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MEMBERS PRESENT
Hon. Kenneth Cory, Chairman
Ms. Betty Jo Smith, representing Mervyn M. Dymally
Sid McCausland, representing Roy Bell

MEMBERS ABSENT
Hon. Mervyn M. Dymally, Lieutenant Governor
Roy Bell

STAFF PRESENT
Mr. William F. Northrop, Executive Officer, State Lands Commission
Mr. R. S. Golden, Assistant Executive Officer, State Lands Commission
Mr. James F. Trout, Manager, Land Operations, State Lands Commission
Mr. Robert C. Hight, Staff Counsel, State Lands Commission
Ms. Diane Jones, Secretary

ALSO PRESENT
Mr. Jan Stevens, Attorney General's Office
CHAIRMAN CORY: We'll call the meeting to order.

Are there any corrections or additions to the minutes of the meeting of November 30th?

They will be confirmed as presented.

We have the report of the Executive Officer.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, this is a rather lengthy report, and really what we've done here is a recap of some of the highlights of '77 and to inform you as to what's happening.

The Commission has been successful in negotiating several percentage of gross revenue leases on our commercially-used lands. It is anticipated the use of this type of lease will be expanded during 1978.

In spite of numerous impediments to leasing activity in several areas, calendar item production during 1977 increased to 302 from 289 in 1976. Litigation on highs/low water and the public trust issues, as well as studies at Bethel Island, have thwarted efforts to increase leasing in those areas.

We are receiving some positive results in negotiations with the U.S. Navy and General Services Administration, both at the regional and Washington levels, regarding potential exchanges of lands that will provide us
a more manageable land unit. It is anticipated long-range
benefits from these efforts will be substantial.

In March, revised Administrative Code sections
were implemented and provided for realistic charges for
the recreational use of our lands.

The Commission entered into two significant
volumetric lease arrangements during this calendar year
which will result in increased rental revenues of over
$75,000 annually.

Rental negotiations have been concluded on five
additional volumetric rental lease agreements which will
appear before the Commission early in 1978. It is
anticipated that annual revenues on these five leases will
exceed half a million dollars.

By the end of 1978, it is anticipated that an
additional four to five volumetric rental leases will be
concluded which will increase revenues by another several
hundred thousand dollars.

A settlement agreement was reached and approved by all
parties of a long-standing dispute concerning tide and
submerged lands granted in trust to the City of Los Angeles
and administered by the Board of Harbor Commissioners.
Negotiations were conducted under the auspices of the staff
and the Attorney General's Office.

Settlement, we feel, avoided a prolonged court
battle and provides for the resolution of past claims and establishes procedures for handling billings, rents and payments in the Los Angeles Trust from now on. It paved the way for much-needed capital improvements and other projects on the tidelands and strengthened the objectives of the tideland trust and increased the job activity in the Los Angeles area.

A settlement of U.S. Forest Service timber trespass activity resulted in approximately $81,000 in revenue for the State and additional jobs in the timber harvesting industry.

Procedures were developed for the handling of emergency projects and other health and safety projects such as mosquito abatement activities during the year. With Commission approval, staff was able to react quickly to requests from other agencies in handling emergencies brought on by the drought and other natural conditions.

Significant progress has been made in developing proper administration of the trust in Tomales Bay.

Staff has responded to some 1600 Corps of Engineers notices during 1977 compared to 1500 in the previous year.

Substantial Commission efforts in cooperation with the Wildlife Conservation Board and the Attorney General's Office resulted in a Boundary Line Agreement and settlement.
of the San Elijo Lagoon project, which allowed that project then to start building. Briefly, it amounted to the state's acquisition of some 267-plus acres of property owed by United California Bank.

The settlement successfully reduced the potential claims from $2,650,000 to the amount of approximately $910,000. The property is being utilized as a valuable wildlife refuge and natural area.

Similar efforts have been successful in other areas.

In the San Francisco Bay Area the Division has continued its program of sovereign trust identification by compromise title settlements. Staff has submitted ten proposals for your consideration this year, including exchanges and boundary agreements in lieu of litigation as well as settlements, in whole or in part, of three major law suits for a total identification of the trust, in fee or easement, in over 10,385 acres of estuary land. So, the Commission has done its area in environmental protection as well.

The Commission is proceeding with the implementation of its exchange evaluation and the Land Bank Concept.

On title and boundary settlements in general, a record high of 13 Boundary Line Agreements were finalized in 1977, including those in the San Francisco area. In contrast, seven were processed in 1976 and only one in 1975. If one
really needs to understand the importance of a boundary
line agreement, one should just witness the development
that has gone on now that the boundaries have been
established.

Fourteen field surveys were conducted in 15 counties
from the Oregon border to Needles on the Colorado River.

In addition, the Commission has independently
settled four trespass lawsuits, three of which were on the
Sacramento River.

During this second year of the drought, the
Commission has initiated a number of major programs to
remove obstructions, both man made and natural, from the
State's navigable waterways. A portion of this program
is financed by $500,000 allocated to the Commission by
the State Legislature in the '77-'78 fiscal year budget. Under this
program, the Commission has thus far arranged for the
clean-up of the Lower American River, the Sacramento River
from Shasta Dam in Shasta County to Grimes in Colusa County
and has already removed 82 percent of the designated
obstructions at Lake Tahoe.

We have also been successful in obtaining approximately
$2.5 million in federal grants in the past four months.
The staff has, in effect, increased the Commission's budget
by one-third.

These monies are contained in three separate
grants: two for approximately $1.2 million for removing obstructions from the Sacramento-San Joaquin Delta. This project, as you know, is already underway; and $787,000 for the identification and removal of obstructions from Southern California tidelands, that is, Elwood, Goleta and that area along Santa Barbara; and a half a million dollars for watershed and forest rehabilitation of State school lands which were burned over during the last fire season.

In the oil and gas area, oil and gas revenues received during 1977 totaled nearly $21 million, exclusive of Long Beach Tract 1. This compares with 25,475,000 received in 1976. This $500 million drop is due largely in part to the insensitivity of the Federal Energy Administration on our crude oil pricing.

Approval was received for the resumption of drilling operations in four leases in the Huntington Beach offshore field, and drilling was commenced. Redrilling operations also commenced on three leases in the Summerland and Carpenteria offshore fields, two leases in the South Elwood Field, one lease in the Rincon Offshore Field, for which permission had been previously granted by the Commission.

In the area of geothermal, a prospecting permit was issued to Geothermal Kinetics to prospect for geothermal
resources on Boggs Mountain in Lake County. This calls
for drilling of two exploratory wells and will help really
assess the geothermal potential of the area, as well as
demonstrate that geothermal resource development can be one aspect
of multiple use of State lands.

Total revenue to the State of $3 million continues
to be held in trust fund pending the appeal, or at
least disposition of the appeal, on the Periani case.
Annual geothermal royalties to the State is now
about $3.5 million a year.

