MEETING
STATE LANDS COMMISSION

ROOM 2170
STATE CAPITOL
SACRAMENTO, CALIFORNIA

THURSDAY, AUGUST 31, 1978
10:00 A.M.

ORIGINAL

Wendy E. Stewart

PETERS SHORTHAND REPORTING CORPORATION
7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3801
MEMBERS PRESENT

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

STAFF PRESENT

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

ALSO PRESENT

Jan Stevens, Attorney General's Office
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CHAIRPERSON CORY: Call the meeting to order.

Any corrections or additions to the minutes of the last meetings?

Without objection, confirmation as presented.

Report of the Executive Officer.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman and members, it is with sadness that I report the untimely death of Dick Shroeder who worked in the Commission's Long Beach office for nearly 11 years. Only 51, Dick was stricken with a heart attack last Sunday while at his vacation home in Arrowhead Springs. He served as an analyst for the Commission, principally striving to make the operations of staff run more effectively by critically reviewing its programs and performing organizational studies. Dick's friendship and expertise will be greatly missed. With the Commission's approval, an appropriate letter of condolence will be sent to the Shroeder family.

The Energy Commission, the wood energy staff of the Department of Forestry and the University of California are exploring the use of fuelwood in energy production.

CHAIRPERSON CORY: Pardon me. The wood energy staff, who's wood? Is that a person?

EXECUTIVE OFFICER NORTHROP: That is a wood like...
tree wood. It probably should not be capitalized.

CHAIRPERSON CORY: I'm sorry I asked. Go ahead.

EXECUTIVE OFFICER NORTHROP: They requested use of State-owned school land parcels in the vicinity of Southern California Edison's energy development facility at Daggett for growing fuelwood, chiefly eucalyptus, with irrigation. Technical assistance and --

CHAIRPERSON CORY: Daggett?

EXECUTIVE OFFICER NORTHROP: That's near Barstow in San Bernardino County.

CHAIRPERSON CORY: I know where Daggett is. If you get sagebrush to grow you're doing a hell of a job.

EXECUTIVE OFFICER NORTHROP: They think with irrigation eucalyptus will do well there.

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

EXECUTIVE OFFICER NORTHROP: Technical assistance and consultation will be provided by the Department of Forestry. You haven't seen the best part. DOE is going to give a grant to do this.

CHAIRPERSON CORY: What's wrong with the area where the good Lord was able to grow trees without any help?

EXECUTIVE OFFICER NORTHROP: I think the energy production, the need is greater down there.

CHAIRPERSON CORY: We're going to ship water from
up here to the desert -- go ahead.

EXECUTIVE OFFICER NORTHROP: It's going to be called the experimental energy farm. It will be funded by a Federal Department of Energy grant.

The proponents would like Commission cooperation in at least the Federal grant request. We think this project has desirable features and warrants Commission support at least in the preliminary stages.

With the Commission's approval of the concept, and subject to the availability of suitable lands, we will advise them of this interest. The staff will also go into the experimental project in more detail as the project proceeds.

CHAIRPERSON CORY: Is there any way we cannot stand in the way without approving this?

EXECUTIVE OFFICER NORTHROP: Mr. Trout has been doing some extensive surveying work on --

CHAIRPERSON CORY: I've got no problem with it, approving growing trees in the desert. They probably grow fast there.

MR. TROUT: The main reason Southern California Edison is already building the solar plant right at this site. They just want to combine several of these experimental energy source activities in a central location.

MR. McCausland: Put all their eggs in one basket.
The Executive Officer's report is probably not appropriately worded. I think it's fair to say that the Commission has no objections to this project proceeding and for the use of the State school lands for that purpose if it's within our purview to do so; but the words "approval" and "interest" probably are inappropriate.

EXECUTIVE OFFICER NORTHROP: Thank you very kindly. The staff will be guided by those comments.

Yesterday the 1978-79 Long Beach unit unsecured property tax of about a quarter of a million dollars was paid to Los Angeles and Orange County. With these payments were letters from the Commission staff, as representative of the participants in the Long Beach unit, protecting the tax and requesting a refund. The reason for this is the unresolved question as to whether the Jarvis-Gann one-percent tax limitation applies to the unsecured property. The issue will be resolved in the courts in the future, but we have put our notice of protest on record at this time.

As a result of the approvals by the State Lands Commission at their July 19th and August 8th meetings concerning the sell-off of eight percent of the crude oil allocated to the Long Beach Harbor Department Tidelands Parcel, Wilmington Oil Field, Powerine Oil Company, the current purchaser of the crude oil, offered to match the bid and therefore was allowed to continue its purchases at this higher price in
accordance with the Department of Energy's supplier/purchaser rule.

This demonstration of willingness to pay ceiling prices for domestic oil is encouraging in that approximately 1,450 barrels of additional tidelands oil in the prior development are available for sell-off. Unfortunately, these Long Beach tideland contracts contain a 180-day prior notice clause. One of the contractors has agreed to reduce the return notice; and, therefore, there may be a possibility of a reduced notice time on the take side of the parcel.

The six-month period required by the contracts would start sell-offs just shortly before the May '79 crude oil price control end. There is a question as to whether a meaningful bid would be obtained or that any real financial advantage would be gained if the price control ended.

The staff feels there may be some interest in asking for a shorter time; and if the Commission desires, we would like to move to sell-off, and we can request the City of Long Beach to attempt to reduce that four and a half-month period. If there is no objection, we will move in that area.

