TRANSCRIPT OF
MEETING

OF

STATE LANDS COMMISSION

LOS ANGELES, CALIFORNIA

September 25, 1967
MEETING OF
STATE LANDS COMMISSION

LOS ANGELES, CALIFORNIA
September 25, 1967

PARTICIPANTS:

THE STATE LANDS COMMISSION:

The Hon. Houston I. Flournoy, Controller, Chairman
The Hon. Robert H. Finch, Lieutenant Governor
The Hon. Gordon P. Smith, Director of Finance

F. J. Hortig, Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Jay L. Shavelson, Assistant Attorney General

APPEARANCES:

(In the order of their appearance)

Calendar Summary Item 5(a) - Noyo Harbor District

E. A. Curtis, Chief of the Development Branch,
Department of Harbors and Water Craft

Calendar Summary Item 8(b) - San Luis Harbor District

Gerald Weaver, Attorney, of the firm of
Crossman and Weaver, representing
Robert Marre

Herbert Grundell, Attorney for the
San Luis Harbor District

Calendar Summary Item 8(a) - Exchange of land in
Upper Newport Bay between The Irvine Company and
the County of Orange

Adrian Kuyper, County Counsel, County of Orange

Lewis A. Follansbee, Professor of Marine Science,
Orange Coast College

continued
APPEARANCES:

Calendar Summary Item 8(a) continued

Andrew J. Hinshaw, Assessor, Orange County

Warren Crow, Corona del Mar

Frank Robinson, representing County Tidelands Association

Janet Boer, Santa Ana, Research Analyst

Mrs. Corinna Babb, Marina Park Association, Newport Beach, et al

John Tyler, Vice President, Southern California Chapter of The Nature Conservancy

Assemblyman Robert E. Badham, 71st Assembly District

Assemblyman Kenneth Cory, 69th Assembly District

Grover C. Stephens, Professor of Biology, Chairman of Organismic Biology, University of California at Irvine

Craig Harlan, Vice President, Associated Students, University of California at Irvine

Don Barton, President, Marina Park, Inc., home owners' group, Upper Newport Bay

James W. Harrison, Director, Southern California Marine Dealers Association

Evelyn Gayman, Conservation Chairman, Desomount Club; also speaking for: Barbara Horton, Pasadena Audubon Society

Paul Colburn, National Audubon Society, National Wild Life, National Parks Association, Orange County Advisory Committee

continued
Calendar Summary Item 8(a) continued

Robert Vile, President, Ocean Fish Protective Association

Richard H. Bali, Sierra Club, Angeles Chapter

Rimmon C. Fay, Commercial Fisherman

Fern Zimmerman, Santa Ana

Karl Hufbauer, Costa Mesa

James Schneider, representing Conservationist Group of Sierra Club, Orange County Group, part of Los Angeles Chapter

L. H. Cloyd, Regional Manager, Region 5, Los Angeles, Department of Fish and Game

David James, Chairman of Executive Committee, Orange County Chamber of Commerce

Ellen Stern Harris

Selim Franklin, President, Orange County Coast Association

Conrad Epley, Field Representative to Congressman James B. Utt

John Macnab, President, Newport Harbor Chamber of Commerce

Gus Patzer, Costa Mesa

H. A. Stuckey, Newport Beach, representing Bay Area Citizens Council

George Friedl, Jr., Corona del Mar
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NEXT MEETING 120
MR. FLOURNOY: The meeting of the State Lands Commission will come to order.

There are, to the knowledge of the members and the staff, only two items on the agenda that people have indicated a desire to speak to. These items are those regarding the San Luis Harbor District and the proposed exchange of land between The Irvine Company and the County of Orange. Unless I am incorrect in that, we will proceed with the rest of the agenda.

Item number 2 -- The minutes of the meetings of August 14 and August 21, 1967 will be confirmed.

Item 3 -- Permits, easements and rights-of-way, some six items on the agenda: If there is no discussion or objection, those items will be approved and confirmed as indicated.

Item number 4 -- Permits, easements, leases and rights-of-way issued pursuant to statute and established rental policies of the Commission: If there is no discussion on any of those items, or objection, they will be approved and the action is confirmed as indicated.

MR. HORTIG: Mr. Chairman, on item 4(r) on calendar summary page IV -- Pacific Gas and Electric Company's application for right-of-way easement -- at the request of the applicant and the San Francisco Bay Conservation and Development Commission it is recommended that the consideration of this
MR. FLOURNOY: It will be so deferred unless there is objection, and others in item 4 will be approved and the proposed action authorized.

Item number 5 -- Oil-and-gas and mineral leases and permits issued pursuant to statutes and established policies of the Commission.

MR. HORTIG: Mr. Chairman, on item 5(a) I have just been informed that the Department of Small Crafts and Harbors wishes to speak to this item -- Mr. Curtis.

MR. CURTIS: Mr. Chairman, I am E. A. Curtis, Chief of the Development Branch of the Department of Harbors and Water Craft.

We have an item here on this dredging permit that we feel involves a policy issue, which may be quite far-reaching. This dredging is being done, as stated in the summary, to construct a mooring basin. In fact, it is being done to provide a navigation area in the river bed itself; and while the three cents per cubic yard, since we are only talking about 10,000 yards here, is not a back-breaking item -- it is for navigational purposes. The soil is to be used on the Noyo Harbor District land and so, as far as we know, from the standpoint of both issues -- from the standpoint of navigation and from the standpoint of the use of the soil -- we don't feel this three cents per cubic yard should be imposed.

GOV. FINCK: Why don't we put this over another
month? Is there any objection staffwise?

MR. HORTIG: No objection.

GOV. FINCH: With the other problems we have, I'd like to have you submit written argument on this, if you will.

MR. CURTIS: Okay.

MR. FLOURNOY: We will then defer action on item 5(a). Is there any discussion or objection to the approval of the other items under item number 5? Hearing none, this item will be approved and action taken as indicated.

Item number 6 -- City of Long Beach, four items there: Is there any discussion or objection to those items? (No response) Without objection they will be approved and action authorized as indicated.

Item number 7 -- Proposed annexations, two of them. If there is no discussion ... 

MR. HORTIG: Yes, Mr. Chairman. With respect to item 7(b), which was calendared because of an anticipated hearing by the City of Santa Barbara prior to the next meeting of the State Lands Commission, the office of the city attorney of Santa Barbara has now stated that this matter will be continued until October 31, 1967, in order that the Lands Commission and staff can consider all the problems at the October meeting of the Commission. So this matter should also be deferred at this time.

MR. FLOURNOY: Without objection, 7(b) will be deferred; and unless there is further discussion or objection
7(a) will be authorized.

We will for the moment pass consideration of 8(a) and 8(b) and deal with items 8(c) and (d). If there is no discussion or objection to approval of action on those items, they will be so authorized; and that leaves us with items 8(a) and 8(b).

Since the major problem, as I understand it, before this Commission today will revolve around item 8(a), we will take up item 8(b) -- a finding that the Port of San Luis Harbor District has complied with the substantial improvement requirement contained in section 1(b), chapter 302 of the laws of 1957.

MR. HORTIG: Mr. Chairman, with respect to the item the Commission has this morning received the following telegram:

"Arroyo Grande Sportsmen Club urges that an early decision be made in the matter of Port San Luis Harbor now before you. The majority of people here are well pleased with progress made by Harbor Commission despite many obstacles. Arroyo Grande Sportman opposed to interruptions or delay in harbor development.

Board of Directors
By David W. Hook, President"

Also, we have received from H. C. Grunell, attorney for the Port San Luis Harbor District, a final report on some of the factual material as it appears in your agenda, page 91.

In the third paragraph of the first page of the agenda item, it is stated that "Several upland parcels
adjacent to the granted lands have been condemned." The use of the word "condemned" is erroneous, as the lands were acquired by negotiation. So the sentence should read that these lands were purchased, and the details are that they were acquired by negotiation rather than condemnation.

In the fourth paragraph it is determined that: "The total cost to the District of the pier refurbishing and the boat-launching facilities is approximately $160,000." This should be $100,000; and the cost of the land fill is $262,000 instead of $150,000, as it appears in the item on page 91.

The staff recommendation still is that pursuant to the requirement of the granting statute to the Port San Luis Harbor District that there be a consideration by the Lands Commission as to whether or not there has been compliance with the terms of the granting statute with respect to the development of the harbor. The staff report indicating that this is the case, it is still recommended that the Lands Commission approve the only item that is really before the Lands Commission for consideration — which is that this report of compliance be submitted to the Legislature.

However, as the Commission is aware, requests have been received for presenting views to the Lands Commission on behalf of adjoining property owners.

GOV. FINCH: Are we addressing ourselves, though, to the merits of the report, Mr. Hortig, or are we leaving that to the Legislature's discretion?
MR. HORTIG: I would recommend that if there are questions on the merits of the report these should be brought up this morning. In other words, if there are any contentions that the report is erroneous and is not factual, that is all the Lands Commission has under consideration.

MR. FLOURNOY: That is, if they have substantially complied with the provisions of the law.

MR. HORTIG: That is correct.

MR. FLOURNOY: Who is the party who wishes to speak?

MR. WEAVER: My name is Gerald Weaver, with the firm of Crossman and Weaver. I am representing Mr. Robert Marre.

GOV. FINCH: I'd appreciate it if you would at the outset briefly indicate what the nature of your objection to the report is and to the action by the Commission that the Harbor District has complied with the substantial improvement required by law.

MR. WEAVER: Well, Mr. Chairman, members of the Commission, we sent a telegram, I believe on September 8th, to Mr. Hortig as chairman of the State Lands Division, requesting that the Commission continue its determination until its October meeting at least. I also followed this with a formal request, explaining the reasons why we asked that the Commission continue its determination as to whether or not the Port San Luis Harbor District has substantially complied with the provisions of its grant. I do not know whether the Commission is aware of the request or the reasons behind it.
MR. FLOURNOY: I know we know you have asked to have the action postponed. I think the record may also show that I have received a letter from Senator Grunsky in the same vein, although it did not indicate a specific reason why the decision should be postponed.

MR. WEAVER: The request is on behalf of Luigi Marre Land and Cattle Company, owners of San Miguelito Park Company, basically an offspring of the Luigi Marre Land and Cattle Company. This property surrounds the San Luis Harbor District. This is the property upon which P.G. and E. proposes to build its reactive plant when it gains the necessary permission, on the upland portion of it up the coast about seven miles.

The reason for the request is that there is an action by Luigi Marre Land and Cattle Company, San Miguelito Park Company, against Port San Luis Harbor District to determine the validity of the Port's claim to certain tidelands. We feel there is a real dispute as to who has title to these lands because some of these lands are part of the original Spanish land grant. These matters are...

MR. FLOURNOY: That is not part of the report.

MR. WEAVER: As part of this litigation we began taking an investigation into the records of the Port and as a result of this investigation, which we have not had a chance to complete and will not have a chance to complete -- or, rather, we would be able to complete it before the Commission's
next meeting, I am sure, which I understand is October 21st --
but because of what we have found so far, we feel the report
is erroneous; that it is not complete. Because the facts are
not at the present time before the Commission, the Commission
cannot make a real determination as to whether the terms of
the grant have been complied with -- that is, to substantially
improve the property -- and this is the reason we are asking
for a continuance.

GOV. FINCH: Give me one instance where the report
is incomplete or erroneous.

MR. WEAVER: Well, for example, in the provision in
the report -- it is not numbered by page -- the pier which
they speak of as 1,750 feet. This is a small example. They
state that sixty percent of this pier has been refurbished and
rehabilitated. By their own figures only forty percent of the
pier has been refurbished and rehabilitated.

GOV. FINCH: What do you mean "by their own figures"?

MR. WEAVER: Well, they say 700 feet of the 1,750
feet, and this isn't sixty percent unless they do not contem-
plate finishing it. This is only one example.

The other is they haven't even completed Phase I of
their four- or five-phase plan, which we contend should have
been completed years ago.

GOV. FINCH: But they don't say they have completed
Phase I. My point is they have been asked to provide a report
back to us. We have to forward this to the Legislature. It
has already been delayed; it should have been in earlier.
The litigation with which you are concerned doesn't have any-
thing to do with this report.

MR. WEAVER: That's right.

GOV. FINCH: I can't see any reason for delaying
this matter and sending this report to the Legislature. The
court isn't bound by any findings in this report.

MR. WEAVER: And we are not asking the board to
delay this to assist us in the litigation in any manner what-
soever. The question of who owns the tidelands in that area
must be determined by the courts or compromise settlement; but
I say, as a result of the investigation we made, we feel there
is a real question as to whether or not the Port San Luis
Harbor District has substantially complied with the terms of
its grant, which is to substantially improve the property
within the ten-year period, which ends November 21st.

We feel if this report is incorrect, we feel we can
present sufficient evidence to the Commission that they have
not complied with their grant. I don't like to make allega-
tions now unless I have had an opportunity to fully and
thoroughly complete the investigation necessary. Some of the
records are not available. The attorney for the Port left
the first of September and advised me at the time that he
would not be back until the 24th of September, so I was effec-
tively stopped from proceeding with my investigation. As a
result of this I could not continue the investigation on
behalf of my client. I feel that by the October meeting there
would be no reason why this investigation can't be completed.
We don't feel the report as it stands is complete. I do not
know what the Commission will base its determination on. I
would assume it would be what they have done, with what they
had to work with.

GOV. FINCH: That's exactly right.

MR. WEAVER: And they have had plenty to work with
and haven't done very much with it.

MR. FLOURNOY: Mr. Hortig, do you have a comment
on that?

MR. HORTIG: I would think, Mr. Chairman, that it
would be appropriate to have Mr. Grundell, attorney for the
Port District, respond -- since the problem is really between
Mr. Grundell and Mr. Weaver's client.

MR. GRUNDELL: Mr. Chairman and members of the
Commission, my name is Herbert Grundell. I am attorney for
the Port San Luis Harbor District. At one time I was general
manager of the Pacific Coast Railway Company and I had a lot
to do with this grant.

I think that the matter before this board, as has
been stated, is that you have one point here to determine --
whether or not Port San Luis Harbor District has substantially
completed improvements or engaged in improvements that are now
in progress at Port San Luis. We think very strongly that we
have.
Let's talk about specifics. After the formation of the harbor department and the effective date of the two legislative grants, the Port San Luis Harbor District had absolutely no property of any kind other than the tide and submerged lands in San Luis Bay and San Luis Creek. The uplands were owned and possessed by property owners including necessary ways to the tidelands -- Union Oil Company franchise and a lease of the San Luis Transportation Company from the State Lands Commission.

Nevertheless, the District proceeded to cause a survey to be made of the trust lands. In fact, there were two surveys made. One of them cost the Harbor District $9,000; the other survey, $5,475. There was an initial master plan made at that time. The Corps of Army Engineers issued their report for navigation in 1961.

In order to get access to the Port, an action in eminent domain was commenced by the Harbor District to secure the necessary uplands to Port San Luis. This resulted in a verdict in favor of the Harbor District but the amount of money was in excess of the amount of money that the District could pay at that time and necessarily the matter was abandoned. The District paid in excess of $160,000 in costs of suit.

There were discouragements after discouragements, but finally negotiations were successful with Port San Luis Transportation Company and the District acquired twenty-two
acres of the necessary uplands, plus the Port San Luis Wharf—which, gentlemen, was in a very sad state of disrepair and was dangerous to people using it. The District paid $500,000.

We didn't have the money; we borrowed the $500,000 from the State of California, repayable on a long-term basis.

Now, in addition to that, after we had bought the land and paid the $500,000, we borrowed $200,000 from the man from whom we purchased the land and that was to be used for rehabilitation, and was used for rehabilitation. This $200,000 was repayable over a five-year period.

I think we ought to talk specifically about some things that the Harbor District has done: We have repaired and reinforced a former railroad bridge at a cost of $20,000.

We have filled four and a third acres of tidelands, on which are presently public parking for a hundred cars, and access to a boat-launching and fuel dock facility and to the pier. This cost the District $262,000. We have rebuilt the Port San Luis wharf. Counsel said forty percent, fifty percent.

The figure in the report, I believe, is sixty percent; and the basis of that was the safety to the public. There are fish markets on the wharf, wholesale fish markets. The fishing fleet are now making use of that area and the engineers tell us when we are totally through with the wharf that the value will be in excess of $400,000.

The right-of-way for construction of a public road from Avila to Port San Luis was granted by the Harbor District
to the County of San Luis Obispo. The County of San Luis Obispo, along this same line, constructed a new bridge over San Luis Creek, estimated cost $250,000.

