TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION

SACRAMENTO, CALIFORNIA

JULY 20, 1965
PARTICIPANTS:

THE STATE LANDS COMMISSION:

Hon. Glenn M. Anderson, Lieutenant Governor, Chairman
Hon. Alan Cranston, Controller
Hon. Hale Champion, Director of Finance, ABSENT -- represented by Mr. John P. Sheehan, Chief Deputy Director of Finance

Mr. F. J. Hortig, Executive Officer

APPEARANCES:

(In the order of their appearance)

ALL APPEARANCES IN CONNECTION WITH SUPPLEMENTAL CALENDAR ITEM 13:

Mr. John W. Ross, Jr., Attorney representing Fair Oaks property owners
Dr. G. A. Fricker, resident of Fair Oaks
Mr. James W. Malcolm, Landscape Architect, Department of Parks and Recreation County of Sacramento
Mr. Stanley R. Andrus, Engineer, resident of Fair Oaks
Mr. Chandler Ide, Vice President and Secretary of Natomas Company
Mr. Leon D. Collins, District Manager of Pacific Cement and Aggregates

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GOV. ANDERSON: The meeting of the State Lands Commission will come to order.

The secretary will make note that all the members are present; Mr. Champion is represented by his Deputy.

In deference to the fact that I understand a large number of the people in the audience are here on the supplemental item, number 13, pertaining to the bridge over the American River, if there is no objection we will take that item up first.

The first item, then, will be Supplemental Item Number 13, to authorize right-of-entry permit for the construction, maintenance, and use of a haul-road bridge over the American River, Sacramento County.

Mr. Hortig, how do you want to handle that? Are there people on both sides who wish to testify?

MR. HORTIG: There are people from both sides present, Mr. Chairman, and if there are questions raised I am sure both would want to testify. If I might suggest, I believe a rapid reading of the agenda item which you have before you, which outlines the physical and legal factors involved, would set the stage so that everyone could be discussing the same point from both sides of view.

Natomas Company, a California corporation, is the holder of fee title to lands located on both sides of the
American River in Sacramento County lying adjacent to and westerly of the Fair Oaks Bridge on Sunrise Avenue in Fair Oaks. The State and the Natomas Company have conflicting claims as to the title to the bed of the American River in this area.

There are extensive gravel deposits on the north side of the river (the remnants of placer mining operations) which the Natomas Company and Pacific Cement and Aggregates, Incorporated, wish to transport to a crushing and washing plant on the south side of the river -- the location of which is shown on a site map in your calendar, Mr. Chairman and Commissioners. This plant has been in operation since 1914 and the contract for extraction of gravel from Natomas lands by the predecessor to Pacific Cement and Aggregates has been in effect since 1929.

The Natomas Company, apparently unaware of the State's title claim, had proceeded with plans through a contract with Pacific Cement and Aggregates to reconstruct a bridge which was constructed originally in 1956 over the American River to facilitate the transport of the gravel from its property on the north bank to its property on the south bank. With the exception of the bridge crossing of approximately one hundred fifty feet of State land, the entire operation on both sides of the river would be confined to lands owned by the Natomas Company, who, parenthetically, are under a contract for operation to Pacific...
Cement and Aggregates.

There would be no transport of materials from the operation over any dedicated street, county road or public highway.

At the time of writing this agenda item, it was approximately thirty property owners, but it looks like this number may have increased -- but approximately thirty property owners on the north side of the river have registered a protest with the Sacramento County Board of Supervisors and the County Planning Department, citing the nuisance of noise, dust, and fumes. The protestants reside in single-family dwellings set back on a 175-foot bluff which overlooks the proposed operation and located a minimum of 700 feet from the haulage road.

This group has stated that a crossing would be more acceptable 1,500 feet downstream from the existent bridge support location. The relocation route suggested by the opponents would cross land under option to the Sacramento County Park and Recreation Department, which department would oppose such a relocated route.

The Natomas Company and its lessee do not favor a downstream location because it would entail about $63,000 additional cost. This would be in addition to an already incurred construction penalty by the Natomas lessee, Pacific Aggregates, of $4,000 because of delay in obtaining the easement from the State.
The applicant has stated that all reasonable control -- and this is the applicant for right-of-entry permit to cross the American River -- will be exercised to keep noise and dust to a minimum pursuant to Sacramento County operation authorizations. All such authorizations have been concurred in and are the subject of an opinion by the County Counsel of the County of Sacramento that all requirements to be met on behalf of the county control conditions have been met by the State's applicant for this crossing permit. The controls which have been offered are as follows:

1. All equipment will be muffled.
2. All equipment will be rubber-tired.
3. The roads will be sufficiently watered.
4. Work will be restricted to eight hours per day; no weekend, holiday, or night work.
5. Trees will not be harmed.

Additionally, the Reclamation Board -- this is the State Reclamation Board -- and the U. S. Army Corps of Engineers have approved the project, with definite specifications and requirements, which will result in connection with the removal and grading of the area in an actually improved area after the operations are completed.

The County of Sacramento, through the Department of Public Works and County Counsel, as I stated previously, has expressed the opinion that the Natomas Company has
fulfilled all county requirements to proceed with the project. The bridge will consist of a superstructure and decking to be erected on existing steel-pile bents (rather than wood-pile) and will be approximately 250 feet long and 20 feet wide, of which approximately 150 feet will cross State land; and, patently, the other 50 feet on either side is on the Natomas Company's own land.

In view of the project schedule and the fact that the Company was unaware of the State's title claim until recently, a request has been made for a temporary right-of-entry permit to allow the applicant to proceed with the project. The permit would be issued subject to terms and conditions of a right-of-way easement retroactive to the date of issuance of the permit. The permit and easement would be issued without prejudice to the title claims of the Natomas Company to the bed of the American River, and, similarly, without prejudice to the title claims of the State of California to the same portion of the same bed of the same river.