Two net profit leases were awarded during 1977.
The leases—one in Lake and one in Sonoma County—brought
the highest bids ever offered for geothermal development
leases in The Geysers area by either the state or federal
government.

A subsurface field geological evaluation program
was conducted at California City in response to a
request that the State relinquish its rights of surface
entry. Five 750-foot holes and 12 30-foot holes have been
drilled, and no economic mineral deposits have been uncovered.

A bid lease on Owens Lake, Inyo County was
approved for the production of trona and soda ash.

The staff of the Commission was authorized to
issue dredging permits for ten thousand cubic yards or less
in an effort to expedite the processing of such permits.
As a further step to speed up the issuing of permits, the position of Dredging Coordinator was established in Sacramento.

Long Beach Unit tax appeal problems.

The Long Beach Unit 1 and 2 contracts provide that the City Unit expenditures, including payments for county and state mining rights and property taxables, are chargeable against net profits. Thus, 96 and one-quarter percent of tax payments are, in effect, a burden on tideland oil revenue. Due to the City of Long Beach's $9 million annual limitation on the retention of tideland revenue any incremental change is borne by the State.

For the tax year '77-'78, the Los Angeles County Assessor valued the Long Beach Unit at $674 million and levied a tax in the amount of $16.4 million. This was a 40-percent increase in the $433 million valuation of the previous year. This tax levy was increased by 4.1 million. The increase in assessment reflects the Assessor's opinion of fair market value -- I certainly wish he would go talk to FEA -- which is based on the projection of future revenue of the Long Beach Unit.

The Participants assert there was no bases in fact for a 40-percent increase in future revenue in view of the continuing federal price controls on crude oil and considering that nearly a $100 million of value was extracted
from the Long Beach Unit since 1976, and that evaluation was made at that time.

At its August meeting, the Commission authorized the Executive Officer and the Office of the Attorney General to take appropriate action to effect the timely filing of an application for reduction in the 1977 assessment of the Long Beach Unit with the Los Angeles County Assessment Appeals Board.

Participants owning 99 percent of the production shares in the Long Beach Unit, including all who own shares in the offshore portion, authorized the staff to act as their agent for the purpose of signing the application and appearing before the Assessment Appeals Board on this matter. On September 15th, the staff filed the application for reduction of the 1977 assessment.

Participants are currently working with consultants and with Commission staff in gathering relevant facts and preparing a presentation to the Assessment Appeals Board.

Mr. Chairman, I have got some good news at this point which you already know about, worked very hard on it.

Three years ago, the federal government initiated an entitlements program. The intent of this program was to equalize the cost of crude oil between U.S. refiners, and it was done by imposing a penalty on most domestic
produced oil.

In the calculation of these penalties to be paid, national average costs of lower tier, upper tier and uncontrolled oil are used. The resulting penalties from these national averages when applied to California crude oil create a serious inequity to the extent that foreign crude oil is cheaper to the refiner than was California domestic. This imbalance was compounded by the granting of a foreign import bonus to Alaskan North Slope crude oil in 1977.

The Department of Energy was familiar with California’s problem and held hearings on the entitlement adjustment early in 1977 when the entitlement treatment for Alaska was being considered; however, we were disappointed that no action resulted from those hearings.

The Commission has pressed for the past two years for fair treatment and as a result of the Commission’s tenacity, the Department of Energy ruled that effective January 1, 1977 the entitlement obligation for lower tier crude oil produced in California -- and that for the State is about 75 percent of the oil produced in Tract 1 -- the penalty on that oil is reduced by $1.74 a barrel. The entitlement credit on imported crude oil, including Alaska, will be reduced as necessary to balance this.

What we see, Mr. Chairman, here is a decrease
in California entitlement obligation and a resulting
decrease in the subsidy to refine foreign crude.

As a result of this action by the Department of
Energy, the purchasers of crude oil from the State granted
in tidelands should have no further reason for not paying
the allowable federal ceiling price for oil.

As you are aware, Mr. Chairman, the Commission
has had a full year in the Legislature. Briefly, to recap
our activity and to transmit to you where we are on
legislation, we have followed some 367 pieces of legislation,
and the leading ones are the following:

SB 1027 by Roberti, which is a major revision in
the Public Resources Code pertaining to geothermal
development on State Lands. It has now passed out of the
Senate the first time in two years. The Assembly Policy
Committee will take this bill up when it returns in January.

Similarly, the Commission's omnibus housecleaning
bill, SB 851 carried by Senator Milton Marks, is before the
Assembly Policy Committee. Both SB 782 by Sieroty, the
granted lands modernization bill, and SB 1017 by Rains,
providing authorization for the Commission to exchange
geological and geophysical data with the federal land
management agencies, will be taken up by the Senate in
early January.

Among the legislation that has been enacted
for which the Commission was interested was SB 1081 by Alquist which provides for the siting of California's LNG marine terminal; AB 884 by Speaker McCarthy would develop and permit expanding legislation, would allow us to respond in a prescribed fashion for in-house formulation of new legislation; SB 349 by Nejedly, the recreational pier bill, which will mean we will have to enact some changes in our Administrative Code; several granted lands bills, including AB 925 by Barry Keene which concerns the support of the Eureka waterfront litigation.

Finally, the Commission has participated in three legislative oversight hearings. The Assembly Resource Committee reviewed the Commission's role in boundary determination. Two oversight hearings were conducted by Senate Natural Resources and Wildlife Committee on the Commission's management of the State's sovereign and granted inland waterways. In all three hearings it was noted that this Commission has been aggressive in its management practices and its policies have been consistent with resolving past legislative, administrative and public criticisms.

Natural gas hearing.

In its ongoing investigation regarding the determination of reasonable market value for the purpose of natural gas in Northern California, staff of the...
Commission will conduct public hearings on January the 12th, 1978, at the Employment Development Department 722 Capitol Mall, and it is in room 4061. This is a room change from the Public Notice that went out, and we will change that; but for the record, I would like to emphasize it's Room 4061 in Sacramento, commencing at ten a.m. in order to receive additional comments from the public on this subject and consultation in public with the consultants.

CHAIRMAN CORY: What happened to the room change?

SECRETARY JONES: It is a better room.

EXECUTIVE OFFICER NORTHRUP: It's a little better room.

CHAIRMAN CORY: It's the same address.

EXECUTIVE OFFICER NORTHRUP: Everything's the same.

CHAIRMAN CORY: You will have somebody staged at the first announced room to get people up there for the length of the hearing?

EXECUTIVE OFFICER NORTHRUP: Yes, sir.

MR. HIGHT: In addition to sending out another notice.

EXECUTIVE OFFICER NORTHRUP: We'll cover it both ways.

CHAIRMAN CORY: I'm really getting tired that this issue doesn't get resolved.

EXECUTIVE OFFICER NORTHRUP: We intend to bring
it into our January 26th meeting, Mr. Chairman.

This completes a rather lengthy report. I apologize for its length.

CHAIRMAN CORY: Okay. Thank you, Mr. Northrup.