There are future improvements that are contemplated. California Polytechnic College and Cuesta Junior College have made application to us for a marine biology laboratory there and Wild Life is contemplating an investment of $40,000 for fishing platforms.

District ownership of land which was formerly private land nobody could get on -- the public has access to 200 feet now. A new breakwater is contemplated by the Corps of Engineers and we think that capital outlay will be put up by private persons for capital concessions. A launching and fuel station is already in. The concessionaire has invested $50,000.

We have rendered services to the public, and particularly the marine public, that have not been available before. We now have a harbor master. Moorings have been assigned at proper locations. We have arranged for aid and comfort in providing for emergencies; storm warning service; pumps are available for boats in a sinking condition. We have a harbor-to-vessel service, and we have a rescue and fire boat which is now on call.

GOV. FINCH: Mr. Chairman, I move we approve the contents of the report, as recommended by the staff.

MR. SMITH: I second.
MR. FLOURNOY: Without objection -- all those in favor of approving the report say "aye."
(Unanimous "aye.")

MR. FLOURNOY: Opposed? (No response) The report is approved.

We will move to item 8(a) on the agenda, the only remaining item before us.

MR. HORTIG: Mr. Chairman, I believe possibly the best summary could be provided of this matter by a reading of the agenda item which is before the Commission with respect to the application for approval of exchange of land in Upper Newport Bay, Orange County, between the Irvine Company and the County of Orange.

In 1957 the California Legislature enacted Chapter 2044, providing for an exchange of land between the County of Orange and private owners in Upper Newport Bay for the purpose of developing the bay to serve a statewide interest. It provides in part as follows:

"Sec. 3 That any and all of said portions of said lands hereinbefore referred to, which have been or which shall hereafter be improved, filled, and reclaimed, as hereinbefore provided, if and when so improved, filled, and reclaimed, may be irrevocably alienated and conveyed free of the public uses and trusts in said acts, by the said County of Orange, with the approval and concurrence of the State Lands Commission, to the owner or respective owners of the uplands lying contiguous thereto in exchange for lands of such owner or owners necessary or desirable for the improvement, development and conduct of said harbor upon a finding by the State Lands Commission that the lands..."
"located in the area commonly known as Upper Newport Bay which are to be exchanged are no longer useful for navigation, commerce, and fishing, and that the lands to be received in exchange are at least of equal value thereto. The lands received by the county in exchange shall be used by the county only for purposes of statewide interest. Upon any conveyance as herein provided all right, title, and interest of the State and said County of Orange in the land exchanged shall vest in the grantee or grantees thereof."

Pursuant to the said statute, the County of Orange developed a plan of exchange and development that was considered by the State Lands Commission at its meeting on August 25, 1966, and again at its meeting on December 14, 1966. Final approval was withheld pending studies of alternative plans and the receipt of further legal opinions.

The County of Orange has requested that the proposal for exchange approval be considered by the Commission.

Both the Legislative Counsel and the State Attorney General's Office have determined that the Commission may authorize the exchange by finding that (1) the lands in the bay that are to be filled and conveyed to The Irvine Company are no longer useful for navigation, commerce, and fishing, and (2) the lands to be received in exchange by Orange County are at least of equal value to the lands transferred by the County. Both counsel concluded that an express finding by the Commission that the exchange is in the statewide interest is not required in order to authorize the exchange. However, the statute does require that the lands received by Orange
County ultimately be used for purposes of statewide interest.

The Commission employed the planning firm of
Livingston and Blaney as its consultants, and received their
report on December 14, 1966. This report suggested that,
alternative methods of development of Upper Newport Bay be
explored, which has been done. The further investigations
indicated that large public acquisitional and developmental
costs would be required by alternative plans, and that there
is insufficient money available from any sources to make such
alternative plans of development practical in the near future.

Subsequent to consideration of the matter by the
State Lands Commission on August 25, 1966, the Office of the
Attorney General advised that the controlling law to be con-
sidered by the Commission in making its determination is as
follows:

1. Chapter 2044, Statutes of 1957, is not unconsti-
tutional on its face, and a legal exchange may be accomplished
pursuant thereto.

2. Chapter 2044, Statutes of 1957, vests in the
Commission discretionary authority to examine the proposed
transaction as a whole to determine whether the proposed con-
veyance of granted lands free of the public trust is in the
best interests of the State.

3. The Commission should make the following deter-
minations:

(a) Whether it should give or withhold its
approval of and concurrence in the proposed conveyance;

(b) Whether the lands to be conveyed are no longer useful for navigation, commerce, and fishing; and

(c) Whether the lands to be received in the exchange are of at least equal value to those conveyed.

In connection with the determination under 3(b) just read, the Office of the Attorney General advised that the legislative finding in the statute does not relieve the Commission of the responsibility for making an independent examination of pertinent facts and the application of the established criteria, and that the Commission's finding should be based upon physical conditions existing on the date of actual conveyance.

Data developed indicates that the project is large enough to be of statewide interest, and that the following advantages would accrue from the development of the proposed project:

1. The area under public jurisdiction is increased from about 400 to 745 acres, an increase of 345 acres or over eighty-six percent.

2. The area available for public park and beach areas is increased from 70 to 261 acres, an increase of 191 acres or two hundred seventy-three percent.
3. The waterfront public access, including that in front of the park areas, is increased from about 6,090 to 17,880 lineal feet, an increase of over one hundred ninety-three percent.

(These conditions are also indicated in the bar graph to the Commission's left: Upper Newport Bay Exchange Advantages to the County. The bar to the right, which is the fourth element, represents the estimate of the Orange County records' specialist on the potential for increase of recreational user days in the greater Newport Harbor area if this exchange is approved.)

4. The development of the area in the interest of the people of the State of California would be made feasible by the approval of the exchange.

5. Approval of the exchange would make it feasible to have early development of aquatic facilities currently needed by the University of California at Irvine and other educational institutions, including a five-acre waterfront site and a 2000-meter rowing course, or similar aquatic facilities.

6. Access is provided by several major county and city arterial roads, which connect to two existing and two future freeways within one mile of the public areas.

7. Approval of the exchange would make feasible development that would provide for an estimated increase of from 8 to 17.2 million user-days for greater Newport Harbor. This is reflected in the fourth bar to the right of the chart.
8. The parties are contractually bound by the dredging agreement to complete the preliminary dredging within two years and to complete dredging of the navigable channels within five years, thus assuring the public of the use of the waterways at a much earlier date than any alternative plan studied.

An independent appraisal report shows the value of the land to be received by the County is greater than that to be transferred to The Irvine Company, as follows:

- Total value of parcels to be received by Orange County: $19,466,000
- Total value of parcels to be received by The Irvine Company: $11,453,500
- with an indicated dollar advantage to County: $8,012,500

A staff appraisal shows the land received by the County to be at least of equal value to the land to be transferred to The Irvine Company, thereby meeting the statutory criteria.

The Resources Agency reported the desirability of providing for preservation and improvement of the marine ecology in any development program for the subject area. The County of Orange has agreed to cooperate in the implementation of such a marine development program, subject to the approval of the Resources Agency.

A supplementary agreement has been entered into between The Irvine Company and Orange County specifying the leases that may be administered by The Irvine Company. The
entire value of the land covered by the retained leases may be
excluded from the appraised value of the lands to be received
by the County without substantially affecting the preponderance
of value in favor of the County, and without affecting compli-
ance with the statutory requirement of at least equal value.

Therefore, it is recommended that the Commission,
in accordance with Chapter 2044, Statutes of 1937:

1. Give its approval of, and concurrence in, the
proposed conveyance to The Irvine Company by the County of
Orange of land in Upper Newport Bay, in exchange for the lands
to be received by the County of Orange.

2. Find that the lands that are to be filled and
conveyed to The Irvine Company by the County of Orange, pursuant
to the exchange and in accordance with the application
filed with the State Lands Commission, at the time of said
conveyance, will be no longer useful for navigation, commerce,
and fishing.

3. Find that the lands to be received by Orange
County in the exchange with The Irvine Company are at least
of equal value to the lands to be transferred to The Irvine
Company.

4. Authorize the notification of the County of
Orange of the above approval and findings.

Mr. Chairman, up to this morning, for the record,
the State Lands Commission had received letters on the proposed
exchange transaction under consideration as follows:
September 5 -- from Professor Grover C. Stephens, Department of Organismic Biology, University of California, Irvine

September 6 -- Mr. Vernon L. Human, Venice, Calif.

September 12 -- Mr. and Mrs. Donald Heiney of Newport Beach

September 22 -- Mr. Wayne Wheelock, Long Beach

September 25 -- Mr. and Mrs. Schinzinger, Irvine, California

In summary, these letters propose principally that the currently privately held tidelands be held as a public ecological reserve. As already covered in the agenda item, determination of this type of development would be made by the County of Orange in conjunction with the State Resources Agency if the Orange County application is approved.

Letters and telephone requests for an opportunity to report views to the Commission have been received from:

September 20 -- Professor Grover C. Stephens

September 21 -- Mrs. Corinna Babb, Marina Park Association, Newport Beach

September 22 -- Mr. Frank Robinson, Orange County Tidelands Association, Newport Beach

September 22 -- Mr. J. Harrison, Southern California Marine Dealers Association.

Finally, letters recommending State Lands Commission approval of the pending application have been received from:

September 13 -- The Honorable Alton Allen, Chairman, Board of Supervisors, County of Orange

September 18 -- California Marine Parks and Harbors Association
September 19 -- The Honorable William D. Martin, Mayor, City of Laguna Beach

September 20 -- Mr. Robert Guggenheim, Newport Beach

September 20 -- Honorable Paul C. Gruber, Mayor, City of Newport Beach

September 21 -- Orange Coast Civic Association, Inc., Newport Beach

September 22 -- Mr. R. P. Hughes, President, Pacific Hawaiian Products Company.

Now, Mr. Chairman, if you will bear with me, I have had handed to me by people in attendance this morning the following sheaf of papers, which should be entered into the record:

Mr. Craig Harlan, Vice President of Associated Students, University of California, Irvine, wishes to be heard on Upper Newport Bay.

Mr. Paul W. Colburn of Carmel wishes to speak.

Mr. Conrad Epley, Field Representative to Congressman James B. Utt, requests to be heard.

Barbara Horton, Conservation Chairman, Pasadena Audubon, wishes to be heard on Upper Newport Bay.

Another letter from Mrs. Corinna M. Bebb, who has already been noted as officially requesting an opportunity to be heard.

A series of petitions proposed to be read by Mr. Hufbauer.

Mr. John Macnab, President, Newport Harbor Chamber of Commerce, wishes to be heard.

Mayor Paul Gruber, City of Newport Beach, who has already transmitted a letter to the Commission, wishes to be heard.

Mr. Richard H. Ball, Conservation Chairman, Angeles Chapter Sierra Club, wishes to be heard.
Mrs. Esther P. Johnson, Tustin; and Miss Fern Zimmerman, in their individual capacities.

Mr. Selim Franklin, President, Orange County Coast Association.

Mr. Fenton Jones, Orange County Chamber of Commerce only wishes to state approval of the conveyance to The Irvine Company.

Mrs. Dora Hill, former Mayor, City of Newport Beach, is in attendance.

GOV. FINCH: I can't tell whether that is a secret ballot or public ballot you are taking there.

MR. HORTIG: The one I laid aside, Governor Finch, was with reference to another item on the Commission's agenda and not pertinent to Newport Beach. To continue:

Katherine Hail, member of the Sea and Sage Club, National Audubon Society, wishes to speak.

They are still coming in:

L. H. Cloyd, Regional Manager, Region 5, Department of Fish and Game, wishes to make a presentation on behalf of the Department of Fish and Game and the Resources Agency.

The others I am laying aside, Governor, indicate attendance, but do not indicate that there is any desire to make a presentation to the Commission; I am only reading the latter:

Dr. Lewis A. Follansbee, Professor of Marine Science, Orange Coast College.

Mr. Coulson Tough, Campus Architect, University of California, Irvine, wishes the University's letter to be read into the record, which I will do immediately following this.
Letter from Jack Garnaus, President, Bay Area Citizens Council of Orange County, who wish their name added to the agenda.

Letter from Paul Howard, Assistant Western Representative, National Audubon Society, indicating there must be in depth study of each proposal prior to any decisions or action.

Letter from Assemblyman the Honorable Edwin L. Z'berg, enclosing letter from Mr. Gus C. Patzer, indicating personal opposition to the transaction.

Letter from Mrs. Howard Allen, requesting in her statement that the Commission give favorable consideration to the adoption of park reserve area as advocated by members of the staff at U. C. Irvine.

Evelyn Gayman, Conservation Chairman, Deasomount Club, wishes to speak opposing the exchange.

Mr. Rimmon C. Fay, individual commercial fisherman, opposes the transfer; would like to make a statement.

Mr. John Tyler, Vice Chairman, Southern California Chapter, The Nature Conservancy, wishes to speak.

Jan Boer, research analyst, wishes to speak.

Monterey Park Rod and Gun Club supports wildlife conservation measures.

An expansion of a letter previously filed on behalf of Orange Coast Civic Association, in favor of the exchange.

Mr. Robert Vile, President, Ocean Fish Protective Association, wishes to speak.

We have attendance slips that indicate both support and opposition to the exchange, but no indication of a desire to speak on the subject, from many people here in attendance.

In accordance with the request that the University
of California at Irvine's letter be read into the record, it
is dated September 22nd, addressed to the State Lands
Commission:

"Re: Development of Upper Newport Bay
Orange County

Gentlemen:

With respect to the development of
the Upper Newport Bay, the University has
no official position other than its inter-
est in the property described in the agree-
ment between The Irvine Company and the
University of California. As part of the
agreement, The Irvine Company shall deed
a parcel of land of five acres located at
the easterly end of Upper Newport Bay,
together with a corridor one hundred feet
in width connecting such parcel to the
campus. The description of this parcel
of land and its purposes are contained in
the Second Phase Report prepared by
William L. Pereira and Associates for
the Irvine Campus and included as a part
of this agreement.

Very truly yours,

Daniel G. Aldrich, Jr."

And in the letter of the Orange Coast Civic
Association of September 21st, there is a concluding statement:

"I call these needs to your attention and
request time at your hearing to urge fur-
ther study before the commission on public
lands makes a decision.

(signed)

Edward P. Allen, President"

Also, letters have been received by the
Commissioners as follows:
From Miriam H. Smith, Corresponding Secretary pro tem for the Nature Study Group of Laguna Beach, received by Commissioner Smith, suggesting implementation of the maximum of conservation.

Also received by Director of Finance Smith, a letter from Mrs. Robert J. Howison of Laguna Beach, recommending a proposed park reserve for Upper Newport Beach.

Another letter to Mr. Smith, expression of concern from Mrs. Patricia Stephenson of Fullerton, California, with respect to preservation of the natural areas.

Also received by Mr. Smith a letter from Dr. Gale A. Granger, expressing concern and a desire for a natural bay in Southern California; and

Letter from Southern California Marine Association, Mr. E. P. Nichols, Executive Director; and, as indicated from previous telephone calls, a representative of that association has also indicated a desire to speak in opposition to certain phases of the matter.

It might help, Mr. Chairman, if I stressed for the benefit of the people here concerned, as stated in the agenda item, that the Commission has a letter from the Chairman of the Board of Supervisors of Orange County, specifically outlining the degree of agreement and willingness on the part of the County of Orange to work on all effective programs for the preservation of ecological values in any development of Upper Newport Bay if the land exchange is consummated, and that such programs are to be subject to the approval of the State Resources Agency:

Therefore, this is an element of concern as
expressed in the majority of the letters that the Commission
has received, but that is not an element or condition for con-
sideration for approval of the basic real estate transaction -
the land exchange of granted tide and submerged lands from the
County of Orange to The Irvine Company, and the return from
The Irvine Company of privately owned land -- then to be
studied for development in the statewide interest, as required
by Chapter 2044 of the Statutes of 1957.

GOV. FINCH: Let me ask this: If the County comes
back with detailed proposals as to how they will use their
land, would we have the benefit then of the Resource Agency's
approval as a condition precedent before we would then be
asked to approve that development?

MR. HORTIG: Only if the County also submitted the
total plan or plans as they might exist at that time to the
State Lands Commission for consideration. There is no requi-
ment in the statute that this be done. However, there is the
obligation of responsibility on the part of the State Lands
Commission, together with the Office of the Attorney General,
to evaluate any future plans by Orange County for such develop-
ment, whether submitted for review to the Lands Commission or
not, in order to determine that the full conditions of the
original tideland trust, as well as the requirement for devel-
opment in the statewide interest under Chapter 2044, is being
met, in fact.