Now, it must be stressed that the problem of the residents in the area -- who have both contacted their legislative representatives and who were represented at the last meeting of the State Lands Commission by counsel and who have reported in interviews by a land agent of the State Lands Division staff -- stems from the concern and the feeling, as reported earlier, that the approvals by the Sacramento
County Board of Supervisors and the County Planning Department are not proper; that there should be additional county controls as a minimum; and therefore, I must stress the fact that the problem that these people have is not the question of whether the State Lands Commission authorizes a right-of-entry permit over 150 feet of the river, but as to the nature of the conduct of the operations under county controls and the problem, therefore, is one that is primarily if not wholly only within the cognizance of the local county jurisdictional boards.

Under these circumstances, it is recommended that the State Lands Commission authorize the Executive Officer to grant to the Natomas Company a two-year right-of-entry permit for the construction of a haul-road bridge over the American River adjacent to and westerly of the Fair Oaks Bridge in Sacramento County; preliminary to the negotiation of a right-of-way easement with standard terms and conditions retroactive to date of issuance of the permit. The permit is to be without prejudice to title claims to the bed of the American River by either party.

GOV. ANDERSON: Has this been fully heard before the Board of Supervisors and before the Planning Commission?

MR. HORTIG: It has not been heard, Mr. Chairman, for the reason that the County Counsel in written opinion, of which we have a copy, reported to the Board of Supervisors that there was no need for a hearing on a permit, and I
quote from the letter from the Office of the County Counsel on May 14, 1965 to Mr. A. L. Kiefer, Director of the Department of Public Works of the County of Sacramento, "Re: Zone Non-Conforming Use," the conclusion, the opinion, and I quote in full -- and this is the opinion of the Office of the Sacramento County Counsel, John B. Heinrich, County Counsel, signed by Thomas A. Darling, Deputy County Counsel:

"In our opinion use of all of the land covered by the lease, including the park located north of the American River along the right bank .... and I might add there that these are the identical lands that are under discussion here for access by the desired right-of-way easement from the State Lands Commission --

"... use of all of these lands for the purpose of harvesting rock and gravel constitutes a legal use, which has been in existence since prior to the existence of any county ordinance requiring a use permit for such use.

"On this basis, harvesting of rock and gravel from the property north of the river is a continuation of a pre-existing legal use, which may be continued without obtaining the permit normally required by the regulations of the F (Flood) Zone for the establishment or enlargement of such use."

The Commission will recall representation by the counsel for the protestants to this issue at the last meeting, stating lack of agreement with this viewpoint and the need to discuss further and get clarification from or seek an injunction against the County of Sacramento.

For this reason again -- and this is simply another stress -- the problem is one to be resolved by the
local governing agencies of the control of the operation, which is not changed or aided or abetted or altered in any manner by the consideration of the Commission issuing a right-of-way easement for a bridge, except that it makes the proposed operation economically more feasible.

I might state, for the benefit of the Commission, with reference to the original bridge construction in 1956, the bridge was constructed in order to provide an effective haul road to haul material for construction of McClellan Air Force Base out the north side of the river and across the country. If this bridge permit were not authorized by the Lands Commission as it is now being applied for, without evaluating the additional economic burden, it must be assumed that the Natomas Company and its lessee could physically and legally provide for hauling from the north bank of the American River out over city streets and county roads and public highways, and of necessity through residential areas, in order to get this material to their existing operating plant, rather than the method that has been suggested here -- under which all of the material would stay on Natomas Company property, to be hauled only over private roads and would not approach any residences and would not use any of the existing city streets, county roads, or public highways.

Actually, the proposed method of operation would appear to be advantageous from the standpoint of minimizing
adverse impact in connection with the adjoining residential use of the area.

GOV. ANDERSON: Now, I asked over the phone, I believe, about a letter I had received from Senator Rodda, a letter that he had received from Doctor Geoffrey Fricker, and suggesting this other route across the river that I think you referred to. At least I want to make this a matter of record.

In here, he says going downstream further, another bridge would cost $140,000 instead of $100,000. That's the one you said would cost $63,000 more. Is that the same bridge?

MR. HORTIG: That would be approximately the same location. There is no bridge there. It is a proposal to locate a new bridge at an alternate site.

GOV. ANDERSON: You said that site would have the opposition of the county government itself because that bridge would find itself placed in the center of a proposed park and proposed lake.

MR. HORTIG: This is correct, sir, and if I may read from the report ....

GOV. ANDERSON: I want to make this letter from Senator Rodda a matter of the record.

MR. HORTIG: Right. ... a report by the land agent for the State Lands Division, who I requested make a field inspection and review, and who also interviewed
residents in the area; and I might add I double-checked this report personally -- I was in the field, over its entire area, all of yesterday morning personally.

It was pointed out in the conduct of this investigation that the alternate route, as has been proposed both at the last meeting of the Lands Commission and in the letter directed to your attention by Senator Rodda, aside from any increased costs of placement and operation for the State's applicant, this alternate route would have to go through a parcel of land which is currently under option to the Sacramento County Park and Recreation Department, and it was represented that the Park Department would oppose such a relocation.

To verify this, we contacted Mr. Pond, the Director of Parks for the Sacramento County Park and Recreation Department, who categorically substantiated that the Department would be opposed to any location other than the one proposed in the application to the State Lands Commission for the subject bridge.

GOV. ANDERSON: Does anyone wish to comment?

MR. ROSS: Yes.

GOV. ANDERSON: Please identify yourself for the record.

MR. ROSS: My name is John Ross and I am an attorney representing the Fair Oaks property owners.

Mr. Chairman and members of the Planning Commission,
I spoke here at the last meeting; and, as I understand the situation, there are some things that Mr. Hortig mentioned that seem to be different than what I have.