Dick, do you have a report?

MR. GOLDEN: I have a somewhat shorter report, Mr. Chairman.

CHAIRMAN CORY: I would hope so.

(Laughter.)

CHAIRMAN CORY: You are hoping to be employed next year.

(Laughter.)

MR. GOLDEN: COASTAL COMMISSION MATTERS:

Section 30416 of the California Coastal act of 1976 provides in part that "The State Lands Commission . . . shall . . . review and may comment on any proposed local coastal program or port master plan that could affect State Lands."

In September of the year, the State Lands Commission Staff sent a letter explaining its role in the review and comment phase of the local coastal programs to each of the local jurisdictions required to complete a local coastal program.

As of today, the State Lands Commission staff has reviewed and processed 31 Issue Identifications and/or Work
Programs of the various local coastal programs. The Commission staff can expect to review, at a minimum, approximately 62 such plans.

The primary review responsibility within the State Lands Commission staff is vested in the Planning and Environmental Coordination Unit, which in turn coordinates input from other program areas such as Granted Lands, Area Projects, Legal, Land Transactions, and so forth.

During this review process, the local jurisdictions have been contacted and comments or problems have been discussed at the outset. In all cases, staff has worked directly with the local entities to ensure that our concerns are addressed.

In the area of BCDC, it's expected that the staff of the Commission, together with BCDC and the U.S. Army Corps of Engineers will initiate a study of the effects of dredging and dredge spoil disposal in San Francisco Bay after the first of the year.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, items C12 and C14 are off the calendar, and we got a call this morning on item 16. Mrs. Perry says she's ill and would appreciate it if we would put it over until next month.

CHAIRMAN CORY: Okay. The first items to be taken up on the Calendar are the Consent Calendar items. These are items C1 through 13. Items 12 and 14 have been taken off
calendar.

Is there anyone in the audience who has any reason to object to the approval of any of those items, Cl through 13 with the exception of 12?

Without objection --

MS. SMITH: No objection.

CHAIRMAN CORY: -- the Consent Calendar will be approved as presented.

Item 16 is also off the calendar if there is anyone in the audience on that matter.

Item 15.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, Mr. Trout has had more recent communication with Western Waterways as reflected in the calendar. I wonder if he could possibly present the item.

MR. TROUT: Mr. Farrell, the chairman of the Board of Western Waterways, has been communicating with us for over a year regarding the establishment of rental rates in the Delta. He is also a member of our Waterways Liaison Committee and has been working with that group.

He has asked several times for information concerning establishment of rental rates and other material which we sent him last spring. Mr. Farrell was then in Europe for several months and just recently has gotten back to digesting the information which we sent him. He has
now asked for rental information relating to a specific number of leases over the last ten years. We have advised him this was not relevant because the rates had been fixed for a period of time at a nominal level in order to bring all rentals into competition with each other fairly rather than unfairly.

He has asked again for this information, which we will supply him, but he also indicates that he requires another postponement of the calendar item so that he can digest this latest information.

We are now almost a year from the date of the expected rental increase recommended by the staff. I think that from the staff's standpoint he has been given ample opportunity, and we would like to recommend that the Commission go ahead and act on this item.

He has paid the rent, however, under protest, and we could evaluate that and make an adjustment in the future; however, if the Commission didn't want to do this we could set this again for the January meeting.

CHAIRMAN CORY: Betty, would you prefer to postpone it? I don't have any strong feelings. Our rights are protected if we do postpone it, I presume.

MR. TROUT: Yes, he has paid the rent.

CHAIRMAN CORY: Without objection, except for the staff, 15 will be postponed.
16 if off calendar.

Item 17.

EXECUTIVE OFFICER NORTHRUP: This is a permit, Mr. Chairman, for 300,000 cubic yards of dredge spoil.

CHAIRMAN CORY: Anybody in the audience on Item 17? Questions?

MS. SMITH: No questions.

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

Item 18, we are signing a lease from one party to another?

EXECUTIVE OFFICER NORTHRUP: That's correct.

CHAIRMAN CORY: Is there anybody in the audience on Item 18?

Any problems with that?

MS. SMITH: No.

CHAIRMAN CORY: Without objection, Item 18 will be approved as presented.

Item 19, a mariculture lease.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, this is a request by staff to enter into an agreement for a mariculture lease, and the agreement is between Chevron USA/Atlantic Richfield and California Seafarms and an agreement with Exxon and California Seafarms to allow the lessees to permit the mariculture operation on leased premises.
and to provide that the mariculture operation will not interfere with the oil and gas operations and to hold the State harmless.

We feel this is the second step. We already have a mariculture operation going on Platform Holly, and if we allow this will perhaps bring abalone back to California coastal waters again.

MS. SMITH: Have the oil and gas lessees given us any kind of written consent?

EXECUTIVE OFFICER NORTHRUP: I think that's what the calendar item is allowing us to do is to enter into that kind of agreement so that we can anticipate that program. If the lessees did not agree, of course we could not issue a lease.

MS. SMITH: And have you been in contact with the lessees?

EXECUTIVE OFFICER NORTHRUP: We haven't been in contact with the lessees. I think this calendar item authorizes us to go one step further and authorizes, if the lessees are willing to accept such an agreement, to enter into it.

CHAIRMAN CORY: Is there anybody in the audience on Item 19?

These leases are really the province of Fish and Game.
EXECUTIVE OFFICER NORTHRUP: The leases are the province of Fish and Game. Really what we're asking here, Mr. Chairman, as it's been explained to me, is merely as a catalyst on putting these leases together to make sure they're acceptable to our lessees and to get the State held harmless.

MS. SMITH: Bob, would that require rewording of the calendar to make our approval contingent on receiving --

MR. TROUT: No, number four in the recommendations would provide for that already.

CHAIRMAN CORY: Approval as requested is granted in Item 19

Item 20, disclaimer of interest for a parcel in Alameda County, cities of Newark and Freemont.

Is there anybody in the audience on Item 20?

This is somebody has done a title check, and we don't have any interest in this property?

MR. TROUT: That's correct, Mr. Chairman.

CHAIRMAN CORY: Without objection, the disclaimer as presented will be approved.

Item 21, land bank agreement.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, we have a problem with trying to do any work on exchanging land because of constitutional provision that we have to take lands of like value. So, what the East Bay Regional Park
District has done is bought this island outlined here, known as Brown Island, and they have acquired it for $227 an acre. What they are agreeing to do is to hold this until we can make various settlements and bring that money in to purchase the entire land. It would be better if the State, I suppose, bought it, but we have constitutional prohibitions against it.

What this is is a 595 acre island that has been purchased by East Bay Regional Park District which, eventually when we get all the properties bought, then we will lease it back to them for a regional park.

CHAIRMAN CORY: The question in my mind with the concept is that when you're using another governmental agency with the understanding that we're leasing it back, we are in essence redeedicating and sort of without options land in other areas to the East Bay Park District.

