MEMBERS PRESENT

Hon. Kenneth Cory, State Controller, Chairman
Hon. Mervyn M. Dymally, Lt. Governor, Commissioner,
represented by Mr. Walter D. McGuire
Hon. Roy M. Bell, Director of Finance, Commissioner,
represented by Mr. Sid McCausland

MEMBERS ABSENT

NONE

STAFF PRESENT

Mr. William F. Northrop, Executive Officer
Mr. Richard S. Golden, Assistant Executive Officer
Mr. Robert C. Hight, Staff Counsel
Mr. James F. Trout, Manager, Land Operations
Mr. Donald J. Everitts, State Lands Division, Long Beach
Mr. Donald Hoagland
Mr. Mathew Brady
Mr. Al Willard
Ms. Diane Jones, Secretary

ALSO PRESENT

Mr. N. Gregory Taylor, Assistant Attorney General
Ms. Jan Stevens

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PETERS SHORTHAND REPORTING CORPORATION
26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601
CHAIRMAN CORY: Call the meeting to order.

The first order of business is confirmation of the minutes of the meeting of October 28th. Are there any corrections or additions to the minutes of the 28th?

If not, the minutes will be approved as read.

The next item is the report of the Executive Officer. I notice that in my absence it's getting lengthier, so please proceed.

EXECUTIVE OFFICER NORTHROP: Good morning, Mr. Chairman.

The Waterways Advisory Committee held an informal meeting on November 17th and scheduled its first public meeting for January 12th. The group revised its bylaws, which are before you for approval. The changes in the bylaws are as follows: They changed the name from the River Marina Liaison Committee to the Waterways Advisory Committee. They reduced the membership from eleven members to nine, inserted a provision which would allow the Committee to request reimbursement for expenses to nongovernmental members. Additionally, they requested that they elect a Chairman of the Committee.

All of the suggestions, except the latter, have been incorporated into the revised bylaws that are before
you.

We can study them for this time and adopt them at
the next meeting, however, the changes are as outlined.

We have discussed with the member of the Committee
from Finance the reimbursement for the nonmembers and he
seems to feel that that is equitable arrangement.

MR. McCausland: I move for adoption.

CHAIRMAN Cory: As long as it's not going to cost
any money they are willing to go along with it?

EXECUTIVE OFFICER NORTHROP: Well, this is going
to cost them a little money.

CHAIRMAN Cory: No. That's the thing you always
see walking out the door.

I just have a question in terms of the Advisory
Committee.

EXECUTIVE OFFICER NORTHROP: The name itself?

CHAIRMAN Cory: No, changing the number of members
from eleven to nine.

EXECUTIVE OFFICER NORTHROP: What we did,
Mr. Chairman was substantially reduce -- the three-member
reduction was from the government sector. And they felt
that this information could be supplied and still not have
them be members of the Committee, and we dropped a member
from the Resources Agency and one from State Lands, and
another governmental member, and we let the balance of the
election toward the private sector, public sector. Prior to
that it was loaded from the government sector.

CHAIRMAN CORY: Any questions?

Okay. Fine.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, the trial
of the first phase of 14 lawsuits against the City of Eureka
and the State of California involving more than a mile of the
Downtown Eureka waterfront has been concluded.

The trial court held that private ownership extends
waterward to the line in Humboldt Bay, where the water was
six feet deep at low tide in 1857. However, the trial court
rejected the plaintiff's claims that they owned beyond that
depth, and invalidated certain deeds issued after the
adoption of the 1879 Constitution. Eureka's participation
in this litigation, as trustee of granted and submerged
lands, has been very expensive.

And in light of the City's conscientious and
vigorous efforts to protect the public's title to these
granted tide and submerged lands, it is recommended by staff
that the Commission express its support of the City by
adopting the following resolution.

Mr. Chairman, I would like to read the resolution,
if I may. It is quite long.

CHAIRMAN CORY: Do we need to?

MR. McCausland: Why don't you just read the
"Resolved."

EXECUTIVE OFFICER NORTHROP: Okay.

"NOW, THEREFORE, be it RESOLVED, the State Lands Commission:

"1. Commends the City of Eureka for its diligent, conscientious and vigorous actions in protecting and promoting the statewide public interest in said granted tide and submerged lands held in trust by the City; and

"2. Urges the City of Eureka to continue to fulfill its duties and responsibilities as trustee of said granted tide and submerged lands in order to resolve all title and boundary disputes involving such lands, either by settlement or continuation of the ongoing litigation and thus realize the City's objective of adopting and implementing an overall plan for the development and use of its waterfront area that would be mutually beneficial to all of the citizens of the State of California."

CHAIRMAN CORY: The question, I guess, is that this gives as much moral encouragement as we can to the City of Eureka that they may, indeed, be interested in something more than just moral encouragement. And there is a policy question of whether or not we are in a position to,
or should be in a position of providing direct subsistence for this purpose.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I'm informed by counsel and staff that historically the Commission has never taken a position of initiating reimbursement legislation, because we have some 70-odd grants and it would establish, perhaps, a precedent we would not want to establish by entering into that kind of a situation.

However, staff would recommend a support in litigation or in legislation if it were sponsored by someone else or, at least -- Greg?

MR. TAYLOR: Well, I think, in further amplification of staff's views are that while we want to commend them for what they are doing, we believe that they are bound by the statute --

CHAIRMAN CORY: To do it anyway.

MR. TAYLOR: -- to do it anyway. And they will also have the benefit or the result of this in terms of eventually, once this litigation is resolved, in setting up a port facility and a waterfront area which would be income producing.

If the City does not want to carry forth with this duty, then we don't believe the grant would be appropriate, and the State should resume control of the property. There are some discussions about whether the litigation should be
continued. We believe the City, having gotten this far, they have a duty to finish it.

So, while this is politely worded, I believe, that the message, at least, as drafted by the staff, it's fairly clear as to what our respective roles are.

CHAIRMAN CORY: Does anybody in the audience wish to address the Commission on this subject?

Is the Commission ready to --

MR. McCUSAULD: I'd just like to ask, if I can -- I can understand the staff's position in this matter, but I also heard reference to legislation. Does anyone have, off the top of their head, a rough estimate of how much we've actually been required to pay as a result of legislation associated with these actions in the past?

EXECUTIVE OFFICER NORTHROP: Jim, do you have a number off the top of your head?

MR. TROUT: Well, the State has already advanced Eureka $250,000 under legislation sometime in the past, just as an example. This legislation, probably, has now cost the City perhaps as much as a million dollars.

CHAIRMAN CORY: In litigation --

MR. TROUT: In litigation.

CHAIRMAN CORY: -- cost them that much?

MR. TROUT: Right.

The City is supposed to pay that back. I think
we're talking in terms of -- we have problems at a number
of places, and probably, we're talking in the neighborhood
of maybe as much as half a million dollars a year of costs
that are directly related to grants which do not result in
revenues to the State or really any significant control.

CHAIRMAN CORY: How much in the past -- I think
your question was how much in the past have we spent on
special legislation to grant these?

MR. McCausland: I think the answer to my question
is they don't have the answer today.

MR. TROUT: Two hundred fifty thousand is all I'm
aware of on this particular matter.

MR. McCausland: I was just curious about state-
wide, how much.

MR. TAYLOR: None, other than Eureka.

CHAIRMAN CORY: We did not fund any of the
litigation in Long Beach, in Los Angeles Harbor, historically?

MR. TAYLOR: The Long Beach is a special
circumstance, where there is sufficient assets of the
trustee. We bill our expenses to Long Beach.

CHAIRMAN CORY: Now, before 138, when we were
haggling over who owned the oil with the Feds, did we fund
any of that?

MR. TAYLOR: No. As a matter of fact, I think,
originally Long Beach itself carried the major responsibility
in U.S. versus California. We have never paid any money to
the City of Los Angeles, to my knowledge.

MR. McCausland: I would just like to make a
comment.

The City -- I'm glad to see that this Commission
is frugal -- but the City of Eureka has had an unusually
difficult time with the State of California in recent years.
My experience with Caltrans reminds me that we virtually
wiped out Downtown Eureka with a freeway that will never be
built. And now we're taking -- we're not taking, I'm sorry
-- the City is now committed a substantial expenditure, in
what is basically mud flaps, and it will take them several
years -- that City is going to have a lot of trouble. I'm
not quite certain, if there are some kinds of criteria we
could consider in terms of sharing some responsibilities
with some of our grantees. I don't know whether it would
be appropriate to ask staff to look at it or not. But, I
just want to express a little sympathy for the folks of
Eureka.

With that, I move adoption.

Chairman Cory: It's been moved and --

Mr. McGuire: Second.

Chairman Cory: -- second. Without objection,
the resolution will be adopted, and the staff should convey
Commissioners' concern to the City of Eureka.
And maybe we can figure out some way to sell them some of that property where the freeway is going to be built.

(Laughter.)

MR. McCausland: That's a good idea. We can charge them for that.

(Laughter.)

Chairman Cory: We can let them make a profit on the deal.

Maybe, there are some mitigating circumstances which can be pointed out if legislation is introduced.

Executive Officer Northrop: Fine.

On November 15, 1976, an article appeared in the Sacramento Bee concerning junk and debris exposed along the Sacramento River due to abnormally low water levels.

The State Lands Commission investigated the matter and initiated a clean-up program in coordination with other State, County and local agencies. The cooperation has been substantial and has resulted in expedient clean-up operations.

The Sacramento County side of the river from the junction of the Sacramento and American Rivers to Miller Park has been completed. Work has begun on the Yolo County side, which will include the area from the junction, the confluence of the Sacramento and American Rivers to the entrance to the Barge Canal of the Port of Sacramento.

The State Lands Division held a public information
meeting in Blythe, on November 18, 1976, to inform the
general public of the Division's Davis Lake Area Project
sovereign land identification and mapping program.

Approximately 35 people attended the meeting. Most
of those attending were representatives of various public
agencies, such as the U.S. Bureau of Reclamation and U.S.
Bureau of Land Management. Other companies represented
included San Diego Gas and Electric Company, the Safeco
Title Insurance and the Title Insurance and Trust Companies,
however, no representative of the Arizona State Lands
Department was present.

Many questions were asked by those who attended,
and a very informative dialogue was developed. However, no
reference material or testimony was offered by anyone
attending the meeting that would affect the position of the
area claimed by the State as specified in the Davis Lake
Boundary Study.

On Wednesday and Thursday, December 8th and 9th,
State Lands Commission participated in a five-day, five-
state agency hearing on the Dow Petrochemical Plant. The
main issue of the hearing was the tradeoffs to be considered
between possible significant adverse environmental effects and
the economic effects of new capital and jobs. A series of
speakers addressed the issue on each side, about twice as
many speaking against the project as for it.
Negotiations are continuing in the Division on the lease terms and conditions with Dow, looking toward resolving remaining issues in advance of finalizing the environmental impact requirements.

The final phase of the combined hearings will be held this Friday, December 17, and State Lands, again, will participate to the conclusion of the hearing process.

The staff will report back next month.

The City of Long Beach, under the terms of their grant, is required to obtain prior approval from the State Lands Commission for the expenditure of oil revenue in a project which exceeds $50,000. The City currently has issued a contract to expend $310,000 of oil revenue on a feasibility study for a proposed marina on the tidelands in the downtown area, and contends that prior approval is not required because of an adequate detailed description of the project cannot be made until the preliminary planning has been done.

The City's position is to conduct the feasibility study, and then if a decision is made to construct the marina, the funds expended for the feasibility study would then be incorporated into the project fund prior approval requested to the Commission for the marina (sic).

The Attorney General's Office and the Division are not in agreement with the City's contention that this type of expenditure does not require prior approval by the Commission.
While not objecting to the City's action in this instance, upon the advice of the Attorney General's Office, our non-objection is conditioned on the Attorney General's advice.

The City has been formally notified that in the future expenditures of oil revenue in excess of $50,000 for planning will require prior approval. Phase I and Phase II prior approval are now given for subsidence costs, and this type of procedure will be followed in the future.

CHAIRMAN CORY: What are you telling us, that Long Beach has spent it without our approval and there's nothing we can do about it?

MR. TAYLOR: No. What happened in this instance was that they asked us if this would be correct, in relying upon a previous opinion of our office. They said that they needed to get the contract out because of some time bind they were in. They felt they justifiably could rely on our previous opinion.

We don't think that that opinion speaks to this issue, but there is enough ambiguity in it that we said, as far as this project, which is a marina, which is a specific use authorized in Section 6 of Chapter 138, that we would not object. But, in the future we wanted them to adopt the same procedure they were using for subsidence measures, Phase I and II type of approvals.

The main problem is that we don't want to get into
a situation that developed in the early stages of the QUEEN MARY, again, and that's why we have given them notice, and that's the reason for that particular case.

CHAIRMAN CORY: Okay. But, if the feasibility study comes out, in their opinion, that they want to build it an he project is back before us; and we come to the conclusion that, no, we don't want them to build the marina, we don't think it's a valid use, what happens with the $310,000 bill? Is it a legitimate use of oil revenues?

MR. TAYLOR: This is not a discretionary item for the Commission as to whether the City proceeds or does not proceed, unless we find in review that is not an item authorized under the section.

The City has never come into us for discretionary review, that would be Section 6-G. They would come in, and the only finding that the Commission could make at that time was whether the use they were seeking to make of one put of money was one specifically authorized. And in this instance it would be one of those that was specifically authorized.

So, at that point the staff review is a review of the plans to see that it conforms to the specific authorization of Chapter 136. If it does, the judgment about whether to do or not to do that project is with the City and how it spends its share of the money.

Now, if they were to come in on a different kind of
situation which we discussed previously, where it is not a specifically authorized project, then the Commission would have discretion, and that would be in a situation we discussed with you last meeting.

CHAIRMAN CORY: Back up, so I understand this. As I recall, a museum was a specifically authorized purpose --

MR. TAYLOR: That's correct.

CHAIRMAN CORY: -- so that this could be a new QUEEN, and we would have no discretion on it.

If they wanted to buy 84 London Bridges, move them over to create a marina around something, we are compelled to approve it?

MR. TAYLOR: No, no. We have to review it. We only approved a portion of the QUEEN that dealt with the ship, that dealt with the museum. The rest of it was held that that was commercial area that had to be self-sustained.

No. That's the purpose of the review, is to make sure it does fall within the division specified. And anything outside of what is specified in our review of those plans, it seems to me to be on its own hook for that, or either make application under the discretionary section.

MR. McGUIRE: So, we have no discretion over whether or not -- we're not approving this 300 grand, we are just saying you should let us know about it?
MR. TAYLOR: Yes.

EXECUTIVE OFFICER NORTHROP: From now on --

MR. TAYLOR: The whole purpose of the calendar item is to inform you that we have informed the City that we'll let it go by this time, but if there is any ambiguity in our previous opinion to them, we have now clarified it, and in all other problems from here on out we want them to come in and have the finding made initially. And I think that's the purpose.

MR. McGUIRE: The finding made that we have no say?

MR. TAYLOR: The finding made that it either fits in one of these specific things or that they make the specific authorizations, or they come in under the discretionary.

CHAIRMAN CORY: I guess what I'm kind of leery about, here, is when the definition of a marina is not a marina is still -- the City is on notice that they will have to come in, and that is an arguable point.

MR. TAYLOR: Yes. That will be part of your review. If there are features of this marina that they don't think are properly includable as a marina, the City is on its own hook for that. And they've not given us notice as yet pursuant to Chapter 138 on this project, so we still retain that right to say that after our review of these plans, this falls within the marina and these things are extraneous.
CHAIRMAN CORY: So, you are convinced that we haven't given up anything at this point?

MR. TAYLOR: No, we have not.

CHAIRMAN CORY: That the feasibility study has the feasibility of dredging Downtown Long Beach and making the QUEEN MARY the Mama ship of a whole lot of other ones --

MR. TAYLOR: You still can't.

