MEETING
STATE LANDS COMMISSION

STATE CAPITOL
Room 2170
Sacramento, California

ORIGINAL

THURSDAY, FEBRUARY 26, 1976
10:00 A.M.
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MEMBERS PRESENT
Hon. Kenneth Cory, State Controller, Chairman
Hon. Mervyn M. Dymally, Lt. Governor, Commissioner
Hon. Roy M. Bell, Director of Finance, Commissioner

MEMBERS ABSENT
NONE

STAFF PRESENT
William F. Northrop, Executive Officer
Robert C. Hight, Staff Counsel
James F. Trout, Manager, Land Operations
W. M. Thompson, Manager, Long Beach Operations
Richard Golden, Assistant Executive Officer

ALSO PRESENT
N. Gregory Taylor, Assistant Attorney General
CHAIRMAN CORY: The meeting will come to order.

I apologize for my tardiness; again you have had to wait for the Chairman.

Call the meeting to order; are there any corrections or additions to the minutes of the meeting of January 15th? Hearing none, they will be approved as presented.

For the Executive Officer, Mr. Northrop?

EXECUTIVE OFFICER NORTHROP: Thank you, Mr. Chairman.

On February 10th, I attended the OCS Advisory Meeting in Orange, and expressed California's concern for the lack of regulations for deep water drilling. Also, our immediate need for information regarding border land interpretative data that could affect oil formations that cross into State property.

As a result of this, we are now engaging in negotiations with the Department of the Interior -- the Department of the Interior staff and our staff to develop this information.

The following week I attended an Advisory Committee meeting in Washington to discuss OCS leasing schedules and all of the members of that committee, which represented most of the border states, expressed a dissatisfaction with the
design and implementation of the baseline study and time frame and questioning the value of the study at all, given their close proximity to the leasing schedule.

California also raised the question regarding a recent trade publication regarding the approval of the Santa Ynez Unit Gas Reinjection into formations without proper technical information or even consultation with the affected border states. The Interior Department expressed surprise at this. However, I pointed out the Oil and Gas Journal article to them and they said they would respond to the Commission and to the committee with their answers as to why this happened.

Mr. Chairman, we have asked that Calendar Item No. 1 be pulled for technical reasons. On several other of the calendar items, as they appear, if you would, I would interrupt and give you what communications we have on that at that time.

CHAIRMAN CORY: Okay.

EXECUTIVE OFFICER NORTHROP: This calendar today, sir -- gentlemen, encompasses about 49 items or 50 items and several lengthy presentations. It becomes obvious that the length of the meetings and the things to be discussed are going to continue to be this long. We have in the shop somewhere in the area of 1500 items and we are bringing items in at about a hundred items a month, of which probably
two-thirds of them require some Commission action. I would make this suggestion respectfully that we consider several alternatives for future meetings, either scheduling meetings twice a month or delegating the Executive Officer authority to handle routine approvals or perhaps institute a consent calendar for items with no opposition. I certainly recommend either one, or the former or the latter. I'm not really anxious for the Executive Officer to get into that position.

CHAIRMAN CORY: How much could be saved with some sort of a consent calendar if we had it on for two meetings and nobody appeared and objected; I guess it would take an announcement to the public if they had any item on that particular list and that would have to be passed out and --

EXECUTIVE OFFICER NORTHROP: I think if we notified in advance, we may work out the mechanics. If we notified in advance of a meeting, say, 14 days that the following item would be on the consent, and if we received no response, then it could go to the consent calendar. If there was any response we would pull it off and put it on the regular calendar for discussion.

CHAIRMAN CORY: How much time do you think that would save?

EXECUTIVE OFFICER NORTHROP: It would probably save about half of the meeting time; about an hour or so each
meeting and we could probably handle maybe 20 or 30 items per
meeting on a consent calendar basis.

COMMISSIONER DYMALLY: I have no problems with that.
EXECUTIVE OFFICER NORTHROP: The problem is this.
You know, everybody wants to come in on Wednesday and have
it on tomorrow's calendar and many of the items there is no
objection to. But, because of our seven-day notice and, you
know, the time is usually of the essence on these things --

COMMISSIONER DYMALLY: You are saying in between
that month there are several insignificant items that come up
that need to be disposed of?

EXECUTIVE OFFICER NORTHROP: That we would like to
dispose of quickly. And it's really that they are mostly
technical items, but they are all going to run very heavily
now.

CHAIRMAN CORY: Let's try the consent calendar. I
would like both our staff counsel and Greg to make sure that
we are giving adequate notice to the public and I would think
that there would have to be some mechanism where we pass out a
 flyer -- everybody at the meeting as they come in -- so that
they understand what they are going to have to do to keep us
from running over the top of them, because one of the things
that rightfully irritates the people is when they walk into a
meeting and they have come for a purpose because it's on the
Agenda, and then they -- it's already done and gone.
EXECUTIVE OFFICER NORTHPROP: Well, we certainly could make a proviso if that happens. We could pull immediately anything off which is on the consent calendar and put it --

CHAIRMAN CORY: We could pull it off, but they need to know that they won't have to sit there for the entire meeting waiting for it to come up and it never gets discussed and it's -- in the jargon of the trade, we have already dealt with it and they didn't know it happened to them.

EXECUTIVE OFFICER NORTHPROP: Thank you very kindly.

CHAIRMAN CORY: Then if not, I think we have to look very seriously at twice-a-month meetings so we can get through.

EXECUTIVE OFFICER NORTHPROP: Okay, fine.

At last month's meeting, the Executive Officer attempted to explain the position of FEA regarding crude oil pricing and request of consideration by the FEA for a reversal of their discriminatory price freeze on California heavy crude, but not about much success.

Mr. William J. LaMont, of the law firm of Lobel, Novins and LaMont, has been keeping a close eye on this problem as it has been unfolded in Washington for the Commission and now he will give us a report.

Mr. LaMont?

MR. LaMONT: The difficulty with the problem of oil
pricing at the moment, from the Commission's standpoint, is that it's going to be many, many months before you know precisely, exactly, what kind of price you are going to be able to budget against.

The Act that was passed in December -- the Energy Policy and Conservation Act -- did something more than just continue price controls; it changed very fundamentally their basis. Moreover, it's an unusual kind of statute in that world of unusual legislation in that it sets up a lot of specific trigger dates by which certain things must be done specifying how and what is to be done. Accordingly, trying to predict exactly what is going to happen is very difficult.

For example, the price -- initial price balance of seven, sixty-six, between the old oil and the new oil had to be achieved by February 1st. It was achieved by fiat; they said, "This is what it is."

CHAIRMAN CORY: Let's back up now. What actually happened to the price of oil, they just said that it was that, even if it wasn't?

MR. LaMONT: Yes.

It's extraordinary, because the formula is supposed to be balanced between the old oil price which I would estimate at five, twenty-five, and the new oil price which is somewhere between ten and $11. It's supposed to balance out exactly at seven, sixty-six.
The difficulty is that nobody knows exactly what
the price of old oil is. Everybody is certain that it is not
5.5 -- whatever it is -- it is either above that or below
that and probably below that. They do not know how much of
the oil is old oil and how much is new oil, and they do not
know what the exact price of the new oil is. You have an
equation then, in which there are four parts, none of which
are known.

CHAIRMAN CORY: And only one equation. You need
four equations, as I recall, to solve that problem.

MR. LaMONT: Well, the Act permitted they solve it
by fiat on February the 1st. But six months from now, on
August 1st --

COMMISSIONER DYMALLY: What did they do on the 1st?

MR. LaMONT: They simply said 5.5 and whatever the
price of old oil was before -- I mean the new oil was before.
In other words, left things exactly in the status quo.

By August the 1st --

CHAIRMAN CORY: Two plus two divided by three is
42 by fiat, and that's it.

MR. LaMONT: By August, they are supposed to have
completed the job of figuring out what the price actually is
for both parts and making a new price balance.

Now, if on August the 1st, they discover that the
price was too generous, they have got to offset that for the
next period until the total amount of the generosity has been withdrawn and vice-versa. This has got to be done in six months' intervals after that. Accordingly, until after August, you will not know exactly what your initial price has been.

CHAIRMAN CORY: What is the data base; are they talking about each individual refinery or is it all -- I mean, how are they planning at getting at these mysterious numbers?

MR. LaMONT: Well, this was part of the hearing that we got involved in, the rehearing on the differential and one part of that was an attempt by FEA to get some advice from the industry generally as to how they were going to go about discovering this. Whether they were to ask the purchasers, the sellers, or just the principal refiners; where was the price to have to be -- at the beginning. I talked with one of my friends within the last couple of days who was in the data business in FEA; they have not made much progress yet in defining what data it is they are going to need in order to get this final determination. It's weird and it's wonderful.

Our difficulty on gravity differential was that the staff had largely agreed with the presentation that had been made last August, that the gravity differential adjustment was totally warranted. It was held up for a time
by the termination of the Emergency Petroleum Allocation Act in September. Then, on the reinstatement of that Act, the one group within the FEA objected and we believe in large part on the grounds that, to have granted the gravity differential relief that we asked -- granted the new rule -- would have been, in essence, to bolster the Antitrust charges that have previously been made against the companies.

At any rate they, in November, terminated the gravity differential proceedings with a statement that we could go ahead with individual exemption applications. If there were any who could show real hardship.

Then, in December, at the request of the entire California delegation, Mr. Zarb agreed to set it up for a totally new rehearing stating at that time that, in view of the information that had been furnished him by the delegation, that it was very clear that some relief was warranted.

I might add that, if any of you have a sense of history, you might want to look at the delegation letter which went to Mr. Zarb in which all members of the California delegation subscribed to certain sentiments respecting crude oil. I think that's the first time all of the California delegation subscribed to anything.

COMMISSIONER DYMALLY: What has been the result of that hearing; has it been held?

MR. LaMONT: The hearing was held; no relief was
given. They have continued the proceedings; it's a continuation basis. However, they have indicated that, in some way if we will come in and demonstrate hardship of a peculiar kind of hardship, that they will probably give us some relief, possibly.

The City of Long Beach has already filed a Petition for Exception covering the Wilmington Field. We are in the process of preparing a possible presentation with respect to the Huntington Beach Field. Only God knoweth what the outcome will be. I hesitate to make any prediction.

COMMISSIONER DYMA:Y: When is a decision anticipated on that latest -- the rehearing postponement, think-about-it decision?

MR. LaMONT: Sir, I really don't know. The promise was made to one of the Congressional delegation that the, "Action on the exception will be expedited within 30 days." Another part of the FEA staff said that, "Action on the exception would be expedited within 60 days." Action will be expedited; but, in the meantime, the same group that are making this decision --

CHAIRMAN CORY: As opposed to action being taken, action will be expedited.

MR. LaMONT: Yes.

CHAIRMAN CORY: Okay.

MR. LaMONT: It is very difficult to know, or even
to predict whether it will be six months or six weeks or one month.

COMMISSIONER DYMALLY: Or whether that action will be negative or positive.

COMMISSIONER BELL: Or something in between.

MR. LaMONT: The only thing that is certain is that, within 39 months -- or 38 months now with this control system, will have been terminated.

But what may replace it may not be any better but at least this one will be done.

COMMISSIONER DYMALLY: Can you guarantee then that there could be some consideration for a change in price structure --

MR. LaMONT: Theoretically, at that time the total price control will have disappeared.

CHAIRMAN CORY: But they are not taking any steps toward changing -- not the gravity differential, but the old-new differential -- if there has been no progress they just keep, by edict, saying that they are doing something and, in fact, there may be no substantive change. We will not have made any steps toward the transition to an open market or a free market.

MR. LaMONT: That's right. But the purpose of the Act, complex as it was, it did have one bit of logic in its purpose; it was to bring the new oil price and the old oil
price to a common balance to which both would trend so that ultimately you would have a single price somewhere probably at or maybe a little below the current new oil price.

CHAIRMAN CORY: But that theory only works if something happens, in fact, to start moving them together.

MR. LaMONT: Well, this --

CHAIRMAN CORY: And that has yet, as I understand your statement, nothing, in fact, has yet taken place other than --

MR. LaMONT: Well, they are starting on it. Their schedules are laid out. Actually, it's being expedited.

CHAIRMAN CORY: Thank you. Are there any questions from Commissioners? Mr. Northrop, does that conclude your report?

