2 MR. CRANSTON: I'd like to comment on that point also.
3 I think that on both matters and both questions before us,
4 in the matter of the undivided interest, there are matters
5 of judgement. It is the judgement of the three members of
6 the Lands Commission that there is a matter of public
7 policy involved in not permitting a bid situation that
8 automatically insures that one company or a prearranged
9 combination of companies will acquire this entire field
10 through one bid.

11 On the matter of what happens to you in regard
12 to income to the State and to the City, I think that this
13 also is entirely a matter of judgement. The situation
14 presented by Frank Hortig was a matter of a hypothetical
15 company performing certain hypothetical acts. I don't
16 think that we will ever know -- we do not know now, and I
17 do not believe that we will ever know whether one procedure
18 or another is likely to produce and has produced more money
19 or less than some other procedure might produce, and I'd
20 like to suggest three reasons for this: one, in terms
21 of the undivided interest you do get the possibility of
22 more competition because more companies will be able to
23 bid if there are some smaller units. Some companies that
24 cannot bid for 100% of this deal can bid for a smaller
25 interest and a heightened competition might result
26 although we will not know this -- in more income rather
27 than less. Then, and two other hypothetical situations
28 which might develop is this: suppose that there is a
29 company, or several companies, hypothetical, who wish to
30 acquire as much of this field as possible. They'd like
31 to get 100 or 80 or 60 or 40, or whatever major amount

1 they can, and the more the better. I would think that
2 they would bid quite high if they had a chance to bid on
3 the 100%. I would think also that if we start off with
4 a 45 or a 50 or a 60% field, one or more such companies
5 would bid very high to acquire that portion, and then they
6 would proceed to bid very high on the second largest
7 portion so that they would then have a major portion of
8 this field then under their control. The company which
9 bid against them in the first portion that failed might
10 bid very high, I should think, on the second largest
11 undivided interest, in hopes, (a) of acquiring that for
12 themselves, and (b) perhaps in hopes of frustrating
13 company number one in its effort to acquire a very preponderant
14 control here. And this might lead to very heavy
15 bidding and very large income to the State.

16 I would like to ask Frank Hortic if that is not
17 a hypothetical situation which might possibly develop.

18 MR. HORTIG: Definitely.

19 MR. CRANSTON: Good. Now let me ask on another one:
20 do there not quite possibly exist oil companies who have
21 a greater interest in acquiring this oil for refining and
22 other purposes, and interest which is greater in that
23 respect than their interest in the share of the net
24 properties which they would acquire from the field?

25 MR. HORTIG: This again is a situation applicable to
26 some of the companies, depending entirely on the inter-
27 relationship of their prospective reserves and what they
28 hope to have for refinery capacity in the future.

29 MR. CRANSTON: If that is true of certain possible
30 companies, it would seem to me quite plausible that they
31 would not discount their bids appreciably, if they have to

1 go to smaller undivided interests smaller than 60, 70, 80,
2 90 or 100, because the discount would apply to that percentage
3 of that profit which they would ultimately receive and
4 that is not the important factor in their calculation.

5 They are after oil for refining or -- and such purposes.

6 MR. CROW: Has the State ever before entered into
7 agreement where they had divided interests in their oil
8 leases?

9 MR. CRANSTON: I don't believe that we have, but I
10 would ask Frank Hortig. Again we are in a completely
11 different situation. I don't think that such precedents
12 need affect our action at this time in any particular way.

13 MR. CROW: No.

14 MR. CRANSTON: But I am glad to submit the question
15 with you to Frank Hortig.

16 MR. CHAMPION: I'd like to have the answer include
17 some statements as to volume. I don't think we have ever
18 considered anything of this as to volume, which would have
19 this total impact on the market. If you could put it
20 down in terms of the production involved here and the
21 production involved in typical contracts of the past.

22 MR. HORTIG: In response to the composite question,
23 I think a brief summary is required. One, the State Lands
24 Commission is authorized under law only to issue oil and
25 gas leases, and not to enter into net profits agreement or
26 service contracts for the production of oil such as the
27 City of Long Beach has undertaken heretofore and is
28 proposing under the current contract. The gross production
29 on the average from existing State oil and gas leases is
30 approximately of the same order of magnitude as production
31 has been heretofore under Long Beach Harbor Department's

1 Contract, and for the Long Beach Harbor Department parcels
2 The large differential that must be recognized is the
3 fact that the State Lands Commission has never had available
4 for lease offer lands of the quality and the virtually
5 known potential in most instances that the City of Long
6 Beach has had available for development under service
7 contracts. Therefore, a direct comparison of returns
8 under the two systems cannot be made without including
9 all the discount and depreciation factors necessary to
10 get both types of operation to a common base.

11 THE MAYOR: Mr. Mansell -- excuse me -- Mr. Bond.

12 MR. BOND: Mr. Champion, I'd like to ask Mr. Hortig
13 a question in regards to his testimony a few moments ago.

14 Frank, I understood you to say that there was
15 a danger to the field contractors of a default by one of
16 the undivided interests. Well, it is my understanding in
17 talking to our oil people in regards to this contract, as
18 we have offered it, or as you have offered it here in your
19 45, 25, and 15%, that should there be a default by one of
20 the undivided interests other than the field contractor,
21 that the field contractor would handle that oil and sell
22 it at the best price that he could get for it, and I will
23 -- would you explain the danger that exists for anybody
24 taking the prime contract on this, or the field contract,
25 under a situation of that type? Now if I am wrong on my
26 understanding of this contract, I'd like to know, but that
27 is the way I understand it, that should there be a default
28 by one of the 25, 15, or 10% undivided interest holders,
29 that the field contractor merely is indebted on his
30 interest in it is in selling it at the very best price that
31 he can get for it. This has nothing to do with the average.

