MEETING
STATE LANDS COMMISSION

DEPARTMENT OF CONSUMER AFFAIRS BUILDING
1020 N STREET, ROOM 102
SACRAMENTO, CALIFORNIA

ORIGINAL

TUESDAY, JUNE 5, 1979
1:00 P.M.

DELORES I. DALTON

PETERS SHORTHAND REPORTING CORPORATION
1700 COLLEGE TOWN DRIVE, SUITE 210
SACRAMENTO, CALIFORNIA 95815
TELEPHONE (916) 363-3301
MEMBERS PRESENT

Hon. Kenneth Cory, State Controller, Chairperson
Mr. Roy Bell, for Richard T. Silberman, Director of Finance

MEMBERS ABSENT

Hon. Mike Curb, Lieutenant Governor

STAFF PRESENT

William Northrop, Executive Officer
James Trout
Robert Hight
Donald Everitts
Les Grimes
Diane Jones
Dave Hayward

ALSO PRESENT

Jan Stevens, Attorney General's Office
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Consent, Calendar Approved

Regular Calendar

Item 21

PUBLIC COMMENT

Jack Alderson

Jeremiah Scott

Thomas Paul Pratte

Question-and-Answer Session

Douglas Galati

Question-and-Answer Session

Jack Alderson

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Thomas Paul Pratte

Jeremiah Scott
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**PUBLIC COMMENT**

George Rodda

Question-and-Answer Session

KENNETH WILLIAMS
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CHAIRPERSON CORY: First we will have confirmation of the minutes of the meeting of April 26. Are there any corrections or additions?

MR. BELL: Without objection.

CHAIRPERSON CORY: Without objection, it will be approved.

The report of the Executive Officer.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, the Commission's staff received two safety awards from the Governor's Safety and Rehabilitation Program. The first award was a plaque signifying a zero frequency rate for disabling injuries during '78. This award was given to only nine other departments in the State. The Commission also received a trophy for ranking second in the frequency of injury category for departments with less than 500,000 employee hours annually.

CHAIRPERSON CORY: If you keep taking up our time for things like that, we are going to blow our record and chance for the thing next year with the injury you are going to receive.

(Laughter.)

EXECUTIVE OFFICER NORTHROP: The staff has had some discussion on charges to public agency, and Jim Trout would like to -- I would like to have Jim Trout

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address that subject to the Commission, Mr. Trout.

MR. TROUT: Rather, Mr. Chairman, than read the material which you have in front of you, I would just say that the major concern is that many public agencies have to come to the Commission for permits and leases on tide and submerged lands. It costs the Commission staff some time and effort to process these permits which the Commission receives no revenue for. Most public agencies are very reluctant to pay the State anything to have a permit issued to them.

One of the problems involves special fund State agencies such as Caltrans, Fish and Game, some of these. The basic question is whether or not the Commission staff or the Commission should be subsidizing activities done primarily for the benefit of these public agencies, although it is the public at large. Staff was looking because of the number of inquiries we get, to perhaps any expression of direction from the Commission. We would like to apply a consistent policy. I think from our standpoint, it would be fair from a standpoint of program budgeting to have the Department pay the fair share of the processing costs. In most cases, it is $450 for a public agency lease or permit.

Now, this is really a policy issue. Staff thinks that it is fair to collect it. Many public agencies feel
that it is not. And we are looking for guidance so that we can prepare a calendar item that would set forth the rationale and the requirements for payment, or we could look at it from the standpoint of this is a service by the Commission for the public good.

But we are getting a considerable number of inquiries as to the necessity to pay for this.

CHAIRPERSON CORY: They are currently now paying?
MR. TROUT: Some are and some are not. We ask for it and some pay it. Some don't. The fees are provided for in the Public Resources Code, but the Commission may choose to waive the fees if the public interest warrants it.

MR. BELL: Statewide public interest or local interest?

MR. TROUT: In most cases, we are talking about Statewide public interest. There are a small number of projects such as a very local sewer or water district that probably has no Statewide impact. But certainly Fish and Game projects for nongame species, for example, are of Statewide benefit.

The expression of just intent would allow us to develop a calendar item which could then be formally considered or rejected and we would have witnesses and all that kind of stuff.

CHAIRPERSON CORY: We are at the present time
currently charging some and not others?

MR. TROUT: We are attempting to collect pursuant to the Code from everybody. A good number of people just don't pay it.

CHAIRPERSON CORY: Then why don't we not make them pay before we process?

MR. TROUT: Because we are the nice guys, I guess. We can certainly do that.

CHAIRPERSON CORY: You ought to do that, and maybe buy some I.Q. tests and administer them to the operation. I mean, it seems like that's fairly easy to come to quickly. If somebody is not paying you, you stop doing work for them and you say, "Hey, folks. Until you come up with the coin" -- I mean, I don't know. If we are supposed to be collecting it, and they want to come in and ask for a waiver, then we could deal with those at that point.

MR. TROUT: Well, like Fish and Game, that is routine. We send the application, and they ask for a waiver of the fee. That's a very routine kind of thing.

MR. BELL: I don't have a strong feeling one way or the other.

CHAIRPERSON CORY: I don't have any strong feeling. It just seems to me that we ought to be awfully hard nosed or walk away from all of it. I mean, I don't see allowing
a guy who is ornery enough to stiff us to get away without paying us, and the guy that is nice to end up paying. That seems to me the worst of all worlds.

MR. TROUT: That's why we are here, because that is really where we are now. We can apply the statute very rigidly and approach it from --

CHAIRPERSON CORY: Why don't you collect the money and see what happens at that point.

MR. TROUT: Okay.

CHAIRPERSON CORY: Fine.

MR. BELL: Are we talking about filing fees primarily?

MR. TROUT: No. Filing fees are only $25 by regulation. We are talking about the processing fees. The costs of opening the work order, reviewing the description, preparing the document and that kind of activity. And I think that what I sense from the Commission, we will come back next month or at a subsequent Commission meeting with the exact criteria that we would use to apply it, and then we can get comments on it. I think I sense the direction you are headed. Thank you.

CHAIRPERSON CORY: Geothermal regulatory hearings? Is that our next --

The Executive Officer's Report, reportedly to be by William F. Northrop, the first portion given by you,
which I wasn't too keen on, the next one given by Trout, and a third one on geothermal regulatory hearings. Is there something you don't want to tell us about on geothermal regulatory hearings?

EXECUTIVE OFFICER NORTHRUP: I think we are kind of pleased with the way they turned out. The public hearings on proposed amendments to Article 4.1 of the Administrative Code relating to exploration for and development of geothermal resources from State-owned lands were held May 16 in Sacramento and May 17 in Lakeport, Lake County. There were relatively few comments to the proposed regulatory changes, and most of those centered on clarification of the new procedures contained in the legislation.

As a result of those hearings and comments, staff is now making some clarifying modifications, and we hope to have the final regulations before you for adoption at the meeting scheduled for June 27th.

CHAIRPERSON CORY: All right. Staff report on the State Coastal Commission.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman and Mr. Bell, Mr. Golden, who is the Chairman's representative to the Coastal Commission, is attending a meeting today.

The State Coastal Commission is expected to approve a two-year $75,000 contract to the State Lands
Commission, for the purpose of conducting public trust
determination work in coastal areas, where they would
assist in the preparation of local coastal programs.
This contract is expected to fund two professional positions
in our offices, and is fashioned after our contract with
the U. S. Fish and Wildlife Service.

Today also the Commission will be considering
and possibly voting on the proposed San Francisco
wastewater system. The proposed system will replace
outmoded facilities in the City and County of San Francisco
and is designed to meet current wastewater discharge
standards.