CHAIRMAN CORY: -- we can talk about that, then I will let that statute add one to where they said marina.

MR. TAYLOR: Yes.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, the U.S. Army Corps of Engineers estimates that future dredging requirements to maintain harbor and mooring facilities in San Francisco Bay will be 200 million cubic yards over the next 20 years. The practice of the Corps of Engineers has been to approve placement of most of the dredge spoil in sites where active currents cause the spoil to migrate considerably.

A significant component of the sediment being removed probably comes from previously spoiled dredged material. Additionally, the Corps study indicates that the annual inflow of sediments to the Bay exceeds the outflow by about four million cubic yards.

On today's Consent Calendar there is an extension of a maintenance dredging permit in San Francisco Bay. Spoils
are to be disposed of at the U.S. Army Corps of Engineers approved San Francisco Bay disposal site south of Alcatraz Island.

The Division has a large number of other dredging applications in various stages of processing. Because of the magnitude of the ever-increasing sediment load, it appears necessary to consider the potential impact on State lands of all applications, and it is suggested that the staff be given permission to hold public hearings and conduct a study of this migration problem of dredging.

MR. McCausland: I think that's an extremely significant item.

BCDC acts on numerous applications for maintenance dredging every month, and it's always south of the Alcatraz disposal site. And what you are suggesting here is that it moves back there on to everybody else's territory.

EXECUTIVE OFFICER Northrop: We have staff that feels that not only is this dredging causing more dredging, but, in fact, it's plating the bottom of the Bay, so benthic organisms are probably being choked out.

CHAIRMAN Cory: Does Commissioner know what that is?

(Laughter.)

MR. McCausland: Well, I can't believe what I've heard before that the State Lands Commission staff would know
what that is, that's very impressive. That's good.

CHAIRMN CORY: Why don't you use words that we

can understand?

(Laughter.)

EXECUTIVE OFFICER NORTHP: Things that live on

the bottom of the ocean.

CHAIRMN CORY: Oh, the --

EXECUTIVE OFFICER NORTHP: "Creepy crawlers" on

the bottom of the ocean.

MR. McCAUSLAND: One of the things you are saying

is that it might inhibit the return of the oyster industry?

EXECUTIVE OFFICER NORTHP: Right. One of our

fellows feel it's a very deleterious operation.

MR. McGUIRE: In other words, they would take it

somewhere else, they would take it outside of the Bay?

EXECUTIVE OFFICER NORTHP: They would take it

outside the Golden Gate, Mr. McGuire. That may be one of

the solutions.

But, I think we should study it. There are those

among the Corps of Engineers who feel the same way, however,

they are not in the majority, at least, their voices are not

being heard. We just would like to take a look at it and talk

about it.

MR. McCAUSLAND: I'd like you to take a look at it,

then, if we find that you've discovered something, I'd like
you to share it with the staff of BCDC because that's currently being treated in an administrative permit procedure, because it is seen as a total problem. If you are suggesting we need to find other spoil sites, then we ought to figure that out pretty soon. Maybe we need to build more foster cities.

EXECUTIVE OFFICER NORTHRUP: That was one of the recommendations of staff.

(Laughter.)

MR. McCAUSLAND: May I make that recommendation for the record?

(Laughter.)

CHAIRMAN CORY: He said, "Jokingly."

(Laughter.)

EXECUTIVE OFFICER NORTHRUP: Gravity differential is the last subject.

CHAIRMAN CORY: Without objection you are to proceed on that.

EXECUTIVE OFFICER NORTHRUP: Fine. Thank you.

There is some question as to the payment of maximum ceiling price for State-owned crude oil as reflected in the recent FEA ruling on gravity differential. Staff feels such non-payment places the contractor in default, and recommends to the Commission that the staff be directed to take all steps for legal remedy on this matter.
In this connection, on December 3, 1976, letters were sent to all of the State’s lessees demanding a maximum ceiling price for lower tier oil be paid to the State pursuant to their respective leases, commencing October 1. A copy of the letter which was sent to each of the oil companies is before you. The State’s position is that stripper oil price posting is the best indication of fair market value, and the State is entitled to be paid that amount unless restricted by Federal regulations such as maximum ceiling prices on upper and lower tier crude.

It is requested that you ratify this action and find that the staff position with regard to the fair market value of oil is as stated in this letter.

CHAIRMAN CORY: Is there anybody in the audience who wishes to address the Commission on this subject?

Questions by Commission Members?

Without objection, you have unanimous approval of the Commission.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, before I close, Items 24 and 41 are off of the Calendar.

CHAIRMAN CORY: Let’s go back. Where is the letter, Bill, that we just approved?

Okay. We have the letter and the approval here.

EXECUTIVE OFFICER NORTHRUP: Housekeeping item,

Mr. Chairman, Items 24 and 41 are off the Calendar. And
because of a presentation to be made in Item Number 26, it is suggested that that be held and brought up at the end of the meeting.

And Item Number 36, I'll have a comment on that when we get to it. I understand that Pacific Gas and Electric will have someone to appear on that item.

CHAIRMAN CORY: Are we ready to go?

EXECUTIVE OFFICER NORTHROP: Right.

CHAIRMAN CORY: Items on the Consent Calendar, C1 through C23, these will, unless there is an objection by somebody in the audience or one of the Commission Members -- these will be approved as presented by the staff.

Is there anybody in the audience who wishes to address the Commission on Items C1 through 23? Any questions from members of the staff on any of the Consent Calendar items?

Without objection, Items 1 through 23 will be approved as presented.

Next item is Item --

EXECUTIVE OFFICER NORTHROP: 24, and it's off.

CHAIRMAN CORY: -- 24 is off.

Item 25, the Executive Officer, or his designee, wants to hold public hearings with the Lake County Planning Commission in Lakeport on the Draft Environmental Impact Report concerning an application to prospect for geothermal
resources on Boggs Mountain State Forest.

EXECUTIVE OFFICER NORTHRUP: Right. That's a geothermal committee, EIR.

CHAIRMAN CORY: Anybody in the audience on this item? Any questions from the Commission?

This is a public hearing request. Without objection, you're authorized to proceed with the public hearing.

You suggest that Item 26 be held to the end.

Item 27, public hearing request for Executive Officer, or his designee, -- this relates to the dry gas from the Delta that we have had before the Commission at some time and was contemplated, I believe, in the hearings.

So, without objection, you are authorized that those hearings will proceed.

Item 28 is a Compromise Settlement, City of San Mateo, on swaps of land. Will somebody explain that to me?

EXECUTIVE OFFICER NORTHRUP: Jim, do you want to point that out on the map?

MR. TROUT: Mr. Chairman, this doesn't fit on an easel very well, so we will try to do it without.

San Mateo in the area near Foster City, right here, is an undeveloped piece of property just to the southwest of the Bayshore Freeway, about 3.8 acres of State claim within 17 acres here. The owner of this property desires to develop
the property and asks the State to exchange its interest in
this property for interest in the Suisun marsh in an area of
148 acres up in this vicinity.

This area is within the City of San Mateo, this is
in Solano County. It's my understanding -- well, staff
recommends this approval. We think this is a particularly
attractive transaction from the standpoint of acquiring
significant acreage many times the Commission's other
interests in the Suisun marsh.

Now, it is moving the property outside of the City
of San Mateo. And we understand that the City has authorized
the City Attorney, Maury Hamilton, to appear before the
Commission and briefly discuss the City's attitude towards
this.

It is my understanding that the City does not
object to this transaction.

CHAIRMAN CORY: Mr. Hamilton.

MR. HAMILTON: Yes. If I may, Mr. Chairman and
Members of the Commission, the City of San Mateo is not
objecting to this settlement. However, it does point up the
matter that we had raised by Resolution Number 160-1976,
that the City Council had approved and forwarded to the
Commission on November 15th, and that is, the urging of the
State Lands Commission to, wherever feasible, settle these
land exchanges within the jurisdiction where the claim arises.
And the staff of the State Lands is very cooperative in working with my office for the purpose of attempting to do just that with this exchange. With the time constraints that we were facing, this became impossible. And so, in view of the need to get the matter settled, we have no objection to it.

The principal purpose -- if I might direct your attention to the schematics of the San Mateo Shoreline Plan -- the principal purpose of our urging this is the lack of additional financial resources on the part of the City of San Mateo to develop that shoreline and reclaim a lot of the natural environment.

MR. McCASLAND: Mr. Chairman, if I might?
CHAIRMAN CORY: Yes.

MR. McCASLAND: I appreciate the discussion, however, I reviewed the material provided in our Board Book, and I am ready to move adoption of this item. I'm not certain it needs significant discussion at this point.

MR. HAMILTON: Well, if I may, Mr. Chairman, I --
CHAIRMAN CORY: Yes. You must have some bottom line of why you're here.

MR. HAMILTON: Yes.

CHAIRMAN CORY: Could you let us know why you are here?

MR. HAMILTON: This is actually apart from it.
One, we're urging the Commission wherever feasible, because this applies to other State agencies as well as to San Mateo, to attempt to settle these land disputes within that jurisdiction; and, secondly, to sort of set the stage with the Commission for what will be taking place in the City of San Mateo in the future with respect to the tidelands. Our tideland grant of 1933 was modified this year in AB 4237, and will be effective January 1st.

We will then have the responsibility under the new grant to engage in these exchanges of property. However, those are subject to your approval.

And so I wanted to expose you to what we are doing, the planning that we've gone into and the amount of money that the City of San Mateo is committing itself to in attempting to restore the more natural bay front.

That's the purpose of the schematic. I also have some small individual ones --

CHAIRMAN CORY: These?

MR. HAMILTON: Yes, to expose you to what we plan to do, and we will be back in the future because there are still a number of similar claims of the State that remain to be settled in this area which will come about after January 1st.

With that, then, Mr. Chairman, I'm prepared to answer any questions that I can with relation to this. I
would like to appear on your future Agenda to, perhaps, go over our shoreline plan in some detail so that you are familiar with what we will be planning to do along the Bayshore.

CHAIRMAN CORY: Is there anyone else in the audience who wishes to address the Commission on Item 28? Questions from Commissioners?

Without objection, we authorize Compromise Settlement with the changes outlined before the Board in Item 28.

Item 29.

MR. HAMILTON: Thank you, Mr. Chairman.

CHAIRMAN CORY: Compromise Settlement, Lower Tubbs Island.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, Mr. Trout will make a presentation.

MR. TROUT: I'd like to direct the Commission's attention to your right. This is an enlarged aerial photo on the chair there which shows in the upper left-hand corner outlined in yellow the boundary that we are speaking of.

The upper part of Tubbs Island was owned by Sonoma Ranch Company, and the Commission entered into a Boundary Agreement some years ago around that part of the island. The Nature Conservancy desires a Boundary Agreement on their small portion at the lower end of the island in order that
they may transfer ownership to the United States, or sell it, actually.

The Agreement has been reviewed by the staff. We recommend its approval. The only unusual factor regarding this particular Boundary Agreement is that the Nature Conservancy paid for significantly more acreage than we think the person that sold it to them had title to. Therefore, the Agreement is for a smaller area, and so, they're going to take a small loss in the value of the property in selling it to the United States.

Therefore, the Conservancy, because they're a non-profit organization, has asked that the State not require them to furnish title insurance. Usually, in a Boundary Agreement the applicant is required to furnish all evidence of title. In this case, we would like Commission approval for the State to get insurance from the title company that we have of record all of the parties necessary to sign it.

With that, we recommend your approval.

MR. TAYLOR: Mr. Chairman, going back, there is an amendment to the Calendar item which indicates that instead of the Nature Conservancy retaining the easement for certain improvements they have on our side of the line, they will have a permit included in the Agreement for 49 years for the area covered by those improvements. And the consideration will be the consideration supporting the settlement.
With that, that item -- I have a copy. I think they have been distributed to you.

CHAIRMAN CORY: Okay. Instead of an easement it's a --

MR. TAYLOR: It's a limited time permit --

CHAIRMAN CORY: A limited time permit.

MR. TAYLOR: -- for the area of those improvements.

CHAIRMAN CORY: You've got, what, 29 letters of opposition closing the island for hunting purposes, and you've petitioned 43 signatures in closing the same, and you have a letter from John Dunlap.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I think --

CHAIRMAN CORY: I think these are issues of whether what use the property is put to after.

EXECUTIVE OFFICER NORTHROP: That's correct. And I think at this stage we are putting in a Boundary Line Agreement which will go into a Nature Conservancy, including the bulk of the Bay Area in front of you and some of the marginal areas as well. So, it's a very large area of Federal wildlife area it's going to be amended into.

At this time we are working on a Boundary Line Agreement and not that -- extends not beyond that.

MR. McCUSLAND: Who is to be the operator of the wildlife preserve that essentially runs all the way over?

MR. TROUT: All right. At this point, the
property outside the boundary would just be under the
Commission's management and jurisdiction, as San Francisco
Bay and much of the rest of it.

The United States Fish and Wildlife Service has
asked for a lease of significant increase to be included in
the San Pablo National Wildlife Refuge. Within that Refuge
would be areas set aside for wildlife habitat, for bird
watching, for hunting, for recreation, for other things. The
largest segment of the Refuge would be within the area
leased by the State Lands Commission. The Fish and Wildlife
Service is now preparing a Management Plan. That plan, by
law, must be made available for public scrutiny and there
must be public hearings. The plan is not developed enough
for us to obtain from the Fish and Wildlife Service their
concrete thoughts as to where hunting ought to be. The
Boundary Agreement is an entirely separate matter.

MR. McCausland: I think that's appropriate.

Chairman Cory: Okay. Mr. Glen Olson, I believe,
wishes to address the Commission on this. He's representing,
I believe, the National Audubon Society, Western Regional
Office.

Mr. Olson: I just came here wanting to talk to
you if you were going to discuss hunting. Being that it
doesn't look like it is going to be discussed at this point,
I don't want to waste your time.
CHAIRMAN CORY: Thank you, sir.

Are there any other people in the audience who wish to address themselves to the Commission on this item?

Hearing none, are we ready to move?

MR. McCAUSLAND: I'm ready to move. I just want to make it clear that the record does say that we're adopting the staff recommendations which find that the proposed Boundary Agreement is in the best interest of the State and has authorized its execution; we find that the Agreement is not subject to the requirements of CEQA by reason of its exemption contained in the Public Resources Code relating to Boundary Agreements; and we authorize the State Lands Commission and/or the Attorney General to take all steps necessary, that this has nothing to do with the management of the area, it is only a Boundary Agreement.

MR. McGUIRE: So moved.

MR. McCAUSLAND: Second.

CHAIRMAN CORY: Mr. McGuire moves, Mr. McCausland seconds. It's approved.

Now, I guess on Item 27 it was suggested that I did not ask for comments from the audience. So, we can go back to that item. Who wishes to address themselves to the Commission on Item 27?

Identify yourself for the record.

MR. McCLOUD: I'm Douglas McCloud, and I'm Manager
of Gas Purchase for PG&E.

And I'd like to point out some information the
Commission may not be aware of on these public hearings on
the cost for a dry gas, mainly, at Rio Vista.

Under the terms of the State land lease market
value is defined as follows.

MR. McCAUSLAND: This is the wrong item.

CHAIRMAN CORY: No. We went back to 27 for him,
because I didn't call upon him. This is the question we had
some dispute over and some negotiations with Standard Oil of
California. And the settlement was that we would hold
hearings, approve the deal that they had for a short period
of time and hold hearings to ascertain what the true value
of the gas was. And that's the question before the
Commission, whether or not we should have the public hearings.

PG&E wants to talk to us about it.

MR. McCLOUD: Again, I say the market value is
defined as follows:

"Market value of all gas produced from
State lands shall be defined under the State
lease terms to mean the value of the product
being paid by a purchaser in the field of
substantial quantities of gas produced from
the Rio Vista gas field, but shall not be
less than the reasonable market value as
determined by the Commission." End of quote.