EXECUTIVE OFFICER NORTHROP: Now you understand why I had the problem last month, Mr. Chairman.

CHAIRMAN CORY: They aren't doing anything; you just told us that.

All right, the next item on the Agenda is Mrs. Parry.

Is Mrs. Perry here? Is Mrs. Perry in the room?

This is the item that has been before us on the two or three previous meetings in which Mrs. Perry, as I recall, was concerned about the requirement of the order of
magnitude of insurance that she had to have and we have been
telling her that we had to have that insurance and she wanted
to have her Senator or her Legislator with her for this
hearing.

COMMISSIONER DYMALLY: Let's proceed with the
action.

CHAIRMAN CORY: Governor Dymally moves that the
Amendment to the Commercial Lease be approved as presented
by the staff.

COMMISSIONER BELL: I would second the motion.

CHAIRMAN CORY: Mr. Bell seconds.

Without objection, such will be the order.

Item 3, Sacramento Regional County Sanitation
District; Permit.

Routine?

EXECUTIVE OFFICER NORTHROP: There were the
indications there would be someone perhaps over from the
County. However, I have not received an application for him
to speak.

CHAIRMAN CORY: Is there anyone here to address
the Commission on Item No. 3: Sacramento Regional County
Sanitation District, the outfall -- the outfall in Sacramento
donw around Freeport.

Yes, sir.

MR. DOYLE: I'm Al Doyle, with Sacramento Area
Consultants, and we are prepared to answer any questions regarding the application.

CHAIRMAN CORY: You are representing --

MR. DOYLE: The Sacramento Regional County Sanitation District.

CHAIRMAN CORY: Is there any opposition from anyone in the audience to this matter?

Hearing none, we will approve the item as presented. Without objection, such will be the order.

We have Item No. 4: Rescission of Prior Authorization for Running Fence Corporation, and to issue a new, non-commercial lease, some changes.

EXECUTIVE OFFICER NORTHEM: Mr. Chairman, we have had previous presentations on Running Fence; the location has been changed. Mr. Trout would like to speak -- from our staff, would like to speak to it and we have indicated there are several in the audience who would like to register their objection to the project.

MR. TROUT: You might recall that one of the first items of real presentation to the Commission after you took office, was the Running Fence Corporation. At that time, they made a very excellent presentation of what the fence was about and I think the artist, Mr. Christo, was present. They had some difficulty with the Negative Declaration; they have gone through and processed an Environmental Impact
Report. There have been some slight changes in the technique involving the State land which is probably of primary importance to the Commission.

You will recall that, earlier, the proposal was to have some metal posts or stanchions with a plate on the bottom which would rest on the tidelands and be tied together at the top with a steel cable.

The presentation now, or the proposal now for the State Lands is to simply have two buoys or a buoy anchored with two anchors out in the sandy part of the tidelands and a single cable out of the water from the buoy up to the shore and from which the cable would -- the fence would hang with weights on the bottom.

We have consulted with the Department of Fish and Game, the Fish and Wildlife Service, and the consultant who prepared the Environmental Impact Report and we were advised by the Department of Fish and Game that they have looked at the site of the proposed anchors and that they find that there will be no detrimental -- significant detrimental damage to the tidelands and the staff is prepared to go ahead and recommend this for your approval.

This morning we received a telephone call from representatives of the Committee to Stop Running Fence in Sonoma and Marin County.

CHAIRMAN CORY: It sounds like an anti-Indian
movement.

[Laughter.]

CHAIRMAN CORY: Go ahead.

MR. TROUT: They are concerned about what this will do to the environment through which the fence runs which has been the consideration of the Environmental Impact Report in hearings in Sonoma County and, to a limited extent, hearings in Marin County. They are concerned about public safety in terms of the public access, fire, police and so on, traffic on the highways. The fence does cross private land and, as I understand, they have a permission to cross private land.

And so these are some of the concerns that have been expressed. We understand that Dr. Hedgpeth also has some objections and he is present as are the proponents of the project.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, for the record, Mr. Charles Rhinehart of Santa Rosa called this morning and registered a protest that Mr. Trout has just mentioned, as well as Mary McChesney and Louis Raymond, Co-Chairpersons of the Committee to Stop Running Fence.

CHAIRMAN CORY: Okay, do we have someone in the audience who wishes to register their objection? Somebody raised their hand. Why don't we hear from the opposition because you have given us your report. You
might as well hear the other side of it.

MR. TROUT: I believe Dr. Hedgpeth would like to
make a statement.

CHAIRMAN CORY: Come forward, and identify yourself
for the record, please.

DR. HEDGPETH: Yes, well, my name is Joe W. Hedgpeth
and I'm an Adjunct Professor at the Pacific Marine Station
and was formerly the Director there some years ago. I'm
actually retired and am doing private consulting editorial
work.

I'm speaking primarily on behalf of the Pacific
Marine Station concerning the inter-tidal environment in this
area. We have made two trips out there. The last one was
two weeks ago, with a diver. And our feeling is that the
EIR has been too optimistic in toning down the quality of
this environment. It has been protected by being on private
land, locked gates that are almost two miles from shore. So,
people don't get out there very often; and, our concern is
that, with all this activity, it will set a pattern which
might not be desirable for the area.

We are concerned because we are applying for
support as a field station under a new program of the National
Science Foundation and one of the things we have to put up --
so to speak -- is an environment that's worth studying and it
so happens that this area between the two esteros is about the
best piece of California seashore left between, say, San Francisco and the wilds of Humboldt County, because it has been protected. It also happens to be one of the best local abalone spots. I'm surprised that the Fish and Game people aren't aware of this. There are just so many things which the EIR said weren't there.

Now, the specific actual short length of the beach, there might not be very much damage; however, the side effects are what concern us. We doubt that this thing is going to stay put or hang up the way they say it's going to -- and I'm sorry we don't have a screen here; I have some slides showing cracks and fissures in the slope all the way down there. Some of that activity will start smaller earth movements, I suspect. But, in general, we would like to be able to say that, as the California Coastal Plan says, these areas should be reserved for research as an area of specific scientific interests, I believe is the exact category.

Now, I have two photographs; I don't care, I think the best thing they could do with the fence is to stop it there on top of the hill and build a big circle. I think that would be much more interesting. My concern is I would just like to see them stay off the beach.

Now, this photograph is looking down the slope --

CHAIRMAN CORY: Before you do that, Governor Dymally has a question.
COMMISSIONER DYMALLY: I've got a couple of questions here:
You talked about the fence setting a pattern; a pattern of what?
DR. HEDGPETH: Well, this is going to attract all sorts of visitors and --
COMMISSIONER DYMALLY: Is that --
DR. HEDGPETH: -- and they're going to find their way in there --
COMMISSIONER DYMALLY: -- I was under the impression that the Coastal Plan was being proposed to make the Coast available to the people. That was what --
DR. HEDGPETH: However, it specifies certain areas which should be limited to access to the hikers only by foot, and this would, I think, in turn, because of the distances involved --
COMMISSIONER DYMALLY: That's the problem I have with the Coastal Plan, because when you start setting aside exclusive areas to hikers who are basically middle-class, you know, I don't want to debate the Coastal Plan here, but it's obvious that this is a very significant plan. When you talk about side-effects and patterns and side-effect research, you are not talking about the poor; you are talking about a very exclusive group of people who want to preserve the beach for themselves.
DR. HEDGPETH: Now, we come to a difficult, philosophical problem here --

COMMISSIONER DYMALLY: You sure do.

DR. HEDGPETH: -- and that is that in areas such as this one is, that we would like to keep the people out as much as possible for research purposes. They haven't anything left of some things. For example, Dillon Beach; you no longer have the sort of things represented in this picture, that is, solid clusters of limpets and the like. People have removed these things and so, while I realize that, I think that in addition to making access to many parts available, we must control access in some areas. I know this is a very sticky problem.

For example, it may be -- To cite an extreme possibility, but I don't think it's a probability -- such an area as this so near San Francisco may provide us, in time, a valuable clue as to what has been happening to the crabs, why they are going away. In other words, we need areas reasonably protected, and so what I am afraid of here is that all the hullabaloo this fence is going to stir up, is apt to sort of open the path for motorcyclists and the like. Once you get a crowd of people who disregard private property restrictions, that's what establishes a pattern. All kinds of people, once they find such a nice area for marine life, they will go in and cart it all off. We can't find any hermit crabs
at Dillon Beach any more; somebody is supplying their aquariums with them commercially, I think. I saw a man the other day go off with two bucketfuls of hermit crabs. If we could get everybody to leave things as they are, why that would be fine, I wish we could.

COMMISSIONER DYMALLY: I think therein lies the dilemma between your point of view and my point of view. First, this is a temporary project. I'm not given to the odds, but it just seems to me that you are making something available for the public at large. If we are going to preserve the Coast, I just want a little piece of the action. It seems to me that this is a little piece. It's a temporary project that would be removed and the landscape would be replaced. It would not interfere with side-effect research, it would not interfere with property rights, it would not interfere with public access. As a matter of fact, it would make it open to the public.

If we are going to preserve the Coast, you have got to give some guarantees that other people other than the scientists and the researchers are going to have some access, or else we are going to have another debate about this thing. But I don't want to get into the Coastal Plan now because I was given assurance by the Coastal Plan proponents that the major emphasis will be access and this is what it seems to mean, making the beach available for some people. Obviously,
I'm not in that class, but I would like to be an advocate of those people who would like to see it.

DR. HEDGPETH: Well, if it's a temporary aspect, I have reservations about how they are going to get that stuff out of there. It's seven-eighths cable which weighs over a pound a foot and that's an awful lot of metal to move around. It's pretty rough coast.

At any rate, I have these views of the area which, if you would like I could leave with you. Here's just about where the thing will go down [indicating], and at that place the beach is very short. Here's a side view [indicating]; it's pretty rough out there.

My main purpose is to state the concern of Pacific Marine Station about this. It may, of course, puncture the statement for the record, but I think you should be aware of our concern.

So I thank you.

CHAIRMAN CORY: Would you tell us, sir, Pacific Marine Station -- Pardon my absolute ignorance -- but could you tell us what Pacific Marine Station is?

DR. HEDGPETH: Pacific Marine Station is a branch of the University of the Pacific. It's somewhat independent of the Campus Department; it's been there at Dillon Beach since 1947, '48. And it's primarily an educational institution which does research and is oriented towards a Master's degree.
for the students in biology. And we have had a pretty good
record through the years where the students have gone on and
some of them are now in the fashionable business of
environmental consulting and others are faculty members. And
we are at the south end of this area, and at the north end is
the Bodega Marine Laboratory of the University of California.
And they also feel that this is an extremely excellent area
for these types of observations and study which is no longer
available, even right under their noses there at Bodega Head.

CHAIRMAN CORY: Can you help me with the problem
that seems to me an inherent dichotomy in the argument that,
it's okay for you to put your place or the other doctor to
have his facility up there which attracts people and you foul
the environment by your existence if there are no longer
hermit crabs where you are, but you don't want anybody else
to be able to get the beach some place else so you can go over
there and look at it. That's a harsh way of putting it, but
that seems to be what I am getting from that.

And I'm afraid I'm missing the point.

DR. HEDGPETH: It's not quite that way. Actually,
Dillon Beach is a well-known resort area since the 1890's and
we are down on the property donated by the Lawson family.
Bodega is the University of California, of course. That is a
by-product almost, so to speak, of the Bodega Atomic Powerplant
site. I have no objection to people walking around if they
could control what they do. For example, suppose we wanted
to know why limpets are aggregating -- this is a scientific
question -- and we attach numbers on them. The next thing we
know somebody's come along and taken them all off because
they have numbers on them. So that's the problem of the
experiment. I realize it's a very sticky problem and suppose,
in the long term, it may be education, but we do that as much
as we can. In fact, we have worked with many high school
teachers; we had a program going for years to develop field
trips by the students. The business of the whole group of
students being taken out to the beach and ordered by the
instructor to bring back one of each of everything simply
is not the way to learn about the environment.

COMMISSIONER DYMAILY: Thank you, very much.
CHAIRMAN CORY: Thank you, sir.
Here are the pictures, Bob, we have looked at them.
Okay. Are there any others who wish to present any
testimony with respect to Item 4, Running Fence Corporation?
Would you identify yourself for the record.
MR. NEMEROWSKI: I'm Howard Nemerowski, and this is
Paul Kayfetz. We are the counsel for the Running Fence
Corporation.