1 posted price. It is the best price that he can get for
2 that oil. Would you explain that, please?

3 MR. HORTIG: I believe you are completely correct
4 in your analysis, Mr. Bond, of the problem you stated, and
5 the proposal for continued production of the total amount
6 of oil, leaving that for which an undivided interest holder
7 might be in default by the field operating contractor is
8 one of the suggested methods of handling the situation; so
9 there would be no danger to the field operating contractor
10 in the context in which you have put it. I hope Councilman
11 Kealer and I were discussing a different type of danger
12 when he used the word "danger" in the sense that on an
13 operation of the type proposed, if there were a extreme
14 number of undivided interests, and I believe we were
15 discussing that possibility at the same time, which extreme
16 number of undivided interests would of course heighten the
17 mathematical possibility of defaults by individual interest
18 holders, that the necessity of undertaking operations for
19 and handling additional oil for such defaulting contractors
20 in a large number might be again considered as a discounting
21 factor by the field operating contractor at the time he
22 made his own bid.

23 MR. BOND: Excuse me, Mr. Hortig. Say that this
24 contract was let at 45, 25, 15, on the undivided interest
25 proposal, and the default should occur by the 25% holder,
26 this would throw on your figures of 150,000 barrels a day
27 some 37,500 barrels of oil on the market every day,
28 immediately, would it not? That's less one-four of the
29 150,000. Wouldn't this affect the average posted price
30 considerably if this oil was available?

31 MR. HORTIG: Under the circumstances you have assumed,

1 Mr. Bond, this same oil would have been available, it would
2 have been being produced by the field operating contractor
3 for the undivided interest holder anyway. The only
4 difference would be that with a defaulting interest holder
5 then the field operating contractor would have to undertake
6 the handling and the marketing of that additional amount
7 of oil, which could be an operating complication suddenly
8 thrust upon a field operating contractor which he normally
9 wouldn't want to assume without some additional compensation,
10 or if there were not provision in the contract for
11 additional compensation or even modification of the production
12 rate so as to leave this, for lack of a better term, defaulted
13 oil in the ground until the new interest, qualified interest
14 holder could be found. Then under those circumstances
15 because of a hazard of having to take on such defaulted
16 oil, a field operator contractor bidding for the largest
17 parcel might discount his bid for the largest parcel for
18 that reason alone.

19 MR. BOND: Thank you, Mr. Hortig. My understanding
20 was that he would sell it to the best price that he could
21 get, and if it was a matter of tankage, he would have to
22 sell it immediately, so that seems to me of some concern.

23 MR. HORTIG: This was a suggestion as to a possible
24 method of handling it under the contract, and would
25 definitely would be in the area to be explored by the
26 respective staffs in terms of recommending a final contract
27 back to the Council.

28 GOVERNOR ANDERSON: Mr. Hortig, I'd like to ask -- like
29 to break in on that defaulter. What happens to his advanced
30 royalty? I don't see where you have got anything to lose if
31 somebody puts up some advance money, and we are only going on

1 what we are producing each day and we are selling at the
2 market price at that time, I don't see where we would do
3 anything but gain if somebody dropped their interest. I
4 don't see where there is a jeopardy; seems to me like it
5 would be a good deal for someone if one of the people
6 dropped their interest. There is something being raised
7 I don't understand.

8 MR. HORTIC: I hope I didn't infer that there was any
9 jeopardy. I would agree with your analysis, Governor
10 Anderson. The only difficulties inherent in this situation
11 are as to that sort of hazard to the bidder, the bidder
12 for the field operating contract would feel existed by
13 reason of this type of operation.

14 GOVERNOR ANDERSON: There is no hazard, but is it an
15 advantage to him? I see no hazard to anyone, except the
16 guy that gives up his interest and his advanced royalty.
17 We are talking about oil that is being sold every day and at
18 a current market price.

19 MR. HORTIC: That is correct, Governor Anderson.

20 Under the proposed form of contract the individual undivided
21 interest holder would market his share of the oil. He would
22 have the contracts. If he defaulted, lost his contract,
23 no longer had a market, walked off from the operation, for
24 whatever reason, then there would be that number of barrels
25 of oil every day that the field operating contractor either
26 under the present proposal would have to take physical
27 custody of, which he did not previously, and would have
28 to provide a market for, an operation which he did not
29 conduct previously, all of which would be an additional
30 operating burden on the field operating contractor. If the
31 field operating contractor considered this as a realistic

1 possibility of happening in the operation, he would
2 probably take insurance against this in terms of discounting
3 his bid for the privilege of becoming a field operating
4 contractor. On the other hand, one of the factors that
5 can be reviewed, and will be, I am sure, if we can have
6 the staff conferences which we hope are going to be authorized,
7 investigate alternative operating procedures whereby
8 such a difficulty and sudden imposition on a field
9 operating contractor need not eventuate; as, for example,
10 evaluate what effect there would be if there was a default
11 as to 5% of the oil, for example, to simply reduce the
12 production rate from the field by 5%, leave that oil in
13 the ground, make the remaining distributions until such
14 time as a new interest holder had bid for and was entitled
15 to receive the 5% of the oil. There are a number of
16 modifications that can be suggested, and a number of
17 methods of eliminating the difficulties that Councilman
18 Bond has pointed up do exist in some of the proposals
19 that are now before the Council and the Lands Commission.

20 MR. CHAMPION: Excuse me -- might it not also be
21 true, however, that depending on the state of the contractor,
22 he might be very happy to get that additional oil? And
23 I think this is the point Lieutenant Governor is trying
24 to make. It could work both ways, I mean, he may be subject
25 to having more oil than he is in a position to handle, or
26 he may be in a very advantageous position of being able
27 to pick up more oil than he hitherto had and could use
28 in the operation.