At the Commission's regular meeting in June 1978, the City of Long Beach requested the Commission approval of an agreement and assignment to provide for the partition of jointly held Nonoperating Contractors' interest in the
Contractors' agreement for the Long Beach Unit. These interests are jointly held by Atlantic Richfield and Chevron U.S.A.

During consideration of this item the Commission took no action because it was their conclusion that no benefit would accrue to the State in partitioning the ARCO-Chevron jointly held interest. A representative of the City of Long Beach commented that ARCO desired to partition its interests so they could in turn assign their interest to an independent, Century Resources Development, Inc.

The current situation is that Atlantic Richfield Company, which is the Tract II Contractor and the holder with Chevron of the non-operating interests in Tract I of the Long Beach Unit, is proposing to assign its interests in both the Tract II agreement and the Contractors' agreement for Tract I. The proposal includes splitting the interest held jointly with Chevron in Tract I and then assignment of that severed interest and the entire Tract II interest to Century Resources Development. Century would then assign all of its interests in Tracts I and II to Petro-Lewis Corporation in return for the right to purchase the crude oil allocated to these interests.

I am told that representatives from Atlantic Richfield, Century and Petro-Lewis have met with the Commission's staff, and they have discussed the various
assignment proposals with respect to Tract II. I am informed they are meeting with the City of Long Beach with respect to Tract I assignment proposals, with which we probably would have to deal at some later time. To be effective, both Tract I and Tract II assignments must be approved by the Commission. Atlantic Richfield has made a prerequisite to all assignments to Century that the State with respect to Tract II and the State and the City of Long Beach with respect to Tract I release Atlantic Richfield from all liability for the future performance of any and all obligations under the two contracts as a criteria of the agreement.

The three companies involved have requested that this matter be on the Commission's agenda next month. The representatives are expected to be in the audience today. Because of their tight time schedule and the need to firm up financial commitments, it is highly desirable at this time to obtain any direction from the Commission as to their feelings regarding such an assignment.

What really looks like is going to happen, Mr. Chairman and members, is that ARCO would like to assign —

CHAIRPERSON CORY: I think we understand the issue. To put it right up front, I've got absolutely no interest as a commissioner of ever voting for that proposal. It just seems to me that you're taking a lesser quality contractor, and I see absolutely nothing in it for the State. I understand
what's going on in the private sector, but I don't see how
I could, in good conscience, lessen the State position without
a corresponding benefit. I don't see what there is to
discuss. It's not a calendar item at this point.

EXECUTIVE OFFICER NORTHPOL: Before we spend a
great deal of time and a lot of money going into this
assignment, it would be well to get some direction because
it may well be that it would be fruitless for us to continue.

MR. MCCAUSLAND: I think, given the net profits
nature of this particular arrangement, it would not be to
our advantage to voluntarily subject ourselves to the
possibility of a subsequent default.

EXECUTIVE OFFICER NORTHPOL: If ARCO modified
their position of a secondary to take a secondary role but
step back in in case of a default, would that alter the
Commission's outlook?

CHAIRPERSON CORY: I would think that unless
there's some benefit to us, we should always be looking to
ARCO as primary responsibility.

MS. SMITH: At the same time, I don't think now is
the appropriate time to commit ourselves.

MR. MCCAUSLAND: If I understood what you just said,
I'd be willing to say that I could support a staff recommendation
that incorporated that type of fall-back protection for the
State's interest. That assumes I understand what you just
said.

CHAIRPERSON CORY: What I'm worried about is that legally would mean that we'd have to litigate against Century and go through all of that process to collect; and if we failed there, then we could start the process anew with ARCO.

MR. McCausland: Is that part of what you said?

CHAIRPERSON CORY: Isn't that the net effect?

EXECUTIVE OFFICER NORTHROP: I suppose.

CHAIRPERSON CORY: I would find that unacceptable. I mean, we got somebody that's going to have some money to pay us with. We know where to find them. We're going to get a new set of problems if ARCO wants to underwrite where the day the check isn't there we can walk over to ARCO and pick up our check, but I'd just as soon not have to litigate it twice.

MR. McCausland: Is that adequate guidance for the staff?

CHAIRPERSON CORY: That's what I'm worried about.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, that concludes my report.

CHAIRPERSON CORY: Mr. Golden.

MR. GOLDEN: Mr. Chairman and members, in this report I will detail several problems that have confronted State Lands staff as a result of current permit applications
before the San Francisco Bay Conservation and Development Commission and the State Coastal Commission. Also, another land use problem tangential to State Lands' interest will be mentioned for your information.

First on the San Francisco Bay Conservation and Development Commission, Pickleweed Associates, a joint venture partnership, is proposing to build 92 housing units on about a 7-acre site on the north side of Miller Avenue between the Redwoods Retirement Center and the Northwestern Pacific Railroad right-of-way in the City of Mill Valley, Marin County.

One of the requirements of the Acateer-Petris Act, which BCDC administers, is that the proposed developer must present evidence of title to the property before his permit can be considered.

A title status determination made by our Title Unit indicated that the parcel appeared to have significant State title claims. Our Title Settlements Section is in contact with the applicant and a title evidence study is in progress.

This project has been under consideration for a long period of time at the city level getting the necessary permits. Our first notice of the developer's intentions were when he requested the BCDC permit. This puts the State Lands' staff in an uncomfortable position of delaying.
a project at a rather late stage in its development. We
are working diligently to outline the degree to which our
concerns affect the total project.

The State Coastal Commission has struggled with
the problem of protective shoreline structures as these
problems arise in permit actions confronting them. Recently
due to the severe winter storms on the coast, this type of
development has become an increasing problem. The Coastal
Commission has adopted interpretive guidelines for some
regions, notably the San Diego region, which deal with
seawalls; however, there is currently no governmental
entity which has promulgated policies dealing with this
problem on a comprehensive basis.

