MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ROOM 2117
STATE CAPITOL
SACRAMENTO, CALIFORNIA

THURSDAY, MARCH 30, 1978
10:00 a.m.

CATHLEEN SLOCUM
C.S.R. License No. 2822

PETERS SHORTHAND REPORTING CORPORATION
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MEMBERS PRESENT

Mr. Sidney McCausland, Acting Chairperson, representing Roy M. Bell, Director of Finance

Ms. Betty Jo Smith, representing Mervyn M. Dymally, Lieutenant Governor

MEMBERS ABSENT

Mr. Kenneth Cory, State Controller, Chairperson

STAFF PRESENT

Mr. William Northrop, Executive Officer

Mr. R. S. Golden, Assistant Executive Officer

Mr. James F. Trout

Mr. Robert C. Hight

Ms. Diane Jones, Secretary

ALSO PRESENT

Mr. Dennis Eagan, Deputy Attorney General

Mr. Jan Stevens, Assistant Attorney General

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ACTING CHAIRPERSON McCausland: The meeting will come to order.

Are there any additions or corrections to the minutes of February 23rd?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: If not, they'll be deemed approved as submitted.

Report of the Executive Officer, Mr. Northrop.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, before I start my report, the staff respectfully requests that Item Number 36 after the completion of the Consent Calendar be taken out of order because the Attorney General handling that case has a court appointment this morning.

Our tree-planting program is ready to begin this week. We plan an initial planting of 5,000 trees on a school land parcel north of Truckee. The Department of Forestry and the California Conservation Corps members will participate in eight study plots involving 13 acres. Various species will be planted on differing soils and exposures. The site was chosen because it was readily available to a major highway which makes this study easier and less expensive. Experience gained on this site will help us ensure a successful program for next year's major
reforestation effort.

For the major program, I am asking fellow members of the Western States Land Commissioners Association which represent all of the states west of the Mississippi save Kansas, to donate some trees from their states. One or more sites could become groves for these trees, and staff feels that we would then have a representative grove of the Golden West. California then would reciprocate where appropriate and perhaps donate redwoods.

In 1974, two and one half million board-feet of fire-killed timber was salvaged from the northern half of a section of State school land, 30 miles south of Susanville. The purchaser paid the State $229,000 for the timber that was removed. Since then, the staff has had the opportunity of looking at the unburned southern half of that section. This portion of the parcel has a stand of mature and overmature Ponderosa Pine and White Fir sawtimber. Under the older trees is a good covering of young pine and fir seedlings and saplings. Registered foresters on the staff are of the opinion the older timber, being subject to increasing loss from decay, should be removed in order to provide more room for the faster growing younger growth. This timber has been marked for removal and the volume is estimated to be 2.4 million board-feet.

A negative declaration has been circulated and it has been determined there will be no adverse environmental
impact from the proposed logging. The staff plans to advertise the timber for sale in April and subsequently request authorization from the Commission to enter into a timber sale agreement with the highest qualified bidder. I don't think any action is required at this time, Mr. Chairman. I think we'd simply like to advise you, and we'll come back if there is something additional.

On February 23, 1978, the Commission approved Chevron USA's proposal to drill well "Rio Vista State E-415" No. 19. On February 24, Chevron advised by phone that they wished to increase the depth of the proposed well by 700 feet. Accordingly, no approval letter was written pending receipt of the revised proposal.

The revision, dated March 13, 1978, proved to be simply an extension of the previously approved well course for 700 feet, with no other change. The previously approved objective of completing in the sub-unit zones is still unchanged.

Accordingly, since the intent of the proposal was unchanged, an approval letter was prepared which I signed on March 24 of 1978.

In January you authorized the issuance of a demand notice to Aminoil USA for removal of the Ellwood Pier in Santa Barbara, as provided in the lease. At the same time you indicated you would be receptive to other approaches
if the County could resolve its problems relative to leasing
the pier for recreational purposes.

Subsequently, negotiations with Aminoil, Arco,
and Exxon staff have begun whereby Aminoil will remove
the seaward 800 feet of the pier and the remainder will be
renovated and leased to Exxon and Arco for personnel transfer
and light cargo purposes. The lease will provide, however,
that in the event the County of Santa Barbara finds it
is able to proceed with plans to make recreational use
of the pier, Exxon and Arco will lease to the company, but
retain their rights to use the facilities for crew
loading only.

Environmental documents for removal of a portion
of the pier and for the leasing of the remainder are now
being prepared by staff.

Last month you authorized the emergency
expenditure of up to $40,000 for removal of beach obstructions in Santa Barbara which had been uncovered by unusually
high winter storms.

A contract was awarded to Granite Construction
Company of Santa Barbara this month, and in a nine-day
period, over 100 tons of steel, wood, remnants of former
oil drilling operations, were removed from a one-mile
stretch of the beach in the Ellwood area. This emergency
work cost $22,000.
The next phase will be to call for bids on a project to identify and map the remaining obstructions for future removal. This ongoing beach clearance project is being funded by a $700,000 Federal grant.

Mr. Chairman, Ms. Smith, this completes my report.

ACTING CHAIRPERSON McCausland: Thank you. Are there any questions?

Ms. Smith: No.

ACTING CHAIRPERSON McCausland: I have one question.

EXECUTIVE OFFICER Northrop: Yes.

ACTING CHAIRPERSON McCausland: I am in receipt of a copy of an executive order issued by the Governor regarding the urban strategy and a request of all agencies to prepare an inventory of parcels that could potentially be utilized in the furtherance of that strategy. Are we gearing up to prepare such a report?

EXECUTIVE OFFICER Northrop: We have received that, Mr. Chairman, and we are gearing up to handle that. Unfortunately, preliminarily, the parcels owned by the State Lands Commission in areas that would qualify at first glance seem to be relatively limited, but we are preparing the report.

ACTING CHAIRPERSON McCausland: All right.
MR. GOLDEN: Mr. Chairman, this report is intended to apprise you of the current interactions between the State Lands Commission and the Regional and State Coastal Commissions.

The first item is on the Federal Coastal Marine Sanctuary Program.

The State Lands Commission staff have been involved in the designation of areas for consideration by the U.S. Secretary of Commerce as marine sanctuaries. State efforts in this regard have been coordinated within the Resources Agency but have been spearheaded by the Coastal Commission. The Monterey Bay Area, the Channel Islands, the area offshore Pt. Reyes and San Francisco Bay are the three areas under active consideration by the Federal Government.

The objective of the Federal program is to identify "distinctive ocean areas that need comprehensive management and regulate those activities that threaten to destroy their character." Of special interest is that the program financing is entirely Federal and includes funds for designation, management, evaluation and enforcement. Should any of the areas be incorporated into the Federal Marine Sanctuary Program, its management may ultimately reside with State agencies within the Resources Agency.
State Lands Commission representatives recently participated in field tours of Monterey Bay and the Channel Islands with federal agency personnel and personnel from State departments within the Resources Agency. The tours enabled participants to evaluate the "conservation, recreational, ecological, or aesthetic values" of the areas.

The second item is on Public Trust Involvement.

Staff of the Commission has been working closely with the Attorney General's office to ascertain if Coastal Commission project applications involve lands encumbered with the historic public trust tidelands easement and also whether certain developments are consistent with the purposes and uses of said easement.

Coastal Commission permits are now being conditioned as follows:

Prior to commencement of the construction, the applicant shall obtain a written certification from the State Lands Division that either (1) the parcel is not subject to the public trust or (2) that the proposed development can be constructed consistent with applicable State law.

In the event that the State Lands Division or Commission finds that the
project is subject to the public trust
and that the development can be approved
only subject to limitations in use, any
limitations recommended by the Division
or Commission shall be incorporated
into this permit as conditions.

In essence, Commission staff is being asked to
provide public trust clearance for these projects on an
ongoing basis. State Lands staff is being requested to
provide mapping services, exhaustive historical research,
and boundary/title determinations by staff of the Regional
and State Coastal Commissions in order that they may respond
to Coastal Act concerns. As the Coastal Commission
becomes more involved in local coastal planning matters,
it is expected that additional funding will be needed by this
Commission if the staff is to respond in a timely manner to
requests for land status determinations.

That concludes my report, Mr. Chairman.

ACTING CHAIRPERSON McCausland: Thank you.
Are there any questions?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: Without objection,
we will take up Calendar Item 30, authorization for the
settlement of litigation in the State of California vs.

F. E. Crites.
MR. EAGAN: Commissioners, my name is Dennis Eagan, Deputy Attorney General. I'm the Deputy that's handling this case on behalf of the Commission.