Portions of the system involving State lands
include an ocean outfall and the deposition of sand dredged
from the trunkline alignment along the Great Highway onto
the beach. In addition, future revetment to protect the
Great Highway or the Westside Transport Facility may also
require State Lands Commission approval. Although the
construction of the overall system is embroiled in
substantial local controversy, this controversy does not
involve the proposed activities on State lands at this time.

Staff expects that San Francisco's application
for a 66-year general permit for the system's ocean outfall
will be calendared for your consideration at your next
meeting.
CHAIRPERSON CORY: Okay.
All right. The next item on our calendar is
the Consent Calendar. These are items on the printed
agenda with the prefix C, 1 through 20. If there is anybody
in the audience who has any disagreement with the staff
recommendation, if they would speak up now, because we
will take all of these items up at one time and approve
them as a group unless there is an objection to any of
the items.

Is there any objection?
Without objection, the Consent Calendar will be
approved as presented.

(Wherupon the following pages were transcribed
from the Court Reporter's notes and the
preceding pages were transcribed from a
tape recording.)

CHAIRPERSON CORY: Item 21.
EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
is an approval of assignment from Mario J. Machi to
Humboldt Bay Harbor Recreation and Conservation District.
It's for a boat launch facility. The Humboldt Bay Harbor
Recreation and Conservation District intends to rebuild a
rock breakwater and allow 50 foot of access to the public
and clean up some boulders and rocks that are in the water
area. We understand there are some members of the public
who wish to speak to this issue.

CHAIRPERSON CORY: Okay. I guess we should hear from some people with the Humboldt Bay Harbor Recreation District, Jack Alderman (sic.) and Jeremiah Scott.

MR. ALDERSON: My name is Jack Alderson. I'm the Chief Executive Officer of the Humboldt Bay Harbor Recreation and Conservation District.

CHAIRPERSON CORY: Pardon me. Your name is Jack -

MR. ALDERSON: Alderson.

CHAIRPERSON CORY: Alderson, rather than Alderman.

MR. ALDERSON: Right.

CHAIRPERSON CORY: Are my eyes that bad or --

Go ahead. I'm sorry.

MR. ALDERSON: It's not the first time.

I have some pictures here of the Shelter Cove area. Three years ago the Humboldt Bay Harbor Recreation and Conservation District got involved in a project, or started getting involved in a project at Shelter Cove at the request of the local citizens. Basically, the project is to replace two outhouses with flush-type toilets, permit day use parking, stop cliff erosion in the area, widen and pave the road down to the beach, creating a turnout for safer launching of boats during high tide conditions, furnish public access, and strengthen the existing breakwater.

To do this, the District has entered into really
what is a multi-sighted agreement in that the Bureau of Land Management has given the land for the parking lot and the rest rooms, the County of Humboldt has also granted some land for the parking lot access, Mr. Machi, who owned the upland area in that area, has granted a right of way across his property for public access, and the California Department of Boating and Waterways has given a grant of $125,000 to support this project. The District has put it together and promised to operate it over a period of time.

Public hearings were held throughout this time. CEQA was followed. It does meet the needs of the people of the Shelter Cove area and is part, as BLM finds, of the King Range Recreational Plan.

There is some question about the removal of rocks from Dead Man's Reef. The rocks are sterile as has been found by Doctor D. Martini in a study for the Coastal Commission. The Harbor Commission only has a permit to remove one-fourth of the rocks from the reef that is there. It is an alluvial-type fan. Rocks are continuously coming down the gully. They will be replaced. We have counted additional rocks up in the gully.

We have a statement which your staff has from Doctor R. J. Seymour who is an oceanographer with Scripps that indicates the removal of the rocks would not adversely
affect the surfing in the area.

There are many other surfing beaches around. This one is not used that much in comparison to some of the other beaches.

One of the big problems that occurs at Shelter Cove is the indiscriminate mooring of small boats in the harbor. They use engine blocks, and at the end of the summer, just cut the buoys off and go away. Well, the pileup of engine blocks in the bottom now has created a hazard for the commercial fishing fleet who use Shelter Cove as a harbor of refuge. Something needs to be done to control this harbor.

There have been letters received by the Harbor District and the State Lands Commission, I believe -- the staff -- and from the U. S. Army Corps of Engineers, the Coast Guard and various fishermen's associations indicating that something needs to be done to control this area.

That is what the Harbor District is asking for now is the lease of the tide and submerged lands there so that the control and proper operation of the harbor can be completed, and we are requesting that you approve the staff recommendations.

CHAIRPERSON CORY: You are Jeremiah Scott?

MR. SCOTT: Yes. I have nothing to add, but I would be happy to answer any questions you might have.
CHAIRPERSON CORY: I just have a question of staff. Did they pay their processing fee?

MR. GRIMES: Yes.

CHAIRPERSON CORY: Okay. And as I understand it, there are some people who have a different view.

MR. ALDERSON: I have some pictures of the rocks which will probably clarify it later on.

CHAIRPERSON CORY: We will probably need that. If we could hear from Thomas Paul Pratte. That's Les Grimes in a suit, the record will please note.

So we understand, the lease will enable the District to regulate mooring in the area?

MR. GRIMES: Yes.

CHAIRPERSON CORY: And that is a separate issue from the movement of rock?

MR. GRIMES: Yes. It is my understanding from these people here that they have no problem with the regulation of the mooring or even the building of the breakwater. They are concerned about --

CHAIRPERSON CORY: Okay. Let's hear from them then.

MR. SCOTT: Could I just amplify your question. The upland area is owned by a private man by the name of Machi. Machi has a permit from the State Lands, 1957, to
build up a breakwater to improve the launching of the boats. We are merely asking for your approval of the assignment of the Machi permit to the Harbor District and amend that permit to update it according to your terms and specifications that you presently use.

Machi, the private owner, controls all of the access to the beach. Machi has agreed to give the Harbor District an easement, a public easement, only if we make these certain improvements.

If we fail, and if we fail to get the necessary approval from you people, Machi will not give that public easement, so the public then would be forever barred from access to the beach.

In addition, I would like to point out that the Regional Coastal Commission voted 11 to zero confirming the position of the Harbor District. On appeal, appealed by the man you are just about to hear, the State Coastal Commission found no substantial issue on the question of his appeal.

So we are merely asking that you approve the assignment of the Machi permit to the Harbor District and amend it. Thank you.

MR. PRATTE: My name is Thomas Paul Pratte. I'm from Trinidad.

I did meet with staff yesterday. The boundary of
the lease agreement runs to a certain section line designated
in Section 4 of the lease.

Looking at the topographic map, it has been
apparent that this section line is south of Point No Pass,
in this area between these two points. I thought that
was made clear in discussing the matter with staff
yesterday, but there might be a little uncertainty in
that.

CHAIRPERSON CORY: Okay.

MR. PRATTE: I would like to show some slides of
the area.

This first slide is taken from above Dead Man's
Gulch, looking down. The creek runs down through the
gulch, and those rocks out there exposed at low tide are
those proposed for the rock removal.

On this slide, if you look at the white water
pattern of the waves --

-- over the reef, there is actually a surfer
riding that wave. That's at a higher tide.

This is looking down the coast. Dead Man's Reef
is the first reef. Point No Pass is the second major
projection, and the lease area goes a little bit beyond
Point No Pass, I believe.

---00---

That's Dead Man's Reef at low tide.

---00---

And there it is at a medium tide.

---00---

This is taken from the beach looking south.

That is Dead Man's Reef, the intertidal portion, extending out, which looks like a drawing. It extends out about 100 yards from the mouth of the gulch.

---00---

Here is a picture at high tide. The reef is totally submerged at high tide.

---00---

Here it is from the south side of the reef looking into Shelter Cove. That is Point Delgado in the background.

---00---

This is a picture of the reef at high tide.