There is currently much expert opinion (geologists,
engineers and oceanographers) that would indicate that
protective measures from high storm waves are only short-
term Band-Aid solutions. The homeowners immediately
adjacent to eroding bluffs or beaches, however, are concerned
only with protecting their investments.

Though hindsight might indicate that certain
coastal developments initially should not have been allowed,
we are nevertheless confronted with the situation of private
property protection versus long-term usefulness. In fact,
groups of property owners are combining financial resources
with the intention of building massive seawalls and bulkheads.
Though in many instances these structures may encroach upon State-owned lands, the State Lands Commission is not obligated to endorse such projects automatically.

The Commission should examine the problem in a comprehensive, in-depth manner, not case-by-case, to ascertain the most appropriate type and location of protective shore line structures. This effort will have to be closely coordinated with the Coastal Commission.

Finally, the Eagle Lake Basin comprehensive plan. The State Lands Commission is currently engaged in a multi-agency effort to prepare management guidelines for the Eagle Lake Watershed Basin in Lassen County. The Commission has financially contributed to this effort $3,000 to enlist the services of a planning consultant. To the dismay of the State Lands' staff and the three other member agencies, the U.S. Forest Service, U.S. Bureau of Land Management and Resources Agency of the State acting through the State Department of Fish and Game, the county is proceeding with a major development project which may jeopardize and preclude future options for the management plan. The county has proposed the use of a Negative Declaration for a residential subdivision project involving 540 homes to be built on a 900-plus acre tract in the Lake Basin. Strong objections have been presented by the State and Federal agencies. The respective spokesmen for the five agencies recommended that
this project be withheld from consideration until February 1979 at which time the interim management plan is scheduled for completion and that a full environmental impact report should be prepared.

The county has agreed at this point to review its earlier position. If, however, the county should persist, action by the Office of the Attorney General will be sought by the Resources Agency.

That concludes my report, Mr. Chairman.

CHAIRPERSON CORY: Questions from the Commissioners?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we've got considerable arrangement on the calendar this morning. Item C1 and C10 are off calendar. Items 39, 42 and 46 are off. C2 and C4 were inadvertently placed on the consent calendar. Staff recommends that they be treated at the end of the meeting.

CHAIRPERSON CORY: C2 and C4?

EXECUTIVE OFFICER NORTHROP: C2 and C4 to be treated at the end of the meeting.

CHAIRPERSON CORY: Is there anybody in the audience who has any objection to the remaining items on the consent calendar? Those are the items designated with the letter C prior to the number. I would to disqualify myself on C12 because there is a list of recreational pier permits and one of them is a close personal acquaintance. So, the record
will show that the calendar was approved by unanimous consent for all items save C12, and C12 was approved by the remaining two commissioners because of my relationship with the individuals.

The next item is Item 25, natural gas pricing.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for the record, I would like to place in the proceedings of the panel arbitrator in the record.

CHAIRPERSON CORY: That would go into the record.

Mr. McCausland.

MR. McCausLAND: I believe that this Commission has held extensive hearings on this matter, perhaps more extensive than any we've ever held on a contract-related issue. I've reviewed the findings of the arbitration panel.

I've reviewed the extensive record that we've built at our earlier hearings, and I would like to move adoption of this recommendation, which is essentially the price of a dollar and twenty per Mbtu based on a thirty-three and a third percent load factor.

MS. SMITH: I would like to second that motion.

CHAIRPERSON CORY: Discussion from anybody in the audience?

Without objection, the item is unanimously approved. Item 26.

EXECUTIVE OFFICER NORTHROP: This is an agreement
on the Ellwood Pier, Mr. Chairman.

CHAIRPERSON CORY: Anybody in the audience on Item 26? This is a problem, as I understand it, that we may lose some OCS federal by pulling our shoreline in, but if we don't we're going to have to eat the pier.

EXECUTIVE OFFICER NORTHROP: Using the numbers of staff, if we run them off, the loss of revenue, if we use the $12,000 figure times 80, may well be less than what we would lose if we had to take the pier out ourselves.

CHAIRPERSON CORY: And we've got the liability of something going wrong. It's substantially less.

MS. SMITH: Bob, did you contact anyone to determine whether or not we are bound by the previous stipulated judgment in California versus United States?

MR. HIGHT: I would prefer to discuss that with you in executive session.

MS. SMITH: I'm not prepared to vote on this item.

CHAIRPERSON CORY: If we put this item over, where are we?

MR. McCAUSLAND: Can we turn off the mikes and have an executive session in the middle of the agenda?

CHAIRPERSON CORY: We're now in executive session up here concerning litigation. The attorneys will confer with us in what we're doing.

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

CHAIRPERSON CORY: We're back in session. The
item before us is Item 26. Any discussion by the Commissioners?

Anybody in the audience on Item 26?

MR. McCAUSLAND: No objection.

CHAIRPERSON CORY: Without objection, Item 26
will be approved as presented.

Item 27, settlement of title and boundary problems
in Humboldt Bay.

MR. McCAUSLAND: No objection.

CHAIRPERSON CORY: Anybody in the audience on
Item 27?

Without objection, Item 27 will be approved as
presented.

Item 28, approval of settlement of title and
boundary problems in the Humboldt Bay area.

MR. McCAUSLAND: No objection.

MR. CORY: Anybody in the audience on Item 28?

Without objection, Item 28 will be approved as
presented.

Item 29, the airport property in Seal Beach,
County of Orange, 2.7 acre negative declaration. Anybody
in the audience on this item?