The matter is covered in more detail in the calendar item before you. In brief outline, this is a proposed settlement of an action which was brought by the State Lands Commission to prevent the taking of sand from Suisun Bay without a lease from the State and also for damages for the sand extraction which had taken place prior to the suit being filed. Under the settlement, the defendant would submit to a lease and the State would receive approximately 80 acres of prime marshland lying on the southerly shore of Suisun Bay. It is presently contemplated that this land will be turned over to the Department of Fish and Game by the Commission for maintenance as an ecological reserve.

Are there any questions?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: Are there any other questions?

Staff have any other proposals?

The recommendation of staff is that the Commission authorize the Executive Officer, the Office of the Attorney General, to execute the proposed agreement and a settlement.

MS. SMITH: Move the approval.
ACTING CHAIRPERSON McCausland: Without objection, Calendar Item 30, the staff recommendation, is approved as submitted.

The Consent Calendar is the next group of items which we will take up. They are Item C-1 through C-9.

These have been grouped together in the Consent Calendar because it was staff's belief that there was no controversy surrounding any of them.

Is there anyone in the audience who has any problems with any of the items between C-1 and C-9?

Ms. Smith: On C-2, I think it should be noted that the land has not yet been classified, but there is no legal objection that I know of to the Commission taking any action on this particular item; is that correct?

Mr. Hight: Yes, that's correct.

ACTING CHAIRPERSON McCausland: Do you have any problems?

Ms. Smith: No.

ACTING CHAIRPERSON McCausland: Without objection, the Consent Calendar items will be adopted.

The next item is Item 10, review of status of determination of reasonable market value of natural gas.

As you'll recall, this Commission held hearings on this matter. In its January meeting, January 25th meeting, State Lands Commission adopted a resolution
providing that we would use in its determination of the reasonable market value or current market price the gas produced from the State leases in the Rio Vista, Isleton, River Island and Ryer Island fields, those prices that are the result of the pending arbitration between Pacific Gas and Electric Company and Texaco, Aminoil Oil and Superior, provided that should the Public Utilities Commission regulate and impose a ceiling on the price of gas produced and sold in California, the State Lands Commission would use that price ceiling as its determination.

Subsequent to the January 26th meeting, the Commission voted to open that matter for reconsideration during its February meeting. That was done because of a misunderstanding on my part at the January 26th meeting in which I thought the matter had the unanimous consent of all three Commissioners.

Since the February meeting, we have been advised by the Attorney General's staff that it would be an appropriate act of this Commission to open the matter for reconsideration if it so desired. However, we have a staff recommendation before us which is essentially a clarification of the January 26th decision, and one in which the Chairman of the State Lands Commission concurs. Consequently, it would be my desire for us today to clarify the action of January 26th by essentially stating
that the price that comes out of the arbitration must
come back to the Commission for its review and approval.
That it was not our intent on January 26th to delegate our
rulemaking authority to an arbitration panel, but rather
to have the arbitration panel give us guidelines which
would essentially set the parameters for a later decision
by the State Lands Commission.

I have a notice from the Chairman on Agenda
Item 10 which states: "I have been advised by the office
of the Attorney General and the Commission staff that the
matter of the reasonable market value of natural gas in
Northern California must come before the Commission after
the arbitrators have determined a price. Based on this
advice, if I were present and voting today on Calendar
Item Number 10, I would vote to approve the staff
recommendation."

Mr. Northrop, would you like to present the
staff's recommendation for the record?

EXECUTIVE OFFICER NORTHP: Yes, Mr. Chairman.
Mr. Jan Stevens, the Attorney General's office,
will make that presentation.

MR. STEVENS: Insofar as you requested
clarification of the legal status of the Commission's
decision to adopt the arbitrated price, I believe that
our conclusions appear in the calendar item and we can
summarize them by saying that, as you have indicated, the resolution does not finally dispose of the matter because the arbitrated prices which come down must come once again before the Commission at that time. Then the Commission would be free to reject the arbitrated price and make another determination of reasonable market value which it believes is appropriate and supported by the factual record. That, I believe, is the basis for the staff recommendation that the Commission reserve the right to take such further action as it deems necessary which is the present state of its decision in the law as we see it.

ACTING CHAIRPERSON McCausland: Mr. Sneider has asked for an opportunity to appear on this item. On the basis of the dialogue that you've heard, do you still feel compelled to?

MR. Sneider: Just for one minute. Mr. Stevens has been made aware from Mr. Vincent MacKenzie of the PUC that there was some problems with the notice and the description of this calendar item, and Mr. Stevens, I think, was informed by Mr. MacKenzie that he believed that the Commission, based on this type of notice and the time of the notice which was less than the seven days, could not act in any respect today. Mr. MacKenzie is not here and asked me to deliver the comments. Mr. Stevens is aware of the
gist of them.

Quite frankly, what Mr. Stevens seemed to have said is in line with our view that the Commission could not delegate authority to another body and, in essence, what he seems to be saying is you want to correct that error and I have nothing to argue about that correction of that error.

ACTING CHAIRPERSON McCAUSLAND: For the record, the voice on the transcript is that of Leonard Sneider, Deputy City Attorney of the City of San Francisco.

I would like to state that I believe that I am on the mailing list for notice and I would personally like the record to reflect that I believe more than adequate notice was provided on this.

Do you have any further objections?

MS. SMITH: No, I don't have any objections at all. But, I think for the record, Bob, you should indicate when the notice was mailed.

MR. HIGHT: The notice was mailed last Thursday which is more than time necessary by the Government Code.

MR. SNEIDER: Mr. MacKenzie received his notice on March 24th which I believe was six days. I received my notice this Monday.

ACTING CHAIRPERSON McCAUSLAND: Thank you. We'll move on -- well, is there any objection to the adoption of
the staff recommendation?

MS. SMITH: No.

Just one further point; I don't believe the adoption of the staff recommendation is a correction of a previous error, because when I voted, I voted intending to have to take this matter under submission at some subsequent date. In my mind the arbitrator's award would constitute supplemental evidence which I will consider at a later date and adopt. I have no problem at all adopting the staff's recommendation.

ACTING CHAIRPERSON McCausland: Without objection, the staff recommendation on Calendar Item 10 is adopted.

Calendar Item 11 relates to a lease for 75 acres of submerged land at Moss Landing, Pacific Gas and Electric Company.

Mr. Northrop.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Mr. Trout from our staff will make a brief presentation on this stating staff's position.

MR. TROUT: Mr. Chairman, Miss Smith, in 1974, Pacific Gas and Electric Company requested the Commission to begin action on an application to expand their marine terminal at Moss Landing to handle larger ships. The major incentive being that the existing marine terminal was designed for smaller ships which were getting into
shorter and shorter supply and more and more difficult for the company to charter.

As a result of that, an Environmental Impact Report was prepared. A public hearing was held in Monterey. In fact, it happened to be the night before President Nixon signed his presidency, if I remember. As a result of that hearing there were --

ACTING CHAIRPERSON McCausland: That's hearsay.

(Laughter.)

MR. TROUT: There were a number of environmental concerns and questions that a number of people felt were inadequately handled in the original EIR. Because of that, and because of changing conditions or uncertain conditions, the company requested that the application be held in abeyance for a period of time.

After a chance to reconsider it, PG&E resumed the processing of the application. A subsequent Environmental Impact Report was prepared including a considerable volume of material directly answering questions raised as a result of the first EIR. A second hearing was held in Monterey and the EIR is now completed that process and is before the Commission.

The project consists of a typical marine terminal involving seven anchor buoys to handle ships up to 90,000 deadweight tons. That would be a limitation both of the
environmental document and the recommended lease. The new facility would require new pipelines for most of the distance. Over against the wall is -- a little bit of glare on it -- but in the upper left-hand corner is a planned view of a tanker in the typical seven point mooring system marine berth. The upper right-hand corner in yellow shows the new pipelines going from the terminal to the plant. The small orange line is the existing line to the marine terminal which would remain in place. And in the lower left-hand corner is a picture of a ship in the berth with the pipelines on the bottom. In the lower right-hand corner is a detailed view of how the pipelines would cross the Moss Landing district and enter the PG&E plant facility.

The staff has been involved in this now for nearly four years and have been deeply involved in the environmental process and we have summarized most of this in the calendar item. I believe that there remains some comments to be made from some people representing the environmental community concerning this, and PG&E is present following that to answer any questions or make whatever presentation they wish.

EXECUTIVE OFFICER NORTHRUP: That completes the staff's presentation.

MR. STEVENS: Mr. Chairman, if I could make one
other clarification of the record. The environmental statement which has been prepared contains some statements from the Attorney General's office. These statements were inadvertently included in the environmental statement. They were submitted as legal advice to point out possible issues that could be raised in the environmental assessment and do not represent the Attorney General's position on the Moss Landing project. They were rather simply our advice to staff which was inadvertently included in the document as comments are included from other people.