CHAIRMAN CORY: Before you go ahead, is there anyone
else in the audience that wishes to address the Commission on
this item?
COMMISSIONER DYMALLY: Mr. Chairman, we have had this measure before us. The staff has briefed -- at least I hope you and Mr. Bell -- I'd like to move approval of the item.

COMMISSIONER BELL: I second the motion.

CHAIRMAN CORY: Mr. Dymally moves; Mr. Bell seconds. Do you need to make a speech?

MR. NEMEROWSKI: Nothing I could do would help, no, sir.

CHAIRMAN CORY: All in favor signify by saying Aye.

[Thereupon the Commission voted unanimously to approve Item No. 4.]

CHAIRMAN CORY: The item is approved; thank you, very much.

MR. NEMEROWSKI: Thank you.

CHAIRMAN CORY: Item No. 5: Napa Sanitation District.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there's no opposition to this; it's a sewer outfall and all the requirements have been met.

CHAIRMAN CORY: Without objection? Is there anybody in the audience on Item No. 5; Napa Sanitation District Application?

Hearing none, Item 5 may be approved as presented.

Item No. 6: Contra Costa County Flood Control and
Water Conservation District.

Is there anyone in the audience to address the Commission on this item?

EXECUTIVE OFFICER NORTHROP: Just a technical correction.

CHAIRMAN CORY: Without objection, Item 6 is approved as presented.

Item 7?

EXECUTIVE OFFICER NORTHROP: Items 7, 8, and 9 cover the same area. They are use permits and perhaps we could cover those.

CHAIRMAN CORY: Use permits for --

EXECUTIVE OFFICER NORTHROP: Two of them for Tahoe and one for Piper Slough at Bethel Island.

CHAIRMAN CORY: Is there anyone here who wishes to address themselves to Item 7, 8, or 9 on our Agenda?

Without objection, Items 7, 8, and 9 are approved as presented.

Item 10?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is a six-foot fish causeway; there has been no opposition on this.

CHAIRMAN CORY: Is there anybody on Item 10 in the audience?

Without objection, Item 10 will be approved as
Item 11.

EXECUTIVE OFFICER NORTHROP: This is a commercial lease for a commercial boating for Kenneth E. and Ursula Grimes. This is a new rent that will be established after May 26th, 1976.

CHAIRMAN CORY: Are there any questions?

Is there anybody in the audience on Item 11?

Without objection, it will be approved as presented.

Item 12.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Items 12 and 13 are Assignments of Leases. Item 13 has an amendment in size only. There has been no opposition.

CHAIRMAN CORY: Is there anybody for Item 12 or 13?

Without objection, 12 and 13 will be approved as presented.

Item 14 -- Item 15.

EXECUTIVE OFFICER NORTHROP: Right.

CHAIRMAN CORY: United States of America.

Are they here?

[Laughter.]

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, they are renting this for 12 cents an acre and I'm -- the Attorney General informed me that the Commission really can't say no because it's there. So I don't really know what it's here for
except that it's here.

CHAIRMAN CORY: This is an existing lease that we entered into at a ridiculously low price for further subsidizing the Federal Government at the expense of the taxpayers of California. The previous Commissions have done it and we have no choice. Is that what you told us, Greg?

MR. TAYLOR: Almost.

[Laughter.]

CHAIRMAN CORY: Is there anybody in the audience?

MR. TAYLOR: If we ever get a spare attorney we will try to challenge that.

COMMISSIONER BELL: Is this the last time or will this keep going on forever?

MR. TAYLOR: No, there is a limit on the lease, but I don't --

EXECUTIVE OFFICER NORTHROP: It was negotiated first in 1950.

CHAIRMAN CORY: One day short of perpetuity.

MR. TROUT: These are the last renewals; after ten years, it's over.

CHAIRMAN CORY: Okay, good.

All right, without objection, Items 14 and 15 will be approved as presented.

Item 16.

EXECUTIVE OFFICER NORTHROP: Items 16 through 25
COMMISSIONER DYMALLY: A question that I have on these two items: Do they actually pay their bills?

[Laughter.]

COMMISSIONER BELL: On 14 and 15?

CHAIRMAN CORY: Or do they just declare that they have paid them?

[Laughter.]

COMMISSIONER BELL: They just offset --

CHAIRMAN CORY: 14 and 15 have been approved.

Items 16 through 25 are --

EXECUTIVE OFFICER NORTHROP: P.G. & E. Various power lines to be constructed.

Item 16 is a 12 kilovolt overhead line.

CHAIRMAN CORY: Is there anyone in the audience who wishes to address themselves to any of P.G. & E.'s applications before this Commission; is there a representative of P.G. & E. in the audience?

MR. TROUT: Mr. Chairman, Mr. DeYoung of P.G. & E. is in the audience and he can answer technical questions regarding these leases.

CHAIRMAN CORY: The question I have is not the technical questions, but it's a very policy question. And I have some reservations about P.G. & E.'s inability to get along with public power people in Northern California, and they
can't work out some sort of an arrangement to transmit power. The question in my mind is: Why should we be leasing public property to P.G. & E. for transmission lines when you can't seem to get together with other public agencies to transmit power to them?

MR. DeYOUNG: That's a good question. You hit me cold with it and I don't -- I'm not aware of this problem that --

CHAIRMANN CORY: You are not aware of the controversy between the SMUD, Santa Clara, and all the other -- Redding, there are some eleven Northern California cities who are having some constant difficulties with your organization. And the question in my mind is of public policy: Why should we allow you to use public land to build more of these if you are going to not share with other public agencies?

COMMISSIONER DYMALLY: I have an amendment to all of these items. The staff requested to pursue that matter with P.G. & E. and report back to the Commission at an appropriate time.

CHAIRMANN CORY: You want to approve the leases?

COMMISSIONER DYMALLY: Yes.

CHAIRMANN CORY: We are hoping you take back a very loud and clear message.

MR. DeYOUNG: I definitely will. As I say, I'm not aware of it; I will by all means attend to it and find
CHAIRMAN CORY: You may not get any additional leases approved if you can't work out the problems.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, for the record, I contacted Mr. Clem Whitaker of the Legislative Advocate for P.G. & E. last evening, and informed him of this problem and he's working on it.

CHAIRMAN CORY: The staff will be reporting back to us.

Okay, any further questions?

COMMISSIONER BELL: I think it's a good question; I'd like to hear the answer.

CHAIRMAN CORY: Okay. We will go ahead and give approval to those transmission lines.

COMMISSIONER DYMALLY: On the condition that we have a report from P.G. & E. regarding the --

CHAIRMAN CORY: We'll make it clear as to what we are doing here. You want to go ahead and approve these conditionally or just approve them and have P.G. & E. --

COMMISSIONER DYMALLY: Approve them conditionally until we receive a final report.

CHAIRMAN CORY: Okay.

COMMISSIONER DYMALLY: We don't want to be accused of skyrocketing the cost of any project they would proceed with.
CHAIRMAN CORY: They are going to have some difficulty proceeding unless we give them a firm lease. Okay, and are there any questions on the pipeline?

16, 17, and 18 are the transmission lines which will be approved and we expect the staff to present a report to us on where that stands --

EXECUTIVE OFFICER NORTHROP: 16, 17, and 19.

CHAIRMAN CORY: 16, 17, and 19 have been approved, and we will expect that report on the next Agenda, hopefully.

We have gas transmission line applications for --

EXECUTIVE OFFICER NORTHROP: The balance of those, Mr. Chairman, Commissioners, are gas transmission lines and we have in all of them the language that the State go to a throughput; these lines would be considered in that throughput. Whatever we take on that, and how long -- we will probably talk to the Commission next month on that.

CHAIRMAN CORY: Without objection?

COMMISSIONER BELL: Without objection.

CHAIRMAN CORY: 18, 20, through 25 are approved as presented.

Item 26.

EXECUTIVE OFFICER NORTHROP: This is a non-commercial lease. There has been no -- it's five years of a 49 years' lease, Mr. Chairman.
CHAIRMAN CORY: Pardon me.

How can you have a non-commercial lease -- Stanley and Lucille Peck dba Steamboat Landing? I mean, it seems to me that Steamboat Landing and having a dba seems to imply a commercial purpose. I mean, are they doing something there that they need to file a fictitious name that they aren't deriving any income from?

MR. TROUT: Mr. Chairman, if the Executive Officer would permit, the rules and regulations of the Commission define a commercial lease as being an area in which the actual revenue is achieved from the use of the State lands. Non-commercial leases are defined as areas in which the general revenue for the business is achieved on the upland and the lease of the State lands is a non-revenue producing adjunct, usually an accommodation pier. It is definitely a commercial operation inasmuch as Running Fence was basically a commercial operation.

The revenue, however, that affects the operation does not derive from the use of the State property directly, but indirectly. It's charged basically the same rate, generally, except --

CHAIRMAN CORY: What is it they are selling at that landing?

COMMISSIONER DYMALLY: They could have, let's say, a restaurant, a store, and you use the landing to go up to the
CHAIRMAN CORY: They don't charge for the use of the pier.

MR. TROUT: In other words, if they charge for the use of the pier, and the facility, then it would be a commercial lease.

CHAIRMAN CORY: Is there anybody in the audience on Item 26?

Without objection, it will be approved as presented.

Item 27?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is a revised rental of a non-commercial lease.

CHAIRMAN CORY: Without objection?

It's approved as presented.

Item 28?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is a revised rental for Southern California Edison Company and we have in the audience Mr. Paul Fischer, who is the Senior Property Appraiser and he has asked to be heard on Item 28. While he's coming, Mr. Trout will give a presentation on the rental setting procedure for this.

MR. TROUT: This is for P.G. & E.'s Ormond Beach Lowerplant and basically what we are talking about is a cooling-water intake and outflow. It's a 14-inch -- 14-foot diameter concrete pipe with intake structure and a diffuser.
I think basically that the problem that we have with these kinds of facilities is that, under the Commission's general rules applicable to pipe lines, we charge a penny and a half now a diameter inch. That would make the rental for these pipe lines perhaps in the neighborhood of nine or $10,000 a year.

However, they just take the water in, run it through condensors and take it back out again. In an effort to arrive at a most reasonable agreement that we could, we have actually appraised the tide and submerged lands and applied the eight percent formula in lieu of the penny and a half diameter inch. This is a revised rental setting and it's a substantial increase -- perhaps in the neighborhood of 75 percent -- over the prior rental rate. A good half of the increase results from the percentage rate changing from six to eight percent. The balance is an increase in the appraised value of the property.

My understanding of the typical dispute that we have with people like Southern California Edison Company is that they wish to depreciate the value of the tide and submerged lands in the sense that we are --

CHAIRMAN CORY: Because they've got their pipe there and nobody can use it.

MR. TROUT: Well, they take the position that you can use the water over it and, therefore, the value of the
land is not diminished. But I think we have to take the
position that it really doesn't make any difference whether
there's air or water over the land; it's a facility that
is occupying tide and submerged land. There is little else
that the public could do with it. It could generate little
other revenue. And, therefore, we feel that they should pay
the eight percent of the total appraised market value.

And I'm sure the gentleman from Southern California
Edison Company has a different perspective, but that's the
base on which the rent was derived.

CHAIRMAN CORY: Mr. Fischer?

MR. FISCHER: Yes. That basically sums up what we
are discussing.

We have reviewed the figures submitted to us by
the State Appraiser. He is essentially talking 7500 an acre
and we have talked 7,000. We personally have no objection
to the 7500; we accept this as what market value for off-
shore, submerged lands probably is at this time.

Also, we further have no objection to the eight
percent. We feel this is a fair rate of return and, as the
gentleman just explained, really what we would like to present
to the Commission for consideration is the fact that the
State's valuation of $2720 which is the proposed rental, is
based on the thought that Edison has 100 percent exclusive
use of the easement area. From an appraisal standpoint, we
look at it from the bundle-of-rights'-theory aspect which is acceptable appraisal practice, which considers the different rights from the property as being a grouping of steps. And what we have looked at and attempted to value is what rights has the State granted out to the Edison Company, and what rights does the State itself retain? The State believes that the rights we are acquiring are 100 percent use of the area; we feel more properly -- or at least would like you to consider -- 50 percent. And some of the reasons for our position here are that: First of all, the circulating conduits are buried. As they leave the plant, they are below the sands, the beach sands, and we go out into the ocean and, for the most part, they are below the surface of the floor of the ocean with the exception of some manholes that come up, as I understand, a couple of feet at two or three locations.