MR. McCAUSLAND: No objection.

MS. SMITH: No objection.
CHAIRPERSON CORY: Without objection.

Item 30, fuel line agreement consent to San Diego Gas and Electric. This is the one where we're going to allow in advance creditors the right to transfer to certain specified potential future holders if there is a financial calamity with San Diego Gas and Electric.

MR. McCausland: You said that well.

CHAIRPERSON CORY: Is there anybody in the audience on this item? Any questions from members?

MS. Smith: No.

MR. McCausland: I think this is probably an extension of the earlier discussion we had today.

CHAIRPERSON CORY: Without objection, Item 30 will be approved as presented.

Item 31, approval of final EJR and awarding contracts for site preparation and planting on the Watershed and Forest rehabilitation project.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there is some additional language in Item 31 you have in front of you. Mr. Trout may care to address the change in the language.

MR. TROUT: Just very briefly, we had eight parcels that were put out to bid--

(Thereupon a brief discussion was held off the record.)
MR. TROUT: We had eight parcels that we wanted cleared. We went out to bid and only received three bids, which are on the second page of the attachments. We talked to the Department of General Services, and they say under the circumstances as a State agency we may negotiate directly with people with tractors and equipment who can do this kind of work. We would recommend or propose that Recommendations 8 and 9 on your calendar become 9 and 10 and a new Recommendation Number 8 as you have before you be inserted which would authorize the staff to contract directly without advertising for mechanical site clearance work as necessary on parcels not receiving bids in the bid opening held August 12, 1978. The contracts would be subject to the approval of the Department of General Services under the State Administrative Mandate.

CHAIRPERSON CORY: We tried to get bids and nobody wanted to play.

MR. TROUT: That's right. Only three people wanted to play out of the eight parcels we had.

MS. SMITH: Am I correct in understanding that the Department of General Services has already approved our advertising procedure?

MR. TROUT: They approved the advertising procedure, and they also advised us that after the advertising, if we had no bids, it would be appropriate to enter into contracts
by negotiation. They have a review role to continue to play.

    MS. SMITH: No objection.
    MR. McCausland: No objection.
    Chairperson Cory: Without objection, Item 31 with the amendments will be approved.

Item 32, timber harvesting. You want three new positions to expand the rate of timber harvest to get additional harvest revenues in to offset Prop. 13 losses in our give away of tax money.

    MR. McCausland: I'll abstain on that.
    Chairperson Cory: Anybody in the audience on this item?

    MS. Smith: No objection.
    Chairperson Cory: Item 32 is approved.

Item 33, preexchange escrow agreement, lands in Union City, Alameda County.

    Executive Officer Northrop: This is some tide and submerged lands, Mr. Chairman, and we have an agreed value settlement of $39,204 for the property.
    Chairperson Cory: Anybody in the audience on this item? Sid?

    Mr. McCausland: No objection. I'd like to go back to 32 for a second.
    Chairperson Cory: Without objection, 33 will be approved.
approved as presented.

32?

McCAUSLAND: We will go back to it at the end.

CHAIRPERSON CORY: Item 34, Harold Claude and Carol G. Taylor dba Tiki-Lagun Marina.

EXECUTIVE OFFICER NORTHROP: Right. It's in Whiskey Slough of San Joaquin County, Mr. Chairman.

CHAIRPERSON CORY: This is a lease. Is there anybody in the audience on this item?

MR. McCAUSLAND: No objection.

CHAIRPERSON CORY: Without objection, Item 34 will be approved as presented.

Item 35, Emmett O'Neill, 15-year lease, South Lake Tahoe. Anybody in the audience on this item?

MR. McCAUSLAND: No objection.

MS. SMITH: No objection.

CHAIRPERSON CORY: Without objection, Item 35 will be approved as presented.

Item 36, mineral extraction maintenance dredging permit for one year to remove approximately 80,500 cubic yards from Guadalupe Slough, Moffett Naval Air Station, Santa Clara County. Anybody in the audience on this item?

Any questions from commissioners?

MR. McCAUSLAND: No objection.

CHAIRPERSON CORY: Without objection, 36 will be
approved as presented.

37, maintenance dredging permit, 10,000 yards, Napa River, Napa County. Anybody in the audience on this item?

Okay. Mr. Kay Bell, Jr. wants to go exploring in San Francisco Bay for other than oil, gas and geothermal. Is there anybody in the audience on this item?

MR. McCausland: No objection.

MS. Smith: No objection.

Chairperson Cory: Without objection, 38 will be approved.

39 is off calendar. Item 40.

Executive Officer Northrop: Subventions, Mr. Chairman, listed $11,600 to five cities and two counties.

MS. Smith: No objection.

Chairperson Cory: Without objection, the item is approved.

Item 41, litigation, Smith River at Ranch Bar, Del Norte County. This is a settlement on some gravel that was taken. Is there anybody in the audience on this item?

MR. McCausland: Has the party agreed to the settlement?

MR. HIGHT: The party has tentatively agreed to the settlement, and the lease is not signed at the present time. We have no reason to believe that it will not be.
In the event that the party should change his mind then we will be back.

MR. McCASLUND: No objection.

CHAIRPERSON CORY: Without objection, the item is approved.

Item 42 is off calendar. Item 43, 44 and 45 are all di: claimers. Is there anybody on any of these items in the audience? 46 is off calendar. Is there anybody on 43 through 45?

Without objection, authorized. Status of major litigation.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have item C4 and C2.


EXECUTIVE OFFICER NORTHROP: C4 I think we want to take up next.