EXECUTIVE OFFICER NORTHRUP: That's true. However, I don't think inherent in this is a commitment that all of our resources be expended in an area to pick this up. When we find other areas that we would rather have, then we will use the money wherever the Commission thinks it's important to use it; but in this one here, we happen to have on the next item an item for 111 acres of this in which we give up merely two acres of swamp and overflow land that's been filled for a long time. So, in this particular one we're
taking this first bite of the 111 acres, or the 595. We
have no -- and if there is, counsel has not advised me yet --
a commitment to here on take whatever they want. If we have
no other place we'd like to go, then this is a nifty place
to go.

CHAIRMAN CORY: What happens if we decide we
want it, that there is some State purpose to be used on that
island. Say Fish and Game wants to put tule elk there.

EXECUTIVE OFFICER NORTHRUP: We are not committed
to the lease back, are we?

MR. TROUT: Yes. The land bank agreement would
provide that any lands that we bought from the District
would be leased to the District for 66 years. That is the
consideration flowing to the District for them being the
banker of this land. However, the District has -- no
guarantee that they would continue to be -- but the District
has been very reasonable in working with us on various kinds
of activity.

CHAIRMAN CORY: What is their long range plan for
that property?

MR. TROUT: I believe their long range plan is
to lease it basically as it is as open space. Mr. Cook who
has worked on the transaction indicates that that's the case.

CHAIRMAN CORY: We have the option of at any time
not using that mechanism.
MR. TROUT: The agreement is only for one year. At the end of that time both the District and the State can equalize their positions and decide if they want to extend it. The commitment is only for one year.

MS. SMITH: Jan, have you reviewed this contract?

MR. STEVENS: Yes, and the agreement too. In effect, I think it provides an effective option by which changes can be made that otherwise we would not have lands of equal values and comparable and therefore provides a tool for use by the Commission. I don't think it locks us in to utilizing the mechanism, but it's available if we want it.

EXECUTIVE OFFICER NORTHRUP: Commissioner Smith, we have many times in the past been unable to complete a transaction that would allow us to get out because we could not find a piece of property that fit the dollar value of the piece of property we're selling out. So, what this does is give us a flexible dollar value so we can take whatever the dollar value is and apply it on a predetermined basis. So, if we have something that was of very small value, that meant when you are settling some of this marsh land out, if you don't, you tend to drive the prices up. In other words, if you have "X" number of dollars and you have to find something that fits it, someone will always give you something that will fit that price range, but you
may be getting a bad value. So, this allows us to keep from our own selves forcing up this kind of land. It's the really important thing to hold that value down.

CHAIRMAN CORY: But what do we get in terms of lease payments? Presumably a nominal lease from the Park District.

MR. TROUT: The lease would be in the public interest, and under the Commission's regulations, not normally provide for rent.

CHAIRMAN CORY: So for a short run amount of money, what do they acquire this island for?

EXECUTIVE OFFICER NORTHRUP: 227 an acre.

CHAIRMAN CORY: $227 for how many acres?

EXECUTIVE OFFICER NORTHRUP: 595.

MR. TROUT: $135,000.

CHAIRMAN CORY: What I see happening is they're paying us back with our money.

EXECUTIVE OFFICER NORTHRUP: It happens a lot, Mr. Cory, particularly on these public parks.

CHAIRMAN CORY: I mean I can see where the District makes out like a bandit. I can see where the landowners get their property cleaned up, but I'm just wondering, in terms of the State, we have to accept a concept of giving a 66 year lease to the East Bay. I mean, why shouldn't --

EXECUTIVE OFFICER NORTHRUP: We have to look at
the value of leaving that in its natural condition to the people of the State of California.

CHAIRMAN CORY: But we have no commitment they're going to do that. If the East Bay Park decides they're going to rent that to Disneyland for a Northern California amusement park, we've leased it for 66 years.

MR. TROUT: They can't do that, Mr. Chairman. The lease provides that it has to be used for specific purposes, and any additional uses would require Commission approval.

MS. SMITH: What purposes?

MR. TROUT: My understanding is that it's the traditional public purposes. Let me make sure I've got it exactly right rather than guess at it here.

"For the management and protection, for the purposes of preservation of open space in the natural, near natural and undisturbed state for wildlife and other environmental enhancement and preservation and for public use that will not interfere with the purposes of the lease."

The major benefit to the State is that land which was at one time sold and is now proprietary will be returned to sovereign character and under the constitutional protection that the Executive Officer mentioned. That's the major
benefit flowing to the State from this. Therefore, it would be subject to the trust and within its protection.

CHAIRMAN CORY: But it would seem to me that this is an interim thing. It may make some sense, but we may be better off to try to go to the Legislature and Fish and Game and say, why don't we get Fish and Game or some State agency to acquire bank directly rather than dealing with --

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, at the present the staff is pursuing that with Secretary Johnson of the Resources Agency at the present time. We are not far enough along in our conversations to put anything out. We think that's probably the better way to go.

MS. SMITH: What is the rush of approving this calendar item?

CHAIRMAN CORY: Because the next item needs to be approved to cut the deal, right, and we don't have any other parcelable lands that we could really cut a deal with. We will clear up some titles so somebody else can go ahead with their development, and we do pick up something as long as it is preserved as natural wildlife area. I guess that's okay for 66 years. At the end of 66 we could give it to Fish and Game if we wanted.

MR. TROUT: It's quite likely that if Fish and Game has a use for it we would not have problems with the Regional Park District because they'll get the money back
and invest it somewhere else. Since they are not making
significant investments of capital for improvements, we
don't expect there will be a problem. You can't tell, but
there has never been a problem with the District so far.

CHAIRMAN CORY: What do you want to do?

MS. SMITH: I think we should try to reach some
agreement with the Fish and Game within a reasonable period
of time.

EXECUTIVE OFFICER NORTHRUP: Well, Fish and Game
doesn't own the property. East Bay Regional --

MS. SMITH: But some State agency to do this type
of negotiations.

CHAIRMAN CORY: To be the intermediary?

MS. SMITH: Yes.

CHAIRMAN CORY: We're talking about how much land?

EXECUTIVE OFFICER NORTHRUP: 595 acres, Mr.

Chairman.

CHAIRMAN CORY: If we approve this agreement,
and then you're going to ask us in the next calendar item
to approve another.

EXECUTIVE OFFICER NORTHRUP: We've got $25,000
we want to put on this.

MR. TROUT: If this item is approved and the
following item is approved, we would get 18 and two-thirds
percent of the 595 acres, or 111 acres equivalent.
CHAIRMAN CORY: Will that be a specific or an undivided interest?

MR. TROUT: It will be an undivided interest, although it probably could be made specific if necessary.

MS. SMITH: It could.

MR. TROUT: I think Mr. Cook might want to say something if the chairman would agree.

CHAIRMAN CORY: Yes.