29 MR. BOND: Mr. Champion, maybe the point did not come
30 out clear here. It is my understanding that in case of a
31 default, the field contractor has to take this oil. He then

1 will sell it -- he can't store it forever -- he will sell
2 it for the highest offer, not the highest posted price,
3 and perhaps there is an extra quantity of this oil in the
4 field at that time and he can't get it at the posted, get
5 the posted price for it, so this is a danger that is not
6 assumed by the field contractor, but by the City and the
7 State.

8 MR. CHAMPION: I agree with you, but I think that what
9 Mr. Hörtig said is still true. There are ways to deal with
10 this situation where it does not involve a risk on the part
11 of the field contractor.

12 MR. GRANT: Mr. Chairman --

13 THE MAYOR: Mr. Grant, Mr. Mansell has been waiting here
14 for quite a few moments. Mr. Mansell?

15 MR. MANSELL: Go ahead, Mr. Grant.

16 MR. GRANT: I just wanted to point out that during our
17 conversation this afternoon it developed by the State
18 officials, the policy that is involved, which is quite
19 important to them, taking into consideration all factors
20 involved. Further, what we are doing now is guessing on
21 what might take place in the event of certain actions on the
22 part of bidders, and so forth. It seems to me that we are
23 entering into a problem where you are going to have to work
24 out a basic procedure that will fit our needs, and perhaps
25 you will make some mistakes; well, that's been done in the
26 past, and I hope we don't in the future -- but nevertheless
27 we are going to try and apparently outguess those that are
28 going to bid upon us, bid on our products. Now naturally
29 everyone involved here wants the best program possible for
30 the State and the City of Long Beach. I think that primarily
31 I wanted to point out those two items, the items that were

1 basically a matter of policy, which is very important, and
2 the further fact that the major items that we are discussing
3 are completely conjecture, and they will have to be worked
4 out on the basis of the suggestions made that you get
5 together and work out a solution, and that may be done,
6 I am quite sure, satisfactorily to all of us.

7 THE MAYOR: Mr. Crow.

8 MR. CROW: Mr. Champion, I always get back to the
9 factor of public policy. We can flower this up all we
10 want, as far as what the State would like and what we would
11 like, but I think the main discussion point that we have
12 today is on the undivided interest. So I really don't
13 know before we leave this room today whether we will have
14 reached any conclusive position whatever, but I would like
15 to feel that we, and if we do adjourn, that we somewhat,
16 you somewhat have the feeling of the Council as it may be,
17 how they feel about undivided interest. The public policy
18 that we have heard quite often here today -- undoubtedly is
19 whatever it is -- is guided and influenced by the State
20 Legislature. That being true, Mr. Champion, did not the
21 Assembly unanimously advocate the approval of the Long
22 Beach approach to this oil contract, and did not the
23 Senate reject the O'Sullivan Report and put it into an
24 interim study? Now if these two things are true, if the
25 State Legislature had unanimously approved the approach
26 that the City of Long Beach has to this problem, then I
27 would ask you, Mr. Champion, where is the public policy
28 coming from if it is not coming from the State Legislature
29 which has unanimously approved our position, then who are
30 the people who are establishing public policy as far as
31 Sacramento is concerned?

1 MR. CHAMPION: You don't mean the legislature, you
2 mean the Assembly?

3 MR. CROW: I mean the Assembly, yes.

4 MR. CHAMPION: I think probably the posture here is
5 simply this: that there was not an agreement, that the
6 legislature has not taken conclusive action; that there
7 was action taken in the Assembly, there was action taken
8 in the Senate, that if we do not find on our own responsibility,
9 some agreement in this area, that it will go back to the
10 legislature and the Senate and the Assembly will have to
11 work out their differences on this, and that this will
12 then be a conclusive legislative finding. There was no
13 conclusive legislative finding.

14 MR. CROW: Yes, Mr. Champion, but I feel that inasmuch
15 as the Assembly is concerned, as far as the City of Long
16 Beach is concerned is this problem, that we have somewhat
17 the official blessing as to our approach is concerned. Now,
18 if there be problems that we have nothing, no knowledge of,
19 or if someone is magnifying a situation way beyond
20 proportion, then I would think that it would be fair that we
21 would know these positions. But the way that I see it, as
22 has been told to me and what I have read and what I have
23 learned from our City Manager and City Attorney is this, is
24 that although they have not genuine approval for everything
25 that we have done, more or less they are unanimous in their
26 opinion that we are going along on the right path.

27 I am thinking to myself, Mr. Champion, and I must
28 speak up loudly when I think to myself, that there undoubtedly
29 are some interests in the State who want it this particular
30 way, and there are those who want it the other way, the
31 undivided portion. Now getting to public policy, the

1 Assembly has more or less sanctioned our position, and
2 inasmuch as they have, what seems to be the concern as
3 far as these other interests are?

4 MR. CHAMPION: Well, let me say simply this, and I
5 speak for myself. Fundamentally we have taken the position
6 as the State Lands Commission, we expressed it to you in
7 the previous proposal. Personally I take the position that
8 this is good public policy. If the legislature is -- if
9 we cannot reach an agreement as to what is good public
10 policy here, and if we have differences, then I think the
11 only thing to do is to stop looking at the advisories that
12 we receive from the Assembly or from the Senate Research
13 Committee or from anyone else, and take this whole matter
14 to the legislature and let them resolve it. If we can't do
15 so, that is the form in which it should be resolved. As
16 matters now stand, the body fixed with the legal respon-
17 sibility for approving this contract is the State Lands
18 Commission, and it has nothing to do with any interests in
19 it; it has to do simply with our judgement as to what best
20 protects the interests of the State. We have the respon-
21 sibility, no one else. The legislature can alter the
22 conditions of that responsibility, if it wishes to do so,
23 but as far as I am concerned, until the legislature takes
24 that action legally and formally and as a whole body, as I
25 said earlier, not a matter of difference between two bodies
26 or between groups in the two bodies, then this Commission
27 has that responsibility. And I did not mean by anything
28 I said to indicate that the legislature was determining
29 this as of now. I said that unless we could reach an
30 agreement, they were going to.