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

CHAIRPERSON CORY: C4, City of Los Angeles, 49-year general permit public agency use, Owens River. Anybody in the audience on Item C4?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have discussed this in the past, that there was flooding of areas in Owens River, and perhaps Mr. Everitts of our staff would like to address the problems he's had with this on
our mineral recovery.

MR. McCASLAND: While he's coming up, it seems to me that last winter the water in the lake began rising and jeopardizing the actions of our VC that was recovering trona, and once the water intruded into the area, the recovery of the trona would become virtually impossible in the flooded areas. We had some preliminary discussion with L.A. Water and Power about the possibility of diking the area or not.

EXECUTIVE OFFICER NORTHROP: Or diverting the flow, right.

MR. McCASLAND: We made no progress in those discussions; is that correct?

EXECUTIVE OFFICER NORTHROP: That's correct.

MR. EVERITTS: We had some correspondence with the Department and we've had one or two meetings. I think our problems didn't end up being as severe as we thought they might be. They did flood out part of our operations. In fact, that's one map Mr. Thompson is putting up there right now a-1 the map that Mr. Trout is hanging up is generally the reservoir system showing the Owens River and the various gates they have for dumping water at various sites. They did continue to divert water into the lake, and for a while they stopped. Then they diverted again because of turbidity problems. They couldn't put it into some of the areas down lower.
MR. McCausland: Causing what kind of problems?

MR. EVERITTS: Turbidity. The water was quite turbid, and they couldn't put it into their regular system. So, then again they were diverting into the lake. They have been limited to some extent in, I think it's the higher reservoir, by Dam Safety saying they couldn't fill that reservoir over a certain height. We did write to the Dam Safety folks, and they did -- State Lands did -- as did the Department of Water and Power; and we were allowed some relief by additional storage in that reservoir. The red line represents the high water mark.

MR. Willard: It was 3553 on June 16th.

MR. EVERITTS: It's going down now, but it flooded out that one yellow area there. That's the storage. The big area is one panel that was flooded out, and they quit operating. In that area they were still able to operate, but water flowing across the road quite often washed the road out. So, we did have some trouble operating at that time.

One of the things we asked the Department to do was to consider making exchanges with the municipal water district. We asked them to consider dumping the water into the Pacific Ocean. Either one of them is a waste. You dump it into Owens Lake, it's a waste; to dump it into the Pacific Ocean, but at least you don't waste our mineral resource that we're trying to mine. It did slow us up some. It did.
When we asked them if they would consider this, they said, there were a lot of legal problems; but we have not heard whether they gave any further consideration or not.

MR. McCausland: What kind of legal problems? Are you aware?

MR. Everitts: No.

Chairperson Cory: Anybody from the city here? Would you identify yourself?

Mr. Georgeson: I'm Duane Georgeson with the Los Angeles Department of Water and Power. I have with me Chuck McCauley who is our resident engineer up in the Owens Valley. I'd be happy to answer any questions or if you'd like I could briefly summarize.

Chairperson Cory: Let me summarize for you. You want a permit. We don't want to be flooded out. It seems to me reasonable people should be able to settle this. I'm waiting for an offer.

Mr. Georgeson: We are perfectly willing to commit ourselves to do everything humanly possible to keep any runoff from the Owens watershed from getting into the Owens Lake, and we operated our aqueduct at capacity 24 hours a day, 7 days a week ever since it started to rain last January. There is nothing further that Los Angeles could have done to prevent water from getting on Owens Lake.
The flooding that took place to the westerly lease to lake minerals is not a result of any release of water from the Los Angeles aqueduct system. That flooding was a result of rainfall on the bed of the lake during the winter and from runoffs not tributary to our aqueduct system, primarily from the east and south part of the lake. There was some runoff, as was mentioned by the previous speaker, from Cottonwood Creek during May and June when the water was extremely turbid. Had we taken out of Cottonwood Creek into the aqueduct at that point, there was danger of plugging the aqueduct with sand, which would have caused much larger flooding. So, we really don't feel that there was anything further that we could have done during this past year.

MS. SMITH: What are the legal problems that you've encountered?

MR. GEORGESON: There was a suggestion made, I think in a letter from the State of California, either State Lands or the Attorney General, that if necessary we dump water from our aqueduct into the ocean or exchange with the Metropolitan Water District. It turns out that was unnecessary. We were able to use beneficially the entire flow of both of our aqueducts throughout the winter, spring, summer and fall. Well, we're not in the fall yet. So, that alternative did get our consideration, but it did not turn out to be necessary.
There was about 15,000 acre-feet of water from Cottonwood Creek that flowed into Owens Lake during the period of May and June.

MR. McCauley: And during this period the evaporation was great enough so that the water surface was actually dropping in the lake when we were releasing or letting the Cottonwood Creek go over our aqueduct. During the maximum flow from Cottonwood Creek, which is a natural creek and had so much sand and debris in it we could not take it in the aqueduct, during that period the lake was dropping. Also, we've got a letter from the Lake Minerals Corporation saying that we appreciate everything that you've done in the past.

What that amounted to was taking water in the aqueduct when the turbidity was down and also during times when the amount of debris, the sand that came in the aqueduct was not really enough to stop our operation.

Ms. Smith: What is our loss again? We're losing certain minerals if Owens Lake is flooded.

Chairperson Cory: It's that yellow area. They had to stop mining because it was flooded. What is the date of the high water?

Mr. Willard: It was June 16th.

Chairperson Cory: What I'm having trouble with is that if that was the peak, your statement that May and June
the evaporation was greater than the inflow, how did it peak after that?