---00---

And this is at low tide.

---00---

If I go back a little bit -- well, that only goes forward.

---00---
That's the extension of the reef at low tide. It extends way out. In fact, over in this area here is a person standing on the reef, for some scale.

---o0o---

Here is a picture taken of a surfer riding a wave at a medium high tide, and the lower intertidal portion in this area here.

---o0o---

This picture is a wave breaking at high tide. Over on the right you can see the landward extension. That is probably about a medium high tide. They are breaking over the reef.

---o0o---

Here is a picture of a fellow riding a wave pretty close to shore. That picture is probably along the edge of the reef, pulling out, very close to the shore.

---o0o---

Here is another picture looking straight at the mouth of the creek. This is a medium high tide. Surfers are riding the waves along and across the intertidal area.

---o0o---

Here is another picture of a surfer riding. (More pictures of surfers riding the waves.)

---o0o---

We will finish off with that shot.
I'm speaking on behalf of myself and as a delegated representative of the Western Surfing Association which is the voice of a half a million California surfers. I have come to speak for preservation of the surfing opportunities at Dead Man's Reef for present and future generations.

I and the Western Surfing Association are also plaintiffs in the suit against the Coastal Commission regarding the assignment of an expired permit and failure to protect surfing as a water-dependent recreational use at Shelter Cove.

Surfriding at Dead Man's Reef is within the proposed boundaries of the rock removal, and the proposed indiscriminate and wholesale and unplanned alteration of this natural public resource, utilized for surfing, is against the public interest.

It's apparent that the rock removal will alter the bottom conditions and adversely alter the refraction and shoaling of breaking waves near shore which are required for the surfers' ride zone.

The improvements to boating facilities at Shelter Cove are not dependent upon degradation of the surfing resource.

We express our reservations concerning the long-range effectiveness and structural integrity of this
breakwater project which has been designed without assistance of an ocean wave expert or an ocean sediment expert.

The Harbor District estimates the volume of rock required for this project -- their estimates vary by a wide margin between 1,600 cubic yards and 6,000 cubic yards.

This rock removal is proposed to be permitted free of charge from a natural recreational resource currently in the public trust. Any rock removal must be conditioned to objectively define and preserve the essential components of this resource. We cannot agree to any rock removal without an objective, verifiable and definitive study which will first establish the boundaries and characteristics of this surfside, and second, identify any potential for rock removal which will not adversely alter surfing opportunities.

Essential information required for such evaluation includes: One, field operations at high tides and low tides for large and small waves; two, bathometric mapping of the surfing areas; three, analysis of photographs; and, four, interviews with surfers. Refusal to acquire this essential information can only be interpreted as refusal to look at alternatives.

CHAIRPERSON CORY: Thank you.

The question that we have before us is the
assignment of a lease from a private individual to a public agency?

MR. PRATTE: Of a permit, yes.

CHAIRPERSON CORY: Okay. Of a permit. Could you address yourself to that question. I have some sympathy for what you are saying, but I am sitting here trying to weigh whether or not the public good is served by leaving that permit in the private sector as opposed to bringing it into the public sector.

MR. PRATTE: I don't know what you mean as far as the permit whether the State Lands or the Harbor District are concerned as the public sector.

CHAIRPERSON CORY: As the facts were presented to me, the permit currently exists and a private individual has it. That private individual could go ahead, presumably, and move those rocks with the existing permit.

MR. PRATTE: No, that's not true. The Coastal permit of 1974 granted a one-year permit which they recently made a finding that is still valid and can be assigned after the one-year expiration date, and that is in litigation right now.

The Army Corps granted a permit for this rock removal in 1975, and that permit is not active now. It's expired and the Harbor District is in the process of applying for an Army Corps permit. The Army Corps has
called for a public hearing June 19th in Garberville. They are sending out some oceanographic experts with some surfing expertise to evaluate this surfing area and to also look at the breakwater -- investigate the aspects of the breakwater.

CHAIRPERSON CORY: Are there other surfing areas along the coastline?

MR. PRATTE: Yes. Well, along the coastline -- from the Shelter Cove area, way south -- 100 miles south at Point Arena or 100 miles north in the Humboldt Bay area. Then there is one area in the middle of the King Range which is a one-day hike to get to. Shelter Cove is in the middle of what is called the Lost Coast. Twenty miles to the north is King Range and to the south is Chemise Mountain, Sinkyone Wilderness State Park and the Usal area. In the vicinity of Shelter Cove there are within this lease area two other surfing sites; however, surfing conditions are conditional and maybe possibly only one area will be breaking at a certain time. They break according to different tide levels, and they are all being used now. And loss of the reef at Dead Man's Reef would reduce surfing opportunities in the area. It would cause crowding -- increased crowding -- and result in negative affects on surfers directly by the loss of the opportunity.

CHAIRPERSON CORY: Let me ask the staff. Currently
is it your opinion that private individuals can, with
an existing permit, go in and move the rocks?

MR. HIGHT: Yes, Mr. Chairman, providing he
has the Corps and Coastal permit. And I believe he
already has the Coastal permit.

CHAIRPERSON CORY: So what we are dealing with
is the assignment from a private individual to the public
sector, and it would still require the Corps of Engineers'
permit that is in process regardless of whether we agree
to the assignment or not?

MR. HIGHT: Correct.

CHAIRPERSON CORY: The point I am trying to get
at is whether or not the things you are concerned about,
whether this is the forum that you need to win that battle.

MR. PRATTE: I believe this public resource
is currently in the public trust, and I would recommend
that the State Lands Commission determine that this surfing
is an existing use on public trust lands and to condition
this permit in a manner which will ensure that this usage
will continue.

CHAIRPERSON CORY: If we did that, with language
that said that the assignment is subject to the preservation
of surfing opportunities, on their side of it their
presentation was that they have an expert that says that
it will not alter that.
MR. PRATTE: Doctor Seymour, who made that finding, did so on the basis from his desk in San Diego, I guess, looking at aerial photographs, and he has yet to visit the site. And in the Coastal Commission appeal, in the staff report, staff talked with Seymour and Doctor Seymour indicated that further study would be desirable.

In fact, I was informed yesterday by members of the State Lands Commission staff that Doctor Seymour is interested in going up there and looking at it in the near future.

CHAIRPERSON CORY: Can we have Douglas Galati?

MR. GALATI: Right.

MR. PRATTE: Thank you.

CHAIRPERSON CORY: We will hear from you.

MR. GALATI: My name is Douglas Galati. I am a resident and homeowner and taxpayer of Humboldt County.

I am speaking for myself and for a committee, the Dead Man's Defense Committee, which I have participated in as far as organizing local surfing populations' objections to the rock removal.

My own experience as a surfer is that of 17 years. I have world-wide experience. I have surfed in the Philippine Islands, Africa, Europe, Mexico and the Western Coast of the United States, and I feel that I am able to judge good surfing waves when I see them.
My objection to permit PRC 1956.9 is that it does not recognize surfing as a valuable coastal-dependent recreation, and that the State Lands Commission should not approve the condition permitting the removal of rock from the intertidal zone in front of Dead Man's Gulch for the purpose of improving the existing breakwater.

I think my concerns stem from several issues. One, surfing is a sport of the native sons of California. On the north coast, these resources are rare. Dead Man's Gulch, though, has been designated a surfing site by its public use for a number of years. Some of the estimates are as early as 1950.

And the point is that the waves, the quality surfing waves are directly related to the rocks and the configuration in the intertidal zone.

But I believe, and others do, that the surf site is in danger of destruction because of a denial of the surfing community's concern and the haste to obtain permits to undertake this project.