GOV. FINCH: Just a minute, Mr. Hortig. You went
completely around a circle on that one.

MR. HORTIG: I am trying to give you a specific answer, Governor. I think this question as to the proposal as to how Orange County contemplates carrying out this program and whether they intend to submit development plans for review by the State Lands Commission before they go forward, in addition to their working out their plans on the ecological aspect with the Resources Agency, could be directed by the Chairman as a question to the representatives of Orange County who are here.

MR. FLOURNOY: I think that what Mr. Hortig is trying to say -- Under the law there is no requirement, although there is a continuing requirement that the lands be developed in the statewide interest; and, of course, we could assert they were not if they were not. Although they are not required to submit them, I presume we would have access to the plans.

GOV. FINCH: But specifically they are required to work with the Resources Agency with regard to the ecological?

MR. HORTIG: Not as a matter of statute, but simply as a matter of agreement. The Resources Agency raised the question and they have agreed to that.

GOV. FINCH: If we can agree on that, we can cut down a number of people to be heard from.

MR. SMITH: Mr. Chairman, before we begin -- On the last page, Mr. Hortig, on this particular issue, there were
four actions that should be taken and I'd like to suggest, unless there are other suggestions, that items 2 and 3 be considered as items 1 and 2, and item 1 be considered as 3. In other words, we first make the determination, if we do at all, that the lands will be no longer useful for navigation, commerce and fishing; and, number 2, that the lands that will be received by Orange County in the exchange are at least of equal value to the lands being provided to The Irvine Company; and then we make the determination as to whether or not we approve the conveyance. In other words, it seems to me we should make a determination on 2 and 3 before we make a decision on item 1.

MR. FLOURNOY: We can, I think, preferably at least direct our attention as to whether or not there is a specific objection to 2 and 3, in the sense of the valuation of the land or the utilization of the land; then these findings would follow. If we don't approve them, we don't need to make those findings. We only need to make those findings if we approve it. I believe, along with your comment, that we could determine whether or not there are people who wish to speak specifically to those questions and perhaps at this point in time we could just get an indication by a showing of hands if there are people who wish to speak specifically and directly to those two items on the agenda -- one, to contest that the lands to be exchanged are not at least of equal value; and, two, with regard to the value of the lands for commerce, navigation
fishing at the time of the conveyance, which would be under
the agreement if such action would be taken. Let us get this
matter cleared up if we can.

MR. KUYPER: Mr. Chairman, my name is Adrian Kuyper.
I am County Counsel, County of Orange.

There has been a wealth of material submitted to the
staff over past years, before and subsequent to the last hear-
ing, and I won't burden the record with what would be largely
repetition. We concur with the staff report and its recom-
mandation, and we respectfully urge your approval.

As Mr. Hortig reported, we are in agreement that we
will submit plans to the Resources Agency for its approval on
this phase of development of Upper Newport Bay.

If there are any questions on details or rebuttal
necessary, we would be happy to answer them.

MR. FLOURNOY: In that connection, is your agreement
with the Department of Resources such that it is not statutory
that they approve but this would be a factor in proceeding --
as to whether or not the Resources Agency approved the plan?

MR. KUYPER: There is no specific contract. There
was a letter that was introduced at the last hearing; and what
we represent to the Commission, as we have to the staff -- and
this is in the body of the report -- is that we will work with
the Resources Agency and we are sure we can arrive at some
mutually satisfactory development in the Upper Bay.

GOV. FINCH: Is that an agreement on the ecological
MR. KUYPER: I might say we doubt whether we can approve the diagram that we have seen in the last week, where we just hack off the top of the bay. We are going to dredge in a particular fashion outlined in the dredging agreement, but we can retain areas in the Upper Bay. It will not be the primary use of the Upper Bay. It will be one of the recreational facilities. This retains that factor, but it will not be the predominant use of the bay, but will be incorporated as best we can.

Thank you, gentlemen.

MR. FLOURNOY: If there are no questions on that, I think we should proceed and I would suggest we proceed along the basis of those people who are in opposition to various features of this program. Let me say we have a rather lengthy list of people who wish to address themselves to this subject. We would hope, certainly, that a minimum of repetition would be engaged in by those who wish to speak to the Commission. If the point has already been made, it seems to me you can indicate your position briefly, and we would look favorably upon whatever curtailment of extensive testimony can be effected.

Let us, then, proceed.

MR. HORTIG: Mr. Chairman, may I interrupt? It is very essential for the record, and I apologize for not having noted previously, that we also have requests for statements to
be made by the Honorable Robert Badham, the Assemblyman in whose district Upper Newport Bay is located, as well as by Mr. Charles Baldwin on his behalf, and Assemblyman Cory on behalf or at least in association with the Joint Legislative Committee on Public Domain.

MR. FLOURNOY: Let us then proceed to try and dispose of any contentions with regards to 2 and 3 first. Then we will get on the subject of those who are opposed to it.

Let's start with the item with regard to the value of the land. Will those people who wish to address themselves to that specifically limit themselves specifically to this point. We would appreciate it.

PROFESSOR FOLLANSBEE: Gentlemen of the Commission, Lewis A. Follansbee, Professor of Marine Science, Orange Coast College, and I speak to, item one; the independent appraisal.

Now, I have seen various figures in the years. This figure has appreciated from one and one-half million up to something like eight million dollars. I am unaware of actual figures from the County Assessor's office. The County Assessor would be in a position, I believe, to give us figures which relate to this particular problem, and my particular question is: If these, indeed, are the figures -- then why are not presently these lands being assessed at those particular values? I understand that the Assessor of Orange County is in the audience this morning and I would ask your permission to require or request this answer from him.
MR. FLOURNOY: I don't think the question of what
the lands are appraised for is relevant as to whether the
lands to be exchanged are not at least equal in value.

PROF. FOLLANSBEE: I think this would establish
whether this is equal.

MR. FLOURNOY: You are challenging the staff
appraisal that these lands are at least equal?

PROF. FOLLANSBEE: I say I wish for clarification.

I am not convinced they are.

MR. FLOURNOY: On what ground?

PROF. FOLLANSBEE: On the basis of the fact that I
think assessed valuations are not as indicated on the basis
of these figures.

MR. FLOURNOY: I am not going to introduce assessed
valuation figures as against the values of our own staff be-
cause that is not a matter pertinent to what they really may
be worth, and not pertinent to our findings that they are of
at least equal value, unless the other members of the Commissi-

That is the feeling of the other members of the
Commission. I don't believe the assessed value is relevant to
the real value necessarily and I don't want to get into assess-
ing practices here if I can help it.

PROF. FOLLANSBEE: I defer to your opinion. Would it
be possible to ask the Assessor to give his opinion whether or
not these figures establish whether or not ....

MR. FLOURNOY: I think if the Assessor is here and if he wishes to make any comment with regard to the value of these specific lands or has them available -- and I don't know he does, since he did not indicate he wanted to testify -- then certainly he has the right to do so. If he wishes not to comment, he has that right as well.

GOV. FINCH: Mr. Hinshaw, your public is calling.

MR. HINSHAW: For the record, my name is Andrew Hinshaw. I am the Assessor of Orange County.

I am called upon to answer this particular question many times, particularly during the times when there are some newspaper articles about the trade in the Upper Bay.

We, of course, must establish a valuation of the lands which are being proposed for assessment purposes and, of course, the Commission must be aware that we operate under the same type of constitutional and professional appraisal practices that are employed by your own appraiser and the private appraiser, Mr. Evans, who made the appraisal for the Commission, as I remember.

I received a copy of the appraisal made for the State Lands Commission and went over it in great detail, and there are a number of passages in the appraisal that would lead another appraiser to believe that maybe the conclusions are not supported by the facts. I could refer to the statement by the appraiser himself that he has not analyzed all of
the parcels in the proposed trade. On Page 42, the value estimates -- quoting from the appraisal by Mr. Evans -- "No attempts were made to analyze each of the parcels appraised by the subdivision residual method. It is believed the examples heretofore given adequately illustrate the question."

If I were asked for my opinion of value on the Irvine parcel as a part of the entire Irvine Upper Bay ownership -- that is, if the entire ownership were to be sold to one buyer -- the contributory value of each of the parcels would be substantially lower than the values given. However, this general principle would be applicable to the County values. That is as an appraiser and speaking only as an appraiser, because I have no official position on whether or not the trade as proposed is desirable or undesirable. I have no official position on that whatsoever, but I would say that the trade that is presently contemplated and before this Commission would indicate that if the trade is consummated there cannot be a net benefit to the County simply because the islands which will be dredged out largely then will have that value transferred to the perimeter land which will be held both by The Irvine Company and the County. Those islands which are the bulk of the great benefit supposedly accruing to the County will not accrue to the County; they will largely accrue to the larger perimeter of the owners of the other lands. The values which will be inherent in some of the physical properties they hold largely would be enhanced to a
great magnitude by the decision of not only this Lands Commission but by the Corps of Engineers, who have to be involved in the development of the navigable portions of the property.

I would say as an appraiser that there can be no showing at this point in time that the County will receive a benefit. Indeed, I would say that the benefit would be the other way around. It would largely be to the owners of the perimeter lands, which would be partly the County and partly the Irvine Company.

GOV. FINCH: But you are talking about the future. Right now, are you saying the appraisal is eight million off?

MR. HINSHAW: I would say he is more than eight million off.

GOV. FINCH: As of the future or now?

MR. HINSHAW: As of right now. If I could use an example, at the present time there are apparently two ownerships in that area -- The Irvine Company and the County holding lands in trust; but there are some other governmental agencies which become involved: the Lands Commission, for example, the Corps of Engineers possibly. Let's just expand for a moment that type of interlocking interest and control. Say we had fifteen or twenty governmental agencies and two or three hundred private interests involved. You may have a situation that would be chaos and the valuation would be largely dependent at any point in time on the decisions to clean up and make clear the rights that are presently involved.
In the appraisal report of Mr. Evans, he assumes that there should be some bridges built to the islands and that is not borne out on the report before us. I would hazard a strong guess without a great deal of cooperation and permission the Irvine Company could not develop these islands if this trade would be postponed or disapproved. I would say there is question of whether there is much of any value other than nominal to those islands. This is why we do not think that the market value that we should place on those properties is anywhere close to the Evans appraisal.

Gov. Finch: Did you make these observations to your Board of Supervisors?

Mr. Hinshaw: Yes. We have not particularly done so. I have spoken to one of the Supervisors when he called me on the telephone to suggest that perhaps we should keep the valuations low because there were some complications to the trade, and I pointed out that we didn’t think the parcels in the Evans appraisal were market value anyway and he should not be concerned. I have not called it to their attention officially because it seems to me I shouldn’t voluntarily inject myself into a controversy which is not my official business.

Gov. Finch: They made a recommendation and apparently they did not have the benefit of your counsel; and now you have been asked here and I just wanted to know whether they had the benefit of your thinking before they gave their
MR. HINSHAW: No, they have not.

MR. SMITH: Mr. Hinshaw, have you made a study of this and do you have a report on your views?

MR. HINSHAW: Not a specific parcel by parcel review.

MR. SMITH: Do you have it in writing?

MR. HINSHAW: No, sir. I could furnish you something in writing.

MR. SMITH: Do you have it in writing now? We are coming to grips with this issue today.

MR. HINSHAW: I didn't plan to testify here today. I was here as an interested observer.

MR. FLOURNOY: He just happened to have a copy of the appraisal report.

MR. HINSHAW: Well, I have a lot of papers.

MR. SMITH: As the County Assessor, I would think you would have something in writing.

MR. HINSHAW: Not with me today; no, sir.

MR. FLOURNOY: Thank you very much, Mr. Hinshaw.

Is there any further testimony on this particular point?

MR. CROW: My name is Warren Crow and I have sent letters to this Commission on the specific subject on why I objected to the trade; and to get to the specifics of what Mr. Hinshaw has been talking about in generalities, the upper
island in the trade has been appraised by Mr. Evans at $100,000. "Current fair market value" are the words used in his report. At the present for the year 1966 those islands are assessed at fifteen hundred per acre, which is 1.5 percent.

If it is true that the law requires the Assessor to appraise at 20 to 25 percent of market value to the year 1971 and then in 1971 it becomes necessary to appraise at 25 percent, and in the interim he must state publicly what he assessing these islands to, he has stated it is 25 percent. If it is 25 percent, it is $6,000 per acre.

In the year before, those islands were appraised and assessed at $100 per acre, which would indicate a market value of $400 per acre; in the year before that, they were appraised at $15 an acre, which would be $60 market value.

I, as a citizen of Orange County, object with all the ability I have to accepting this trade on the basis of $100,000 per acre when this same company has helped contribute to our total tax load on the basis of $60 an acre, $400 an acre, and $6,000 an acre. If this does not indicate that there is some tremendous difference of opinion in the market value which will most certainly affect where the balance lay, whether to the advantage of the County or not, then I don’t know what other competent evidence could be presented that this valuation certainly needs further inquiry. It is just too far apart. There is no possible way to rationalize the term "value" and come up from $60 to $6,000 an acre — which,
by the way, was approved by the County Board of Equalization, and yet a few months later they come along and tell us we would be doing well to acquire these lands at $100,000 per acre. There is just absolutely no sense, rhyme or reason to combine those two statements. It cannot be done.

MR. FLOURNOY: Any further comment on this particular point?

MR. ROBINSON: Mr. Flournoy, I wrote a letter but I didn't know the sequence you were going to set. So I have one page I would like to read ...

MR. FLOURNOY: I would rather we stick with the value.

MR. ROBINSON: Frank Robinson, County Tidelands Association. I am an engineer, so I became considerably interested in this about four or five years ago; and there is a number of discrepancies in this general approach that bother me.

Now, I am following all this with authority. I would like to just make one point that makes me question the whole valuation on this trade. I believe you gentlemen have seen this map put out by the Harbor Department; you are all quite familiar with it. The question that comes to my mind in the evaluation of the $8 million advantage to the County -- and using the criteria at the time of the exchange, which is at close of escrow, conceivably say two years from now, assuming everything went smoothly -- at close of escrow we will
have generated a new channel. The area up here, as you are
aware, is the County portion and with the exception of Big
Canyon the rest of the channel will be given to The Irvine
Company.

Now, recently Linda Island has been developed and,
prior to this, Dover Shores has been developed. In the June
issue of The House and Home there is an article describing the
development of Dover Shores. At this time it gave the cost
and sales price of Dover Shores and this has been confirmed
by The Irvine Company in their brochure on Linda Island.
These lots came out at an average of approximately $2,200 a
front foot. Now, applying that criteria to the frontage ac-
quired by The Irvine Company, it is roughly 35,000 feet on the
bay. Now, Dover Shores fingers three-to-one. If you assume a
two-to-one frontage fingering, you have 35,000 times two, which
is 70,000 lineal feet; and 70,000 times $2,000 is $140 million
value. I wouldn't have been upset by the figure so much until
I read the article and the cost to front the Dover Shores
development is $100 a foot, which is rather a nominal figure.

So what I am puzzled about, if it is a fair deal --
someone cuts the pie and the other guy takes the choice of the
pie; and if there is any truth in the $8 million advantage
to the County, I would gladly give The Irvine Company the
County share and take the Irvine 70,000 lineal feet. I think
this would be a pretty good deal. Since by law it has to come
out to the County's advantage, I can't reconcile these figures.
We talk of $9 million, $20 million, and all of a sudden here is something worth $150 million. That is too different. There should not be that great a proportion of difference. If I was off two or three times, I would question my ability to make this statement but I am using the present market value and I suspect in two years, if anything, it may go up slightly.

MR. FLOURNOY: Those figures are for front footage for Dover Island?

MR. ROBINSON: Just the front footage, the bare empty lots as the Irvine Company prepares to lease them. Take a specific case: Dover Shores is shown in this area. It has approximately one-third mile on the channel. By fingering this has been increased three-to-one. Using the same price structure -- I believe it is fairly close or reasonably close to Linda Island -- there is actually one mile gained in here; and on the present market value, as is determined by the brochures on Linda Island, this is somewhere in the vicinity of $10 million.

Now, right next to it is another parcel of approximately equal size. What it says is that this parcel similarly developed will be worth another $10 million, and that is using a three-to-one ratio. I say let's take it at two-to-one. In this area it is quite deep and can be fingered quite successfully. In the gross picture at the time of the escrow closure this represents what the thing is worth, and I am talking in
terms of a couple years, not far in the future.