31 MR. CROW: Well, now it has been inferred to me that

1 public policy is more or less regulated and guided and
2 influenced by the legislature, and now you are telling me
3 Mr. Champion, that perhaps the public policy is stemming
4 from the State Lands Commission.

5 MR. CHAMPION: Public policy is the judgement of the
6 people held responsible for any given act, what they consider
7 to be in the public interest. We are given the responsibility
8 of determining in this case what we consider to be in the
9 public interest. We can't talk about public policy as if
10 it were law; obviously not. If we are going to have law in
11 this area, the legislature is going to write new law. In
12 the meantime, we have to act in our discretion within the
13 areas set forth by the present law. And I don't think
14 anybody feels that we are outside that area of discretion.

15 MR. CROW: You wouldn't say that the State Legislature
16 has taken a position saying that the City of Long Beach is
17 contrary to good public policy as far as the --

18 MR. CHAMPION: Not at all, not at all.

19 MR. CROW: That's right.

20 MR. CHAMPION: I might say one other thing about this,
21 and that is, it seems to me, not in this discussion, but at
22 some of the previous discussions, we did want to explore
23 hypothetically this thing, but I think it would be very
24 helpful to both of us if with this kind of background the
25 staff now explored the possibilities, returned to each of us
26 with a specific proposal against which we could pose many
27 of the questions that have been posed here today. And that
28 probably this is, at this point would get to be a more
29 fruitful proceeding than to continue with a number of more
30 hypotheses.

31 MR. CROW: You don't care whether divided interest or

1 undivided interest; that's all it amounts to. We can --
2 MR. GRANT: I agree with Mr. Champion, and he is
3 following a line of procedure which is delegated to this
4 group, and I would much rather see it in his hands than
5 elsewhere.

6 THE MAYOR: Governor Anderson.

7 ✓ GOVERNOR ANDERSON: I wanted to ask Mr. Hortig a
8 question earlier, I wasn't able to get to it. Frank,
9 there seemed to be some, when you were making your breakdown
10 earlier of the 100% down to 60% and down to the other,
11 there seemed to be an acceptance -- maybe I am wrong --
12 that someone would pay a higher price, a premium price
13 for a 100% control. Now is this something we have evidence
14 on, or some speculation?

15 MR. HORTIG: This is calculated as a most probable
16 result out of the entire range of results, based on
17 experience of what has happened in connection with both
18 prior service contracts, if you will, that have been
19 issued to date by the City of Long Beach, the expectations
20 on the renewal.

21 GOVERNOR ANDERSON: Anything this big anywhere, Frank,
22 anything of this size anywhere?

23 MR. HORTIG: No, sir.

24 GOVERNOR ANDERSON: In other words, we are speculative
25 on there will be a premium paid for this, aren't we?

26 MR. HORTIG: We are speculating that there could be a
27 premium paid for this, yes.

28 GOVERNOR ANDERSON: Now the second thing, you used a
29 figure of 160,000 barrels per day. How many potential or
30 prospective bidders do we have that could handle that
31 amount?

1 MR. HORTIG: Relatively few.

2 GOVERNOR ANDERSON: How many, do we have any, without
3 building additional refineries and things?

4 MR. HORTIG: Combinations of larger operators in
5 California could handle this amount of production.

6 GOVERNOR ANDERSON: In other words, we might one if
7 they put a combine together; do we have more than one?

8 MR. HORTIG: We could have.

9 GOVERNOR ANDERSON: But probably not?

10 MR. HORTIG: Probably three.

11 GOVERNOR ANDERSON: Probably three?

12 MR. HORTIG: Three, yes, sir.

13 GOVERNOR ANDERSON: Three potential bidders for
14 160,000.

15 MR. HORTIG: That is correct.

16 GOVERNOR ANDERSON: How many prospective bidders would
17 we have if we dropped it down to, say the 45 or 50% of
18 that?

19 MR. HORTIG: Inasmuch as the three potential groups
20 that we have theorized to, taking it for round numbers,
21 150,000 barrels a day, and even if we cut it down to
22 50,000 barrels a day for the largest parcel, probably every-
23 one of the individual companies that go to make up the three
24 groups might be in position to bid.

25 In other words, you could probably multiply
26 this by a factor of three, nine or ten.

27 GOVERNOR ANDERSON: Ten?

28 MR. HORTIG: By nine or ten.

29 GOVERNOR ANDERSON: Now if a successful bidder got this
30 first, first bid, he was the one, one of the same ones that
31 wanted to even pay that higher price for the 100%, what

1 evidence do you have that he wouldn't then really go out
2 and bid against other competition higher than he would have
3 before, to get that second 25%?

4 MR. HORTIG: There is absolutely no evidence and no
5 assurance this could not be.

6 GOVERNOR ANDERSON: And if he gets that second, and
7 these will all be closed bids at the same time, won't they?

8 MR. HORTIG: No.

9 GOVERNOR ANDERSON: I mean, each one will have a chance
10 to bid against each other, all ten of these groups?

11 MR. HORTIG: For one undivided interest at one time, yes.

12 GOVERNOR ANDERSON: One at a time, so you will have a
13 continual competition, and if one outfit really wanted
14 100% to give you a real premium, and we reject this, and
15 he would still want it, I presume, and then he comes, if he
16 comes in and gets the 45%, and then he still makes sure he
17 gets his 25%, he is going to come out right at the top,
18 maybe. I mean I think if you are talking about dollars
19 and cents, I think 45% will bring him up more than the
20 100%. I just wanted to show that there could be specu-
21 lation either way. I think this is what we ought to
22 realize; it is speculation.