MR. COOK: Mr. Chairman, for the record my name is Walter Cook of the State Lands Division, and the transaction is to allow settlement, in this particular instance of the next calendar item, of a pending lawsuit that probably could not otherwise be settled. It allows other settlements, hopefully acquiring large acres of estuary-type open space in exchange for the State's on certain interests in other areas that perhaps should well be developed, relatively small parcels in most instances. I should point out with respect to the Department of Fish and Game that we have been involved in the negotiations just about from the beginning, in fact from the beginning, and that the Department of Fish and Game has been satisfied with this and have felt that rather than a lease to them in this instance, that because of the lease, for purposes which are consistent with what they feel would be proper, that the lease to Fish and Game rather than to the Department
of Fish and Game would be proper (sic).

I should also point out that there is a reservation to the State of mineral rights so long as the upper 500 feet of the surface is not disturbed.

CHAIRMAN CORY: Which place?

MR. COOK: That's at Browns Island.

CHAIRMAN CORY: The mineral rights go at the other?

MR. COOK: Yes, sir, they would. In this particular transaction, the next pending transaction, the mineral rights are going in about two acres, right within the city practically of Redwood City. It has commercial development all around it. The creek in that point is a drainage ditch, in effect.

We feel with the past settlements that have been presented to the Commission wherein the State has, for the purpose of settling either litigation or in lieu of what we know would be litigation, for purpose of settling the relatively small areas in these high density areas, that the Commission has approved the acceptance of public title in large areas. Now, there is a major benefit in the acceptance of public title. At the present time East Bay Parks acquired this, and they in effect are the successors in interest to the private patentees of the swamp land. There is nothing which would prevent them from making a conveyance of that interest any time they might desire. Once
the land is acquired by the State as sovereign land, then
the Constitution would prohibit the conveyance of this
land out. So long as the Constitution did in fact continue
in existence, this land would be protected by the Constitution
and would be preserved for the purpose of open space
estuary, and we would have the benefit of an opportunity
to purchase that the District in effect made. At the time
the District made this purchase, it was represented to them
that the land would be reserved for the purpose of conveyances
to the State on this land bank concept.

I think that it certainly is a tremendous tool
in providing an ability to resolve the things, as well as
providing the State with large areas which can be preserved
in open space.

CHAIRMAN CORY: Is there anybody in the audience
on Item 21?

Without objection --

MS. SMITH: No objection.

CHAIRMAN CORY: Item 21 will be approved as presented.

Item 22.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, Mr. Trout
has some legal language or some language he'd like to have
read into the record.

MR. TROUT: Mr. Chairman, since the development
of and the printing of the calendar, the City of Redwood City
has found it necessary to acquire a slightly larger piece of property than we'd originally contemplated. Because of these engineering changes that are required to meet federal flood control standards, the City of Redwood City has requested that an additional 2000 acre feet on the site be transferred by the private party to the City and State. This reduces the amount going to the State and is the small triangular parcel on the left side of your Exhibit A in the calendar.

Staff has reviewed the request and feels the change is required for purposes of public safety and has amended the agreement to include the modification. The private party has also consented to the change.

The additional public acquisition of the parcel reduces the consideration that the private party must provide in addition to the onsite exchange from the 29,000 indicated at the top of page 76 to $25,200. In all other respects the calendar item is unchanged. The recommendations remain the same.

The $25,200 acquisition will get an undivided 18.67 percent interest in Browns Island and is equivalent to 100 acres of the total.

CHAIRMAN CORY: On Browns Island plat there is a map of some sort here, and there is an irregular rectangular corner clipped off.
MR. TROUT: Which one?

MR. McCausland: It's a nuclear waste storage facility.

(Laughter.)

MR. TROUT: The little hole in the middle of the island is the ownership of the Port of Stockton and is a dredge disposal site. We think that working with the Port of Stockton we can probably acquire that interest also.

CHAIRMAN CORY: So, we aren't acquiring Browns Island.

MR. TROUT: We're acquiring 595 acres of Browns Island.

EXECUTIVE OFFICER NORTHRUP: 111.

MR. TROUT: Well, we are acquiring 111 acres of the 595 acres of Browns Island acquired by the East Bay Regional Park District.

CHAIRMAN CORY: But they did not acquire the entire island. I wish that had been explained before because it seems to me that if you don't have it all, you've got a problem.

MS. SMITH: I move to rescind the action.

CHAIRMAN CORY: Do you think you can likely get that from the District?

MR. TROUT: Yes, we do.

CHAIRMAN CORY: Are you sure you haven't upped the
price by having agreed to the land bank concept and agreed
to the exchange before you’ve got them in the chute and
signed up?

MR. TROUT: Well, in fact, we think maybe we've
done just the reverse in that with the balance of the island
now dedicated to wild life purposes, it's unlikely or less
likely that the --

CHAIRMAN CORY: Awful good gun club site.
(Laughter.)

MR. TROUT: It's less likely that the Port of Stockton could actually get environmental clearances to use
it as a dredge disposal site. We think we can work something
out with them because they do need dredge disposal sites,
and many of those sites are on Commission-owned land.

MR. McCausland: That photo was taken in '69.
Has anything basically happened to the topography since
then? Has there actually been dredged soils placed in there?
That photo shows relatively undisturbed land with some what
what appear to be levies in it.

MR. COOK: Mr. McCausland, we believe that the
parcel is substantially the same today as it was in '69.
I believe this was acquired many years ago by the Port of
Stockton. I don't believe much, if any, spoils are on there
at the present time. I personally have not walked the islands,
but I've seen it from the city of Pittsburgh. From our
recent photography, in fact, I think it's 1975, I believe there is nothing to indicate that there are many changes. This island originally was levied. There are remnants of levee. I think it was farmed. Generally, it's open space.

May I say something, Mr. Cory, with respect to the value. The $227 per acre would not drive values up. In fact, the indications we have are that that would be low.

CHAIRMAN CORY: That's not the point. If I'm a mean, nasty businessman and I know that you've bought surrounding area and you've committed yourself to the project and you want the interior and I've got the one piece that you don't own, my attitude on signing off might be a little firmer.

MR. COOK: That may very well be. Assuming that the State were unable to obtain that 100 acres in the center -- which is over and above the 595 -- assuming that the State were unable to obtain that in the future, although it would be a smaller area of open space, the remainder, most of the island, six-sevenths of the island, in effect, would still be open space preservation.

CHAIRMAN CORY: But if you're going to do that, quite literally, it seems to me, that 100 acres is increased in value as a gun club. If I were a hunter living in Pittsburgh, I'd go to the Port and say, hey folks, I mean
MR. COOK: I think perhaps Mr. Cory that condition exists and has existed, in effect, with the acquisition at this value; but assuming the State were only able, say, to have obtained, or the District had only been able to obtain half of the island, the fact that you couldn't get everything and the fact that perhaps it may have an impact on the remainder would seem to me not to obviate the benefit of the part you were using. It is something that is out of our control. We think that there may be an ability to work with the Port of Stockton and then, on the other hand, you should face it. If we don't have it at the present time, we don't have it; and they could say, no, this is going to be $1500 an acre. If they said that, I think that would be consistent with the island across the channel. I believe there's one over there that that type of price is being asked for. In fact, I think all around the whole area, the whole Suisun marsh, the Delta area that there are some substantial prices being asked, and the fact that there's no way that this could happen and obtain all of it at this time would seem not to eliminate the benefit or reduce the benefit of obtaining what is possible.