There is one other subtlety here which I missed.
You will notice the bulkhead line which is the basis of the exchange, a very fine line, like in insurance policies. There is a pierhead line. This pierhead line extends practically the entire length. So just for fun, you multiply the enclosure between the pierhead line and bulkhead line. It comes out to be 35 acres, which will be totally, exclusively, one hundred percent used by the adjacent landowners. You couldn't navigate through a pier; it causes all kinds of trouble. So this is almost as if we were giving them this additional 35 acres. In the trade, the three islands are valued at roughly $100,000 an acre. That could conceivably, by that figure, amount to $3 ½ million in the appraisal.

I bring this point out to show that there is a lot of unanswered questions in our minds as to what is the true value. I would make one suggestion -- that the only true value could be arrived at is throwing the whole ball of wax into an escrow situation and put it up for bid; otherwise we don't know what the true market value is.

GOV. FINCH: We don't have the power to do this.

MR. ROBINSON: I know this. I mention the best way to find market value is in an open market.

MR. HORTIG: May I refer to the Commission's attention agenda page 89. It is stated specifically that the reported advantage to the County is based on an independent
report, but that a staff appraisal by the State Lands Division shows the lands to be received by the County to be at least of equal value to the lands transferred to The Irvine Company, because some of the discussions in the evaluation that we have heard here today were evaluated and included in the State Lands Division report and hence we did not indicate a specific advantage to the County, but the fact that the statutory requirement that an equal value could be justified.

MR. ROBINSON: May I comment on that? Since the inception of this plan as presented in 1963, it started out as being that; but with substantially not much change in the plan, the advantage seemed to rise 1.2, 1.6 million, 3.2 million. All this seemed to go along with all the hell we were raising. Now it is up to $8 million. What is the value?

GOV. FINCH: I am sure if we procrastinate another 48 years it will be a multiple of that.

MR. ROBINSON: May I comment on that?

Mr. Flournoy, we wrote a letter and this answered the questions you raised. We had written you previously concerning our belief that the 1957 enabling legislation to permit the exchange of the tidelands in Upper Newport Bay is unconstitutional. We have been advised by counsel that there is indeed serious doubt as to the validity of the enabling legislation. Until and unless the report of the Attorney General is released and made available for our study, our counsel says he has no reason to believe that this trade
would be held legal in the courts. You have stated in corres-
pondence to us that ten years which have elapsed since the
enabling act is sufficient to pass. May we say that although
ten years have passed, very little visibility has been given
to this trade until recently. The first Irvine appraisal was
not made until 1963, six years after the enabling act, and the
agreement between the County of Orange was not signed until
1965. Opinions were not sought from the taxpayers as to what
they might want for the Upper Bay. They were offered this
plan and none other; and we were kept uninformed from 1957 to
1963 that a trade of such consequence, with miles of public
lands, was being contemplated.

Meanwhile, since 1957 we have had an enormous growth
of population in Orange County -- only a hint of what is to
come. We have seen the construction of a new campus at the
University of California. We have realized we have a new
citizen in our midst. He is alert; he raises questions; he
goes to meetings. He safeguards the public interests as well
as the interests of large landowners. The Assessor, Andrew
Hinshaw, is evidence of the informed citizen.

We are convinced that this citizen would not con-
sider the voiding of a public trust in order to deed public
lands to a large corporation. Presently, this corporation
owns all the waterfront property on the ocean between Cameo
Shores and Laguna Beach, thereby controlling access to these
ocean shores. Approval of this tidelands exchange will add
several miles to the expanded waterfront control by this corporation and will remove this newly created waterfront from the public use forever. The transfer of public tidelands into private domain seems to us inappropriate when all reports of projected population growth indicate that there will be an enormous shortage of recreational area for the public in a very relatively short time.

Our nonpartisan committee humbly requests that your Commission deny this proposed trade. We urge that the recommendation be made that the Orange County Supervisors allocate funds for the private study of Upper Newport Bay with the intent of preserving the tidelands trust. The Harbor Department will be required to spend approximately $2 million following approval of this proposed trade to dredge and fill the tidelands in accordance with The Irvine Company-Orange County agreement. The Harbor Department undoubtedly has set aside a large portion of this $2 million. They were able to accumulate almost $5 million for the Dana Harbor. Surely, some of this $2 million may be set aside.

GOV. FINCH: Let me ask a couple questions. You criticized the Lands Commission for inaction from 1957 to '63.

MR. ROBINSON: I did not criticize the Lands Commission -- the County.

GOV. FINCH: Secondly, you raise the legality of the act of 1957: Isn't it true that there is no way to get into the courts to test that unless we take action?
MR. ROBINSON: Correct; I hope you will.

GOV. FINCH: Thirdly, what kind of assurance -- Do you have any reasonable assurance that the County, because we can't force them to do it, would conduct the study you ask for?

MR. ROBINSON: None whatsoever, except the veto power you have over agencies that perhaps will not fulfill the requirements of the trust. You have a tremendous veto power until somebody does something, to give us time in the County as individuals and citizens to generate the necessary help to do this thing.

GOV. FINCH: What has been happening during this last year when you had this same situation?

MR. ROBINSON: For three years -- Well, one of our problems, specifically, is that we do not have the fund that the Harbor Department has spent over the twenty-odd years developing the Irvine plan. This is talked of as "The Irvine Plan" -- not "The County Plan." What we have is an example of public funds being used to develop plans for a private company, I only wish we had that. It is going to be a difficult problem; I recognize that.

GOV. FINCH: So the only alternative you have really given us is to say that you would like the County Supervisors to come up with some money for a new plan.

MR. ROBINSON: Yes.

GOV. FINCH: And we have, on the other hand, the Supervisors telling us they would like us to approve the
transaction. So the hope you nurse in your breast is not exactly viable.

MR. ROBINSON: Yes, but the power you have is...

GOV. FINCH: You have been sitting on this thing for years and years and years and nothing has happened.

MR. ROBINSON: Four years.

GOV. FINCH: Four years. I don't see any reasonable suggestion that anything can be changed.

MR. ROBINSON: It may not.

GOV. FINCH: This is where we have to make a judgment.

MR. ROBINSON: If nothing is changed, the County will hardly lose any further ground.

MR. FLOURNOY: One point: You say we have a veto power to see that nothing happens. Since we have no capacity to prevent The Irvine Company from using the lands they have...

MR. ROBINSON: That would be excellent.

MR. FLOURNOY: We do not have that.

MR. ROBINSON: But you do have. From Mr. Hortig's statement you have the broad authorization to check these suggestions, to determine if they are in the public interest.

MR. FLOURNOY: Not with regard to land that The Irvine Company now owns.

MR. ROBINSON: Of course not.

MR. FLOURNOY: So there is nothing we can do to prevent The Irvine Company from using the land they now have.

MR. ROBINSON: That is correct.
MR. FLOURNOY: We really don't have control over the ultimate disposition of this just by saying "no."

MR. ROBINSON: No, they can go ahead; and I think it might be a good idea to let them do this.

GOV. FINCH: But then you concede the public usage would be less than under this plan?

MR. ROBINSON: Hardly, because we have the right to use the channels as they now exist. We own frontage on this new channel.

GOV. FINCH: Do you have any reason to think that the County has the capability of doing that?

MR. ROBINSON: Well, they have the capability of generating a $10 million harbors and parks program which they are committed to for the next ten years. Mr. Sampson has applied for State, local and Federal funds. I assume he knows what he is doing. He is a competent man.

MR. SMITH: I'd like to ask Mr. Hortig, since there seems to be a difference in the value of the land between the appraisal and what Mr. Hinshaw says and Mr. Robinson says -- Mr. Hortig, has the organization who made this appraisal made other appraisals in the area insofar as the State Lands Division is concerned, and in other appraisals you have made down in this area what has been the reliability of these appraisals?

MR. HORTIG: My recollection is as to the complete reliability of the work of Mr. Evans. This appraisal was contracted for as an independent appraisal by the County of
Orange and I believe they have used Mr. Evans in this connec-
tion previously; and probably the appraisal and reliability
thereof should be presented to the representatives of the
County of Orange.

MISS BOER: My name is Janet Boer, 912 North Lowell,
Santa Ana.

At the instigation of the Mayor of Santa Ana in
early 1966, I investigated the entire harbor district and I
intend to speak later to many other points; but right now I
want to call your attention to one very vital fact. The
Harbor and Navigation Code, Division 8, Section 2, under which
Orange County operates, is not a harbor district. It is a
harbor improvement district. It is very unique in California
because we are the only harbor improvement district in Cali-
ifornia. This is a special privilege act put into the law to
benefit no one but Orange County.

Whenever we want this law changed -- you know,
Mr. Finch, being an attorney, how it is done -- the Assembly-
man or Senator carries the bill; and in this case it has been
amended since '49 to make it possible for other harbors besides
the one for which it was passed originally and in 1953 it was
passed for other harbors.

In 1949 when this law was passed by the Legislature,
the Norman Chandler Corporation, which owns the Times ....

MR. FLOURNOY: Is this on the matter of the valuation
of the exchange?
MISS BOER: Yes, just a moment. They gave $15,000 to the County of Orange, and I quote (it is in the County Auditor's office): "to begin the acquisition of Dana Point."

The same thing happened in 1957. The Senator who carried the bill, which was written by the County Counsel, has openly stated in the newspaper it was supported by the Board of Supervisors of Orange County -- the bill that made possible the filling of Upper Newport Bay. That bill was carried to the Legislature in Sacramento by a Senator who is now a director of The Irvine Company.

MR. FLOURNOY: What is the relation of that to the value of the land and whether or not they are of equal value? This is the point at the moment and I would appreciate it if you would confine your remarks to that.

MISS BOER: Yes; you said 2 or 4. That's the filled land. The lands could not be filled unless the County of Orange dredged sand out of the bottom of the bay and placed the sand at the bottom of the bay. We are creating land with County money, Harbor District money, and then we intend to give it away.

MR. FLOURNOY: In exchange for other lands.

MISS BOER: In exchange for other lands.

MR. FLOURNOY: According to the independent appraisal of our staff it is of equal value. Whether it is of equal value has been raised by a couple of immediately preceding witnesses and this is the point we are trying to retain our
MISS BOER: That's correct. I would call to your attention that the land that is now to be exchanged -- part of it, not all of it -- has been created by Orange County taxpayers' money. The land was placed in very strategic spots, where it would be needed in the future. We have rendered waters unnavigable which were once navigable. And now we have a law passed at the instigation of Orange County; no one opposed it, so the Legislature did it. But our taxpayers have to pay the expense of all this.

MR. FLOURNOY: This, I have no doubt, is true; but, at the same time, if that be the case and your quarrel is with some of this legislation, it would appear to me it is a matter that the Lands Commission cannot deal with but one that can only be dealt with between the citizens of Orange County and the Legislature, with subsequent reversal of the legislation if that is available. But there is nothing we can accomplish here, I am afraid.

MISS BOER: I realize that. I just wanted you to be aware of the fact that this special legislation was passed for one particular purpose -- to make possible one particular trade.

MR. FLOURNOY: I can only say in my experience in the Legislature Orange County is not unique in that regard, although it still may not justify the action taken. I am not passing judgment on that.

MRS. BABB: Could I raise a question about appraisal
and still read the letter I am presenting?

MR. FLOURNOY: Let me say this -- at a great sacrifice to the Commission we will not halt this meeting before lunch. We will proceed right on through.

MRS. BABB: I am Mrs. Babb. You asked the question of whether we are talking of present or future valuation, and I suggest this is a situation where we cannot make a distinction between present and future valuation. Our present valuation must include future valuation.

If I understand correctly, there is a general use map, according to which the shoreline itself is to be developed. This plan allows The Irvine Company the land facing the lagoon. The County seems not similarly privileged in the same way; the shoreline is barricaded. I would like someone to point out to us what the shoreline is going to be.

GOV. FINCH: So far as I am advised by staff, we do not have a proposal of that kind before us.

MR. FLOURNOY: No, this is not before us. The development to protect the statewide interest is a matter that would be a continuing thing and not a matter to be taken up at this time.

MRS. BABB: In other words, the general use map is not necessarily...

MR. FLOURNOY: ... is not on the matter of valuation.

MR. TYLER: My name is John Tyler. I am the Vice Chairman of the Southern California Chapter of The Nature
Conservancy. I live in Santa Monica.

In 1934 I was on leave from Cal Tech for my health and I explored that entire bay; and this is a matter that is being completely ignored in this planned exchange. We are talking strictly about whether the land is valued at X number of dollars, mainly to put buildings on it, and no consideration given to the millions of dollars which will be lost if we disturb and destroy the land for its present use for wildlife.

Many of you people cannot understand that. I will give you an analogy, if I may. Most of you, I think, will value emeralds. Very quickly -- a colleague of mine in Cal Tech is the one man in the world who makes emeralds which sell for thousands of dollars. He makes them out of material which is twenty-six cents a pound and sells them for $100 a carat. I don't think much of jewelry; the rest of the world does. The only way you can tell the difference in the gems he reproduces is to put the gem in a Bunson burner. If it explodes, it is a real emerald; if it doesn't, it is made by my friend.

Later on, if we find our bird life has disappeared, we are going to have to make an artificial area, which would be very expensive.

I have a plan to throw out to solve the problem as to relative values today and after the exchange. You are trying to establish a value that is equal.

MR. FLOURNOY: This is what the Attorney General has advised us to do.
MR. TYLER: This is not a law, and I would suggest it would be a law. Namely, any land which is changed in usage, as this land would be, should have one appraisal at this time and later on, when it is rezoned and in effect with what you are doing to it, have another appraisal. The difference would be a tax on that land, payable to a State agency for purchase of lands of a like nature. There will be no beneficial accrual by rezoning.

This is what our problem is here -- what makes it advantageous to The Irvine Company is the increase in the value the land will get.

MR. FLOURNOY: With all due regard, I suggest that is a matter you better take up with your Legislature.

MR. TYLER: I feel at this time if we make this land exchange we are losing considerably in the wildlife of the State of California; and as a public Lands Commission you should be well aware of the rapidity with which this is diminishing and this should be pertinent to this issue.

MR. FLOURNOY: We are talking now only about the monetary value, and the monetary value is what we have been directed by the Attorney General is the issue. Let us proceed.

I think with regard to item 3 there may have been one who wished to speak with regard to the land use or the conveyance with regard to navigation. Yes -- back to item 2, is there anyone who specifically wishes to make a remark
about item 2?

VOICE: I just want to be sure you will continue that to discuss the ecology, because I think that is pertinent.

ANOTHER VOICE: This question of ecology -- does this come into navigation? It really should be under this.

MR. FLOURNOY: I think if that be the case, that the ecology is the only matter, I think we would probably do better to get to the approval of the Commission and go into that later, subject only to the limitations indicated by the County and supported by them that there is an agreement that they will submit plans to the Resources Agency.

Perhaps I ought to at this point ask for testimony from those legislators that are here. I think we have two from Orange County, and one who is the Chairman of the Public Lands Committee and their consultant.

Mr. Badham, would you care to speak to the Commission or would you defer to Mr. Cory?

ASSEMBLYMAN BADHAM: Mr. Chairman and gentlemen of the State Lands Commission, I am Assemblyman Robert E. Badham. I represent the 71st Assembly District, in which lies in its entirety the Newport Bay, both Upper and Lower.

I am here just to make very brief remarks -- basically, that I am in full support of and in concurrence with the staff calendar item number 49, recommending approval of this Upper Bay tidelands exchange. I say this with all sincerity because I have studied this from every possible
aspect with which I am familiar and I therefore would urge your approval of this.

Just a couple of comments, if I might, on the remarks that have just been made by the previous speakers in opposition to the proposed, supposed; or appraised assessed value. I would like to state, as a property owner in the area as well as an elected representative of the area, that if this tideland exchange does not go through it will necessarily be developed sooner or later by the owner of the upland property.

I would call your attention to this map on the wall, this aerial photograph which shows the entire Upper Bay area. I would state to you, gentlemen, that every inch of shoreline with the exception of that cut in the extreme southeast corner, which is Newport Dunes, is owned by The Irvine Company. The islands are owned by The Irvine Company.

County property, of course -- be it upland, tideland, or patent land -- is not assessed by the Assessor. So I think that is really beside the point. But if such is the case, and it is, that the uplands are entirely owned by The Irvine Company and the water area, not totally but in part, is owned by the County -- that the opponents may make the statement that the tidelands are owned by the County, and sufficient of them are. If they want to stand there knee deep in mud, they can look around and say, "Yes, it is all ours"; but, on the other hand, they have no access to that channel except through the
Therefore, the uplands are entirely unrestrictively developable by The Irvine Company, and The Irvine Company has agreed with the County to exchange lands giving shoreline to the County which may be used for recreational purposes.