PG&E has reached agreement on gas price with other Rio Vista producers, and is purchasing at least 80 percent of the Rio Vista gas from such producers at $1.20 per million Btu during the two-year period beginning July 1, 1976.

Accordingly, the only way the State Lands Commission can increase its royalty revenue is to unilaterally determine that the market value of its gas exceeds the agreed upon price for a major portion of the gas in the field. The Commission, apparently, hopes to get backing for its opinion on price through public hearings. PG&E contends that such a self-serving declaration will be damaging to the people of Northern California --

CHAIRMAN CORY: Pardon me, sir. Was this your own volition, or did someone in management send you here?

MR. McCLOUD: Large:/, my own, and I am directed by management.

CHAIRMAN CORY: Well, my problem is this, sir. You're taking up Commission time on something, I think, at this point is absolutely irrelevant. And I must tell you just cold turkey out front. I'm offended that you are taking the time to read something to us that we are perfectly capable of reading ourselves.

Secondly, the public hearing is -- if you want to argue what the price of gas is, that is the purpose of the
public hearing. And what you are really suggesting -- and I
don't think the management of Pacific Gas and Electric is
really in favor of what you are suggesting -- is that we
shouldn't have a public hearing to find out what the price of
gas is, because I always thought that PG&E was an enlightened
company and its management believed that people had a right
to know. And I don't know the purpose of what we're doing
here. And that's why I asked you, you know, whether you
cleared this and its purpose, because it's a relatively
routine item as to whether or not we should have a public
hearing.

Now, if you are for the public hearing, we've got
nothing to say; if you are against the public hearing and
your management has said they are against the public hearing,
I'll be glad to hear that. But, I really don't think PG&E
is really against having public hearings.

MR. McCLOUD: Let me mention that PG&E would
appreciate an opportunity to express our views at this public
hearing. But, I want to point out one thing, and I'll make it
very short here -- just one or two sentences if you can take
the time.

CHAIRMAN CORY: Sure.

MR. McCLOUD: In the example you presented with your
item on the Calendar, you said that -- you pointed out that
if the cost of gas is raised from $1.20, which we have
settled with 80 percent of our producers, to a dollar and a
half for the State Lands Commission, you will obtain
$750,000 additional revenue. Now, such a unilateral act by
the State Lands Commission could very well act to cost the
people of Northern California 42 times as much as the revenue
gained by the State Lands in royalty commissions. That would
amount, roughly, to $31,795,000.

And just to make it brief in accordance with your
wish, we feel that the market value has been established, and
we are requesting the public good that can come from increasing
the cost of gas to PG&E's customers by 42 times what you stand
to gain.

That's the end of my statement.

CHAIRMAN CORY: The Commissioners would like to
know what your position and what PG&E's position is. Are
you against a public hearing? I mean, that's the only item
before us.

MR. McCLOUD: PG&E is not against public hearings
and we feel that there's -- or I feel that the good that
can come of this hearing is very minimal or detrimental.

MR. McGUIRE: So, in other words, on this Agenda
item which is solely for the approval of holding this hearing,
PG&E and you don't object to that. So, our approval of this
particular Calendar item should be --

CHAIRMAN CORY: They don't object, but only bad can
MR. McCLOUD: There is one additional item that apparently you don't want to hear, but we are involved in three arbitrations for about 16 percent of our gas, a small portion of it. And any unilaterally set price by a State agency would literally be the floor from which any additional arbitrated price would arise. Now, this is --

MR. MCGUIRE: I don't think they are saying they don't want to hear. I think they are saying the proper place to hear it is in the public hearing. The Calendar item here is whether we hold that hearing to hear that. That's my understanding, unless I'm really dense.

CHAIRMAN CORY: Yes. That's all it purports. And that's why I'm a little miffed about this. The only question before this Commission this morning is whether or not we should have a public hearing on the question of price of gas.

Now, it seems to me that's something a sophisticated company like PG&E should be able to comprehend.

What does the Commissioners wish? We took an action to authorize the public hearing. Does anybody wish to rescind that?

MR. MCGUIRE: Not at all.

CHAIRMAN CORY: Is there anybody else that wishes to address the Commission on Item 27?
Thank you, sir.

Our action on Item 27 stands.

EXECUTIVE OFFICER NORTHROP: Item 30.

CHAIRMAN CORY: Item 30, Public Agency Permit for the East Bay Dischargers for a pipeline --

EXECUTIVE OFFICER NORTHROP: Outfall diffusion.

CHAIRMAN CORY: -- outfall.

Is there anybody in the audience on Item 30?

Do you wish to testify?

MR. McCUSLAND: You think the dredging operation is priced high, you ought to see what this does.

But, I'll move adoption.

(Laughter.)

CHAIRMAN CORY: Okay. We have a motion and --

MR. McGUIRE: Second.

CHAIRMAN CORY: -- and a second that Item 30 will be approved as presented.

Without objection, such will be the order.

Item 31, determination of Exploratory Permits of Mr. Charles A. Kenworthy, dba The Quest.

Is there anybody in the audience who wishes to address the Commission on Item 31?

MR. McCUSLAND: Move adoption, Mr. Chairman, and I'd like to recommend that staff not enter into such agreements in the future.
CHAIRMAN CORY: We have a motion --

MR. McGUIRE: I second that, if that was an amendment.

CHAIRMAN CORY: Second as amended.

I believe, we have a motion before us to terminate. Does the staff enter into these, or do they come before the Commission?

MR. HIGHT: This is the only one in existence, Mr. Chairman, under the old regulations. That is why this one is in existence, and there are no more, and it came before the Commission.

MR. McCAUSLAND: I'd also like to stipulate in the interest of equity, we might return a prorated portion of the last year's payment of that permit.

CHAIRMAN CORY: If that's legal, I think that would be appropriate.

MR. TAYLOR: He's at the end of a period right now. Instead of acting on our renewal, we can send him back his money for that period.

CHAIRMAN CORY: Okay. Without objection, Item 31 will be terminated as recommended with the stipulation that the money that's in the pipe will be returned. Such will be the order.

Item 32, East Bay Regional Park District, Public Agency Permit, and its public use.
Is there anybody in the audience that wishes to address the Commission on Item 32?

Yes, sir. Would you identify yourself for the record.

MR. CRUTCHER: Lewis Crutcher, Chief of Planning for the East Bay Regional Park District.

I would appreciate this action. It would do two things: It would clear up title to the end of a proposed fishing pier that we plan to build and provide very good, in fact, the only deep-water fishing in the hundred miles of shoreline for people in the East Bay, and enable us now to proceed with both State and Federal grants. Secondly, by broadening the band around Point Norwegian Park we'd have better control to protect the shoreline and the park in general.

MR. McCAUSLAND: I had one question.

When this matter was before BCDC, there was some preliminary suggestion that the District was proposing to run some kind of a mechanized transit system out to the pier --

MR. CRUTCHER: Yes. Point Pinole is a quiet place.

MR. McCAUSLAND: -- and back. Can you afford it?

I understand that it's a quiet place, but can you afford that? The operating cost for that fishing pier are suddenly going to become quite a burden on the Park District.

MR. CRUTCHER: We understand that but also know
the cost of putting in a two-lane road for a mile and a half
and a parking lot at the end of the pier is rather
substantial, and we felt that the tradeoff was very --

MR. McCausland: How about bicycle routes?
MR. Crutcher: Bicycles can go out there now.
MR. McCausland: I'm sorry. I'll move adoption.
CHAIRMAN CORY: Moved and --

MR. McGuire: Second.

CHAIRMAN CORY: -- and seconded.

It's been moved and seconded that Item 32 be
approved as presented. Is there anybody else in the audience
who wishes to address the Commission on this point?

Without objection, it will be approved as

presented.

Item 33, ten-year Right-of-Way Lease for --

EXECUTIVE OFFICER NORTHROP: Saltwater.

CHAIRMAN CORY: -- saltwater in the Santa Monica
and El Segundo Plant, Stand-Cal.

Is there anybody in the audience who wishes to
address the Commission on Item 33? Any questions by Members
of the Commission?

Without objection, it will be approved as

presented.

Item 34, San Diego Gas and Electric, one-year
Industrial Lease for seven circular parcels of submerged
land for thermal monitoring buoys.

Anybody in the audience who wishes to address the Commission on this item? Questions from Commissioners?

MR. McCAUSLAND: I just have one. What does that work out to per acre, any off-the-cuff idea? Since we're going to be looking at some land of approval in value later on --

MR. TROUT: Let's see, we have 2,000 times that per acre since there's only 500th of an acre.

CHAIRMAN CORY: He's got seven of them.

MR. TROUT: But, the total area within the seven circles is only 500ths of an acre.

CHAIRMAN CORY: In the aggregate.

MR. TROUT: In the aggregate.

CHAIRMAN CORY: Sum total, okay.

MR. TROUT: The dollar figure there is the minimum, because it doesn't even come close to the area.

MR. McCAUSLAND: All right. So moved.

CHAIRMAN CORY: McCausland moves --

MR. McGUIRE: Second.

CHAIRMAN CORY: -- second.

Without objection, Item 34 will be approved as presented.

Item 35 is an assignment from Hercules to Valley Nitrogen Producers, Inc., of the rights to -- this is a
terminal in a pier, is that correct, in Contra Costa County of Hercules? Any necessary update of rental, I presume, are in there?

MR. TROUT: This is not a terminal. It's the remains of an old wharf where they have a cooling-water pipeline. The rental was negotiated as consideration of Boundary Line Agreement 144 and --

CHAIRMAN CORY: Fine.

MR. TROUT: -- Hercules has sold to Valley Nitrogen.

MR. McCausland: Okay.

CHAIRMAN CORY: Is there anybody in the audience on Item 35?

Without objection, Item 35 will be approved as presented.

Item 36.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman --

CHAIRMAN CORY: Sorry I offended the gentleman, could have gotten even instead.

Item 35 is for Industrial Lease of 73 acres of Morro Bay, volumetric rental rate is pursuant to new regulations, minimum of 46,000. PG&E wants to pay anything in excess into a suspense account, as I understand it?

EXECUTIVE OFFICER NORTHROP: Right.

CHAIRMAN CORY: And pending determination of volumetric -- I'll keep my mouth shut.
EXECUTIVE OFFICER NORTHRUP: You have a letter from Mr. Nurisso from PG&E?

Mr. Nurisso has indicated he'd like to speak to the Commission.

MR. TAYLOR: Could we have the statement before you by the Executive Officer?

EXECUTIVE OFFICER NORTHRUP: Could we read this into the record, Mr. Chairman.

"PG&E has requested a letter from the Executive Officer outlining PG&E's obligation to pay the volumetric rental under this lease amendment should a court later determine that the Commission's volumetric rental charge is invalid. They also have inquired concerning disposition of such rentals pending resolution of any such litigation. If you will recall, a similar letter was provided to PG&E last month in connection with their volumetric rental payments.

"The staff is agreeable to sending such a letter. The letter will provide that any volumetric rental over the minimum rental will be paid into a special treasury account pending the result of the present litigation challenging the Commission's new rental regulations. Should
volumetric rentals be held invalid, these excess rentals will be refunded, together with interest actually earned on the money."

CHAIRMAN CORY: Yes, sir. Identify yourself for the record.

MR. NURISSO: Commissioner, my name is Emile Nurisso. I work for Pacific Gas and Electric Company, and I just wish to say that we concur with the lease as it stands right now.

MR. McCAUSLAND: Move adoption.

EXECUTIVE OFFICER NORTHROP: Do we have an additional thing?

CHAIRMAN CORY: I've been muzzled. He suggests I not.

MR. McCAUSLAND: I move adoption, Mr. Chairman.

MR. MCGUIRE: Second.

CHAIRMAN CORY: It's been moved and seconded that Item 36 be approved as presented.

Is there anybody in the audience who wishes to raise any questions?

Without objection, then, Item 36 will be approved as presented.

MR. TAYLOR: Mr. Chairman, together with the authorization of the Executive Officer to send a letter? 

CHAIRMAN CORY: Yes.
Item 37, C and H. We have an amendment for an Industrial Lease, 20-inch diameter outfall, 49 years from August 1, 1975; consideration of $24,212 with reservation on the justice at the fifth anniversary.

Anybody in the audience on Item 37?

MR. McCausland: Yes, I have one question, Mr. Chairman.

Is this pursuant to requirement of the Regional Water Quality Control Board?

EXECUTIVE OFFICER NORTHROP: That's correct. We're the last agency in all.

MR. McCausland: Move adoption, Mr. Chairman.

MR. McGuire: This is a policy which, I think, I asked you. There's nothing we can do about the original lease, is that correct?

EXECUTIVE OFFICER NORTHROP: We did not. You discussed it with us. We did not discuss it with the Attorney General yet.

MR. McGuire: Maybe this isn't an appropriate time.

MR. Taylor: Oh, I think a long time ago we looked into it. I don't think we concluded anything at that time. I'd be happy to take another look at it.

MR. McGuire: I know you guys are working on it.

MR. Taylor: I know what the problem is. We had looked at it with the staff at some previous time several
years ago. I'd be glad to have somebody look at it again.

CHAIRMAN CORY: Are you suggesting that maybe we shouldn't approve that until they look at it?

MR. McGUIRE: No, no.

MR. TAYLOR: This doesn't have anything to do with the original lease.

CHAIRMAN CORY: Okay. Are we ready on the item?

Without objection, Item 37 will be approved as presented by the staff.

Item 38, Amendment of Minor Commercial Lease of Robert M. and Mabel L. Edwards, Steamboat Slough, Sacramento County; rental adjustments pursuant to regulation.

Is there anybody in the audience on Item 38?

Any questions from Members of the Commission?

Without objection, Item 38 will be approved as presented.

Item 39, staff is wanting authorization for execution and assignment of geothermal lease from the Davies Estate to the Natomas Company in Lake County. This is the one where they met --

EXECUTIVE OFFICER NORTHPROP: Right.

CHAIRMAN CORY: -- the underlying owner met the high bid.

EXECUTIVE OFFICER NORTHPROP: Davies met the bid submitted by the City of Santa Clara, and now they are asking
to assign the lease to Natomas.

CHAIRMAN CORY: May I ask a question of the Attorney General?

This is basically a perfunctory thing, but if I have been a long-time friend, acquaintance and recipient of the Large S, from a gentleman from the management of this company, is it the appropriate time to disclose that?

MR. TAYLOR: I think you might disclose it and refrain from voting.

CHAIRMAN CORY: If it's a requirement of refraining from voting, I'm not sure we can get a majority of the Commission to act on this item.

MR. McGUIRE: Which, I think, the Lieutenant Governor would also like to make a similar disclosure.

MR. TAYLOR: I beg your pardon?

MR. McGUIRE: The Lieutenant Governor would like to make a similar disclosure.

MR. McCausland: Well, I'd like to say that I don't even know who we're talking about.

CHAIRMAN CORY: Mr. Jordon Thomas, I believe, is one of the high executives in the Natomas Company and has been a long-time personal friend of mine. He's never, to my knowledge, I don't recall him ever mentioning this to me.

MR. TAYLOR: Do you have any financial interest in the --
CHAIRMAN CORY: No.

MR. TAYLOR: -- in the Natomas Company?

CHAIRMAN CORY: None whatsoever.

MR. TAYLOR: Do you have any interest in the Natomas Company, the Lieutenant Governor?

MR. McGUIRE: No, no.

CHAIRMAN CORY: Other than, historically, Mr. Thomas has contributed to my campaigns, I believe, before he was even with Natomas Company. I don't think he was there, but through elsewhere.

I just want the record to show.

MR. McCAUSLAND: I think I could state for the purposes of the record that I was not aware prior to this moment of either the interests of the Controller or the Lieutenant Governor in this matter, and that I reviewed the proposal in some detail, and I believe that it's procedurally consistent with every other matter like this that would come before this Commission. And I don't think anyone needs to disqualify themselves.