CHAIRMAN CORY: Do you think we are okay? Don't know?
MR. McCausland: I've always found port districts to be the most cantankerous entrepreneurs I've ever had to deal with. They're more arrogant than anybody else. We probably could strangle them if they decided not to --

MR. TROUT: I think the Commission does have some arrows in its quiver to use in opposition to a development by the Port in that there would be permits required. We haven't made a detailed study, the value being low enough here, as to whether that swamp and overflowed land might in fact be tideland subject to the trust. I think that the Port has some real difficulty in blackmailing the Commission, should that be a course they choose to go. However, they give no indication of that. They need the Commission's help if they're going to deepen the channel up there and use bigger ships or allow bigger ships.

Chairman Cory: That's what they have in mind.

MR. TROUT: There is no question. This is the extension Baldwin ship channel. Past this area and on up to the Port of Stockton is --

Chairman Cory: We have a way to deal, you say.

MR. TROUT: Yes, we certainly do. They would be tickled pink to give it to us in exchange for something else.

MR. COOK: As an adjoining landowner to the parcel that they might later intend to use, as an adjoining land-
owner the State Lands would have a very strong voice in
the impact of filling on our adjoining open space area.

CHAIRMAN CORY: I would hope that somebody could
start talking to the District about swapping out the center
of this at some point before somebody else gets it without
us knowing about it.

EXECUTIVE OFFICER NORTHRUP: We will proceed
with all deliberate speed, Mr. Chairman.

CHAIRMAN CORY: On the exchange itself, any
questions, anybody in the audience on the exchange itself?
Okay. Without objection, the exchange will
be approved as presented.

23, Bair Island.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman,
Mr. Trout will address the Bair Island delay.

MR. TROUT: The Commission entered into a
supplement agreement with Mobil --

CHAIRMAN CORY: Before we proceed with that, the
Attorney General has participated in all these negotiations,
and you're happy with the deal?

MR. STEVENS: We haven't participated in the
negotiations, Mr. Chairman. We've reviewed the agreement,
and we're satisfied as to its legality and propriety and
the fact that it's just one more instrument by which these
odd land exchanges can be made.
CHAIRMAN CORY: Not the landbank, the specific exchange.

MR. STEVENS: Oh, the exchanges, definitely. Yes, we participated in that. I'm sorry. As a matter of fact, Mr. Briscoe in our office is standing by now in case problems arise with respect to Redwood City's acceptance, but we're satisfied it results in a very good arrangement.

CHAIRMAN CORY: You think the overwhelming public interest is to approve the trade, and a recommendation that we do proceed with this to get the Redwood City and conclude it.

MR. STEVENS: Yes. It straightens out some very dubious property along the creek, and it clarifies the State's interest on the Bay side on the other side of the bulkhead. We definitely believe it's in the public interest.

CHAIRMAN CORY: In flipping the pages, I think it is probably appropriate to the mood of the time for me to disclose there was a name on one of the items as to who the landowner is.

EXECUTIVE OFFICER NORTHRUP: Ben Swig.

CHAIRMAN CORY: Is it Ben Swig?

MR. TROUT: Yes, sir. The pending Superior Court is Benjamin Swig versus the City of Redwood City number 207304, and I would assume Mr. Stevens would agree that this settlement is probably subject to court review.
CHAIRMAN CORY: I just want a disclosure. I do not know of every having received a contribution from Mr. Swig. He is active in my party. No one has ever talked to me about this deal before the meeting today, and I just want to put it on the record so everything is fair; and if everybody else is happy, if the staff's happy, I'll go along with it in spite of any involvement I may have had with Mr. Swig. I can't recall any.

MR. STEVENS: We recommend acceptance.

CHAIRMAN CORY: I guess that disclosure is probably be safest way to go given the circumstances.

MS. SMITH: I certainly don't know how to disclose in this case, not knowing whether Lieutenant Governor Dymally has received any contributions or not from this gentleman. Perhaps the Attorney General would like to advise me as to whether or not I should abstain from voting or wait until you have checked.

MR. STEVENS: This would not be prohibited in any event.

MR. McCASLAND: It doesn't sound like either of you have been heavily lobbied on this matter.

(Laughter.)

MR. McCASLAND: I don't want to be the only vote.

CHAIRMAN CORY: That's probably what the safest would be, but then under administrative necessity we probably
would have to.

MS. SMITH: We would have to vote anyway.

MR. McCAUSLAND: I'll be happy to meet with Mr. Swig. I've never met him.

(Laughter.)

MR. McCAUSLAND: You can disclaim knowing him.

I have to honestly say I never have met him.

(Laughter.)

CHAIRMAN CORY: We disclosed the facts as we know them. I think we can live with that.

MS. SMITH: We would have had to vote anyway.

CHAIRMAN CORY: Bair Island. Tell me about that.

MR. TROUT: In the original settlement with Mobil, Mobil had agreed to give the State an additional minimum 60 acres for environmental purposes on lower Bair Island. The Commission appointed a task force to advise it on which of the lands in lower Bair Island would be desirable for this additional donation. The report of that task force is before you. Each of you has a package on your desk.

However, in the interim, the Port of Redwood City has asked the Bay Conservation and Development Commission to approve a special area plan for development of the Port of Redwood City. Portions of the lands in Bair Island are either within the District and subject to potential development or impacted by that development.
At the request of the City of Redwood City and with the concurrence of BCDC and with Mobil, the actual donation and the negotiations toward that donation would be put off until six months after the conclusion of the special area plan study. So, we are asking in this calendar item that the Commission simply accept the agreement, or the report of the Bair Island Environmental Study Committee and allow the staff to withhold taking the donation by agreement until the completion of the Redwood City Special Area Plan.

MS. SMITH: You're asking us to accept the report?

MR. TROUT: Yes, ma'am.

MS. SMITH: Was this given to us before we were briefed?

MR. TROUT: We did not get the comments of the City of Redwood City until Friday night at a late hour. We regret that. In discussions in the briefing, we had discussed what would happen if the matter were put over a month. We're not certain that the delay would be fatal. However, the agreement does expire on December 31st. The report does not commit the Commission or the staff to anything. The report is simply a report of a task force appointed by the Commission with regard to the environmental aspects of Bear Island. The recommendations are nearly unanimous in priority order for the donation, but the Commission is not
bound to accept the recommendations of the task force.

All you're doing is accepting the report. You don't have
to take any action on it or anything, just accept the fact
that the Commission has received the report pursuant to
the agreement.

MS. SMITH: Okay.

CHAIRMAN CORY: Okay. Anybody in the audience?

