TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION

LOS ANGELES, CALIFORNIA
July 12, 1966
MEETING OF
STATE LANDS COMMISSION
LOS ANGELES, CALIFORNIA
July 12, 1966

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PARTICIPANTS:

THE STATE LANDS COMMISSION:

Hon. Alan Cranston, Controller, Chairman
Hon. Glenn M. Anderson, Lieutenant Governor
(Hon. Hale Champion absent)

Mr. F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Mr. Paul Joseph, Deputy Attorney General
Mr. N. Gregory Taylor, Deputy Attorney General

APPEARANCES:

(In the order of their appearance)

(Item 16):

Mr. James R. McCall, Special Counsel for
Town of Emeryville

(Item 18):

Mrs. Harry Winter, Owner Ark 5-B

Mr. Carl B. Shapiro, Attorney
(Firm of Hallinan, Shapiro, Hallinan & Rice)
representing ark owners

Mr. Thomas A. Hendricks, Deputy County Counsel
County of Marin

continued
APPEARANCES: (continued)

(Item 19)

Mr. Thomas A. Hendricks, Deputy County Counsel
County of Marin

(Item 22 -- in separate section)

Mr. Henry W. Wright, Manager Land and Tax
Department, Western Oil and Gas Association

Mr. William R. Gardner, Division Attorney
Humble Oil & Refining Company

Mr. Herbert S. Harry, Assistant Manager Lands
Union Oil Company

Mr. George Marshall, President
Sierra Club
<table>
<thead>
<tr>
<th>ITEM CLASSIFICATION</th>
<th>ITEM ON PAGE OF CALENDAR</th>
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</thead>
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<td>(d) Pacific Gas &amp; Elec. Co.</td>
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<td>(6) 1.446 acres</td>
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<td>5. CITY OF LONG BEACH</td>
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<td>(a) City of Sand City</td>
<td>23</td>
<td>67</td>
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<td>(a) Service agreement with City of Petaluma</td>
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<td>26</td>
<td>71</td>
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<td>(d) Interagency agreement with Department of Justice</td>
<td>42</td>
<td>72</td>
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<td>(a) State Lands vs. Bay Cities Bldg. Mtls &amp; Argonaut Ins.</td>
<td>43</td>
<td>73</td>
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<td>36</td>
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<td>44</td>
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<td>45</td>
<td>84</td>
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<td>13. Approval expenditure $65,000 by City of Long Beach for purchase of two beach lots</td>
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<td>87</td>
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<td>48</td>
<td>90</td>
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<td>16. Plan of Development - Town of Emeryville</td>
<td>49</td>
<td>93</td>
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<td>17. Stipulation for Judgment re value of sand taken by John A. Peterson, Moe Sand, et al</td>
<td>50</td>
<td>95</td>
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<td>18. Corte Madera Ark Site Leases</td>
<td>51</td>
<td>96</td>
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</tr>
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<td>20. Approval 3rd Qtr. Drilling Schedule 1966 Plan of Development, Long Beach Unit</td>
<td>52</td>
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<td>55</td>
<td>103</td>
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<td>22. Proposed oil &amp; gas lease, Parcel 41 (vicinity San Miguel Island)</td>
<td>54</td>
<td>104</td>
<td>Separate section, pages 1-29</td>
</tr>
</tbody>
</table>

******
# INDEX
(In accordance with Calendar Items)

<table>
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<th>PAGE OF CALENDAR</th>
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**SUPPLEMENTAL ITEMS:**

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<th>ITEM ON PAGE OF</th>
<th>PAGE OF CALENDAR</th>
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<td>(Special Section, (Pgs. 1-29)</td>
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**NEXT MEETING:** 9
JULY 12, 1966 - 10:10 A.M.

MR. CRANSTON: The meeting will please come to order.

First item is permits, easements and rights-of-way to be granted to public and other agencies at no fee, pursuant to statutes.

(a) State Department of Public Works, Division of Highways -- 49-year right-of-way easement, 2.00 acres tide and submerged land in Napa Slough, Solano and Napa counties for construction of a bridge.

(b) Division of Bay Toll Crossings -- Permit to conduct test borings on ungranted lands of San Francisco Bay in connection with feasibility study of vehicular crossing between San Francisco and Marin counties.

Motion is in order.

GOV. ANDERSON: I move it.

MR. CRANSTON: Approval is moved and seconded. If there is no discussion, so ordered unanimously.

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

Applicant (a) Imperial Irrigation District -- 49-year right-of-way easement, 7.7 acres school land, Imperial County, for transmission line; total rental, $893.27.

(b) Morrison and Weatherly Chemical Products --
10-year lease, 49.89 acres sovereign land of Owens Lake, Inyo County (for an access road and drainage ditches in conjunction with Mineral Extraction Lease P.R.C. 3488.1), annual rental $157.50.

(c) J. Philip Murphy -- 5-year recreational minor-structure permit, 0.028 acre submerged land in Lake Tahoe, Placer County, to construct pier; total fee, $25.

(d) Pacific Gas and Electric Company -- Six 15-year easements for overhead wire crossings as follows: (1) 17.176 acres tide and submerged land, San Joaquin River, Contra Costa and Sacramento counties; annual rental, $559.39; (2) 7.80 acres tide and submerged land, Sacramento River, Solano and Sacramento counties, annual rental $154.90; (3) 4.591 acres tide and submerged land of Cache Slough, Solano County, annual rental $92.68; (4) 0.918 acre submerged land of Sacramento River, Sutter and Yolo counties, annual rental $36.41; (5) 4.040 acres tide and submerged land of Lindsey Slough, Solano County, annual rental $79.44; (6) 1.446 acres submerged land of Sacramento River, Sutter and Colusa counties, annual rental $57.44.

(e) R. W. and Hazel Mae Sexton -- Approval of assignment to John G. and Virginia M. Connelly of Lease P.R.C. 2975.2, covering Lot 6 of Fish Canyon Cabin Sites, Los Angeles County.

(f) Standard Oil Company of California -- Assignment to Delta Dehydrating Corporation of Lease P.R.C. 389.1,
covering 0.29-acre parcel of tide and submerged land in the Sacramento River, Yolo County.

(g) Standard Oil Company of California -- Acceptance of Quitclaim Deed, Lease P.R.C. 1536.1, and issuance of 15-year replacement lease of an enlarged area covering 2.36 acres tide and submerged land in Gulf of Santa Catalina at Huntington Beach, Orange County; annual rental $158.88.

(h) Tidewater Oil Company -- Assignment to Phillips Petroleum Company of Leases P.R.C. 731.1 and P.R.C. 1558.1, covering dredging easements in Pacheco Slough near Martinez, Contra Costa County, for maintenance of cooling water supply sources.

Motion is in order.

GOV. ANDERSON: I move it.

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

4: Oil-and-gas and mineral leases and permits issued pursuant to statutes and established policies of the Commission:

(a) D. D. Feldman -- Three prospecting permits for geothermal energy, for mineral waters, for nonhydrocarbon gases, and for all minerals other than oil and gas, at standard royalty rates, as follows: (1) 40 acres land, Sonoma County, in which minerals are reserved to the State; (2) 27.79 acres land, Mendocino County, in which minerals are reserved to the State; (3) 40 acres land, Sonoma County, in
which minerals are reserved to the State.

(b) Eugene Sully Hancock, Jr. -- Prospecting permit for geothermal energy, for mineral waters, for nonhydrocarbon gases, and for all minerals other than oil and gas, at standard royalty rates, on 80 acres lands, Sonoma County, in which the minerals are reserved to the State.

(c) Deccaxagon Corporation -- Assignment to Earth Energy, Inc., of prospecting permits for geothermal energy, P.R.C. 3395.2, Sonoma County, and P.R.C. 3473.2, Lake County.

(d) Gianecchini, et al. -- Assignment to Earth Energy, Inc. of prospecting permits for geothermal energy, P.R.C. 3396.2 and P.R.C. 3472.2, Sonoma County.

(e) Phillips Petroleum Company -- Deferment of drilling requirements under Oil & Gas Lease P.R.C. 2205.1, Santa Barbara County, through January 21, 1967.

(f) Texaco Inc. -- Deferment of drilling requirements under Oil & Gas Lease P.R.C. 2955.1, Santa Barbara County, through May 7, 1967.

(g) Union Oil Company of California -- Deferment of drilling requirements under Oil & Gas Lease P.R.C. 3033.1, Orange County, through January 26, 1967.

(h) Pittsburgh Plate Glass Company -- Extension of term of Mineral Extraction Lease P.R.C. 210.1, Inyo County, for a period of ten years commencing July 19, 1966.

(i) Pittsburgh Plate Glass Company -- Extension of term of Mineral Extraction Lease P.R.C. 257.1, Inyo County,
for a period of ten years commencing July 17, 1966.

(j) Atlantic Oil Company -- Acceptance of Quitclaim and Termination of Oil and Gas Lease P.R.C. 3416.1, San Joaquin County, effective May 20, 1966.


(1) Approval for Executive Officer to offer four oil and gas leases as follows: (1) 1550 acres tide and submerged land in the San Joaquin River, Sacramento and Contra Costa counties, identified as W.O. 6110 (Parcel A); (2) 600 acres tide and submerged lands in the San Joaquin River and False River, Sacramento and Contra Costa counties, identified as W.O. 6115 (Parcel B); (3) 280 acres of tide and submerged lands and 360 acres of land in which the State owns both the surface and mineral rights, all in Contra Costa County, identified as W.O. 5047 (Parcel C); (4) Parcel 1, containing 54.26 acres; Parcel 2, containing 0.10 acre; Parcel 3, containing 5.35 acres; Parcel 4, containing 3.56 acres; and Parcel 5, containing 1.44 acres, comprising a portion of the South Bay Aqueduct, Alameda County, identified as W.O. 5888.

GOV. ANDERSON: I move it.

MR. CRANSTON: Approval is moved, seconded; with no discussion, it is so ordered unanimously.

5: City of Long Beach: (a) Approval of Sixth
Modification of 1966 Plan of Development and Operations and
Budget to provide for a contingent liability item of approxi-
mately $640,000 for the purchase of four derricks and sound-
proofing for Island "B" for the Plan Year of 1967 only, in
the event drilling is terminated before the end of 1967.

Motion is in order.

GOV. ANDERSON: Move it.

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

Item 6: Land Sales: (a) Authorize sale to William
D. Crinklaw and Margaret M. Crinklaw of 443.93 acres school
land, Monterey County, at $12,261.35. (Appraised value,
$11,098.25).

(b) Rejection of Purchase Applications Nos. 5546 and
5547, Sacramento Land District, and authorization for refund
of all deposits except the $5 filing fee; withdrawal from
sale of NE1/4 of Section 36, Township 16 North, Range 1 East,
Humboldt Meridian, for a maximum period of two years from
April 6, 1966, for purchase or lease by the Department of
Parks and Recreation.

(c) Selection of 29.8 acres indemnity lands, Inyo
County, from the public domain of the United States, and
authorization for sale thereof to Agnes Reid at the appraised
price of $1,348.45.

GOV. ANDERSON: I move it.

MR. CRANSTON: Approval is moved, seconded, and so
ordered.
7: Annexations -- (a) Approve offshore boundaries of the proposed annexation by the City of Sand City and inform the City of Sand City and the Executive Officer of the local agency formation commission of the County of Monterey of said approval.

GOV. ANDERSON: I move it.

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

8: Administration -- (a) Authorize Executive Officer to execute service agreement with City of Petaluma, Sonoma County, providing for surveying and mapping services to be rendered the City at the Commission's actual costs not to exceed $500.

(b) Authorize Executive Officer to execute inter-agency agreement providing for technical and auditing services to the Reclamation Board at the Commission's costs not to exceed $2,500 for the 1966-67 fiscal year.

(c) Authorize Executive Officer to execute inter-agency agreement with the Department of General Services, Office of Architecture and Construction, providing for delineating, drafting, and engineering services to the State Lands Division for the 1966-67 fiscal year, at cost not to exceed $12,000.

(d) Authorize Executive Officer to execute inter-agency agreement with the Department of Justice for legal services concerning the Decree issued by the U. S. Supreme Court (No. 383, U.S. 448) and other related services, to be
rendered during the 1966-67 fiscal year, at total cost not to exceed $60,000, payable from Support Appropriation - State Lands Division.

Motion is in order.

GOV. ANDERSON: I move it.

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

9: Litigation -- (a) Authorize Executive Officer to approve a Stipulated Agreement in compromise and settlement of claims arising out of State Lands Commission versus Bay Cities Building Materials Company, Inc. and Argonaut Insurance Company, San Mateo County Municipal Court, No. 23710, covering unpaid royalty on Mineral Extraction Lease P.R.C. 275.1, San Mateo County, in the amount of $408.60.

Motion is in order.

GOV. ANDERSON: I move it.

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

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

Frank, do you have anything to report on that?

MR. HORTIG: Nothing unique, Mr. Chairman. These were extensions of geophysical and geological permits.

MR. CRANSTON: Confirmation is ... 

GOV. ANDERSON: So move.

MR. CRANSTON: Moved, seconded, so ordered.

11: Informative only -- no Commission action re-
(a) Report on Senate Concurrent Resolution No. 20 re California Waterways.

Is there anything to report verbally on that?

MR. HORTIG: No, sir. This is for the information of the Commission inasmuch as the Legislature through its Secretary did direct that a copy of the report be transmitted to the State Lands Commission, as well as other concerned organizations.

MR. CRANSTON: (b) is report on status of major litigation.

Is there anything to report there?

MR. HORTIG: Nothing additional beyond that which might be considered and will be considered later on the agenda in connection with the action brought by the Town of Emeryville.

MR. CRANSTON: The next formal item, although we are not yet finished, is the date, time and place of next Commission meeting, which is Monday, August 8, 1966, at ten a.m. in Los Angeles. That is confirmed as the next regular meeting time.

Then, supplemental items:

13: Determine that the expenditure of approximately $65,000 by the City of Long Beach from its share of tideland oil revenues for the purchase of portions of two beach lots in the Central Beach Area of the City of Long Beach is in accordance with the provisions of Chapter 138, Statutes
Motion is in order.

GOV. ANDERSON: I'll move it.

MR. CRANSTON: Approval is moved, seconded; without discussion, so ordered.

14: Approve the costs proposed to be expended by the City of Long Beach for Subsidence Studies, from July 1, 1966 to June 30, 1967, in the estimated amount of $150,000 all (100%) estimated as subsidence costs.

GOV. ANDERSON: Move it.

MR. CRANSTON: Approval is moved, seconded, so ordered.

15: Approve the costs proposed to be expended by the City of Long Beach for Subsidence Studies, from July 1, 1966 to June 30, 1967, in the estimated amount of $75,000, all (100%) estimated as subsidence costs.

GOV. ANDERSON: Move it.

MR. CRANSTON: Approval is moved, seconded, so ordered.

16: Find that the proposed plan of development by the Town of Emeryville for approximately 300 acres of granted submerged lands in San Francisco Bay meets neither the trust requirements for commerce and navigation nor, in all instances, the test of "General Statewide Interest" as set forth in Ch. 515, Stats. 1919, as amended by Ch. 921, Stats. 1959.
MR. HORTIG: Mr. Chairman, this finding and analysis by the staff were requested by the Office of the Attorney General for incorporation in the answer to litigation which was brought against the State Lands Commission by the Town of Emeryville.

The Commission's counsel in this matter, Deputy Attorney General Paul Joseph, is with us this morning; and also there are representatives of the Town of Emeryville present who would like to make a report to the Commission.