For instance, this alternate route down there that they speak of would not cost $63,000; it would be about $40,000, and it was said it would undoubtedly be compensated because people wouldn't be trespassing across there and for the good will of the people involved.

I also understand that the County of Sacramento - while Mr. Hortig said Mr. Pond objected to it, I understand that Mr. Pond did not object to it. I think some of these people have talked to him here and I understand that he does not object to it as long as the land can come back to the county, so they can use it a few years from now. So I sincerely feel he doesn't object to that.

As to the County Counsel's opinion, I think some of these things may not be pertinent to the Commission here, because that was on the application for the land use permit which this body would have nothing to do with.

These people are quite upset over this situation because the County Counsel's office has rendered an opinion which deprives them of an opportunity to be heard. We are here with the hope that we can at least express an opinion here.

Mr. Heinrich, the County Counsel - - as I mentioned last time I have a letter here; I have a letter wherein
subsequent to his opinion he asked me what I thought. I said, "John, that is the first time in my life you asked me for an opinion on your opinion. You usually hand it out and say, 'here it is.'"

John and I are good friends -- the County Counsel and I -- but I think he wasn't too sure of himself.

The report Mr. Hortig read assumes that some nuisance will be caused to these people there and that is what we are entirely complaining about now -- that is, not entirely, but substantially what we are saying is this operation is going to create a nuisance there, and I think his report would indicate that.

Would you gentlemen like to hear from Doctor Fricker? I think he was mentioned in that report.

GOV. ANDERSON: How much time would you need?

MR. ROSS: Just a few minutes -- and one other gentleman I'd like to have you hear from.

Gentlemen, this is Doctor Fricker.

GOV. ANDERSON: Will you identify yourself, Doctor?

DR. FRICKER: I am a private physician at Sacramento, but a resident of Fair Oaks for the past fifteen years and representing thirty families, approximately, who live in the two bluff areas which will be affected by the rock and gravel operation.

The thing I would like to stress predominantly, which hasn't been mentioned so far, is the fact that the
area below our homes has been a swimming and beach area, not only for our residents but the residents of the whole area, for thirty or forty years. There are upwards of three or four hundred people that utilize this area weekly.

For instance, there were a tremendous load of boaters that took off last weekend in their kayaks. It is a known place for congregating for activities of this sort and is used by many residents of the entire area. According to the American River Association, who I think you have a letter from there, they feel it is the most important beach area right at the present time on the whole American River.

This whole beach area will be destroyed by this levee and this road that will be built in this area, and I can show you that on a map which I have or photographs I have, if you care to see it.

This is our primary complaint -- that this area will be destroyed for a period of six or seven years.

Now, the road which we propose -- which will go across the river on the other side and go down approximately a third or fifth mile below -- would not destroy this beach area at all. It will give the gravel company a more direct access to the tailing, and it will not give the noise and dust which the former road would do, because the former road -- the one which the gravel company proposes -- is one third of the distance to the homes than the other; and if you figure the noise increases the square of the distance, there is
approximately nine times the noise to be gained as compared
to our proposal.

I think from an engineering standpoint it is very
important to have this as far away as possible; but from the
main standpoint, it will destroy this area for use by the
swimmers and for fisherman and for people that picnic in
this area. We feel it is important that this be considered.

If you have not read the letter which came from the
American River Association, I would appreciate that that
could be read into the record at this time. It is not a very
long letter and, if possible, could I read that -- because
this does not give the standpoint of the residents in the
area; it speaks not at all about how we feel about the noise
and dust, but only about the thirty-one hundred members of
the association and how they feel about the destruction of
this beach area.

I don't know when Mr. Hortig spoke to Mr. Pond ....

MR. HORTIG: July 9th.

DR. FRICKER: Since then I have talked to him and
he has stated this would be a good thing. He would like very
much to exchange the road and would gladly give the right of
this crossing down the stream in exchange for the maintenance
of the beach area which is up here, and which they have in-
corporated in their plans for the future in the county. I
am sure he would be glad to do this. He told me he would be
here.
GOV. ANDERSON: Is Mr. Pond in the audience?

MR. MALCOLM: No, sir; he is not. I am representing the Department of Parks and Recreation of the county.

GOV. ANDERSON: Did they change their mind? You are representing Mr. Pond?

MR. MALCOLM: I am Jim Malcolm with the County Department of Parks and Recreation. Mr. Pond was unable to attend because of a schedule conflict.

GOV. ANDERSON: Has there been a change in policy from what Mr. Pond originally told Mr. Hortig?

MR. MALCOLM: I believe we have about three different proposals going here. Officially, we have recognized the original proposal by the applicant, since this has worked into the option of record which we hold from the Natomas Company. Incidentally, the County is the holder of the option, not the Department of Parks and Recreation.

The alternate proposal as of today, to the best of my understanding of Mr. Pond's directions, was not acceptable from the Park Department's point of view. Our recommendation on that to the Board of Supervisors would have to be a negative one.

GOV. ANDERSON: Is there a second alternate now?

MR. MALCOLM: We have two proposals so far -- one in process ...

GOV. ANDERSON: The one in process we have right now?
MR. MALCOM: You have the copy of the letter from the American River Association, which presents, I believe, a third proposal.

MR. HORTIG: That we have not heard yet.

MR. MALCOM: So as of this moment we have two proposals.

DR. FRICKER: It is really not a third proposal; it is actually the same as the residents' proposal.

MR. CRANSTON: Which one does the County support?

MR. MALCOM: Officially, the County supports the original proposal because this was not anticipated....

MR. CRANSTON: Then you haven't changed from July 9th at all, then?

MR. MALCOM: Officially, no. However, there is some new information which we would, if they asked for a recommendation, have to modify our original recommendation. If I could just take a minute to explain -- I am kind of in the horns of a dilemma speaking for Mr. Pond.

GOV. ANDERSON: Maybe we better get the Doctor's testimony first.