ACTING CHAIRPERSON McCausland: Thank you, Mr. Stevens.

We have several requests to speak. It might be appropriate to allow PG&E to respond to those comments. So if I could start with Norbert H. Dall, Coastal Land Coordinator of the Sierra Club.

May I say that I think that the members of the Commission have spent a considerable amount of time reviewing this calendar item and that if you can summarize your remarks, I think we would understand the issues that you're raising. You don't have to overcome us with details. Thank you. Mr. Dall.

MR. DALL: Thank you.

Mr. Chairman, Commissioner Smith, I'm Norbert Dall. I'm a lobbyist for the Sierra Club. I'm responsible
for the Sierra Club's California Coastal/Land Use Program.
I've been with the club for about a year and a half. We have been involved in the California Coastal Management Program since 1973.

We would like to commend your small staff for the work that it has done over the years. Even though as our 12-page detailed comments point out, we find many omissions, and we think errors, in the Environmental Impact Report. We understand that this Commission will not act on the application today. We ask, therefore, that the applicant and perhaps your staff supply us with written answers to our questions and especially a copy or two of the proposed lease that the Commission would enter into with the applicant.

The Sierra Club recognizes the work this Commission did at the end of last year after the rash of oil tanker accidents around the United States and the world. In so doing, we believe this Commission raised great expectations on the part of Californians and the nation as a whole as a result of the hearings it held and the regulations it prepared concerning tanker terminals within its jurisdiction. We are, therefore, somewhat disappointed, Mr. Chairman, that the present Environmental Impact Report does not even mention those regulations.

Altogether, we submit for your consideration that
the Environmental Impact Report is unfortunately inadequate under the provisions of the California Environmental, under CEQA.

In reading through the responses in the Final EIR, the last volume that has come out, we find that the responses to our questions, and there have been hundreds of them, are unfortunately, again, at best superficial, instead of being the kind of reasoned, detailed, factual replies to which we have gotten used to as coming from this Commission and its staff.

As I indicated to you, we have submitted 12 pages, my office has submitted 12 pages of detailed comments both relative to the executive summary, as well as responses to our original comments.

If I may, Mr. Chairman, I would just like to address three points and leave the written material as the rest of the record.

ACTING CHAIRPERSON McCUSAULD: Thank you.

MR. DALL: We're concerned that in the past events have occurred under the existing lease from this Commission that should not have occurred and that could have in slightly different circumstances resulted in a catastrophic or near catastrophic event relative to oil spills at the Moss Landing terminal. For instance, we refer you to Comment Number 33 in our specific comments
which relates to a response by your staff and the applicant to comments that were made concerning page IV-37 of the draft EIR. On that page it is stated that during June of 1977, while the operator was aware of and repairing a faulty submarine hose which had been detected during the previous tanker delivery of fuel oil, another tanker was brought in and allowed to use the facility. As we understand it -- and perhaps Mr. Golden can correct us as he sits on the Coastal Commission as well as works and represents this body -- the California Coastal Act in Section 30232 which we believe this Commission is also obligated to enforce, requires that the protection against the spillage of crude oil and petroleum products shall be provided in relation to any development or transportation of such materials. We would simply ask, Mr. Chairman and Commissioner Smith, whether in this instant case that protection provided for in California law was obtained.

Secondly, we find the discussion of alternatives, one of the key questions of CEQA, to be abrupt and rather uninformative. I refer to Comment Number 43 in our present testimony, written testimony. There are two parts to this. One relates to the question of a significant alternative in the sense of replacing oil tankers, that is, vessels that sail on the sea, with fixed pipelines, or a pipeline which is presently in place which is carrying
natural gas or has carried natural gas in the past to the Moss Landing power plant.

As we understand it, the Public Utilities Commission has provided that such gas supplies to P-4 and P-5 uses will decline and ultimately be curtailed in the future. If, in fact, that is the case, we think, and natural gas cannot be used in great quantities any longer to fuel the power plant, then we believe it is a significant alternative available to this Commission as well as the applicant to consider recycling, if you will, the existing 24-inch pipeline into an oil pipeline that is presently a natural gas pipeline. That is being done in other parts of the United States. Most prominently here in California, of course, it has been proposed as part of the SOHIO Project from Long Beach to Midland.

We have a number of specific questions that address the possibility of pipeline conversion. I will not repeat those now, because they are on page 12 of our specific comments. However, we would ask that the applicant and your staff supply us with considerably greater detailed factual information. We find in reading the comments, the responses to our comments, that we are provided with conclusions without the evidence or the data to substantiate those conclusions. Now, PG&E and your staff may very well be correct that those pipelines cannot
readily be converted. However, we think that that decision needs to be made on full evidence that is in the record rather than assumptions or intuitions or other proposals that are not part of the record.

Secondly, a second alternative that is of concern to us is the fact that this marine terminal is designed and will be built to accept 130,000 deadweight ton tankers, although, as I understand it, the lease will be conditioned from this Commission to only allow 90 ton deadweight tankers. We think that that difference alone raises a significant alternative with which the Sierra Club perhaps might not agree, that is, to bring in the larger tankers. But under CEQA, we believe -- and especially if the applicant means what it says, that is, that the larger the tanker, the less the likely adverse environmental effect. If that is really the intent of this project, then we would submit to you for your consideration that the larger project also be considered in the environmental impacts and benefits if the larger project be compared to the 90,000 deadweight ton projects.

Mr. Chairman, in conclusion, all of us have seen recently an editorial in the Los Angeles Times that suggests that the California Environmental Quality Act and the process through which it is implemented will be a Mickey Mouse affair. The Sierra Club certainly does not
believe this. We believe that the State Lands Commission also does not believe that.

Given our attitudes, and, I think we share those towards CEQA, we believe that it would be reasonable to send the EIR back to have some more specific factual answers provided. For after all, the California coastline, but especially Monterey Bay to us, and we think probably to you, is too precious to see an event such as what happened off the Coast of France when the Cadiz ran aground occur along our coast.

Thank you, Mr. Chairman.

ACTING CHAIRPERSON McCUSAULAND: Thank you.

Let me ask you one question along that line, if I might. The Legislature made moves last year that were essentially designed to say the environmental impact process is a closed or at least has an in-point to it. You have given this Environmental Impact Report a very thoughtful analysis and provided 12 pages of principally questions that would essentially generate another Environmental Impact Report. I appreciate the concerns that you're raising with this individual project, but I'm trying to fix in my own mind how this Commission can act responsibly as sort of a general policy matter for all applicants. At what point do we determine that we have closed the Environmental Impact Report process? At what
point do we say individual institutions can't really come back and ask us for another detailed set of answers? I need to feel how to do that, because I think it's a question that isn't going to relate just to this project but to a number of others.

Mr. Dall: Mr. Chairman, the Sierra Club, both the coastal ... force that I represent throughout the State, as well as the Ventana Chapter for which there are speakers here behind me, have submitted extensive comments not too different from the ones that we are submitting now since this project was originally proposed for public review or offered for public review several years back.

What I think we are saying in essence is that the questions we have asked on several occasions now in our opinion, obviously, have not been adequately addressed. That's not a question of a mitigation measure here and a mitigation measure there, but rather that the responses to our questions have not been supported by the weight of the kind of evidence, the hard information that we think reasonable people ought to be able to review before they agree to a project or at least sign off on it.

As you may know, the Sierra Club has not been opposed to every oil and gas development along the California Coast. As a matter of fact, even though we still have a number of reservations at the end, the Sierra Club...
by a decision of its top leadership in the State ultimately came to support at least certain portions of the SOHIO project, so I don't want to convey to you the impression that we are endless opponents of every project, because that is not the case. However, we do concern ourselves, as you know, with the environmental impacts, and we think that full information needs to be available.

A second comment, if I may, just shortly.
AB 884 by Speaker McCarthy was a bill that we supported. We think that in most instances the environmental review process can be completed within much shorter time frames than they have in the past, and we stated this in the Legislature when that bill was moving through. We believe that that takes a good faith effort on the part both of the applicants for projects, as well as the environmentalists, as well as the governmental agencies reviewing the projects and the comments. We, unfortunately, feel compelled to say that, aside from good faith, for whatever reason, some of that full disclosure has not occurred.
I don't know if that answered your question.

ACTING CHAIRPERSON McCausland: You have a question?

MS. SMITH: I have a question for Jan.
To what extent are we obligated to meet the objections raised as a Commission since we are the lead
agency on this project; aren't we?

MR. STEVENS: Yes, we are. I'd like Mr. Frank
to come up because he's made quite a study on this matter
and I think one question may lead to another.

MR. FRANK: Yes. I'm Rick Frank with the
Attorney General's office.