MR. CRANSTON: Who wishes to speak first?

MR. MCCALL: I do, Mr. Chairman. My name is James R. McCall, and I am serving as special counsel for the Town of Emeryville.

I was informed that this matter would be on your agenda last week and I was not furnished, until walking in the door this morning, with a copy of what is before you. I think it is a finding that the Town of Emeryville project does not meet the terms of the trust grant by which it holds the property in question in some respects. I believe that is the way the finding reads -- there is no general Statewide interest in the project itself.

I submit that the committee's finding is in error on these points. I am unaware of how familiar the Commission is with this project. I am informed the files have been available on this matter.

We have talked with the staff for eight months on
this matter at conferences at Emeryville. I have submitted, I'd say, at least sixty pages of material on the project itself. If the Commission feels it is called for at this time I'd like to describe the project itself. Perhaps the Commission would re-examine the finding made by the staff and find in favor of the project.

I don't want to go over the ground in the finding, but this particular finding would end in a contested litigation in Sacramento. I think this is the type of matter that should be settled between the Commission and the Town of Emeryville.

MR. CRANSTON: As far as the description of the proposed plan, we are familiar with that -- at least, I am. I have seen plans.

MR. MCCALL: You have seen plans for the recreational area and perhaps have seen some of my material. My argument basically is that the only aspect of the plan which could by any conceivable means not be in Statewide interest would be the housing area, the residential aspect of the fill area. This, if my memory serves me, was the point that was developed in the conferences with the staff here of the Commission.

I would submit that the residential area is slightly less than one-sixth of the total area that will be developed -- which, as you know, includes a park and educational facilities for a junior college site.
I also submit that it is only through the utilization of this small residential area, which is forty-nine acres, that Emeryville can finance the development itself; and we are charged, as you know, under the terms of the trust grant with developing this area within ten years or else the additional uses which were authorized by the amendment to the original granting statute will lapse; and the additional authorized uses of the property which were included in the 1959 grant included recreational, educational, industrial, commercial, and residential purposes in which there is a general Statewide interest.

I submit that there is a general Statewide interest in the entire project. I think it is apparent on its face, just by looking at it. You are certainly familiar with the needs for recreational, boating and park area, and the beaches we will develop.

I think these factors make it apparent to me that there is general Statewide interest in the entire project. I also submit -- because the residential area is vital; without it there can be no project -- there is a Statewide interest in this type of development as included in the project as a whole.

I am sure Mr. Joseph is the gentleman who has done more work on this than I. I would assume this finding the Commission will make, if the staff finding is approved by the Commission here, will result in us litigating the law suit;
and I assume this offers no room for further amendment to
the plan, further conferences or consultations.

As you recall, we had many conferences -- at least
two there at the City Hall with members of the Commission --
and after that point there was a problem of communication
which developed, problems with which you are familiar.

We would like to talk to the staff some more. If
there is any way we can revise our plans and come up with a
finding that we can settle this law suit, we would like to do
it. I basically have a question about the finding itself --
whether this shuts the door; whether we can continue to talk,
perhaps amend our plans further; or does the Commission feel
the plan is so fatally deficient because it has a residential
development.

I am here to answer questions and also have the
City Engineer here.

MR. CRANSTON: Glenn?

GOV. ANDERSON: No questions.

MR. CRANSTON: Mr. Joseph?

MR. JOSEPH: Paul Joseph of the Sacramento Office
of the Attorney General.

The Attorney General's Office, in an indexed letter,
laid down the standards that we thought the plan should be
determined by and this was at the request of Senator Holmdahl,
who made the request for the information at the request of
the city. They were furnished with a copy, of course.
Then a suit was filed in the Sacramento Superior Court. It is still pending. It was in connection with this suit the request for a finding by the Commission was made. This law suit was one against the State of California by the Town of Emeryville for the purpose of having the Court declare that the Emeryville plan of development is consistent with the trust under which the city owns or holds the tide and submerged lands.

In connection with that, the Office of the Attorney General laid down what it thought were the legal standards by which the determination should be made -- the determination of policy, of fact, and of law -- and I believe the Commission is acquainted with those factual and legal principles.

There is nothing I can say in this regard. It is a matter of opinion, surely. I am willing to answer any questions I am able to about it, if there are any.

MR. CRANSTON: Glenn?

GOV. ANDERSON: No. I move the recommendation.

MR. JOSEPH: There is one thing, gentlemen, -- the request here of Mr. McCall for possible further amendment of the plan. Now, if that takes place, any finding made here will not apply to those amendments, of course; and if this city has any other plans to present, then I see no reason why they can't present some other plan.

GOV. ANDERSON: In other words, our passage of this motion here that is recommended by the staff does not close
the door to further discussion?

MR. JOSEPH: Not at all. There has been continuous discussion here and very amicable discussion.

MR. CRANSTON: Well, I second the motion; and I urge the staff to be prepared to enter into any discussions on any further plans that the City of Emeryville wishes to submit, which should be considered by the Commission in accordance with this statement by the Attorney General at a later time.

Is there any further discussion? (No response)

If not, the motion is adopted unanimously by those present.

Next item, 17: Find that the reasonable value of the sand taken by John A. Peterson, Moe Sand Company, et al., is $36,500.60, and authorize the Attorney General to enter into a Stipulation for Judgment fully settling the pending lawsuit for that sum; authorize the Executive Officer and the Attorney General to execute all documents required to settle said lawsuit.

GOV. ANDERSON: I move it.

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

18: Authorize the Executive Officer to issue new site leases to fifteen lessees, for a period of one year beginning July 23, 1966, at annual rentals specified, ranging from $65 to $426; and authorize that eviction proceedings and other such legal action as is appropriate be commenced against
those persons presently in possession who hold over after
July 22, 1966, termination date of their present leases, and
fail to execute a new lease and tender the consideration
therefor.

I'd like to ask Frank Hortig to comment on this
item.

MR. HORTIG: Mr. Chairman, to reflect the changes
in plans by Marin County which will now permit continued
occupancy of ark sites westerly of the Bon Air Bridge for an
approximate minimum period of one year, the affected State
ark site lessees were notified as to the rental rates that
would be applicable under new leases, as detailed in the
agenda item before you and pursuant to established rental
policies and regulations of the State Lands Commission.

Objections have been received from the Marin County
Board of Supervisors; Assemblyman William T. Bagley; Mr.
Arthur B. Wing, a lessee; and Mr. and Mrs. J. W. Hugus, who
are lessees -- contending that the notification period on in-
creased rentals was too short, the proposed lease term of one
year is too short, and that the proposed rental rates are
excessive.

As to this last factor, the rental rates, as I have
already stated, were determined based on and in accordance
with the established rental policies of the Commission, which
in turn are based upon the appraised value of the land. It
is patent that any reduction in these rates would be
discriminatory to the balance of the Commission's lessees Statewide.

However, Mr. Chairman, you may wish to consider and comment on the first two objections, particularly with reference to the short period of notice and the proposed short period of lease, as it was contained in the recommendation that is before you.

GOV. ANDERSON: What happens at the end of the year? Do they have to get off?

MR. HORTIG: If the County requires the land.

GOV. ANDERSON: Do we know?

MR. HORTIG: No, we do not.

GOV. ANDERSON: In other words, at the end of the year the lease could be extended for another year or five years or something?

MR. HORTIG: This is correct.

MR. CRANSTON: The situation apparently is not quite as it was the last time we considered this, since the area near the bridge may not be needed for flood control purposes quite as early as was anticipated; is that correct?

MR. HORTIG: Westerly of the bridge, this is correct.

MR. CRANSTON: I'd like to stress also that the short notice situation that we became involved in was not due to Lands Commission procedures or policies, but was due to local circumstances in the County.
In view of the circumstances, I have asked the staff to prepare a recommendation which would permit continued occupancy of the ark sites westerly of the Bon Air Bridge under existing leases to December 31, 1966; and, secondly, new leases effective January 1, 1967 subject to termination on thirty days' notice at the rental rates specified in the agenda item before us. If you can do that...

MR. HORTIG: In lieu of the information before you on the agenda item, the goals you have just suggested could be accomplished through adoption of an alternative resolution reading:

"It is recommended that the Commission authorize the Executive Officer (1) to cancel the termination notices effective July 22, 1966 for ark sites 1, 2, 4, 5-A, 5-B, 6, 7, 7-A, 8, 9, 10, 11, 11-A, 12, and 13;

(Parenthetically, these are all ark sites located on Corte Madera Creek westerly of the Bon Air Bridge).

"(2) To issue termination notices for the aforelisted ark sites effective December 31, 1966;
(3) To issue new leases commencing on January 1, 1967 for a term of five years, subject to thirty-day termination, according to the rental schedule set forth below, with the rental rate to be paid annually in advance."

And these rental rates would be the same rental rates recommended in the agenda item before you.

The net accomplishment of adoption of this resolution would be that, in effect, the lessees who would be eligible for new leases are given six months' notice that the new leases will be necessary as of January 1, 1967. They
will have full knowledge of what the established rental policies of the Commission require, which would have been applicable January 1, 1966 after the original leases expired but which were not applied solely because at the time it was the desire of the County of Marin that these leases be canceled completely and everyone be removed from the property; and, finally, the effect of proposing to issue a lease for a term of five years, subject to earlier termination if necessary for the flood control project, precludes the problem of the lessees having to concern themselves over having to negotiate new leases annually if, in fact, Phase 2 of the flood control project should not be ready to go in a year, eighteen months or two years -- whatever the project development by Marin County actually requires should be met, and the lessees could know they were in occupancy and know what conditions they were facing until such time as the area is actually required in fact for the continuation of an authorized flood control project.

GOV. ANDERSON: Phase 2 automatically knocks this out?

MR. HORTIG: Phase 2 as it is currently designed would knock out these leases.

GOV. ANDERSON: If they changed already, is there a possibility they will go on indefinitely, five years or longer, before Phase 2 gets started?

MR. HORTIG: Probably not. If Phase 1 is actually
carried out under the funds already solicited, then Phase 2 is a necessary addition to the project, in order to complete the project.

GOV. ANDERSON: And there isn't any way of Phase 2 going into effect in any way while these people stay there beyond the eighteen months or two years?

MR. HORTIG: In all probability this would be physically impossible.

GOV. ANDERSON: So, in effect, what we are really talking about is giving them their present sites at the present rate to the end of the year, and then a lease that will probably go for two years at the new rate.

MR. HORTIG: A minimum of one year and possibly longer at the new rate. This depends, of course, on the augmentation of funds for the Federal contribution to the project, which requires a Congressional authorization under the Harbors and Rivers Control Act. These things are difficult to predict.

However, since the Federal Government did contribute the money for Phase 1, it is reasonable to expect that Phase 2 would be similarly authorized and in a similar manner, so the operation of construction could be continued, so contractors who might be successful in bidding Phase 1 would not have to move off and back in.

However, as you suggested, these deadlines do not appear to be deadlines, considering the fact we had the first
request from the City of Larkspur last August to the Lands
Commission that these leases be terminated and we are now
getting around to having those leases easterly of the Bon Air
Bridge terminated July 22nd.

There has been a considerable spread in time and
the lessees have continued in occupancy, therefore, on a month
to month tenancy; and this type of flexibility for time of
occupancy would be available to the ark site lessees westerly
of the Bon Air Bridge without in any way hazarding the project
insofar as the County of Marin, the U. S. Corps of Engineers,
and the State Flood Control project would be concerned.

GOV. ANDERSON: I have been trying to think from
the aspect of the lessees, too, that it would seem to me if
they are going to be there a short period of time we should
not raise them if they are going to be there only a year. If
they are going to be there two years, then I think the pro-
posal you have is reasonable. That's why I want to be some-
what assured. I realize you can't assure me definitely, but
it would seem to me from what experience you have had in the
past they would be allowed to stay there two years from the
first of the coming year.

Isn't this a reasonable assumption?

MR. HORTIG: This could be; this is correct. It
is a reasonable assumption and one would be surprised if
anything actually necessarily would bring in the operation
any earlier.
GOV. ANDERSON: If I make it clear, I am in favor of giving them the next months at this rate. My question is: Is the next period going to be as short as that? I think they are going to be there for another two years. If I am wrong, I would like to be told.

MR. HORTIG: No, sir. You are completely correct, Governor, and it is desirable that there be new leases issued at an appropriate time to bring these leases into the scale and proper control that is applied to all other State lessees for whatever period of time Statewide.

GOV. ANDERSON: But other State leases go longer than a year; and two years is short, too, so the people would have a chance to find another location.

MR. HORTIG: There are other leases that have only a year to run.

GOV. ANDERSON: Not for an ark site. An ark site is practically a home and not something you move around very quickly.

MR. HORTIG: This is correct. Of course, the equity in this situation has been the long number of years of occupancy at the low rental rate of initially $42 a year and finally $65 a year, which has been enjoyed by these people on the basis of occupying the lands in trespass in the first instance.

GOV. ANDERSON: It has been enjoyed by everybody in the State.
MR. HORTIG: No, sir. These were the lowest and these were not based on appraised value and not in accordance with the rental policies of the Commission now in effect and which are applicable on the majority of the existing leases - which is why, before the intervention of the flood control project, this same type of negotiation, new rental rates, would have been effective January 1966 but for the intervention of this flood control project by the County of Marin.

GOV. ANDERSON: Just so I get it clear now, we are in a sense raising their rental fee from roughly $6 a month to roughly $35 a month in rent figures, in addition to the rental fee they do have to pay the County in a property tax or personal property tax.

MR. HORTIG: Personal property tax.

GOV. ANDERSON: And do they go in there and assess that at a fairly high level?

MR. HORTIG: The taxes have been levied on the improvements on the sites at about $100 a year. Now, this question patently could only be answered specifically by the County Assessor of Marin County; but the leasehold interest and the personal property are considered in the assessment rolls by the County Assessor of Marin County.

GOV. ANDERSON: I'll move the new recommendation.

MR. CRANSTON: I second the motion.

Is there any discussion?

MRS. WINTER: I am Mrs. Harry Winter, owner of
Ark 5-B. I have been an owner of that ark for forty-two years. I not only pay this State land lease; I pay the tax of $96.57 a year and the State Lands Commission lease has raised. I paid $70 last year. I didn't know whether I was supposed to pay $65 or $70. I understand what he said was $65 a year. I guess I overpaid $5, but anyway I have been raised from $65 a year to $156 a year. Some of them have been raised to $458 a year from $65 a year, and I was wondering why when we only have such a short time to live there we are being raised.

MR. CRANSTON: Well, as indicated in the earlier testimony, we are seeking to maintain the lease arrangements on a par with similar arrangements, those that can be compared to these elsewhere in the State.

GOV. ANDERSON: Now, you are aware the present proposal keeps the present rate until the first of this coming year?

MRS. WINTER: According to the way I read my lease, I have a copy of my lease now, the change goes in on January (sic) 22, to pay the new lease from that date. Would you like to see my copy?

GOV. ANDERSON: The proposal we just made is that the people on the present ark sites continue their present rate until the first of this coming year.

MRS. WINTER: I didn't know that.

GOV. ANDERSON: This is the motion we just made. This is a kind of compromise, taking into consideration your
problem and also our problem; and our feeling is under the present lease that the ark sites should not be raised until the first of the coming year. Then, at that time, you will have the alternative of either getting out or signing up to five-year lease, with an option on our part where we can give an eviction notice at any time when the County tells us that they want to get on with the flood control project -- which Mr. Hortig tells me will be at least two years.