It is, one, before this Committee that myself and others have undertaken to file suit against the Coastal Commission and the Humboldt Bay Recreation and Conservation District to contend first that the 1974 permit which was transferred or assigned to the Harbor District from Mario Machi has expired; and, two, to point out that there are
a number of inconsistencies in those staff reports and
the Commission's decisions regarding coastal-dependent
recreational activities. Basically, it is the Coastal
Commission staff, throughout their staff reports, could
not guarantee no adverse affects to surfing. And in fact
as early as the first staff report, they were requiring
an $18,000 bond to the effect that if the surfing resource
was disturbed, that those moneys would have to be used to
restore the resource. Then the staff reports deteriorated
from that.

As far as money to do the project, money is not
at issue here. The Coastal Commission in their reports
said that they would help the Harbor District seek additional
funds to perform this project. So we are not dealing with
a dollar limited.

We also tried to seek satisfaction with the
Harbor District themselves, but we were confronted with
concepts of -- pardon me. I will restate that. We were
confronted with attitudes that it was ridiculous to think
that wave formation was not determined by near shore
rock formations, which is essential to our position.

I think there has been significant public input
regarding surfing and that this warrants further consider-
ation.

We were able to convince the Army Corps of
Engineers of that fact, and they reopened the issue for
investigation at public hearing which we have already heard about.

CHAIRPERSON CORY: When will that take place?

MR. GALATI: We understand June 19th in Garberville, which is east of Shelter Cove.

We have also understood that there are some objections to the specific gravity of the rocks involved in the area, whether or not they meet the specifications of the Army Corps of Engineers to perform such a project. Essentially it says that these rocks are too light and will float away inside of storm conditions. The breakwater will need repair. And what we have done is to destroy a surfing site to build a breakwater that is now going to need repair. And we will have destruction of the resource ad infinitum.

One statistic that has been thrown around is that the Harbor District wishes to improve the launching of boats for a possible ten to fifteen-day period during the fishing season which extends May through September. We object to this because it will destroy the surfing potential which ranges 365 days a year.

So in conclusion, I am requesting that the State Lands Commission make an autonomous decision in this issue. That, first of all, they recognize surfing as a valuable recreational resource and that they recognize that surfing
does occur at Dead Man's Gulch. Two, that they amend the permit to preserve the surfing areas for present and future generations of California surfers.

But if the Commission finds those suggestions unacceptable, I think that the Commission should refrain from making a judgment on this issue until the courts have had a chance to litigate the matters at hand.

I submit to the Commission and its staff these petitions of people who are concerned about the issue and a copy of a letter from Douglas H. Bosco, Assemblyman, which states:

"I think you make a very good case for preserving the natural wave formations at Shelter Cove."

But on the following, I don't agree with Assemblyman Bosco as he states:

"Unfortunately, I do not believe that the State and local agencies involved are prepared to change their policy."

That's why we are here today.

MR. BELL: I assume you are familiar with the coast up and down?

MR. GALATI: Yes, sir.

MR. BELL: How many harbors of refuge are there along that stretch? I'm now talking about a public safety
issue.

MR. GALATI: I think the matter is clear that Shelter Cove has been a harbor on the Lost Coast for many years. Whether or not this breakwater is going to improve the harbor of refuge as you state is debatable.

MR. BELL: You are answering my second question.

CHAIRPERSON CORY: Are you opposed solely to the removal of the rock, or the removal of the rock and where they are placing it?

MR. GALATI: I object to the removal of the rock.

CHAIRPERSON CORY: If they leave the rock there, but extend the thing with rock from some other source --

MR. GALATI: I have no objection to that.

CHAIRPERSON CORY: Jack Alderson, you have a public hearing the 19th?

MR. ALDERSON: A public hearing, yes, sir.

CHAIRPERSON CORY: Can you tell us what that is about? What is going through my mind is why not wait until we see what that produces and what the Corps of Engineers thinks about the breakwater and whether there is another way to solve this. Politically, why should I take the heat and get in the middle of this dogfight if somebody else is going to settle it?

MR. ALDERSON: I fully understand your position, sir. Your staff has in its possession petitions again
representing some 5,000 names of people supporting this project. One of the things that I believe the Commission that I work for and that the Commissioners find bad about this is that we went through the full CEQA process, had the public hearings and had the votes of the Coastal Commission at both the State and Regional level. We have gone before the Resources Agency and got a grant. We hear the same arguments, and each time the Boards find in our favor on a unanimous vote.

CHAIRPERSON CORY: Let me put it in a little more focus for you. You have got a problem. I'm sort of easy and try to get along with people.

The staff is laughing.

But my problem is that I grew up in Huntington Beach.

MR. ALDERSON: Sir, I grew up in Santa Ana. I was surfing at San Onofre and Dana probably at the same time you were.

CHAIRPERSON CORY: So I've got some sympathies, frankly, because I saw what the Army Corps of Engineers did when they extended the breakwater in Long Beach at Huntington Beach.

There are only two members here that have heard this. I think you are better off waiting. I don't know if that does you some irreparable harm, but I'm not so sure
that I am prepared to vote to sign this permit. I'm willing to listen to arguments as to why it needs to be done, and I can maybe decide the other way.

But right now I prefer to have somebody -- I understand what you are saying, and I am sympathetic on both sides, but I'm trying to put it on the table.

MR. ALDERSON: We have two elected Commissioners in the audience. Maybe they can give me some direction here.

If you grew up in Huntington Beach, you remember that the surfers complained about the groins that were going to go in at Newport, and I was probably one of those. And the groins improved it.

I started surfing San Onofre in 1944. At that time, I had the privilege of meeting a man by the name of Doc Ball. Doc Ball was a very famous surfer. He was a member of the old Palos Verdes Surf Club. Started surfing in '29. Doc Ball testified at the Coastal Commission hearing, regional hearing, and he started surfing in 1950 at Shelter Cove. He started there. And he felt that the removal of the rocks would not adversely affect the surfing; if anything, it would improve it.

So it's again an opinion of not only some people who have some surfing knowledge, but we have the documentation of an oceanographer who specializes in wave motion studies, and so forth -- a letter that your staff has
indicating no irreparable damage. But as far as the
delay -- what? One month?

CHAIRPERSON CORY: You are having the Corps
of Engineers when? The 19th?

MR. BELL: Will the Corps of Engineers have an
action at that public hearing?

MR. ALDERSON: No, sir.

MR. BELL: Will there be any indication of
their opinion?

MR. ALDERSON: Having been to previous ones of
the Corps, no, sir.

MR. BELL: What would the waiting period be?

MR. ALDERSON: I cannot answer that, sir.

CHAIRPERSON CORY: But you are not where you can
proceed until you get the permit from them?

MR. ALDERSON: That's correct.

MR. BELL: Proceed with what? With all of the
project or merely building the breakwater and putting in --

MR. ALDERSON: With the total of the project.

Mr. Machi has said he will grant us the right of way across
his property only if we improve the breakwater. And that
has been agreed to.

MR. BELL: But he is not insisting that you take
the rock from that one point to improve the breakwater?

CHAIRPERSON CORY: It is probably the only
economical, feasible --

MR. ALDERSON: That is correct. It is the only economical, feasible way. We have had the engineers check.

MR. SCOTT: Just for your amplification, the Machi permit authorized the construction of the breakwater. He did, as you can see in the pictures, construct a portion of the breakwater. The Machi Coastal Zone permit provided that he could take from above the low-watermark, in the intertidal area, 25 percent. The State Commission said 25 percent -- up to 25 percent of the rock. The Harbor District permit provides, the Coastal Commission permit, that we can only take rock from above the high-watermark. So it's obvious that any rock above the high-watermark cannot affect the surfing conditions out in the water.

I have never surfed, but as a layman, it would be obvious that if we can only remove rock from above the high-watermark, it would not affect the surfing conditions.