MR. TAYLOR: I didn't think that would be the case.

MR. McGUIRE: This is just an assignment. I mean, the terms have been negotiated?

MR. TAYLOR: No. There's no financial interest that's been disclosed of any of the people that are voting on this matter, therefore, I don't think anyone should
disqualify themselves.

MR. McCAUSLAND: Move adoption.

MR. McGUIRE: Second.

CHAIRMAN CORY: Without objection, Item 39 will be adopted.

Item 40, approval to the City of Long Beach for assignment of all interests in the Standard Oil Company in the Contractors' Agreement to Chevron, U.S.A., Inc.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I've been advised by Standard Oil Company that while this name change is happening universally with the company, they would stand behind the contractual obligations -- the new company would stand behind the contractual obligations of Standard Oil Company -- or Chevron would stand behind the contractual obligations that they made, which brings us to the contractual obligations we discussed earlier --

CHAIRMAN CORY: Pricing agreements.

Without objection, then, is there anybody in the audience who has any --

MR. McCAUSLAND: I have a question, but this isn't in the appropriate form.

I'd like to have somebody contact me at some point in time and advise me of what this change represents. That's all.

CHAIRMAN CORY: Okay. I think it's just an
organizational change within Standard Oil Company of California in terms of how they're doing something, probably, relates to tax considerations.

MR. McCausland: All right.

EXECUTIVE OFFICER NORTHROP: But, we will.

CHAIRMAN CORY: Without objection, Item 40 will be approved as presented.

Item 41 is --

EXECUTIVE OFFICER NORTHROP: Off Calendar.

CHAIRMAN CORY: -- off Calendar.

Item 42, you want to report to the State Controller on the subventions.

EXECUTIVE OFFICER NORTHROP: The subventions are legislatively mandated.

CHAIRMAN CORY: Without objection, Item 42 will be approved as presented.

Item 43, land baring, tell us about it.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have nearly two acres of property -- nearly an acre and a half of property in the Santa Barbara area which is located in an area that has become a prime area for prime development for commercial and business offices. And staff would like to take a look at the use of this property that we are currently using for our Santa Barbara Office, perhaps, to expand its use and put it to other uses.
MR. McCausland: Isn't that where the freeway is?

Chairman Cory: That's Highway 101 that runs --

Executive Officer Northrop: It's the freeway that runs right close there. That's near a freeway offramp.

MR. McCausland: Gentlemen, I like that property.

How much would it cost me?

(Laughter.)

Chairman Cory: They want to --

Executive Officer Northrop: We would like to find a developer and get some estimates of what we really have in that piece of property from a commercial point of view.

Chairman Cory: You understand that nothing is going to happen till they come back to us?

Executive Officer Northrop: That's right.

Chairman Cory: Any problems with the Commission?

Anybody in the audience that wishes to address themselves to this item?

Without objection, it will be approved.

Item 44, an expenditure of $173,500 by Long Beach? Is this for what, subsidence?

Executive Officer Northrop: No. Mr. Chairman, this is for some beach property near Redondo Avenue and Ocean in Long Beach, which is owned by a private party. However, the Attorney General has met with the City of Long Beach and pointed out the considerable public, perhaps,
adverse condemnation on the property, and henceforth has lowered the price considerably.

CHAIRMAN CORY: This is the item we had before us some months ago?

EXECUTIVE OFFICER NORTHROP: Is this the one for 350?

MR. TAYLOR: I'm sorry. This is a separate item. This is a continuation of the East Beach Lot acquisition, or acquisitions of lots for the East Beach of Long Beach. And this is to eliminate another private ownership that is encroaching in that park area. Because we are using our own money, we have been asked to be given notification. We're doing more than receiving notification in this case, we are also affirmatively saying it should be affirmed.

It's part of litigation that we've had over the years with the park. It's an outgrowth of litigation over the seaward boundary of the property, and whether there was a lien deed put on a portion of the property. They have agreed to our contentions in those regards that the property has been accordingly valued as they now want to take the property to complete the East Beach.

CHAIRMAN CORY: So, the various clouds on the title have been adjusted and reflected in the price?

MR. TAYLOR: Yes. We reviewed them and are satisfied on it.
CHAIRMAN CORY: We are telling them yeah, if we send the money it's okay.

Anybody in the audience on Item 44?

Without objection, it will be approved.

Item '5, Redwood City, we want to determine that they have complied with the --

EXECUTIVE OFFICER NORTHROP: Grant.

CHAIRMAN CORY: -- grants, is that correct?

EXECUTIVE OFFICER NORTHROP: That is correct.

CHAIRMAN CORY: What can you tell us to assure us of that?

(Laughter.)

MR. TROUT: Mr. Chairman, if I might respond to that, the grant required, as is typical, that these lands be improved. And the staff has been down there and investigated, and we found that the City of Redwood City has expended significant amounts of its own money and has applied for and received Federal grants. They have developed a deep-water channel and put in a significant number of wharfing facilities. And by that, we believe, they have substantially complied with the terms of the grant.

CHAIRMAN CORY: Anybody in the audience on this item?

Any questions from Members of the Commission?

You're going to let this go that Redwood City has
become a deep-water port, just like that?

(Laughter.)

MR. McCausland: If you're going to force me to use the opening, it's not necessarily clear that all of the State lands that have been granted are in areas that are any longer considered suitable for development. We might want to -- I don't want a budget request for this. You might want to take a look at that sometime to see if we want to renegotiate some of those grants.

MR. Trout: I think, Mr. McCausland, you may recall that approximately a year ago in response to legislative request in 1970, the Commission adopted a report on granted tidelands. And that was one of the major findings, that many of the grants have outlived their usefulness and are no longer appropriate.

Senator Dills had some legislation which failed, and so we have it in the budget request. But, the Commission has gone on record in that area.

Chairman Cory: Without objection, Item 45 will be approved as presented.

Item 46, accept the Quitclaim by the City of Martinez of tide and submerged lands, which, I think, is one step in a legislative change in the --

Executive Officer Northrop: Right.

Chairman Cory: -- areas.
Any questions by Members of the Commission?

Anybody in the audience on this item?

Without objection, Item 46 will be approved as presented.

Item 47, litigation, you want to ratify the Attorney General's actions on disclaimer of United States versus 212.43 acres of land, more or less.

You think the U.S. Attorney can handle that suit?

(Laughter.)

MR. TAYLOR: These are just temporary easements.

CHAIRMAN CORY: We have no interest in the area?

MR. TAYLOR: In one area, it's a possibility. But, for what it is involved it's not worth getting into, and it's only a temporary easement.

CHAIRMAN CORY: Okay. Without objection, Item 47 will ratify the Attorney General's action.

48, offshore boundaries which we approve goes to LAFCO, and then comes back to us. And this is for creation of two new cities of Muir and West Pittsburg --

EXECUTIVE OFFICER NORTHROP: That's correct.

CHAIRMAN CORY: -- which is in the general area of the Dow Plant.

EXECUTIVE OFFICER NORTHROP: Existing Dow facilities, as well as industrial complex on that side of it.

MR. McGuire: Would these boundaries just encompass
what is now Dow, or would they encompass --

EXECUTIVE OFFICER NORTHROP: No. They would cover -- there are two cities, Mr. McGuire, and they would cover areas in the existing industrial complex, on that side of the Bay.

CHAIRMAN CORY: Okay. Comes back to us, if we want.

EXECUTIVE OFFICER NORTHROP: Mr. Trout is pointing out the location of it, now.

MR. TROUT: It fills in the whole area between Pittsburg and Martinez. It covers, basically, this area right here. There is not a great deal of residential property. It's basically like the City of Commerce and Vernon.

MR. McCUSAULAND: Who are the petitioners for this?

MR. HIGHT: The proponents of the new cities, Mr. McCausland.

CHAIRMAN CORY: They are -- you have a gentleman coming forward.

Would you identify yourself.

MR. LICHTI: Yes. My name is Ted Lichti, I'm on the Committee to incorporate the City of West Pittsburg. I'd be happy to answer any questions you might have on it.

MR. McCUSAULAND: I'm fairly familiar with the area, and I was just trying to determine what was compelling those cities to want to incorporate at this point in time. I
remember back in the early '50s where the City of Fremont
took in half the State of California in its incorporation,
and I was just curious to know what advantage it would
improve your area with an incorporation at this point in
time.

MR. LICHTI: Basically, it would be a tax advantage
to the residents of the community, because there's approxi-
mately 11,000 people living in the proposed boundaries of
the City of West Pittsburg.

And they are slowly being surrounded by other
incorporated areas. And I understand once they are surrounded,
why, they will be forced into the present incorporated cities.
So, if they don't make a move at this time to save their
tax base or maintain a lower tax base by incorporating, they
will be gobbled up, so to speak.

MR. McCausland: West Pittsburg will encompass
the assessed value of the Dow Plant?

MR. LICHTI: No, not at all. It's on the west side
of Pittsburg where Dow is on the east side of Pittsburg.
So, it doesn't even come close to the Dow Plant.

MR. McCausland: Do you have any good, substantial
tax base available to you other than residential?

MR. LICHTI: Yes. There's quite an extensive area
available for industrial development, and there's quite a
bit of industry out there at the present time, sir.
MR. McCASLAND: Thank you.

MR. MCGUIRE: That's the town of Muir that's a development.

MR. LICHTI: The town of Muir, I'm not on that committee, but that's another city adjacent to the City of Martinez. And it does not border the property that I'm speaking about. It's quite an area.

MR. McCASLAND: It's close to the Naval Weapons Station.

MR. LICHTI: The Naval Weapons Station separates the two by quite a few miles.

CHAIRMAN CORY: Any questions from Members?

MR. MCGUIRE: We have no choice in this anyway?

CHAIRMAN CORY: No -- Thank you, sir.

Without objection, then, Item 48 is approved as presented.

The question is asked, why do they always come back to us?

EXECUTIVE OFFICER NORTHROP: This is a -- go ahead.

MR. HIGHT: The Commission at this phase of the application is required or requested to approve the sufficiency of the legal descriptions since it encompasses some tide and submerged lands under the jurisdiction of the Commission.

The next step, then, as a property owner, the
Commission will be requested to either approve or disapprove.

CHAIRMAN CORY: Whether or not we want our

property in the city?

MR. HIGHT: Yes.

MR. McGUIRE: Or out of the city.

CHAIRMAN CORY: Okay. Item 49, is to approve and

authorize the execution of litigation settlement agreement in

the case of Long Beach Amusement Company versus Atlantic

Richfield Company, and authorize the State Lands Commission

and Office of the Attorney General to take all necessary

and appropriate action to implement said agreement.

MR. TAYLOR: This is a lawsuit, Mr. Chairman, on

Seaside Walk in the downtown portion of the City of Long

Beach. We're only named a party because of the seaward

boundary of the Walk is Chapter 138 line. That line is being

recognized, and will be confirmed in this agreement. We also

monitored in the lawsuit any effect it might have on the

Long Beach unit, and we're satisfied that it will not.

MR. McCAUSLAND: Fine.

CHAIRMAN CORY: Without objection, authorization is

granted and the staff will proceed.

Item 50, authorizing the Attorney General to file

on behalf of the State Lands Commission a disclaimer of any

right, title, or interest in, which case? Dominici versus

Coates, King County?
MR. HIGHT: Yes, Mr. Chairman, this involves some land around Mussel Slough which it was thought the Commission had some jurisdiction in, and we have discovered that we do not.

CHAIRMAN CORY: Okay. Without objection, Item 50 will be approved as presented.

(Thereupon a discussion was held off the record.)

CHAIRMAN CORY: Item 51, you find that the amount of $707.42 represents a fair and just monetary settlement for timber trespass on school land in Plumas County, and accept said amount from the U.S. Department of Agriculture, Forest Service, as payment in full for this grievous error on their part, this war of aggression by the Great "Federal Allies."

Is there anybody in the audience who would like to offer us more money for the timber?

(Laughter.)

CHAIRMAN CORY: It certainly wasn't a Christmas tree. I think I paid more than that for the Christmas tree I just bought.

(Laughter.)

MR. TROUT: Actually, it was eight trees.

CHAIRMAN CORY: Eight trees?

MR. TROUT: Eight trees.
MR. McCAUSLAND: Big or little?

CHAIRMAN CORY: Anybody in the audience on this item?

Without objection, we will accept the $707. That's one Boeing 707.

(Laughter.)

Mr. McCAUSLAND: I don't think that should be without objection, I think we should object strenuously to this.

CHAIRMAN CORY: Okay. The record will please note, in case anybody ever reads it.

Item 52, approval of proposed Boundary Line Agreement between the Winter-Durnford Company and the State Lands Commission relating to the -- Oh, this is the Colorado --

EXECUTIVE OFFICER NORTHRUP: River raft.

CHAIRMAN CORY: -- River raft, and we have an easement and a boat launching ramp and parking access along the Colorado River near Palo Verde Dam.

Is there anybody in the audience on Item 52?

Any questions by Members of the Commission?

Without objection, Item 52 will be approved as presented.

The next item is status of major litigation. Is there anything to report on that?

EXECUTIVE OFFICER NORTHRUP: Do we have anything
major on that, Greg?

MR. TAYLOR: Yes. I'm sorry I was back on the last item.

There are six items that I would like to briefly --
CHAIRMAN CORY: Why are you back there and we weren't? What do you know that you aren't telling us?
(Laughter.)

MR. TAYLOR: I didn't see one of the documents, but it was reviewed by someone in the office. I'm sure it's fine.

CHAIRMAN CORY: That's a little weasel word, I think.
(Laughter.)

MR. TAYLOR: Mr. Chairman, there have been five items of interest in litigation over the last month.

The first is United States versus California where we sued the quiet title around Channel Island's National Monument, which are Anacapa and Santa Barbara Islands.

The Federal Government has filed a response to our request that the Supreme Court adjudicate that matter by submitting their own proposed decree, which is different from ours. They have also requested that a Special Master be appointed to hear testimony. Russell Unungerich, a Deputy in the office, is going to be meeting with them in Washington, D.C. tomorrow on another matter, which I will
discuss next. We will try to work out with them a brief procedure which may alleviate the necessity of having a Special Master. If we can't agree on that, apparently, the Supreme Court next month will appoint a Special Master to hear testimony.

On the second item is that tomorrow, a representative of the State Lands, Bud Uzes and Bud Iungerich will meet in Washington, D.C. with the Department of Interior and the Department of Justice and other Federal agencies, Department of State. The meeting will actually be held in the Department of State, to try to work out the remaining problems in our offshore boundary, as to where it will be measured from, to determine the three-mile limit. And this primarily concerns walks, piers, groins and jetties. It is hoped that we can, at least, resolve a substantial amount of the problems so that very little will go back to the Supreme Court.

In that connection, a letter was sent, with the approval of the Executive Officer, to the attorney handling this matter objecting to 20 parcels that have been indicated the Federal Government would offer for offshore leasing in Lease Sale Number 48. We feel that portions of these 20 tracts are subject to State claims as a result of these unresolved issues, and we've asked that those 20 tracts be deleted from the sale unless the problem is resolved before the sale occurs.
Tomorrow, in Los Angeles, the Executive Officer will be attending a meeting in the Attorney General's Office with representatives from the Department of Justice, I understand, representing the Colorado Indian Tribes, the Attorney General of Nevada and representatives from the State of Arizona and also from the State of Nevada, in connection with the case of Arizona versus California, which concerns who had the rights to the water from the Colorado River.

Now, the Federal Government is insisting that the State agree to the Secretary of Interior's readjustment or expansion or change in the boundaries of certain of the Colorado Tribes. That would have an effect on the amount of water that the Indians are entitled to take from the river, and it would also have a very serious effect, in the view of some of the users of the river, in connection with what they assert their rights are.