23 THE MAYOR: Mr. Mansell.

24 MR. MANSELL: I think there is a lot of speculation in
25 anything that we do, and I think that the number of people
26 that bid on any commodity isn't necessarily the prime
27 results. I think it is the results that count, is the factor.
28 Now we say that nine people could bid, and then we say that
29 none of them could handle it individually. The City of
30 Long Beach designed this contract to attract the number
31 of companies fused together to make the bid. I agree with

1 Mr. Hortig 100%, that the greatest percentage that you
2 have in the top is the best bid you are going to have. Now
3 if we would discount the bid as the example that he gave,
4 the 60%, the 60%, and it was going to be discounted 20%,
5 then out of the remaining 40% of the bid they would have
6 to bid 33-1/3% above what they would ordinarily bid to
7 make up the 20% that you lost in the beginning.

8 And we, we can say we are going to have more
9 competition, but there's three of us bidding and we know
10 that when Mr. Champion gets his bid he is going to be out
11 of it, and that would leave Governor Anderson and I to bid,
12 and when Governor Anderson got his bid, that's all the oil
13 he can handle, so consequently, Governor, this can work
14 on the downgrade that by eliminating competition as you
15 go along, that the fellow got all the oil he needs, and
16 Frank indicates here that it is a matter of how you could
17 tell their refining capabilities, and he gets out of the
18 ballgame entirely, then you know he is not going to bid
19 against us, and what is left could drastically be discounted.

20 GOVERNOR ANDERSON: You haven't eliminated them.
21 Frank said there were probably nine or ten outfits that
22 could bid for the biggest amount, and you are only talking
23 about --

24 MR. MANSELL: Yes, but they are not going to bid on
25 every amount, but you agreed, sir, that no one company could
26 handle it. We have eliminated one important factor here
27 that hasn't been mentioned by anybody: the cost of operation,
28 the cost of the fact that these people that have the 25,
29 the 25 and 15 -- 55% of the people, 55% of your interests
30 has to rely on 45% of the interest to run his operation
31 for him. How much is he going to discount the fact that

1 he has no say? How much is he going to discount the fact
2 that he is not operating himself? I think that's one of
3 the main factors in here, that when you -- the number you
4 bring in and the more people you bring in, you are going
5 to eventually run out of bidders in here and run out of
6 competition.

7 I think that there are avenues on all phases that
8 can be explored, but our position here is that the closest
9 you can get to the 100% is the best possible return that
10 you can make for the City and State, and that has always
11 been the public policy of this city, is to get the highest
12 possible return into the coffers as a trustee. And certainly
13 we feel that there are some ramifications here, and we will
14 discuss all of them with Mr. Hortig, but this operation in
15 my opinion is one of the big points, as Mr. Desmond
16 explained to this Committee far back, that we are trying to
17 force by bid, or force involuntary combines here to take
18 the oil, when in reality these same combines can get together
19 and organize and form a group of companies and set up their
20 own by-laws as they go along, and in my opinion get, make
21 a far better bid than on this basis.

22 I think when you consider the operation, feasibility
23 of this, and the discounting of the bid less than 100%, I
24 would like to see the situation, theoretical situation and
25 I would also like to see if this thing couldn't be bid both
26 ways, 100% basis and the 45, and the other, and explore
27 that and get an official written opinion from the Attorney
28 General -- see if it couldn't be bid on both bases.

29 THE MAYOR: Mr. Sullivan.

30 MR. SULLIVAN: Mr. Mansell, the same proposition that
31 concerns the people of Long Beach far more than the income

1 is their well-being, and that's the problem of subsidence,
2 subsidence protection. Now you, as the City Manager, could
3 you give us your estimate on the operation of subsidence
4 control with one undivided interest, or split up? I mean
5 what, which is the most advantageous?

6 MR. MANSELL: The way I see it, Mr. Sullivan, the
7 State's proposal to the City, the public would be adequately
8 protected under either method, because they are going to
9 have the one contractor that would be responsible, and I
10 think that is one of the things that we can all take cheer
11 about, that we all agree on what I consider a very major
12 phase of the contract, the subsidence control.

13 THE MAYOR: Mr. Kealer.

14 MR. KEALER: Under existing contract as it is written,
15 the City has control over the rates of production and the
16 handling of it so that it would at all times still be in
17 charge of the pressure maintenance program.

18 THE MAYOR: Are there any other observations? Yes,
19 Mr. Sieroty.

20 MR. SIEROTY: Before we leave, I'd like to go back to
21 a point that was brought out by Mr. Champion briefly.
22 Mr. Desmond referred to something that Mr. Shavelson was
23 going to present. Without getting Mr. Shavelson involved,
24 very simply I just would like it to be raised again so that
25 we don't forget it, and that is simply the problem of
26 developing an adequate pricing mechanism. We talked about
27 highest posted price, average posted price, prevailing
28 market price, and I'd like to ask this question: whether
29 the contract as proposed would include that provision which
30 was included in the L.B.O.D. replacement contract, which
31 provided that any company which became a contractor -- in

1 this case I would say it would be anyone who would be the
2 high bidder on an undivided interest -- would be obligated
3 to reveal to the City and State its purchases and sales, not
4 only in the Wilmington field but in the Signal Hill field,
5 the Inglewood field, and the Huntington Beach field, with
6 that provision. Is that provision a part of this contract
7 at this time?