We have been fighting this guy now for about three years. It came about by a petition of about 5,000 residents, the people who live there. Not somebody from Los Angeles or Seattle; people who live there. As Mr. Bell has indicated, it's a harbor of refuge, and it will be implemented to save lives. If you have ever been there and seen the launchings on the shore, you can see that there
is a safety factor with the recreational and commercial boaters.

In addition, the District is acquiring this public easement which is not in existence at this time. Machi could forbid the surfers from coming onto his property, but by the goodness of his heart in the past, I guess he has allowed them occasionally to come upon his place.

MR. GALATI: I would like to address a couple of issues here. Number one, Mario Machi has degenerated to the point of charging surfers three dollars per surfboard to cross his property. Most of the people are redirecting their traffic down a prescriptive situation, a gulch at the head of the surfing area, and are walking around the BLM land.

As far as the 5,000 people that live at Shelter Cove, all of the people of Humboldt County and all of the people of the State of California have rights to access to those beach areas and cannot be obstructed, by reason of public trust.

As far as the conditions go with Newport Beach improving the surfing, we are not talking about that kind of situation. We are talking about a reef situation where the bottom configuration controls the dynamics of the waves.

MR. PRATTE: Mr. Chairman.
CHAIRPERSON CORY: Yes.

MR. PRATTH: I would like to correct something for the record. It's been stated that the 1974 Coastal permit allows only 25 percent of the rock to be taken. I didn't bring a copy of it with me, but that permit states -- it shows a map for the area of rock removal. In reading the minutes of the meeting when the Commission made the decision, it is clear that the rock removal in there was not conditioned on only a certain portion of the reef. It was within that area anything.

MR. SCOTT: May I make one last point.

The issue here is the utility or benefit to eight or ten surfers versus five to ten thousand boat launchings per year. Now, these 5,000 signatures came from people who reside immediately in the area. It's for the public benefit. That's why the Harbor District is trying to undertake this to promote all of these things. And to obstruct an issue that is to be provided for the public benefit, it's not worthwhile, I think, for this Commission to delay or tally or for some reason delay this public expenditure to benefit the --

CHAIRPERSON CORY: If you take a vote today, you are going to lose. I'm trying to put it right up front with you. I don't have enough information that I am willing to vote in favor of it. I might after that
hearing.

MR. SCOTT: What hearing?

CHAIRPERSON CORY: The Corps of Engineers hearing.

MR. SCOTT: Well, if you have made up your mind as far as today --

CHAIRPERSON CORY: I am not prepared to vote in the affirmative, because I lack information. That hearing may produce enough information that I will feel comfortable in voting in favor of it.

MR. SCOTT: Could you have one of your staff members present at that meeting so that they can report back to you?

CHAIRPERSON CORY: I will do that.

What I'm asking is to try to make sure that we are not -- I mean, how far I have to put myself in the box in terms of, if you are going to lose the deal or something like that, but if you can't proceed anyway and it's all tied together, as you have indicated, I would prefer to put the matter over to our next meeting. And we will have one of our staff people present at that --

MR. ALDERSON: I have a question on technicalities here. Just over to the next meeting until you have heard a report on what did occur at the public hearing or waiting until the court has made their final decision?

CHAIRPERSON CORY: I think very likely at the
next meeting, depending on what kind of evidence. If
the stuff that you have indicated -- people who are
oceanographers, wave experts will testify and are gathering
that information, I think we can take the raw data and
come to a conclusion.

MR. BELL: That is June 27th.

CHAIRPERSON CORY: I'm not trying to unduly delay
it, but I have just seen where people guessed wrong once.
Newport, you are right, it improved it. And Huntington
Beach, it didn't. It just really destroyed it.

I am sort of sympathetic. If I'm going to vote
to do it, I would like to know that we are doing it and
that we are making a decision, "Yeah. Boats are more
important than surfers." But I would like to put it cold
turkey on the table. And if that hearing clears it up,
fine. If nothing is adversely affected, that would be my
preference.

If there were another member here, and there were
two members that wanted to go ahead with it, I would let
them go ahead and I would vote sort of a quiet no and let
it go on. But, unfortunately, we only have two people here.

MR. BELL: Do you know if Mike surfs?

CHAIRPERSON CORY: I don't know if Mike surfs
or not.

(Laughter.)
MR. SCOTT: Let's put it over then.

CHAIRPERSON CORY: I apologize for making people do double duty, but sometimes it's hard to make these decisions when you are sitting here in Sacramento and you don't know what the hell is going on in Humboldt.

MR. SCOTT: Thank you.

MR. ALDERSON: Thank you.

CHAIRPERSON CORY: We will make the record of this available to the third member and we will also have the staff brief him on what happened before the meeting so that we can move rather quickly on it.

MR. SCOTT: Thank you.

CHAIRPERSON CORY: Item 22 - Ellwood Pier; Authorization to extend deadline in the Ellwood Pier Demolition and Lease Agreement.

Anybody in the audience on this item?

Any objection?

MR. BELL: No. We already took care of this on wildlife conservation. I think we had better do this one.

CHAIRPERSON CORY: Okay. Without objection, we will extend three months.

Item 22, without objection, is approved.

Item 23 - East Bay Regional Park District, authorizing acceptance as State sovereign lands of deed to a 2/135ths -- that's impressive. This is the land bank?
EXECUTIVE OFFICER NORTHROP: Yes, it's the land bank.

CHAIRPERSON CORY: Anybody in the audience on this one?

Without objection.

Item 24, issuance of a patent.

EXECUTIVE OFFICER NORTHROP: This is the one that started in 1978, and Kemper back in '81, and '89 and 1940. And finally we got it back. That was in November of this year. We asked for it, and I was just informed in the middle of the last calendar item that this one has a problem.

MR. HIGHT: Yes, Mr. Chairman. The description, we want to make sure that we got the right piece of property to the individual. The calendar item says Range 9 East; it should be 8 East.

CHAIRPERSON CORY: East?

MR. HIGHT: Yes. We may correct that.

CHAIRPERSON CORY: All right. We will amend the calendar item to read Range 8 East, e-i-g-h-t --

MR. HIGHT: Yes.

CHAIRPERSON CORY: E-a-s-t?

MR. HIGHT: Correct, Mr. Chairman.

CHAIRPERSON CORY: I just want to make sure that in doing this verbally that we are not giving them the East
Wilmington oil field or something.

(Laughter.)

CHAIRPERSON CORY: Are you satisfied?

MR. HIGHT: Yes, sir.

CHAIRPERSON CORY: As a lawyer, how in the hell would you know?

(Laughter.)

CHAIRPERSON CORY: Is there an engineer or a surveyor who is satisfied that this is where we should be?

MR. STEVENS: They are the ones that told us.

CHAIRPERSON CORY: Okay.

Mr. Bell is suggesting that his already reads that way.

MR. STEVENS: The resolution is accurate, Mr. Chairman. It was the calendar item itself that had an error in it.

MR. BELL: We only vote the resolution, so whether the calendar item is right or not doesn't matter.

MR. STEVENS: Just to make the record clear.

CHAIRPERSON CORY: All right. Anybody in the audience on this item?

Without objection, Item 24 will be approved as amended in the calendar item, but the resolution is consistently correct. But inconsistent with the normal --

(Laughter.)
CHAIRPERSON CORY: Item 25 - Authorization to file disclaimers on certain parcels of land in Colusa and Yolo Counties.

Mr. Hight.

MR. HIGHT: Yes, Mr. Chairman. This is eight condemnation actions for the Tehama-Colusa Central Valley Project. No State interest involved.

CHAIRPERSON CORY: Okay. Let's whip on down through these and see if we have any problems with them. We can probably take all of the litigation items together.