From a personal, physical inspection of the property myself, and discussion with our Plant Maintenance people, the public is not restricted from any of the use of the beach area which would be the sand area. They do use it for bathing and they also use it for the dune buggy purpose and whatever other use the public may want to put it to. We do not have a fence or have it restricted in any manner. The same holds true for the surface of the ocean; we do have a buoy out there to designate where the infall area is;
however, discussion with our people once again has indicated that it may have noticed no interference with small craft which might come into this area. As a matter of fact, it tends to be rather popular among the fishermen who like to come in there and the fish are attracted apparently to this warm-water area and it does accommodate fishing.

Also we would like to point out that, generally, when we negotiate with, for example, the Los Angeles Flood Control District with whom we have gone through substantial discussions; we are presently paying them 50 percent of the unencumbered fee value for sub-surface area channels. Also, the gas companies -- Southern California Gas Company tends to value many of their high pressure gas lines at 50 percent. We feel this would perhaps be a more restrictive use for an easement area.

Finally, we would like to bring to the Commission's attention the fact that the wording of the lease itself, in particular Item 15 on page 6 of the lease, provides that it's -- it's entitled Reservation of Natural Resources, which retains to the State all natural resources, timber, minerals, geothermal resources, oil, gas, and hydrocarbons; and the right to grant leases or rights-of-way over this easement area for the purpose of extraction. And also Item 16 on the same page, other reservations that the State expressly reserves the right to grant easements or crossings in, on, or upon and
under the demised premises for other purposes that would not be in conflict with the Edison Company's use.

And, for these reasons, we feel and would ask the Commission to consider that Edison does not have exclusive 100 percent use of this easement area and therefore it would, in our opinion, be an unequitable sharing of the -- on a 50-50 basis.

We have no objection to the unit value proposed by the State nor the eight percent return, but we would ask consideration for the division of the rights within the easement area.

CHAIRMAN CORY: What's the term of the lease?

MR. TROUT: I think it's a 49-year lease.

CHAIRMAN CORY: We are in the middle of it or somewhere --

MR. FISCHER: We've got five years; it's the first renewal.

MR. TROUT: It's a 20-year lease from 1969.

CHAIRMAN CORY: We're talking about 50 percent -- you're saying you'd rather have thirteen, seventy-five or --

MR. FISCHER: It would be thirteen, sixty. I might add that we are presently planning 1556, I believe. It's fifteen, sixty-six now. We would have no objection to continuing that rental rate.

CHAIRMAN CORY: How would you like to pay one and
a half cents per inch?

MR. FISCHER: Well, ah --

CHAIRMAN CORY: It seems to me the staff's giving away the store by not charging one and a half cents per inch.

MR. FISCHER: I have not personally been involved in discussions such as that; I guess it would amount to substantially more. It's my understanding that the policy of the State now is to base it on a market value evaluation.

CHAIRMAN CORY: Why did the staff want to roll over and play dead for, you know, your electric bills are too high for the staff in Southern California or what?

[Laughter.]

CHAIRMAN CORY: I mean, those of us who are now living in Northern California --

MR. TROUT: Mr. Chairman, that's the criteria is that, while this would be an exception within the Commission's discretion as I understand it, and basically it would be an alternate approach which we think is reasonable and which would not place an unreasonable burden upon the utility owners, which it's my understanding that the Commission has expressed concern about several times in the past; so the standard rental as applied to pipe lines would be in the neighborhood of nine to $10,000 a year. What we are trying to do is come up with reasonable alternatives which do not unduly burden the public. You know, the rate -- the utility
CHAIRMAN CORY: The 1500 that's now being paid; that's based upon what?

MR. TROUT: That was on the same rationale --

CHAIRMAN CORY: Full value?

MR. TROUT: Right --

CHAIRMAN CORY: It's not --

MR. TROUT: Six percent at the market value in 1969.

COMMISSIONER BELL: What we are doing is updating the existing lease?

MR. TROUT: Yes.

COMMISSIONER BELL: Even though we are giving them the store?

I'm willing at 2700 --

CHAIRMAN CORY: As the staff presented.

COMMISSIONER DYMALLY: Second.

CHAIRMAN CORY: Okay, we have a motion and a second. It would be approved as presented at twenty-seven, twenty.

Now, just to show you that I'm feeling like Santa Claus today, I'll even vote for it.

Okay, without objection, 28 will be approved as presented.

Item 29: Recreational Pier Permits. Turman,
Sestito, and Whitney.

Anybody in the audience? Anybody on those items?
Without objection, they will be approved as presented.

Item 30?
EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I have a letter here from Burma Oil and Gas Company on one of those items in No. 30, and I would like to read it, if I may, please.

CHAIRMAN CORY: Mm-hmm.

EXECUTIVE OFFICER NORTHROP: "Please refer to our letter of January 6th, 1976, which requested approval of Well No. UJ 266," which is the third well -- second well mentioned in the Agenda Item.

"We request you withdraw application to drill Well No. UJ 266. The economics of drilling this well have been seriously affected by recent Federal oil administration, oil price regulations.

"UJ 266 does not meet Burma's criteria for acceptable investment.

"UJ 265 and 268 are currently on the Agenda for approval by the State Lands Commission during the February, 1976, meeting. The economics of these two wells have been recently reviewed and meet Burma's minimum economic standards."
"We request UJ 265 and 268 be retained on the February Agenda for approval by the Commission."

The staff tells me that the latter two wells mentioned could borderline -- it would be very close on those two wells. But definitely 266 is not economic, given today's prices.

CHAIRMAN CORY: Okay, approve as --

COMMISSIONER DYMALLY: So move.

COMMISSIONER BELL: I have no problems.

CHAIRMAN CORY: Okay, 265 and 268 will be approved as presented if there is no objection from someone in the audience.

Hearing none, it is approved as presented.

Item 31 affects some people that I may have some other business interest with, and I would like to do what's right; one, by disclosure and, two, by abstaining.

MR. TAYLOR: Yes.

CHAIRMAN CORY: Do I need to leave the room?

MR. TAYLOR: No, we will just turn the chair --

COMMISSIONER DYMALLY: Item 31 --

MR. TAYLOR: The record should indicate that the Chairman has withdrawn from any consideration of Item 31, and disclosed that he may have some business relation with them on some other matter unrelated to one pending before the Commission at this time, and, therefore, he has
relinquished the Chair and turned it over to Lt. Governor Dymally to proceed with the meeting and he is not taking part in this item.

COMMISSIONER DYMALLY: Item 31; what is your pleasure?

EXECUTIVE OFFICER NORTHPROP: Mr. Chairman, Item 31 is the Assignment of a Lease to four members of the --

COMMISSIONER BELL: I have no problem.

COMMISSIONER DYMALLY: Mr. Bell moves.

All in favor, say Aye.

COMMISSIONER BELL: Aye.

COMMISSIONER DYMALLY: Opposed?

The Ayes have it.

Item 31 is approved. The two votes to be recorded are Dymally and Bell.

CHAIRMAN CORY: Item 32?

EXECUTIVE OFFICER NORTHPROP: Item 32 is a Quitclaim of some 600 acres of submerged land.

CHAIRMAN CORY: Without objection, we will accept the Quitclaim; is that what we are doing?

Without objection, such will be the order.

Item 33?

EXECUTIVE OFFICER NORTHPROP: Item 33 --

Mr. Chairman, just a little background.

In October, I believe in 1974, the State Lands
Commission approved a bid of Dow Chemical Company of some forty-odd percent to drill gas wells on Sherman Island. They are now coming to the Commission, after being through several other public bodies, for approval for drilling platform and docking sites on the Lower Sherman Island in Sacramento and Solano Counties. The counsel for the Commission received a phone call this morning objecting to it; I wonder if you would like to put that in the record now?

MR. HIGHT: I received a call from Mr. Willey Hyman, who was with the Sierra Club, and his concern was that one of the platforms would be located over what he alleged to be a fault block. It's my understanding, from discussions with the staff, that this matter was taken into consideration in the EIR on the matter and was found it would not be significant.

EXECUTIVE OFFICER NORTHROP: I've got one more, Mr. Chairman.

I had a message handed me at the start of the meeting regarding a telephone conversation from William Emington. He would like the following statement to be read to the Commission meeting on Item 33. Quote.

"Urge disapproval of the State hydrocarbon gas lease, PRC 49731 to Dow Chemical Company on Lower Sherman Island for the following reasons:

1. Degradation of important water-oriented
recreational site as a result of construction operations.

2. Dredging will be destructive to marine habitat.

"3. Drilling would be potentially hazardous to the proximity of earthquake faults.

"At the very most, I recommend that approval for drilling be limited to two sites only, with limitation of one platform per site; and further hearings be required for any operations on additional sites."

Close quotes.

It might be well for the Commission to be reminded that staff held public hearings and, at that time, Mr. Al Willard held the hearing, and would you care to comment, Mr. Willard, as to any comments at the time that you held the hearing?

MR. WILLARD: There were no negative comments brought up and the subject matter of quality in the area was not discussed in any manner as to causing any problem. The staff had recognized that faulting is common in Northern California fields and so the matter was considered and determined to be non-significant with respect to detrimental damage.

CHAIRMAN CORY: What specifically are they
requesting; a single platform?

MR. WILLARD: The lease --

CHAIRMAN CORY: We are here not approving a lease. As one of the letters seems to indicate, that lease has already been approved. The only question before us is the construction of a platform from which to drill; is it a platform or a multiplicity of platforms?

MR. WILLARD: There are eight sites which were designated at the time of issuance of the lease. The condition of the lease is that no more than three platforms could be located within -- on the lease premises at any one time. The matter before you today is for the construction of platforms, no more than three at any one time, on any one

CHAIRMAN CORY: They can only build three at one time or they can only have three at one time?

MR. WILLARD: They can only have three at one time -- Excuse me -- and they can only be constructing a single platform.

CHAIRMAN CORY: Would there be, if they wanted to construct additional ones, would they come back for four or would they go ahead and --

MR. WILLARD: They can move on to No. 2 and then No. 3.

CHAIRMAN CORY: Okay. If they decided that they
wanted a fourth one, can they tear one of those down and build a fourth one?

MR. WILLARD: They would have to come back, I think, to the Commission at that time for that approval.

COMMISSIONER DYMALLY: Let's make that clear then.

MR. HIGHT: I think, Mr. Chairman, that's laid out in the lease.

CHAIRMAN CORY: Okay, but when we let the lease we specified that they have the right to drill on -- in three of those areas of their choice; and, so what really we are dealing with here is the ministerial function, unless we can provide -- somebody has some new specific information that was not considered previously; is that where we are in terms of what our legal choices really are, that's your understanding, Mr. Taylor?

He was looking at the next item.

I mean, I'm trying to figure out what discretion we really have, having the lease already been issued.

MR. TAYLOR: We don't have as much as obviously we would have otherwise. We would have to cooperate to a certain degree with our lessee to allow him to accomplish the purposes of the lease. Taking into consideration the environmental safeguards and all reasonable rules and regulations which we can impose, I think we've gone through that process. As far as that one is concerned, we have held
hearings and we have tried our best to specify the conditions. We put in a tremendous amount of time to insure the safety and the preservation of the values in this area, and I think every action has been taken by the staff that could possibly be taken.

They are limited to these three; they will come back for the others. But we are not sitting in the same position as we would had the lease not been issued. The determination to make the lease has been made; there are certain consequences in that action.

CHAIRMAN CORY: Okay.

COMMISSIONER BELL: No problem.

CHAIRMAN CORY: Without objection, it will be approved as presented. That was, objection by Commission Members.

Item 34: Benicio Port Terminal Company.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is a dredging permit and there seems to be no objection. This is 15 cents per cubic yard.

CHAIRMAN CORY: Anybody in the audience on Item 34? Without objection, Item 34 is approved as presented.

Item --

COMMISSIONER BELL: May I just ask; is the disposal site, the DPA site only for dredging materials?

EXECUTIVE OFFICER NORTHROP: As I understand it,
Mr. Bell, it is; is that correct, Jim?

The disposal site for only --

MR. TROUT: Yes. I don't think you can dump garbage
or something there.

[Thereupon a brief discussion was held off
the record.]