MR. GEORGESON: I believe the point is that there was a lot of water that got on the lake during the heavy rains of January, February and March. Then there was very little flow onto the rain in later March and April when the runoff started, when the snow melted. There was additional water from the Cottonwood Creek flowed across our aqueduct onto the lake, but by that time the weather was hot enough and the lake may have gone up very slightly and reached a peak in mid-June, but there was very little change in the level of the lake from March until June. Then by mid-June the evaporation was actually dropping the level of the lake, even though there was some water continuing to flow onto the lake from Cottonwood Creek.

MS. SMITH: Should next year you find that the level isn't low enough, would you be willing to divert the water?

MR. GEORGESON: We have, I guess, a goal of our operation to put the water in the aqueduct, the water that is available to this city from its various water rights, in lieu of letting it onto the lake. We also have, as a matter of law, an injunction under the California Supreme Court case 1951, People versus Los Angeles, and that in effect says that Los Angeles must, to the extent that it can, take water
into its aqueduct system in lieu of putting it into the lake. So, we will continue to do that.

MR. McCausland: What is the natural outfall of Owens Lake? Is there a natural exit, or does all the water that comes into Owens Lake stay in it until it evaporates?

MR. Georgeson: That's essentially true. In prehistoric times the lake level was, oh, three, four hundred feet high. The lake was very deep and there was a natural outflow down into China Lake, Searles Lake and eventually Death Valley, but that's many thousands of years ago.

MR. McCausland: Does our staff have a comment on the statement that the majority of water in the lake was placed there by rainfall and natural runoff during the winter months and that the lake level was sufficiently high that by the time the Cottowood turbidity problem surfaced, the addition of that water was not a substantial contributor to the problem at hand?

MR. Everitts: The only comment I could make is that any water on the lake is going to contribute to a slowdown of operations. As long as that one panel is wet, we can't mine it. So, any water added to it is going to slow up the time that we can get back to that one panel.

Any water added to it is going to affect the roads.

MR. McCausland: One of the problems that I had
is that I had the initial impression that once trona became saturated, recovery would be, I guess I would say impossible; but I think what you're telling me in part is once it becomes saturated, it then takes a long time for it to dry out again before you can go back. We're not talking about a dispersion in the resource to the degree that it's no longer economically feasible to mine. We're just saying it has to be precipitated again.

MR. EVERITTS: As a matter of fact, if you kept redesolving it and reprecipitating it, you might actually refine it to a certain extent.

MR. McCausland: So, in reality, we always are faced with the probability that if we had a heavy rainfall we were going to have a lot of wet trona on our hands and we wouldn't be able to get to it.

MR. EVERITTS: That's once of the reasons the previous operators ended up going broke.

MS. SMITH: Mr. Chairman, I'd like to move the adoption of Calendar Item C4.

MR. McCausland: We appreciate the fact that you have given us a commitment today that you will work towards making utilization of your water resources so that it minimizes its impact upon our resource, and we will proceed in that friendly vein for at least another year.

MR. GEORGESON: Thank you, Mr. McCausland. I
wonder if I might leave with the staff and members of the Commission just a brief summary paper of how our operations are conducted and a little bit of background. If you have any questions of the staff, we'd be happy to meet with you.

MR. McCausland: Our staff will be watching awfully closely to see that you live up to the full intent.

Without objection, Item C4 is adopted.

Item C2, the City of Brisbane. Are the representatives of the City of Brisbane here?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I think our legal staff has a statement they'd like to make.

MR. McCausland: On C2?

MR. HIGHT: Mr. Chairman, this is a lease of some submerged lands to the City of Brisbane. The staff has received letters alluding to the fact that this transaction in some ways contains a hidden exchange of land feature. This transaction involves no exchange of land. It is a lease of tide and submerged lands, the portion of which is in disputed ownership. No rental on this disputed ownership will be charged pending the outcome of the suit Murphy versus the City of Brisbane.

MR. McCausland: Thank you, Mr. Hight. I'd like to stipulate that all members of the Commission have received considerable correspondence from one individual directly to the point which you've addressed, and I appreciate your
clarification on that issue.

MR. SILVESTRI: My name is George Silvestri, Brisbane city attorney, and Brad Kerwin, Brisbane city manager is present. We came prepared to answer questions you might have and also to make a comment on another aspect of it, and that is we're protesting, but not too loudly, the fact that the rental rate is unspecified; and this is a small city of approximately 3,000 population and is looking at this project as a possible revenue producer for the city. It ties our hands, obviously, to try and make commitments and so forth not knowing what rent you may or may not set in the future.

I'd just like to state for the record that your staff has assured me, although not in writing, that any rental rates to be set, by operation of law, have to be reasonable, whatever that means, and other --

MR. McCAUSLAND: The three of us on this Commission find ourselves eminently reasonable.

MR. SILVESTRI: Like beauty, I think reasonableness is in the eye of the beholder. But the other concerns for the most part have been accommodated in the lease.

MR. McCAUSLAND: Would the staff like to make any comment at all on the rental issue?

MR. TROUT: I think that Mr. Silvestri has a good point. I think our concern is that the overall picture, the
revenues from trust lands can only be used for trust purposes; and, therefore, what we might charge would depend on both the extent of the revenues and the potential disposition of those revenues. They couldn't take revenues from tidelands and take them downtown and use them for a new whatever. It would require that they be dedicated to commerce, navigation and fisheries. The lease has been significantly amended, the standard lease document, and the package makes reference to that to provide for many of the concerns of the city. I think that your staff is unwilling at this point to try and do crystal balling and say in the future what some rental rate might ought to be. I think we would say that the Commission's rental procedure, the establishment of rates, involves public hearings, involves a regulation process which has to be approved by the Commission; and the city would have every opportunity, both at the time the rental rates are adjusted or at the time any rental rate proposed is brought to the Commission, to discuss the reasonableness of that with the Commission.