MR. HIGHT: 26, 27 and 28 are all the same, Mr. Chairman. No State interest involved in Federal condemnations.

CHAIRPERSON CORY: Okay. Shall we take 25 through 28 together and the others take separate motions; right?

Okay. Items 25 through 28, is there anybody in the audience on those items?

Without objection, those items will be approved as presented.

Item 29. You want consent for a proposed annexation to the City of Stockton. Do they need unanimous consent of the landowners; is that correct?

MR. BELL: Are we the only landowner involved?

MR. HIGHT: No, there are other landowners involved.
CHAIRPERSON CORY: Does it take unanimous --
MR. HIGHT: No, it's majority vote.
EXECUTIVE OFFICER NORTHROP: Mr. Chairman, 100 percent.
CHAIRPERSON CORY: All right. As long as it's 100 percent, I'm willing to approve it. If somebody is going to use us as the deciding vote, then I would like to find out what the beef is about.
EXECUTIVE OFFICER NORTHROP: No, it's unanimous.
CHAIRPERSON CORY: Unanimous, without objection, Item 29 be approved as presented.
Item 30 - Settlement of quiet title in Wilcox versus State of California.
MR. HIGHT: Yes, Mr. Chairman. This involves a quiet title action of about nine and a half acres of land. The State will receive 2.9 acres in fee which we get the gas and oil rights, and we will in turn lease that area back to the private applicant.
CHAIRPERSON CORY: Anybody in the audience on this item?
Without objection, be approved.
Item 31 is authorization to enter into a contract. This was the low bidder --
EXECUTIVE OFFICER NORTHROP: Low bidder of four, Mr. Chairman.
CHAIRPERSON CORY: Anybody in the audience on this item?

Without objection, Item 31 is approved as presented.

The next item is amendment of service contract by Lobel, Novins and Lamont. Anybody in the audience on this item?

Is there a motion from anybody up here?

(Laughter.)

MR. BELL: I'm afraid that I cannot object.

CHAIRPERSON CORY: Without objection, Item 32 is approved as presented.

Item 33, the Ninth Modification - Plan of Development and Operations and Budget, and you bought a new vacuum truck?

MR. HAYWARD: Oh, that isn't one of the major features, this particular item. That is just sort of a tag-on item.

MR. BELL: Which is the one that has their new drilling rig in it.

MR. HAYWARD: Well, that is a part of this one.

My name is Dave Hayward. I am Deputy Chief, Long Beach Operations.

This item, the Ninth Modification, is primarily third quarter review of how we are doing on the plan and
budget. It is required that it be in the form of a modification and presented to this Commission.

I think the important thing about the Ninth Modification is that when the original estimates were made as to oil rates and revenues and expenditures, that the oil rate has turned out to be very close to what was originally estimated. The rate of expenditures about the same, too -- about $77 million.

The revenue is on the high side. We had originally given the Commission a range, a low side and a high side of a range of net revenue from the Long Beach Unit, and we are happy to say that we are at the high side of that range, which is $100 million.

I think this is primarily because we have been getting regular, although small, increments in the ceiling price of crude oil from the Department of Energy. Those have been coming along. That's been making it possible to buy things such as a drilling rig for about three and one-half million dollars.

So that is about where we are on this Ninth Modification of the Long Beach Unit Plan and Budget.

CHAIRPERSON CORY: Questions?

MR. BELL: No questions.

CHAIRPERSON CORY: We need to adopt on the modification or not?
EXECUTIVE OFFICER NORTHROP: Yes, we need an adoption, Mr. Chairman.

CHAIRPERSON CORY: Without objection, the Ninth Modification will be adopted as presented.

Item 34 - Review of pilot scale demonstration of caustic waterflooding techniques for enhanced oil recovery.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, they have also been working on that.

MR. HAYWARD: Yes. This is a semiannual review of this caustic water project. It indicates that at the present time we are primarily concerned with conducting core flood tests to determine just what is the best caustic chemical to use and how much of it to use and the best rate of water injection.

CHAIRPERSON CORY: When do you think they will likely start the caustic flooding?

MR. HAYWARD: About six months down the road, it looks like now, after this laboratory test is done and completed.

CHAIRPERSON CORY: You have no indication from those tests as to what is happening? When you started putting the small samples down there were you doing any good or are we wasting our time?

MR. HAYWARD: We have put some very small samples...
down. They have been in the nature of softening water with small amounts of salt. It's gone into five of the main injection wells, but it hasn't been in a large amount or enough or over a long enough time to expect any results.

MR. BELL: Is this the one that the Feds put up 60 percent and we put up 40, or vice versa.

MR. HAYWARD: Yes. It's a cost sharing arrangement where DOE pays 40 percent and the Long Beach Unit pays 60 percent.

MR. BELL: Tertiary recovery,

MR. HAYWARD: Yes. Well, that's a good point. Just very recently the DOE has approved it as a tertiary recovery project.

MR. BELL: That has something to do with the new deregulation.

CHAIRPERSON CORY: The next item is to approve an additional $15,000 to be expended for additional Subsidence Studies in Long Beach. Anybody in the audience on this item?

Without objection, approve it as presented.

Item 36 - Authorize issuance of a prospecting permit to Kaiser Steel to evaluate the potential of the inferred iron ore deposit on 145.43 acres in Riverside County.

MR. TROUT: Mr. Chairman, the State holds the
mineral interests on a portion of a piece of school land adjacent to Kaiser's Eagle Mountain Mine. One of the ore bodies would appear, from Kaiser's own pit operations, to have the potential for extending under the State property, and they have asked for a permit to prospect on the State's -- they own the surface now, but they prospect from that land into the State's minerals to see if there are any minerals there. If there are, in terms of the prospective permit, they would have a preferential lease and the royalty is established in advance. It would be ten percent of the value.

CHAIRPERSON CORY: Anybody in the audience on this item?

FROM THE AUDIENCE: If there is a question, sir, we are available.

CHAIRPERSON CORY: Our choices are slim and none on this?

MR. TROUT: That is basically true. Kaiser owns all of the surrounding land, the roads, the railroad, the processing mill.

CHAIRPERSON CORY: What will be the rate if they find it is there? How do we determine --

MR. TROUT: Okay, we will ask Mr. Everitts to answer that question.

CHAIRPERSON CORY: Is there a difference between
the prospecting and --

MR. EVERITTS: What makes the ore have any value at all is that it is about two miles closer to the mill than where they are currently hauling ore. They originally came to us and said the only value to them was the cost of hauling it which was about 40 cents a ton. We didn't think that was right, so we suggested that perhaps the real value to them would be the cost of mining it, which was about 90 cents. Based on using that as a value of 10 percent on 90 cents is 9 cents, and that is the royalty that we are proposing.

If they make a discovery and a lease is issued.

MR. BELL: Then all they get is preference on the lease?

MR. EVERITTS: No. We are suggesting that they would get a preferential right to a lease, if they make a discovery.

MR. BELL: Yes. That's what I meant.

CHAIRPERSON CORY: But the rate that they would pay would be nine cents.

MR. EVERITTS: Yes.

CHAIRPERSON CORY: They are a competitive bid, and the problem you have got is that they are the only game in town.

MR. BELL: Yes, they are the only game in town.
CHAIRPERSON CORY: Without objection?

MR. BELL: No objection.

CHAIRPERSON CORY: The item will be approved as presented.

Item 37.

MR. RODDA: I'm ready for 37, with objection.

CHAIRPERSON CORY: Item 37 is a recission of geothermal prospecting permit proposal to Management Engineering, Inc., and issuance of geothermal prospecting permit to Getty Oil.

Would you be Mr. George Rodda?

MR. RODDA: I am he.

CHAIRPERSON CORY: Speak. Speak to us.