Our office has examined the environmental
documentation that's been prepared throughout this process.
We feel that procedurally it is adequate. There is, of
course, nothing to prevent the Commission or the staff
from deferring action if it feels appropriate in taking
either formally or informally the comments of the concerned
public and responding to them in any way they feel necessary.
But the procedural requirements of the California Environmental
Quality Act have been met by the staff up to this point.

ACTING CHAIRPERSON McCausland: You want to ask
what the procedure is?

MS. SMITH: Yes. Would you like to outline the
procedure? I'd like to know what steps have been taken
thus far and what the procedure is for opening it up
again.

MR. FRANK: As Mr. Trout, I believe, indicated
at the outset, an initial Environmental Impact Report was
prepared in 1974. As a result of a number of considerations,
that report and the project at that time was tabled for
further consideration. Approximately a year ago, I believe a draft Environmental Impact Report was prepared by the division, circulated for public comments, and also the comments that concerned State and local and federal agencies.

As a result of those comments, a final report was prepared which consisted principally of the State Lands Division's responses to the comments in conjunction with an executive summary which is also found in your calendar items.

Again, that document has been made available and circulated in accordance with the requirements of the Act and implementing regulations of the Secretary of Resources. That is the point at which we are at today.

To finish up the procedures at some point prior to making a decision on this project, the Commission would be required to certify or approve the completeness of the document and then move on to a substantive decision on the merits of the project.

MS. SMITH: If you were to respond to the comments made today, would you have to circulate your response to all the agencies that are concerned or the public generally, or would you just send it to Clearinghouse?

MR. FRANK: My tentative conclusion would be that you are not legally required to do so, and the normal
circulation period is 30 days. So if you were going to hold it open and go through the circulation process, that would essentially require a two-month delay of the consideration of this process. That is not legally required under CEQA. As I mentioned before, the Commission has substantial discretion in the manner in which it sees fit to respond to these comments. It could require a supplemental Environmental Impact Report to be distributed through the Clearinghouse. It could ask the staff to informally present responses to the Sierra Club's comments at a subsequent meeting. I think either of those would meet the procedural requirements of the Act.

ACTING CHAIRPERSON McCausland: Thank you.

Next we have Rod Holmgren, the Chairman of the Moss Landing Deep Water Port Task Force.

MR. HOLMGREN: My name is Rod Holmgren. I come from Carmel. I'm the Acting Chairman of the Moss Landing Task Force for both the Northern California Regional Conservation Committee of the Sierra Club and the Chapter.

We find the final EIR inadequate in several important respects. We're particularly concerned by statements and tables on growth-inducing impacts, feasible alternatives, tanker-size alternatives, and oil spill risks. On the last page of the executive summary under
Growth-Inducing Impacts, the statement is made:

"The existing power generating equipment of the Moss Landing Power Plant will not be expanded as a result of the project."

We ask the State Lands Commission to consider the question: Is this proposed project merely one step in PG&E's plan to expand the Moss Landing Power Plant production capacity by 900 megawatts in the near future?

On March 1, 1978, the Monterey Peninsula Herald quoted Donald Phipps, PG&E's divisional steam manager at Moss Landing, as saying that "PG&E plans to hook old steam-electric generators in combination with new gas turbines in the 1980's to boost the Moss Landing plant's capacity by 900 megawatts. Current capacity is 2,120 megawatts, Phipps said."

There's a clipping attached to this document I have distributed here.

In fact, PG&E has been planning this repowering for a long time. On October 28th of last year, the Central Coast Regional Commission of the California Coastal Commission applied for a federal funding under the Coastal Energy Impact Program to study the socioeconomic, environmental and geophysical impacts of PG&E's proposed boost of almost 50 percent in its power generating capacity.
at Moss Landing. That funding has now been approved and the staff of the Regional Commission is going forward with that study. In view of these developments, we believe the Lands Commission cannot consider the EIR as complete until it has more information on PG&E's plans for (a) the near-term future of the Moss Landing plant, and (b) the fueling needs associated with those plants.

For example, isn't it likely that an additional 900 megawatt capacity will entail a substantial increase in the amount of fuel consumed by the Moss Landing plant, and a substantial increase in the emission of air pollutants even if they allow for the increased efficiency of the units that PG&E plans to install?

Isn't it also likely that within a few days or weeks after approval of the present application for terminal expansion, PG&E will be filing an application for further expansion to handle 130,000 deadweight ton tankers? In view of this probability, we believe the Lands Commission will want to consider the future decision which PG&E has already made rather than merely the present decision which it has tried to advance here as no more than a move for greater "flexibility" in seeking tankers to bring oil to Moss Landing.

As another indication of increased pressure for a sharp step-up in oil deliveries at Moss Landing,
we ask you to note Table 8 in the draft EIR which was completed last August and not modified in the final EIR. That table called for Estimated Fuel Requirements at Moss Landing of 15.69 million barrels for an average year by 1982. Yet Table 7 on page 8 of the final EIR uses the figure 15.7 million barrels as soon as the 90,000 DWT facility is in place. Donald Phipps is quoted by the Herald as predicting that it will be in place by late this year. There's another clipping attached here. That would be four years earlier than PG&E was predicting last summer. We interpret this as indicating that PG&E is already consuming oil at Moss Landing at a faster rate than it predicted last August. When the repowering is completed, we assume that fuel consumption would be still greater.

We find inadequate the response to Comment 149 regarding the alternative of converting the present gas pipeline from Richmond to carry oil. Mr. Dall has commented on that.

We find the figures on Tables 7, page 8, and 13, page 12, confusing, but they do make some significant revelations. Please note that Table 13 gives no estimated figures for deliveries needed during an average year, only figures for an adverse year.

The important point to note here is that even if the Commission approves the proposed lease, PG&E is
planning to make far more deliveries in small tankers of
40,000 tons or less than in tankers of 50,000 or 90,000
tons. Indeed, it predicts that only 12 deliveries in
90,000 ton tankers would be made in an adverse year. That
would represent a total of seven and a half million barrels
of oil delivered by the larger tankers in an adverse year,
as compared to the need for 15.7 million barrels in an
average year and 21 and a half million needed in an adverse
year.

In other words, PG&E is planning to use the
new facility at its highest capacity for less than half
of the amount of oil delivered in an average year, and
for slightly more than one-third the amount needed in an
adverse year. Thus, it won't be bringing tankers into
Moss Landing every eight or nine days as its arguments
suggest, but, if we allow for the two months of winter
weather downtime, once every 3.8 days or once every 91 hours
to be precise.

The questions that we believe need to be raised
here are:

First, does PG&E have contracts or is it
negotiating for contracts to use more of the 50,000 to
90,000 tankers than these tables indicate; and

Second, will PG&E be willing to stipulate that
if the Commission grants this lease, it will bring no tanker
smaller than 50,000 DWT into the Moss Landing facility?

Long ago, PG&E convinced the Sierra Club that it should not be using WWII-vintage T-w tankers to bring oil to Moss Landing. Indeed, Sierra Club supported the application for the 50,000 ton facility in 1973 for exactly that reason. PG&E is now pleading for still a larger facility and piously arguing that such a facility would reduce the oil spill danger because the larger tankers are safer. And yet it is obviously planning to continue using these small tankers, including the T-2's, into the future indefinitely.

We recognize that PG&E wants maximum flexibility in seeking tankers to bring oil to Moss Landing. A look at the figures indicates that almost all the oil used in recent years has come from either the San Francisco or L.A. areas which are not very many sailing hours from Moss Landing. We believe it would be desirable for the company to buy one or two well-designed 50,000 DWT tankers in order to realize full utilization of the present facility. We call your attention to the chart which is attached at the back page here as to the availability of tankers in that range.

According to our figures, if only 50,000 ton tankers were visiting the harbor, 47 trips would be made in an average year, or only one every 6.3 days instead of
one every 3.8 days which is what the company is now forecasting even if it gets the 90,000 ton facility.

The statement is made on page 2 of the Executive Summary that Elkhorn Slough has been designated a California State Estuary Sanctuary. This is incorrect. The California Coastal Commission has made Elkhorn Slough the only nominee on the California coast for federal estuarine sanctuary status. There is every indication that this nomination will be confirmed in Washington very shortly.

In its "answers to environmental questions", PG&E admitted that "the use of larger vessels does mean that, theoretically, a larger spill can occur."

In the same document the response is made, "the booms, which will be immediately deployed whenever the Spill Alarm sounds, will be effective in preventing spilled oil from entering Elkhorn Slough in all the strongest current situations." On the same page, PG&E denies that surface currents are likely to sweep oil under booms. Yet on page 90, it admits that deployment of all three booms, including the one across the mouth of Elkhorn Slough, would take about two hours. It goes on, "in adverse weather or during tidal flows in excess of one and a half knots, the boom across Elkhorn Slough would not be completely effective. Some oil would get by."