DR. FRICKER: The letter from Mr. Harold Severaid was written on July 15th:

'Mr. Leon B. Collins, District Manager
Pacific Cement and Aggregates, Inc.
16th and A Streets
Sacramento, California

Dear Mr. Collins:

It has come to our attention that there...
"is a feasible alternative to your plan to re-bridge the American River using the existing old pilings immediately below the Sunrise Bridge. Our Board of Directors discussed this matter in detail last Monday evening and passed a resolution unanimously directing me to send a 'goodwill' request to you indicating our thoughts on this matter.

" We understand that you have already cancelled the public's right of access to this most popular and heaviest used recreational area along the entire river. We do not oppose your proposed gravel removal from the north bank. Nor do we question either your right or the need to restrict public access at the site of your new haul road and bridge.....

MR. CRANSTON: What is the cancellation of the public right you refer to?

DR. FRICKER: The cancellation would be the new bridge which the cement company proposes.

MR. CRANSTON: You said something about already canceling a right.

DR. FRICKER: Yes. For several years, I understand, they have not actually given any right to the county or to anybody to use this area. It has been used as a matter of public domain, I guess.

MR. HORTIG: Public trespassing.

MR. CRANSTON: They presumably, then, have the right to prohibit the public from using the beach.

DR. FRICKER: That's correct. (continuing with letter):

"... However, withdrawal of the area under consideration would, we feel, be contrary to the public interest and thus innately harmful to the good public image which your
"company has maintained over the years.

" Therefore, on behalf of our 3176 members and 109 co-sponsoring organizations, the Board of Directors of SARA would like both to request and to propose an alternate solution to this problem which we are confident will meet the requirements and self interests of all parties concerned. We propose that you again renew your permit for public access to the park lands surrounding the old bridge pilings in exchange for a right of way easement with the County bordering the downstream edge of the existing settling pond. This presupposes your continued use of your existing haul road to the starting point of the new easement and the construction of a totally new bridge leading directly into the area of your proposed operations on the right bank.

" Such an arrangement would not bespoil the area formerly leased to the Fair Oaks Park District, and would cause a minimum amount of damage and tree cutting in the new downstream area. Even more importantly, using this location for your new haul road would place it at the very upstream edge of heavy recreational usage of the County's American River Parkway South. Thus, recreation foot traffic across your new haul road would be at a minimum at this point.

" We are quite aware that this alternative would cost your company upwards of $40,000 more than to rebuild your old bridge. However we feel this is in the long run a relatively small sum to pay for a continuing community goodwill when measured and prorated against the decade of time under consideration, and the millions of dollars worth of products which you will haul over it. Then a decade hence this bridge can continue to serve the public good by eventually tying together the two sides of the parkway at this point.

" Please give serious thought to this proposal. We feel it would repay your company several times over not only in goodwill but in a reduction of trespass traffic and
enforcement costs which might well result from bisecting the popular downstream park site adjacent to the Sunrise Bridge.

Very sincerely yours,

J. Harold Severaid
President and Chairman
Board of Directors

MR. HORTIG: Mr. Chairman, if I might suggest, representatives of the Natomas Company, to whom this letter was directed, are here; and, of course, this proposal is a series of negotiations -- if it has gone that far -- as between the Association and the Natomas Company; and I am sure they would want to respond as to the status of those negotiations.

If I might, before you call on them, however, stress for the record some points which have both been made by counsel and by Dr. Fricker.

They keep bouncing around between estimates of $63,000 and $40,000. It must be stressed these are certainly not cost estimates based on existing bids, but on reasonable engineering estimates, number one; plus the construction at a new location is only part of the total cost of a revised operation, in that a further downstream location would involve additional operating and haulage costs for the material also.

So, over the life of the contract, it can be estimated that the possible additional costs would be $63,000 rather than the forty to forty-five thousand at the present
location for which there is an application, and for which, as you have heard, is the only location to which the County of Sacramento has given official approval.

In the interim, while all these negotiations are going on, unless there be an immediate motion for further study while all the parties work out all of these problems, as pointed out -- the one month delay to study this problem since last month has already caused the payment of penalties for delay in construction contracts of $4,000, and these penalties are accumulating even now as the Commission is deliberating on this problem.

With that as a preface, I think it would be helpful to the Commission to hear from the representatives of the Natomas Company and Pacific Cement and Aggregates.

GOV. ANDERSON: Don't you think Dr. Fricker could conclude first?

MR. HORTIG: I had assumed he had.

DR. FRICKER: Our plan is the same as the American River Association plan.

MR. ROSS: I think there is one other gentleman...

DR. FRICKER: Mr. Andrus, one of our residents, would like to say a few words about the noise and dust problem.

MR. ANDRUS: My name is Stanley Andrus. I am a resident of Fair Oaks, plus I am an engineer with Aerojet; and I would like to substantiate what Dr. Fricker has stated --
that is, the noise level that would be experienced by the two roads would be in the terms of the square of the distance. You can see visually the relative location, as drawn in red, at the existing haul road is approximately three times the distance on the bluff side that the P.C.A. proposed road would be. This would result in roughly three squares or nine times the sound level that would result to the residents on the bluff by this new location.

Now, many of these residents have heard the sound level from the trucks that have been hauling over the years. This has been improved some by the incorporation of mufflers. However, these heavy Euclid hauling machines are noisy, and the noise would certainly be heard on the bluff.

I would like to point out one other thing, which is not an engineering point, which has not been pointed out at this time; and that is, as a resident raising small children, we have a boy five and a smaller one, they will play on the bluff and undoubtedly be on this haul road -- rightly or wrongly. It is the type of thing that is difficult to stop. The trucks hauling on the opposite side of the river would be away from the children, the residential area and the potential danger to children. That is, to the property owner, of extreme concern.