MR. HORTIG: The five-year period was used, I might explain, because this is the normal re-appraisal period for leases by the State Lands Commission; and again, in order to standardize, at the end of five years, if there were then occupancy in fact, the ground rent should be re-appraised again at that time -- although these leases almost certainly will not last that long, but if, for any unforeseen circumstance, Phase 2 of the project should not go forward in that period of time, this would be to the advantage of the present ark site owners, knowing that they have a firm lease for this period of time depending only on what the requirements are for continuing with the flood control project.

MRS. WINTER: Now, there is another problem, sir. I am getting out, as you say, after the termination of the lease. There is no way possible to remove those arks because of the bridge and because of the Hillview Gardens encroaching on the land. It is absolutely impossible to get a bathtub out, not saying you could get your home out of there.
Another thing is this — I am getting a little nervous; I am getting confused here. How are we going to get our homes out of there? As I said, I have been there forty-two years and these are just things that came up within the last few years. They have allowed these things to happen so that it is impossible and it tells us on our lease that we have to move our property off or leave it.

I have $8,000 actual cash, besides what we paid. We bought the property in 1924 for $300. In 1924 that was a lot of money; and in the course of time since 1952 we have put in $8,000 in that property. So you see it is not just an ark. It's a home. My living room is sixteen by twenty-eight; I have three bedrooms, a full kitchen, a full breakfast room, and a bath. So they are not small by any means.

What are we going to do about getting out of there?

MR. HORTIG: Mr. Chairman, may I respond? This, again, of course, has been reviewed extensively before the State Lands Commission and in other public hearings that were held at San Rafael; and the Office of the Attorney General has reported to the State Lands Commission that the State Lands Commission has neither responsibility nor authority to act with respect to this matter. This is a local problem and the only suggestion that can be made is that a solution be made locally in connection with the actual conduct of the operations and the problem on behalf of the County in connection with planning Phase 2 of the project.
MRS. WINTER: But this is in our lease. This State Lands lease has something to do with that. This is written in here that we either remove the property or leave it. We can't remove them, so how is it going to be?

GOV. ANDERSON: Frank, is this a local situation? You said it is local. I think there was one time an assumption or statement on the County's behalf that they had some responsibility there, and a bill was introduced in the Legislature and that was turned down.

Is there any practical local solution? They don't have anyone they can sue or come back to for solving their problem.

MR. HORTIG: Well, patently, since the local organizations indicated that this was a local problem and that morally and equitably compensation was possibly due for removal or to compensate for loss of these ark sites, with the rejection by the Senate Finance Committee of the bill which proposed that the State pay this compensation, this has referred the problem to the local level and to the same officials who felt that there were, as I say, moral and equitable obligations for compensation to these ark site lessees where their property was being taken for this flood control project.

Additionally, we have a letter from the City of Larkspur stating that the City of Larkspur stands willing to demolish the arks on State Lands Commission property above the Bon Air Bridge whenever they become vacant; that it is to
the advantage of the City of Larkspur to see that this is accomplished so as to prevent trespassing, and assuring us of their cooperation.

GOV. ANDERSON: Demolition is one thing....

MR. HORTIG: But the problem of compensation for having taken this property to demolish it is the problem that is the local problem; and, as I stated, the Office of the Attorney General has stated that the Lands Commission has 'either responsibility nor authority in this particular matter.

MR. CRANSTON: We have sought to do what we could, as you know.

MRS. WINTER: I know. You have been very kind to us.

MR. CRANSTON: I think you raise here a matter we do not have authority to act on.

MR. SHAPIRO: May I say something? My name is Carl Shapiro. I am a partner in Hallinan, Shapiro, Hallinan and Rice. I represent some twenty-one ark owners along the canal, some of whom are affected by this present proposal, some of whom are not under this immediate proposal.

I think you are begging the issue when you say it is not your responsibility and it is the County's responsibility or somebody else's responsibility, for two reasons: You are putting in these leases the most harsh landlord provisions that I in my fifteen or sixteen years of practice have ever seen. I have never seen a private land-owner
who put such provisions as are in these leases and contrary
to all leases I have seen the State of California execute.

The second reason is that it is the power of the
State Lands Commission over these people which allows the
various government agencies like the Flood Control District
and the County of Marin and the Larkspur City Council to
evict them without possibility of compensation for their
homes and for the investment which they have put in them.

These people have paid taxes in the County of Marin.
They pay a tax on their possessory interest, as well as their
real property. They have lived there, been constructive resi-
dents in this County; and now your power is being used to take
them off the land, and if you are using your power and your
authority to take them off the land, it should not be done
without some compensation for them and for the investments
which they have made.

It seems to me if you are going to make a deal with
the Flood Control District and the City of Larkspur so you are
going to use the State power of eminent domain or the State
power of eviction to get rid of these people, then you should
use the State power also to help them and make this a condi-
tion of any agreement you make with the Flood Control District
or the City of Larkspur or any government agency, and make a
specific condition that they compensate the people for the
property which is being taken for public use.

Now, I would make a suggestion, if I may be so bold,
and I might say to you that the people in Marin County are
aroused over this behavior in a way which I in twenty-five
years in that County have never seen them aroused. The
Board of Supervisors has suddenly taken an interest in this
matter; the newspapers carry a leading article every day
about the State Lands Commission and the people in the arks.
Almost everybody in the County is familiar with what is hap-
pening, and if this much antagonism and antipathy is shown
toward a government agency, the chances are the government
agency has stepped on somebody's toes.

I would make this suggestion, if I may be so bold,
and that is that the present month to month tenancies which
arose when the leases were terminated be continued; that no
action whatsoever be taken on these leases until after the
first of the year; and that the State Lands Commission then
be in a position to determine from the County of Marin
exactly when they are going to do this.

These people are entitled to some consideration.
Mrs. Winters has lived there forty-two years. These people
have built beautiful homes on this creek. They are not house
boats. Many of them are houses which are as attractive as
any house in the County, and they are entitled to have an
answer to this simple question; and you, as the government
of California, can get it. I think it is about time that
the State Lands Commission stand up to the Flood Control
District: "You tell us when you want these people out
specifically. Don't leave these people out on a limb."

MR. CRANSTON: I'd like to ask you how there can possibly be resentment directed up to this point against the State Lands Commission, since its entire course of action has been to delay the eviction, to seek to accommodate these people -- and the lady that has spoken is shaking her head; she knows we have done our best to assist these people -- and prevent any local agency to put them out without being heard, and sympathetic action and effective action by the Commission having been taken.

What possible resentment can be caused against the State Lands Commission?

MR. SHAPIRO: All I ask you, Mr. Chairman, is who sent this letter giving five days' notice? Who raised the rent? Who is the one who is giving the eviction notices? Who is the one, in whose name were these acts taken?

MR. CRANSTON: These were acts taken by the Lands Commission, requested by local agencies who stated they have a serious problem in the County. No steps have been taken and the Lands Commission has gone through long meetings to delay action.

MR. SHAPIRO: All I can say, Mr. Chairman -- the people in Marin County who are concerned with them, some of them anyway, only see in whose name these acts are taken. They only see the power of the State of California being directed against them. They don't see the Flood Control
District doing this, and the Flood Control District doesn't do this because the Flood Control District would have to reimburse them for the value of the property taken.

If this State Lands Commission stood up and said to the Flood Control District, "You may condemn their sewer line and you may condemn their possessory interest for flood control purposes," then the courts of Marin County would have to assess and evaluate this property so these people would be paid for the condemnation which is taking place through some devious device of the ownership of the land.

They have an interest. They have a possessory interest. It was possessory enough so the Marin County Assessor taxes it. If Mrs. Winter is paying $100 a year, that means her property is appraised at approximately thirty-two hundred dollars, her possessory interest. That's just a tax appraisal and this is, I am sure, common.

Now, you can't blame the Flood Control District for raising the rents and say it is a realistic appraisal of the value of real property where you have a tenancy which can be terminated at any time and you have only a ground lease -- and it is not a full lease, either. Most of these people are partly on State land and partly private land, and are paying two landlords. This land has not gone up 600% in the last six months or ten years.

The land has depreciated in value as far as the interest these people have. I think it is ridiculous to say,
"Mrs. Winter, your land has gone up 600%," when she is going
to have to move out today or tomorrow.

I say the State Lands Commission has a duty to the
public of Marin County and it also has a duty to the people
with whom it has dealt for forty years in this matter; and if
the State Lands Commission is willing to exercise its duty to
the people who are there and their position as a landlord to
protect as many interests as it is possible to protect, that
the proper solution would be at this time to take only one
simple act -- and that is, no action. Just leave it as it is
until January and then re-evaluate the picture.

By that time you will have a better idea of the
real value of this property. By that time you may be given
an idea from the County of Marin what their needs are as a
County. This is the only thing I can think of which will
leave things in status quo and not create an unbelievable
burden on the people who are living there.

GOV. ANDERSON: What happens, Frank, if we leave
it like it is and do it on a month to month basis to the end
of the year?

MR. HORTIG: As to the ark sites west of Bon Air
Bridge, this is the effect of the resolution.

GOV. ANDERSON: No, no. You are suggesting a
lease ... 

MR. HORTIG: No. As to the ark sites west of Bon
Air Bridge, your resolution already leaves them under the
existing lease in effect on a month to month tenancy basis, subject to sixty days notice to terminate, effective to January 1967. So the practical result would be identical with what the gentleman suggested.

GOV. ANDERSON: What would happen if we went like that to the first of the year and took another look at it the first of the year, to see if we can determine if their land has appreciated enough under these circumstances to raise their rent?

MR. HORTIG: The re-appraisals have already been made and so it is factual; and I might suggest entirely equitable.

For the record, it should be noted that a letter of objection was also received -- a protest against ark site abandonment -- from Gerda Weldon. Miss Weldon is not a lessee of the State, actually resides on private property; and, parenthetically, she notes she has been making monthly rental payments on the private property which total $600 a year and has for the last several years past, so far as equitable rents...

GOV. ANDERSON: Is she on our land?

MR. HORTIG: No.

GOV. ANDERSON: Are the flood people going to take her property?

MR. HORTIG: Yes.

GOV. ANDERSON: Will they compensate her for her Ark?
MR. HORTIG: No, sir -- because the owner of the private property is requiring all money in condemnation to come to him. He also gives all improvements and he will decide how they are removed and is requiring in his condemnation that the County clear the property. The private parties on the property are actually suing the lessee to do this.

So the State Lands Commission's position has been of high equity and high consideration for all of the people insofar as ark sites that have been located on State lands.

GOV. ANDERSON: Frank, I would be unhappy if I had moved into an ark site lease agreement of some sort forty-two years ago, when they thought maybe I could move it off some time, and I lived there and lived up to all requirements of the lease and then the City or County or governmental agencies boxed me in so I couldn't get out under any circumstances, and now the Flood Control and the County and the City and State come together with their various powers and say, "You can't get out."

I feel they have a real gripe. I think we should help to see what we could do. That's why I asked the question earlier: Is there a local solution? I don't see a local solution in this.

MR. CRANSTON: I'd like, along the lines of what Glenn has talked about, to have the comment of the Attorney General along the lines suggested, which would leave it in
hands of the Flood Control.

MR. TAYLOR: Mr. Cranston, there is no legal basis on which compensation can be given to these lessees. I believe you personally and Governor Anderson supported legislation which would have given compensation. This is not a compensable interest in terms of our Constitution.

GOV. ANDERSON: You mean when the Flood Control District comes in and takes over property they cannot pay for that property?

MR. CRANSTON: This is a possessory interest. It is not property you own.

Could you comment on this legal question?

MR. SHAPIRO: Yes.

MR. CRANSTON: Are you an attorney? Could you comment on this?

MR. SHAPIRO: Yes. I think there are two factors involved. One is whether or not this is a compensable interest, and I don't think it is as clear as counsel would have you think to say that an interest, which is an interest in real property and consists of a possessory interest taxable under County taxing procedures and is also personal property in the form of a home located with permission and removable, is not compensable under the Condemnation Act.

It seems to me none of us seem to have all the facts, the people along the canal have all the facts, between the State Lands Commission and the Flood Control District and
the City of Larkspur; but you were acting under terms of an
agreement with the Flood Control District that you will see
the homes are removed as part of their project. You could
insist that such a provision be written into this contract
that would make the Flood Control District act equitably
with these people. If you are acting under an agreement with
the District, you will do this, it seems to me. The agree-
ment should contain something along the lines we have talked
about towards compensation, whether or not it is a condem-
able interest. If it is an agreement, it doesn't make any
difference. It is a condition they would have to accept if
they want the homes moved.

Don't forget the excuse given these people for
justifying the removal of their homes is to some extent they
are removing a sewer, which these people put in and just this
year finished paying for. They paid $100 a year for the last
ten years. This last year concluded the last of the payments
and the justification you are giving for the evictions is
that the sewer line has to be removed.

MR. TAYLOR: As to this last point, you recall you
requested the County to see if they couldn't either relocate
the sewer line or make adjustment. The County has made the
adjustment; the sewer line is going to stay in.

Your recommended action is to cancel the notice of
termination, so these people will be allowed to remain; so I
believe to that point we have taken care of everything.
As to his first point, as to an agreement so that the possessory interest could be compensated for under an agreement, this is a joint Federal-State project. The Federal Government pays the money for improvement; the State pays for the acquisition of the property. The State can only pay for a compensable interest. The Water Resources Agency is the one who pays the County for the reimbursable cost of land and it cannot make an appropriation to the County for an interest that is not compensable.

We have two statutes. There is one statute in the Highways Code. There are special statutes on the Feather River projects, where on a case by case basis terminable leases of this sort have by specific authorization been allowed to be compensated for.

However, this sort of bill was introduced in the Senate. There was a hearing and the bill was killed at the end of that hearing. I have spent a number of hours on the phone with attorneys with the Water Resources Agency and the attorneys in our Office who represent the Water Resources Agency, and we can come up with no theories where we can come up with compensation.

GOV. ANDERSON: The Flood Control District can't consider this?

MR. TAYLOR: Not for compensation without statutory authorization. Again, they would get in trouble with the Gift Act. They don't have any authorization, either directly
This is a joint Federal-State project. We have done everything we could; and you were represented in its favor and the bill was killed. There isn't much more we could have done. As a matter of fact, we have done far more.

MR. HENDRICKS: Tom Hendricks from the County Counsel's office in Marin County.

I hate to have a surplus of legal advice for you here, but it would seem, as Mr. Taylor has stated, that as the law is presently written there can be no compensation for the people above the Bon Air Bridge.

However, due to the fact that this bill was presented and sponsored by the Marin County Supervisors through Assemblyman Bagley and Senator McCarthy in a special session and also due to the fact that these people are prevented from moving their arks, probably this bill will be re-introduced in the regular session because of this special factor and will be again brought before the Senate Finance Committee.

If we get special legislation to pay the people who live above the Bon Air Bridge, Marin County or the Flood Control District is more than happy to do this, if it is authorized by State law -- but currently it is not. There is no way, as Mr. Taylor has stated, that we can enter into any agreements to compensate these people under the law as it is constituted.

MRS. WINTER: May I say this in addition? There
has been a precedent of paying people on this Corte Madera Creek. When they put the Bon Air Bridge in, a Mr. Wing was compensated by the fact that they moved his house from where it was standing to its present position. I am not clear on the facts. One ark had been paid $3,000 because of removal and if one can be paid by moving it, and so forth, I think we all should be paid, don't you?

GOV. ANDERSON: I'd like to change the motion that I made earlier that implied a new lease the first of the year would increase rents.