As I say again in closing, I have been through this thing from A to Z. I think it is to the advantage, not only of the people of the State, but of the County and my people in my district, the overwhelming majority, and I would again urge your approval.

MR. FLOURNOY: Thank you very much.

Mr. Cory has retired. We would be delighted to hear from him at this point, representing part of Orange County and the Public Lands Committee of the Assembly.

ASSEMBLYMAN CORY: First of all, Mr. Chairman, the Public Domain Committee has not taken any position, so I do not wish to stand here and say I am representing the committee.

I believe Mr. Badham indicated that at the present time the County of Orange does not have any of the trust lands which has land access to the bay.

Is that one of your points, Bob?

I think there is one parcel, parcel 124, if my memory serves me correctly, which has been partially filled, which is immediately to the north of Dover Shores but is trust tidelands. It has been filled and is now accessible to the public, if the public would wish to use it that way. It is a...
minor point, but I am sure I could retire on that minor point
if anyone would care to give it to me. There is a small part
that has been filled and is now uplands and is, in fact, there.

I point that out to make sure the members have the
correct facts in front of them.

As a legislator, I did not plan on making any state-
ment. I planned on observing. There is one point in my
discussion with Mr. Mason of the County that I brought up last
week that has thus far not been brought out, which is some-
thing not resolved which you might consider. They said no one
had considered the value of the mineral rights in these two
valuations on what the County has in trust and The Irvine
Company has. Mr. Mason indicated that they would be trans-
ferring other land, including the mineral rights. It is my
information -- and I could stand corrected on this -- that
the State of California in its grant to the County did not
mention mineral rights and, therefore, there is a question
whether it is granted.

GOV. FINCH: What is the status of that?

MR. SHAVELSON: Governor Finch, there is a case
directly in point -- City of Long Beach versus Mar...11 --
holding that a legislative grant of this type includes
minerals, although, of course, subject to the trust.

ASSEMBLYMAN CORY: We wanted to realize what was
being done on that because we thought it had not been con-
sidered. Other than that, I commiserate with you because I
think the Legislature gave you the right to decide, correctly
or incorrectly.

GOV. FINCH: We appreciate your commiseration, but
only wish our predecessors had handled this problem themselves.

MR. FLOURNOY: Mr. Hortig, I wonder if it would be
desirable, toward expediting this, if I could have the names
of people who wish to speak, so I can have some reasonable
audit -- because I do not have a full resume of the people
who wish to appear.

Once again let me ask that repetition be not in-
dulged in.

Let me ask if Professor Grover C. Stephens is
present and would speak at this point briefly.

PROF. STEPHENS: Yes. I'll try to be brief.

MR. FLOURNOY: Thank you.

PROF. STEPHENS: I have the original copy, signed
by the three men who composed it, of a proposal for develop-
ment of Upper Newport Bay. I have some additional copies if
any of you care to examine it. I don't intend to allude to
it in very much detail.

As a gentleman from Orange County said earlier, essen-
tially this is a proposal to set aside a portion of Upper New-
port Bay as a wildlife reserve area, with a park on the bluffs
that overlook it.

Now, the area that is under our consideration is
essentially all of the Upper Bay north of approximately 23rd
Street, and that is about the northerly-most quarter of the Upper Bay. In trying to defend why I should make a proposal of this sort, I think the first point I would like to make, and I would like to emphasize very strongly, is that Upper Newport Bay is now a unique area in Southern California. In general, it is unique in estuaries, which are rare; and, in fact, about sixty percent of California land has already been lost, has already been developed; but, in fact, in Southern California, estuaries are even more rare. There were originally six deep bays with estuarine marshes of this kind and now Upper Newport Bay is the only significant one that is left, so the three people I spoke of presented this proposal.

I am Professor of Biology, Chairman of Organismic Biology, University of California at Irvine. Another proposer of this plan is Arthur S. Boughey, Professor and Chairman of Department of Population and Environmental Biology; and there is a third man -- Professor of Biological Sciences, also in the same department, Robert H. Whittaker.

We would like to say this is a valuable area to the people of the State of California as it now stands. It provides resources for wildlife feeding grounds for wild birds, breeding grounds for game fishes, and it is important to preserve it for uses of that kind which are of genuine value. In addition -- being preserved as a green area in the midst of urban development seems to us very desirable.

I said I would be brief and will not go into all the
details and make an emotional appeal for either the green area or wildlife. However, what I would like to do, since this point was raised this morning, is to make some attempt to preserve the normal ecology of the bay under the terms of the land exchange and the tentative land use program, which is the only thing we have to go on.

The land use program proposed as a portion of the proposal of the Orange County Harbor District in 1964 simply doesn't make any allocation of land for preservation of marsh land. Subsequent to that there have been some proposals of some small islands, but let me give an idea of the sort of thing that has been suggested.

For example, there is a marine stadium at the extreme head of the bay, which is essentially where water skiing will go on. It is proposed that a long, narrow island be left in the middle of that water-skiing course -- where, of course, the waves would wash over it and it would be constantly disturbed; and that is the largest of three islands proposed to be left.

Another area of a couple acres -- three, three and one-half, something like that -- would be placed in the middle of Newport Dunes, which would be a probable swimming beach and would be visited by public swimmers.

So I think it is a question of what we mean by normal preservation of ecology. It can't be preserved by being put in the middle of a ski channel. We make this proposal
because we think it is extremely important to preserve this
for the State of California. I have already suggested they be
in part recreational. There are many people who simply enjoy
looking at green areas, birds; in part, they are fishing
areas.

Another use is an educational use. This is the last
area of its kind which provides an opportunity for high school
students, junior college students, and university students to
look at these animals in their normal habitat and there simply
is no substitute for this kind of access to animals and the
training or interesting of people in biological science.

There are a number of reasons why I think this would
be a wise use of that extreme head of the Upper Bay, which are
based essentially on what I think to be the unlikely character
of the present proposed uses.

As you gentlemen may or may not be aware, there is
always an onshore wind in the daytime that sweeps up Newport
Bay; and the present proposed land use scheme, which again is
all we can refer to, proposes that there be a major beach at
the extreme head of the bay. I think the probability that
the bay can be kept clean enough to make that an attractive
area for public swimming is essentially zero.

It is proposed, after this is developed, that we
will have a very large frontage developed as residential
property. There will be three thousand boats and the trash
will be swept to the extreme head of the bay.
This proposal we have made provides an area where trash of that sort can be naturally oxidized. You see, the normal rise and fall of the tide permits the handling of waste of this sort by natural processes. The proposal, in the terms it has been described by the County of Orange Harbor District, does not provide for this.

So, not to use any more of your time, let me simply summarize: This is a unique area. A major portion needs to be preserved if we are to talk seriously of the ecology of the area; and it does have general utility for the people of the State.

GOV. FINCH: May I ask a question here? Across the whole spectrum of ecological concern, what is the impact of removal of those islands under the proposed plan?

PROF. STEPHENS: Well, that's a very difficult question to answer precisely, Governor, because we have never had a study made on the removal of those islands or the tidal flow. A guess would be if only the islands would be removed in that portion of the bay and the top quarter of it were left as a flat marshland, then there would be no significant further disturbance of the area.

I should point out that at the present time the extreme head of the bay, you can see, is cut off by a dam running across it. That is already, of course, a disturbed area -- because it has been dammed off and the extreme head of the bay has been leased to a salt works, so the vegetation
in that area has been killed off. But there is reason to think if that dam were removed, together with the lease to the salt works, then you would get a release of a normal salt marsh in the upper head of the bay.

MR. SMITH: If the present lands of The Irvine Company were developed and there would be no exchange and these lands were fully developed, what effect would that development have on the ecology?

PROF. STEPHENS: I don't think I should pretend to understand the legal aspects. My problem in answering the question -- I am aware The Irvine Company has title to the marsh islands. I don't think their development would have any impact on the extreme head of the land. What I am not clear about is the patent lands, which essentially comprise most of the lands in this area.

MR. HORTIG: The Irvine Company is a successor in interest to a State tidelands patent in the upper head of the bay, swamp and overflowed land patent, comprising essentially the majority of the area which has been discussed. In other words, this is in private ownership. Under discussion, recommended for a public ecological reserve, are privately owned lands.

MR. FLOURNOY: Which they could develop?

MR. HORTIG: Which they could develop.

MR. SMITH: This is my point, Mr. Chairman. I am wondering whether or not this issue of the ecology of the area
and wildlife management -- although I have an appreciation of that -- is really germane, because this really goes beyond the exchange of the land. The Irving Company already has title to the lands in the area and if they were developed without an exchange, from what I can observe there would be a definite impact on ecology and wildlife. So I think this goes definitely beyond the area of the exchange.

GOV. FINCH: Except if it is built in this exchange at least there is an agreement that the Resources Agency has to be consulted. There would be an agreement with Resources. We do get some ecological concern. If you reject it and Irvine goes forward, you don't have any of that.

MR. SMITH: That is the point.

MR. FLOURNOY: I think the point Mr. Smith is making is that the proposal the Professor is making is something entirely different from the proposal of the current ownership, the creation of which is beyond the power of this Commission; and, secondly, would involve action and expenditure of money by someone empowered to do that.

PROF. STEPHENS: May I comment I think I understood that. I think that the problem is that unless we simply on moral grounds -- I am speaking of the three men who wrote this thing -- unless we simply come before this Commission and point out that this is an alternate plan which at least is capable of consideration and if the present land exchange goes forward it presumably goes forward on the basis of, at least
in general terms, a use map which is the only information
which we have -- now if it is approved, it seems to me it be-
comes very much more difficult for us to look at the public
interest in these tidelands now held in trust.

We ask the question: What is the most effective
way to develop these for public use? We are aware of the fact
that our proposal was drawn without being privy to the details
of the land use maps or at least without being sophisticated
enough to take them into account; but I think what we are
really suggesting -- the reason we bring it before you -- is
that there is no alternate proposal here, and we would suggest
that time be given to allow us to draw together an alternate
proposal to explore the sources of funding and to indeed come
forward with some alternative which is, in fact, not based on
the details of the land exchange as now presented. We don't
feel we have had a significant opportunity to do that.

MR. SMITH: The only problem is there is always a
difficult question when we are talking about public users:
Do we have more bird watchers and wild life watchers than
those interested in swimming or sailing. It is a very diffi-
cult question when you say "public use." One has to make a
decision as to what is maximum public use.

PROF. STEPHENS: If I may respond to that, I would
certainly agree with everything you have said and I would
simply then feel that perhaps there has not been a careful
survey of public interest in the kinds of public use which
could develop, given the County and State's current holdings in tidelands. Public use might very well turn out more appropriately in terms of boating and swimming and fishing; but I suggest when we go into an exchange of the lands here, we have no coherent plan at all of the use.

MR. SMITH: That is not my understanding.

MR. FLOURNOY: Let me say I think the Professor has made the point of the extreme importance of the ecology in the area and what he views as an optimum development of the area for the consideration of the Commission. I appreciate that.

Thank you very much.

PROF. STEPHENS: I suppose I should say that we made no effort to collect signatures specifically for this proposal but simply distributed it for information purposes.

MR. FLOURNOY: I appreciate that very much.

MR. HARLAN: My name is Craig Harlan. I am Vice President, Associated Students, UCI.

First of all, I am required to make a disclaimer in that the University is not yet in session and therefore I cannot speak for the student body as a whole. However, I have a mandate to speak for the executive branch of the student government.

We are concerned with the natural ecology, the fish and wildlife, and the educational factors, and natural beauty — all of which I think were supported by Professor Stephens. We feel we must support Professor Stephens' proposal.
I'd like to point out that the Associated Students by taking this position stand to lose the boathouse, but we feel that due to the benefit of the above stated factors we have to take this position.

MR. BARTON: Mr. Chairman and members, Don Barton. I am President of Marina Park Incorporated, a home-owners group of the Upper Newport Bay. I have a letter I would like to read into the record, but for brevity I will put the letter in and make some comments.

First, we urge as strongly as we can that this Commission disapprove this proposed trade. We, as owners, believe that the trade would be contrary to the best interests of the citizens of the State of California. We believe the equity or basis of the trade is not fair and feel it stronger after being in attendance here this morning.

As a natural resource, Grover Stephens has just brought out the pricelessness of the area, its uniqueness as a recreational area. This has been well established.

The point is, I think, well stated in a report in about 1963 of the City of Newport Beach Parks, Beaches and Recreation Commission. To quote very briefly from their report: "Only one plan for Back Bay development has been presented to the public." That was in '63 and in '67 this same fact is still true. We are locked up with one plan from The Irvine Company. Everybody is afraid to do anything for fear The Irvine Company is going to go ahead and develop this bay
on their own.

We plead to you in your wisdom to stop this trade and let us, as responsible citizens of Newport Beach, of Orange County and of Southern California, work again with our public officials and generate a new plan for this Upper Bay. It can be done, but it can only be done when the obligations of the present trade have been broken.

Mr. Badham says that we can develop the bay ourselves and go out and stand in the water; but if we can dredge the bay and make lands for The Irvine Company, we can dredge the bay and make lands for ourselves. The Engineering Corps isn't going to permit development of this channel so no boats can go through.

I am not saying that we as a county are not going to cooperate with The Irvine Company. Certainly we are. They have provided many benefits for the County. But let us come up with an equitable agreement. If there is no access to the bay, we can work with The Irvine Company. We can trade them foot for foot. That seems fair, regardless of the value, to gain access of the people to the beaches and water.

We ask once more that this Commission hear our plea and disapprove this proposed plan.

GOV. FINCH: Let me just ask this: Year after year and again last year our predecessors said, "We won't take any action. Try to work something out." The staff has been working. We have to assume that our staff is competent and I do
I think they are extremely competent. Negotiations were conducted over the bulk of that period of time.

I would joyfully leap at some straw that would give us some indication that somebody would develop a plan. Just give us some evidence, other than a vague hope, that something will be done. We have the responsibility to take some action. We have a specific proposal before us. For years people have been stalling and this thing is deadlocked. Sure, we can delay it again; but it isn't serving Southern California when we avoid our responsibility.

MR. BARTON: I am not asking that you come up with a plan. I am asking you to put it back to the Supervisors to generate a new plan.

GOV. FINCH: Those officials have approved of it.

MR. BARTON: We have tried to get alterations to this plan, but this plan is committed. Until there is a decision one way or the other, nothing is going to be done to support the other good advantages that could come through this development.

GOV. FINCH: That is the point. We must come to a decision.

MR. SMITH: Governor Finch, I think you have a good point. It seems to me that the tidelands were granted in trust to the County. The County is comprised of elected officials representing the County and in this particular area a decision has been made by the County to enter into an
agreement if it would be approved by this Commission. It is my understanding that the elected officials of the County have taken into consideration the views and opinions of all groups and have arrived at this conclusion.

Did you make your case known to the County Board of Supervisors at the time that they made their decision?

MR. BARTON: There was a public hearing at the time.

MR. SMITH: All sides were heard?

MR. BARTON: Yes, I presume both sides were heard.

MR. SMITH: And they are the ones that are holding it in trust?

MR. BARTON: Yes.

MR. FLOURNOY: Thank you very much for your presentation.

Mr. Frank Robinson of the Orange County Tidelands Association, do you have further comments you care to make at this time?

MR. ROBINSON: One comment. The question keeps coming up in regards to the ability to do something about this trade or ability to build a harbor. The County has had this since 1919 and has done nothing with it, so I can sympathize with pressure to act on this; but since I have been in Newport Beach the population has increased forty percent. To paraphrase that, I think what was good for The Irvine Company and the County has changed. I think we would like to ourselves. It will take time; I realize this. It is a difficult problem,
but nothing can ever be considered until this plan is killed.

The County and The Irvine Company were directed to go back and work out more equitable terms. I take exception to this graph because it implies there has been a change. There has been no change since a year ago. Nothing can be done until this plan is squelched and I think if that is done of necessity a new plan would be set.

GOV. FINCH: I think that is a major point and I would like Mr. Hortig to respond to that, as to what the staff has or has not done in the intervening year.

MR. HORTIG: Yes, Governor. The staff reviewed all proposals that were submitted at the previous hearing of the Lands Commission and alternative studies suggested by Livingston and Blayney, consultants of the State Lands Commission. The State Lands Division, pursuant to the directive of the State Lands Commission, evaluated and discussed with all interested parties -- with the County of Orange, with the Harbor Commission for the County of Orange, and with the previous members of the State Lands Commission -- all alternative plans that had been suggested for study as possibly being available for improvement of public participation or further public interest development in the Upper Newport Bay.