In addition, the expansion or change of these boundaries as they have been regarded potentially can have a serious effect on State ownership of land in this area of the Colorado River, both with regard to the ownership of the riverbed and with regard to some school lands and lieu lands which we have remaining, and also in connection with some mineral reservations. The changes of these boundaries may say that land that has been occupied for a substantial period
of time by people under patents from either the Federal Government or from the State can now be included as part of the Indian Reservations.

The states are not willing to agree to the conditions of the Federal Government. If some compromise cannot be found at this meeting tomorrow, then the matter will have to go back for litigation before the United States Supreme Court, which will be quite lengthy. And one element of that litigation will involve title or the boundaries of the Indian Reservations, and who has title to certain properties. This lawsuit is primarily a water rights lawsuit, but State Lands will become involved because of these Indian boundaries. And I'm sure you will be hearing from the five Colorado Tribes, as well as from interested water heater users in Riverside, San Bernardino, and Imperial Counties.

This will be very substantial litigation, if we go back to score one, if the Federal Government would not insist upon the acceptance of the boundaries. We also feel that in some instances, when these boundaries have been adjudicated by a Special Master, they were found in the State's favor -- whoever of the parties would be, not in the Federal favor.

Tomorrow, Mr. Stevens is going to go with a group from State Lands to meet at Lake Tahoe with representatives of the State of Nevada. And Nevada has requested the meeting
to coordinate with California as to what we're doing in our respective sides of the lake in terms of title and boundary problems and administration of the lake, and so on, which is somewhat consistent with the proposal of the Commission to try to do some joint planning up there.

Primarily, it's an information-gathering meeting for us to find out what Nevada is up to, and let them ask us some questions and give them some responses.

We are now up to 37 new lawsuits since the beginning of July 1st. This is almost the total number that we received last year which was double the number that we had three years previous. If we cannot resolve our matter with the lessees, oil lessees, which is the item that Mr. Northrop first mentioned where you found the Arab market price for oil to be as stated in his letter, we will have to commence a series of cases against the oil companies in each instance to protect our contract rights under those leases for that amount of money.

I believe that there are other lawsuits which we have discussed with you which private parties are contemplating filing, but I just want to point out that the number continues to grow.

Finally, I would like to say that Mr. Hamilton who is here today has been co-counsel with us on the West Bay lawsuit for a number of years, and has given very good support
and help to us.

And we are going to go to trial on the Centex parcel next year, which is shown up on the top of the map. And I want to compliment him on his confidence because he shows that we own it, which is perfectly consistent with our position.

That concludes my report.

CHAIRMAN CORY: Mr. Northrop, I would suggest in the future calendars that you revise the title, "Status of Major Litigation" to "Budgetary Requests."

(Laughter.)

MR. McCAUSLAND: I'd like to go on record opposing that.

(Laughter.)

CHAIRMAN CORY: All right. We can go back to Item --

EXECUTIVE OFFICER NORTHP: 26.

CHAIRMAN CORY: -- 26. And here we have some dilemma over which we get to parch the baby, I understand.

MR. TAYLOR: Mr. Chairman, could I first indicate to you that there are three courses of action which you can take today.

CHAIRMAN CORY: How do we punt?

MR. TAYLOR: The staff has recommended that you accept the second bid for reasons that we'll discuss. You
have a choice to also take the first bid, if you find after
the evidence that the first bid would be the one that you'd
want to accept. This is a discretionary matter.

The third choice is that you can refuse to accept
all of the bids, and ask the staff to do the process over.

So, those are the three choices which you have
before you, and you are sitting in a capacity, now, of
exercising your discretion as to the manner in which you want
to proceed.

MR. McCAUSLAND: Is there a question as to the
facts in this case?

CHAIRMAN CORY: Yes, unfortunately there is.

MR. TAYLOR: Yes. The facts are absolutely
conflicting.

The position of the staff -- and we're willing to,
I guess, if it were necessary, to put on both sides, and we
have an attorney here for the party who tendered the highest
offer, which is not being recommended.

CHAIRMAN CORY: How about the number two bidder,
which the staff did recommend? Are they represented?

MR. TAYLOR: I have no idea. He was informed of
the meeting.

CHAIRMAN CORY: He was informed?

MR. TAYLOR: Is that correct, Mr. Brady, he was
informed?
MR. BRADY: Yes, letters were sent.
CHAIRMAN CORY: In writing?
MR. BRADY: Yes.
MR. McCausland: No, letters over the phone.
(Laughter.)
CHAIRMAN CORY: Well, I just want to make sure.
I mean, there seems to be some mystical qualities of this division.
MR. McCausland: Would it be appropriate to proceed under oath in a matter such as this?
MR. TAYLOR: I think that we probably should, since there are declarations under penalty of perjury that the bidder who presented the highest amount offered to make a lease with us for the highest amount, that he has a series of declarations that he wants to present.
If I can just state the facts, briefly, and we'll probably have to add some testimony to this.
On August the 26th, 1976, a Proposal of the State Lands Commission to Enter into a Lease for the Extraction of Geothermal Resources from Certain Reserved Mineral Interests of the State of California, Situate in Sonoma County, State of California, was executed by the Executive Officer of the Commission and sent out to interested parties, anyone that requested it.
This notice, I would ask the Chairman's permission.
to include as a part of this item, as well as the entire
file of the staff on this matter.

CHAIRMAN CORY: No objections?

MR. TAYLOR: The offer of lease says that:

"No deviation from any requirements or
provisions included within the form of the
bid-lease, or from the requirements or provisions
which are specifically set forth hereafter in this
proposal shall be permitted; provided, however,
that the State Lands Commission may, in its
discretion, waive any technical defect which does
not give the bidder any substantial advantage
over other bidders."

Now, the position of the staff -- Let's go to the
first page, and it says that:

"All bids made pursuant to this proposal
shall be addressed to the State Lands Commission,
sealed and delivered to the State Lands
Commission, Suite 300, 100 Oceangate, Long Beach,
California 90802, on or before 11:00 a.m.,
November 3, 1976."

And then there is a further reference that the
sealed envelope containing said bid shall be a -- a statement
shall be written with regard to what the contents of the
envelope are.
Primarily, with regard to the paragraph that we read to you previously, the fact that the bid should be seen and the fact that it should be delivered on or before 11:00 a.m., that the controversy centers.

CHAIRMAN CORY: 11:00 a.m. or 10:00 a.m.?

MR. TAYLOR: 11:00 a.m.

MR. HIGHT: I know we said 10:00 before, but it's 11:00.

MR. TAYLOR: As you can note from the Calendar item the staff's position is that the bid was delivered after 11:00 o'clock, and after the time that other bids which had been received in a timely manner were already beginning to be opened. That's the posture of the matter.

I may want to speak to you at the end of the hearing.

CHAIRMAN CORY: Okay.

MR. McCausland: Who speaks for --

MR. TAYLOR: I think maybe Mr. Hill wants to speak on behalf of the man that submitted the highest offer.

CHAIRMAN CORY: At some point, could we have the principals from the Commission who were at that meeting?

MR. TAYLOR: Yes, we do.

CHAIRMAN CORY: And, please, would anybody caution me in terms of the oath if I forget to deal with that and start taking the testimony.

First, could you identify yourself for the record.
MR. HILL: Yes, sir. My name is Rodney C. Hill.
I'm with the law firm of McKenna and Fitting, and I represent George P. Post who submitted, we assert, the highest valid bid for the tract under consideration.

CHAIRMAN CORY: You wish to proceed just as counsel, or do you wish to offer factual information?

MR. HILL: Unfortunately, I was not a participant witness. I cannot offer factual information. I have a prepared statement and a number of declarations executed under penalty of perjury, and some supporting documents which I would like entered into the record. I think that would save a great deal of time, and I am prepared to summarize the content of those documents.

MR. McCausland: Well, would you be willing to stipulate that the only issue before us is the question of the facts relating to the timely receipt of the bid, and its state of being sealed or non-sealed at the time of receipt?

MR. HILL: Yes. All right. I think we're willing to stipulate that the questions are whether or not the bid was timely tendered, whether the bid was sealed, whether or not those are defects, and the manner in which it was presented.

MR. McCausland: Do you have someone representing the firm here who actually participated who can testify as to the facts?
MR. HILL: No, sir. Mr. Post is here. Mr. Post
was not present at the bidding procedure. He was
represented by a gentleman named Holmes whose affidavit I
have here.

If you so desire, we can have Mr. Holmes come up.

MR. McCAUSLAND: I think it is clear that in terms
of monetary consideration the bid was the highest. And the
only question before us is if it was procedurally deficient
and unless --

MR. HILL: And whether or not --

MR. McCAUSLAND: -- parties are here who can
testify to that effect, I don't know --

CHAIRMAN CORY: You started to add something?

MR. HILL: Yes, and whether or not those
deficiencies were excusable, and if they were not excusable
whether they were material deficiencies.

The purpose of the bidding procedure, basically, is
to protect the integrity of the process to insure that, me,
that the bidder does not obtain an advantage over another, to
insure that the State realizes the highest possible bid under
the circumstances.

MR. McCAUSLAND: Perhaps, it's important for me to
lay my biases on the table at this point, because in my
lifetime I have participated in probably several hundred
bid openings. And I have never participated in a bid opening
where a bid was opened that had not been received prior to the commencement of the opening of the other bids, nor to the best of my recollection, have I ever participated in a bid opening where one of the bids was unsealed.

MR. HILL: Well, sir, we are prepared to present to you examples of instances in which precisely those incidents occurred, and which the bids were accepted and which the body accepting the bids was sustained.

CHAIRMAN CORY: Okay. The question I have is a procedural one in terms of questioning, of getting at the facts. And it was suggested by Commissioners, I think, it is appropriate that we put people under oath.

Now, do you have any qualms about going under oath at this point?

MR. HILL: No.

CHAIRMAN CORY: Would you raise your right hand. (Thereupon Mr. Rodney C. Hill was, by the Chairman, sworn to tell the truth, the whole truth, and nothing but the truth.)

THE WITNESS: I do.

CHAIRMAN CORY: Let's go ahead and proceed, and somebody stop me if I fail to do that. And we know that Greg always speaks the truth, so I didn't swear him in since he wasn't there, either.
TESTIMONY OF

RODNEY C. HILL,

a witness being duly sworn, testifies as follows:

THE WITNESS: What I was prepared to do is make a short argument based upon the facts as we understand them, as we have affidavits to support those facts.

It is our understanding that Mr. Holmes, Mr. Post's representative, was advised on the day before the bidding occurred that an item of cost was chargeable against the net profits of capital which, on the day of the bid, he subsequently learned it was not so chargeable. That item happened to be interest.

The bid was prepared on the basis of this advice, which came from the Division. When the Division corrected that advice, the day subsequent to the time at which it was originally given, which was on the same day that the bidding process was to occur, the bid had to be changed with Mr. Post's knowledge and consent, because interest, obviously, in the question of development of geothermal resources at the time when they produce income is of long duration, becomes a very significant factor.

Consequently, with Mr. Post's consent, Mr. Holmes reduced the amount of the bid to compensate for the fact that interest would not be chargeable against the net profits account with respect to certain types of expenditures.
This change was made in the offices of the Division of the State Lands, was made in response to several telephone conversations between our office and Mr. Holmes, and our office and the Division of State Lands.

As I understand the facts, Mr. Holmes arrived at the office which, in the invitation was designated as Suite 300, well before 11:00 o'clock, which was the prescribed time for the opening of the bids. Mr. Holmes was directed to the office of, I believe, a gentleman by the name of Priddy by the receptionist. He was not directed to another office to a conference room where, I understand, the bids were, in fact, opened.

There were no signs posted to indicate that the bids were to be opened in a particular office.

I might mention that I understand Suite 300 consists of several offices, so that a person entering Suite 300 would not know which office to go to unless he was specifically directed to that office. Mr. Holmes states that he was not directed to that office at the time he initially came into the Division's offices, and instead, as I say, he was directed to Mr. Priddy's office.

It was in Mr. Priddy's office and another office to which the bid was subsequently moved, that these alterations in the bid took place with Mr. Post's consent.

Now, our contention, one, is that Mr. Holmes was at
the prescribed place on time; in making the alterations, Mr. Holmes had to unseal the package. The bid was originally placed in a package which was sealed with Scotch tape. Mr. Holmes has stated that he resealed the package by pressing down on the Scotch tape, that he did not have additional Scotch tape with which to reseal it.

I might say that, parenthetically, this is a question, I think, of how high we can elevate technicalities to obscure the substance, of the purpose of this procedure.

In any event, Mr. Holmes made his alterations, attempted -- whether successfully or not, I don't know -- to reseal the package and went in search of the place in which the bidding was to be conducted, and this is several minutes, I understand, before 11:00 o'clock. I don't know how long it took Mr. Holmes to get there, apparently, it took him, I don't know, a number of minutes to find the appropriate office. And then somebody in the hallway asked, "Where's everybody," and was directed to a conference room.

Mr. Holmes entered the conference room, I understand, at two minutes past eleven. Some two bids had been opened at that point. He knew nothing about what was going on in terms of the amounts of those bids. His bid had been established prior to the time that he walked in there.

He handed the bid, I believe, to Mr. Brady or Mr. Priddy --
MR. BRADY: Mr. Priddy.

THE WITNESS: There was a question as to whether or not the bid should be accepted at all because it was some two minutes late.

It was ultimately resolved that the bid should be accepted, not formally accepted, but taken and received. And the statement we made, I believe by Mr. Brady, that the Commission has the power to waive any irregularities of a technical nature if they, in fact, did exist.

Our position, basically, is that nobody was prejudiced by this delay. A two-minute delay certainly hurts nobody, as long as we gain no advantage from that delay, and we didn't. The delay, we think, was excusable because of the misinformation which Mr. Holmes received and because of the lack of delineation of the appropriate place to go in the Division's offices.

I could belabor you with reading Mr. Holmes' affidavit, and the other affidavits. We have a number of cases which we are submitting for your review which support the proposition that the Commission has the authority to accept Mr. Post's bid. It is certainly the highest bid. At least, by the State's figures it's some half a million dollars in excess of the second highest bid. We think that these two technical defects, if they do exist, are certainly meaningless in this situation which exists here.
I request your Commission to submit these as part of the record, and I have copies for you.

MR. TAYLOR: Mr. Chairman, may I read these into the record?

First, is a statement of Rodney C. Hill, Esquire, on behalf of George P. Post, with declarations attached.

The first declaration is one attached to the overall statement of Mr. Hill, a declaration signed by George P. Post. The second item attached to Mr. Hill's statement is a declaration of Albert T. Holmes, II. The third declaration which is attached is one of David R. Wilson. The fourth declaration which is attached is Jeffrey E. Sultan.

Then, there is a November 23rd letter on the State Lands Commission stationery to Jeffrey E. Sultan, Esquire, signed by the Executive Officer, Mr. Northrop.

The next is, appears to be a Press Release or some kind of a news release, one page.

MR. HILL: That's on the geysers, I believe, geothermal publication.

MR. TAYLOR: It's a piece out of a newsletter put out by the geothermal people.

The next is a copy of a case entitled William F. Wilke, Inc., versus the Department of Army.

The next is a case of Cameron versus the City of
Escondido.

Next, is a case of North American Coal Company, which is the decision of the Department of Interior, Volume 74, at page 209.

The next is a decision of the Department of Interior, case in Volume 75, commencing at page 147.

The next is a Xerox copy of the case of Excavation Construction, Inc. versus the United States, 494 F.2d, 1289.

The next is a summarization, apparently, it's a decision of the Bureau of Land Management in Ashland Oil and Refining Company case. It has at the bottom of the page T626, and then in caps BLM-1968-48. And at the top right-hand corner of the first page it says Ashland Oil and Refining Company, W, in caps, 11783, parens (Kansas) end parens; on the next line, parens (August 13, 1968) end parens; and below that, Bureau of Land Management.