I'd like to see us go on, continue for the balance of the year at the present rate, and then if there is indication a bill might be introduced that would give them compensation or other things, we can take a look at a possible rent increase at that time -- although my present inclination is if these people are going to be kicked off and their property destroyed, we surely shouldn't raise their rent. My feeling is that even after the first of the year their rent should not be raised.

I don't know what kind of motion this should be because we are in a difficult area. If you could state that...

MR. HORTIG: This is eminently simple, gentlemen. I think it could be accomplished by the Commission authorizing the Executive Officer to cancel the termination notices effective January 22, 1966 for ark sites 1, 2, 4, 5-A, 5-B, 6, 7, 7-A, 8, 9, 10, 11, 11-A, 12, and 13.
Under these circumstances, those lessees will continue on a month to month occupancy in ark sites west of Bon Air Bridge until further action by the State Lands Commission.

GOV. ANDERSON: Then it would be on a month to month basis. We could be assured that for any new eviction notices or orders that would be sent out, we would be alerted to this fact so we could discuss it at that time?

MR. HORTIG: Yes, sir.

MR. CRANSTON: It is quite possible also that delay would carry on to the point where it would be possible in a regular session of the Legislature -- rather than in a budget session, where it is rather difficult to have a full hearing of this type -- that there could be legislation next year for compensation to the residents.

Would you make that motion?

GOV. ANDERSON: I'll make that motion.

MR. CRANSTON: The motion is made as stated and is seconded. Is there any further discussion? (No response)

If not, that is the order.

Item 19: Reaffirm action taken April 28, 1965, setting five cents per cubic yard as amount to be paid by the Marin County Flood Control and Water Conservation District for dredging approximately 380,000 cubic yards of material from Corte Madera Creek and Corte Madera Canal, Marin County.

MR. HORTIG: Mr. Chairman, in conjunction with the original authorization by the Commission to issue a right-of-
way to the Marin County Flood Control and Water Conservation District for the construction of the project which was the primary subject of discussion in the preceding item, there was also authorization given to dredge approximately 380,000 cubic yards of material from the creek and canal, with a royalty of five cents per cubic yard to be paid.

On June 2, 1966 a letter was received from Marin County, requesting no charge be paid for the dredged material deposited on and for the benefit of private lands, as the owner of the private lands consents to the deposit of the material but refuses to pay for the dredged material.

This is really, again, a local problem in that while Section 6303 of the Public Resources Code provides in part:

"When a contractor or permittee has a contract with or a permit from ... any authorized public agency to dredge .... tide or submerged lands, ... creeks, ... for the improvement of navigation, reclamation, or flood control, the Commission may, when in the best interests of the State, allow such contractor or permittee to have sand, gravel, or other spoils dredged from the sovereign lands of the State located within the areas specified in such contract or permit upon such terms and conditions and for such consideration as will be in the best interests of the State."

Now, the current specified minimum royalty for dredged material deposited on private lands is five cents per cubic yard, hence this value was assessed in connection with the proposed permit. For good grade fill material it is sixteen cents per cubic yard.
Again, from the Public Resources Code, royalty paid for dredged material would be deposited in the General Fund. So there is a question of constitutionality if dredged material from State lands were allowed to be placed on private lands without payment of royalty and it could be considered an unauthorized subvention to the Marin County Flood Control and Water Conservation District.

Therefore, it is recommended the Commission reaffirm the action taken on April 28, 1966, Minute Item 44, Page 12,625, to provide for royalty of five cents per cubic yard for any material dredged from the project which is so placed as to benefit private lands.

I am sure the County Counsel of Marin County would like to make a statement to the contrary.

MR. HENDRICKS: If I may, Mr. Chairman. Gentlemen, I do not want to take very much of your time because I know you are busy and this has been a long session.

We have had many, many sessions over Corte Madera Creek. The basic problem here and the problem that Mr. Hortig did not mention is the fact that if we are, or Marin County Flood Control and Water Conservation District is assessed five cents per cubic yard royalty, this royalty will be required to be paid not by private landowners, but by the taxpayers of the Marin County Flood Control and Water Conservation District.

The reasons for this are rather complex. The first
problem is there is only a certain amount of land in the Corte Madera Creek on which the fill can be placed. The Army Corps of Engineers has estimated that in order to remove this fill to another location, to put it out in a potato patch offshore Marin County or elsewhere, is going to cost something like fifty cents a cubic yard. This cost also will have to be paid by the taxpayers of the Marin County Flood Control and Water Conservation District.

The representatives of that District have negotiated at great length with the proposed people who are to receive the fill. We have an informal commitment from a Mr. Musey (phonetic) to take the fill. He has agreed to that and perhaps he will pay two and one-half cents for it, but he has not committed himself to that.

So what this means is this: That the Flood Control District, the taxpayers of the Flood Control District, are going to have to pay the money, as well as the other expenses themselves, not the private landowners.

Under Section 6303, which deals with the fact that your Commission can charge such rates as is deemed in the best interests of the State, I don't think anyone here can say that having the taxpayers of a public district pay five cents a cubic yard for bay mud back into the State is to the best interests of the State of California.

This Commission has in the past not strictly adhered to the five cents per cubic yard charge. In fact,
in the Department of Public Works permit issued in 1962 as to
Bel Marin Keys, at least part of that spoil material, a major-
ity of it went on public lands but a great part of it went on
private lands; and there was no royalty paid. You can say
the Department of Parks and Recreation paid no royalty again
because the taxpayers were going to have to pay for the royal-
ty if it was levied.

Mr. Hortig mentioned that the Commission is current-
ly getting sixteen cents per cubic yard for good grade fill;
but this, gentlemen, is not good grade fill. This is bay mud.
If bay mud is placed on property it means the property is un-
usable for one to two years. I think we have been fortunate
in getting people to consent to put the mud on their property.

MR. CRANSTON: What do you recommend we do?

MR. HENDRICKS: What I am recommending you do, Mr.
Chairman, is to charge no royalty to the Marin County Flood
Control and Water Conservation District, except in the occa-
sion where we can get a royalty paid by the private land-
owners.

I mentioned Mr. Musey said he might pay two and one-
half cents. If we can get this royalty, then it will be paid
to the State Lands Commission; but it is our position that
this royalty should not be paid by the taxpayers but should be
paid by the private landowners and I think that was the intent
of the action taken on April 28th.

GOV. ANDERSON: Frank, so I understand what we are
talking about, he refers to this bay mud and you, in your
description used the description of good grade fill material.

MR. HORTIG: At sixteen cents.

GOV. ANDERSON: In other words, this is not good
grade fill material; this is bay mud?

MR. HORTIG: Yes, sir.

GOV. ANDERSON: When was the last time you sold bay
mud?

MR. HORTIG: Probably in connection with a fill by
Finley-Carpenter in Marin County as of July 1964, where the
fill was to be deposited on private land, royalty paid at
five cents; also Granite Construction Company -- this was
better gravel and we got nine cents in 1965.

GOV. ANDERSON: But that other was bay mud?

MR. HORTIG: It was essentially the same type of
material and was for the benefit of privately-owned property.

I think this has to be set in context for the
Commission. This is, as you heard, a joint project in which
it is estimated $3,600,000 of the construction costs will come
from the Federal Government, compensation for right-of-way
acquisition of about a million dollars will come from the
State of California; and yet Marin County is here contending
that they should not pay $15,000, which would be about the
total amount at five cents a cubic yard, as their local con-
tribution to a project of this order of magnitude that is
already being so heavily supported by the Federal and State
MR. HENDRICKS: Of course, Mr. Hortig, you realize this is not the only expense the Marin County Flood Control and Water Conservation District is being put to.

MR. HORTIG: I appreciate that, but it will be a minimum contribution as compared to the Federal and State costs, aside from the problem that the State Lands Commission is carrying out its own established policies uniformly in accordance with the statute and the Constitution. We have had taxpayer suits for lesser items than this.

MR. HENDRICKS: I am aware of that. I think, though, that the problem — the quality of the fill is more or less irrelevant. The question is the fact that the taxpayers of this Flood Control District are going to have to pay for it. I don't think that is, in fact, the policy of this Commission. I don't think that is the intent of Section 6303.

We are faced with a rather embarrassing alternative because if we cannot get the royalty reduced, as I said to such terms that if we can collect from the property owner we will reimburse the State Lands Commission, we are going to have to ask this Commission to let us have an assignment of a lease of Mr. Nels Schultz, who is paying a one cent royalty per cubic yard for bay mud.

I might point out Mr. Schultz is not receiving any of the mud here. He is doing this because he realizes the
District is in somewhat of a bind. I think this way ....

GOV. ANDERSON: I missed this last point. If we adhere to our recommendation here, then what is your next step you are going to ask us?

MR. HENDRICKS: Our next request would be to allow Mr. Schultz to assign his right to dredge bay mud. I gave you a copy of the letter there. This was granted to him in 1955. He is currently paying one cent per cubic yard and this would reduce, at least, the obligation of the taxpayers in the Flood Control District; and as I pointed out, he is not getting any of the fill.

As to the Flood Control District, I can promise you that the staff has been working in the past, attempting to get five cents per cubic yard from the people who are going to get the fill. We have just not been successful. I guess we are here admitting our failure, asking your help.

MR. HORTIG: May I comment, Mr. Chairman? The lease referred to, which Mr. Hendricks suggests might be available for assignment, probably would not be. This was issued pursuant to competitive public bidding on March 31, 1955. The minimum specified was one cent a yard for bay mud and this was also the bid. It is a bid for a specific new location and, in view of the fact that it was a bid for this location, it is extremely doubtful that this lease would be assignable to be used at another location.

Also, as I pointed out, it is eleven years old.
MR. HENDRICKS: Excuse me again. Just to dredge from this particular location would result in a reduction of the royalty that is payable to the State Lands Commission except by the taxpayers.

MR. HORTIG: Except that the Schultz Investment Company is not authorized to dredge in Corte Madera Creek at the location you desire.

GOV. ANDERSON: Then if we take the staff's recommendation, your next step will be to bring this Schultz assignment in.

What would our reaction be then?

MR. HORTIG: We would have to consider its legality and whether it could be recommended to the Commission.

GOV. ANDERSON: Perhaps the best thing is for us to take the recommendation of our staff and have you make that request, and we will cross that bridge when we come to it.

I move it.

MR. CRANSTON: I second the motion. Is there anything further to discuss? (No response) If not, it is so ordered. Having maybe done something to improve our status in Marin County in Item 18, I hope our name is not mud because of Item 19.

Item 20: Approve the Third-Quarter Drilling Schedule for the 1966 Plan of Development and Operations and Budget, and the bottom-hole location procedure, Long Beach Unit, Wilmington Oil Field, Los Angeles County.
Motion is in order.

GOV. ANDERSON: I so move.

MR. CRANSTON: Moved, seconded, so ordered.

Item 21: Approve the Seventh Modification of the 1966 Plan of Development and Operations and Budget, Long Beach Unit, Wilmington Oil Field, Los Angeles County, providing for various changes in the 1966 Plan of Development and Operations and Budget as outlined in THUMS Approval Request 23-66.

GOV. ANDERSON: I move it.

MR. CRANSTON: Moved, seconded, so ordered.

(ITEM 22 is contained in a separate section, pages 1 through 29)

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CERTIFICATE OF REPORTER

I, LOUISE H. LILLICO, reporter for the Office of Administrative Procedure, hereby certify that the foregoing pages one through fifty-one and also pages one through twenty-nine on Item 22 as contained in a separate section contain a full, true, and accurate transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION at Los Angeles, California, on July 12, 1966.

Dated: Los Angeles, California, July 15, 1966.

Louise H. Lillico
ITEM 22: Proposed oil and gas lease, tide and submerged lands, Santa Barbara County, vicinity of San Miguel Island, W. O. 6125 (Parcel 41).
MR. CRANSTON: Item 22 -- Proposed oil and gas lease, tide and submerged lands, Santa Barbara County, vicinity of San Miguel Island, W.O. 6125 (Parcel 41).

(Industry's response to Commission's request for guarantees, pursuant to request made by the Commission at its meeting of June 28, 1966.)

Is there a spokesman here on that point?

MR. HORTIG: Yes. May suggest, Mr. Chairman, that in view of the fact there are representatives here for Western Oil and Gas Association who wish to report on the general problems, as well as reports of the high bidders for the parcels which were under consideration, and specifically Parcel 41 under consideration today, you might call on the representative of the Association and then the bidders will wish to make specific representations.

MR. CRANSTON: Is there an Association representative here?

MR. WRIGHT: Mr. Chairman and members of the Commission, may the record show that my name is Henry W. Wright, Manager, Land and Tax Department, Western Oil and Gas Association, a particular association representing companies here in the west who produce, market and refine more than ninety percent of all the crude oil and gas of members operating offshore the United States and Mexican border.
Some months ago your Commission acted upon a recommendation from its staff that six offshore parcels be offered around the western end of San Miguel Island. In offering these parcels there was no reference to any requirement which would make it mandatory that operators conduct all surface operations at least one mile from shore. However, following a call for bids, the receipt of bids on three parcels and the opening of these bids, the Commission now asks that a one-mile limitation be placed on the leases and that onshore facilities be prohibited.

Inasmuch as companies who have bid on Parcels 41, 45, and 46 did so with the understanding that there would be no restrictions as to where a potential offshore platform might be located, it seems unnecessary for the Commission to now ask them to consent to a one-mile setback. The economics on which the bids were based would be upset by this "after the fact" requirement. As an industry we believe that this requirement is unnecessary at San Miguel Island, and also express the opinion that the fears of the outdoor club representative are groundless.

I am sure that our member companies who follow me will briefly and pointedly make their views known to you.

Beyond this, our industry is most concerned -- we feel we are at a turning point in the matter of oil and gas leasing and would like to set the record straight on representations made by the Sierra Club before this Commission on June 28, 1968.
in that at that meeting you were told:

(1) that offshore oil drilling is harmful to the marine habitat, and the habitat surrounding the western one-third of San Miguel is of such an unusual nature that it must be preserved by precluding offshore drilling closer than one mile from shore;

(2) You were further told that a national park, embracing all of the Channel Islands, including San Miguel, was imminent and there was wide support for the creation of such a park not only in the County of Santa Barbara but in the Congress of the United States;

(3) You were also told that the master plan for the County of Santa Barbara would be circumvented by any but park use of San Miguel;

(4) Further, that the State Lands Commission must make sure that no onshore oil processing facilities are constructed on the island; and

(5) That the sea lion and sea elephant rookery must not be disturbed by offshore oil drilling or any type of construction work.

As an industry, we have read and re-read the transcript of this meeting and the presentation made by the outdoor club representative and we find these statements of the Sierra Club to be confusing and a curious mixture of statements. I believe, in all fairness to the members of the Commission, you must have all the facts before you so that you can
make a decision which could have a long-lasting effect on the leasing program of the State of California.

First, let's make one thing very clear:

Offshore oil drilling enhances the marine habitat. This fact is borne out by a comprehensive two-year study conducted by California's Department of Fish and Game, covering a number of offshore platforms on State of California oil and gas leases. Qualified marine biologists from the Department were on platforms for a number of months following drilling operations. In most instances there was no marine habitat or marine life prior to the erection of the oil and gas structure. To quote from Fish and Game's report, Offshore Oil Drilling, Its Effect Upon the Marine Environment, we note the following -- and I am quoting:

"During the study there was no evidence of deleterious effects from any part of the operation. The entire operation was very clean and the island towers served to enhance the habitat. Many fishes have been attracted to the installations and a heavy encrustation of various organisms has developed on the structures. This encrustation includes such animals as kelp scallops, barnacles, and mussels, and has added greatly to the available fish food.