As to all of the proposals for public financing, if I may summarize again: The further investigations indicated that large public acquisitional and developmental costs would be required by alternative plans and that there is insufficient
money available from any source to make such alternative plans and development practical in the near future.

This analysis is also supported in a letter to the Lands Commission from Honorable Alton Allen, Chairman of the Board of Supervisors of Orange County.

Consequently, the final analysis was in comparing the advantages of "a" land exchange without any direct or inferred commitments against public interest in the development of a plan yet to be developed by Orange County, as the County Counsel said this morning.

So there is no discussion in the context today of being committed to a specific plan; and in the commitment by the County of Orange in the development of such a plan in conformance with the requirements of the statute, it is completely understood that the lands received by the County in exchange shall be used by the County only for purposes of statewide interest. Included in these statewide interests are the preservation of the ecological values, under which the County is committed to plan subject to approval of the Resources Agency.

With respect to the other purposes of statewide interest, the County is committed to conduct such operations and develop such plans in conformance both with Chapter 2044 of the Statutes of 1957 and, in addition thereto, of the original trust conditions which were included in the grant of tide and submerged lands to the County by the State -- which, as I replied to you earlier, Governor, would be subject if
not to advance review by the State Lands Commission, would be subject to and the responsibility of review in conjunction with the Office of the Attorney General that such plans do conform to the statutory requirement.

GOV. FINCH: Do you wish to respond to that?

MR. ROBINSON: To the first part -- The job that was given to the technical staff to go back and talk to Orange County and to The Irvine Company to come up with an alternate plan -- we could just as easily have saved a year.

MR. FLOURNOY: Except I think it is only fair to say that the staff explored independently all public opportunities for funding this.

MR. ROBINSON: That is true -- the will to do this. The Dana Point project is proceeding to plan. It started out with roughly $41 million accumulation of a separate fund by the County on its own and it is proceeding to operate with State, County and Federal funds. There we created a harbor for nothing, so I can't accept the fact that it can't be done. They don't wish to do it.

GOV. FINCH: But you will concede it is up to the County to do it. We can't do it in this body.

MR. ROBINSON: Only to the extent that you have the overall responsibility.

GOV. FINCH: And to that extent we will assume the responsibility when it is time to assume it.

MR. ROBINSON: I gather from your conversation you
have accepted the plan.

GOV. FINCH: No.

MR. ROBINSON: May I ask one question? How could you support the staff recommendation this year and the staff recommendation last year?

GOV. FINCH: I wasn't on the Commission last year.

MR. ROBINSON: The same staff made a different recommendation.

MR. FLOURNOY: The same staff has done a lot of different work. I think your position has been adequately developed in terms of what we can or cannot do and I understand you would prefer that the proposal be turned down toward the objective of forcing The Irvine Company and the County to develop another plan.

MR. ROBINSON: Yes. You have two alternatives. At least there is no tragedy if it fails.

MR. FLOURNOY: James Harrison, Director of Southern California Marine Dealers Association, please; and we are interested in new considerations as against just repetition, if you will, sir.

MR. HARRISON: Yes. I think it has been stated here that there hadn't really been any alternate plans presented and I believe you should have in your possession some alternate engineering plans that we did present, in fact, at the recommendation of the Lands Commission last year. Although the County and The Irvine Company didn't see fit to come up with
any alternate plans, our association took it upon ourselves
and hired an independent organization to come up with an
alternate type of plan.

We are primarily concerned with boating and boating
activities, aquatic sports in the area. The plan as it is now
proposed, not to be too repetitious of what has been said be-
fore, will support approximately twenty boats at any given
time at five miles an hour at Newport Beach.

At the last hearing, we had something like 22,000
boats in Orange County; the figure is now upgraded to 26,000
boats.

We do, in fact, have a general plan. This plan we
came up with was not for the entire bay. We were not against
any beneficial exchange of lands, so far as the legalities and
the property rights. We are more concerned with the water,
rather than the land, as long as there is access to the water;
and in our plans we did show some biological mud flats. We
are not asking for the moon, but we think somewhere in the
entire bay you should be able to run a boat over five miles an
hour, and there is no provision made for that.

Again, the Board of Supervisors has not adopted that
plan, as the Harbor Department has stated; but we have taken
this plan and it has been proposed before the Board of Super-
visors, who in turn had us go to the Department of Harbors
and Parks, who in turn had us go to the Harbor Commission.
Mr. Ballinger, the District Engineer in Orange County, did
some overlays and some work on our plan, and that's as far as
it's gotten. Seemingly, we can't get any answer.

We felt at the last hearing a year ago the compari-
son was being made with Mission Bay in San Diego, which is a
poor comparison. We admit it is not that large. We feel we
are in a minority of the boaters, when there is only 9,000
boats in Newport Beach.

For example, by this plan of development with pri-
vate houses and fingerling, they are going to increase the
number of large boats in this area approximately 3,000 over
the 9,000 boats now in Newport. Of course, they are not all
in use at one time, though, goodness knows, at the moment on
any given Sunday it is almost impossible to enter or leave the
Newport jetty in a large boat without backing down two or
three times. I do boat frequently; I have a large boat and I
do have to back down. If you add another 3,000 boats, if you
only use 500 on any given Sunday, I don't know how you are go-
ing to get them in and out. In fact, the Harbor Department
has expressed concern. There is a possibility that Newport
would have another jetty established and this is a point recog-
nized by the Harbor Department. So if we get this other 3,000
boats, how are we going to get them out?

As far as launching ramps, they have shown some on
the plans. Approximately, now, it takes forty-five minutes
from each ramp to reach the ocean. You can add another half
hour. We are not talking about aquatic sports, but just
access to the ocean. It is quicker to drive from Newport Beach and launch it in Oceanside than it would be to launch in Orange County at the points shown.

MR. FLOURNOY: I just want to ask one question with regard to the majority of the observations you have made. Is it not true they relate to the ultimate development and use of the harbor after such an exchange were made, that the use of the land after the exchange would not necessarily preclude? We are not talking about a specific plan now. We are talking about an exchange now.

MR. HARRISON: It has bearing from this standpoint only: If it is going to be put in like it is shown, bulkheads are going to be put in and piers, and you cannot operate over five miles an hour within 200 feet. Obviously, I am quite concerned, being a boat dealer, a small boat dealer. To demonstrate my boats now, because of the shallowness of the bay at the moment, we drive to Long Beach to demonstrate our boats. Yet we have more Long Beach boats than Orange County boats in our bay.

GOV. FINCH: Let me ask this: If this trade went through, wouldn't there be a quantum jump in the number of boats? Your business might jump up substantially.

MR. HARRISON: This is fine, but we are representing primarily the small boater and the small boat water skiing. You have to get there rather early in the morning and so far as the launching facilities that are proposed -- in other words,
as soon as that bulkhead line goes in, there is no speed over five miles an hour. Eighty percent -- I have all sorts of figures here from magazines -- eighty percent are small boaters.

One thing I have not heard -- like I say, we are not taking any stand on the valuation -- but I have a copy of the U. S. Coast Guard that reprinted a geological survey and it denotes the islands in Newport Beach. The islands that are discussed as being traded are discussed of as marshes. As a matter of fact, I have skied over these but the Coast Guard does note these islands as being marshes.

MR. FLOURNOY: Thank you very much.

I have here a number of people who have, at least either by the organization they represent or their own declaration, indicated they are primarily interested in the ecology of the area which has been discussed today; and I wonder in this regard whether these people have additional remarks to make on the ecology, other than to express their support of the Professor.

Mrs. Katherine Hail, Member Sea and Sage Club, National Audubon Society. (No response) She has apparently left.

Evelyn Gayman, Conservation Chairman, Desomount Club.

MISS GAYMAN: We are a club representative of nature projects of the University, teachers of similar interest. In view of the importance of science today, it seems we just can't
place a monetary value on these areas. Recently, at a meeting of the American Association for the Advancement of Science, it was stated that most of our scientists come from association with the land. The land is valued very highly among students to make field trips. Harvard has such an area; Stanford has Stanford Farms, which because it is privately supported, could be valued very highly yet they keep it for their science groups.

We urge you to preserve the value of these lands to science. They can't be termed in monetary value.

I would also like to emphasize the same thing for Miss Barbara Horton, who had to leave. She represents the Pasadena Audubon Society of 300 members.

MR. AFLOURNOY: Mr. Paul Colburn of the National Audubon Society, National Wild Life, National Parks Association, Orange County Advisory Committee.

MR. COLBURN: Mr. Chairman and honorable gentlemen of the State of California, I am only one of many fine conservationists who are here today, and I represent the committee for the utilization of more natural areas in our county parks. Our fine County Parks Department in Orange County and our fine Board of Supervisors have recognized the need for increased natural areas in our parks, and a committee was organized for the purpose of finding areas such as this and designating them and designating manners in which natural areas could be protected in our county parks.
Mr. John Johnson, a wonderful teacher, supervises our committee. I am simply a retired teacher and a member of this committee and very proud to be protecting our parks.

All of the natural areas have been put aside for the mass of people who come into the parks. The most of our parks have been overworked -- our County parks, State parks -- so nature has been pushed into the background and completely lost sight of; and I would like to say in all due respect to the commercial interests, many of our commercial interests -- motorboat people, and so forth -- have lost sight of natural areas in our ports.

We would like to say we would like to see the plan that Professor Grover Stephens rounded out put into effect and we would like to see this trade disapproved. We have faith in our Supervisors and faith in our people to develop these things.

Mr. Flournoy: Mr. John Tyler, Vice Chairman, Southern California Chapter, The Nature Conservancy.

Mr. Tyler: I spoke to you first about the value and you didn't want to put a monetary value on the natural areas, but I do feel from the conversation that has gone on that it is obvious to me that the interest has now been generated in getting an alternate working plan. No plan has apparently been shown to any of these people except to the staff. The staff hasn't apparently released it for consideration, so most or the people haven't seen anything but this plan of the
I think we have a situation here where we have a more powerful adversary against the County. The County owes a great deal to The Irvine Company and you just don't get rough with sugar daddy. So I think the situation we have got -- we should look at this overall picture, forgetting who owns what land and decide what is the best way to develop this and putting on this commission that is going to make this decision some representative people from the biology department of the University, so we have a full judgment on what we are deciding on.

Apparently we can't do this as long as this plan exists because Irvine can refuse to cooperate, because the County won't interfere. We have an impasse as long as you people have this on your agenda. So I would urge as a solution that this plan be rejected and ask all adversaries to get around the table and come up with a plan; but, primarily, the public be gotten to the point where they have a real voice in it. I don't feel from what I have heard the public has had a voice. We have a plan that does not have public support and interest.

MR. FLOURNOY: Thank you very much.

Mr. W. Earl Calhoun. He wishes to add something on the ecological matter. (No response)

Mr. Robert Vile, President of the Ocean Fish Protective Association. Do you care to add some comments?
MR. VILE: Gentlemen, I would say a few words briefly on behalf of the ocean fishermen here in Southern California -- who I think perhaps have more to lose than many of you realize. In this problem here before you the interest of the entire State is at stake and I would like to explain briefly how the people we represent will be personally affected by this.

Newport Harbor over the years has been kept free from pollution and has maintained a large fish population. We are not talking about marlin, barracuda. We are talking about sanddabs, mullet, bat stingrays and many smaller species that are primarily taken in small skiffs from the bay. These can be handled here and there is quite a fishery developed there. Most of it wouldn't be seen -- most of the people who do that do it at night. This seems like a fish that nobody would care to preserve and I might point out they weight from 80 to 100 pounds.

Mainly, what we are talking about here is a source of food. I think we know all our animals and birds must have food to exist upon. Back in this back area, which has been referred to as a marsh or swampland, whatever you wish to call it, there are many things growing there. Now, the animals and the fish go back on the tide and feed upon them.

What you do in this back area affects not just the Back Bay, but everybody that fishes in the lower part of the bay, where a great part of the fishing activity takes place.
and primarily on the force of the tide, when the fish move back and forth.

There is another thing -- these fish in the Back Bay are not permanent residents. Some are, yes, but many we are interested in are not permanent residents and they travel from harbors to back bays and harbors to back bays, wherever they can exist. Over the last few years these places have been disappearing so the food has been lost to dredging harbors.

One place I'd like to point out is Los Angeles Harbor, where dredging has been going on recently and the water problem is a continuing problem. This is something that doesn't exist at Newport Harbor, but it is going to happen. This is only one step further in destroying our fish life.

Mr. Smith is concerned about providing recreational life for everybody -- the people that swim, the people that fish -- and we are, too. However, if you want to develop new areas at the expense of destroying another one, I'd like to point out that maintaining a good water supply means a good supply of fish. This costs nothing. It is something that happens in an environment. Here we have a source that is supplying a great number of people recreation and at the same time it costs nothing to maintain.

Obviously, the people who wish to develop this wish to make money and I don't blame them a bit. They are financially involved. However, they are not financially involved in something that is going to benefit all of the people of
this State, or even a small portion of the people of this State. You have to understand this: The homes they will build here will not even come in the category that perhaps the business executives can afford to live in. So, actually, what we are developing here is a business interest of the Irvine corporation, which I don't blame them for one bit; but it is going to develop homes and mooring sites for people whose income is far in excess of what we could say is the income of the general public.

So, in the interest of the general public, this program is not good. You are developing an area here of, primarily, investment for gain. Secondly, a thing that is built for a financial investment is not in the interest of the general public. It is in the interest of such a small segment of the general public it can hardly be called of statewide interest.

GOV. FINCH: You are assuming the status quo of the fish life. That is one thing that isn't going to happen. One of two things is going to happen: Either we are going to accept this or we are going to reject it. If we reject it, I think you can see if Irvine went full tilt with the homes you are talking about, I think the situation would be even worse.

MR. VILE: I have an alternate thing I would like to suggest. I don't think Irvine wants an alternate program or they would be here. Basically, if they are going to build
homes, let's build them on pilings and save the fish life. A lot of them can exist under pilings, providing they get sunlight. What they want to do is dredge all this and the possibility of bringing it back is very vague.

In your discussion of cooperation with the Resources Agency, what guarantee is there that we are going to have this? If I were a resident in Orange County, which I am not, I would ask which land is Irvine willing to exchange? Is Irvine going to give up some of their coastal land? Basically, your interest and concern here, being you don't apparently have complete control of the tidelands here, is the fact of the best interest of the public of this State; and obviously this program does not invest in the best interest of the public of this State.

Thank you very much.

MR. FLOURNOY: I have here a statement by Mr. Richard H. Ball, the Sierra Club, Angeles Chapter, which covers generally the same area, a bird life-marine life sanctuary, that we have received before.

MR. BALL: I'd like to enlarge upon that and make a few comments, if I may.

MR. FLOURNOY: Okay, if you will keep it brief, please.

MR. BALL: You have our statement that the Angeles Chapter of Sierra Club is on record opposing this land transfer because we think the wildlife is very important here. I'd
like to go on and make a few other suggestions here --
specifically, comments about things that have been going on
here.

First of all, we think this proposal by Professor
Stephens is one that deserves special consideration. Other
biologists think more should be done than Professor Stephens --
that some of these marsh islands should be included in your
reservation. So Professor Stephens' suggestion is even a
modest one, although I understand fully why he made it.

I'd like to comment on several things said here
today. In particular, I think I am very disturbed by this
comment that you will go ahead and make this land exchange
and they have to consult with the Resources Agency on eco-
logical values. I'd like to say this is sheer nonsense. I'd
like to say if you make this exchange there is no ecological
resource to save, so I think it is ridiculous to speak of this.
You have got to preserve substantial portions, as Professor
Stephens pointed out. You can't do things that are incom-
patible.

Another point to make here is that they are mention-
ing the possibility of the Irvine people developing this with-
out this trade being put through. I think it should be
emphasized before there is any development that involves
dredging, the Corps of Engineers will have to approve this.
There is a recent bill going through Congress on the protec-
tion of estuaries and resources, that the Corps of Engineers
will have to handle with the Interior Department, and the Interior Department will make reservations to protect these estuaries; and I think you may find the Corps of Engineers may not approve such a dredging proposal.

The second thing I'd like to point out -- the State of California has a great interest in these estuarine resources and the Legislature has recognized this by creating a new board, a California Advisory Commission on Marine and Coastal Resources. That board has not had a chance to look at this and if you approve this, you will never give this board a chance to look at this area. I submit that you should allow this new commission to look at this proposal in the context of our total coastal environment.