MR. RODDA: Mr. Chairman, Management Engineering Corporation is and represents the fee simple surface owners of the property. Under an agreement struck with the Getty Oil Company, we filed for the permit, obtained the approval of the EIR, and did everything deemed appropriate to the protection and development of our respective properties. Unfortunately, although it didn't take from 100 years as did one of the patents today, processing did take an extremely long time, during which time the Getty Oil people with whom we had struck the deal no longer are in those functions from which the deal was struck. As a matter of
fact, one of the people is not even in the United States. So their capacities have changed and what we are asking is that you give us sufficient time, which was not sufficient between the May 31st date that we obtained this notice that this hearing today would take place, to perfect our bond. We have done everything else. We just couldn't get the bond between May 31st and today. We are asking for time to do that so that the property owners can continue to control their own destinies and work some kind of an arrangement with the Getty Oil Company or by ourselves.

CHAIRPERSON CORY: Could the staff fill us in on the history of this?

MR. HIGHT: Yes, Mr. Chairman. The application was originally sent to Management Engineering some year and a half ago, at which time we had written them several letters and advised them would they please sign the lease, and we have heard nothing from them to date.

The law provides that the Commission can, within 30 days after failure of return of a lease, terminate that lease. And this is what the staff's recommendation is.

CHAIRPERSON CORY: Can you address yourself to that question?

MR. RODDA: The situation with regard to that is that we had struck a bargain with the Getty Oil Company. The difficulty has been that the personnel at Getty are no
longer in those positions and in that capacity with which we struck the bargain.

At this particular time, we had no knowledge, after all of these years that have taken place, that there was a 'til-the-match-goes-out type of deadline. The only thing necessary for us to do in addition to signing the lease is to get the $50,000 bond which is a requisite portion of it. We have applied to Jay and Renfroe for such a bond. We have been informed that we cannot get it within the time frame of May 31st when we received this notice until today's hearing.

So what we are asking from you is that would you give us a sufficiency of time in which we can provide the bond, sign the lease and do all of those things that are necessary.

Now, we haven't been deleterious at all in our dealings with Getty. Getty simply has -- the successors in interest at Getty simply are not dealing with us in the same good faith upon which we relied when we struck the bargain.

We are the surface owners of the property. We seek to control our own destinies in the best way we deem appropriate. We are asking your permission for an additional amount of time sufficient to perfect that bond and sign the lease.
And we were just about in a lawsuit. And I think at that
time Mr. Kress took over Yuba Consolidated as President
and Chairman of the Board and came in and said, "I would like
to settle this dispute. How can we do it?" And we came
up with the land exchange system as probably being equitable
to both parties. And this was concurred in by our Attorney
General.

As to the value, I'd like to make one comment,
I guess as a private citizen rather than in an official
position of the Corps. I would suggest, and I guess it
reiterates what Mr. Dacey said, that the Commission, before
making a decision on whether to proceed with litigation,
look strongly at the facts that the cost to the State tax-
payers of pursuing litigation, and that they're really kind
of the bottom line, if you won, what would you win? Where
was the Yuba River in 1850? How wide was it and what do you
get? I think that most of the maps and evidence that we
have seen would indicate that you're going to get a strip of--
a pile of tailings.

I would urge the Commission to consider that, as I
know you will.

The other point of interest, I guess, is that Yuba
Consolidated approximately two years ago started up the
dredge -- I think it was the dredge leasehold. But this
kind of precipitated our argument and brought about the
settlement. We operated the dredge leasing in an area that we thought we were legally permitted to do so. But we put them on notice and said, "Don't get outside of that area because we claim an interest in these other areas." We dredged for something less than a year, and it proved to be an uneconomical operation as far as recovery of the gold.

And with that, Mr. Chairman, I close my remarks.

Thank you.

CHAIRPERSON BELL: Thank you, Mr. Wheeler.

Originally these are all the people that we had had to testify. However, at the last minute before we started this meeting, a gentleman named Clark Moscrip, attorney for Mr. Rosser, turned in a slip because he said that Mr. Rosser's name had been mentioned.

Do you wish to make a quick comment?

MR. MOSCRIP: Just a brief comment, if I may.

CHAIRPERSON BELL: Mr. Moscrip.

MR. MOSCRIP: Thank you. I'm Clark Moscrip. I'm with the firm of Lukes & Bossoni in San Francisco. I represent Mr. Rosser.

The only reason I speak here at the moment is because this matter originally was apparently brought to the attention of the State Lands Commission as a result of the litigation between my client and the Gold Fields.

My client has been on the land for three years, since 1976,
and has expended a great sum of money developing a fish hatchery. The only reason we brought this matter to the State Lands Commission is because we originally believed we had an agreement for a lease with the Yuba Gold Fields, Inc. This was disputed, and it came to our attention that in fact the question of ownership -- the land may not lie within the Yuba Gold Fields. We then decided we wanted to know how we should have to deal in order to protect our interests. So we hired an engineer, Mr. Charles De St. Maurice, a very well-known engineer in Marysville. He undertook a survey to ascertain the location of the Yuba River and also did some preliminary research with regard to the question of navigability of the Yuba River back in 1850, which, of course, is the operative date. We merely presented that information to the State Lands Commission and asked them to investigate it. That was the entire involvement.

It's interesting, the last speaker commented on the question of the value of the land. The Gold Fields, in opposition to a preliminary injunction which I asked the court grant in our private litigation, estimated that there were many hundreds of thousands and perhaps millions of dollars in documents to the court, signed declarations supplied to the court as to the value of this land. The question of navigability is not controlled by the declarations
of the California Legislature which were made in 1850, '51, '52, and '53. Four different times the State Legislature changed their mind as to where the Yuba River was navigable. That's not controlling here. The question is a matter of fact. And I believe the staff has already presented evidence -- that the river in fact was navigable back in 1850.

Finally, I would merely say that while, of course, the Gold Fields represent many people, you gentlemen represent the State of California and its twenty million citizens, as I'm sure you are well aware. And I know you take that into consideration here. And I would ask that you do so in making your decision on this issue.

I have no other comments.

CHAIRPERSON BELL: Thank you, Mr. Moscrip.

Any questions?

If not, thank you very much.

These are the only apparent requests I have on this item. I would now like to ask the Attorney General to respond to us in any way which he feels appropriate.

MR. TAYLOR: Mr. Chairman, I believe that all of the participants today have to be commended for their fine participation. And it's only too bad that this body is not the Supreme Court so the matter could be over, because they have certainly been eloquent and covered the points in their
respective standpoints.

CHAIRPERSON BELL: Just for the court reporter, this is Mr. Taylor of the Attorney General's Office.

MR. TAYLOR: I think first that one question should be cleared up at the outset. And that is how did this controversy begin. This controversy began as a result of township plats which showed the river to be navigable and included in the disposition of public lands by the Department of Interior or by the Department of Interior by transfer to the State. The prima facie case of the State are those original township plats. This litigation or the current controversy regarding State ownership was not initiated by the State, but was initiated by DiGiorgio Farms, a substantial landholder in California, who recognized that they had a problem in getting title insurance at a point above Marysville below the Yuba Gold Fields area. Therefore a private party filed an action against the State seeking to quiet his title so that he could get satisfactory title insurance, or the company could get satisfactory title insurance. That action was filed approximately two years ago. And again, it should be noted it was filed by a private party in order to clean up his title so that he could get a desired kind of title insurance.