"With regard to the question (still quoting) this investigation set out to answer, we can state at this time that the changes in marine habitat brought about by establishing offshore oil drilling installations were generally beneficial to the flora and fauna."

I am not, generally speaking, an expert on the flora and fauna; but those found in the westerly one-third of San Miguel Island are interesting and far from unique. They are
found both above and below Point Conception and this mixture
is a result of the intermingling of different ocean currents
in the vicinity of Point Conception. Similar, if not exactly
the same, flora and fauna are to be found in waters surround-
ing Santa Rosa, Santa Cruz and San Nicolas Islands, and, of
course, at Point Conception.

There has been much discussion about sea elephants
and sea lions. The rookery for sea elephants and sea lions
is located at the extreme western end of San Miguel Island.
On the basis of the bids received by the Commission, the
parcels on which there is evidence of oil industry interest
are not located near the western tip of the island. No bids
were received on that area.

The hardiness of sea elephants and sea lions is
impressive when you stop to consider that they have flourish-
ed in the vicinity of an island that has for the past twenty-
five years been used extensively by the Navy as a bombing
range, aerial gunnery range, shore bombardment area, and most
recently as a training site for naval aviators in the use of
Bullpup missiles. Naval aviators make firing runs on targets
moored in the near-shore waters -- for the most part in Cuyler
Harbor. A danger zone was recently created covering the
eastern two-thirds of the island and it was created so as to
embrace a three-mile band of State-owned submerged land
around that portion of the island.

I submit that the adverse effect on the flora
and fauna of just one of the dozen missiles fired monthly
is far, far greater than that from any oil operation that
might be contemplated.

At the present time there is no legislation before
the Congress to create a Channel Islands National Park or a
recreational area. Over the past ten years three bills have
been introduced to accomplish this end. True, responsible
legislators have considered proposals in detail, but no legis-
lation has been enacted and now we find recent press reports
in Santa Barbara indicate that there is increasing disenchant-
ment in the park project at the Channel Islands. The general
inaccessibility of the islands, particularly San Miguel, has
led to the view that there are other areas in the county far
more suitable for park use. There is growing sentiment that
a portion of the Hollister Ranch be acquired as a national
recreation area, also that existing State parks within the
county be enlarged to handle the growing year-round demand by
the public.

If a national park or recreation area were created
at some future time, our operations off the southern Cali-
ifornia coast would not affect their operations. We operate
compatibly with many of these national recreation areas and na-
tional seashores administered by the National Park Service.
There is both onshore and offshore production along Padre
Island, which is a national seashore near the well developed
resort area of Corpus Christi, Texas.
Just two weeks ago the U. S. Senate Interior Committee's Parks and Recreation Subcommittee told us they would make it crystal-clear in the proposed report on the Oregon Dunes National Seashore that offshore oil pipelines could be run beneath the seashore and every encouragement given to the development of existing State and Federal offshore leases adjacent to the proposed seashore.

It was unfortunate that on June 28th San Miguel Island was somehow classified as within the county's master plan as a national park. I quote from the county's master plan:

"San Miguel Island, the westernmost island, is buffeted by strong westerly winds and is surrounded by dangerous reefs. It formerly was used as sheep grazing land, but in recent years the only significant habitation of the island has been occasional use by the United States Navy."

Continuing to quote:

"The general plan of the County of Santa Barbara, therefore, proposes the continuation of the present land policies on the islands; that they be used for agricultural and open uses at least until that time when detailed studies can be prepared to determine what areas, if any, are appropriate for development for recreational or other purposes."

Now, although it may properly be the concern of the State Lands Commission as to whether onshore oil facilities are constructed on San Miguel Island, the fact is, gentlemen, that the land is simply not within your jurisdiction. San Miguel has been the property of the Federal Government since the Treaty of Guadalupe Hidalgo 116 years ago and has been
for the last thirty years under the full direction and control of the Navy Department. If oil production is ever achieved on the leases offered by your Commission, the operators will be required, if they intend to process oil onshore, to work out an agreement with the Navy Department -- and that should be an interesting meeting.

It has been my pleasure and assignment over the past few months to talk to thousands of individuals in Santa Barbara, Ventura and San Luis Obispo counties. They are not concerned that offshore oil is going to impair their coastal esthetics, for existing offshore operations which you gentlemen have put in the water have proved that such is not the case. They are interested in seeing that the State encourages development of its natural resources and are encouraged that the revenue received by the State is used to help underwrite the understandably growing costs to administer the State of California. As to recreational areas, they are interested in locations to which they can drive with their families. San Miguel Island does not meet this specification.

Imagine yourself taking your family to an island described by Mr. Duncan Gleason in his book The Islands and Ports of California. He says, and I quote:

"San Miguel, a barren wind-swept mesa, lies three miles to the west of Santa Rosa Island across San Miguel Passage. . . . The waters here are said to be the roughest on the California coast, because of the meeting of cross currents and high winds that whip around Point Conception to vent their force on San Miguel."
"Now the island that is being blown into the sea by the sixty-mile gales will be further blasted away by guided missiles and aerial bombs. . . . It is especially dangerous to approach San Miguel Island."

During the discussion on the danger zone which attempted to take three miles of your land around the island, the industry felt there were certain offshore potentials.

At that time we received a letter from you, Governor Anderson, in which you said in part:

"We (State of California) favor a revised proposal which would permit multiple use or even the use of a portion of the total area. This could furnish the initial opportunity for petroleum exploration and development . . ."

Multiple use is an important concept and it is working today on both the State and Federal submerged lands along the Pacific coast. There is no need to impose a one-mile setback around San Miguel, for the things that are of value to all of us can be preserved and enjoyed while at the same time efforts are underway to achieve petroleum production from platforms which might have to be built less than one mile from shore.

As an industry we urge you not to require a one-mile setback at San Miguel Island.

If there are any questions, I have just returned from a day and a half at the bottom at San Miguel -- and by "bottom" I mean 170 feet of water; so I know what the bottom looks like and will be glad to answer any questions you may have.
Thank you for your time.

GOV. ANDERSON: At the last meeting a Humble Oil representative said he knew of no company plans to drill within the one-mile limit or to seek onshore facilities, and all work would take place on platforms at a greater distance from the shore. Would it be our understanding today that this statement is not correct? I recognize the problem of dealing with the Navy on the onshore activities ....

MR. WRIGHT: Right.

GOV. ANDERSON: ... but would it then be the thought that your platforms and your production installations would be within the mile limit, at, say, a half mile? Is there another figure that is more practical? I realize the depth you are getting into.

MR. WRIGHT: It is not only the depth but the turbulence. There is only an immediate area around the beach that surrounds the island that is not a seething mass of conflicting currents. It is really treacherous water. For that reason, I believe the operators -- after their leases are awarded -- should have the option to locate their platform at any location within the three-mile limit, with the understanding that they could come back to this Commission with their proposed platform location.

All I am asking now is that their hands not be tied at San Miguel.

Is it east of Gaviota, Frank, that you asked for a
one-mile setback? That is a rather well populated area compared to San Miguel. The sea lions I talked to the last few days are not very conversant with esthetics.

MR. HORTIG: Mr. Chairman, before proceeding and in order to have a certain degree of continuity in the record I believe there are two communications dealing with problems in general that should be read into the record at this time, prior to proceeding with the specific presentations of the bidders.

First, there is a letter from the Department of Fish and Game addressed to me, subject "San Miguel Island Oil Lease Land, Effect on Biota":

"We have received word that the issuance of leases of State water bottoms off San Miguel Island for oil exploitation is being held up, pending a statement from the Department of Fish and Game on the effect of the construction of offshore islands on the biota.

"You are, of course, familiar with the work done by Department biologists on the effect of offshore oil drilling on the marine environment. The results of this work appeared in a report submitted on January 31, 1962 to the Western Oil and Gas Association, in accordance with their cooperative agreement with the Department.

"A further discussion of this problem appears in the Department of Fish and Game Fish Bulletin #124, by Carlisle, Turner and Ebert, entitled "Artificial Habitat in the Marine Environment."

"This work showed there was no damage to the environment through the construction of offshore islands or platforms. On the contrary, actual enhancement of a number of desirable species was recorded. Since this work was done on sandy bottoms, structures built on rock should be similarly checked to see if the same results prevail."
"We have no biological evidence for denying these leases or permits, provided that the work is done under proper control, and every effort is made to minimize loss to marine life during the construction and operation of these facilities.

(signed) W. T. Shannon, Director."

The Commission is also the recipient this morning of the following telegram:

"HON STATE LANDS COMMISSION
STATE OF CALIFORNIA LOS ANGELES

PLEASE TAKE NOTICE THAT THE STATE OF CALIFORNIA HAS NO TITLE WHATSOEVER TO THE SUBMERGED LANDS, MINERALS, GAS, OIL AND OTHER HYDROCARBON SUBSTANCES UNDERLYING SAID SUBMERGED LANDS WHICH WERE THE SUBJECT OF YOUR SUMMARY CALENDAR ITEM NUMBER 3 AT JUNE 28 1966 MEETING BEING PARCEL #41 WO 6125 COVERING 5646 ACRES AND SITUATED NORTHERLY OF SAN MIGUEL ISLAND. SAID LAND FOR WHICH THE HONORABLE STATE OF CALIFORNIA LANDS COMMISSION WILL CONSIDER AN OIL AND GAS LEASE BID AT YOUR JULY 12 1966 MEETING.

THESE SUBMERGED LANDS LIE OUTSIDE OF THE CONSTITUTIONAL BOUNDARIES OF THE STATE OF CALIFORNIA BY PREEMPTION CLAIM RECORDED JULY 25TH 1946 BOOK 704 PAGE 15 RECORDS SANTA BARBARA COUNTY CALIF. I ESTABLISHED TITLE TO SAID SUBMERGED LAND AND ALL MINERALS, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES THEREIN AND THEREUNDER AND AM NOW THE SOLE OWNER THEREOF.

IF YOU ENTER INTO AN OIL AND GAS LEASE OR ANY OTHER CONTRACT COVERING THESE LANDS YOU WILL DO SO AT YOUR PERIL AND WITHOUT MY APPROVAL OR CONSENT. JULY 11 1966

HILLMAN A. HANSEN OWNER"

MR. CRANSTON: Are the representatives of the bidding companies here?

MR. GARDNER: My name is William R. Gardner, Humble Oil and Refining Company, and I would like to read into the record a letter from the three companies who were
the high bidders and the only bidders for Tract 41.

These three companies are Standard Oil Company of California, Atlantic Richfield Company, and Humble Oil & Refining Company.

The letter is dated July 11, 1966. It is addressed to the State Lands Commission:

"Please refer to your letters of June 29, 1966 with respect to Parcels 41 (W.O. 6125) and 46 (W.O. 6150). The undersigned companies submitted joint bids for oil and gas leases covering said Parcels 41 and 46, which were opened on June 14 and June 28, 1966, respectively. These bids were the only bids submitted for said parcels.

"Your letters of June 29, 1966 state that at the request of the Sierra Club, we may be required to provide a written guarantee that no surface operations would be conducted within one mile of shore on said parcels and that onshore facilities would be prohibited as a condition precedent to the award of said leases by the State Lands Commission.

"We are unwilling to furnish any such written guarantee and wish to enter a strong protest against any such possible requirement by the State Lands Commission for the following reasons:

1. In view of the fact that said parcels cover completely untested and unexplored areas, it is extremely difficult and impracticable, and may involve substantial additional costs to agree in advance that no operations will be conducted within a mile of shore and that no onshore facilities of any kind will be utilized.

2. The conditions, referred to above, were not contained in the published notices calling for submittal of bids on said parcels. A special hearing was held on March 4, 1966, in Santa Barbara to determine whether the State would proceed with the leasing of said parcels and whether any special terms, conditions, or restrictions would be required in connection with operations pursuant to oil and gas leases covering said parcels. Despite a protest by
"the Sierra Club, no such conditions or restrictions were imposed in the offering of said parcels for competitive bids.

3. It would be highly improper and inequitable to change the terms and conditions covering operations on a lease after the call for bids has been published and after bids have been submitted. We think it is extremely unfair to the State Lands Commission and to the successful bidders for any group to make such request after bids were opened and the amounts thereof made public.

4. Should the State Lands Commission, in this instance, impose additional conditions and restrictions on lease operations after opening of the bids, the industry will be unable to rely on the terms of any future offer to lease and therefore unable to effectively evaluate it. The amount of any future bid will necessarily reflect such uncertainty.

5. There appears to be no real necessity for such action on the part of the State Lands Commission. It has been thoroughly demonstrated that oil and gas operations can be conducted in offshore waters, as well as adjacent onshore urban areas, without disturbance to fish and wild life or the public. The oil industry has demonstrated willingness and ability to take every precaution in conducting such operations.

"In view of our good faith submittal of bids in reliance on the notices published by the State Lands Commission, we respectfully request that the State Lands Commission execute and deliver to the undersigned oil and gas leases covering said Parcels 41 and 46."

and this letter is signed by Standard Oil Company of California, Humble Oil & Refining Company, and Atlantic Richfield Company.

'MR. CRANSTON: Thank you very much.

MR. HORTIG: Mr. Chairman, representatives of
Union Oil Company of California and Mobil Oil Corporation, bidders for Parcel 45:

MR. HARRY: My name is Herbert Harry and I am with Union Oil Company. My purpose is to read our letter of response to Jack Pfeil's letter of June 29, 1966, regarding Parcel 45. It is appropriately addressed, dated July 11th:

"In answer to your letter of inquiry dated June 29, 1966, Union Oil Company of California and Mobil Oil Corporation are not in a position to make any guarantees other than the all inclusive ones submitted with our bid for Parcel 45.

"Should circumstances similar to those affecting the State Lands Commission (consideration of award of Oil and Gas Lease covering Parcel 41) be presented in connection with our bid for Parcel 45, we would consider the following:

1. Should it ever become necessary because of geological, engineering or economical reasons for a permanent type platform to be located on said parcel, a request therefor will, in accordance with the lease, be submitted for approval to the State Lands Commission.

2. Because of the ownership of San Miguel Island as well as the distance of Parcel 45 from other land, we cannot give a guarantee against onshore facility installation.

Very truly yours, and signed by Union Oil Company of California and Mobil Oil Corporation.

MR. CRANSTON: Thank you.

Is there another representative of an oil company who wishes to speak? (No response)

Are there others that wish to be heard on this?
MR. MARSHALL: My name is George Marshall. I am president of the Sierra Club.

I am most interested in the testimony that has been given here today and sympathize with the positions taken, but must still disagree with the conclusions and the request they have made to the Commission.

It is a little difficult to know just at which point to start. I will not repeat in detail the testimony and references that Fred Eissler, secretary of the Sierra Club, gave at a previous meeting of this Commission, but will perhaps point out a few problems and try to discuss some of the points that have been raised -- and try to do it without taking too much of your time.

First of all, I should like to emphasize again that, despite the present use of part of San Miguel Island by the Navy, that San Miguel Island was one of five areas in the entire western coast, one of three such areas along the California coast, which the National Park Service Survey of 1959, Pacific Coast Recreational Area Survey, regarded as being in the prime category of areas to be acquired and of national interest; and, furthermore, that the bill introduced by Senator Engle in the last session of Congress further indicates a national interest.