Mr. Smith pointed out that the tidelands are in trust to Orange County. This State Lands Commission has the obligation, as I understand it, to look out for the total statewide interest and I think we both realize that the County of Orange is not looking at this primarily from a statewide interest; and it would be abrogating your responsibility to leave it to Orange County to determine what is best for this bay. I think it is up to the State to make this determination and I think this new coastal commission would be the best people to make this determination. So I think you should delay to let them corroborate this.

You speak of having other recreational values here, but I want to re-emphasize again what Professor Stephens said --
that this resource is probably unique in Southern California. If you wipe it out, you are adding a small increment to other resources, but you are wiping out one unique resource, this estuary.

MR. FLOURNOY: Thank you very much.

GOV. FINCH: I'd like Mr. Hortig's comments on that, if you would.

MR. HORTIG: First, I think it is essential to comment that the problem of determining the statewide interest and the manner of establishing a development program for Upper Newport Bay, if this is approved, is not charged to the State Lands Commission. This is the responsibility of the grantee in trust of the tide and submerged lands from the Legislature and that is the County of Orange.

What is required is that the Lands Commission see that the County Orange does with it what it is required to do by the statute in its development plan; and that is, again reading: "The lands received by the County in exchange shall be used by the County only for purposes of statewide interest."

That distinction, I think, is very essential.

MR. BALL: I'd like to comment on that. If you approve the land trade that is going on today, it will be out of the hands partially, then, of the County. If you approve the trade and the chance to look in detail at the statewide interest, it is partially out of your hands; and secondly I'd like to say if the trade is approved it is not only
partially out of your hands, but the State has no control.

MR. HORTIG: This, I am afraid, could be the subject of an extended debate; but I think what is overlooked again is that the preservation of the wildlife and the ecological values is a matter which would be under the authority of the County of Orange in the statewide interest, and the County of Orange has committed itself to the Resources Agency of the State of California to proceed with such development program subject to the approval of the Resources Agency of the State of California. I don't see how you can argue that it would be out of the hands of the State of California.

MR. BALL: With all due respect, I think that is hypocritical. This land exchange is being made for a definite purpose -- that is, for a real estate development; and I think if that exchange is made the ecological development is gone. After the exchange is over, it is lost.

MR. FLOURNOY: I think you made your point and I appreciate the testimony which you have presented here. I think, however, that all too frequently here a comment is made that it appears that the exchange proposed has nothing relevant to the statewide interest. It is not alone for real estate development. It is for a purpose which has great recreational potential for the public.

We have had now about two and one-half hours of testimony on this matter, which has been primarily from people opposed to the transfer or exchange. I still have a
few people here and unless there is some overwhelming, compelling point of new interest in opposition to the exchange, I would merely indicate their opposition and presence and proceed on to some other people who would like to speak on the other side of this matter. That includes Jan Boer, Rimmon C. Fay...

MR. FAY: Sir, may I bring out one additional point?

MR. FLOURNOY: All right.

MR. FAY: I am a commercial fisherman and extremely interested in the marine resources of Southern California. One point which has not been brought out with respect to the ecological values of Upper Newport Bay is that the extensive mud flats that exist there have considerable assimilative capacity for organic wastes. Once these mud flats are destroyed -- mud flats are alternately exposed on a tidal cycle. There is an enormous amount of biota. Once these are assimilated by development, these wastes will increase enormously; and, as brought out by Dr. Stephens in his comments about the drift of waste to the Upper Bay, reduction of this capacity with further development of the bay for housing would contribute to the deprivation of the water quality.

It has also been emphasized by the Audubon Society, and quite properly, that there are an enormous number of birds there. Upper Newport Bay has a transition zone of elements of southern biota, especially salt marsh plants, and there are six species of these, five or six species of these, which are
unique in Southern California. Dredging would destroy this aspect and they would no longer be available. There are several invertebrates which are unique to Upper Newport Bay in their availability, and dredging would destroy their availability and they would be extinct.

The Audubon Society could comment on the bird problem.

And then, insofar as fishes are concerned, the Upper Bay not only is a source of feeding, but it is also a nursing ground and reproduction ground. Several species are critically dependent on this area because it is a last unique area in Southern California. Their continued existence in the waters of this State could be menaced and, as has been pointed out, this is why the issue is of State importance. We need these organisms for sport and academic interests.

Therefore, I am opposed to the plan as proposed and would be most happy if you would vote against it.

MR. FLOURNOY: Thank you very much.

I want to assure you I am not shutting these people off; but unless they have something very urgent or different, I wish they could be indicated as in opposition.

Mrs. Esther P. Johnson; Miss Fern Zimmerman; Mrs. Franklin ... MRS. FRANKLIN: I am in favor of it.

MISS ZIMMERMAN: Fern Zimmerman, Santa Ana.

Mr. Chairman and Commission, I hope it may be
helpful to the Commission in seeking the development in the
best interests of the people to mention this. I have talked
to individuals and asked what decision they would like to see
the Commission come up with. A few did not feel well informed
enough to say. I have here the names and addresses of ninety-
one people with a very definite opinion. This is somewhat of
a cross-section -- a man who does the yard work in my neighbor-
hood; an instructor in Fullerton State College, who lives in
Newport; engineers; people that work with the League of Women
Voters; people in my church.

A man in real estate told me the plan must be
approved; there is just no other way in which to get homes
built around the shores of the bay. I found no one else who
wanted homes around the shores of the bay.

If you are representing the people, I hardly know
how to describe the response. There was a feeling of dis-
couragement that Newport Bay was about to be destroyed and
they were helpless, that they had no voice.

MR. FLOURNOY: Miss Zimmerman, could you indicate
the reasons for your opposition. I will stipulate you have
obtained an exemplar.

MISS ZIMMERMAN: They said that the pressures --
they feel that the pressures come from those who would get
major use and get the major profit. I don't know where the
pressures come from. They feel it is not pertinent that it
be developed as one -- They have a feeling of hoplessness
that sixty-seven percent of the estuaries have been destroyed
and that would reduce the population of ducks and geese by
many hundreds of thousands.

Their prime objection is -- this is the property of
the people and this should be saved for the people, for an
ever increasing population; and they feel a new look should
be taken at it; that until there is a genuine effort on the
part of Orange County to find another alternate plan, that
they have not been represented.

MR. FLOURNOY: Thank you very much.

MR. HUFBAUER: My name is Karl Hufbauer.

Reading there on the calendar, it says that the
State Lands Commission can only determine that lands must be
exchanged on the basis of their being no longer useful for
navigation, commerce and fishing; and I would like to ask
whether your staff has gone down and sat for a day by the
harbor, watching if there are any people going down to fish,
sitting in boats fishing.

MR. HORTIG: A specific answer to that question is:
Yes, we have. The staff has and I have done so personally
and inventoried the situation. I think the question arises
and comes from the problem of not whether a particular parcel
of land today is useful for commerce, navigation and fishing,
but what its category is and what its status is after it has
been filled in accordance with the proposed land exchange.
Patently, a parcel of land that is filled to several feet
above mean high water line can no longer be useful for commerce, navigation and fishing.

MR. HUFBAUER: So right now it might be useful for fishing, but it won't be after it is exchanged.

MR. HORTIG: This is correct; because in the exchange and through the exchange the County of Orange would receive considerable areas which are not now useful for fishing and navigation -- sand bars and islands -- which would be dredged out and thereupon become useful for navigation and fishing to replace in a value at least equal to those lands which would be exchanged and would thereafter be no longer useful.

MR. HUFBAUER: It seems to me you are indeed asserting another interpretation.

MR. FLOURNOY: This is the interpretation of the Attorney General.

MR. HUFBAUER: That is a condition after the exchange -- rather than for an exchange for something useful, it would be something no longer useful.

MISS BOER: Some statements have been made here today that aren't correct. I would call to your general attention the fact that boats are income, and The Irvine Company since 1951 has been making threats to the people of Orange that they were going to develop this land; but we have yet to see any action. The reason they have taken no action is very, very simple. They don't want to develop their land and they can;
they are free to do it. They don't want to develop it the way they can; they want to develop it as waterfront property with docks. Now, that waterfront property with a boat sitting at the front door is very valuable to the man who owns it; but that empty house, with the man perhaps going to Europe, is taking up a lot of empty space some family could use.

I would ask you: Who made this land unusable? Our own County of Orange. This decision to exchange this land is only the decision of five men. It has never been put to the vote of the people. There has never been any expression of the people that they wanted it. It is simply an agreement between The Irvine Company and five men.

I will call your attention to one thing I know will give you the true picture. When a man owns real property in the City of Tustin he is taxed on that property. When he owns a boat which is moored in any harbor, this man was taxed $20.76 for his boat as personal property. $10.57 of that 20.76 went to education in the City of Newport Beach. The city got $3.42, the County got 4.99, the County Harbor District got 30¢ and other miscellaneous districts took up the rest. It is very lucrative to have boats in your city.

We are creating asphalt jungles in our tidelands; that's what it amounts to. Right now, I would say that the thing that should be done -- the Supreme Court recently, as you know, said now it is possible to get an expression of public opinion on the ballot; and I think my feelings are
shared by thousands of others because less than one percent of the people in Orange County own boats, but everyone in Orange County has to subsidize this yachting fraternity. We use 34,000 feet for this purpose in this exchange.

I think the families should be considered -- the ninety-nine percent, not the one percent; and I urge you to urge the Board of Supervisors -- they have never allowed us to express our opinions in any way, whether we want a Dana Harbor, whether we want Upper Newport Bay; we have never been allowed to speak -- and I would urge you to please turn down this trade and urge the Supervisors to get an expression from the people, because I think you might be shocked. Last year five cities attempted to withdraw from the harbor. There is a great deal of dissatisfaction with the numerous harbors being built in Orange County.

MR. FLOURNOY: Thank you very much.

MR. SCHNEIDER: My name is James Schneider and I represent the Conservationist Group of the Sierra Club, the Orange County group which is a part of the Los Angeles Chapter. We are very much opposed to the effect that this would have on diminishing or completely eliminating the wildlife in the Upper Bay area.

MR. FLOURNOY: I think we have had a good deal of comment to that and unless you have a new point, we would appreciate it ... 

MR. SCHNEIDER: I have no new point. I also have a
bill that has gone before the House of Representatives on this same general type of taking the bay areas from the Federal government. I'd like to have this put into the record.

MR. FLOURNOY: We are familiar, I think, with that bill.

MR. SCHNEIDER: I would like to express for Orange County Sierra Club, a part of the Los Angeles Chapter, that we are completely opposed to this measure.

MR. FLOURNOY: Thank you very much.

We will now hear from Mr. L. H. Cloyd, Department of Fish and Game, Resources Agency.

MR. CLOYD: Mr. Chairman, members of the State Lands Commission, I am representing the Department of Fish and Game. My name is Lawrence Cloyd, Regional Manager, Region 5, in Los Angeles.

The Department of Fish and Game has reviewed this subject land exchange, originally when it was heard before the State Lands Commission in August 1966 and as it is being heard here today. Also, the Resources Agency Administrator's Office has reviewed it and commented on it, in a letter dated August 23, 1966.

During this time several alternate plans have been presented for development of certain lands -- especially one proposed by Dr. Grover Stephens of the University of California at Irvine. We certainly agree with what Dr. Stephens is proposing insofar as perpetuation of the wildlife. We do hope
some of his ideas or suggestions can be incorporated into the
park plan.

The Department is not opposing the exchange as pro-
posed by The Irvine Company and the County of Orange. However,
the parties concerned should be expected to comply at least
with the minimum conditions specified by the Resources Agency
In this letter the Administrator pointed out certain things
that would happen if the conditions were not met.

These conditions include a provision of public and
vehicular boating access to the area and an order to retain
as much as possible of the unique ecology in the area. We
feel that the specific island locations and design may be
modified so that as much of the marshy habitat be retained as
possible. Our recommendation is that our letter of August 1966
be retained and the plan be coordinated with the Resources
Agency.

I'll just read an excerpt from the County, in which
they represent to the State Lands Commission -- this was dated
September 11, 1967 -- in which they indicated, and I quote:
"A second point mentioned at the last hearing was a request of
the State Resources Agency. We have studied the August 23,
1966 letter" and they are talking about the Administrator's
letter, "... and can say the County of Orange is in complete
accord that areas be provided and maintained for the retention
of unique ecological features of the Upper Bay. We will be
happy that the plans to do this be subject to the approval of 
the agency."

Of course, it doesn't say what happens if we can't 
gain approval, but I would expect we would work it out and 
come to some kind of agreement to maintain the ecological 
features.

MR. FLOURNOY: Now, Mr. Fenton E. Jones, Orange 
County Chamber of Commerce.

VOICE: Mr. Jones left the room, but our representa-
tive, Mr. James, is up there.

MR. FLOURNOY: Mr. David James.

MR. JAMES: Mr. Chairman, Governor, Mr. Smith, my 
name is Dave James. I am appearing before you in my capacity 
as chairman of the executive committee of the Orange County 
Chamber of Commerce.

You have heard a good bit concerning the proposition 
and opposition of this exchange this morning and this afternoon.

I think you will find tremendous support for it.

The Orange County Chamber is the vehicle through which approxi-
mately five hundred of our major businesses, industries, banks, 
express themselves in matters of local government policy and 
on all aspects of environmental planning.

At its September 19th meeting, the board of direc-
tors reaffirmed the following resolution:

"Now, therefore, be it resolved the Orange 
County Chamber of Commerce reaffirms its 
approval of the land transfer between the
"Irvine Company and the County of Orange and the expediting of the Upper Newport Bay development."

Now, gentlemen, the brevity of the resolution should not be construed to be indicative of the importance we attach to it. The Chamber first studied this in 1964 and recommended the exchange with some minor changes. During 1966 the Environmental Committee on Land Use studied a revised format in detail, and the Chamber recommended approval.

We have again reviewed, studied, and again recommend approval. Gentlemen, we think this thing has been studied to death. We ourselves have put several hundred man hours in the studying of this proposed exchange, men who are experienced in environmental management.

In 1966, appearances before this Commission, no recognized civic organizations in the County opposed this exchange. To the best of my knowledge none of them has reversed its stand today, and the Orange County Chamber of Commerce certainly again urges the approval of the exchange.

Thank you.

MR. FLOURNOY: Thank you very much.

Now, Mr. Franklin . . . .

MRS. HARRIS: I just wanted to be sure the opposition hadn't completed.

MR. FLOURNOY: Well, I thought I had indicated all the people I had in opposition.

MRS. HARRIS: I gave my name to this lady. May I
have an opportunity?

MR. FLOURNOY: Yes, if you have something new to present.

MRS. HARRIS: My name is Ellen Stern Harris. I am thinking of the third generation and not somebody who lives in Orange County. We have all been given through the last legislative session a new awareness of the total ecological situation. Although I live in Los Angeles County, my stepmother lives at Dover Shores, with that frontage that we all enjoy. My son...

MR. FLOURNOY: Could you home in on the point?

MRS. HARRIS: I am going to. I believe Governor Finch asked for alternative possibilities. I want to give you a reason why you should consider alternatives. My son has been taking biological courses. He has been in the marshes, taking up specimens, examining them, finding a whole new regard for nature. He asked me to go out at three a.m. to the tide and I said, "If anyone sees a boy out at three a.m., you will be arrested." But they came back with specimens; I feel they were there.

The point is that I feel this is of real value. I mean I can speak to you, if you like, on the economic exchange value and whether a study has been made to determine the actual minerals underlying the area, but I feel you know more about that; but I feel we should appraise it in the light of new developments.
This October your State Parks Commission will meet in Santa Cruz to take into consideration conservation factors and scientific resources in the State Parks System. These might be two alternatives to save these last two estuaries between Morro Bay and Ensenada. It is fantastic that we have allowed this to degenerate. I cannot blame you people -- it came long before you were on this Commission. Governor Reagan will be speaking and surely have an opportunity to review this, how important are these estuaries.

All of this testifies to the importance of your turning down this proposal at this point because we have now new evidence to make it so important that you reconsider. In other words, everything you have done in Sacramento may be undone here.

MR. FLOURNOY: Thank you very much.

Mr. Selim Franklin, President of the Orange County Coast Association.

MR. FRANKLIN: Members of the Commission, I'd like to make this as brief as I can.

First of all, a little background on the Coast organization. The Orange County Coast Association was originally organized to support the development of Lower Newport, was made up of people all up and down the Orange County coastline and at that time included people in the Long Beach area. We have supported the Huntington Beach and Dana development.