CHAIRMAN CORY: Those are all of the items?

MR. HILL: Yes, sir.

MR. TAYLOR: I believe there is one other problem which probably should be discussed with the Commission and that is --

CHAIRMAN CORY: Before we accept those, that which reported to be a newspaper clipping, I would just like to state that it has some sort of a heading about Cory attacking something.
MR. HILL: I'd be happy to excise that, if you so desire.

(Laughter.)

CHAIRMAN CORY: I'm kidding. I'm sorry.

Greg.

MR. TAYLOR: Mr. Chairman, with your permission the materials which Mr. Hill has submitted to become part of the record of today's hearing --

CHAIRMAN CORY: So ordered.

MR. TAYLOR: There is one additional item, and that is that there isn't a bid package, no evidence of the authority of the agent of Mr. Post to appear at the time of the bid opening, and Mr. Hill may want to address himself to that question.

MR. HILL: Yes.

MR. McCausland: Yes, there is.

CHAIRMAN CORY: Yes, but there is nothing in the bid package.

MR. McCausland: Oh, I'm sorry.

CHAIRMAN CORY: There are documents here indicating that Mr. Holmes --

MR. TAYLOR: Mr. Chairman, perhaps so that we can have the entire matter before the Commission, we have here the bid package which is in dispute, and we can hand it up to you. It has written on it -- and I think we will identify
later -- that it has written on the back side of the envelope underneath what would normally be covered by the flap, a statement:

"Submitted one, late, 11:05 a.m.; at least two bids opened before being submitted; two, unsealed; three, bid changed; and four, financial statement not certified." "Not certified," I guess that's the statement on the back.

MR. McGUIRE: Are you saying there is no power of attorney to make those changes?

MR. TAYLOR: There's none in the package.

MR. HILL: Well, might I ask whether or not a power of attorney is required by any regulations of the State Lands Commission?

MR. TAYLOR: I believe the question is whether it's required as a matter of agency law.

MR. HILL: None is required in my judgment.

Mr. Post is willing to affirm the fact that Mr. Holmes had the authority to do that. And I believe one of the declarations indicates that Mr. Post, in fact, orally confirmed the fact that Mr. Holmes had that authority from a representative from the Division.

MR. TAYLOR: Mr. Chairman, I think the bid package should be made part of the record.

CHAIRMAN CORY: The bid package is a part of the
I have some questions, I guess, in terms of people who were there from State Lands at bid opening. If that would be appropriate, I guess, we should have them explain so we can get on the table what the factual differences are or are not.

MR. McCausland: Mr. Chairman, I just have one question, and if it's out of order I'd like to be so advised. Could you advise me as to why Mr. Holmes could not be present to discuss this with him today?

MR. Hill: I saw no reason to bring Mr. Holmes up here. We had his declaration.

As I said, if you so desire, I'd be happy to produce Mr. Holmes at any convenient time. If you would like, I'm sure we could get him up here this afternoon.

MR. Taylor: Mr. Hill, we might determine -- we asked if the second bidder was here. I believe there's, at least, a representative of Aminoil here who was the low bidder, but who also informed us they have the surface -- whatever rights the surface owner has, they have acquired those rights from the surface owner. And I don't know whether Aminoil wants to make a statement here today or whether there is anyone else in the room, any of the other bidders --

CHAIRMAN Cory: Is there anyone from Aminoil in the
room?

Do you wish to make any statement to the Commission?

Did you wish to participate in this since it may affect your
rights and interests?

MR. WOODS: Certainly, it could in some manner
affect our interests, but I don't think we would be prepared
to make any statement today.

CHAIRMAN CORY: And you are, sir, for the record?

MR. WOODS: I am Bill Woods.

CHAIRMAN CORY: Bill Woods.

MR. WOODS: I'm representative of Aminoil U.S.A.,
Inc.

CHAIRMAN CORY: Is there any other interested
party that would like to declare their presence here?

Yes, sir. Would you come forward so we can hear
you.

MR. MEMBRENO: My name is Robert Membreno. I'm
representing the City of Santa Clara.

EXECUTIVE OFFICER NORTHROP: Mr. Membreno, could
we get your card with the spelling of your name?

(Therupon a brief recess was taken.)

MR. TAYLOR: Mr. Chairman, we have given you two
declarations, one of Charles P. Priddy, and the other of
Lovia Miller. We'd ask that those be included in the record.
Those two people are not here today. The other witnesses
are here, Mr. Everitts, can take it from that point with people he has here. The first one is -- the Miller declaration is the receptionist who was on duty on the day of the bid opening on November the 3rd. This is a photocopied declaration that she signed. The original I've asked the Commission to substitute into the record when it's transmitted to Sacramento.

Priddy's statement concerns the fact that Mr. Holmes was taken to his office by someone that was sitting at the receptionist desk, with the first declaration.

I think that sets the stage of the two people of the State Lands Division staff that are not here today.

MR. EVERITTS: Did you want to put me under oath?
CHAIRMAN CORY: Yes. Just let me see these. Have you seen these?
MR. HILL: Yes. I have a copy, thank you.
CHAIRMAN CORY: Don, you were at the bid opening?
MR. EVERITTS: Yes. I conducted the bid opening.
CHAIRMAN CORY: Okay. Would you raise your right hand.

(Thereupon Mr. Donald Everitts was, by the Chairman, sworn to tell the truth, the whole truth, and nothing but the truth.)

THE WITNESS: I do.

///
TESTIMONY OF

DONALD J. EVERITTS,
a witness being duly sworn, testifies as follows:


As I arrived in the conference room, at about five minutes to eleven, there were approximately a dozen people from the companies that were submitting bids and interested parties assembled. I was not aware who might not have been there.

The bids were stacked on the table in front of me, and about one minute after eleven -- I wanted to be sure I wasn't going early -- I checked watches around and it was after 11:00, so I read a brief statement and proceeded to open the bids.

When the bids are brought in they are normally stamped in. In fact, I do two things: I make certain that the envelope is identified on the outside, and I always determine that it has been stamped in. I opened two bids.

CHAIRMAN CORY: Don, pardon me for interrupting.

But, since this may have some future relevance or value with whatever we end up doing here, can the staff take the various documents which we have accepted for the record in the order in which they are submitted -- I think we had the
packet from you, and we've had the bid package itself, and then we have the other two -- and you, with ink, start marking those so we know, in fact, they are in the record and what they are. And I guess that would presume some indication, the number of each separate piece of the bid package.

MR. TAYLOR: I think the first item that was identified which ought to be Number 1 is the Proposal of the State Lands Commission. So, we will mark --

CHAIRMAN CORY: If that's agreeable to all parties, I think we should ought to clarify that because somebody may want to make future reference to them.

MR. HILL: I think Mr. Taylor also indicated that he wished the files of the Division to be made part of the record as well. We have no objection to that.

MR. TAYLOR: Fine.

CHAIRMAN CORY: I think they're available, I'm not so sure --

MR. TAYLOR: I think we better put them in -- I think in order to avoid confusion as to what is in or out of the file, if you want time to look at the file --

MR. HILL: Well, I --

MR. TAYLOR: Well, virtually everything is here. My only problem is what might be -- I did say that at the beginning. I think it would be safer, because the Commission
will not have considered that if we're going to make it on this thing. We can do it on whatever is here. If there's anything you think that we have in our records with us --

MR. HILL: I have no ideas what is in your records.

CHAIRMAN CORY: If you believe that you need to look at those records, this item can be continued, and you can be granted sufficient time to do that.

I am hesitant to cavalierly say that everything's over there in the file is in the record when it's not physically present in the room if, in fact, things get lost inadvertently then it's a question of --

MR. HILL: I think we would like to take a look at the entire file.

CHAIRMAN CORY: Well, let me know before we conclude and reach a decision on this if you wish to do that.

MR. McGUIRE: If they were subject to a lawsuit that's a lot of prediscovery.

MR. HILL: We're going to get it anyway.

CHAIRMAN CORY: I think it's probably public record at this point anyway.

MR. TAYLOR: I would say this, Mr. Chairman, that I would believe the Commission can indicate -- I don't think the Commission has seen anything more than what it's being shown here and what was given to you in the Commission Calendar on this item, to my knowledge, is that correct?
CHAIRMAN CORY: That is correct.

MR. HILL: I think it would be appropriate for the Commission to base its decision on the broadest possible scope of evidence, and therefore, to the extent that the Division files can be made available, I would appreciate it. I think it's an excellent suggestion.

MR. BRADY: Everything that's relevant is here.

CHAIRMAN CORY: The key something that I overheard that may not be on the record is that everything that is relevant is salient. The point being, that I don't want to undertake the obligation to make that determination, not having looked at everything. And I don't want to mislead anybody, and that's why I'm hesitant about the record. I think we should, if anybody knows of anything that's relevant, if anybody that is sworn -- if I can make a Reinecke admonition -- it's the whole truth that we're asking for. And if anybody that is presenting testimony, that means if you have something that is relevant or might possibly be relevant, you're under the obligation to disclose it. If it is a staff member, I just want you on notice that that's what we expect. As far as I'm concerned, I don't have any strong feelings one way or the other on the outcome of it. I just want to find out what the facts are and make the appropriate decision.

So, we are on a fact-finding mission, not tacking
hides to the wall. So, if we've got, at least, an under-
standing now of what is currently in the record, and at some 
future point we can get to a juncture where we need to delay 
and get more information, we will take that necessary time. 
So, if we can go back to Mr. Everitts who started, the staff 
is proceeding with the documentation of those exhibits. 

MR. TAYLOR: We have exhibits marked for the 
reporter's benefit. We can give them to her after the 
hearing and have them incorporated as part of the record. 
The numbers have been designated so that she can have them 
clear. 

MR. EVERITTS: I might insert at this time that 
present with me from State Lands staff was Matt Brady, Al 
Willard, Supervising Mineral Resource Engineer, and Don 
Hoagland from the Sacramento office, and Chuck Priddy. 

CHAIRMAN CORY: That is in the conference room at 
the bid opening? 

MR. EVERITTS: In the conference room at the bid 
opening. 

EXECUTIVE OFFICER NORTHROP: At 10:00 o'clock. All 
of those people were there. 

CHAIRMAN CORY: And all of them were there at 11:00 
o'clock until the meeting concluded? 

MR. EVERITTS: Yes. 

CHAIRMAN CORY: In other words, none of them left
the room?

MR. EVERITTS: You came in after?

MR. BRADY: I came in after.

For the record, I came in after he had completed, or had just about completed, his opening address before opening any bids.

CHAIRMAN CORY: Mr. Brady came in before any bids were opened.

MR. EVERITTS: I proceeded to open the bids, identified who the bid was from, reading off of the envelope and reading the time that was stamped in. We got to the last bid --

CHAIRMAN CORY: Pardon me, Don. Was there a recorder, court reporter or any tape of the proceedings of the meeting?

MR. EVERITTS: No.

CHAIRMAN CORY: Go ahead.

MR. EVERITTS: We got to the last bid. I picked it up, and I said, "This bid hasn't been stamped in." I turned it over, and I said, "It's also not sealed."

At that time Matt Brady commented that the Commission could waive defects such as that, and advised me to proceed to read the bid, which I did.

CHAIRMAN CORY: Can you identify that package we've entered into the record as Mr. Post's bid packet?
MR. EVERITTS: That is the packet.

CHAIRMAN CORY: You've looked it over?

MR. EVERITTS: The word "Post" is on it, is my writing on the front in pencil.

CHAIRMAN CORY: Okay.

MR. EVERITTS: Matt, maybe you want to take it from there?

CHAIRMAN CORY: Do you have any knowledge or recollection -- you say you were in the room shortly before 11:00, commenced 11:00, at about one minute after eleven, and you made a statement and started opening bids. Do you have any recollection of how that packet got into the stack?

MR. EVERITTS: I do not have any recollection how the packet got in. I was surprised. I was busy reading other bids, and I went running through a pile and it just appeared.

CHAIRMAN CORY: Who can help us with how the bid packet got to where it is?

MR. HILL: Can I ask one question, sir?

CHAIRMAN CORY: Yes, sir.

MR. HILL: You have no knowledge of whether or not the bid was, in fact, sealed when it entered the stack that you were processing the bids from?

MR. EVERITTS: It was unsealed when I picked it up.
MR. HILL: Was the flap open?

MR. EVERITTS: It was loose.

MR. HILL: It was loose, but was the flap down?

MR. EVERITTS: Yes.

MR. HILL: Well, I suppose this is a question of what does sealed mean at this point. We could really make this point technical.

MR. McCAUSLAND: We don't have to make it technical. Did the flap stick to the body of the envelope?

MR. EVERITTS: The flap did not stick to the body of the envelope. That's one of the reasons I objected to opening the bid.

MR. McCAUSLAND: Then, it's not a technical matter of whether it was sealed or unsealed. It's a matter that the envelope was open.

MR. HILL: No, no. Excuse me. It may be that, one, the envelope was, in fact, sealed when it was handed in and became unsealed during the process of being handled. I don't know. Mr. Holmes --

MR. McCAUSLAND: I'll grant you that I don't know that.

MR. HILL: There is a question as to what sealed means. Generally, colloquially, I suppose sealed means that it is closed with some sort of adhesive substance. Sealed also means, if I'm not mistaken, that it is encased in such
a manner as to be obfuscated from view, so that if the flap were closed, although not fixed to the back of the envelope, I suppose it's possible that it would be sealed.

CHAIRMAN CORY: I would hope that I won't have to read any case law on that.

MR. HILL: Well, we're looking for some.

(Laughter.)

CHAIRMAN CORY: Do we have another member of the staff?

Would you identify yourself for the record.

MR. WILLARD: My name is Al Willard. I'm Supervisor, Mineral Resources Division.

CHAIRMAN CORY: Would you raise your right hand.

(Thereupon Mr. Al Willard was, by the Chairman, sworn to tell the truth, the whole truth, and nothing but the truth.)

THE WITNESS: I do.

TESTIMONY OF

AL WILLARD,
a witness being duly sworn, testifies as follows:

THE WITNESS: I was in the conference room at the time the meeting took place. I was on Mr. Everitts' right, and had assembled the bid packages for him. At approximately 11:00 o'clock, he did as he indicated, make the opening address, and then he commenced opening the bid packages.
During this time, after, at least, two bids had been opened, and at approximately five minutes after eleven, a gentleman came in -- I presume it was this Mr. Holmes -- and handed the bid package over to me. And I noted at that time that it was not sealed, and I placed it in with the group of packages -- actually inserted it on the bottom because there were still other packages to be opened.

CHAIRMAN CORY: Do you have any recollection as to which bids had been opened at that point in time?

THE WITNESS: No, sir. I don't recall the order of their opening, only that at least two bids had been opened.

MR. EVERITTS: I made a note of which ones had been opened.

CHAIRMAN CORY: But, can you place with any precision where you were on that list when that was handed to you?

MR. EVERITTS: If I had opened two bids when the package was brought in --

CHAIRMAN CORY: He says at least two, and I want to ascertain whether or not it was two, three, four, or five.

MR. HILL: I believe Mr. Holmes has indicated it was two.

MR. MC GUIRE: The next highest bid, did that get read yet or is that later on? One of the questions being
asked is whether there was advantage, and if the next highest bid was the one that had been read --

MR. EVERITTS: One of the higher bids had been read. There was a 41.1 percent bid by Republic Geothermal.

MR. MCGUIRE: Is that the second highest?

MR. EVERITTS: Third highest.

MR. MCGUIRE: The second highest had not been given.

MR. EVERITTS: No.

CHAIRMAN CORY: When was Gates and Fox Company, Inc., bid opened?

MR. EVERITTS: Fourth bid opened.

MR. HIGHT: For the record, Mr. Chairman, perhaps we can get the order in which the bids were opened so we can get some kind of perspective on this.