To mitigate this problem, we urge that if this lease...
is granted, it contain a requirement that unloading
be limited to periods of outgoing tides. We find the
worst case analysis very disquieting. It gives little
assurance that in adverse weather situations with strong
tidal flow, the Slough would be completely protected.

We also urge that all offloading be
during periods of temperature inversions, thus, no
burn days, in order to decrease air pollution.

The recent developments make us feel uneasy about
the idea of bringing as many tankers as PG&E proposes
into Moss Landing. One is an indication that tanker
spills are primarily the result of human error. That is
the only conclusion from the shocking oil spill off the
coast of Brittany last week. The result was that 6 billion
barrels of crude oil were spilled, at least 80 miles of
the Brittany Coast were covered with oil, an untold
damage was done to rich fishing waters. Damage that will
last perhaps ten or more years.

Another is a story from Washington which appeared
in the Monterey Peninsula Herald on March 20 of this year
quoting the general accounting office as saying that the
Coast Guard has not been given enough resources to
contain and clean up spills adequately. The Commission does
not need to be reminded that the Coast Guard monitors
clean-up drills and procedures at Moss Landing.
On that same day, March 20, PG&E conducted an oil spill clean-up drill at Moss Landing. Captain William C. Lundeen of the Monterey Coast Guard said, "As a learning experience, it was very effective." One may ask why it is still necessary for PG&E clean-up crews to learn the drill procedure five years after the permit for the 50,000 ton tanker facility was granted.

You might look at the attached clippings for a report by the Herald on that drill.

The central question here is whether the Coast Guard's critiquing of the drill procedure is strict enough, and whether the procedure itself is adequate. We urge the Commission to consider insisting that a special crew not drawn from regular PG&E personnel be trained for the specific purpose of responding to spill emergencies at Moss Landing, and that such a crew be required to drill far more frequently, under a greater variety of hypothetical situations, than the PG&E crew has been thus far.

Air polluting emissions are discussed in the response to Question 121 and in Tables 15, 16, 17 and 18 in the final EIR. We note the sharp differences between the emissions, especially of hydrocarbons and SOx in Tables 15, 16, 17 and 18 in the draft EIR and the same numbered tables in the final EIR.

Explanation for these marked differences is lacking.
Since the draft tables were apparently in error, we should be told what caused the error. What are the new factors and/or assumptions on which the final EIR tables are based?

There are some further miscellaneous comments. You have them before you.

Our conclusion is in view of these final EIR inadequacies and omissions, and especially the failure to take PG&E's repowering plans into account, we recommend that the State Lands Commission deny the lease.

ACTING CHAIRPERSON McCausland: Thank you. Appreciate your contribution, Mr. Holmgren, and I believe that this matter may be before us a little longer and we'll have a chance to digest your comments.

MR. HOLMGREN: Thank you very much.

MS. SMITH: Thank you.

ACTING CHAIRPERSON McCausland: Mr. Judson Vandevere of the Audubon Society and Friends of the Sea Otter.

MR. VANDEVERE: Mr. Chairman, upon receipt of the final EIR, I was disturbed by its inadequacy in regard to the serious issues raised in my testimony of September 14, 1977 before this Commission. That's the hearing in Monterey of September 14th. These issues were ignored and replaced by one sentence. I quote:
"What are the plans for the care of oiled animals?"

The response which follows places responsibility on the Department of Fish and Game, ignoring condition 7 placed upon PG&E by the Coastal Commission when it approved Phase I expansion.

As the important points I raised in my prior testimony have been ignored, I resubmit that testimony for reconsideration. That testimony was:

As a director of the Monterey Peninsula Audubon Society I wish to comment on the inadequacy of this EIR as it relates to the care of oiled animals in the event of a spill. I am not able to find in the EIR or in the Appendix D any plans for the care of oiled animals.

The Coastal Commission approved Phase I expansion of the Moss Landing Terminal but placed as a condition the requirements that the supervisory personnel and volunteers be trained to care for oiled birds and that a cleaning center be established and materials be stock piled.

PG&E did pay for the initial training of supervisory personnel on the weekend of June 8, 1974, but at the conclusion of that training session Robert Arthur of PG&E informed me of the company's desire not to train volunteers other than PG&E employees.

I was one of the trained supervisors and along
with Robert Arthur and Dr. Robert Coulter I was named to the coordinating committee which has never met. Our plan called for "all personnel will partake in a two to three hour annual refresher course." To my knowledge there has never been a refresher course. We also planned to establish a cleaning facility at Ft. Ord, and to my knowledge this has never been done and no materials are available for bird cleaning in the Monterey area.

I feel that it is essential that supervisory personnel, trained volunteers who are not PG&E employees and a center at Fort Ord be established immediately for the cleaning of wild animals in the event of an oil spill. I believe such a plan should be a part of this EIR.

In my opinion, PG&E personnel will be so busy stopping the spill, containing and cleaning the oil that they will not be available for wild animal rescue and cleaning.

Because PG&E failed to carry out the conditions required of them by the Coastal Commission, the EIR should place the responsibility with the International Bird Rescue Research Center, Berkeley, California. The expense of this project should be borne by PG&E.

Because PG&E failed to carry out the conditions required of them by the Coastal Commission, expansion of their terminal to accommodate larger tankers capable of
larger oil spills should not be permitted. Sincerely,
Judson E. Vandevere, Director, Monterey Peninsula Audubon
Society.

Now, for the Friends of the Sea Otter.

"I am Judson Vandevere, speaking
for Betty Davis, Executive Secretary
of Friends of the Sea Otter who could
not be here today.

"The Friends of the Sea Otter
appreciates the opportunity to partici-
pate in this hearing on the Final
Environmental Impact Report for the
PG&E Marine Terminal Expansion at Moss
Landing and the leasing of State lands
for the construction and operation of
this facility.

"Noting that our comments presented
to the Commission in Monterey on
September 14, 1977 were incorporated
verbatim into the Final EIR, we have
only a few corrections and additions to
make in our specific area of interest.

"With respect to page 2 of the
Executive Summary of the EIR, all
relevant endangered species should be
listed, and their names spelled correctly. Thus, the gray whale should be added and the norther elephant seal spelled --"

and these changes that Dr. Betty Davis is asking in her third paragraph are also contained in my testimony. I made these corrections of spelling and these suggestions for additions on September 14, 1977, and they were not made at that time or they're not part of this final EIR. She's just repeating what I testified to in my last paragraph of my September 14th, 1977 testimony.

"With respect to our comments on section VII-26, we would like to add emphasis to our earlier statement that there is nothing "potential" about what would happen to the threatened southern sea otter, in and adjacent to Monterey Bay, in event of an oil spill or any contact with oil from the proposed facility and its related activities. In essence, we would like to reaffirm the unfortunate fact that as we stated before: an 'oiled otter is a dead otter.' Since making our presentation to the Commission in
September of last year, the results of two sets of sea otter oiling experiments carried out in Alaska and California have been presented to the scientific community. The results of these recent experiments indicate that:

1. Otters do not avoid oil on the water, but on the contrary swim repeatedly into it and become completely saturated, dying within 8 hours.

2. Otters cannot clean themselves up when heavily or even moderately oiled -- nor can they be cleaned up satisfactorily by humans using the best of equipment and under the most favorable and controlled conditions. Detergent solutions used to remove surface oil from otters also removes intrinsic oil from their pelage, reducing both its water repellancy and its capacity to hold air bubbles which provide insulation next to the skin. Otters have no blubber for insulation as do other marine mammals. Thus, even after being cleaned and dried, otters become soaked.
to the skin on re-entry into water. To avoid chilling and pneumonia, they must be kept in warm water for extended periods; but even with this meticulous attention, the otter's metabolic rate takes days to return to normal and they may succumb to pneumonia.

"3. Two otters, one with a small patch of oil and another cleaned, kept dry over night, and released -- both showed abnormal behavioral patterns for several days as monitored by radio transmitter tracking device and though their activities began to settle back to normal, radio contact was lost too soon to be assured of their recovery.

"Thus, at the present state of the art, the prognosis for cleaning oiled otters successfully and restoring them to their environment seems dim. Furthermore, the prospects for corraling or capturing more than a few of them in front of a spreading oil spill and restoring them to distant clean waters seems equally tenuous under usual spill conditions. As
the Department of Fish and Game is finding out in current otter tagging operations, sea otters take a long time to capture one by one and do not respond well to herding into tangle nets.

"Considering that the entire population of the southern sea otter -- and the only population of sea otters easily available for observation -- occurs on the central California coast and is very visible in Monterey Bay, we are deeply concerned about the enlargement of any oil facility, the arrival of larger tankers, and any other oil-related activity that would further endanger the well-being of this threatened marine mammal. It must be remembered that oil threatens otters not only by irreparably soiling their fur, but by contamination of their shellfish food sources -- equally important for their survival.