CHAIRMAN CORY: Item 35?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 35
is a proposed modification of the 1975-1976 Plan of
Development for the Long Beach Unit, Wilmington Oil Field
and Mr. Thompson, who is in charge of that program for State
Lands, will make a presentation at this time and he's going
to incorporate in that, or at least try to get a feeling from
the Commissioners, what the budget concept would be for next
year because we are right at that stage now where we have to
make some decisions.

Based on Mr. LaMont's hard testimony of what's going
to happen to crude oil prices, we really have some problems
as to where to put the money and what to do.

So, Mr. Thompson will address that problem right
now.

MR. THOMPSON: We are not really trying to get a
multiple choice test to the Commission here by dealing in
alternatives, but the staff is in a quandry.

CHAIRMAN CORY: Before you proceed, let me tell you
one thing about the Executive Officer.

At one time he was trained in sales and he learned in that capacity that you always set a set of alternatives that you can either have this or this and never that you can buy or not buy. Keep that in mind as these alternatives are being presented to you.

[Laughter.]

MR. THOMPSON: The business staff is in a quandry. We are between the Commission and the Federal Government -- the FEA specifically -- I think Mr. LaMont has outlined the nebulous position of the FEA.

We understand the Commission's attitude is not to make expenditures to accelerate future ultimate oil recovery.

You are in a net profit situation, so all you are doing is spending money today that you can spend tomorrow to gain that same oil and the question of the price of the oil to be obtained from that. The intent of the FEA was that if you spent money and got so-called new oil, or you put in a secondary recovery project or something like this, you should get some reimbursement for that. Unfortunately, the Long Beach Unit has come into a unique situation where we are in a secondary recovery project from the initiation of the field. Their base period initiative is set for 1972, so they took a level of production for each month in this period.
If you exceeded that, then you got new oil at that time.

What this is is a series of curves showing the result of drilling and redrilling wells since 1971.

[Indicating.] This yellow portion is the result of drilling new wells since the time of price freeze. We have spent about $15 million on new wells; about $3 million redrilling in this portion of time.

This curve down here [indicating] shows what would have happened if those wells had not been drilled. The upper curve is actually the production rate in the Long Beach Unit. If these wells had not been drilled, it would have followed this trend [indicating].

The new regulations have now moved out. Say, if they take to move the base period for determining lower tier and upper tier oil which is substituted for the old oil and new oil terminologies; we are now back into looking at this [indicating].

But, again, you see that we have a continual decline in the field; we have been able to change the decline in the field but never been able to kick it up above these predetermined levels. So we always maintain the old oil concept of the lower tier.

Now, cost controls were to expire in August of '75 and, here and now, Mr. LaMont talks about hopefully in August of this year. So time is continually getting away from
us; we made proposals to you last year as far as spending
money in the planned budget for the Long Beach Unit. It's
anticipating that in August of '75, something would happen.
Time's getting away from us. We anticipate something would
happen February 1st; it didn't. The next market point is
March 1st; Mr. LaMont is not too encouraged on that. The
next market point is May 1st; he is leap-frogging both of
those points, and we will have to pinpoint it on into August.
And I can understand his position because we are in the same
situation.

So what we need is clarification as to the
modification being asked for, which is really they are asking
for almost $3 million of additional money to be spent in the
Long Beach Unit.

COMMISSIONER DYMALLY: I have a question to
Mr. LaMont.

In August, we are off control, right?

MR. LaMONT: No, sir.

MR. THOMPSON: In 1979, 40 months from February

1st.

COMMISSIONER DYMALLY: We are off control then.
We get off of control in '79.

MR. LaMONT: All that happens in August is that we
are told what the price should have been as of February.

COMMISSIONER DYMALLY: Right. That's separate and
apart from our decision to the California delegation. That may or may not come --

MR. LaMONT: Right.

COMMISSIONER DYMALLY: So it's '79 we are off control.

COMMISSIONER BELL: In other words, we have no assurance that August is going to be any better than what we have right now. Our only hope is to look forward to '79 and in some nebulous way that we might have some relief coming --

MR. LaMONT: There will be a continuous escalation what is now the lower tier or the old price between now and the termination of the Act, 39 months.

CHAIRMAN CORY: Well, but, John, that is an assumption based upon a hope that there is no historical evidence to substantiate it. I mean it says it's going to happen, but the first point in time they were supposed to make the first adjustment, they didn't do a thing. Is that not what you have told us this morning?

MR. LaMONT: Well, when the time came to make the first adjustment, all that they could do is simply announce, as a matter of fiat, that this was what it was.

CHAIRMAN CORY: But it is totally possible, taking what historical precedence we have under this Act, that every six months they are going to come to the same point and keep doing that because they haven't been able to deal with the
data base.

MR. LaMONT: No, they will come up with data. While the Act specifically says it is to be reliable and accurate data, it is possible to define reliable and accurate both, so that the data they get will be satisfactory.

CHAIRMAN CORY: To whom?

MR. LaMONT: They are under a considerable amount of pressure, both internally and externally to arrive at a common price. They are going to lower it or raise it to your price.

CHAIRMAN CORY: You think it's going to happen.

MR. LaMONT: It's got to; it simply has to.

CHAIRMAN CORY: But at your advanced age, you still have hope.

[Laughter.]

MR. THOMPSON: So our immediate problem is that we are being requested to, in effect, augment our current year budget by about $3 million.

COMMISSIONER BELL: May I ask a question?

MR. THOMPSON: Yes.

COMMISSIONER BELL: Is the yellow proportion priced at new oil price?

MR. THOMPSON: We have only received new oil price for a very small increment of old oil in one month of last year. The only reason we did that was because there was a
pipe line shut down back here in 19 --

We are always at about $4.21.

COMMISSIONER BELL: We are really not in a very
profitable situation. We are putting a lot more money into
the field.

MR. THOMPSON: Well, this is where we need direction
again to see if we are interpreting the Commission's attitude
about making expenditures to accelerate future oil production.
It's the same situation which you could see at any point in
time back here [indicating], if you had not done this, you
could have come back in here and accelerated it.

COMMISSIONER BELL: Can we take the attitude of not
encouraging new production and still maintain the field and
not lose it?

MR. THOMPSON: I don't think it's a question of
encouraging new production as much as spending money to obtain,
accelerate, we're really not shutting in production; we are
trying to determine whether you want to spend money to
produce the oil earlier. That's exactly the --

CHAIRMAN CORY: My instincts are that this may
interrupt some immediate cash flow problems in terms of the
General Fund, Roy.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, I think
it will do the reverse of that because what we are really
doing now is putting, for a dollar that we put in now, we've
got to wait down the road to get a dollar back. So by not
putting a dollar in now, we will probably have, in a short
range, a higher cash flow.

CHAIRMAN CORY: You save some money now but then
you are going to have a lead time down the road.

MR. THOMPSON: I think to answer Mr. Bell's
question, this fiscal year and next fiscal year, that they
should just about wash. Any savings in expenditure will be
offset just about a wash so that we can stay within the
revenue estimates we have given you. Eventually there has
to be some change in lower tier oil prices. It has to be.

COMMISSIONER DYMALLY: If you proceed to drill now,
you get the new oil price?

MR. THOMPSON: No. Because, again, we are talking
about what the whole unit price is. We have already made that
investment. We are always talking about whether to spend
money to do something to accelerate future production.

CHAIRMAN CORY: I think you've got your -- where
the Commissioners are, we are not too inclined to make capital
improvements to accelerate production at this time. And we
are willing to review that decision at any point we have
some track record from FEA that they really want domestic
oils as opposed to --

MR. THOMPSON: Well, let me ask this. That you
carry this item over until March 1st, because March 1st is
supposed to be the next market time with the FEA; would you
like to carry this amendment over?

COMMISSIONER DYMAILLY: So move.

CHAIRMAN CORY: That's fine. We will put it over,
but so that everybody clearly knows what we are doing; if
they don't come up with a better price, I think the
consensus of this Commission is that we don't want to spend
the money at this time.

MR. THOMPSON: All right. I'd like to elaborate
on that. We have been working very closely with the City of
Long Beach and the concept of the holding of the budget
expenditure is an expense for the next budget year at our
current level. Taking out such items as redrill and work
holes as simulation for oil wells, and making zero in that
which would leave us just about enough money if we stay at
this year's expenditure level to allow for inflation. And
we do have inflation with us now.

So we are proposing that, whereas there has been
a budget submitted to us -- and again, it's interesting to
see the extra amount of money spent. Since 1973, with
respect to this year; we spent 71 percent more than we did
then. The budget as it's been submitted to us now, if we
spend that heavily, it'll be $77 million.

COMMISSIONER DYMAILLY: So we are spending more
but our profit margin is not necessarily proportionate to the
amount of money we put in.

MR. THOMPSON: Right.

CHAIRMAN CORY: The only point that you need to keep monitoring is, to the extent that you have -- that we have to take steps to preclude losing --

MR. THOMPSON: We would definitely recommend that any time the FEA increases lower tier oil price, that you spend a proportionate amount of money. In other words, if they came through with a one or two or three or four percent--

CHAIRMAN CORY: The staff understands where we are at?

EXECUTIVE OFFICER NORTHO: Mr. Chairman, in view of that, I would suggest this language for a resolution.

"In view of the present uncertainty as to the future of crude oil pricing, the Commission will defer acting on the 5th modification until the March meeting. Funding the amount of $246,000 is needed in the budget, Item (b)1(c) for payment of the Long Beach Oil Production Business License taxes which are due and payable in March."

"In addition, 154,000 is needed to restore funds in Budget Item (b)4(c), Environmental Control."

"The Executive Officer is directed to transfer 400,000 in funds to these two budget items from surplus funds within the budget as he is authorized to do under Section 5(g) of Chapter 138," close quotes.
So what that really does is to allow us to move within the fund --

COMMISSIONER BELL: I don't know why they didn't already have in there, budget payment of taxes.

MR. THOMPSON: Because that's the very year that production -- the tax was increased during the year from five cents to seven and a half cents. We did not have advance knowledge of that. This does not have an impact on your revenue because --

COMMISSIONER BELL: Okay, I see. Okay. That doesn't upset me.

CHAIRMAN CORY: What is the total cost of the taxes on this unit per year?

MR. THOMPSON: The taxes per year?

CHAIRMAN CORY: Ten, 11 million?

MR. THOMPSON: About $15 million.

COMMISSIONER BELL: Does this include the mining rights?

MR. THOMPSON: Yes.

MR. TAYLOR: We'll have those figures for you in Executive Session.

COMMISSIONER BELL: I'll move.

COMMISSIONER DYMALLY: I have no problems.

CHAIRMAN CORY: Mr. Bell moves and Mr. Dymally seconds that we approve the resolution as read. Without
objection, such will be the order.

Item 36, huh? Is that our next item on the Agenda?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is a routine monitoring. There have been no changes to indicate major --

CHAIRMAN CORY: Any changes on this?

MR. THOMPSON: It's strictly informational; no action required.

COMMISSIONER BELL: Do we have any indication of excessive pressurization the way the plant is going up too much?

MR. THOMPSON: Well, there is a natural rebound but this has no impact.

MR. TAYLOR: It's consistent with all reports. There's been no change -- there's been no change in elevation of the property in the Long Beach area.

MR. THOMPSON: The reason is there's a contingency subsidence fund set up. That's to protect the State and the City in the contract in the result there is any damage resulting from subsidence which occurs as a result of production from the unit.

CHAIRMAN CORY: Who has that contingency fund; who has the custody of cash?

MR. THOMPSON: The City of Long Beach has invested
it primarily in the State of California bonds.

CHAIRMAN CORY: Is that pursuant to the contract?

MR. THOMPSON: Yes. We check on that and audit that every year. The interest is whatever the current interest is being --

CHAIRMAN CORY: Who gets it?

MR. THOMPSON: It's held in the account.

CHAIRMAN CORY: What happens?

MR. THOMPSON: Sometime in the future, the City will be reimbursed for this portion of the subsidence cost they have paid during a certain period of time.

CHAIRMAN CORY: Yes, but assuming that we are monitoring the field correctly and we have stopped the subsidence, and what happens if there's money left over?

MR. THOMPSON: It reverts to the State.

EXECUTIVE OFFICER NORTHP: But there's a long-time fuse on that.

MR. THOMPSON: There'll have to be a finding on that.

COMMISSIONER BELL: Life of the field?