8 MR. DESMOND: Mr. Mayor, I'd suggest that Mr. Lingle
9 reply to it.

10 MR. LINGLE: No, it is not in any of the existing
11 proposed contracts, but I think from a legal standpoint it
12 is entirely feasible.

13 MR. SIEROTY: I would hope that it will be included.
14 Along those lines, I think that the objection which was
15 raised to the L.B.O.D. replacement contract, the suggestion
16 that I made, that is, trying to get a prevailing market
17 price as a standard, the objection that was raised at that
18 time was that there was no way of determining it. We don't
19 have any information. I'd like to point out that we would
20 be gathering information, because we will have information
21 resulting from the L.B.O.D. contractor, his purchases and
22 sales in these areas. Additionally we will have information
23 on all of the purchases and sales from contractors, field
24 contractor and other interests having working interests
25 in this East Wilmington field. We will be in a position to
26 sell off 12-1/2%, which will give us from time to time some
27 test of the market, and in addition to that, the staff can
28 be gathering voluntary information and information from
29 other sources. So I think the idea of working out some
30 mechanism for developing a prevailing market price as one
31 standard to go with the average posted, or the highest posted

1 price, is feasible, and I would like that to be explored
2 too by the staffs in their meetings.

3 THE MAYOR: Is there anything further? Mr. Kealer,
4 do you have a motion?

5 MR. KEALER: I think that the first, because I may not
6 get the opportunity to say it later, I want to express my
7 personal thanks to you, Mr. Champion, and Governor Anderson,
8 and Mr. Cranston, for your willingness not only of taking
9 your valuable time to come down here, but I am also
10 appreciative of the receptive attitude that you have had in
11 these discussions. I think that we are part way home when
12 we have that attitude and point of view. It is perfectly
13 obvious that further discussions are going to be necessary.
14 and if there is no further discussion, I would like to
15 move that the State Lands Commission, that the representative
16 of the Lands Commission and a representative of the City of
17 Long Beach get together and discuss thoroughly all of these
18 matters that have been brought before us, and then come to
19 us, the Lands Commission and the Council, with their
20 findings so that we may act on them.

21 THE MAYOR: Is this in the form of a motion?

22 MR. KEALER: Yes.

23 MR. GRANT: I second it.

24 THE MAYOR: Motion by Councilman Kealer, seconded by
25 Councilman Grant, that immediate study be made of the
26 observations gone into in today's meeting, and that the
27 staff members of both our body and the State Lands Commission
28 submit the respective proposals to the two bodies so that we
29 may act upon it in the near future.

30 MR. SULLIVAN?

31 MR. SULLIVAN: I'd like to respectfully suggest that

1 when that report is ready, that another meeting be held
2 similar to this, instead of -- we'd be glad to meet with
3 you gentlemen if you'd like to have us come to Los Angeles,
4 we will cooperate, and -- but I think we are going to make
5 some headway in this type of a meeting, rather than having
6 two or three representatives run up to Sacramento. I
7 think the City of Long Beach would frown on the entire
8 Council and everybody fleeing up there, but if we could do
9 this and hold future meetings at this level, I think we
10 might accomplish that. I'd like to respectfully suggest
11 that, to see if the State Lands would be in agreement on it.

12 MR. CHAMPION: Yes. I think that what we might just
13 do is have a general understanding in Los Angeles. We
14 meet there alternatively, and that's no difficulty, and when
15 we see what we have got, if there is some sort of an agree-
16 ment, if there is a basis for discussion, why, I think I
17 can speak for the Commission, they'd be very glad to have
18 such a further meeting.

19 I'd like to take this opportunity again to thank
20 you for your courtesy and attention and understanding of
21 our problems and our position, and I do hope that working
22 through the staff we can come to an early and satisfactory
23 conclusion for everybody.

24 THE MAYOR: Before we leave that point, I think
25 probably we should have some expression from the City
26 Attorney's office whether the City Council could legally
27 hold a meeting outside the limits of the City of Long
28 Beach.

29 MR. DESMOND: I will be glad to look into that.

30 THE MAYOR: Mr. Crow.

31 MR. CROW: Speaking of Mr. Kealer's motion, at the risk

1 of offending this honorable body who took an opportunity to
2 be present here today, and naturally we are all very
3 thankful that we are getting to it, I could only summarize,
4 Mr. Chairman, that inasmuch as the Assembly has indicated
5 its approval of our position and thereby establishing public
6 policy, it would lead me to believe that we are on sound
7 ground as far as the City of Long Beach is concerned, and
8 I would like to at this point reiterate and put in the form
9 of a motion, if necessary, that insofar as the divided
10 interests are concerned, that this Council is not in favor
11 of such an act. I say that for the express reason that
12 today I have had -- and in all due respect to you gentlemen,
13 nothing that you have said has influenced me to the extent
14 that I feel that your position is any more tenable than ours,
15 and not as profitable. Now this is not said in any way to
16 cause undue anger or to hurt anyone's feelings, but I, in
17 all honesty as a representative of the City of Long Beach,
18 feel that the best possible return will be made on an
19 undivided type of an interest, and I could never support
20 any change in that policy. And I know that it is a rather
21 harsh statement, Mr. Champion, and I apologize to you and
22 the rest of you honorable gentlemen here today, but
23 nevertheless, that is my position. I feel that we have
24 taken it in all good sincerity, and I see no reason whatsoever
25 to change our position. And in all of these meetings
26 by department heads and such are only going to be concerned
27 primarily with divided or undivided interests, and I think
28 that this Council should today take a position one way or
29 another how they feel about it at this particular time, so
30 there is no doubt left in these gentlemen's minds, so that
31 when they return to Sacramento or return to Los Angeles, that

1 this is the official expression of the City of Long Beach.