"We are not convinced that the Final EIR has answered satisfactorily those questions about the extent and nature of potential oil impacts on shellfisheries and other marine biotic..."
resources. Rather this question still appears to be glossed over wherever it arises. Merely presenting the essay on "Ecological Interactions and Food Webs in Estuaries" as an answer to the question of possible impact on Elkhorn Slough is not enough -- though it certainly provides a chilling prospect reading between the lines of what the outcome could be.

"It has been said that ecosystems are not only more complex than we think but that they are more complex than we can think. This bit of wisdom seems especially true of the cloudy relationship between oil, the chemicals used to clean it up, and the marine environment. When in doubt we should err on the side of caution. There is little doubt now about what happens when otters meet oil. Thus we are seriously concerned about the proposed enlargement of the Moss Landing Mooring Facility of PG&E which would make the remnant southern sea otter population, and the marine ecosystem of which it is an important component, even more vulnerable to
disaster than it already is.

"The Friends of the Sea Otter, therefore, respectfully urge that the State Lands Commission consider carefully the adequacy of an EIR that needed so much correction and supplementing, and that the lease of submerged state lands to PG&E for the expansion of the Moss Landing Marine Terminal facility be denied.

"Thank you for the opportunity to comment on this important matter and for your attention."

Signed Betty S. Davis, Ph.D., Executive Secretary, Friends of the Sea Otter, Carmel.

ACTING CHAIRPERSON McCUSLAND: Thank you very much.

MR. SMITH: Am I correct in understanding that the EIR does address these objections that were raised?

MR. TROUT: Yes, I think from all of the speakers I think it's largely a matter of interpretation when something is enough. I guess maybe reasonable men could never agree on that point, but we believe that every effort has been made to answer these questions in a rather lengthy report. In fact, this white volume here is the answers to the questions of the first hearing that we held in 1974. In
addition, there is a subsequent Environmental Impact Report that was submitted and heard last September. So I guess it is a matter of opinion largely.

MS. SMITH: Thank you. And you've reviewed these documents?

MR. VANDEVERE: Yes.

MS. SMITH: And you still feel they're inadequate?

MR. VANDEVERE: Yes, I do. You notice that the testimony that I reread to you from my September 14th, 1977 testimony was, in this latest EIR, made into just one sentence. I read that one sentence to you. And it is, "What are the plans for the care of oiled animals?" That has nothing to do with my complaints and my testimony of September 14th.

ACTING CHAIRPERSON McCausland: Thank you.

MR. VANDEVERE: That's what I mean by inadequate.

MS. SMITH: Okay.

ACTING CHAIRPERSON McCausland: Thank you very much.

I should note for the record that the League of Women Voters of Monterey Peninsula states that they do not take a position either in support of or in opposition to the proposed project, but they do list a number of concerns similar to those which have been referred to in the testimony today.
It is now PG&E's turn to take up the Calendar Item Number 11.

MR. BAUMGARTNER: Mr. Chairman, my name is Peter Baumgartner. I'm an attorney with Pacific Gas and Electric Company.

PG&E is prepared to answer the questions of the Commission at this time. For that purpose, I brought with me, and I would like to introduce at this time, a number of people from PG&E's staff. When I introduce them, if each of you would stand for the record and so that you could be identified.

Mr. Larry Harrison who is the Project Coordinator from PG&E's headquarters in San Francisco.

Mr. Roy Hawes from the Moss Landing power plant, the superintendent's office.

Mr. Robert Grow, Chief Planner from the Land Department of PG&E.

Mr. Larry Brown who coordinates our preparation of their impact data.

Mr. Rich Mohr who takes care of our tanker chartering and oil procurement.

PG&E will be pleased to answer whatever questions the Commissioners have.

MS. SMITH: Mr. Baumgartner, I understand that the Coastal Commission or the Coast Guard recently called a
practice drill?

MR. BAUMGARTNER: That's correct. Their permit for the present terminal which we received from the Coastal Commission several years ago requires that surprise drills be held. The surprise element, in order to have a surprise drill, of course, the drill has to be held by somebody else and the drill is held under the supervision of the Coast Guard who is charged in the federal law with the supervision of the preparation of spill cleanup plans. A drill was held, several drills have been held since the permit was granted. The latest one of which was held about a week ago or ten days ago.

MS. SMITH: And what were the circumstances surrounding that drill?

MR. BAUMGARTNER: I'm going to ask Mr. Hawes to answer the drill questions, because we was there and saw it and I was not.

MR. HAWES: For the record, the name is Hawes.

MR. BAUMGARTNER: Sorry.

(Laughter.)

MR. HAWES: I'm Roy Hawes. I'm Supervisor of Coast Valley Division stationed at Moss Landing power plant.

I was a witness to the extent of the oil spill dri'. I could tell you the whole story, but I could respond.
to questions. When you say what were the circumstances --

MS. SMITH: Yes. I've been briefed by the
staff and told that the Coast Guard issued an unfavorable
report on PG&E's performance in this drill. I thought
since I would be requesting a copy of that report, you
might want to present any facts or circumstances in your
defense.

MR. HAWES: I'll respond to that directly.

I witnessed the extent of the entire operation.
I participated in a post-incident debriefing in the Coast
Guard headquarters at Monterey, and I was satisfied that
the Coast Guard was, if not pleased with our operation,
that they would be satisfied that the drill was successful.

I don't understand the report that you received.

In other words, I'm saying that the Coast Guard
indicated to us that they were satisfied with our performance
in that drill. So I don't know the source of your
statement.

MS. SMITH: Bob, would you like to comment?

EXECUTIVE OFFICER NORTHRUP: Miss Smith, that
was prepared by our Environmental Program Management Unit,
that briefing. Mr. Sanders is manager of that section. I
think it would be well if you have a question on that
issue, you might want to address it to him.

MS. SMITH: Did both the Coastal Commission and
the Coast Guard do an evaluation of PG&E's performance?

MR. SANDERS: Yes, Miss Smith. I was present at a resources agency tanker task force meeting last Thursday at which both Coastal Commission staff and Coast Guard staff related circumstances surrounding the test drill. The Coast Guard stated that the staff of PG&E did follow the book, i.e., they went by the plan specifically, having some trouble since it was the first time at least to their knowledge that it had been rehearsed. However, the test was called specifically at an ebb tide I believe is the term used. The present oil spill contingency plan did not consider such a tide.

So while the PG&E employees followed the contingency plan to the book, the book in this particular instance was not applicable to the situation in which the drill was called. I believe the situation could be likened to the circumstance where a fire extinguisher is required in a building and it is so installed. A fire is present and the fire extinguisher is used, but it might be an electrical fire and the fire extinguisher may only be applicable to gasoline or paper fires. It's not, you know, it's the circumstance under which the drill was called and the contingency plan did not adequately consider or meet that circumstance.

MR. HAWES: I think that the Coast Guard's
preconditions in establishing and setting this drill, they
set the boundaries of what the spill involved, its
location, and we responded to that set of conditions.
I'd like to submit for your information that last fall or
last summer in July we had a small spill, and because we
could see where the oil was and because we could identify
the location of the leak specifically, we responded and
cleaned up, stopped and adequately cleaned up an oil spill
that could have been very bad in very short order.

Considering the circumstances of both the
surprise, unexpected drill, the fact we had no tanker in
the mooring, and the first instruction we got in the matter
was that you have a tanker in the mooring and there's
a leak. So starting from here, I think that the operating
personnel, once realizing that there is no tanker in the
mooring and this is a drill, we were something in the
order of two to three minutes ordering the pump shut down
and the vacuum pulled on the sea line to stop the leak.
Twenty minutes later we had a boat deployed and had had
a boom under tow. I just don't understand. We were
satisfied that in the circumstance of a real spill, our
people would have seen the oil and done what would have
been necessary to surround the oil. I think we had kind
of a ghost here where nobody could see where the oil was.
So we took the Coast Guard's word for the location of this
spill and deployed the booms where the spill was.

Now, I would like to say that we learned something. As a matter of fact, we were satisfied that the contingency plan was going to work. It did work. But we found areas that we could improve, and we are improving them. So this is some background on it.

MS. SMITH: Yes.

MR. SANDERS: Miss Smith, I would like to add a couple of things in this instance.

First of all, at the meeting of the tanker task force, I requested the Coast Guard to expedite their findings and conclusions of the test and forward a copy to the State Lands Commission staff. Secondly, I believe the EIR that is before you today requires a complete revamp of the oil spill contingency plan. So if such occurs, it can obviously take advantage of any experiences that have been encountered in previous instances.

MS. SMITH: Okay. By what date must that plan be revised?