MR. THOMPSON: Actually, the account goes up over 20 years, it builds up at the rate of $2 million a year for 20 years; $40 million plus interest will be -- at the end of that time probably will be in the neighborhood of fifty-five, $60 million, but it's a very necessary fund --

[Thereupon a brief discussion was held off]
CHAIRMAN CORY: Okay. Item 37?

EXECUTIVE OFFICER NORTHPROP: Mr. Chairman, we have changed our standard lease and permit forms largely because of the request made by the Commission and various people who have appeared here about the forms being unintelligible to the lay person.

We now have these forms on your desk and we think the staff has accomplished that.

We ask for your adoption.

COMMISSIONER DYMALLY: So move.

COMMISSIONER BELL: No problem.

CHAIRMAN CORY: Without objection, approved as presented.

Okay, where are we?

EXECUTIVE OFFICER NORTHPROP: 38.

CHAIRMAN CORY: 38 is the Moss Landing Harbor District Grant.

EXECUTIVE OFFICER NORTHPROP: The Department of Transportation is doing survey work to survey the grant and mapping project.

CHAIRMAN CORY: Without objection, it will be approved as presented, and Item 39?

EXECUTIVE OFFICER NORTHPROP: Mr. Chairman, Item 39 goes back in history quite a ways. In 1898, Mrs. Connor paid
a hundred dollars for 80 acres of land in Tuolumne County.

We come to find out that in 1918 we didn't own the property.

So it's about time we gave the money back.

COMMISSIONER DYMALLY: With interest?

EXECUTIVE OFFICER NORTHROP: Oh, no.

[Laughter.]

CHAIRMAN CORY: The question went through my mind

and they told me we cannot give them the interest but the

Board of Control could.

COMMISSIONER DYMALLY: Okay.

CHAIRMAN CORY: That would raise it to what, 2600?

EXECUTIVE OFFICER NORTHROP: In the area of $2500.

COMMISSIONER DYMALLY: I move the payment.

COMMISSIONER BELL: Second.

CHAIRMAN CORY: Without objection, a hundred-dollar

refund will be approved.

Without objection, such will be the order.

Item 40.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 40

is the exercise of a public trust in the Morro Bay area.

Before Mr. Trout gives a report, I have a telegram from

Charles E. Ogle, of Ogle, Gallo, and Merzon, Attorneys in Morro

Bay.

"As counsel for and a general partner of Morro

Bay Land Company, owner of two tideland patents,
comprising the southerly waters of Morro Bay and
the subject of Calendar Item 40 before the State
Lands Commission on February 26, 1976, I respect-
fully request that the entire matter be continued
to the Commission's meeting of March of 1976, so
the owners may make a presentation to the Commission,
which will include argument that the resolution being
Exhibit (b) on Calendar Item 40, should not be
adopted."

It's signed by Mr. Ogle. I also have a letter --
CHAIRMAN CORY: When did Mr. Ogle or that partner-
ship get notice of that?
MR. TAYLOR: They had notice as soon as the item
was printed.
EXECUTIVE OFFICER NORTHPROP: We have had hearings
in the area as well, is that true?
MR. TROUT: No, we have not had hearings. The
County of San Luis Obispo has developed an open space
recreation plan, an element to their general plan, to which
consultants and many individuals have contributed. South
Morro Bay is also an area of environmental and wildlife
concern. The area is in a report prepared by the Department
of Fish and Game. It is to protect these values that are
consistent with the trust that we propose that the Commission
exercise the trust, I think if you will, remember back to the
meeting in Hayward, it's the very same thing that was done
on the Leslie Salt parcels in Hayward. It's basically to
prove the -- or to preserve the status quo. We have aerial
photographs and slides of the area which we can show and are
willing or prepared to make a presentation at the time this
matter is -- you want to discuss it fully.

COMMISSIONER DYMALLY: I frankly have no objection
to putting it over since it's not an urgent matter.

MR. TAYLOR: There isn't anything urgent, but the
situation is this, Mr. Chairman. There was a condemnation
action in which the value of the public interest in some of
this property was involved. By stipulation it was agreed
-- our principles were agreed to in that action. I do not
have personal knowledge of any further actions; I have some
report there may be some further efforts in the area. But I
don't know where they would be. However, I don't know of any
pending action or contemplated action by General Services or
any other agency.

They have asked for a statement from the State
Lands Commission and our office as to the public interest in
that area. I think it might as well be clarified before
anything further happens in that area. And this is just to
clarify the record as to what we believe our interest is. It
could probably be expected that Mr. Ogle, who is an attorney,
and who was the attorney in the case for our interest were
agreed to for purposes of that case, will probably take us to Court. But I think it's an appropriate time to find out the extent of our easement in that area.

CHAIRMAN CORY: You are saying today is an appropriate time --

MR. TAYLOR: I think it would only be fair to him to give him a 30-day extension. I don't think it would be fair to give him an extension beyond that period of time.

COMMISSIONER DYMA NALLY: So move.

CHAIRMAN CORY: Okay, put the item over.

COMMISSIONER BELL: One month.

CHAIRMAN CORY: Item 41?

EXECUTIVE OFFICER NORTHERN: Mr. Chairman, Agenda Item 41, the staff presented to the Commission last month a report on the SOHIO Project on Alaskan crude coming into California. It's been noted that the City of Long Beach is the lead agency on that project. However, staff feels that the project has really statewide significance and we feel the lead agency should be an agency with statewide interest.

It has been indicated that some suggest that --

CHAIRMAN CORY: Long Beach has always assured me they had statewide interest.

EXECUTIVE OFFICER NORTHERN: There have been those that have indicated perhaps Long Beach had a conflict of interest in leading that EIR so we are taking the steps of
talking to the Office of Planning and Research and the
Governor's Office to express our concern just to see what
their feelings are. Before anything can be done on this, I
understand an agency must make this kind of request to OP and
R to make a study.

COMMISSIONER DYMALLY: Are you recommending --
EXECUTIVE OFFICER NORTHROP: I'm recommending that
we ask OPR to take a look at this statewide interest.

COMMISSIONER DYMALLY: But are you recommending
SLC as lead agency?
EXECUTIVE OFFICER NORTHROP: I'm recommending SLC
among several others; the Public Utilities Commission, the
Air Resources Board, we think some statewide organization
should have the lead.

COMMISSIONER DYMALLY: I'm not opposed to SLC
because I think we have an interest in this. I would not be
supportive of a blanket exploration in this area. If you want
to move that SLC be the lead agency, I'd be supportive of that.
Other than that, I have some reservations about the others.

CHAIRMAN CORY: Who designates?
EXECUTIVE OFFICER NORTHROP: OPR.

You see, when there's a conflict, you know, someone
else has got it then. It's OPR's job to act as jury-judge
on it, and say, "I think probably that X should be the lead
agency."
COMMISSIONER DYMALLY: I regret that I was not adequately briefed on this. It was no fault of the staff. It was my fault. Do we have to take action on this today?

EXECUTIVE OFFICER NORTHROP: I don't think we have to take action; however, the time is running on this thing and Long Beach is doing considerable work and have considerable investment in it.

MR. TAYLOR: I think if the Commission is going to be involved in the determination of who the lead agency is, some authority of the Executive Officer is necessary at this time. He should move rather fast in making that determination.

CHAIRMAN CORY: Would you identify yourself for the record?

MR. SMITH: Thank you, Mr. Chairman, Lauren Smith of Standard Oil of Ohio.

The position of the staff is acceptable to Standard Oil of Ohio. They feel negotiations should be entered into to determine who the lead agency should be, there probably are statewide interests. They would be reluctant to have the State Lands Commission insist that it be the lead agency in the absence of this negotiation to determine who is the proper one.

COMMISSIONER DYMALLY: Okay.

COMMISSIONER BELL: I think it would be appropriate for the lead to identify with OPR without saying that we only
have that one.

CHAIRMAN CORY: Without objection, we are asking the staff to raise the question with OPR and ask them to judge who should be the lead agency in this matter. Is there anybody else who wishes to address themselves on this item?

FROM THE AUDIENCE: Now you know how we feel about the FEA.

[Laughter.]

CHAIRMAN CORY: You made a funny, but it will cost you some money.

[Laughter.]

CHAIRMAN CORY: You know, we don't get mad here, Pete. --

[Laughter.]

CHAIRMAN CORY: Okay, the staff is so directed. Item 42: Beach Clearance Work; Solicitation of Bids.

EXECUTIVE OFFICER NORTHPROP: Mr. Chairman, this was money that was provided at both the Legislative Session last year to clear underwater beach problems in the Santa Barbara County.

CHAIRMAN CORY: Any question?

COMMISSIONER BELL: It's already approved --

CHAIRMAN CORY: Without objection, it's approved as
EXECUTIVE OFFICER NORTHRUP: Item 43, we have several people who would like to speak from the audience and I would like to have Mr. Trout review the San Elijo Lagoon boundary study with the Commission and then --

MR. TROUT: Mr. Chairman, briefly the background is that the comprehensive planning organization, San Diego County, which is made up of the County and the Cities -- the Coastal Cities of San Diego County and the State of Baja, California, and the City of Tijuana, has been active in a program to identify recreational lands suitable for acquisition.

The seven or eight bay areas and estuaries and lagoons in San Diego County have been evaluated and a priority has been given to the acquisition of San Elijo. The legislative delegation in California; the two Senators and an Assemblyman from San Diego County, have requested that the Commission give priority to the determination of its interest in San Elijo Lagoon.

Pursuant to that, the staff has made a study and you have before you an orange-covered report which is a preliminary declaration of interest of the State in the area of San Elijo Lagoon.

The Lagoon primarily consists of land acquired by
the State as swamp and overflowed lands, but it is clear that within those areas patented in the State from the United States and patented thereon to private ownership, are substantial areas of tide and submerged lands.

It seems also clear to us that there was no authority to transfer tide and submerged lands to private parties within this area. And that, even if there was, the tideland portion is subject to an easement for Commerce, Navigation and Fisheries. Therefore, the report that we have before you today, and ask you to adopt, is the basis for public input for meetings to determine if this is an adequate discussion of the facts.

Following this, and the meeting, the staff would propose to draft a preliminary map showing the extent of the tide and submerged lands within San Elijo Lagoon and present that map back to the Commission for adoption.

So that's what this report intends to do; it is declarative of the general interest of the State in the area and would be the basis for additional meetings and discussions with the private owners and with the County of San Diego. The County has acquired the upper portion of San Elijo Lagoon and has State money available to pursue the remaining portion of the Lagoon. But they are quite anxious that they not spend public funds to acquire interest in property already owned by the public. That's the basis for the study; it's a
report of the investigation — substantial investigation
which we think accurately reports the fact, but there may be
something that we have overlooked and we believe that public
input is now necessary.

CHAIRMAN CORY: Okay. Mr. Tennant wishes to make
some comments on this item.

Identify yourself for the record, please.

MR. TENNANT: Yes. Mr. Chairman and Members of
the Commission, my name is James O. Tennant, the last name
is spelled "T" as in Toll, -e-n-n-a-n-t. I'm a Park Development
Director of the County of San Diego. I'm here primarily to
lend our support to the comments that your staff has made
this morning and to the work which is represented by the
report that you have before you.

It is quite true that the County of San Diego has a
very real interest in this particular lagoon. It has and
does enjoy the highest priority on the County's purchasing
program for recreational areas. We have basically two
concerns; there are, perhaps, three. One is in relationship
to the lagoon as to cooperation with the State and other
public interests as well as private interests in acquiring a
regional park which performs a conservation preservation
function as well as providing some passive recreation
compatible with the very nature of the lagoon.

Regional Parks also has the characteristic of
doing some urban shaping or controlling and directing growth. That's a tertiary concern as far as we are involved at this point.

We would recommend to the Commission that you follow the recommendation of your staff and I assure you that our staff has worked very closely with the Commission staff in the past and will continue to do so.

CHAIRMAN CORY: Any questions?

Thank you, very much.

Mr. Robert Krueger?

COMMISSIONER DYMALLY: I just wanted to bring to the attention of the staff a typo in the Introduction page. We have September 9, 1985, zero.

EXECUTIVE OFFICER NORTHROP: We'll take the necessary steps to correct that.

MR. TROUT: Fortunately this is a preliminary report.

[Laughter.]

MR. KRUEGER: My name is Robert Krueger; I'm a Los Angeles practitioner with the law firm of Waxman, Waters, Krueger and Larson.