GOV. ANDERSON: This beach area that will be destroyed -- this is the same area that the aggregate company has withdrawn the right for the people to use anyway?
MR. ANDRUS: Yes, sir.

GOV. ANDERSON: So the people can't use this beach area anyway?

MR. ANDRUS: I believe this is a legal interpreta-
tion. However, it is not enforced - the people do use this beach daily.

GOV. ANDERSON: Also there was some comment made - I had been told this hauling away would improve this area. You told me that, Frank?

MR. HORTIG: This is correct; and, as a matter of fact, it is to accomplish an improvement in the area or is a necessary requirement in the specifications for approval of the project by both the Reclamation Board and the U. S. Corps of Engineers -- improving the area, both as to its recrea-
tional potential ultimately, as well as for flood control and to assure there will be a minimization of flood damage to the foot of the bluff on top of which these residents exist.

So from a pure land use and land management plan, the sum total of the project would be an over-all improvement of the lands which are at the base of the bluff and which are being used in trespass by the general public as beach area at the present time and have been for many years, as has been stated; but they would be improved as to recrea-
tional potential, provided the owner wished to devote them to this in the future, and they certainly would be improved.
as to flood protection potential as against the base of the bluff because of the requirement of the Corps of Engineers to assure that this protection is achieved in the course of removing this gravel from the privately owned lands of the Natomas Company.

GOV. ANDERSON: Do you agree that this would improve or damage the land -- this removal of the piles of rock?

MR. ANDRUS: The removal of the rock we are not arguing against or for. We are arguing the point on the location of the road, and I am in no position to discuss the merits of whether the land would be improved or harmed by this. We are only discussing or contesting the location of the access road to accomplish this.

GOV. ANDERSON: Let's hear the gentleman from the County -- Mr. Malcolm. Then we will hear the gentleman from Natomas.

MR. MALCOLM: Mr. Chairman, as I was trying to explain -- The comment was just made that the proposal put forth by the property owners on the bluff and the proposal just read are the same proposal. They may be now, but as of the time we reviewed it, this was not the case; so I have to stand by the fact that there are three alternate proposals, as I understand them.

Officially, the County of Sacramento through its Board of Supervisors has, in fact, adopted the original
proposal because it is built into the option on the property.

GOV. ANDERSON: There has never been a public hearing of any kind on it?

MR. MALCOLM: I am sorry -- I don't believe so, but I can't speak for sure; I don't know. As to the other two proposals, our department is not empowered to make a decision on behalf of the County. The Board of Supervisors would have to make the decision. Our department is in the position of recommending to the Board on the desirability of alternatives, if requested by the Board.

As of now, considering the three alternatives -- although, frankly, I don't know how the Natomas Company feels on the third alternative because I have had no indication; this letter is apparently from S.A.R.A. to Natomas Company or P.C.A., I don't know -- I have a copy of it myself -- and I have no knowledge of how P.C.A. feels on it.

So our feeling is this: Either of these two proposals represents potential damage to the parkway, the area under our option. Now, the third proposal has a condition on this area we talked about, the swimming beach. If this could be tied back and let the public use it again by moving the haul road and bridge downstream, and if the haul road could be worked out in such a way that there was minimum damage to our proposed parkway, then we would be inclined to give a favorable recommendation to the Board.

The reasoning behind this is that for years this
area that was mentioned has been operated as a public swimming facility by permit from the Natomas Company, on a year to year agreement.

GOV. ANDERSON: I thought you said they were all trespassing?

MR. MALCOLM: I believe this year to year agreement was discontinued because of this construction.

GOV. ANDERSON: Then the trespass is recent?

MR. CRANSTON: The contract has expired.

MR. MALCOLM: I believe it was year to year and how formal or informal it was, I don't know.

GOV. ANDERSON: As a park group, you wouldn't be supporting a beach area? That isn't part of your system. In other words, I am wondering why you would be fighting for the beach area.

MR. MALCOLM: In effect, I am. The area is under the Board of Supervisors.

GOV. ANDERSON: Will there be another beach developed as a result of this to take the place of the one eliminated, under your plan?

MR. MALCOLM: We don't have that permanent plan on the parkway, but I would assume under the original proposal we are going to lose some nice beach area, under the application before you.

MR. CRANSTON: Would the fact of our denying a permit stop this work at all? Isn't that what you said earlier?
MR. HORTIG: As I said, there is a strong presumption that while it might impose an additional economic burden, there is another way to get this gravel out on the north side; and that is to reconstitute the old McClellan Field haul road and come out on the public streets and public highway, right through the residential area on top of the bluff, right to the top of the Sunset Ridge -- rather than concentrate the total operation on privately owned lands and stay out of the public streets.

MR. ROSS: I just want to mention that that argument of Mr. Hortig could very easily be done away with by the County because I don't believe the County would be inclined to let them carry those trucks through there.

MR. HORTIG: Again, a County question -- and not before the Lands Commission.

GOV. ANDERSON: Can we hear from the Natomas representative, then?

MR. IDE: Briefly -- My name is Chandler Ide and I am Vice President of the Natomas Company.

I think the summary before you quite adequately sets forth the main points, but I would like to just briefly comment upon one feature, and that is whether or not the Natomas Company had canceled any rights to use the beach.

Now, first of all, this land is owned by Natomas. Years ago it was under year-to-year lease to the people in Fair Oaks. We have not had any lease arrangements within
recent years, but we have allowed the public to use it over
the years; and the proposed haul road and bridge would reduce
somewhat the size of this beach area available during the
period of the road's operation, but would not eliminate it
altogether.

I think in all fairness it should be recognized
that the existence of this beach as a public facility is a
matter of Natomas Company's good will toward the community
and none of the aggregates are going to be removed from the
beach, so they will then be available in toto again when the
operation is completed.

One other point, for the record, we do not favor
the alternative location that has been suggested.