MR. McCausland: That's not what the calendar
item says. It says we're going to accept the report
"For guidance in the identification of appropriate donation
areas and donation extension for land...."

MR. TROUT: That is the contractual obligation of
the Regional Bair Island Settlement.

MR. McCausland: My reading of that suggests that
if we accept the report, we have in fact --

CHAIRMAN CORY: Approved.

MR. McCausland: -- approved the guidelines.

MR. TROUT: No, my understanding of it is that
the report is simply to be used by the Commission in evaluating
the acceptance of a further donation, to guide it in the
negotiations.

CHAIRMAN CORY: Jan, what is your view of the
language?

MR. STEVENS: I think we'd have to come back to
the Commission for approval of any specific actions.
This would give the report some kind of status as a guide to the staff in identifying areas, but when those areas were identified, it would be necessary for the Commission to take further action and to actually approve their acquisition or exclusion from any other actions.

CHAIRMAN CORY: If our motion is to acknowledge the existence of the report and except insofar as anybody had a contractual obligation to produce this document in fact it is here and their duties were discharged, but explicitly excluding any value judgment as to the work product of that report --

(Thereupon a brief discussion was held off the record.)

MR. McCausland: Don't we amend the calendar Item 23, Mr. Chairman, which is on page 79.

"IT IS RECOMMENDED THAT THE COMMISSION:
"1. ACCEPT THE BAIR ISLAND ENVIRONMENTAL STUDY REPORT. . . ."

And strike the next two lines which currently say:

". . . FOR GUIDANCE IN THE IDENTIFICATION OF APPROPRIATE DONATION AREAS."

Keep Item 2 and Item 3 as they exist.

MS. Smith: I would prefer to put, "acknowledge receipt of the report."

MR. McCausland: All right.
MS. SMITH: Because that's all we're doing.

MR. STEVENS: "Acknowledge receipt" will certainly spell your intent more explicitly.

CHAIRMAN CORY: And then approve the Items 2 and 3 as drafted.

MR. McCausland: Yes.

CHAIRMAN CORY: With that amendment, is there anybody in the audience on Item 23?

MR. McCausland: For the record, Item 1 now reads:

"ACKNOWLEDGE RECEIPT OF THE BAIR ISLAND ENVIRONMENTAL STUDY REPORT."

CHAIRMAN CORY: That's correct. Without objection, Item 23 is approved as amended.

Item 24, beach cleanup.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there exists potentially dangerous oil well remnants on the coastal beaches of Santa Barbara County near Ellwood and Goleta and Summerland which have brought personal injury claims against the State, and this problem has been of great concern to the Commission. Efforts have been made in the last two decades to locate these objects. We now have put out a contract, or went into bid for a contract, and we have on the agenda the authorization of the execution of that contract with McClelland Engineers to survey the location of these
items and to take steps, as soon as they're located to
remove them, initiate some financial steps to try to get
some money to do it.

CHAIRMAN CORY: Anybody in the audience on Item 24?
I'm confused as to what --

EXECUTIVE OFFICER NORTHRUP: This contract,
Mr. Chairman, because many of these obstacles aren't readily
discernible to the naked eye, many of them are covered up
by sand; and as the sand shifts, it covers them up only to
be uncovered when the sands blows away and leaves them
very prominent. What we're attempting to do once and for
all is make a survey as to the location of all these hazards
in that area and monument them at least on maps so we know
when we have the funds to clean up where the hazards are
located. When we monument them and get some idea of their
location, we will then be able to bring into focus what
the costs of cleaning up really are.

The location is further important because some of
them may well be of existing oil well producers. Others
may be of oil well people who have disappeared, and so the
State or someone else --

CHAIRMAN CORY: What is it that whoever gets the
money from this contract is specifically going to do?

EXECUTIVE OFFICER NORTHRUP: Mr. Everitts from our
shop designed the contract. I'll let him respond to the
question.

MR. EVERITTS: There are probably about 40 or 50 piers in the, say, 1890's.

CHAIRMAN CORY: We understand that. What do we get for our money, was it competitively bid and what specifically are they going to do and what is going to be their work product?

MR. EVERITTS: McClelland is going to do 36 days worth of diving, and they're going to use ocean floor mounted sonar equipment to locate as many piers and as many wells, as many caissons as we can find offshore. They will also explore the beach by foot at low tide and when the sand is out to identify the location of them.

Once we locate them, they will give us a report showing us -- maps showing us where the obstructions are and what they consist of.

CHAIRMAN CORY: How many days?

MR. EVERITTS: The total study will take 68 days.

CHAIRMAN CORY: Okay. And that was competitively bid, and they were the low bidder.

MS. SMITH: Am I understanding that the bid was $86,000?

EXECUTIVE OFFICER NORTHRUP: $86,044, yes. The next bidder was $103,941. We had a range bid of $103,590 to $150,500 and a fourth bid of $169,986.
CHAIRMAN CORY: I don't know anything about it, but looking at those bids, I would get that people were sort of unclear as to what it was they were supposed to do.

MR. EVERITTS: I don't believe so. It's interesting, but the low bid is using divers and sonar equipment mounted on tripods sitting on the ocean floor. The high bid was using sight-scan sonar but using boats to tow it. So, they had more overhead on their boats, more cost in boats. Then the one was going to drag a cable. They knew what they had to do.

EXECUTIVE OFFICER NORTHRUP: It is the technology. Someone had more sophisticated technology that works cheaper.

CHAIRMAN CORY: I've got no problems with it. Without objection, Item 24 will be approved as presented.

Item 25, Long Beach Operations. We have a --

EXECUTIVE OFFICER NORTHRUP: Subsidence.

CHAIRMAN CORY: -- subsidence. Long Beach is getting to us for 3.3.

EXECUTIVE OFFICER NORTHRUP: 100 percent according to Mr. Thompson, $303,318,036.

CHAIRMAN CORY: Anybody in the audience on subsidence in Long Beach. Keep reading the L.A. TIMES. I think they'd be in favor of it.

(Laughter.)
CHAIRMAN CORY: Without objections, Item 25 will be approved as presented.

Item 26, Long Beach expenditure of 986,000 on Marina Basin 3 and Basin 6 facilities. It's a tidelands trust expenditure.

EXECUTIVE OFFICER NORRIS: It is a trust purpose.

CHAIRMAN CORY: Is there anybody in the audience on this item? Any questions from the members of the Commission? Hearing none, it will be approved as presented.

Item 27 is approval of offshore boundaries of the proposed corporation of the City of Goleta. This just approves that there is a boundary and that we don't have any problems with it?

MR. HIGHT: This approves that the boundaries are legally sufficient, and it will now go to LAFCO and to the local community to see if it's approved there, and then it will come back to the Commission for its approval. We're not approving anything other than the legal sufficiency of the boundaries.

CHAIRMAN CORY: Anybody in the audience on Item 27? Without objection, it will be approved as presented.

Status of major litigation.