I represent two landowners, that is one inferentially, United California Bank through an option naming Mr. Lewis Akerman and then Dome Limited which was the prime landowner in the area and still owns certain interests.
And, while I'm at it, I would like to distribute to the Commission, a copy of certain correspondence. I have only got four copies.

Our position is that this is a very preliminary study and it's one that we respectfully request you to defer judgment on until some additional factors have been considered. Some of these involve further research of a factual nature; some of these involve a legal research and investigation. The report sets forth a wide ranging series of claims by the State on San Elijo Lagoon and, as noted in the staff's report, these would -- as touched upon by the previous witness -- these would have had a very serious or important impact to negotiations between the private owners and the County.

The claim is basically that these lands which were segregated -- most of them -- by the State as swamp and overflowed and were patented by the Federal Government to the State as swamp and overflowed and which were patented out by the State of California in the private ownership as swamp and overflowed and which were treated by the State of California for 125 years as swamp and overflowed, are henceforth to be considered tide and submerged lands owned and feed by the State. This is the legal posture of a report like this if given wide distribution. It constitutes a --

CHAIRMAN CORY: Pardon me, sir, could the
distribution of the report change the position of the report
if given wide distribution?

MR. KRUEGER: If it's a report that's been approved
by your Commission, sir, it would have the imprimatur of the
Commission and the State on it and it would constitute an
adverse claim of title in, in --

CHAIRMAN CORY: But that would occur if we only
distributed one copy or if we distributed 10,000 copies,
wouldn't it?

MR. KRUEGER: That's true.

CHAIRMAN CORY: When you make reference to wide
distribution, it seems to be irrelevant.

MR. KRUEGER: It may be irrelevant, sir, but it's
in the staff's recommendation to you for adoption today and,
to that extent, it's relevant to me in commenting on that
recommendation.

CHAIRMAN CORY: Well, the thing I'm trying to focus
on is, is your concern on wide distribution or on the act?

MR. KRUEGER: My concern is the approval by the
Commission of this report at this time and, with due regard
to your comments, I'll withdraw --

CHAIRMAN CORY: I just wanted to make sure that
your --

MR. KRUEGER: That's what I am concerned with.

CHAIRMAN CORY: Okay, fine.
MR. KRUEGER: Now, if these claims that are set forth in the claim are valid and if the State is in a position to make them today, the value of the lands to which they apply, the record ownership of which is a private ownership, would be drastically affected.

The approval by the Commission would have then a very serious economic impact which would suggest that the subject be approached with some care. It would seem clearly appropriate that all interested parties owning private interests or public interests in the area be given an opportunity to review the report, which they have not, to comment on it and to supply relevant data.

As I say, this has not been done. Today is the first time that I, my clients, or their title insurer which insured the titles free and clear of the claims made today, have had an opportunity to see the report. The question would come up by the staff, I'm sure, as to what information we could provide that the staff could not.

The first time I became acquainted with this property was in 1963, when the owner then was negotiating with the State over the price to be paid for the freeway right-of-way that runs through the property. At that time it was in the best interest of the landowner to claim that the State had a title connection, an access to the Pacific Ocean, in its natural condition, so that there were tide and submerged lands
in the area. To wit, I was urging at that time the same
position taken by the staff.

To support my position, I contacted the U. S.
Geological Survey, U. S. Army Corps of Engineers, State Lands
Commission, State Lands Division, Title Insurance Trust
Company, and others. I obtained copies of all of the maps
that are in your report and others and, at that time, I made
the pitch to the State Lands Division staff and they said
that we have here a title situation. Tide and submerged
lands.

At that time, it was the position of the State
Lands Division that it did not claim any title in this area;
it was also the position of the County of San Diego, as you
will see in the documents which I gave you, I expressly
raised the issue. I was in the position of being an advocate
of the position here set forth and it was rejected. In that
posture, the titles were insured free and clear of such
claims and, instead of pursuing a Huntington Harbor or Upper
Newport Bay type of solution -- and bear in mind that at the
same time I was urging that these lands be considered tide
and submerged lands -- the State Lands Commission was
vigorously asserting title to them in other areas such as
Huntington Harbor and Upper Newport Bay. But at that point
I switched from that approach to an approach of acquiring
from Division of Highways, from Parks and Recreation, from
the Santa Fe Railroad and indeed from the State of California, an express access to the Pacific Ocean.

In 1965, this Commission issued a lease for that area covered in pink there for an entrance system, bypass system, and you see the other areas identified in which I obtained comparable pass-through rights and, in connection with that, the files of the Commission are replete with evidence of every economic legal factual issue, including title reports for all intervening areas and things of this kind.

So, what does all this mean? It simply means that we have here a pattern of assertion by the State that it doesn't own the type of claim that's set forth in this report. So I respectfully suggest that the experts that I consulted that talked me out of the very claims being made here be given a chance to talk with the staff and see if, indeed, these various pervasive claims should be made.

Now, the second point is largely a legal one and ties in with the first. I respectfully request that, as part of the proposed report, the Attorney General and the State Lands Division analyze the situation to determine the ability -- present ability of the State to make the claims proposed and its duties to property owners in the area.

The State, by a consistent form of conduct for many years and as recently as the 1960's -- and this was approved
in 1966 — authorized and encouraged expenditures and
commitments in the area by private persons on the basis
that it made no title claims. In 19 — I mentioned the
Morena project which was to be of the same magnitude of
Huntington Harbor. The whole theory of the project was that
the State claim no interest to the area. Millions of dollars
have been invested on this basis, some of which — such as
the sewage outfall system that exists — were actually
required by the State and local government as a condition of
this project. You cannot unring a bell, and the State for
125 years has been ringing a bell that says we do not claim
a fee title or tideland easement interest in this area.
If the State wishes to ring a different bell, it should do
so with a great deal of care and I do not see that care shown
in this report.

While preliminary and while very helpful in certain
respects, does on its face state that it is based only upon
the evidence which has been, quote, "Found and analyzed to
date," and it has a disclaimer as to its completeness.

To take — to make a massive adverse title claim
of lands of this type, should there be done with only utmost
care, and I respectfully urge this Commission to defer any
approval of this document until the supplementary work
requested has been completed.

And, in this respect, I would say that certainly
our firm and all the private parties mentioned will cooperate in every respect and will assist staff in any way that we can.

CHAIRMAN CORY: If I can make sure I understand what you are asking for; you are concerned that the release of this, even though it does have those disclaimers in it, might be in some way prejudicial to your client's position with respect to titles to this property.

MR. KRUEGER: Not the release as such; the approval by this Commission.

CHAIRMAN CORY: The approval by the Commission.

MR. KRUEGER: Correct. I would say that the release of this document could serve a mischievous purpose because, as I say, many of these maps are capable of misconstruction and I would like for our engineers, I would like for us to have the opportunity to go back where we were in 1963 and say, "Why in 1963 do these maps say one thing and why do they say another now?" These same maps do not show --

CHAIRMAN CORY: Should that not be the fact that this is a public agency; should not that dialogue take place in public rather than, you seem to be suggesting private meetings between the staff and your staff and it seems to me that dumping this all out in public and letting it air there is the appropriate place for it to air.
MR. KRUEGER: I concur with the Chairman. The only thing is that, where have been the public meetings between the staff and the County and so forth that have led to this? Those have been in camera; we have not had an opportunity --

CHAIRMAN CORY: Mr. Taylor, I think, wants to respond.

MR. TAYLOR: Mr. Chairman, the reason I understand that this report is on the Calendar today is the request of the County of San Diego. If there isn't an immediate need, it could certainly be appropriate to put this over 30 days to allow consultations and, perhaps, after consultations and public hearings by the staff in the area.

With regard to the statements, Mr. Krueger is a worthy adversary and has been with us on a number of transactions which sometimes have resulted in the greater public good and, while I enjoy having him back again for another go-around on this, I think that the record should indicate that his characterization of the State actions is not necessarily borne out in our position by anything he has submitted today. There has been no formal action by the State Lands Commission with regard to any item; his conversation with a staff member who has never had supervisory capacity, that he has already noted in the record that the State Lands Commission at the time that matter was pending was taking positions contrary to what he was asserting in
this area, namely, Huntington Harbor and other areas in the State.

That the question of land title and the review of land title matters is a question of legal interpretation and had any statement been made by any public employee, that statement would not be binding. Legal interpretation of documents is a matter ultimately for a Court to be taken into consideration and the judgment of the title company or a private owner or the State of the effect of those documents does not work an estoppel on anyone.

The actions of other State agencies or of local agencies do not affect this Commission and that has been our consistent advice. The law of this State and the law of the United States consistently, from the time of the admission of California to the Union, have provided that the State got title to swamp, tide and submerged lands upon its admission and swamp and overflowed lands -- or my map is off -- September 9th, we got the sovereign lands. September 28th we got the swamp and overflowed lands. And that a conveyance by the Federal Government purporting to convey to us land which included sovereign land was not effective since we already owned it.

Now that's the issue; those cases go back in time prior to California's statehood; a title company, a private owner, and the State can all read those things and come to
their own conclusion.

Now, for purposes of clearing the record, that's an enunciation of the State's position with regard to this item. As far as consultation or discussions, if there is no immediate problem as far as the County of San Diego is concerned, I think it would be appropriate to authorize the staff to consult with all affected parties as we do in any matter and then, at the appropriate time that the staff feels it is proper to have a public hearing, to take further comments and bring it back to the Commission.

Or, we can bring it back to the Commission with a report after consultation. But, if there is some desire of the local area to have a public hearing, I think we ought to have a public hearing on it.

MR. KRUEGER: I would like to state briefly what I requested the Commission to do on this matter. Number one, I ask that it not take action approving or disapproving or anything else with this report at this time.

Secondly, I asked that it instruct the staff, the State Lands Division, to meet with interested property owners to review the plan with them, a study, to see whether they have comments or input. And, thirdly, I ask that the Commission instruct the -- or request the Attorney General to prepare a statement of the ability of the State to make the claims purported to be made herein at this time and its
duty to property owners. On that latter point, I know that Mr. Taylor may have done the quickest research job in the world just now, but I would think that his written statement might perhaps contain a few conditions that his oral one did not.

CHAIRMAN CORY: Mr. Krueger, my problem with this is that it seems to me that the public's work should be done in public, first of all.

MR. KRUEGER: Right.

CHAIRMAN CORY: And, secondly, you know, it's, these are certainly historical documents that you have presented to us, including a memo of the files which I guess has some relevance, but it's not the greatest document in the world.

MR. KRUEGER: I tried to talk to Pat Brown and Alan Cranston but they were busy that day.

CHAIRMAN CORY: The point being, you know, had you spoken for that matter with either of those gentlemen and they had told you they were giving you the State property or that they didn't have it, my understanding of the law would be that they didn't have the right to give it to you so it didn't make any difference anyway.

So, I'm not sure what relevance that has. It seems to me that the issue should probably be enjoined as to who owns what and letting the document be known so that not only
just you, but other people who have an interest as to what the State's rightful claim is, we should go ahead and distribute it somewhat widely so that people with all sorts of information, not just your clients, could make their input.

MR. KRUEGER: I agree.

CHAIRMAN CORY: It was my understanding that the purpose of this report was to provide a benchmark for the dialogue; at some point there would be a public hearing, I believe, at the request of San Diego.

MR. KRUEGER: The only thing that -- the part that concerned me was the Calendar Item that asked for your approval of this document.

MR. TAYLOR: There are four items, Mr. Chairman. Perhaps we could defer action on the first and authorize the last three consistent with the Chairman's suggestion and the third -- the first item could come back to the Commission at a later time for action.

CHAIRMAN CORY: Okay.

MR. TAYLOR: In other words, to authorize the Commission to distribute the report and to obtain comments on it, then follow those comments to bring it back to the --

EXECUTIVE OFFICER NORTHROP: I think in Item 1 if you change the word, "concur" to "receive."

CHAIRMAN CORY: It was my understanding that we
have to take some action to convert a staff analysis to a public document.

MR. TROUT: That's a proposal.

CHAIRMAN CORY: So, if we did not -- would action, too, suffice to do that or --

MR. TAYLOR: Mr. Northrop's suggestion would be fine which is that you authorize it to be received and authorize the staff to do the other material.

CHAIRMAN CORY: Is that your suggestion, Mr. Krueger?