CHAIRMAN CORY: Can you give us that, Don, for the record, and if you have some notes there, we probably ought to mark that document, too.

MR. EVERITTS: My records show that Aminoil was the first bid opened with twelve and a half percent; Republic Geothermal was the second bid opened with 41.1 percent; the third one opened was the City of Santa Clara, 30 percent; the fourth one was Gates and Fox with 45 percent; fifth was Union Oil, 12.55 percent; and the sixth was George Post at 47.77 percent.

For the record, I should say that I made this order
of bidding up after the bid opening. I was not doing it -- that's how I remembered it immediately after the bid opening, the order of the opening.

CHAIRMAN CORY: Wally?

MR. McGUIRE: How soon before 11:00 o'clock were you or your company informed about this error, the error in the way you computed -- I mean, was it told to the person as he walked in the building, or was there a call that morning or what?

MR. HILL: No, sir. I think it is covered in one of these declarations, if I'm not mistaken.

MR. McGUIRE: Does State Lands remember when they notified?

MR. McCausland: It should be here in the affidavit.

MR. HILL: Yes. It must have been somewhere around 10:20, 10:25 of the day of the bid.

MR. McGUIRE: You mean, in other words --

MR. WILLARD: Excuse me. I think the question -- when they were notified of the irregularity of the bid?

MR. McGUIRE: No, no, no.

CHAIRMAN CORY: That's not the question.

MR. McCausland: Let me read the sworn statement, and you can tell me if you don't agree with it. It's page 2, Item 9 of David R. Wilson's declaration. It says:
"At approximately 9:30 a.m. on November 3, 1976, I received a telephone call from Mr. Brady at the offices of McKenna and Fitting; Mr. Brady stated that the information he had given me concerning the interest payments was incorrect and that interest payments would not constitute proper direct charges against the net profits account; Mr. Brady expressed his hope that the misinformation given by him had not affected the amount of the bid to be submitted by Mr. Post."

And then, skipping down to Item Number 11:

"At approximately 10:25 a.m., I conferred by telephone with Mr. Albert T. Holmes, Mr. Post's agent for purposes of submitting the bid; I informed Mr. Holmes that Mr. Brady had misinformed us about the chargeability of the interest payments; and I requested that Mr. Holmes call Mr. Jeffrey Sultan of McKenna and Fitting for further instructions."

So, Mr. Holmes was apparently aware of this at approximately 35 minutes prior to bid opening?

MR. HILL: That's correct.

MR. TAYLOR: Well, there may be a dispute on the timing of that.
CHAIRMAN CORY: Mr. Brady, would you raise your right hand.

(Thereupon Mr. Mathew Brady was, by the Chairman, sworn to tell the truth, the whole truth, and nothing but the truth.)

THE WITNESS: I do.

CHAIRMAN CORY: Did you make such a call, and do you have any recollection of the time of the call?

TESTIMONY OF

MATHEW BRADY,
a witness being duly sworn, testifies as follows:

THE WITNESS: I made a telephone call at approximately 9:30 that morning to Mr. David Wilson.

CHAIRMAN CORY: Approximately when?

THE WITNESS: Approximately 9:30. I agree with the declaration time here. I called Mr. Wilson as soon as I was aware of the difficulty.

CHAIRMAN CORY: Didn't the question become --

MR. TAYLOR: The question was when was the man --

MR. McGuire: Mr. Holmes.

MR. TAYLOR: -- Mr. Holmes informed of it?

MR. McGuire: You see, the receptionist's declaration talks about right about 10:00 o'clock, as I remember it. I don't see it. But, he asked to meet with you or to go to the phone.
MR. TAYLOR: Right.

MR. McGUIRE: And I don't know if he needed to call Mr. Sultan or whoever, that would conflict a little bit, that would mean shortly after 10:00.

MR. HILL: I think that's covered in these declarations as well.

MR. McGUIRE: I'm suggesting there's a conflict -- well, I'm not suggesting there's a conflict --

THE WITNESS: My recollection was that I told Mr. Holmes of the difficulty at about 10:10, to 10:15, at about the time he walked in. And we had a little bit of time in Mr. Priddy's office. I remember it was not 10:30, it was earlier than that, because I was looking for whomever was there representing Mr. Post to inform him of the difficulty, and that I talked with Mr. Wilson and that Mr. Wilson, the representative.

MR. HILL: Some of this ties, because Mr. Holmes says, "At approximately 10:25," on page 2 of his declaration that he talked to Mr. Wilson. So, that would leave what, ten minutes, maybe, between the time you told him and the time he talked to Wilson.

CHAIRMAN CORY: I'm not sure of the relevance of that.

MR. McGUIRE: Let me tell you why -- it was why it was relevant to me. Was Mr. Holmes the person who then
recalculated the changes, or did he make that phone call just to get the new figures? In other words, was his a mechanical job of changing it, in which case I don't see why he waited a half hour to change it, or did they over the phone have to work out the new figures?

MR. HILL: No. The alternative figures had been worked out earlier.

MR. McGUIRE: So, if he called in at 10:00 --

MR. HILL: He called in, a series of telephone calls transpired during this time, during which Mr. Post authorized the change to be made.

MR. McCAUSSLAND: I don't find that in the affidavits. I find Mr. Post being in communicado from 10:20 -- well, sometime after 10:20 when Mr. Holmes talked to Mr. Post.

Mr. Post left for a meeting where he couldn't be reached until after the bid opening. Mr. Holmes talked to Mr. Wilson; Mr. Wilson said to talk to Mr. Sultan. Mr. Holmes called Mr. Sultan, and Mr. Sultan authorized him to change the bid, according to the affidavits.

MR. HILL: Yes. Mr. Post was contacted about 10:15, at that time he authorized Mr. Holmes to change his bid.

MR. McGUIRE: Did he give him the new figures at that time?

MR. HILL: I don't know. You can ask Mr. Post if you so desire.
MR. McCUSLAND: The affidavit suggests that

Mr. Post was apprised of the problem. The affidavit suggests

that Mr. Post was contacted because there was a technical
deficiency in the bid, because Mr. Post did not sign one of

the documents. Mr. Priddy had suggested that Mr. Post needed
to sign that, and the affidavit suggests that Mr. Post didn't
know anything about the change in the ground rules until

following the bid opening.

I guess we can accept that as stipulated.

I have a line of questioning I'd like to pursue.

CHAIRMAN CORY: You're concerned about this time

thing.

MR. MCGUIRE: Let me get mine out, and then I'll

be quiet.

The various legal questions, as I understand them,
is one, this material, whatever it is, whether it was sealed,
whether there was a power of attorney and whether it was
two minutes late or five minutes late or something -- you
are contending it's not material, and maybe I'm persuaded
on that.

The other question is was it excusable, and that
goes to the matter of time. I mean, if he, in fact, had
made those changes at 10:30, waited for a half hour, and
then came in late, that goes to the question of excusable,
was the delay excusable and what not. And that's the only
reason I'm asking.

The next question was, was there advantage involved. In other words, was that delay -- whether or not it was late and excusable -- was a material advantage and I don't know whether or not that person -- could he hear outside the room those first two bids, was the door closed, was the sound amplified? And those are questions that seem to be relevant. And if he could not hear outside the room, then there's no advantage. If he could, then there's a question that has to be answered.

MR. McCAUSLAND: I think that the --

MR. McGUIRE: Well, the power of attorney question I would rely on Greg Taylor on that. And the final question I'd like to ask later is what are the consequences of the three courses of action? Are we liable to a suit from the second highest bidder if we choose the first or from the first if we choose the second? And if we reopen them all, do we get sued by them all or get sued by nobody?

MR. TAYLOR: If you go out and readvertise, there will be no lawsuit.

Mr. Hill has informed us if he is unsuccessful in his persuasive ability with you this morning, that he will sue us tomorrow. So, we know of that for certain. We don't have the second bidder in, and we don't know about any of the other bidders who might raise a problem.
It's my understanding that the remedy in Court would be to direct us to hold another bid.

MR. MCGUIRE: Everybody has put their cards on the table, now, and yet no one can contend that having a second bid -- they have already showed their hands, I mean, everybody knows what the second and third person is going to bid.

MR. TAYLOR: We never know. There have been rebids, and you just never know.

MR. MCGUIRE: That's all the questions I have of the facts.

MR. TAYLOR: Do you want to ask them again?

MR. MCGUIRE: Was there advantage? Does anybody know whether or not Mr. Holmes could have heard outside that room, the first two bids that were read, because that seems to be the question right now.

MR. HILL: Excuse me. If you were going to be late, and you were dillying around as you may imply, there's no point in waiting for two bids, he should have waited for five bids and then come rushing in.

I assume, talking to them, no, he says he did not hear anything.

CHAIRMAN CORY: It depends upon how he plays Blackjack. If he counts cards, you don't really know what's coming up, but you know you've got the odds against you.
(Laughter.)

CHAIRMAN CORY: There might be some reason.

MR. HILL: Possible. Then, he'd be running back changing it again, taking a half hour. It really doesn't make sense to me, then.

MR. McGUIRE: I guess I asked really, if we chose your client and the first people sued, their legal question becomes advantage? That's what I'm asking.

MR. HILL: Yes. I honestly don't know what the sound transmission characteristics are of that room. I don't even know if a door was open or closed.

MR. BRADY: One of the doors was opened.

MR. HILL: Then, you know, conceivably he could have heard. He could have been running into the darn thing, I don't know.

The question is does that give him a substantial advantage if he did hear, and what we're saying is, no, it didn't make any difference because he couldn't change his bid at that point. What could he do? He was running in, handing in the bid without any way of knowing what the next ones are.

MR. McGUIRE: Unless he stopped on the way in.

I'm through.

CHAIRMAN CORY: Sid.

MR. McCAUSLAND: I've read through the extracts
from case law which you presented. I found cases where there were numerous technical deficiencies in the bid documents. I only found one case in that documentation where there was a procedural defect in the sequence of events. And in that instance, the bid was submitted after the closing time, while the other bids were being sorted.

And as I read the case I found no reference to any bid being opened prior to the submittal of that bid. I find it hard to believe that case law would support the concept of accepting bids after other bids had been opened, be that bid sealed, unsealed, or in any way, shape, or form. And I'm not persuaded that a court of law would find this Commission acting capriciously if we upheld that portion of our procedure which calls upon us to have all bids in hand before we commence opening, and not to accept any after we started them.

MR. HILL: That's problematical at this point.

What we are suggesting, of course, is that a court would just as easily uphold the undertaking of Mr. Post's bid, that there really is no difference about --

MR. McCAUSLAND: What is the purpose of -- I'm sorry for interrupting.

MR. HILL: There really is not difference, substantively, if a bid is submitted while other ones are being sorted or one other being opened.
MR. McCausland: Oh, substantively, there is.

MR. Hill: Not necessarily, no, no. The question, again, is whether or not anyone else was prejudiced upon that fact. That's the question.

I can conceive of a situation where one has a blind-deaf man carrying in a bid and he stumbles, and he gets it in late. No one is hurt by that.

MR. McCausland: You can also conceive of a situation which has taken place in college classrooms, where one individual is electrically wired and another individual isn't. And I'm not casting any dispersions on anybody in this instance, but I'm suggesting that the reason for the ground rules is to treat all individuals equitably and with the same basic information from the start of the process.

MR. Hill: Right. And that's why the point is whether or not there's been prejudice against anybody else by this technical deficiency. That's really the point, not the fact that there's been a minor deviation from the established pattern.

MR. McCausland: It's not a minor deviation to submit a bid after other bids have been opened. That is a significant deviation.

Chairman Cory: That's what we're here to determine, I guess.

MR. McCausland: All right.
MR. HILL: That's precisely what we are here to determine.

MR. TAYLOR: Mr. Chairman, it might be pertinent to ask the various parties who were present if they would look at the bid package and compare its condition now to its condition at the time they first saw it. That would be one question, I think, that would be pertinent to be asked.

CHAIRMAN CORY: You have the bid package, would you identify it, please?

MR. WILLARD: Yes. My name is Al Willard.

MR. TAYLOR: This is a bid package.

MR. WILLARD: This is the bid package of George P. Post.

MR. TAYLOR: And the number on the right-hand corner is?

MR. WILLARD: Number 14.

CHAIRMAN CORY: Number 14.

MR. WILLARD: And, indeed, it's in the same condition that it was in when it was handed in.

MR. HILL: May I ask why it's number 14?

MR. TAYLOR: Mr. Brady has been sitting here, and we have gathered these things up in some order and numbered them.

MR. HILL: Oh, I'm sorry. I'm sorry. I thought it was the number of the --
MR. TAYLOR: No, just for this proceeding.

CHAIRMAN CORY: Just as an exhibit.

MR. BRADY: In the order received.

MR. EVERITTS: Don Everitts. As far as I can tell it's the same envelope that I received in the same condition, just like this when I picked it up off the table, with the exception of the penciled notes that were made on top (indicating).

CHAIRMAN CORY: Mr. Brady, can I see the packet for a minute?

MR. TAYLOR: Mr. Chairman, I also would like to ask Mr. Everitts if whether or not he received any requests for a delay in the start of the bid opening?

MR. EVERITTS: I did not receive any requests for a delay in the bid opening.

CHAIRMAN CORY: I just want to ask, was that the condition it was in (indicating)?

MR. EVERITTS: No. It was flapping loose.

CHAIRMAN CORY: Okay. I just want to point out the frail thing that we are dealing with here, because earlier I had pressed across it and one corner was sealed and the major portion didn't.

MR. EVERITTS: It was laying on the table like this, and I picked it up and the first thing I said was that it hadn't been stamped in. I turned it over to start to open
CHAIRMEN CORY: What does that phrase stamped in mean?

MR. EVERITTS: When they bring it in there's a time stamp on it.

MR. WILLARD: Date and time.

CHAIRMEN CORY: Where should that have been affixed to that document?

MR. EVERITTS: At the front desk when we bring them in. The normal procedure is --

CHAIRMEN CORY: The receptionist?

MR. EVERITTS: -- the receptionist does it.

MR. HILL: Do you know why she didn't do it in this instance?

MR. EVERITTS: I sure don't.

MR. HILL: Mr. Post said that he made the receptionist, I think, aware of the fact that he was there for the purpose of --

CHAIRMEN CORY: Mr. Holmes?

MR. HILL: Mr. Holmes, I'm sorry.

MR. BRADY: We knew he was there, yes. We didn't know where he was.
MR. HILL: Is the office very big?

MR. BRADY: It's not an insubstantial office.

MR. HILL: How many offices?

CHAIRMAN CORY: Entire floor, as I recall.

MR. BRADY: Yes.

MR. HILL: Nobody thought to inquire as to why he wasn't at the opening?

We had this rather protracted series of discussions by telephone. He was in Mr. Priddy's office. But, nobody thought to find out where Mr. Holmes was?

MR. BRADY: If I can back up for a second, for the record, I told Mr. Holmes when I went into the office which I was using at the time, that there was two minutes to go before the bid opening to begin. And he said, "Fine," and waved me off, and I went out the door.

Also, I'd like to point out that there is an affidavit of Lovia Miller, which is Declaration 15, and she states that she was the one that did all of the typing on the bid offers, and she remembers the times and things like that.

And she indicated that whenever anybody came to the office, she informed them -- she inquired as to whether they were there for a bid opening, and all of the individuals who said they were there for the opening were informed that the bid opening would take place in the conference room down
the hall to her left. And that further -- I'll just continue reading this -- and that she remembers an individual coming through the office; she inquired whether he was for the bid opening and he indicated that he was.

"I informed him that the bid opening was down the hall to my left. He then indicated that he needed to use a telephone to call his office. At that time Beth Longstreth led him to Charles Priddy's office."