We just can't support at this point in time trying to make a long-term revenue commitment in an area where we're uncertain what the revenues are going to be or how the project is ultimately going to derive. We have said that no rental would be charged for an initial period of time to allow the area to be built and for them to develop
a history of revenue. It may be that, as with many public  
leases, staff would recommend no rental. We want to keep  
that option open on behalf of the Commission.

MR. McCAUSLAND: Part of what you're saying is  
that if the revenues produced by this project ultimately  
exceed the absorption capacity in terms of the ability to  
plow more money back in fisheries, commerce and navigation  
programs in the City of Brisbane, wherever they be in that  
city, then the State would essentially want to increase its  
share of those revenues through the rental process to the  
point where there was some equity established.

MR. TROUT: Yes. I think that once the costs are  
recovered, the investment repaid to the Department of  
Navigation and Ocean Development and there are significant  
dollars left, that those dollars might be shared between  
the Commission and the city and the city using its portion  
to further develop commerce, navigation and fisheries in the  
city and the Commission to put its share into the coffers  
for development by the State.

MR. McCAUSLAND: Now you can see how reasonable  
we are.

MR. SILVESTRI: Well, Mr. McCausland, as I'm sure  
you can guess, my role is a devil's advocate and envisioner  
of all the horrible things happening and after all these  
reasonable people have left this scene, I have to envision
the possibility of less reasonable people interpreting and applying these provisions. And obviously there's a less than the fully mutual arm's length transaction. It's a very unilateral, unfettered kind of discretion that the State is retaining here; and I just think it's not unreasonable for us to request, under the circumstances of financial pictures that the city operates under currently, which is quite severe, I think it's fair for the State to encourage us rather than discourage us from going ahead and turning this into a revenue-producing situation for the city.

Obviously, we all have our Proposition 13 problems, but our problems existed even prior to June 6 as far as economics go.

MR. McCausland: Let me ask you a problem, because some of the cities in the south, particularly, have had a relationship with the State over the years where there has been a very serious question about how they've utilized the proceeds from their tidelands, and we're faced with the administration of a constitutional and a statutory constraint which says all revenues produced by the tidelands must go to fisheries, commerce and navigation. I as an individual find that an onerous restriction; but in my role as a member of the State Lands Commission, I don't have the option to say it's all right to run the hook and ladder truck off of that. It's all right to run your fire boat off of that, but it's not all right to run your hook and ladder truck...
unless you've got a lot of warehouses.

As I envision your statement and your needs -- and they're legitimate needs -- you would like your waterfront development to be able to run a lot of the general costs of city hall. I have no objection to you having that as a goal, except that I believe it takes a change in the State constitution and the State statutes for that to be a part of the package.

MR. SILVESTRI: I'm not proposing anything so bold as to change the State constitution.

MR. McCUSLAND: Well, maybe you should. Maybe in light of Prop. 13 one of the things to do is to expand the ability to generate revenue for use in general government services. That's not something we're going to advocate. That's something for you to advocate.

MR. SILVESTRI: That may well be, but being somewhat familiar with the vagaries of interpretation as history passes on, cases such as Marks versus Whitney come to mind where one man's definition of commerce, fisheries and navigation at one point in time may be quite different from another justice's definition at a subsequent time.

So, I can envision without too much difficulty ways of justifying maintaining bird habitats, et cetera, that may not have been -- I'm sure would have been scoffed at not too many years ago before Marks versus Whitney.
All I'm saying is that we would prefer to have this tied down. I realize from your staff's standpoint what your historical reasons for not doing so are. I'm merely trying to make the point for the record that circumstances have changed as far as economics.

MR. McCausland: Let me ask a question because I haven't studied the specific language of the agreement in terms of your negotiations with the private developer, which I believe is what you're talking about the need for clarity in, you are assured that you will have how many years of non-rental use of the land?

MR. Trout: At least until completion of construction of the facilities.

MR. McCausland: And what kind of protection does he have for recovery of costs during the initial phase of operation? How many years does he have favored treatment for recovery of costs? Do we have any guidance in that area?

MR. Trout: No, Mr. Chairman. We don't. What we have done, I think perhaps if I could direct your attention to page 17 at the top of the page, page 17 of your calendar, is the paragraph involving rental. What we're basically proposing is a rent-free lease, reserving to the Commission the right upon completion of construction to set a monetary rental if warranted. What we've tried to do is to box it in to the extent the staff deems prudent. That is that we have
offered a rental rate at a percentage based on analysis of market and other considerations, which would be typically the way you do it. We look at, say, Dana Point Harbor, something like that, and see what Orange County might be getting as a percentage of channel resales or docking fees or ship brokerage fees or something like that or eight percent of the appraised value, which are both within the rules and regulations adopted by the Commission, and would be setting a minimum rental.

Now, right now it would be the staff's feeling that it would be some considerable period of time before we even start to look at the possibility of recommending the collection of rent. Portions of the facilities, as I understand it, are to be built with a loan from the Department of Navigation and Ocean Development. We relied very heavily on that department in the economic analysis of this project. Based on that economic analysis, it's quite aways downstream before we could expect that there would be significant excess revenues.

I think, much as the Legislature does not want to tie the hands of subsequent Legislatures, we are reluctant at this point in a long-term arrangement to box in what the rental rates might be.