GOV. ANDERSON: The recent one put in by the
American River Association?

MR. IDE: The two alternate locations -- princip-
ally for the same reasons that would apply to the first one;
the item of cost is important.

GOV. ANDERSON: I was looking -- May I see the
map again? You can probably remember it better than I can,
but it looks to me -- Frank, will you help me here a minute?
All of these tailings -- is all of this here and all this
here going to be brought down across the stream?

MR. HORTIG: Here is the Sunset Bridge, Citrus Road,
in Fair Oaks. This is the American River. The proposed
alternate would be at this location.
GOV. ANDERSON: It looks like it is farther down.

MR. HORTIG: In other words, the first alternative proposal is to relocate 1,500 feet down. Here is the existing bridge, which is proposed to be reconstructed. Here is this parcel to the Park Department, who are willing to have, as a condition of conveyance here, a small part of the haul road across this corner, rather than extending the haul road down to here on the old road and then across the river, which would put the road right through the proposed laguna area of the park.

(Further explanation by Mr. Hortig inaudible at times to reporter, due to volume of noise from audience)

MR. HORTIG: (continuing) All the other proposal said was to go farther downstream than the present existing bridge, in order to get the crossing and the haulage removed from this area. Obviously, there are going to have to be trucks working this close.

GOV. ANDERSON: The work is going to begin at this end and they are going to work all the way down to the bridge?

MR. HORTIG: To this area, and the last to be removed will probably be from that corner and then this road would be abandoned as far as removing gravel along this existing road.....This area has been completed previously and this is in process of being deeded as a public gift by the Natomas Company to the County Park Department for development for recreation, and the Park Department has had discussions with the Natomas Company of the possibility of
adding that area to the park area. Where it is now, you have to be practically an Alpinist to climb over this. This stretch will not be affected, will have no gravel removed, but would be hazardous, patently being within the Natomas property line, with high speed gravel trucks going by.

MR. CRANSTON: Eight hours a day.

MR. HORTIG: Eight hours a day; not on weekends or holidays.

GOV. ANDERSON: (To Mr. Ide) He answered the question I was going to ask you.

MR. IDE: I wanted to ask just one question, if I might, and that is: Should the Commission grant the request as to the recommendation which has been read, would this two-year right-of-entry be extended at the end of that time for an additional period? There would be no point in crossing the river with a bridge if it were only going to last two years; and I am not familiar with the terms....

GOV. ANDERSON: It looks like only two years.

MR. HORTIG: It is two years and there is a title problem to be determined. Then there is a requirement that the Natomas Company would require a permit from the state, after having made that determination, and a standard form of right-of-way easement, as is authorized under the rules and regulations of the State Lands Commission, would be issued at the prescribed standard rental rates for the period of time required by the Natomas Company and its lessee.
GOV. ANDERSON: But this wouldn't necessarily mean it would go beyond the two years, unless it came before the Lands Commission to approve or disapprove.

MR. HORTIG: This is correct.

MR. IDE: This does not seem to me to be a satisfactory or practical approach, because unless there were assurance, assuming that the State's title were established and assuming that the standard conditions, whatever they are, were met -- if the Commission then had the right to reverse itself and deny the permit, we would be in an impossible position. So I would think the practical thing would be to take action now one way or the other, that makes this feasible for the life of the operation or not at all. That is the only way we could do it.

MR. HORTIG: On the original application of the Natomas Company, it was pointed out there was this problem of title dispute and the Natomas Company representatives did not desire to enter into a firm permit and commit themselves to the payment of the normal rentals, and so forth. So, as a matter of accommodation and cooperation and in order to give both sides an opportunity to determine on what grounds a full right-of-way easement should be issued, it was recommended that this right-of-entry permit be issued in order that your organization, who made application, could proceed forthwith with the construction of the bridge without having
to wait for a determination of the title problems.

MR. IDE: But we are not raising a question as to the title. The matter was raised by the State, not as to title but it came about quite informally. We assumed we had secured all necessary permits. We had the Federal Government's clearance; we had the clearance of four State agencies and clearance from the County. Then, at a rather late date; it came to our attention, much to our surprise, that the State Lands Commission required an application for a permit.

This was all the more surprising because a bridge had been placed across the river only four years ago; no application was necessary.

So we made an application for a temporary permit to operate the bridge during the period this operation would continue, without prejudice to either side's position as to title.

MR. HORTIG: This is exactly what is being processed, but it is obvious that if an indeterminate-period temporary permit would be issued, there probably would never be any determination of the title problem; so it is incumbent upon the State of California and the Natomas Company to determine if a permit is necessary, in fact; and if it is necessary, in fact, it will be issued by the State Lands Commission.

MR. IDE: Assuming the Natomas Company has title, then we don't need a permit from the State. If, in this
two-year period, one of two things happened -- one, it has title, or two, the State has title -- in the latter event, I assumed the permit would be granted. If the State is determined to be owner, then would the permit be so granted, or is the question of the bridge to come up again?

MR. HORTIG: No. If a permit is needed because, in fact, the State has proved its claim to the bed of the American River, then a standard permit would be issued with standard rentals prescribed for such a type of easement and for the number of years which the Natomas Company and the P.C.A. were estimating necessary for the bridge maintenance for the full conduct of the operation.

GOV. ANDERSON: But it would then be voted on by the then constituted Lands Commission and they could turn it down.

MR. HORTIG: They could. It isn't a warranty that new conditions could not arise nor that the Commission at that time could not consider new conditions.

GOV. ANDERSON: We normally do take the recommendation of our staff, but we do have to vote on it. As a matter of fact, we have a long agenda consisting of this kind of item this afternoon. I just do not want you to think it is automatic.

MR. IDE: I had assumed it was automatic provided we met the standard terms and conditions and paid certain rentals.
MR. HORTIG: Upon resolution of these problems, the staff recommendation would be that such an additional and new easement be granted; and beyond that, of course, the staff is in no position to commit the Commission, as the Chairman pointed out.