As to the situation regarding bills before this Congress, as of yesterday no bill had been introduced but I was informed that one might be introduced either today or
later this week. Now, I can't guarantee that, but that is something that you can check during the course of the week or I should be glad to inform you of that. In any case, this session of Congress has pretty well run. Certainly there would be no definitive action on a national park proposal at this session, but I think it will be and would be a prime national park consideration during the coming session of Congress. This Congress, after all, has considered a great many conservation issues and has a considerable backlog of work before this session ends.

Therefore, I would like to suggest that in any determination that you make you do consider the fact that this is an area, San Miguel in particular is a part of the area, that is of national park quality and national park interest in terms of conservation groups. I don't know what action the National Park Service will take in the next session of Congress. One can't guarantee those things in advance.

Now, I don't know whether I have to mention that the Sierra Club is just not an outdoor of California association, even though we are based in the State of California. We have a really common national organization, cooperating with numerous other groups in the conservation and other fields.

Now, I think the importance of the one-mile limit has been stressed as a matter of esthetics -- that when the City of Santa Barbara, for example, objected to having oil
platforms off its shoreline, it was done on that kind of basis; and this isn't just an idea dreamed up by a civic conservation organization, but apparently is a regulation made through a city or county.

The one-mile limit is something that is established in law around the existing national monument of Santa Barbara and Anacapa islands and would be presumably in any bill for the protection of a Channel Islands National Park, as a part of their general protection.

There are various interests, too, in establishing an underwater national park as a part of the Channel Islands Park, trying to keep the natural areas there for scientific purposes and probably for future recreational purposes, for skin divers. Whether that would be possible right offshore with the bad currents near San Miguel -- I have the understanding with the one-mile limit that would be possible.

Now, on the matter of effect of onshore facilities, of course if they were in a national park that would be quite contrary to national park policy. One doesn't have commercial developments within a national park. I don't think there are any exceptions unless there may be in Alaska or Death Valley. I think those are the only exceptions.

Furthermore, as to the effect of oil facilities, oil derricks, oil platforms, and so on, on wildlife, I am not at all persuaded by the letter from Mr. Shannon that it entirely covers the points at issue. I know studies have been
made and that sometimes more fish collect or breed, I don't
know which, underneath sheltered areas; but the main species
at issue here are various species of mammals, not commercial
fish. I think he used the term, if I remember correctly,
something to the effect "species of value or significance."
Well, I don't know whether the State Fish and Wildlife Service
considers the sea mammals -- which are not commercial animals,
but animals of great importance esthetically and scientifi-
cally -- as animals of importance and I did not hear in that
report, and perhaps I missed something, a proper evaluation
of the effect of the proposed facilities on these important
animals and, again, with many species, just how many excep-
tions you can make in one area and not reduce them.

Of course, if the national park or national sea-
shore, whichever it will be, is established -- the great sea
mammals, plus the ones that go to San Miguel and other islands,
will be an important factor and feature in the entire picture.

There is one question that I'd like to ask. I
thought this was just on Parcel 41. Is it also on Parcel 46?

MR. CRANSTON: There are other parcels where bids
have been received.

MR. MARSHALL: I mean is the question the approval
of the bid on 46?

MR. CRANSTON: That is not before us at this time,
no.

MR. MARSHALL: As to who has legal jurisdiction over
San Miguel Island or the waters under the one-mile limit, I am not going to try to guess. I think that is something counsel will have to look into if these are serious problems.

However, I would like to suggest something, gentlemen, and I know it is difficult -- bids having been asked for and made -- whether there cannot be a moratorium on bids on underwater areas, tidelands, et cetera, for oil and gas around the Channel Islands until a reasonable time is permitted for seeing whether a national park or national seashore will be established with a one nautical mile limit around them.

I can't see from any evidence that has been presented that there is any necessity on the part of the oil companies to develop these particular oil lands at this time compared with a few years from now if the national park projects should not go through, as it is expected they will go through.

Furthermore, as far as the State of California is concerned, well, it is always desirable to have additional funds in the Treasury. I don't think, with regard to these leases, that there is any urgency involved in that respect. In any case, a decision on land use isn't only on this kind of basis.

Now, there is another matter I hadn't thought of bringing up and not being a lawyer I can only tell you what I was told on advice of counsel -- something perhaps you might look into. It is secondary to the main issue, although
it goes beyond that -- and that is the interpretation under the California Public Resources Code, Sections 6836 and 6827, of the meaning of granting bids to the highest qualified bidder. Counsel have advised me that in their opinion the term "highest bidder" assumes that there must be more than one bidder. That's a matter that I imagine has been before you. I don't know whether it has been adjudicated in the courts and we didn't have time to run this down through various court decisions, but I don't intend to argue the issue on that technical basis.

It is on the general public policy basis that there would be substantial damage, especially if there is a national park, to have oil developments either onshore or in the one-mile limit; and that sufficient time should be given before approving such leases until the national park or national seashore proposal can be carefully considered by the coming Congress.

MR. CRANSTON: Governor Anderson has a question.

GOV. ANDERSON: Yes. Mr. Marshall, I want to ask a question here. In my twenty-five years of public life I have tried to identify myself with the efforts of protecting fish and game and wildlife and things like this, as well as stressing the importance of esthetics; but in this case you have raised the point of esthetics and I am a little confused on this.

Now, my feelings in the past towards esthetics have
been with regard to places where people could see the things
and drive along the highway or where they would see them from
their homes. I think that had something to do with the fact
that we put in the one-mile limitation in certain areas.

Now, how does the location of these platforms --
whether they are one mile or two miles off these shores --
affect the esthetics? Doesn't somebody have to see something
before there is a value of esthetics?

MR. MARSHALL: Yes, I should think so, but if San
Miguel is a part of a national park they would see the oil
platforms, which I think are unesthetic. That may be a per-
sonal feeling that I have, that many people share. In any
case, it is a nonconforming development in a national park.

GOV. ANDERSON: In other words, if there were not
a national park, so the people wouldn't get out there, the
esthetic argument would disappear, probably?

MR. MARSHALL: Yes, I would think so. If San Miguel
were not a national park or a national seashore or some area
of that kind, if that is not to be the long range usage of
that area, then I wouldn't think that this argument would be
particularly strong; but I think that on the island they
could see it.

As far as going to the island and the problem of
currents, I think folks have gone there and do go there; but,
Furthermore, I think one has to remember that on various
other islands -- Santa Catalina, for example -- there is a
regular plane service; and the Navy having been there, I imagine if it is made into a national park the air fields will continue to be there. That would be a natural way for people to get out for weekends or longer periods and I think that would mean that a considerable number of people would be affected by what goes on within the one-mile limit.

GOV. ANDERSON: If the Federal Government made this a national park, would that make it just the island or would it be an area surrounding the island? Would it get out into the area we are talking about today or would it be restricted to the land itself? What is normal policy on that? Then I would also like you to comment on what was mentioned earlier about commercial activities in national parks.

MR. HORTIG: Governor, the best precedent for possible action by the Federal Government is consideration of the existing Anacapa Island national monument, around which the Secretary of Interior has declared a one-mile protective zone for the benefit of protection of the fauna and the flora in the area. This, however, being a protective zone overlying the State-owned three-mile belt around Anacapa Island, is not effective and cannot be construed as applying as against any other lawful operations that the State Lands Commission might feel should be authorized in the best interests of the State of California.

In other words, that protective zone would only provide that there be maintained the same type of protective
conditions for the fauna and flora as are already required in State Lands Commission leases in the event the Commission would offer the area for lease, and platforms within that one-mile zone would be a proper and completely effective multiple use.

GOV. ANDERSON: If there were platforms within the one-mile area around this island, would this have a tendency to discourage the Federal Government from making this a national park?

MR. HORTIG: This, of course, would be a factor in their consideration, but I hasten to point out that the leases were offered by the State Lands Commission after full public hearing and determination that all the protective issues prescribed by the Legislature, that were desired by the County of Santa Barbara and by the landowners of the potentially affected adjoining lands, were included and were met.

As a matter of fact, as possibly one of the larger bars to contemplation of establishment of a national park, I can only cite the fact that after the hearing at Santa Barbara, the County of Santa Barbara authorized a private residential and recreational development to a private owner of the easterly end of Santa Cruz Island; and this is the type of development that is completely contrary to the criteria for the areas contemplated by the National Park Service for a national park.

GOV. ANDERSON: Are you trying to tell us the chances
are that this national park is not going to come?

MR. HORTIG: I don't think the expectation is very reasonable, and I am sure Mr. Marshall will disagree with me. My only evidence is a review of the National Park Service about 1910 as to whether the Tahoe Basin should be required for a national park; and thinking back to 1910, the report cites the fact that there are already too many private residences and too much commercial development in the area in order to meet the standards for an area which the Park Service would like to include as a national park.

If there are any parallels to be drawn from it -- Anacapa Island is practically impossible to land on except for the birds; Santa Cruz and Santa Rosa Islands are in private ownership and the private owners are not in favor of a national park development and the county has authorized private recreational development and subdivision on one of the islands; and San Miguel, the only other island that could even be reached -- because Santa Barbara and San Nicolas are much too far out to sea -- San Miguel being under the jurisdiction and the use of the Navy Department, the Command having assured the State Lands Division that it is a tactical necessity that the Navy continue to operate on this island and they have expanding use for this island, its utility as a national park is at least problematical.

MR. MARSHALL: May I comment, or have I taken more time ....
MR. CRANSTON: If you could briefly, please.

MR. MARSHALL: Well, I do think that there is a good chance, as I said before, of having a national park; and, secondly, as far as the use of the Navy is concerned, the technology of the Armed Services does shift and opportunities for important public parks in the Golden Gate headlands, for example, were formerly considered at the time essential for national defense.

In any event, San Miguel, I believe, would be included in the park, even though the Navy part of it likely would be phased out over a period of years.

I don't want to repeat myself, but I think the damage to park values of the proposed lease would be most serious.

Thank you.

MR. CRANSTON: Thank you very much.

Frank, do you have a letter from the Department of Interior relative to this that should be in the record?

MR. HORTIG: Yes. It is addressed to you: (From the United States Department of the Interior, National Park Service, Western Region)

"Dear Mr. Cranston:

"Reference is made to my letter to the Hearing Officer, State Lands Commission, dated March 3, pertaining to the proposed oil leases adjacent to San Miguel Island of the Channel Islands group.

"As previously stated, the Department of the Interior proposes to seek Congressional
"authorization for establishment of a Channel Islands National Park comprising the islands of Santa Cruz, Santa Rosa, San Miguel, Anacapa, and Santa Barbara. Previously a bill for such purpose was introduced by former Senator Engle.

"The unique recreational and scientific values of the islands well justify National Park designation. Biological values are abundant. The Stellers Sea Lion, the California Sea Lion, and the Harbor and Elephant Seals are abundant on the shores of San Miguel Island. Oil exploration or production activities on the south shore of San Miguel would destroy the rookeries of the sea lions and elephant seals.

"Any consideration that can be given to preventing oil industry activities adjacent to the shoreline would assure preservation of fragile scientific and recreational values for future use and enjoyment of California citizens.

(signed) Edward A. Hummel, Regional Director "

MR. CRANSTON: Frank, do we have any material of a confidential nature in the Lands Commission files, giving any indications as to what the prospects are for oil being developed? I am not particularly impressed by the size of the bonus bids. I am wondering if you have any information you have not disclosed and cannot disclose here, that we could review. As I understand it, this does not have to be approved until the August meeting.

MR. HORTIG: This would be in the nature of a reasonable delay. However, answering your first question, the confidential information which is in the possession of the technical staff and must be kept ... 

MR. CRANSTON: You do have such information?
MR. HORTIG: .... confidential -- I have to qualify it. Until wells are drilled it cannot be said categorically that there is or is not oil. There are prospects.

MR. CRANSTON: I am just asking if we have information and I'd like to know about it before we make a decision. I also think it would be appropriate that the other member of the Lands Commission be present when we act.

GOV. ANDERSON: Along that line I find a conflict between the statement of the Fish and Game Commission and the man from the Department of Interior, where he stated these rookeries would be destroyed, whereas the communication from Mr. Shannon indicated there would be no damage at all and there might even be enhancement.

Could we find out if Fish and Game was thinking solely of commercial fish? Did this include sea lions and mammals and anything else? We have a little time.

MR. HORTIG: We will undertake to get clarification from the record and from our own experience.

To possibly minimize Mr. Marshall's fears about the mammals not being considered and being driven off by oil operations, hand feeding of the sea lions by our inspectors on our offshore platforms is a very common occurrence.

GOV. ANDERSON: Then why would the Department of Interior make that statement categorically that they would destroy them?

MR. HORTIG: This we would like to review with them.
GOV. ANDERSON: The one we are talking about today is not on the south side. It is on the north side. Are any of these mammals on the north side?

MR. HORTIG: They, of course, migrate a little bit.

Of course, we have had a little conflicting testimony which said the rookeries were on the portion where there is no lease offer.

GOV. ANDERSON: I thought one on the westerly side took a great portion of that.

MR. HORTIG: They were offered, but there were no bids. (Above comments barely audible to reporter and some discussion was had looking at map, which was not audible)

MR. HORTIG: We will obtain for you the specifics on the geography of the rookery and the impact and effect of this, and the unexpressed viewpoint of Fish and Game; as well as the details of the opinion of the Department of the Interior and whether this rookery is fixed or whether these mammals migrate over the island.

GOV. ANDERSON: I have never been on the island, but I have flown over it.

MR. HORTIG: From recent information, because Navy target practice is more active the mammals, being curious, are showing up to see what the shooting is about.

MR. CRANSTON: If there is nothing further to be presented on this matter at this time we will pass it over to the next meeting. I believe there is no other matter on the agenda, so we will stand adjourned.

ADJOURNED 12:35 P.M.
ITEM 22: Proposed oil and gas lease, tide and submerged lands, Santa Barbara County, vicinity of San Miguel Island, W. O. 6125 (Parcel 41).
MR. CRANSTON: Item 22 -- Proposed oil and gas lease, tide and submerged lands, Santa Barbara County, vicinity of San Miguel Island, W.O. 6125 (Parcel 41).

(Industry's response to Commission's request for guarantees, pursuant to request made by the Commission at its meeting of June 28, 1966.)

Is there a spokesman here on that point?

MR. HORTIG: Yes. May I suggest, Mr. Chairman, that in view of the fact there are representatives here for Western Oil and Gas Association who wish to report on the general problems, as well as reports of the high bidders for the parcels which were under consideration, and specifically Parcel 41 under consideration today, you might call on the representative of the Association and then the bidders will wish to make specific representations.

MR. CRANSTON: Is there an Association representative here?

MR. WRIGHT: Mr. Chairman and members of the Commission, may the record show that my name is Henry W. Wright, Manager, Land and Tax Department, Western Oil and Gas Association, a particular association representing companies here in the west who produce, market and refine more than ninety percent of all the crude oil and gas of members operating offshore the United States and Mexican border.
Some months ago your Commission acted upon a recommendation from its staff that six offshore parcels be offered around the western end of San Miguel Island. In offering these parcels there was no reference to any requirement which would make it mandatory that operators conduct all surface operations at least one mile from shore. However, following a call for bids, the receipt of bids on three parcels and the opening of these bids, the Commission now asks that a one-mile limitation be placed on the leases and that onshore facilities be prohibited.

Inasmuch as companies who have bid on Parcels 41, 45, and 46 did so with the understanding that there would be no restrictions as to where a potential offshore platform might be located, it seems unnecessary for the Commission to now ask them to consent to a one-mile setback. The economics on which the bids were based would be upset by this "after the fact" requirement. As an industry we believe that this requirement is unnecessary at San Miguel Island, and also express the opinion that the fears of the outdoor club representative are groundless.