"At approximately 11:03 a.m., I saw this same individual coming from the direction of Priddy's office. He walked past the receptionist's desk and down the hall into the conference room. He did not inquire of me as to where the bid opening would take place, and he walked past the receptionist's desk."

He knew where the bid opening would take place, at least, this is our position. And he was aware that at 10:58 that there was two minutes to go before the bid opening would begin.

MR. HILL: Does she state in her affidavit why she didn't stamp in his bid?

MR. BRADY: He asked to go to the phone. I do not have any idea why.

CHAIRMAN CORY: You had some questions you would
like to pursue?

MR. McCausland: (Shakes head.)

I'd like to see us get as much money as we can, but I'd like to make our process be preserved.

Chairman Cory: Having outlined mutually exclusive goals, do you have a preference, a weighted average?

(Laughter.)

MR. McCausland: I move that we adopt the staff recommendation.

Chairman Cory: We have a motion to adopt the staff recommendation.

Before we do that --

MR. McGuire: Would you repeat the staff recommendation?

Chairman Cory: The staff recommendation was to accept the number two bid.

MR. Hight: Do you want to give Mr. Hill a chance to look at the file?

MR. Hill: May I just peruse that thing quite quickly?

Chairman Cory: Are all of the documents here or --

MR. Brady: We have all of the respective bid packages submitted in the room here today.

MR. Hill: Excuse me, I'm not interested in bid packages at all.
MR. BRADY: We do not have the Division file. It is in Long Beach. We do not have it here with us.

CHAIRMAN CORY: Your preference would be to have an opportunity to peruse that file?

MR. HILL: I have no idea what's in it. I assume it contains some memorandums or something of that nature. Are there any memoranda respecting this problem, acceptance of Mr. Post's bid?

MR. BRADY: I'm unaware that any have been put into the file.

MR. HILL: Are you the custodian of the file?

MR. BRADY: No, I'm not. It is in Long Beach, as I say.

CHAIRMAN CORY: But, the question is, have any been made, do any exist, not whether or not any are in the file. And that raises the question of client privilege and potential litigation, and that's one that, I think, we can stipulate that there may be certain working documents of lawyers that you're not asking about?

MR. HILL: That's correct. I'm talking about the contents of the Division's file.

MR. EVERITTS: I'm not aware of anything in the file that even relates to the problem, Calendar item.

CHAIRMAN CORY: Don, now the question is not what may, in fact, physically be resting in the file. The
gentleman wants a straight answer as to whether or not any letters have been drafted, interoffice things, other than that which will be protected by attorney-client privilege on the subject. And I think we owe him a direct, straightforward answer to that question.

If they exist, that doesn't really mean that he has the right to look at that to know what his case is or isn't. I don't know about the other Commissioners.

MR. HIGHT: Mr. Chairman, to my knowledge and to the best of my knowledge, there is only one letter that has been written on this subject, and that was the letter by the Executive Officer to --

MR. BRADY: Two letters.

MR. HIGHT: Two letters?

MR. BRADY: There are two letters, one written to the five other bidders, and one written to Mr. Post through Mr. Sultan and Mr. Dave Wilson of McKenna and Fitting. Those are the only two letters I am aware of that have been written pre the date of the bid opening -- or post opening.

MR. HILL: There's no memranda or anything like that in the file with respect to directing somebody to write that letter, anything of that nature?

MR. BRADY: I'm unaware of anything that was written to the file. I'm unaware of anything that has been written, let's put it that way.
CHAIRMAN CORY: Mr. Everitts, you aren't aware?

MR. EVERITTS: No. There is a file memo written after the deadline which is a standard file memo.

CHAIRMAN CORY: Do you have a copy of that?

MR. EVERITTS: Yes.

MR. HIGHT: Have you had a chance to see that?

MR. HILL: No, I have not.

CHAIRMAN CORY: Let us take a five-minute recess at this point to take care of some pressing problems and to enable you people, off the record, to try to disclose as openly as you can what is there so we know whether or not it needs to be put over.

MR. TAYLOR: I have a question on one document I would like to at.

CHAIRMAN CORY: Okay. So, we'll take a five-minute break for that purpose.

(Thereupon a recess was taken.)

CHAIRMAN CORY: Are we ready to proceed?

MR. TAYLOR: Mr. Chairman, I have a document which bears file reference number W9583. It's written in orange crayon on it, Confidential, on the top, and has Rough Draft in capital letters, each letter of the word roughed out and spaced and underlined.

I placed in the upper right-hand corner number 18. We have Mr. Hoagland here, who is a member of the State Lands
Division staff, and you can swear him in, Mr. Chairman, then he can identify this document.

CHAIRMAN CORY: Having known Mr. Hoagland for some time I'm not sure that swearing him in would do any good.

(Laughter.)

(Thereupon Mr. Donald Hoagland was, by the Chairman, sworn to tell the truth, the whole truth, and nothing but the truth.)

THE WITNESS: I do.

CHAIRMAN CORY: Proceed.

MR. TAYLOR: Would you look at number 18 and tell me whether you can identify it?

THE WITNESS: Yes.

MR. TAYLOR: And what is it?

THE WITNESS: It is a memorandum, rough draft memorandum I prepared after the bid opening on November 3rd.

CHAIRMAN CORY: You were at the bid opening?

THE WITNESS: Yes.

MR. TAYLOR: Okay. Would you show that to Mr. Hill.

Do you know of any other memoranda that we have in connection with this bid opening?

THE WITNESS: No, I do not.

MR. TAYLOR: Mr. Chairman, off the record Mr. Brady prepared on a slip of paper an inventory of the contents of...
the file, and has read that list to Mr. Hill. And I'll ask him to prepare a sheet and put in the exhibits after this hearing the documents which he identified to Mr. Hill. We represented to him that those are the only files, the only items that we know of in that file since the bidding was announced.

And we've also represented to him that there is no other memoranda concerning this transaction with regard to individuals on the staff that any of us know of, whether it's in or out of the file. And we have some scratching of cases and different things that we have been looking at as we have been discussing with Mr. Hill and his people and among ourselves as to what the applicable law is on this subject. I don't think those are pertinent, and I think Mr. Hill agrees with me on that, as long as they don't have discussions in them of our position.

And we represent to him that we do not have any such information in our possession.

MR. HILL: That's fine. I accept your representation.

MR. McCAUSLAND: Mr. Chairman, just to clear up the record I'd like to withdraw my earlier motion since it never got to the second stage --

CHAIRMAN CORY: We're now back to ground zero without a motion.

(Thereupon a discussion was held off...

CHAIRMAN CORY: Has that been added into the record?

MR. TAYLOR: Yes. It's number 18.

Would Commission care to look at this?

CHAIRMAN CORY: Don, you have read this, and are you willing -- this is a memorandum, rough draft, which was prepared. Have you gone over it, are you willing to stipulate under oath that this is the best recollection that you have that these are the facts --

MR. HOAGLAND: Yes.

CHAIRMAN CORY: -- the best you can recall them?

MR. HOAGLAND: Yes.

CHAIRMAN CORY: So that we can, in essence, accept this as Mr. Hoagland's recollection under oath rather than asking him to go through all of the details.

MR. HILL: That's fine, Mr. Chairman.

CHAIRMAN CORY: Now, specifically your recollection was that when Mr. Holmes appeared, at approximately 11:05, two bids had already been opened?

MR. HOAGLAND: That's right.

CHAIRMAN CORY: No more?

MR. HOAGLAND: I believe the only two bids had been opened.

CHAIRMAN CORY: And do you have any recollection
as to the order in which they were opened or not?

MR. HOAGLAND: I'm not certain. But, I believe that it was in the order that Mr. Everitts read earlier.

MR. McCUSAUSLAND: I'd like to read one sentence, Mr. Chairman. On the second page there is a sentence which reads -- this is relating:

"Holmes appeared and placed his bid package on the table. Brady motioned to push it aside, and the remaining bids were opened. After all the bids were opened, Brady stated the remaining bid was delivered earlier, but because of some confusion caused by information supplied by him a delay had been caused. He noted the Commission reserved the right to waive technical bidding deficiencies. He said they would open the bid."

Mr. Brady, would you be willing to support the statement which said:

"Brady stated that the remaining bid had been delivered earlier, but because of some confusion caused by information supplied by him a delay had been caused"?

MR. BRADY: At that time I was unaware that there were any defects in the bid as it arrived.

What I said at that time was that the, "The bid is late, the bid is defective."
The Commission, under its discretionary authority, reserves the right under the bid proposal to waive any technical defects.

MR. McCausland: Would you be willing to say that you made a statement to the general end result of saying that the bid had been delivered earlier but was revised after it had been delivered on the basis that there was a change in the information?

MR. Brady: The bid had been handed to Mr. Priddy, and Mr. Priddy said, you know, "It's light." And then they took it back. The bid could be technically said to have been delivered at that time, but if the bid had been delivered at that time it would have been considered insufficient and in defective condition at that time.

MR. McCausland: Thank you.

MR. Hill: The fact remains, though, that one of the motivating factors in changing the bid, and one of the more significant factors in delaying the final deposit of the bid, was the fact that Mr. Holmes had been misinformed as to the chargeability of certain expenditures, is that not correct?

MR. Brady: I would like this -- I think I have to address this issue in its entirety, and basically said -- Mr. Chairman?

Chairman Cory: Yes.
MR. BRADY: If I may, I have a fairly detailed statement regarding the information which apparently caused some difficulty. At 4:10 on November 2nd, the day before the bid opening, I received a call from Mr. David Wilson who indicated that he was representing a client whose intention was bidding the next day on the proposed geothermal lease sale.

Mr. Wilson had a question to me relative to the accounting procedures to be followed, specifically, to the deduction of interest charges for money borrowed to finance the operations under the lease. It had been a substantial period of time since I had reviewed the lease, and at that time I had indicated to him that I did not know the answer at the time, although I had been familiar with the lease covenants, and specifically, the accounting procedures.

I indicated to him that I would have to contact the accounting staff to specifically find out what they intended to include on what I would consider a catch-all phrase based on a reference to industry standards.

At that time I made a call to one of the accountants in the Long Beach office and I made the -- asked the question of him. He said he was not specifically sure about that. He wanted to talk with one man additional. So, we went to the third man to find the answer. He was not in the office at that time, and was not there until the following.
morning.

I was so informed by the accountant. The accountant said it's a normal business expense for the accounting purposes, for tax purposes, "It seems reasonable to me." I then, in turn, called Mr. Wilson and informed him in a telephone conversation. The substance of that conversation, basically, was that Mr. Wilson was aware of the fact that I could not give him a definitive answer on a question, specifically, because I did not have all of the information. I could not talk with the person who had the information at that late date as the individual who's responsible, or who was the most knowledgeable in that matter, was not available.

Mr. Wilson was made aware of this problem, and I suggested to him that I could not give him a definitive answer. He recognized this, and said, "Thank you. We'll proceed based on what we think is reasonable." And I said, "That sounds like a reasonable idea."

That's basically where we left it.

The next morning, I flew to Long Beach and arrived at about 9:30 and contacted the individual who's the most knowledgeable about 9:15, got the information, got the answer, and the first opportunity called Mr. Wilson.

CHAIRMAN CORY: Okay. Do you have any last pitch to make?
MR. HILL: Well, Mr. McCausland indicated that he is concerned about the fact that we may have prejudiced other parties by the delayed handing in of the bid. If it would be helpful to him --

MR. McCausLAND: No. Let me put my statement in context.

I'm quite concerned about the integrity of the bidding process. I think that it's been -- it's served the public well. My statement referred to a belief on my part that it was fairly important to not begin establishing a precedent that could spill over into other even more substantial bids in the future. I'm convinced that equity considerations in this matter may be more substantial than the procedural problems, particularly, on the basis of the most recent memorandum that I have just reviewed. So, I don't think we can go into that at this point.

CHAIRMAN CORY: Mr. Taylor, do you wish to comment?

MR. TAYLOR: Mr. Chairman, I think to summarize this, one, there is a question as to whether we owe any duty under any circumstances to any perspective bidder. The next situation that --

CHAIRMAN CORY: It's the clear position of Government we don't owe anything to anybody, right?

(Laughter.)

MR. TAYLOR: I think that part of that may be
inherent in the kind of bidding process. These bids were sent out the latter part of August and the first part of September. Then, you have a situation, irrespective of that question, that the correct information was supplied, and apparently a decision was made with regard to the bid that was going to be ultimately endeavored to be submitted at 11:00 o'clock. And that seems to be completely different to the first situation, because it seems to cast some question on the relevance of the prior discussions on Friday, if that were, in fact, the case.

We then have a situation of the admitted late arrival and the fact that the bids had already begun to be opened. I have found no case where the bids disputed at this time were accepted and sustained or not sustained, and I don't think that Mr. Hill has either from the materials he submitted to us.

We have found one case in the situation where in the exercise of the discretion of the body awarding the bids, they accepted a second bid where there had been some confusion about designating the group with which the person was to go, and the court held that the discretion was handled -- that irrespective of that the discretion was correctly, or was sustained, in taking the second bid, second highest bid.

We are going to be representing you whatever
decision that you're going to be making, and so rather than
-- I guess we're going to do a good job of soldiering whatever
way we go on this particular one. So, I think those are
the choices, and I've just tried to lay them out.

Again, in order for you to find for the first bid,
you must find in your discretion that you can waive any
defects, and that they have not given any other bidder --
haven't given this bidder any substantial advantage over any
other bidders.

And, again, the paragraph which is pertinent in
this Lease Proposal says that:

"No deviation from any requirements or
provisions included within the form of the
bid-lease, or from the requirements or
provisions which are specifically set forth
hereafter in this proposal shall be permitted;
provided, however, that the State Lands
Commission may, in its discretion, waive any
technical defect which does not give the
bidder any substantial advantage over other
bidders."

In order for you to make a finding that is
recommended -- in order for you to find for the first or the
highest bid submitted you must make the finding in
accordance with this paragraph. Otherwise, your acceptance
of the staff recommendation of the second one would find that
there would be no waiver of any of the defects which have
been mentioned, and you would so exercise your discretion
that way. The highest, then, would be the second bid.
And that's just about where it comes down to.

There is a third alternative. The third
alternative is to readvertise for new bids.

CHAIRMAN CORY: Wally?

MR. McGUIRE: I would just agree with what you
said that I would like to maintain the process, the integrity
of the process, but I only would want to do so if we have
clean hands, and I don't think we do. And thus, I would
make a motion that we go against the staff recommendation
and approve Mr. Post's bid as the highest bid. And that's
it.

CHAIRMAN CORY: With the finding that there is
no substantial advantage due to the technical defects?

MR. McGUIRE: That's right. I don't think the
technical defects that occurred are substantial, and I
incorporate that paragraph in that motion.

MR. McCAUSLAND: Second.

CHAIRMAN CORY: We have a motion and a second.
Is there anybody in the audience who wishes to
address the Commission?

For the record, let me state that I find, given the
facts presented here, that the technical defects could not have given any substantial advantage to the Post bid, and therefore, I think they were the high bid at the time and will vote accordingly.

All of those in favor of the motion signify by saying aye?

(Ayes.)

CHAIRMAN CORY: Opposed?

The motion is carried.

MR. HILL: Thank you.

CHAIRMAN CORY: The only other item we have is the next meeting will be January --

EXECUTIVE OFFICER NORTHROP: 26th in Sacramento.

CHAIRMAN CORY: January 26th in Sacramento.

If there is no further business before the Commission, we stand adjourned.

(Thereupon the December 15, 1976 meeting of the State Lands Commission was adjourned at 1:00 p.m.)
STATE OF CALIFORNIA

COUNTY OF PLACER

I, DIANE LYNN WALTON, C.S.R., a Notary Public in and for the County of Placer, 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, Diane Lynn Walton, a Certified 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 10th day of January, 1977.

DIANE LYNN WALTON, C.S.R.
Notary Public in and for the County of Placer, State of California
C.S.R. License No. 3067

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