The only other alternative I hesitate to suggest on this is that we suspend operations until the problem is resolved and then start all over with a new application. I did not gather from your representatives that this approach would be desired by either your company or your lessee.

MR. IDE: No, the title question might drag out five years. This is important not only to the company, but to the State of California, and the Mining Bureau of the State of California publishes bulletins to facilitate this kind of operation and, therefore, we want to get the show on the road.

MR. HORTIG: Therefore this procedure was designed to do that, to get the show on the road, and to give us an opportunity to get the legal questions resolved while the lessee is operating.

GOV. ANDERSON: Do you have any other persons who wish to appear?

MR. COLLINS: I represent Pacific Cement and Aggregates, in case there are any questions I might answer.

MR. CRANSTON: Mr. Chairman, when Mr. Ross appeared to oppose this application at the last session, this was the
first we knew there was opposition, and it was at my request that we delayed the matter and asked the staff to explore the situation and learn more about it.

The present Lands Commission has done more than any previous Commission to seek to preserve the resources and beaches of California and to protect citizens from harassment wherever possible.

I am afraid that in this situation we have been asked to intervene in something we do not have the right to intervene in; and I think one thing we have to be careful about is government stepping in where government does not have the right to step in. This is a county matter -- a planning and zoning matter.

We have been asked to consider matters such as the use of a beach, to which the owner has a right to deny access for use, which it now done, and where there is no governmental jurisdiction applying for the use of the beach.

For these reasons, and based on the fact we really do not have the right to take other action here, I move approval of the staff recommendation here.

MR. SHEEHAN: I'll second it.

GOV. ANDERSON: It has been moved and seconded.

Any further comment? (No response) Carried unanimously.

Going to Item Number 2 -- Permits, easements, and rights-of-way to be granted to public and other agencies at no fee, pursuant to statutes. Consideration is the public
benefit:

(a) City of Coronado -- Easement over 1.123 acres sovereign land, San Diego County (for construction and maintenance of a street to provide public access to a beach area.

(b) Pacific Telephone and Telegraph Company -- Approval of three locations for submerged communications cables across ungranted tide and submerged lands: (1) Piper Slough, vicinity of Franks Tract; (2) False River, vicinity of Franks Tract, Contra Costa County; (3) Goodyear Slough, Solano County.

(c) Department of Parks and Recreation, Division of Beaches and Parks -- 49-year permit for construction, operation and maintenance of a ferry slip, 0.177 acre tide and submerged land in bed of Piper Slough near its confluence with False River, Contra Costa County.

(d) Sonoma County Flood Control and Water Conservation District -- 49-year easement for construction of part of flood-control channel, 0.431 acre sovereign land in bed of old channel of Petaluma Creek near City of Petaluma, Sonoma County.

(e) U. S. Department of the Interior, Bureau of Reclamation -- 49-year easement, 100 feet wide, across abandoned bed of the Colorado River, San Bernardino County, for construction of a ditch to divert water over sovereign land.

MR. CRANSTON: Move approval.

MR. SHEEHAN: Second.
GOV. ANDERSON: Moved and seconded, carried unanimously.

Item 3 -- Permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental policies of the Commission.

(a) Lazaro Gorrindo -- Five-year grazing lease, 1,280 acres school land, Inyo County; annual rental $12.80.

(b) Lyle V. Platt -- Permit to dredge approximately 1200 cubic yards material from bed of the Sacramento River, Sacramento County. Royalty rate, nine cents per cubic yard. Material to be used as fill on applicant's upland property.

(c) Eugene Sully Hancock, Jr. -- Two-year prospecting permit for geothermal energy and mineral waters, in 285 acres submerged land underlying Clear Lake, Lake County.

(d) Charles Crocker -- Two-year prospecting permit for minerals other than oil and gas, on 32.52 acres lieu land, Monterey County.

(e) Welles Whitmore, III, and Margaret Whitmore -- Ten-year sublease to Neal J. Dahl and Theresa Dahl, under Lease P.R.C. 2826.1, tide and submerged lands of Napa River, Solano County.

(f) A. M. Coker (deceased) -- Assignment from Coker Construction, Inc., of partial interest in oil and gas leases P.R.C. 2205.1 and P.R.C. 2207.1, Santa Barbara County.

MR. CRANSTON: I move approval.

MR. SHEEHAN: Second.
GOV. ANDERSON: And carried unanimously.

Item 4 -- City of Long Beach -- Pursuant to Chapter 29/56, First Extraordinary Session, and Chapter 138/64, First Extraordinary Session:

(a) Determine that proposed expenditure under revised plans by the City from its share of tideland oil revenues of approximately $1,790,000 for construction of further developments of Marine Stadium West is in accordance and conformance with provisions of Chapter 138/64, First Extraordinary Session.

(b) Approve proposed estimated expenditure by the City from July 20, 1965 to termination of: (1) $14,630,000 for entrance channel bridge structure; and (2) $4,090,000 for supplemental cost of west approach of entrance channel bridge. The total expenditure will be $18,720,000 (with a total of $2,503,700, or 13.4%, estimated as subsidence costs).

MR. SHEEHAN: Move approval.

MR. CRANSTON: Second.

GOV. ANDERSON: Carried unanimously.

Item 5 -- Mineral Leases: (a) (1) Find that provisions relating to repressuring, subsidence and pooling set out in proposed order between the City of Los Angeles, acting through its Board of Harbor Commissioners, and the Zephyr Oil Company, are in the public interest; (2) approve proposed Order for Extension of Permit under Order No. 2472 held by Zephyr Oil Company, for a further term of ten years
beginning January 10, 1963, and the modification to provide for water flooding, subsidence control, and a program for increasing oil production; and (3) authorize Executive Officer to execute and issue approval of assignment of said permit from Zephyr Oil Company to Humble Oil & Refining Company.