MR. SANDERS: I'm not familiar with that specific portion.

MR. HAWES: It's in the process of being revised now.

MR. TROUT: It has to be revised before operation. MR. SANDERS: Before operation. I misunderstood that you meant a specific date. It's before operation.
MS. SMITH: Okay.

MR. BAUMGARTNER: The new plan would certainly have to be approved by the Coast Guard prior to any operation of the new facility.

My name is Peter Baumgartner. I'm an attorney for PG&E.

MS. SMITH: In light of the fact that you've requested the findings from the Coast Guard, I would like to move that we postpone any action on this calendar matter until we are in receipt of those findings and have an opportunity to review them.

ACTING CHAIRPERSON McCausland: Chairman Cory has left a note saying that he would like an opportunity to review the Coast Guard's record on this test as well. It takes two votes for concurrence on any item before this Commission. So I think I would like to instruct the staff to sit down with PG&E as soon as possible and see if we can't bring this matter to a close. PG&E needs the information, needs the decision from us. We are the lead agency. After they get through with our help, they have to go to those agencies whose primary mission are the environmental concerns, and I certainly hope that whatever work staff does with PG&E over the next couple of months is designed to get that package into the kind of shape that those other agencies will be able to say, "Boy, did the State
Lands Commission do a good job on that one." I think we
definitely owe PG&E an answer soon —

EXECUTIVE OFFICER NORTHROP: Yes, sir.

ACTING CHAIRPERSON McCausland: — on this permit.

All right, then. It's the will of the Commission
that this matter be put over for one month.

Item 12 relates to a lease to the Willow Berm
Corporation for a 10.86 acre parcel of tide and submerge d
land in the Mokelumne River adjacent to Andrus Island,
Sacramento County. Are there any questions?

Anyone in the audience wish to testify on Item 12?

Without objection, Item 12 is adopted.

Let me state to the best of my knowledge the only
requests I have to appear now are on Item 15. If
anybody wants to appear on any other item, please file
a pink sheet with the secretary in the back of the room
because we will move through the agenda relatively rapidly
from this point on.

Agenda Item 13 relates to a land exchange in
San Mateo County. Are there any questions regarding Item
13?

Item 13 is approved. Staff recommendation is
adopted as submitted.

Item 14 relates to a proposed boundary line
agreement in Sacramento County.
Without objection, -- there's a question.

MS. SMITH: There's one correction that should be made for the record in the calendar item, page 64.

MR. HIGHT: Yes. On page 64, the calendar item, paragraph before the recommendation should include Swamp and Overflowed Lands Survey No. 1059 which is included and should also include Number 562.

ACTING CHAIRPERSON McCausland: The staff recommendation as amended is adopted without objection.

Item 15 relates to Seal Beach. This is a proposal to develop a 2.78 acre parcel of State lands. There will be a staff presentation and then Bruce Conn and Anne Russell have requested an opportunity to testify.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this was handled by Mr. Trout's section, and he'll make a presentation on it.

MR. TROUT: The Commission may remember that this same site was sent up for proposal at an earlier time. The Commission selected an offering for a Mexican restaurant that ultimately fell through.

Proposals for the development of this site was sought again in December of 1977, and a January 31, 1978 deadline was set for the receiving of the proposals. During the first week of January an ad was run in the Los Angeles Times requesting proposals for the development
of this piece of property and at the request of one or two developers, the deadline was informally extended by notice to all persons of record at that time to February 3, 1978.

There were some five proposals that came in within the deadline. A sixth proposal came in late in February and on March 24th we received a seventh proposal after the Commission's calendar had already gone to print. The proposals were evaluated by the staff on three bases. Public use, we were looking for the widest possible availability of the development to the public. Second, we were looking at a relationship between public use, in other words, off the street use to anybody, as opposed to a private or membership type use or a somewhat captive clientele type of use. Third, we looked at the obvious factor of income potential.

In all cases, the proposals were evaluated and we attempted to come up with a gross income annually on the proposal so that we could evaluate what a percentage rental, how that would return to the Commission.

As a result of the evaluation on these premises, the Commission recommends the proposal, the staff recommends to the Commission the proposal of Bruce Conn, et al., the Seal Beach Park proposal. The proposals are summarized in the calendar item except for the seventh one which came
in after the deadline. I think the staff recommendation
pretty much speaks for itself on the basis of our
evaluation.

ACTING CHAIRPERSON McCausland: All right. Let
me call Anne Russell, if I could, because I believe she
intends to, or would like to, protest the staff recommenda-
tion, and Mr. Conn who would be the approved party if the
staff recommendation is adopted and is available for
questions if necessary.

Mrs. Russell?

Ms. Russell: It's a good project because it's
basically our project, what we submitted over a year ago.
The reason I'm here is because I feel that our file was
not correctly reviewed. I'm merely asking that we have
the opportunity to make a new presentation.

ACTING CHAIRPERSON McCausland: Will the staff
respond to that?

Mr. Trout: Well, we certainly are willing to
consider any new proposals. I think that our staff would
recommend that if we do this, that we also open it up --
we have received a couple of more telephone calls, and
including the proposal that we received on March 24th,
those people may also like an opportunity to respond.
I think the staff would recommend that if you decide to
develop it further as Miss Russell would request, that we
also allow several other people who came in late or
responded past the deadline to also flush out their
proposals so we could have the benefit of their thinking.

ACTING CHAIRPERSON McCausLAND: Can you tell me
the basis of the request for proposals that went out this
time? Did it go to all interested parties? How did it
relate to the earlier round of discussions when the
restaurant project failed to materialize?

MR. TROUT: When the restaurant project fell
through, we had kept in the file addresses and names of
everyone that had been contacted or expressed an interest
even after the nomination of the Mexican restaurant. We
sent out letters in December to all of the parties that
we had notice of at that time. And then, as we say, in
addition, we had run an advertisement in the Los Angeles
Times. I think a third point is that the City of Seal Beach
is very interested in having this parcel developed,
and we have made quite common mention to the community
down there of the desirability of developing this site
and of its availability.

ACTING CHAIRPERSON McCausLAND: Miss Russell is
representing the Peter Sanderson interest. Were they
on the mailing list for the request for proposal?

MR. TROUT: I believe they were, but I don't
have t't right in front of me.
MS. RUSSELL: We were.

ACTING CHAIRPERSON McCausland: They were.

MS. SMITH: Mrs. Russell, did I understand you to say that you submitted your proposal a year ago?

MS. RUSSELL: Yes, we did.

I have a pro forma here with me if you'd like to look at it.

MS. SMITH: And staff, it was my understanding, said that the proposal was submitted late?

MS. RUSSELL: I don't believe so. We weren't the late one. We had an extension because we got the letter --

MR. TROUT: The details of the second proposals are in response to the second request for proposals. The details of Mr. Sanderson's proposal were received on February 27th, which was approximately three weeks after the extended deadline. However, Mr. Sanderson did send in a letter of interest on January 21 that was minimal details. I don't have a copy of that letter, and I can't tell whether it -- maybe Miss Russell could respond -- as to whether that referenced back and indicated they were resubmitting their earlier proposal.

ACTING CHAIRPERSON McCausland: Let me ask you another question while she looks for the answer to that one.
MS. RUSSELL: I can tell you, yes, basically.
I just don't think that the file was reviewed correctly.

ACTING CHAIRPERSON McCausland: Fine.

One of the questions in Miss Russell's request for appearance is the following question: I would like to know the basis of selection? Is my observation that your analysis of cash flow and net income to the State became the preponderant factor plus your review of the basic capitalization and the ability of the applicant to respond successfully?

MR. TROUT: Yes, we tried to sort the proposals into two categories. One is the proposal that would be available to any member of the public. Now, somebody could just walk in off the street. Those that were, that were oriented toward the membership type of thing or to a rather limited clientele. We separated those two and we looked at the broad public use type projects first, and we evaluated those on the basis of economic return and capitalization. It does turn out when you apply that factor to the nonpublic projects or the so-called limited public projects, that one of those would come in on economic return number two. But we think that some of the less economic projects would probably be the superior because they provide greater public benefits which would appear to be in furtherance of the trust or more trust.
MS. SMITH: Mrs. Russell, can you explain the conditions of using the tennis complex?

Like, does the public have to purchase a membership?

MS. RUSSELL: Ours is basically public. We had initially incorporated a restaurant into the concept because we're qualified to do so. We were then told that they didn't want a restaurant and then they retained a restaurant. So we said we'd check our files again when I was speaking with Scott Akins who works for Mr. Trout. I said that we could go with any concept. We viewed our files accordingly and sent the final letter with the sentence in it. So we could either go with the restaurant or all the ball courts.

MS. SMITH: Okay. But my question is, could any member of the public come in and use your courts?