We measure harbor improvements in decades, not in
years. It seems, in listening to these comments today, that most people feel this is something that sort of happened a few years ago. Actually, the earliest plans for the development of the Upper Bay started before 1940. Fat Patterson, City Engineer of Newport Beach, had a plan long before that. This plan is the culmination of the work of many people to devise a plan, the best plan. Many people have spent many hours to devise this plan. It is not an Irvine plan. It is a plan of many people involved and the County.

To talk about destruction of natural resources is fine; but, however, we have an area surrounded by a hundred thousand people -- which in the immediate future will be surrounded by 250,000 people in the immediate area of the Newport complex, plus untold people in Orange County. These people and the demands they put on the State require some development. The idea is to get the best possible one.

Obviously, whether it is planning the Governor's new mansion or planning any civic matter of any kind in the State, there will always be people who feel they have a better idea -- something which makes sense to their particular interest. We have heard people speaking today, all speaking of items of concern to them. They have spoken in favor of no change at all; they have spoken of more boats, less boats, faster boats, slower boats. Unfortunately, they have talked, I am afraid, as though they were opposed to The Irvine Company and if anything benefitted The Irvine Company they were against.
it. I hope that was not their concept, but it comes out in
the comments they make.

All this points to the fact someone has to make a
decision on the plan. You can't have everybody in the com-
munity put in their own idea. We have elected officials --
elected officials and their staff who have worked long, hard
hours and submitted the best possible plan at this time. I
feel any further delay will not present any better plan. It
has taken a long, long time to get thus far.

People question why The Irvine Company hasn't gone
ahead with something. I think it is clear they are waiting to
see what this will open up.

The Orange County Coast Association passed a recom-
mandation the last time and again this time that this be
approved. It is very important to development of Orange
County.

MR. FLOURNOY: Thank you very much.

Mr. Conrad Epley, Field Representative to
Congressman James B. Utt.

MR. EPLEY: Mr. Chairman, Governor Finch, Mr. Smith,
Congressman Utt suffered a mild heart attack a few days ago
and was unable to return to his district last week and, there-
fore, could not appear this morning. He asked me to appear
instead and reaffirm the acceptance or the approval of the
report by your committee.

Two points that he asked me to make clear -- first,

that he recognized this is one of the toughest areas of
public policy decisions to be made; and, secondly, that although this is wholly a State matter, the Federal government will undoubtedly come into play in terms of the Department of Interior and Corps of Engineers for information at a later date. He has already discussed this with agencies in Washington and the plan as outlined by the County has a net benefit to the County.

MR. FLOURNOY: Thank you very much.

I'd like to hear from the County Counsel of Orange County on one particular matter, if we may, and that is the correspondence and exchange of views with the Resources Agency concerning your intentions regarding ecological matters.

MR. KUYPER: As I stated, we only had this one correspondence, a letter at the time of the last hearing, and we agreed to submit our plans to that department for their approval, and we will do our best to maintain such islands as they describe.

I think it must be recognized, first of all, we are under a trust obligation. The main thing is to construct a harbor. This is why the State gave us this land -- for commerce, navigation and fisheries -- and I submit if we put a fence around approximately 400 acres, we would be violating our trust.

We are certainly subject to a great deal of criticism from people in the Lower Bay and Upper Bay. In other words, we cannot completely guarantee maintaining the situation...
as it is, and we will work insofar as it is part of the development of the Upper Bay with the Resources Agency.

I'd like to add one further observation. The patented lands can be dredged by The Irvine Company now and used for further development of the harbor.

MR. FLOURNOY: I merely wanted to get on the record essentially the extent the County would cooperate with the Resources Agency and the awareness of the Resources Agency with regard to this.

MR. HORTIG: Mr. Chairman, the quotation by Mr.

Cloyd on behalf of the Resources Agency was from a letter to the State Lands Commission from the Honorable Alton Allen, Chairman, Board of Supervisors.

MR. FLOURNOY: The quotation?

MR. HORTIG: The quotation as to the agreement is in the letter to the State Lands Commission.

MR. FLOURNOY: Very good.

Do you have anything further you want to add at this time? (No response)

I think we have pretty well exhausted the list and the Commission and the audience.

MRS. BABB: I am afraid I have to talk to you once more. I have talked to representatives of eight groups and they want me to express to you the total confusion about this situation as it exists. There was a master plan. I am totally distressed to find that there is not even a general use plan.
You haven't a reasonable map of the Upper Bay.

I want to give you the names of those who have urged me to ask you to have one public hearing in Orange County, at a time when working men can attend such a meeting.

You realize these working men have been very unfairly represented at these State hearings. The groups who support this are:

- Balboa Cove Community Association
- Balboa Island Improvement Association
- Beacon Bay Community Association -- and Mr. Allen Beacon wants his name used and asks specifically that the trade be held up.
- Central Newport Beach Community Association
- Four Fours Association, Vista Bahia
- Mariners Association
- Marina Park Association
- Newport Upper Bay Association
- Harbor Boat Hills Association

Totally, we are representing twelve hundred people in Newport Beach.

MR. MACNAB: Mr. Chairman, may I be heard in view of the number who were heard against this?

MR. FLOURNOY: Yes. What is your name?

MR. MACNAB: John Macnab. Mr. Chairman, Governor Finch, Mr. Smith, I have thrown away eight pages of text and out of mercy I have condensed this to a few notes.

I want to state, first of all, I want to make a
rebuttal to the last statement -- that the Beacon Bay Association opposes this. I am a resident of Beacon Bay for twelve years and I was a president of the association, and I must object this is not the truth.

MRS. BABBS: Am I correct -- I understand, sir, your organization is at the moment in the process of reshuffling and Mr. Allen Beacon has been asked to become president of the association. I may have misrepresented him. He has asked to speak personally, simply as a person.

MR. MACNAB: Mr. Chairman, that was not my understanding from the evidence given by this lady.

MR. FLOURNOY: We will stipulate that Mr. Beacon is opposed to this as an individual.

MR. MACNAB: All right; this is as an individual.

There is a considerable amount of contrast this morning. We have special groups speaking against this exchange. I'd like briefly to relate for their information some of the benefits that will accrue.

The land exchange will make possible a larger, much needed recreational area. Recreational areas will increase from 800 to 1200 acres; the public parks and beach areas will increase from 300 to 500 acres; the annual user-days, 8 million to 17.2 million; and during the vacation season, the recreational user rate will increase from 8,000 to 10,000 user-days per acre of property -- and I note that is acre of property and you multiply it by the number of acres. Thus, it will be
I have seen that the land to be received in the exchange will be used for public purposes.

I am President of the Newport Harbor Chamber of Commerce. For the last ten years we have had this development of the Upper Bay under study. Last year when this matter came up before your Commission, the Newport Harbor Chamber of Commerce made a resolution giving its unanimous approval to the proposed conveyance. Last Monday at a meeting of the directors of that association, this resolution was again reaffirmed unanimously and strongly.

I point out that our association represents approximately one thousand private and business citizens in Newport Beach, of what I would say are the leading citizens of our area, and they are completely and utterly in favor of this proposed conveyance.

I am also a member of the executive committee of the Orange Coast YMCA. Our interest is in youth; our interest is in decreasing this alarming delinquency rate and our Council has reported our delinquency rate has decreased. We feel that this trade will help give outside areas, recreational areas, and our executive committee is unanimously in favor of this exchange.

I would like, further, to inject two other items. One of the speakers made very strong reflections on our County Supervisors. I personally at times have taken strong exceptions to some of the actions of our County Supervisors; but,
believe me gentlemen, we probably have the most honorable body of men in the State of California. We have men of integrity in the men who are our Supervisors, whether one agrees with them or disagrees with them, and I'd like this on the record. They have already been impugned by at least one and I think three speakers as to their integrity.

I hate to use the hackneyed cliche, but the old red herring of assessors' practices was brought up in the commencement of this hearing. Believe me, what the appraisal is of land as assessed by the State of California has no relation whatsoever to what some developer will pay for it; and, furthermore, most agricultural land has one value but when the time comes for development we all know that this value increases considerably when someone is willing and able to pay for it.

During the last ten years I have been party to the purchase and sale of 90,000 acres in Southern California. I believe I can testify as an expert; and I say without reservation and without fear of contradiction that there is a considerable amount of money, running into millions of dollars, in favor of the County of Orange in this proposed conveyance.

I urge that you gentlemen look at this matter objectively. I am in favor of ecological research; I am in favor of everyone with a special interest; but over and beyond everything else, I am in favor of this bay for general use and I have given you the figures for the use of our people in our
City, in our County, and in our State.

MR. PATZER: I would like to speak in opposition.

MR. FLOURNOY: I think we have had an extensive array of testimony, preponderantly on the side of those opposed to this. I think we will have to . . .

MR. PATZER: I was not here at the time you called my name.

MR. FLOURNOY: I don't really think we can go on with testimony for days and days. It is up to the Commission.

MR. PATZER: There are two items I'd like to express my opinion on.

MR. FLOURNOY: Are they new items?

MR. PATZER: They are items that have been brought up, so I'd like to express my opinions on them.

In view of the tremendous disparity shown between the assessed valuation and the figures that could be produced by Mr. Hinshaw, if you were to request him to come before you I believe they would distinctly show there is not a gain to Orange County, and he should be invited to present his figures to this Commission. He was not invited, as I understand it.

MR. FLOURNOY: He appeared here this morning and was invited to say anything he wanted to say.

MR. PATZER: He was not requested -- that is different. He is an elected official in Orange County, in addition to our Supervisors, and we need his help.

GOV. FINCH: I don't recall we put any inhibitions
on what he wanted to say.

MR. PATZER: Governor, I would appreciate it if in
postponing this proposal you would make arrangements for him
to present proper testimony.

MR. HORTIG: Mr. Chairman, Mayor Gruber of the City
of Newport Beach has just submitted for the record the resolu-
tion of the City of Newport Beach, the resolution in favor of
the approval of the plan.

MR. PATZER: We will now take up this last paragraph
on the trade. It says here the City Council of Costa Mesa to
took action on this trade and will communicate this to the
State Lands Commission.

I am Gus Patzer, Costa Mesa. There appeared before
the Commission a Willard Jordan, saying he was Mayor of Costa
Mesa and represented Costa Mesa as such, and was for the trade.
I investigated; I went into their records as far as meetings,
and I could find no record of ever having any public hearing.
There was never any council meeting.

MR. FLOURNOY: The City of Costa Mesa has not come
before this Commission today.

MR. PATZER: I will ask somebody to corroborate what
I am going to say now.

GOV. FINCH: We can stipulate the City of Costa Mesa
did not appear before us.

MR. PATZER: I am asked to appear.

MR. FLOURNOY: I am sorry if you have a quarrel with
the City of Costa Mesa. Whether they are for or opposed to this exchange, this is between you and the City of Costa Mesa. We will not hear your views.

MR. STUCKEY: H. A. Stuckey from Newport Beach. I have a letter here from the Bay Area Citizens Council, Orange County, and I'd like to read it.

MR. FLOURNOY: Does it raise a new point?

MR. STUCKEY: I'll take thirty seconds, if I may.

It starts out:

"In your records of the previous hearing you have a letter from the Bay Area Citizens Council to which we would like to refer your attention. That letter stressed the importance in any planning for development of Newport Upper Bay to recognize adequately the public interest in relation to use, parks, recreation, access, conservation, and so forth; offers suggestions and requests further studies.

"While there are divers sentiments, a number of the associations feel there remain many questions, including legal, which have not been answered. They also have the definite feeling that more control for wider benefits would be served by local governmental administration, rather than an exchange and, therefore, are in opposition to such exchange.

"In light of these things, as well as the lack of alternate planning, we consider that it would be premature to arrive at a final decision at this time. We wish to urge most strongly that this Commission undertake the initiative in following the recommendations set forth on page 9 in its report of November 1966 by Livingston and Blayney, City and Regional Planners, to attain a practical, well-rounded alternative plan."
"The importance of this area, its growth, the unique and varied possibilities available primarily only at Upper Newport Bay, all emphasize the great need for this Commission to eliminate any type of stalemate and take an early and active part towards the best program of development for the Upper Bay."

MR. FLOURNOY: What is the pleasure of the Commission?

MR. FRIEDL: I'd like to introduce something before you go into deliberation. My name is George Friedl, Jr.

VOICE: Mr. Chairman, he's on the negative side and I object to any more time being given.

MR. FLOURNOY: I think that is in accordance with the comments of the Chair, that the matter has been widely discussed and all points have been heard.

GOV. FINCH: Did you say you wanted to speak?

MR. FRIEDL: No, I didn't.

GOV. FINCH: We asked for some ground rules.

MR. FRIEDL: I just wanted to ask you gentlemen how can you pass on an exchange of land along harbor lines which must be approved by the U. S. Corps of Engineers.

Now, we have gone before the City Council, Board of Supervisors. We have been asked to present alternative plans. Such alternative plans have been presented before the Board of Supervisors as Project 50-50. They still show advantage in the trade which you folks could approve and yet no consideration has been given to them.
You can't approve plans around the harbor lines which must be approved by the Corps of Engineers. I ask you gentlemen: If you approve this today and if at the Army Engineer level the harbor would not be approved, what would the condition then be?

GOV. FINCH: More delay.

MR. FRIEDL: But if you will have passed it here the dredging with public money to create a 300-foot channel will have started.

GOV. FINCH: Well, we have the Corps of Engineers and a few others that still have to go through this.

MR. FRIEDL: So I commiserate with you and wonder how you can pass on it today. The schedule for the harbor goes back twenty years. We and you have not been the delay in this. It has been delayed by the people who want a particular, if not a peculiar, plan and through legislation have abrogated the people's rights under the Constitution.

MR. FLOURNOY: I am not going to hear anything further.

MR. FRIEDL: I am merely asking -- if you don't get the approval of the Corps of Engineers, I think it is put in the wrong sequence; you are put on the spot.

MR. FLOURNOY: Thank you. I realize that full well.

Now, gentlemen, we have heard extensive testimony. We have a recommendation before us. What is the pleasure of the Commission?
MR. SMITH: Mr. Chairman, recognizing the sensitivities of the issues, I think the time has come for the State Lands Commission to be decisive. It has been before us too long.

We have a recommendation from our staff to find:

Whether the State-granted lands under discussion to be filled and conveyed are no longer useful for navigation, commerce and fishing -- and it is my understanding that they will not be;

Whether the proposed exchange of lands between the County of Orange and The Irvine Company will result in lands in possession of the County at least of equal value to the lands being transferred to The Irvine Company -- and it is my understanding they will be at least equal in value.

We must also recognize that the Legislature has delegated to the County of Orange and its elected officials the responsibility that the general public interest will be served in the proposed exchange and they have acted in good faith. I do not believe it is the responsibility of the State Lands Commission to preempt the responsibility of the County of Orange, whose elected officials are acting in the interest of all the people. I think we must have as much trust in the elected officials of the County of Orange as the County of Orange has in the trust.

The Attorney General has given us an opinion that Chapter 2044 of 1957 is constitutional and that the exchange
is legal.

I recommend that the application for the exchange
of the lands in Upper Newport Bay between the County of Orange
and The Irvine Company be approved, and that the recommenda-
tion of the staff, as contained in Calendar Item Number 49,
also be approved.

MR. FLOURNOY: Is that a motion?

MR. SMITH: That's a motion.

MR. FLOURNOY: Is there a second?

GOV. FINCH: In seconding, I am going to point out
the only way for us to do this is to take this action to raise
the legality of the passage of the 1957 enabling act. We have
gone, as I said earlier, year after year after year saying
"Let's bring in further study." At some point somebody has to
face up to this. Everybody has pointed out the population has
exploded in this area. Irvine is going to go forward one way
or another. I think the responsibility we have is to try to
get the broadest public access to these areas, and on that
basis and on the basis of not only Orange County but Southern
California, I think, unhappy as it may be, that we have to
come to a decision today. I am seconding the motion.

MR. FLOURNOY: Then a motion has been made and
seconded that the calendar item and the findings indicated
therein be approved. All those in favor say "aye."

(Unanimous "aye.")

MR. FLOURNOY: Those opposed? (No response)
MR. FLOURNOY: It is approved.

The only remaining item is the reconfirmation of the date, time and place of the next Commission meeting, which will be Thursday, October 26th, ten o’clock, Sacramento.

ADJOINED 2:00 P.M.

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REPORTER'S CERTIFICATE

I, Louise Lillico, reporter for the Office of Administrative Procedure, hereby certify that the foregoing pages one through one hundred twenty-one contain a full, true and accurate transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION of the State of California held at Los Angeles, California, on September 25, 1967.

Dated: Los Angeles, California, October 9, 1967.

/s/ Louise H. Lillico