(b) Authorize Executive Officer to execute a compensatory royalty agreement with Occidental Petroleum Corporation covering lands included in the Lathrop Gas Field, San Joaquin County.

(c) Authorize Executive Officer to issue an Oil and Gas Lease to Lennart G. Erickson, d.b.a. Vista Petroleum Company (the only bidder) for approximately 272 acres tide and submerged lands in Solano County designated as W.O. 5611 in consideration of cash-bonus payment of $4,220.

MR. CRANSTON: I move approval.

MR. SHEEHAN: Second.

GOV. ANDERSON: Carried unanimously.

6 -- Administration -- (a) Authorize Executive Officer to initiate procedures for consideration of amendment of Section 2004, California Administrative Code, Title 2, Division 3, Rules and Regulations of the State Lands Commission.

(b) Authorize Executive Officer to execute inter-agency agreement providing for technical and accounting services by State Lands Commission to the Reclamation Board, relating to revenues from gas leases located in the areas of
Rio Vista and Colusa, for the 1965-66 fiscal year, at a cost not to exceed $2500.

MR. SHEEHAN: So move.

MR. CRANSTON: Second.

GOV. ANDERSON: Carried unanimously.

7. Annexations: (1) Authorize Executive Officer to notify the City Council of the City of San Clemente that present value of tide and submerged lands proposed to be annexed under San Clemente Annexation No. 13 is $49,800,000, and that map and legal description of the boundaries of the territory to be annexed must comply with provisions of Government Code Section 35014.

MR. CRANSTON: Move approval.

MR. SHEEHAN: Second.

GOV. ANDERSON: Carried unanimously.

MR. HORTIG: Mr. Chairman, may I request that item 8(a), which you are about to come to, be deferred for consideration at a later meeting?

GOV. ANDERSON: No objection, so ordered.

Item (b) Authorize Executive Officer to execute boundary agreement between the State, Moss Landing Harbor District, Mary E. Sandholdt, and Lucile Ferguson, along the Ordinary High Water Mark of the Old Salinas River and Monterey Bay, Monterey County.

MR. SHEEHAN: So move.

MR. CRANSTON: Second.
GOV. ANDERSON: Carried unanimously.

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

MR. CRANSTON: So move.

MR. SHEEHAN: Second.

GOV. ANDERSON: Carried unanimously.

Item 10 -- Informative only, no commission action required -- Report on the status of major litigation.

MR. HORTIG: There are no significant changes.

This is a continuing status report, Mr. Chairman, and there have been no new developments nor significant additions to litigation since the last report to the Commission.

GOV. ANDERSON: Number 11 -- Approval of issuance by Mountain Copper Company, Limited, to Bigge Drayage Co. of sublease under Lease P.R.C. 563.1, Contra Costa County, for purpose of erecting a temporary pier.

MR. CRANSTON: Move approval.

MR. SHEEHAN: Second.

GOV. ANDERSON: Carried unanimously.

Before we take the last item, I believe you have something?

MR. SHEEHAN: Do you want to read these, Mr. Chairman? -- two additional calendar items.

GOV. ANDERSON: Salary of Executive Officer - Personnel: The Department of Finance (Exempt Pay Section)
has revised the salary range for the position Executive Officer from $1,351 - $1,642 to $1,419 - $1,724 effective July 1, 1965.

Item No. 277.1, Chapter 757/65 provided for comparable salary increases for classes in State civil service, also effective July 1, 1965.

It is recommended that the Commission approve the new pay range established by the Department of Finance for the position of Executive Officer, State Lands Commission, as of July 1, 1965 and the assignment of the Executive Officer to the maximum salary range step, effective July 1, 1965.

MR. SHEEHAN: So move.

MR. CRANSTON: Second.

GOV. ANDERSON: Mr. Cranston seconded. Any opposition, Frank?

MR. HORTIG: No, sir.

GOV. ANDERSON: Carried unanimously.

Calendar item: Salary of Executive Officer - Personnel: As a result of the passage of Chapter 138, Statutes of 1964, and the requirements thereof for increased responsibilities in the development of the Long Beach Unit, the over-all administration of the Wilmington Oil Field, and increased work load requirements of the State Lands Division, it is recommended that the salary of the Executive Officer be established at a new level commensurate with these added
responsibilities. In order to accomplish this action, the following resolution is proposed:

"The State Lands Commission acting pursuant to Section 6103 of the Public Resources Code, hereby resolves that the salary of the Executive Officer, State Lands Commission, be set at $22,812 per annum effective July 1, 1965 subject to approval by the Director of Finance."

That's the same thing -- only the other way around.

MR. SHEEHAN: Move.

MR. CRANSTON: Second.

GOV. ANDERSON: Carried unanimously.

MR. HORTIG: Thank you, gentlemen.

Mr. Chairman, may I report in conformance with the organization study by the Department of Finance, which the State Lands Commission considered and requested, and requested that we seek budget implementation at the meeting in April 1965, we have been successful in adding to the Commission's staff, effective the first of July, an Assistant Executive Officer for Administration, Mr. Richard Golden, at the table here, who I wish to introduce to the Commission.

We now have on the Commission's staff an Assistant Executive Officer for Engineering, to which position Mr. Pfeil has been re-assigned, and one for Administration, now occupied by Mr. Golden.

MR. SHEEHAN: Are we permitted to interrogate Mr. Golden as to his qualifications? I don't know the gentleman.
MR. HORTIG: I'll help you.

GOV. ANDERSON: Anything further before the last item? (No response).

The last item is to reconfirm the date, time and place of the next Commission meeting -- Thursday, August 26, 1965, in Los Angeles, at ten a.m. No objection, so ordered.

We are adjourned.

ADJOURNED 3:55 P.M.