MR. STEVENS: Mr. Chairman, we finally have the high-water issue in the Appellate Court, and we filed an appeal from an order for injunction that was issued with
respect to Lake Tahoe in one of the three cases in which the State's high-water boundaries are in dispute on the nontitle navigable waterways.

In litigation concerning Anderson Marsh in Lake County in Clearlake, the County of Lake has obtained permission from the court to withdraw as a codefendant on the side of the State and to reenter the case as a plaintiff arguing a low-water boundary rather than a high-water boundary. They are asking for a boundary somewhat different than the plaintiff.

CHAIRMAN CORY: It must have been an interesting hearing.

MR. STEVENS: It was an interesting hearing.

We endeavored to point out that this was rather inconsistent with their duties as trustee for the State of California of the bed of Clearlake, but the judge felt that he should allow them to intervene, and he would decide their trustee duties later in some other proceeding.

We have submitted before the Superior Court in Nevada County the question of the navigability of Donner Lake.

CHAIRMAN CORY: Wait. Let's go back. I've got some problems with Clearlake. What does the Attorney General think we should do with a trustee that is moving inconsistent with the trust?

MR. STEVENS: We've spoken with Mr. Hight and
Mr. Northrup for initiating a staff investigation and a report to the Commission with respect to the County's trust performance. A legislative report is in order under Chapter 639 of the Trust statute by January this year, and the Commission can, if it desires to, hold hearings ascertain whether the trust should be revoked. The Commission has the authority to revoke the trust for failure to comply.

We expect a staff report on the entire action with respect to Clearlake to be forthcoming.

Apparently there have been a number of permit approvals, spelling approvals and this sort of thing all the way around the lake, going well out into the lake, and there have been apparent violations of the trust. The Commission has the authority to hold hearings and to authorize actions in the Superior Court to revoke the trust if it finds --

CHAIRMAN CORY: Given the historical constraints and problems that they're changing sides on high-water/low-water in essence; is that what you've told me?

MR. STEVENS: Yes.

CHAIRMAN CORY: Have you discussed this with the General and where his head is at on this changing positions?

MR. STEVENS: Not in specific terms, not in this particular case. Obviously, there is a serious question,
we pointed out to the court, with respect to the county's
duties as a trustee. We're willing to pursue it, but we
haven't.

CHAIRMAN CORY: I feel stronger about that issue,
I think philosophically, than I do about high-water/low-water.
I can see the arguments on both sides, and I have publicly
stated I believe it should be litigated to get it resolved
so that everybody can proceed. As I understand your office's
position, that's what it is, in essence. There is uncertainty
which needs to be litigated.

MR. STEVENS: As soon as possible.

CHAIRMAN CORY: That's what we have proceeded to do.

But to find the trustee to take a different position than
the Attorney General's position and the Land Commission's
position is a bitter pill to swallow, and I would appreciate
it if you could check with Charlie and or the General as to
where their heads are at because I understand the down side
risk in the future of where that might be taking us. But
I think it might be well for the administration of public
trust lands that we meet that problem with a united front.

MR. STEVENS: We've stated in court already we
think it's a clear trust violation.

CHAIRMAN CORY: I just think we better get together
on that one and advise the other Commissioners because I
just don't see how we can allow one trustee to behave one
way and then start kicking the bejesus out of another
trustee on something that would be a far lesser transgression.

MR. STEVENS: Apparently when the County Supervisors
took this up, the only concern they expressed was this
might result in a loss of the trust. Apparently they
considered the possibility and decided to go in on the other
side.

CHAIRMAN CORY: I don't know about the other
Commissioners, but since there is sort of a treaty of
Guadalupe Hidalgo or something between the Commission and
the Attorney General on this difficult position we're in,
I'd just like to know where he's at; and I just don't think
we can let the trustee do that.

MR. STEVENS: We don't either. We're happy to
work with you.

CHAIRMAN CORY: Okay. Go ahead. I'm sorry.

MR. STEVENS: Basically that's it. The navigability
of Donner Lake for title purposes is before the Superior
Court in Nevada County on our motion for summary judgment.
We hope to get a decision on that and proceed to a determi-
nation of the actual boundaries there.

CHAIRMAN CORY: What is the name of the case that
you're on at Tahoe?

MR. STEVENS: Fogarty versus State of California.

CHAIRMAN CORY: Is that a clean issue fact situation
or not?

MR. STEVENS: We think there is a vehicle for
determination of the high-water issue there. The appeal
that we have taken is from the injunction against the
Commission's taking any action, recording maps or making
statements in support of the high-water boundary. So, we
think that this presents the high-water issue squarely
before the Appellate Court, and we filed a notice of appeal
and designated the record already.

CHAIRMAN CORY: It was my understanding that
the injunction was against us filing maps and doing things
like that. I was unaware anybody had enjoined me from
speaking my mind on the subject.

MR. STEVENS: No, it only covers filing maps and
notices. It doesn't cover speeches or any First Amendment
Rights, very definitely.

CHAIRMAN CORY: Okay.

MR. STEVENS: But it is broad enough to present
this issue, and we've invited the other side to join with
us in augmenting the record if they so choose in the interest
of fairness to present the court with the whole picture.
We haven't heard from them in response to our invitation,
so we proceeded to the appeal.

CHAIRMAN CORY: Okay. Any other items?

MR. STEVENS: We've asked the California Supreme
Court to hear the Murphy decision with respect to the Berkeley waterfront in hopes that they would be willing to clear this up before we proceeded there.

CHAIRMAN CORY: That's the decision we didn't like.

MR. STEVENS: That's right, the partial summary judgment against us.

CHAIRMAN CORY: What do you think about that? What's your prognosis?

MR. STEVENS: First District Court of Appeal held our petition for about 30 days and then dismissed it without comment. Of course, in the Supreme Court's interest in economy and having cases fully litigated first, they may decide that we should proceed in trial court and decide the entire issue at the Berkeley waterfront patents before the matter is certified in Appellate Court. We've attempted to point out that this is sufficiently important that they should give us guidance beforehand, before we proceed we proceed with the rest of the trial. We're guardedly optimistic.

CHAIRMAN CORY: Any other?

EXECUTIVE OFFICER NORTHRUP: That completes our agenda, Mr. Chairman.

CHAIRMAN CORY: Our next meeting is Thursday, the 26th in Sacramento at ten a.m.
EXECUTIVE OFFICER NORTHRUP: We hope we will have natural gas pricing on the agenda.

CHAIRMAN CORY: Any other items for us? We stand adjourned.

(Thereupon the meeting of the State Lands Commission was adjourned at 11:15 a.m.)

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State of California ) ss.
County of Sacramento )

I, WENDY E. SCHILLER, a Notary Public in and for the County of Sacramento, State of California, duly appointed and commissioned to administer oaths, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission Meeting was reported in shorthand by me, Wendy E. Schiller, a Shorthand Reporter of the State of California and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 11th day of January, 1978.

Wendy E. Schiller
Notary Public in and for the County of Sacramento, State of California