MR. KRUEGER: I pose a question to the Chairman here. On page 1 it says, in the last paragraph, the Introduction, "It is the State's position that it presently owns all tide and submerged lands within the lagoon -- those being identified --"

CHAIRMAN CORY: I think it's the State's position that we own all tide and submerged lands throughout the State of California. I think that's a consistent position in accordance with the law as we understand it to be.

MR. KRUEGER: I would accept the language offered by the Executive Officer as long as there were an addendum stated: But the same is not approved as of this time...or something to keep these very positive statements from being attributed to the Commission as official action.

MR. TROUT: Mr. Chairman, the only comment on the
staff on this, and we really, you know, we're not prepared
to enter into the preliminaries of a legal argument today,
is simply in the Preface the fact that this report is to
discuss private and public titles, and the ending in the
Preface is that simply serious questions exist concerning the
nature and extent of public and private title within the
San Elijo Lagoon and immediate adjacent area.

I doubt if even Mr. Krueger would argue with that
point and, therefore, we have to take the whole thing rather
than page 1, paragraph six, or page 7, something; we have to
take the document as a total entity and the document is only
what it purports to be, a study of the area and we don't
care whether you concur from the staff's standpoint or whether
you receive it or what. The staff is asking for authority to
make this document public and to seek public input with regard
to the character of the land to assist the Commission
ultimately in resolving the nature and extent of this dispute.

CHAIRMAN CORY: Okay.

If we take four actions at this point, four actions
that were recommended on Calendar Item which is 43, page one,
if we amend No. 1 to "receive" instead of "concur"

MR. TAYLOR: Receive without approval, as Mr. LaMont
suggested, I think is a good suggestion.

MR. KRUEGER: Received without approval is what
I would certainly support.
MR. TAYLOR: Then strike the words "concur" and put "receive without approval." Then authorize the staff to go ahead and conduct the hearings and come back to the Commission for formal adoption or not.

CHAIRMAN CORY: Is there a negative connotation to the, "without approval"?

MR. TAYLOR: All right, "Received for consideration --" "Received for consideration."

MR. KRUEGER: That's fine.

CHAIRMAN CORY: Okay, that would be the wording:

"Received -- consideration -- direct the staff to provide copies --"

COMMISSIONER BELL: Add it back in then in addition to that. that, once they've done this, they bring it back to the Commission, or is that automatic?

MR. HIGHT: That's implicit.

MR. TAYLOR: Well, we can add it as an item that the staff will report back to the Commission within --

CHAIRMAN CORY: We did the studies and we had public hearings that they feel necessary.

MR. TROUT: That's the proposal, Mr. Chairman, to have the public meeting and then come back to the Commission.

CHAIRMAN CORY: I implied that it would be added to that: Bring it back to the Commission. We've got a motion --

MR. BELL: I second.
CHAIRMAN CORY: Are there any other comments to come before the Commission at this time?

Hearing none, it will be approved as amended.

MR. KRUEGER: Thank you, sir, gentlemen.

CHAIRMAN CORY: Item 44, huh?

EXECUTIVE OFFICER NORTHROP: This is Termination of Application to Purchase State Land, San Diego County, by the Poway Unified School District. Nothing has happened since the application was made and we --

CHAIRMAN CORY: Is there anybody in the audience on Item 44?

Without objection, we will terminate as suggested by the staff and such will be the order.

45 and 46 should be done in Executive Session?

EXECUTIVE OFFICER NORTHROP: 46 we can do out front.

MR. TAYLOR: 45 we can do -- discuss --

CHAIRMAN CORY: I think we should do that --

MR. TAYLOR: I think we can take the action that is requested here.

CHAIRMAN CORY: Okay, what is the action?

MR. TAYLOR: Mr. Chairman, Item 45 you have before you is a brief which is being filed with the United States Supreme Court today on behalf of the State Lands Commission and the State of California and 21 other states.
When we were admitted to the Union, we obtained title -- we believed that to be fee title -- to the tide and submerged lands and the lands beneath the lakes and rivers within our boundaries.

CHAIRMAN CORY: Rather than get into detail, in the last, you know, like 36 hours, have you talked to the Governor's Office?

MR. TAYLOR: They have just come in to see us and we are going to see them after this.

CHAIRMAN CORY: Okay, I'm prepared to go ahead and approve this.

MR. TAYLOR: This case has a potential effect of 140 --

CHAIRMAN CORY: Maybe we should go ahead and approve the action -- take the action with the understanding we may want to discuss it privately with you as to how we can even take stronger action if that's at all possible.

Okay, so without objection, you have authorization as requested that we do want to discuss some of the details of how we might be able to assist you.

MR. TAYLOR: 47 is the settlement of a lawsuit -- 46, excuse me, is the settlement of a lawsuit; it's the settlement of a condemnation action. We're not happy with the price but we're working on the best price we can get for the time being. It's without prejudice to our ability to
assert it. I understand the staff is trying to work out a switch. Now, the Federal Government uses all of our school land as impact areas and military reservations which makes them worthless for us later on and we'd like them to give us some other land in exchange.

CHAIRMAN CORY: Okay, without objection, it will be so authorized.

43; do you want to take any of those items?

MR. TAYLOR: Well, there's four we can take quickly.

There's the Hitchings versus The Del Rio Woods case, which we could probably carry out briefly on behalf of the Commission with regards to the recreational use of the Russian River. The case -- it came down in our favor and it was held that, even though the river was only navigable for nine months of the year, it was sufficient for recreational purposes; and for the first time the case set forth various types of navigability for land title, for commerce purposes, and for recreational use. So it made some distinctions as to all of them.

We filed a brief during the past month with the Ninth Circuit Court of Appeals in Federal Court. In the case of Oregon versus the Port of St. Helens, it's again consistent with the action you have taken in connection with the Oregon case involving the Corvallis Principle.
We will file on Monday a petition for hearing in the case of the County of Orange versus the Chandler-Sherman Corporation and we are hopeful of getting a hearing in that case.

Our petition for rehearing was denied but the opinion was modified to delete two matters.

We are going to meet tomorrow with California Land Title Association to receive their input on the question of high water -- low water which is a requirement prior to issuing a formal opinion to you. And that's going to be in Los Angeles. Your staff has been asked to attend.

Six, the Attorney General -- I'll go back one step. You have requested the opinion that the Attorney General, with regard to public rights for rafting on the South Fork of the American River. The Board of Supervisors of El Dorado County wrote the Attorney General and requested that he not issue the opinion. I believe that the answer of the Attorney General will be that, in order to solve all the problems with regard to the American River, we are going to have to know what the legal issues are and if they can't act on the problem and no other public agency can act on the problem without knowing that we agreed to talk to them about it. But we did not agree to not process the opinion so we are proceeding with the opinion request.

CHAIRMAN GORY: The problem there is very clearly
that there are conflicting attitudes as to what the literal
landowners can or can't do.

MR. TAYLOR: That's a dispute. The basic problem,
though, is that rafting on that stretch of the American River
is becoming so substantial that it is causing -- at least the
staff review that's been done by your Commission and by the
Land Agent for our office is that public use of the South Fork
of the American River is getting to be extremely substantial.
And that that is causing some problems which may require some
kind of regulation.

CHAIRMAN CORY: Stop lights on the American River
for rafts? Okay.

MR. TAYLOR: That concludes the litigation.

CHAIRMAN CORY: Okay, Item 48?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 48
and Item 49 is the ten-year renewal and amendment on the
Court Order of the Divestiture of Phillips Petroleum's holding
on the West Coast.

Mr. Trout will bring you up-to-date on the attempts
or on what's being done to unravel that as far as leases that
we currently have with Phillips.

MR. TROUT: Mr. Chairman, as the Executive Officer
said, the Court has ordered Phillips to divest itself of its
retail enterprises and they are doing so to Tosco and Tosco's
subsidiary, Lyon Oil Company.
CHAIRMAN CORY: Just to clarify the record, that really only applies to the acquisition of certain facilities here on the West Coast, not throughout --

MR. TROUT: That's correct, right.

CHAIRMAN CORY: It's the old Tidewater Line (A) properties that they acquired.

MR. TROUT: My understanding is that, in essence, it is their retail facility in refining and --

CHAIRMAN CORY: The whole facility; it is not --

EXECUTIVE OFFICER NORTHROP: The whole Marianne, Everything that's Phillips on the West Coast goes.

CHAIRMAN CORY: Everything that was sold in that purchase has been rescinded, as I understand it, in that case, which includes pipe line, refinery, and the original sale did not include crude oil production. Just so we -- Go ahead.

MR. TROUT: At last month's meeting, the Commission authorized the Executive Officer to approve the assignment of a number of leases from Phillips to a yet-to-be identified, and now known as, Lyon Oil Company.

Item 49 is one that was in the process at the time and this would authorize that assignment.

Item 48 is for a bulk loading facility. This one would involve the renewal of a lease to Phillips, amendment of the lease to include a higher rental, the assignment of
the lease from Phillips to Lyon, approval of a sublease from
Lyon to GITCO -- a subsidiary of Gulf, and hypothecation or
sub, sublease back to Phillips for operation.

The reason for all this is to guarantee the
security of a five-to ten-million-dollar loan from the
First National Bank of Chicago and --

CHAIRMAN CORY: What kind of loan?

MR. TROUT: A five-to ten-million-dollar loan.
This is -- Phillips Oil, as I understand it, Phillips is
taking a considerable amount of paper in divestiture.

CHAIRMAN CORY: Is there anyone here from Lyon?

MR. TROUT: My understanding is that they were
unable to have anybody here. In fact, Phillips is having a
major staff meeting in Los Angeles and they have nobody here.
For the information of the Commission, the divestiture order
was to be concluded at midnight on February 29. That order
has now been amended to provide that it will be concluded at
midnight on March 31.

CHAIRMAN CORY: Is there any reason we cannot put
this over until the next meeting?

MR. TROUT: No, the only reason is that it just
compacts the amount of time necessary to process the
paperwork; it would give about four working days instead of
a month.

CHAIRMAN CORY: There are certain ramifications
that Lyon and Tosco Petro made to me as a member of another
Commission on Pollution Control bonds that we were issuing
for them and I am confused at all of this and I really would
prefer to have some explanation as to why it is that Gulf,
a competitor, gets involved in the act and why the First
National Bank of Chicago, which has an interlocking
directorate with Arco is involved in this transaction. I
just want to see where all the strings go before we finally
approve it because I presume it's okay if the Court's
approving it but there might be some things which they don't
know of and I just --

MR. TROUT: Mr. Chairman, attorneys for Phillips
have represented that a one-month delay, while it would make
things a little more frantic, would not hamper the
transaction.

CHAIRMAN CORY: I'm not sure Phillips has any more
options.

[Laughter.]

CHAIRMAN CORY: I'm not so worried about them as
I am Tosco Petro but, if the other Commissioners would, I
prefer to put it over.

COMMISSIONER BELL: Well, put over 48 and 49, or
just 48?

CHAIRMAN CORY: I've got no problem with 49.

COMMISSIONER BELL: I think that's an identification
of what we --

CHAIRMAN CORY: This is a straight deal without
the competitors getting involved, so we can approve 49
which would lessen their paperwork.

Without objection, Item 49 will be approved as
presented.

COMMISSIONER BELL: And 48 over?

CHAIRMAN CORY: 48 over.

Okay, are there any other items to come before
the Commission?

Is there anybody in the audience that has any
items to come before the Commission?

If not, we would like to clear the meeting room
so that we can have a brief Executive Session to discuss
some potential litigation problems.

[Thereupon the public portion of the
State Lands Commission Meeting was
adjourned at approximately 12:15 p.m.]

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STATE OF CALIFORNIA } ss.
COUNTY OF SACRAMENTO }

I, ROBERT L. GOLDEN, JR., a Notary Public in and
for the County of Sacramento, State of California, duly
appointed and commissioned to administer oaths, do hereby
certify:

That I am a disinterested person herein; that the
foregoing State Lands Commission Meeting was reported in
shorthand by me. Robert L. Golden, Jr., a shorthand
reporter of the State of California, and thereafter
transcribed into typewriting.

I further certify that I am not of counsel or
attorney for any of the parties to said meeting, nor in
any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my seal of office this 12th day of March, 1976.

ROBERT L. GOLDEN, JR.
Notary Public in and for the County
of Sacramento, State of California

--000--