2
3 MR. KEALER: Mr. Mayor, may I respectfully suggest
4 that the motion as it is phrased does not foreclose any
5 method; that this is to explore everything and then come
6 up with what is considered the best for all concerned,
7 that will work.

8 THE MAYOR: Mr. Sullivan.

9 MR. SULLIVAN: Well, I concur with Mr. Crow. I am
10 convinced that on what information that has been submitted
11 to me, that what we have submitted is the best proposition.
12 However, Mr. Crow, we have sent people to Sacramento and
13 they have had conferences with the Lands Commission and
14 they have taken reams of testimony, spent lots of their
15 time and our time on the reports, and we are coming down
16 at a point now to see if we can't arrive at some point.
17 Now what they are going to investigate is to see just what
18 impact there is between what they have suggested and what
19 we have suggested.

20 Now I am willing to get that report. I am sure
21 that when that report comes in, as I sit here, it is going
22 to confirm the same position that I have and that you have.
23 But I am willing to give them a chance to go into a confer-
24 ence and submit something. It doesn't mean that I have
25 changed my position at all on this thing, because I have
26 made the statement earlier that I thought our obligation,
27 and what it was, and I have mentioned the Council, I don't
28 have to repeat it, most dollars, orderly development,
29 protection of subsidence, it's a public trust, public
30 monies. But I do believe that it is in the interest of
31 trying to get along with this thing to have this conference

Mr. Champion speaking for the Commission agreed to

1 meet with us at this level, this type of a meeting, and see
2 what they come up with, see if we can't get along with it.

3 MR. CROW: I don't disagree, and I certainly feel that
4 out of this meeting today will come many fruitful thoughts,
5 but I don't want there to be in anyone's mind, Mr. Sullivan,
6 that there is a possibility that I might change my mind. And
7 I feel that 99.9% of the discussion is going to be regarding
8 the divided or the undivided interest, and I think that an
9 expression by this Council as to how they feel about it is
10 the most important thing as far as our Body is concerned.

11 Naturally, we can be overruled, but I don't think
12 that we should take at any point a wishy-washy attitude.
13 And you say, "time." I think that this city has, along
14 with this Body, has graciously lent a great deal of its
15 time to this, almost two years now, and do not have a
16 drilling contract as yet. And until we reach a point where
17 we have some positive thoughts as far as we are concerned,
18 I don't know whether we are ever going to have a drilling
19 contract, and anything that we can do to speed that
20 eventuality up I think is most important. And as far as
21 my own personal position, Mr. Sullivan, I could not regard
22 changing it from an undivided to a divided interest. I am
23 not -- there is nothing that I have learned here or learned
24 before that would tend to sway my opinion, and that's the
25 way I feel about it.

26 THE MAYOR: Mr. Crow, have you made this in the form of
27 a substitute motion?

28 MR. CROW: Well, I would like this: I would like the
29 Council today to reaffirm its position as far as the
30 portion of the contract which deals with the divided and
31 the undivided interest of the offshore oil development. I

1 request that an amendment to the original motion may be
2 made, that we reiterate our previous position on that
3 portion of the contract, and I so move; if the maker of the
4 motion will accept that, I would feel very honored.

5 THE MAYOR: Mr. Kealer?

6 MR. KEALER: Mr. Mayor, the maker won't accept it for
7 the reason that the motion as it is now made does not
8 foreclose anything, and I don't think this Council can
9 stand up and say, "This is our policy," or "This is not
10 our policy," till we find out exactly what can or what
11 cannot be done.

12 MR. CROW: Then I will be forced to vote no on the
13 motion unless it is accepted, because this Council has
14 made its policy.

15 MR. KEALER: Mr. Crow, the Council has already by
16 unanimous motion stated that it thought that that contract
17 was best, the 100% single unit. It has already stated that
18 it thought that was best, and the Lands Commission is
19 perfectly aware of that. Now I don't know where we go
20 from here, but I think that after conference and a meeting
21 of minds we can find something that is workable, and I am
22 not in a position today to tell you what that is.

23 THE MAYOR: All right. On the motion by Councilman
24 Kealer, call the roll.

25 Would you read the motion.

26 MR. SULLIVAN: Let's hear the motion.

27 THE CLERK: "That representatives of the State Lands
28 Commission and the representatives from the City of Long
29 Beach get together and discuss thoroughly all of these
30 matters that have been brought before them today, and come
31 to the Council and the Lands Commission with their findings

1 so that they may act on them."

2 MR. CROW: On the motion, Mr. Mayor, I believe that
3 the motion is superfluous. There need be no motion for
4 that type of thing. That has been the purpose of the
5 entire City Council for the last two years, and if the
6 motion was not made it certainly would not in any sense
7 of the matter cut off any relationship that we have with
8 the Lands Commission. And I think our purpose is very
9 clear, and what we have intended to do before, we are
10 going to continue these discussions, sure, but if these
11 discussions have any reference to making a divided interest
12 out of this thing, I cannot support it.

13 THE MAYOR: Mr. Sullivan.

14 MR. SULLIVAN: Mr. Chairman, direction to Mr. Kealer:
15 Mr. Kealer, I personally feel that the motion should be
16 more specific. I haven't heard any evidence here today
17 that convinces me that what I voted for, and that was
18 one parcel, where I have made any error in this matter.
19 And now if you are more specific, you want this staff to
20 evaluate circumstances on this and make a report. Certainly
21 I am willing to listen to information, but I haven't heard
22 -- I agree with Mr. Crow -- I haven't heard anything today
23 that forces me to believe I made a mistake in my vote.
24 Now I think if you would be more specific in your motion on
25 this, then you -- you give the staff of the State Lands
26 Commission and our City a direct task, and I think that
27 that is what we should have.