I am sure that our member companies who follow me will briefly and pointedly make their views known to you. Beyond this, our industry is most concerned --- we feel we are at a turning point in the matter of oil and gas leasing and would like to set the record straight on representations made by the Sierra Club before this Commission on June 28, 1966.
in that at that meeting you were told:

(1) that offshore oil drilling is harmful to the marine habitat, and the habitat surrounding the western one-third of San Miguel is of such an unusual nature that it must be preserved by precluding offshore drilling closer than one mile from shore;

(2) You were further told that a national park, embracing all of the Channel Islands, including San Miguel, was imminent and there was wide support for the creation of such a park not only in the County of Santa Barbara but in the Congress of the United States;

(3) You were also told that the master plan for the County of Santa Barbara would be circumvented by any but park use of San Miguel;

(4) Further, that the State Lands Commission must make sure that no onshore oil processing facilities are constructed on the island; and

(5) That the sea lion and sea elephant rookery must not be disturbed by offshore oil drilling or any type of construction work.

As an industry, we have read and re-read the transcript of this meeting and the presentation made by the outdoor club representative and we find these statements of the Sierra Club to be confusing and a curious mixture of statements. I believe, in all fairness to the members of the Commission, you must have all the facts before you so that you can...
make a decision which could have a long-lasting effect on the leasing program of the State of California.

First, let's make one thing very clear:

Offshore oil drilling enhances the marine habitat. This fact is borne out by a comprehensive two-year study conducted by California's Department of Fish and Game, covering a number of offshore platforms on State of California oil and gas leases. Qualified marine biologists from the Department were on platforms for a number of months following drilling operations. In most instances there was no marine habitat or marine life prior to the erection of the oil and gas structure. To quote from Fish and Game's report, Offshore Oil Drilling, Its Effect Upon the Marine Environment, we note the following -- and I am quoting:

"During the study there was no evidence of deleterious effects from any part of the operation. The entire operation was very clean and the island towers served to enhance the habitat. Many fishes have been attracted to the installations and a heavy encrustation of various organisms has developed on the structures. This encrustation includes such animals as kelp scallops, barnacles, and mussels, and has added greatly to the available fish food."

"With regard to the question (still quoting) this investigation set out to answer, we can state at this time that the changes in marine habitat brought about by establishing offshore oil drilling installations were generally beneficial to the flora and fauna."

I am not, generally speaking, an expert on the flora and fauna; but those found in the westerly one-third of San Miguel Island are interesting and far from unique. They are
found both above and below Point Conception and this mixture is a result of the intermingling of different ocean currents in the vicinity of Point Conception. Similar, but exactly the same, flora and fauna are to be found in waters surrounding Santa Rosa, Santa Cruz and San Nicolas Islands, and, of course, at Point Conception.

There has been much discussion about sea elephants and sea lions. The rookery for sea elephants and sea lions is located at the extreme western end of San Miguel Island. On the basis of the bids received by the Commission, the parcels on which there is evidence of oil industry interest are not located near the western tip of the island. No bids were received on that area.

The hardiness of sea elephants and sea lions is impressive when you stop to consider that they have flourished in the vicinity of an island that has for the past twenty-five years been used extensively by the Navy as a bombing range, aerial gunnery range, shore bombardment area, and most recently as a training site for naval aviators in the use of Bullpup missiles. Naval aviators make firing runs on targets moored in the near-shore waters -- for the most part in Cuyler Harbor. A danger zone was recently created covering the eastern two-thirds of the island and it was created so as to embrace a three-mile band of State-owned submerged land around that portion of the island.

I submit that the adverse effect on the flora
and fauna of just one of the dozen missiles fired monthly is far, far greater than that from any oil operation that might be contemplated.

At the present time there is no legislation before the Congress to create a Channel Islands National Park or a recreational area. Over the past ten years three bills have been introduced to accomplish this end. True, responsible legislators have considered proposals in detail, but no legislation has been enacted and now we find recent press reports in Santa Barbara indicate that there is increasing disenchantment in the park project at the Channel Islands. The general inaccessibility of the islands, particularly San Miguel, has led to the view that there are other areas in the county far more suitable for park use. There is growing sentiment that a portion of the Hollister Ranch be acquired as a national recreation area, also that existing State parks within the county be enlarged to handle the growing year-round demand by the public.

If a national park or recreation area were created at some future time, our operations off the southern California coast would not affect their operations. We operate compatibly with many of these national recreation areas and national seashores administered by the National Park Service. There is both onshore and offshore production along Padre Island, which is a national seashore near the well developed resort area of Corpus Christi, Texas.
Just two weeks ago the U. S. Senate Interior Committee's Parks and Recreation Subcommittee told us they would make it crystal-clear in the proposed report on the Oregon Dunes National Seashore that offshore oil pipelines could be run beneath the seashore and every encouragement given to the development of existing State and Federal offshore leases adjacent to the proposed seashore.

It was unfortunate that on June 28th San Miguel Island was somehow classified as within the county's master plan as a national park. I quote from the county's master plan:

"San Miguel Island, the westernmost island, is buffeted by strong westerly winds and is surrounded by dangerous reefs. It formerly was used as sheep grazing land, but in recent years the only significant habitation of the island has been occasional use by the United States Navy."

Continuing to quote:

"The general plan of the County of Santa Barbara, therefore, proposes the continuation of the present land policies on the islands; that they be used for agricultural and open uses at least until that time when detailed studies can be prepared to determine what areas, if any, are appropriate for development for recreational or other purposes."

Now, although it may properly be the concern of the State Lands Commission as to whether onshore oil facilities are constructed on San Miguel Island, the fact is, gentlemen, that the land is simply not within your jurisdiction. San Miguel has been the property of the Federal Government since the Treaty of Guadalupe Hidalgo 116 years ago and has been
for the last thirty years under the full direction and control of the Navy Department. If oil production is ever achieved on the leases offered by your Commission, the operators will be required, if they intend to process oil onshore, to work out an agreement with the Navy Department -- and that should be an interesting meeting.

It has been my pleasure and assignment over the past few months to talk to thousands of individuals in Santa Barbara, Ventura and San Luis Obispo counties. They are not concerned that offshore oil is going to impair their coastal esthetics, for existing offshore operations which you gentlemen have put in the water have proved that such is not the case. They are interested in seeing that the State encourages development of its natural resources and are encouraged that the revenue received by the State is used to help underwrite the understandably growing costs to administer the State of California. As to recreational areas, they are interested in locations to which they can drive with their families. San Miguel Island does not meet this specification.

Imagine yourself taking your family to an island described by Mr. Duncan Gleason in his book The Islands and Ports of California. He says, and I quote:

"San Miguel, a barren wind-swept mesa, lies three miles to the west of Santa Rosa Island across San Miguel Passage... The waters here are said to be the roughest on the California coast, because of the meeting of cross currents and high winds that whip around Point Conception to vent their force on San Miguel."
"Now the island that is being blown into the sea by the sixty-mile gales will be further blasted away by guided missiles and aerial bombs. . . . It is especially dangerous to approach San Miguel Island."

During the discussion on the danger zone which attempted to take three miles of your land around the island, the industry felt there were certain offshore potentials.

At that time we received a letter from you, Governor Anderson, in which you said in part:

"We (State of California) favor a revised proposal which would permit multiple use or even the use of a portion of the total area. This could furnish the initial opportunity for petroleum exploration and development . . . ."

Multiple use is an important concept and it is working today on both the State and Federal submerged lands along the Pacific coast. There is no need to impose a one-mile setback around San Miguel, for the things that are of value to all of us can be preserved and enjoyed while at the same time efforts are underway to achieve petroleum production from platforms which might have to be built less than one mile from shore.

As an industry we urge you not to require a one-mile setback at San Miguel Island.

If there are any questions, I have just returned from a day and a half at the bottom at San Miguel -- and by "bottom" I mean 170 feet of water; so I know what the bottom looks like and will be glad to answer any questions you may have.
Thank you for your time.

GOV. ANDERSON: At the last meeting a Humble Oil representative said he knew of no company plans to drill within the one-mile limit or to seek onshore facilities, and all work would take place on platforms at a greater distance from the shore. Would it be our understanding today that this statement is not correct? I recognize the problem of dealing with the Navy on the onshore activities ....

MR. WRIGHT: Right.

GOV. ANDERSON: ... but would it then be the thought that your platforms and your production installations would be within the mile limit, at, say, a half mile? Is there another figure that is more practical? I realize the depth you are getting into.

MR. WRIGHT: It is not only the depth but the turbulence. There is only an immediate area around the beach that surrounds the island that is not a seething mass of conflicting currents. It is really treacherous water. For that reason, I believe the operators -- after their leases are awarded -- should have the option to locate their platform at any location within the three-mile limit, with the understanding that they could come back to this Commission with their proposed platform location.

All I am asking now is that their hands not be tied at San Miguel.

Is it east of Gaviota, Frank, that you asked for a
one-mile setback? That is a rather well populated area compared to San Miguel. The sea lions I talked to the last few days are not very conversant with esthetics.

MR. HORTIG: Mr. Chairman, before proceeding and in order to have a certain degree of continuity in the record I believe there are two communications dealing with problems in general that should be read into the record at this time, prior to proceeding with the specific presentations of the bidders.

First, there is a letter from the Department of Fish and Game addressed to me, subject "San Miguel Island Oil Lease Land, Effect on Biota":

"We have received word that the issuance of leases of State water bottoms off San Miguel Island for oil exploitation is being held up, pending a statement from the Department of Fish and Game on the effect of the construction of offshore islands on the biota.

"You are, of course, familiar with the work done by Department biologists on the effect of offshore oil drilling on the marine environment. The results of this work appeared in a report submitted on January 31, 1962 to the Western Oil and Gas Association, in accordance with their cooperative agreement with the Department.

"A further discussion of this problem appears in the Department of Fish and Game Fish Bulletin #124, by Carlisle, Turner and Ebert, entitled "Artificial Habitat in the Marine Environment."

"This work showed there was no damage to the environment through the construction of offshore islands or platforms. On the contrary, actual enhancement of a number of desirable species was recorded. Since this work was done on sandy bottoms, structures built on rock should be similarly checked to see if the same results prevail."
"We have no biological evidence for denying these leases or permits, provided that the work is done under proper control, and every effort is made to minimize loss to marine life during the construction and operation of these facilities."

(signed) W. T. Shannon, Director.

The Commission is also the recipient this morning of the following telegram:

"HON STATE LANDS COMMISSION
STATE OF CALIFORNIA LOS ANGELES

PLEASE TAKE NOTICE THAT THE STATE OF CALIFORNIA HAS NO TITLE WHATSOEVER TO THE SUBMERGED LANDS, MINERALS, GAS, OIL AND OTHER HYDROCARBON SUBSTANCES UNDERLYING SAID SUBMERGED LANDS WHICH WERE THE SUBJECT OF YOUR SUMMARY CALENDAR ITEM NUMBER 3 at JUNE 28 1966 MEETING BEING PARCEL #41 WO 6125 COVERING 5646 ACRES AND SITUATED NORTHERLY OF SAN MIGUEL ISLAND. SAID LAND FOR WHICH THE HONORABLE STATE OF CALIFORNIA LANDS COMMISSION WILL CONSIDER AN OIL AND GAS LEASE BID AT YOUR JULY 12 1966 MEETING.

THESE SUBMERGED LANDS LIE OUTSIDE OF THE CONSTITUTIONAL BOUNDARIES OF THE STATE OF CALIFORNIA BY PREEMPTION CLAIM RECORDED JULY 25TH 1946 BOOK 704 PAGE 15 RECORDS SANTA BARBARA COUNTY CALIF I ESTABLISHED TITLE TO SAID SUBMERGED LAND AND ALL MINERALS, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES THEREIN AND THEREUNDER AND AM NOW THE SOLE OWNER THEREOF.

IF YOU ENTER INTO AN OIL AND GAS LEASE OR ANY OTHER CONTRACT COVERING THESE LANDS YOU WILL DO SO AT YOUR PERIL AND WITHOUT MY APPROVAL OR CONSENT. JULY 11 1966

HILLMAN A. HANSEN OWNER"

MR. CRANSTON: Are the representatives of the bidding companies here?

MR. GARDNER: My name is William R. Gardner, Humble Oil and Refining Company, and I would like to read into the record a letter from the three companies who were
the high bidders and the only bidders for Tract 41.

These three companies are Standard Oil Company of California, Atlantic Richfield Company, and Humble Oil & Refining Company.

The letter is dated July 11, 1966. It is addressed to the State Lands Commission:

"Please refer to your letters of June 29, 1966 with respect to Parcels 41 (W.O. 6125) and 46 (W.O. 6150). The undersigned companies submitted joint bids for oil and gas leases covering said Parcels 41 and 46, which were opened on June 14 and June 28, 1966, respectively. These bids were the only bids submitted for said parcels.

"Your letters of June 29, 1966 state that at the request of the Sierra Club, we may be required to provide a written guarantee that no surface operations would be conducted within one mile of shore on said parcels and that onshore facilities would be prohibited as a condition precedent to the award of said leases by the State Lands Commission.

"We are unwilling to furnish any such written guarantee and wish to enter a strong protest against any such possible requirement by the State Lands Commission for the following reasons:

1. In view of the fact that said parcels cover completely untested and unexplored areas, it is extremely difficult and impracticable, and may involve substantial additional costs to agree in advance that no operations will be conducted within a mile of shore and that no onshore facilities of any kind will be utilized.

2. The conditions, referred to above, were not contained in the published notices calling for submittal of bids on said parcels. A special hearing was held on March 4, 1966, in Santa Barbara to determine whether the State would proceed with the leasing of said parcels and whether any special terms, conditions, or restrictions would be required in connection with operations pursuant to oil and gas leases covering said parcels. Despite a protest by
the Sierra Club, no such conditions or restrictions were imposed in the offering of said parcels for competitive bids.

3. It would be highly improper and inequitable to change the terms and conditions covering operations on a lease after the call for bids has been published and after bids have been submitted. We think it is extremely unfair to the State Lands Commission and to the successful bidders for any group to make such request after bids were opened and the amounts thereof made public.

4. Should the State Lands Commission, in this instance, impose additional conditions and restrictions on lease operations after opening of the bids, the industry will be unable to rely on the terms of future offer to lease and therefore unable to effectively evaluate it. The amount of any future bid will necessarily reflect such uncertainty.

5. There appears to be no real necessity for such action on the part of the State Lands Commission. It has been thoroughly demonstrated that oil and gas operations can be conducted in offshore waters, as well as adjacent onshore urban areas, without disturbance to fish and wildlife or the public. The oil industry has demonstrated willingness and ability to take every precaution in conducting such operations.

"In view of our good faith submittal of bids in reliance on the notices published by the State Lands Commission, we respectfully request that the State Lands Commission execute and deliver to the undersigned oil and gas leases covering said Parcels 41 and 46."

and this letter is signed by Standard Oil Company of California, Humble Oil & Refining Company, and Atlantic Richfield Company.

MR. CRANSTON: Thank you very much.

MR. HORTIG: Mr. Chairman, representatives of
Union Oil Company of California and Mobil Oil Corporation, bidders for Parcel 45:

MR. HARRY: My name is Herbert Harry and I am with Union Oil Company. My purpose is to read our letter of response to Jack Pfeil's letter of June 29, 1966, regarding Parcel 45. It is appropriately addressed, dated July 11th:

"In answer to your letter of inquiry dated June 29, 1966, Union Oil Company of California and Mobil Oil Corporation are not in a position to make any guarantees other than the all inclusive ones submitted with our bid for Parcel 45.