MS. SMITH: Why can't we make it a short-term arrangement?
MR. TROUT: I think Mr. Silvestri's problem is with the long term rather than the short term.

MR. SILVESTRI: If we get through the eighteen zillion hurdles facing us and this is successful, which is when you would start licking your collective chops, I'm sure, then we would like to be rewarded with the primary value of that effort. We're the ones that are really taking the major risk at this point; and, granted, you have a stake here as well, and I should mention also that it's possible that this may become academic if in fact the land swap which was earlier alluded to is effectuated. But that's too far down the line right now to really go into.

MS. SMITH: Is there a problem with having a rent review set within two or three years after you've had a chance to study the economic situation?

MR. McCausland: That's basically what the staff would be doing.

MR. TROUT: Yes.

MS. SMITH: But bring it back to the Commission.

MR. TROUT: Mr. Chairman, I might just discuss this. We're very reluctant to talk about any kind of a land swap because of the State's position in the Murphy case. If the State's position were to be sustained in the ultimate result of that case, the alleged owners of the property would have nothing to exchange. So, I don't think we want to look
at an exchange as any kind of a long-term solution.

One of the reasons for getting this on the calendar this month was so the Bay Conservation Development Commission might also consider this project at their next meeting.

I'd like to suggest that perhaps Mr. Silvestri and our staff could get together and we could look at some language contained in some of the legislative grants which defines some kind of a ceiling after which the State begins to share the excess revenues. I'm not saying that at this point staff would recommend that, but we certainly would be open to discussion of that kind of a modification to the rent agreement.

I suspect if this is not passed, however, today the City of Brisbane may not have the option next week of having it heard by the Bay Conservation and Development Commission.

MR. McCASLAND: I'm personally disposed to act on the item today in the form recommended by staff because I believe that is substantially the way we're treating everyone else in the State of California. Equity demands that; and, by the way, many people view our actions as being fairly capricious. So, I suggest you watch our collective chops closely and see what you can do in this area, but it is worth your review of the documentation on how granted lands are being dealt with in these circumstances.
MR. SILVESTRI: I appreciate that. As I said, I really want to raise this point for the record. I'm not protesting that loudly. In the interest of the city, my city council picked up on that point and asked me to convey that concern. I hope you can appreciate our position as well.

MS. SMITH: I'm prepared to vote on the item; however, if you would like to sit down with our staff and go over some of the other agreements, I am prepared also to delay my vote until next month's meeting.

MR. SILVESTRI: I think we're in a bind here because of the BCDC position that they won't proceed. I would prefer, I think, that it be voted on, and we would be glad to take staff up on the opportunity extended to review grant-type language to see how that might be modified in the future, if that's acceptable.

MR. McCAUSLAND: Are you tenatively scheduled for the first meeting of the BCDC?

MR. KERWIN: No, we are apparently not. But the Commission staff will not do any of the preliminary processing until the State Lands Commission has acted.

MR. McCAUSLAND: If you want us to proceed, I have no objection.

MS. SMITH: I move the adoption of C2.

MR. McCAUSLAND: Without objection, Item C2 is approved. Thank you, gentlemen.
I have two little items I'd like to mention before we leave. The first is on Item 25, the natural gas pricing issue. We took action today which I believe was 100-percent retroactive. Are you now in the process of reviewing the price proposals for the current year?

EXECUTIVE OFFICER NORTHROP: Yes, we are.

MR. McCAUSLAND: I believe that this issue should not be resolved without further discussions of what the appropriate levels of gas prices are. Our action today confirmed, on the basis of last year's record, prices that were not inappropriate; but in terms of prices that we're willing to accept this year, I think that entire issue has to be readdressed in terms of total mix of gas utilization in the State of California and the true market value of the resource we have. Whether it's been there for ten million years, or one year it's natural gas. That's probably the most precious of all natural gas used in California. I think it should be priced at an appropriate level, and I think we'll probably have to go through the same lengthy hearing process again this year. I don't think we should just assume going out of the gate that we're going to accept the same price as we did this last time around. Does anyone want to comment on that?

MS. SMITH: No.

MR. McCausland: On Item 32 regarding harvesting of
our timber, is that item in response to the discussion that we had in a Commission meeting a couple months ago that said let's take a look at increasing a more proactive management of our timber?

EXECUTIVE OFFICER NORTHROP: I think that's in response to that.

MR. McCausland: I would hope that before we go too far down that line that we could have a fairly serious policy discussion of how far we want to go in this timber management business. I don't know for sure that we want to try to turn it into a real moneymaker on the one hand; and, on the other hand, it may be that we don't want to let our trees get so mature that they lose their market value. Before we get too far down that path, the Commission should try to deal with the issue.

EXECUTIVE OFFICER NORTHROP: Staff hears what you're saying. The situation is that has come to our attention in the past, we have lost much timber by either fire, pesticides or thieves. The management, the good stewardship of that timber, when it becomes a detriment to the environment by not being harvested or the best environmental management as well as timber management would be harvesting; but staff takes seriously what you've said, and we shall prepare some kind of a program so we can make a record or at least present for the record what we plan on
doing in this area, or at least some alternatives for the
Commission to decide which avenue they would like to see
us proceed on.

MR. McCausland: Thank you. Any other business
to come before the State Lands Commission?

If not, the next meeting of the State Lands
Commission will be held here in Sacramento on September 27th,
1978. Without objection, the meeting is adjourned.

(Thereupon the meeting of the
State Lands Commission was adjourned
at 11:08 a.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, WENDY E. STEWART, a Shorthand Reporter of the State of California, 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. Stewart, 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 this 5th day of September, 1978.

WENDY E. STEWART

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