MS. RUSSELL: Absolutely.

MS. SMITH: And they would just pay a price for admission on any day?

MS. RUSSELL: Right.

MS. SMITH: There's no membership requirement?

MS. RUSSELL: No.

MS. SMITH: Where's Mr. Conn?

MR. CONN: Absolutely. It's $3 and $5 depending on the time of day. And for the racquetball and tennis and
squash it's the same setup.

ACTING CHAIRPERSON McCausland: Staff's analysis suggested that projected gross income from the Conn proposal would be $738,000. Apparently using Mr. Sanderson's data, his projected minimum annual gross income would be $252,000.

MS. RUSSELL: Again, that refers to a minimum gross. It had no amenities and I can show you our pro forma which again is on file where our projection is far in excess of that and was the one that I meant to have them refer back to. I think there's been some confusion. That's the problem of the whole presentation. That's the reason I wanted to have the opportunity to do it again. I'm sure Mr. Trout has seen this many times.

ACTING CHAIRPERSON McCausland: Let me ask the staff if any of the matters that have been discussed here today are matters which you have not discussed frequently and reviewed in relationship to these submittals?

MR. TROUT: From our staff's standpoint, we have had this information available. We did evaluate the Sanderson proposal. I don't think we would argue that it failed because of lateness of the proposal. I think we would be pleased to go back and take a look at what Miss Russell has said, but I think our evaluation would remain the same. I don't want to say we're closed-minded,
but we looked at the proposal in the sense that we had it, and it does, it seems to me, unless a review at the Commission's request would show differently, I think it is one of the least economic based on our evaluation. But we have considered all the points I think.

MS. SMITH: In light of the fact that the staff has given the Sanderson proposal adequate consideration — and that is what I'm understanding that you've evaluated all the factors that have been presented today and Miss Russell's testimony.

MR. TROUT: Yes, I believe we have. There may be a difference of opinion on the extent at which we've done it, but I think we did have the proposal before us. I talked to the land agent this morning, and I think he feels that he did give adequate consideration to the proposal.

EXECUTIVE OFFICER NORTHROP: Let me point out, staff considered it without regard to lateness in preparation. Lateness came in and disqualified it, but we considered it without regard to lateness initially and it still didn't measure up to what we considered. Staff informs me that they've had the bulk of the figures that have been presented to the Commission this morning in their deliberations. So we see nothing new today that's been added to the program that we hadn't looked at in the
past.

MS. SMITH: Okay. In light of that statement, I move the staff recommendation.

ACTING CHAIRPERSON McCaulland: Without objection, the staff recommendation on Calendar Item 15 is adopted.

Are there any other individuals who wanted to testify on any other item?

Item 16 relates to the termination of a commercial lease and substitution of a new general lease at the Hollywood Turf Club, Long Point, Palos Verdes Peninsula, Los Angeles County.

Any questions?

MS. SMITH: We're not setting any policy --

MR. HIGHT: No.

MS. SMITH: -- in light of what we would be doing in regard to future leases?

MR. HIGHT: Right.

MS. SMITH: No objection.

ACTING CHAIRPERSON McCaulland: Without objection, Item 16 is adopted as recommended by staff.

Item 17 regards the adoption of lists and criteria for the determination of completeness of applications for development projects pursuant to AB 884. This is essentially the program to expedite the processing of environmental impact reports that we demonstrated and
toyed with today. Is there any objection to Item 17?

   MS. SMITH: No objection.

   ACTING CHAIRPERSON McCausland: Item 17 is
adopted as it reads.

   Item 18 relates to the continuing trespass on the
land in the Sacramento River of Robert A. Sieglitz. Are
there any questions on Item 18?

   If not, staff recommendation on Item 18 is
adopted, as submitted.

   Item 19 is authorizing the filing of amendment
to the California Administrative Code relative to CEQA.
Any questions on Item 19?

   MS. SMITH: No.

   ACTING CHAIRPERSON McCausland: Item 19 is
adopted as submitted.

   Item 20 is authorizing the issuance of a
Compensatory Gas Agreement with Shell Oil Company in the
Elego area of the Sacramento Airport gas field. Any
questions on Item 20?

   MS. SMITH: No.

   ACTING CHAIRPERSON McCausland: Item 20 is --

   MR. MATTHEWS: Excuse me, Mr. Chairman, I'm
Jim Matthews, Land Department, Shell Oil Company.

   On this matter, I have noted in the notice here
that the wording was changed somewhat from the agreement that
we submitted to this State. If the wording has been
changed, we didn't get notice. We didn't have opportunity.
So I would like, if the wording of the agreement that
was signed by Shell and submitted to the State, if it has
been changed in any way, I would like to have this put
over to the next hearing to --

ACTING CHAIRPERSON McCAUSLAND: Without objection,
Item 20 is taken off calendar.

Item 21, Union Oil Company, Magma Power Company,
Thermal Power Company, receiving drilling permits for
new wells in the Geysers Steam Field. Any questions on
Item 21?

Item 21 is adopted as submitted.

Item 22 is authorizing a permit to prospect for
geothermal resources in the Randsburg area of San Bernardino
County, Management Engineering Corporation.
Any questions on Item 22?

MS. SMITH: No.

ACTING CHAIRPERSON McCAUSLAND: Item 22 is
adopted as submitted.

Item 23 is authorizing permits to prospect for
geothermal resources in the Randsburg area of San Bernardino
County, Getty Oil Company.
Any questions on Item 23?

MS. SMITH: No.
ACTING CHAIRPERSON McCUSAULAND: If not, Item 23 is adopted as submitted.

Item 24, relating to maintenance dredging permit for the Benicia Port Terminal Company. Any questions on Item 24?

MS. SMITH: No.

ACTING CHAIRPERSON McCUSAULAND: Item 24 is adopted as submitted.

Item 25 is relating to a maintenance dredging permit for the City of Morro Bay. Any questions on Item 25?

MS. SMITH: No.

ACTING CHAIRPERSON McCUSAULAND: Item 25 is adopted as submitted.

Item 26 is relating to the issuance of a mineral extraction lease in Owens Lake for the Lake Mineral Corporation. Any questions on Item 26?

MS. SMITH: No.

ACTING CHAIRPERSON McCUSAULAND: Item 26 is adopted as submitted as long as they don't flood. You tell that city of L.A. not to flood Owens Lake. Where did all those newspaper men go?

(Laughter.)

ACTING CHAIRPERSON McCUSAULAND: Item 27 relates to the recovery of past-due royalties and/or cessation of
operation and restoration of lease premises in Monterey Bay, Standard Resources, Inc. Are there any questions regarding Item 27?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: Item 27 is approved as submitted.

Item 28 is off calendar.

Item 29 is relating to a finding that Seaside Boulevard paving and drainage allowable subsidence cost is $96,908.28 with $3,667.00 credit due the City of Long Beach. Any questions on Item 29?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: If not, Item 29 is adopted as submitted.

Item 30 has been handled.

Item 31 relates to a disclaimer of interest in Mailhot v. City of Sutter Creek, et al., in Amador County Superior Court No. 9780. Any questions on Item 31?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: Item 32 is relating to a disclaimer of interest in Mailhot v. City of Sutter Creek, et al., Amador Superior Court No. 9781. Any questions on Item 32?

MS. SMITH: No.
ACTING CHAIRPERSON McCausland: Thirty-two is adopted as submitted.

Item 33 relates to a disclaimer on certain parcels of land in Colusa County. Any questions on Item 33?

MS. SMITH: No.

ACTING CHAIRPERSON McCausland: Item 33 is adopted as submitted.

Status of major litigation.

MR. STEVENS: I guess the major item has been the boundary dispute between California and Nevada. It may be enlarged to include the complete boundary going from Lake Tahoe down to the Colorado River and by a counterclaim to be filed by the State of Nevada.

We are re-evaluating our own position in light of this position taken by the State of Nevada, and also contemplating the necessity of having the federal government as a party inasmuch as the surveys were all taken under authority of the United States. There will be more to come, but the litigation looks like it's going to be a great deal more substantial an area than it originally appeared.

ACTING CHAIRPERSON McCausland: Thank you.

Any other further items to come before the Commission at this time? If not, we'll stand adjourned.
until our meeting of April 27th, 1978 in San Diego.
(Thereupon the meeting of the State
Lands Commission was adjourned at
11:45 a.m.)

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STATE OF CALIFORNIA
ss.
COUNTY OF SACRAMENTO

I, CATHLEEN SLOCUM, C.S.R., 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, CATHLEEN SLOCUM, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel nor 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 this 26th day of April, 1978.

[Signature]
CATHLEEN SLOCUM, C.S.R.
Notary Public in and for the County of Sacramento, State of California.
C.S.R. License No. 2822

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