"Should circumstances similar to those affecting the State Lands Commission (consideration of award of Oil and Gas Lease covering Parcel 41) be presented in connection with our bid for Parcel 45, we would consider the following:

1. Should it ever become necessary because of geological, engineering or economical reasons for a permanent type platform to be located on said parcel, a request therefore will, in accordance with the lease, be submitted for approval to the State Lands Commission.

2. Because of the ownership of San Miguel Island as well as the distance of Parcel 45 from other land, we cannot give a guarantee against onshore facility installation.

Very truly yours, "

and signed by Union Oil Company of California and Mobil Oil Corporation.

MR. CRANSTON: Thank you.

Is there another representative of an oil company who wishes to speak? (No response)

Are there others that wish to be heard on this?
MR. MARSHALL: My name is George Marshall. I am president of the Sierra Club.

I am most interested in the testimony that has been given here today and sympathize with the positions taken, but must still disagree with the conclusions and the request they have made to the Commission.

It is a little difficult to know just at which point to start. I will not repeat in detail the testimony and references that Fred Eissler, secretary of the Sierra Club, gave at a previous meeting of this Commission, but will perhaps point out a few problems and try to discuss some of the points that have been raised -- and try to do it without taking too much of your time.

First of all, I should like to emphasize again that, despite the present use of part of San Miguel Island by the Navy, that San Miguel Island was one of five areas in the entire western coast, one of three such areas along the California coast, which the National Park Service Survey of 1959, Pacific Coast Recreational Area Survey, regarded as being in the prime category of areas to be acquired and of national interest; and, furthermore, that the bill introduced by Senator Engle in the last session of Congress further indicates a national interest.

As to the situation regarding bills before this Congress, as of yesterday no bill had been introduced but I was informed that one might be introduced either today or
later this week. Now, I can't guarantee that, but that is something that you can check during the course of the week or I should be glad to inform you of that. In any case, this session of Congress has pretty well run. Certainly there would be no definitive action on a national park proposal at this session, but I think it will be and would be a prime national park consideration during the coming session of Congress. This Congress, after all, has considered a great many conservation issues and has a considerable backlog of work before this session ends.

Therefore, I would like to suggest that in any determination that you make you do consider the fact that this is an area, San Miguel in particular is a part of the area, that is of national park quality and national park interest in terms of conservation groups. I don't know what action the National Park Service will take in the next session of Congress. One can't guarantee those things in advance.

Now, I don't know whether I have to mention that the Sierra Club is just not an outdoor or California association, even though we are based in the State of California. We have a really common national organization, cooperating with numerous other groups in the conservation and other fields.

Now, I think the importance of the one-mile limit has been stressed as a matter of esthetics -- that when the City of Santa Barbara, for example, objected to having oil
platforms off its shoreline, it was done on that kind of basis; and this isn't just an idea dreamed up by a civic conservation organization, but apparently is a regulation made through a city or county.

The one-mile limit is something that is established in law around the existing national monument of Santa Barbara and Anacapa islands and would be presumably in any bill for the protection of a Channel Islands National Park, as a part of their general protection.

There are various interests, too, in establishing an underwater national park as a part of the Channel Islands Park, trying to keep the natural areas there for scientific purposes and probably for future recreational purposes, for skin divers. Whether that would be possible right offshore with the bad currents near San Miguel -- I have the understanding with the one-mile limit that would be possible.

Now, on the matter of effect of onshore facilities, of course if they were in a national park that would be quite contrary to national park policy. One doesn't have commercial developments within a national park. I don't think there are any exceptions unless there may be in Alaska or Death Valley. I think those are the only exceptions.

Furthermore, as to the effect of oil facilities, oil derricks, oil platforms, and so on, on wildlife, I am not at all persuaded by the letter from Mr. Shannon that it entirely covers the points at issue. I know studies have been
made and that sometimes more fish collect or breed, I don't
know which, underneath sheltered areas; but the main species
at issue here are various species of mammals, not commercial
fish. I think he used the term, if I remember correctly,
something to the effect "species of value or significance."
Well, I don't know whether the State Fish and Wildlife Service
considers the sea mammals -- which are not commercial animals
but animals of great importance esthetically and scientifically -- as animals of importance and I did not hear in that
report, and perhaps I missed something, a proper evaluation
of the effect of the proposed facilities on these important
animals and, again, with many species, just how many exceptions you can make in one area and not reduce them.

Of course, if the national park or national sea-
shore, whichever it will be, is established -- the great sea
mammals, plus the ones that go to San Miguel and other islands,
will be an important factor and feature in the entire picture.

There is one question that I'd like to ask. I
thought this was just on Parcel 41. Is it also on Parcel 46?

MR. CRANSTON: There are other parcels where bids have been received.

MR. MARSHALL: I mean is the question the approval of the bid on 46?

MR. CRANSTON: That is not before us at this time, no.

MR. MARSHALL: As to who has legal jurisdiction over
San Miguel Island or the waters under the one-mile limit, I
am not going to try to guess. I think that is something
counsel will have to look into if these are serious problems.

However, I would like to suggest something, gentle-
men, and I know it is difficult -- bids having been asked for
and made -- whether there cannot be a moratorium on bids on
underwater areas, tidelands, et cetera, for oil and gas around
the Channel Islands until a reasonable time is permitted for
seeing whether a national park or national seashore will be
established with a one nautical mile limit around them.

I can't see from any evidence that has been pre-
presented that there is any necessity on the part of the oil
companies to develop these particular oil lands at this time
compared with a few years from now if the national park
projects should not go through, as it is expected they will
go through.

Furthermore, as far as the State of California is
concerned, well, it is always desirable to have additional
funds in the Treasury. I don't think, with regard to these
leases, that there is any urgency involved in that respect.
In any case, a decision on land use isn't only on this kind
of basis.

Now, there is another matter I hadn't thought of
bringing up and not being a lawyer I can only tell you what
I was told on advice of counsel -- something perhaps you
might look into. It is secondary to the main issue, although
it goes beyond that -- and that is the interpretation under
the California Public Resources Code, Sections 6836 and 6827,
of the meaning of granting bids to the highest qualified
bidder. Counsel have advised me that in their opinion the
term "highest bidder" assumes that there must be more than
one bidder. That's a matter that I imagine has been before
you. I don't know whether it has been adjudicated in the
courts and we didn't have time to run this down through vari-
ous court decisions, but I don't intend to argue the issue on
that technical basis.

It is on the general public policy basis that there
would be substantial damage, especially if there is a national
park, to have oil developments either onshore or in the one-
mile limit; and that sufficient time should be given before
approving such leases until the national park or national sea-
shore proposal can be carefully considered by the coming
Congress.

MR. CRANSTON: Governor Anderson has a question.

GOV. ANDERSON: Yes. Mr. Marshall, I want to ask a
question here. In my twenty-five years of public life I have
tried to identify myself with the efforts of protecting fish
and game and wildlife and things like this, as well as stress-
ing the importance of esthetics; but in this case you have
raised the point of esthetics and I am a little confused on
this.

Now, my feelings in the past towards esthetics have
been with regard to places where people could see the things and drive along the highway or where they would see them from their homes. I think that had something to do with the fact that we put in the one-mile limitation in certain areas.

Now, how does the location of these platforms -- whether they are one mile or two miles off these shores -- affect the esthetics? Doesn't somebody have to see something before there is a value of esthetics?

MR. MARSHALL: Yes, I should think so, but if San Miguel is a part of a national park they would see the oil platforms, which I think are unesthetic. That may be a personal feeling that I have, that many people share. In any case, it is a nonconforming development in a national park.

GOV. ANDERSON: In other words, if there were not a national park, so the people wouldn't get out there, the esthetic argument would disappear, probably?

MR. MARSHALL: Yes, I would think so. If San Miguel were not a national park or a national seashore or some area of that kind, if that is not to be the long range usage of that area, then I wouldn't think that this argument would be particularly strong; but I think that on the island they could see it.

As far as going to the island and the problem of currents, I think folks have gone there and do go there; but, furthermore, I think one has to remember that on various other islands -- Santa Catalina, for example -- there is a
regular plane service; and the Navy having been there, I imagine if it is made into a national park the air fields will continue to be there. That would be a natural way for people to get out for weekends or longer periods and I think that would mean that a considerable number of people would be affected by what goes on within the one-mile limit.

GOV. ANDERSON: If the Federal Government made this a national park, would that make it just the island or would it be an area surrounding the island? Would it get out into the area we are talking about today or would it be restricted to the land itself? What is normal policy on that? Then I would also like you to comment on what was mentioned earlier about commercial activities in national parks.

MR. HORTIG: Governor, the best precedent for possible action by the Federal Government is consideration of the existing Anacapa Island national monument, around which the Secretary of Interior has declared a one-mile protective zone for the benefit of protection of the fauna and the flora in the area. This, however, being a protective zone overlying the State-owned three-mile belt around Anacapa Island, is not effective and cannot be construed as applying as against any other lawful operations that the State Lands Commission might feel should be authorized in the best interests of the State of California.

In other words, that protective zone would only provide that there be maintained the same type of protective
conditions for the fauna and flora as are already required in
State Lands Commission leases in the event the Commission
would offer the area for lease, and platforms within that one-
mile zone would be a proper and completely effective multiple
use.

GOV. ANDERSON: If there were platforms within the
one-mile area around this island, would this have a tendency
to discourage the Federal Government from making this a
national park?

MR. HORTIG: This, of course, would be a factor in
their consideration, but I hasten to point out that the lease
were offered by the State Lands Commission after full public
hearing and determination that all the protective issues pre-
scribed by the Legislature, that were desired by the County
of Santa Barbara and by the landowners of the potentially
affected adjoining lands, were included and were met.

As a matter of fact, as possibly one of the larger
bars to contemplation of establishment of a national park, I
can only cite the fact that after the hearing at Santa Bar-
bara, the County of Santa Barbara authorized a private resi-
dential and recreational development to a private owner of
the easterly end of Santa Cruz Island; and this is the type
of development that is completely contrary to the criteria
for the areas contemplated by the National Park Service for
a national park.

GOV. ANDERSON: Are you trying to tell us the chances
are that this national park is not going to come?

MR. HORTIG: I don't think the expectation is very reasonable, and I am sure Mr. Marshall will disagree with me. My only evidence is a review of the National Park Service about 1910 as to whether the Tahoe Basin should be required for a national park; and thinking back to 1910, the report cites the fact that there are already too many private residences and too much commercial development in the area in order to meet the standards for an area which the Park Service would like to include as a national park.

If there are any parallels to be drawn from it -- Anacapa Island is practically impossible to land on except for the birds; Santa Cruz and Santa Rosa Islands are in private ownership and the private owners are not in favor of a national park development and the county has authorized private recreational development and subdivision on one of the islands; and San Miguel, the only other island that could even be reached -- because Santa Barbara and San Nicolas are much too far out to sea -- San Miguel being under the jurisdiction and the use of the Navy Department, the Command having assured the State Lands Division that it is a tactical necessity that the Navy continue to operate on this island and they have expanding use for this island, its utility as a national park is at least problematical.

MR. MARSHALL: May I comment, or have I taken more time ....
MR. CRANSTON: If you could briefly, please.

MR. MARSHALL: Well, I do think that there is a good chance, as I said before, of having a national park; and, secondly, as far as the use of the Navy is concerned, the technology of the Armed Services does shift and opportunities for important public parks in the Golden Gate headlands, for example, were formerly considered at the time essential for national defense.

In any event, San Miguel, I believe, would be included in the park, even though the Navy part of it likely would be phased out over a period of years.

I don't want to repeat myself, but I think the damage to park values of the proposed lease would be most serious.

Thank you.

MR. CRANSTON: Thank you very much.

Frank, do you have a letter from the Department of Interior relative to this that should be in the record?

MR. HORTIG: Yes. It is addressed to you: (From the United States Department of the Interior, National Park Service, Western Region)

"Dear Mr. Cranston:

"Reference is made to my letter to the Hearing Officer, State Lands Commission, dated March 3, pertaining to the proposed oil leases adjacent to San Miguel Island of the Channel Islands group.

"As previously stated, the Department of the Interior proposes to seek Congressional
"authorization for establishment of a Channel Islands National Park comprising the islands of Santa Cruz, Santa Rosa, San Miguel, Anacapa, and Santa Barbara. Previously a bill for such purpose was introduced by former Senator Engle.

"The unique recreational and scientific values of the islands well justify National Park designation. Biological values are abundant. The Stellers Sea Lion, the California Sea Lion, and the Harbor and Elephant Seals are abundant on the shores of San Miguel Island. Oil exploration or production activities on the south shore of San Miguel would destroy the rookeries of the sea lions and elephant seals.

"Any consideration that can be given to preventing oil industry activities adjacent to the shoreline would assure preservation of fragile scientific and recreational values for future use and enjoyment of California citizens.

(signed) Edward A. Hummel, Regional Director "

MR. CRANSTON: Frank, do we have any material of a confidential nature in the Lands Commission files, giving any indications as to what the prospects are for oil being developed? I am not particularly impressed by the size of the bonus bids. I am wondering if you have any information you have not disclosed and cannot disclose here, that we could review. As I understand it, this does not have to be approved until the August meeting.

MR. HORTIG: This would be in the nature of a reasonable delay. However, answering your first question, the confidential information which is in the possession of the technical staff and must be kept ...

MR. CRANSTON: You do have such information?
MR. HORTIG: .... confidential -- I have to qualify it. Until wells are drilled it cannot be said categorically that there is or is not oil. There are prospects.

MR. CRANSTON: I am just asking if we have information and I'd like to know about it before we make a decision. I also think it would be appropriate that the other member of the Lands Commission be present when we act.

GOV. ANDERSON: Along that line I find a conflict between the statement of the Fish and Game Commission and the man from the Department of Interior, where he stated these rookeries would be destroyed, whereas the communication from Mr. Shannon indicated there would be no damage at all and there might even be enhancement.

Could we find out if Fish and Game was thinking solely of commercial fish? Did this include sea lions and mammals and anything else? We have a little time.

MR. HORTIG: We will undertake to get clarification from the record and from our own experience.

To possibly minimize Mr. Marshall's fears about the mammals not being considered and being driven off by oil operations, hand feeding of the sea lions by our inspectors on our offshore platforms is a very common occurrence.

GOV. ANDERSON: Then why would the Department of Interior make that statement categorically that they would destroy them?

MR. HORTIG: This we would like to review with them.
GOV. ANDERSON: The one we are talking about today is not on the south side. It is on the north side. Are any of these mammals on the north side?

MR. HORTIG: They, of course, migrate a little bit. Of course, we have had a little conflicting testimony which said the rookeries were on the portion where there is no lease offer.

GOV. ANDERSON: I thought one on the westerly side took a great portion of that.

MR. HORTIG: They were offered, but there were no bids. (Above comments barely audible to reporter and some discussion was had looking at map, which was not audible)

MR. HORTIG: We will obtain for you the specifics on the geography of the rookery and the impact and effect of this, and the unexpressed viewpoint of Fish and Game; as well as the details of the opinion of the Department of the Interior and whether this rookery is fixed or whether these mammals migrate over the island.

GOV. ANDERSON: I have never been on the island, but I have flown over it.

MR. HORTIG: From recent information, because Navy target practice is more active the mammals, being curious, are showing up to see what the shooting is about.

MR. CRANSTON: If there is nothing further to be presented on this matter at this time we will pass it over to the next meeting. I believe there is no other matter on the agenda, so we will stand adjourned.

ADJOURNED 12:35 P.M.