28 MR. KEALER: Mr. Sullivan, I have asked them to explore
29 all avenues, and this is not -- this motion does not put
30 the Council in a position to do this or that. If we wait
31 till we hear what the representatives of both bodies bring

1 to you, and you could act on it as in your wisdom you see
2 fit.

3 MR. SULLIVAN: Well, Mr. Keeler, I think it is a
4 courtesy to our partner, to a department of the State of
5 California, that their consideration should be evaluated.
6 I think that we should operate that way. I think that
7 that is the only dignified and proper way to handle public
8 business.

9 That doesn't mean that I have changed my mind on
10 this, Mr. Crow. I am not going to give in on this thing
11 until I am convinced that I have made an error, until we
12 show that they have made an error; they may come up with
13 something that would show something else, but up to now I
14 don't believe that.

15 MR. CROW: We have established policy, and I think that
16 a roll call would fairly well indicate at this point
17 whether any member of this Council has changed his mind
18 on a divided or an undivided interest.

19 THE MAYOR: Mr. Graham.

20 MR. GRAHAM: I would like to see in some way the motion
21 worded in a different way. I don't want to preclude any more
22 meetings on this level between the City Council and the
23 State Lands Commission. However, I have to agree with
24 Mr. Sullivan and Mr. Crow that we as a council in our
25 better -- best judgement that we are capable of exhibiting,
26 have concluded that the 100% operation would produce the
27 greatest benefit to the State and to the City, as near as
28 I can figure. And I, in a way, cannot see the worry about
29 a monopoly, when we have been told both by Mr. Horig and
30 Mr. Mansell that no one company is large enough to handle
31 this as a 100% bid, and even though they, the three or two or

1 three or four companies that might go together as a combine
2 to bid on this thing might be in the over-all situation be
3 handling maybe 25% of the oil produced in the State of
4 California, at the same time that production will be
5 divided among more than one major company who goes into
6 the combine to bid on this. It looks to me like the Lands
7 Commission should come back to us with some type of proposal
8 as to how much they feel that we should, in a way, compromise
9 our judgement, as to what discount we should accept to
10 protect what they call the moral or public welfare assumption,
11 that is necessary for them to swallow this, this contract.

12 MR. KEALER: I believe that I can add this to the
13 motion, that will probably satisfy the equation: that I
14 include in it that in these studies that are being made by
15 the both bodies, that they come up with specific evaluations
16 of what each of these, that of the unit, single unit, and
17 then that of the undivided interest, based on whatever the
18 percentages may be, but if they will come up with specific
19 evaluations of them, I believe then you could really act
20 objectively on it; also could possibly include alternate
21 bids, where you would bid on -- so that you could bid on
22 both.

23 MR. GRAHAM: I think I could accept that, but I mean,
24 I am the same way as Mr. Crow, I am not convinced that
25 the 100% bid isn't the best thing.

26 MR. CROW: How is the Commission going to arrive at
27 such a set of figures when it is at such a speculative
28 stage on this point? In their discussions how are they
29 going to be able to arrive at anything definite that they
30 can propose that is concrete, when we all agree at this
31 point that it has been highly speculative?

1 MR. SULLIVAN: I would say that we haven't given
2 Mr. Brock an opportunity to present the Long Beach side of
3 this. The Council has heard it, and I have heard from
4 Mr. Hortig. I am sure that Mr. Brock has a very convincing
5 argument that supports the position of the City Council on
6 the one unit; and I think they could make a very good case
7 on this thing, as we heard it, and that's why we voted
8 for it.

9 MR. CROW: I am not so naive to think that this case
10 has not been submitted before. That is how we arrived at
11 our position.

12 MR. GRANT: Mr. Chairman, have we a motion before us?

13 THE MAYOR: Yes, we do, the motion by Councilman
14 Kealer is before us.

15 MR. GRANT: I approve the amendment.

16 THE MAYOR: And the second, that is Mr. Grant, has
17 approved the amendment.

18 MR. KEALER: I think that I can help you, I think
19 that you can leave it as it is, but to include in it that
20 the studies made by the two bodies, they come back to the
21 Lands Commission and the Council with specific evaluation
22 of different types of contracts as has been discussed
23 here, and included in that the possibility of alternate
24 bid, one unit basis and the other one on the undivided
25 interest basis.

26 THE MAYOR: On the motion, Madam Clerk, call the roll.
27 (Roll called by the clerk.)

28 (Councilmen Kealer, Bond, Sullivan, Grant, Graham,
29 Corbett, and The Mayor voted "Aye". Councilman Crow voted
30 "No.")

31 MR. KEALER: Anything further, Mr. Mayor?

1 MR. CROW: Move we adjourn.

2 THE MAYOR: Is there anything further, gentlemen?

3 Before we adjourn I would like to express
4 officially our thanks to these gentlemen, Mr. Champion, the
5 Chairman, Mr. Cranston, the Controller, and Governor
6 Anderson, and the members of the State Lands Commission for
7 making this trip to Long Beach. We gratefully appreciate
8 it. We hope we haven't inconvenienced you by reason of
9 coming here. Personally we feel that we have accomplished
10 much in meeting with you here today.

11 Is there anything further?

12 MR. KEALER: If there is nothing further, move we
13 adjourn.

14 MR. GRAHAM: Second the motion.

15 THE MAYOR: Motion made by Councilman Kealer, seconded
16 by Mr. Graham; call the roll.

17 (Roll called by the clerk.)

18 (Meeting adjourned at approximately 5:20 P.M.)

20 --00000--
21
22
23
24
25
26
27
28
29
30
31