I believe that our first notice of the controversy over the Yuba Gold Fields matter actually came from the
engineer retained by DiGiorgios to bring the action against
the State. Now, what we're having here today is a
traditional kind of matter where there are title claims
and differences. And the traditional way in which the
State Lands Commission has preferred in the past to resolve
these matters is through negotiations and settlement. The
Lands Commission didn't create the problem. The problem
was created by the character of the property and the manner
in which we set up our real estate and the disposal of
property to private parties in the beginning of the Union
in 1850. We have something very valuable for the private
parties, and that is the ability to give them security of
title. And I believe that the staff should be commended
for their great patience in the discussions that they have
had at great length with the various parties to this
controversy.

It should be noted that the State did not object,
at the request of Mr. Kratter and the Corps of Engineers to
them proceeding with their land exchange on the basis that
there would be a settlement with the State. Those dis-
cussions seem to disappear, or those promises or commitments
seem to disappear after the Corps and Mr. Kratter completed
their transaction and sent it back to Washington where it's
pending for final approval.

The second thing that should be borne in mind is the
fact that the Corps of Engineers is somewhat similar to the
Department of Highways or Caltrans. It is not an agency
which starts with a grant of property by virtue of its
creation. The administration of public lands of the United
States is entrusted to the Department of Interior, not the
Corps of Engineers. At the turn of the century, the Corps
of Engineers went out and purchased, acquired, or had
donated to them the area which we're talking about in this
area. No interest of the State of California was acquired
at the turn of the century by the Corps. That omission
today is taken care of, and each month you have two or three
items where the Corps now routinely mentions us as a party
to a transaction and requires this Commission to make a
statement as to whether or not it has an interest and then
say whether it demands compensation.

There also seems to have been some confusion in
the presentation today between the original condition of the
river in 1850 when we came into the Union and that which
followed the havoc that was created by the dredging that was
caused in the production of gold in the early days of
statehood. Clearly the river has no semblance to what it
was in 1850 at the present time. However, the 1850 date
is pertinent for title purposes where the river was
artificially changed.

There is one additional matter which is of some
significance to this Commission. And that is the fact that mining claims that are outstanding, in order to be perfected with the Federal Government, have to be filed. I believe by the end of this year with the Department of Interior, October of this year. Concurrent with this project but unknown to the people who are working on it with the Bureau of Land Management, it was agreed that the meander lines shown on the township plats would be adhered to for purposes of determining whether to accept private mining claims or not. In the areas that were meandered along what were assumed by that meandering to be navigable waterways, those claims were to be rejected, and the rights of the State of California were to be respected. There is a lot of gold still remaining in this area. This is a very valuable mineral today. It is my understanding that as a part of the development program which Yuba intends to undertake, that they will go down into the deep tailings and endeavor to recover more gold. Therefore there is an economic interest irrespective of where the bed is. As a matter of fact, we may be better off to have the bed not in the present location but in the former location where the filling occurred and where the gold may have settled out. So there is a mineral interest to the State of California and a principle at stake beyond that in which Yuba Gold Fields is concerned.
I guess in closing I should say that the current situation with regard to title claims along the Yuba River started with the DiGiorgio lawsuit and that any of the parties that are affected by this, or in any navigable waterway of the State, are certainly free to come to the State and to try to work out a settlement. And if that settlement is not possible, the courts of this State are equipped to handle a resolution of those kinds of problems in an orderly manner and to have them resolved, if necessary, on appeal. And that is the process that has been followed since 1850. And I would say that in most instances it has probably been as actively disputed as it has been today.

CHAIRPERSON BELL: Thank you. Would you like to make any statement at this time, Gregg?

MR. ACKERMAN: A couple of questions on the recommended action, proposed word change. I think that when Mr. Kratter originally made his statement, he was concerned about the State, and I believe the request for action seemed to already prejudge the absolute interest of the State be determined in the case. And your recommended language to be approved today requests that litigation or other steps be taken to protect any and all State interests. I was wondering if more appropriate wording would be rather not to say "protect any and all State interests", that language more
appropriate be used. When you say "protect", it seems to
preestablish the condition. Perhaps we could say "determine
State interests" instead.

MR. TAYLOR: I think that would be more appropriate.

MR. ACKERMAN: After the testimony today, I'm
cnfused as to whether or not the State actually has an
interest. And I think that's the main question that everyone
has addressed, is to determine whether or not there is an
interest to begin with.

MR. TAYLOR: There would be no objection to that
change.

MR. ACKERMAN: I have one other question, and I'm
not an attorney myself, so please respect that. But you
mentioned at the outset the location in question. Is that
too broad a determination to -- I guess what I'm really
asking you, would that have a tendency to bring in all 121
pieces of property, or can somehow the action or litigation,
if it's approved, be limited just to this one element?

MR. TAYLOR: I believe the proposal to be limited
to the Yuba Gold Fields area alone. It may be that the
others may want to join in the litigation, but the proposal
of the staff is only for the Yuba Gold Fields area.

MR. ACKERMAN: Does that need to be expressly
stated, or is it implied?

MR. TAYLOR: I believe my statement and your reaction
to it makes it clear on the record that it was only the
Yuba Gold Fields, area claimed by Yuba Gold Fields that
would be authorized by this action.

MR. ACKERMAN: Let me ask one further question
then. If the Lands Commission at this point decides not to
ask for further litigation, does that still, in the opinion
of counsel, cloud title on the properties pending another
suit to be brought at some future time charging or claiming
State interest in some other parcel of property and raising
this whole question again?

MR. TAYLOR: I do not believe that the Commission's
failure to authorize action today would terminate the
controversy. It might be used as an element in arguing
about the extent of the State's interest or whether the
State had taken action on which people have relied which
would prevent the successful assertion of that. But
traditionally throughout the State -- and Alamitos Bay here
in Long Beach is the best example of that. Four times
consideration was given to the filing of the lawsuit to
determine the interest in Alamitos Bay, and four times the
governmental agency that had jurisdiction over the land
did not do it. Then the Legislature came along in 1957 and
told the Lands Commission to determine the boundaries.
And we finally had to determine those boundaries '69 and '71
after ten years of work. So I think the answer is the
failure of the Commission to act today would not resolve the problem.

CHAIRPERSON BELL: All right. Having heard testimony and comments on both sides, do I have a motion on the calendar item as amended to strike the word "protect" and substitute the word "determine" in the last paragraph of the action?

MR. ACKERMAN: I would so move.

CHAIRPERSON BELL: All right. And I will second. All those in favor, say Aye.

(Ayes.)

CHAIRPERSON BELL: Opposed?

(No response.)

CHAIRPERSON BELL: That's approved.

Calendar Item 18.

(Thereupon Calendar Item 18 was transcribed under separate cover and is not a part of this transcript.)

CHAIRPERSON BELL: Item 19 Eureka City Settlement.

MR. TROUT: This is one of a continuing series of settlements in the Eureka Area to resolve the question regarding some tide land patent where the Commission is being asked to clear title of a piece of property. The owner will deposit $2,000 in a Eureka tide lands fund, which fund has to be used for trust purposes.
CHAIRPERSON BELL: Any problem?
Without objection, Item 19 will be approved.
Item 20, Land Exchange, again with the City of Eureka.

MR. TROUT: Item 20 involves the Eureka water fill irrigation. And I'd like Mr. Grimes, the Deputy Chief of Land Management Conservation, to just briefly point out where this parcel is.

MR. GRIMES: You will recognize this map from last time for the Eureka settlement here. This was the area of settlement. The litigation proceeds on down here. This parcel here is in back of the area of litigation and it's a parcel desired by the City to put in a parking structure to serve the waterfront when they finally get their redevelopment plan going. This was owned by a private party. The City had this parcel here, which, if you flop this down and around like this, the waterfront goes right on around. And they have this parcel down here, which is in an old tide land package. And the whole property is subject to the trust. It's much bigger and therefore more valuable than this. So the private party is giving the City this parcel plus sixty-eight, five, plus another twenty that will go into development of a parking structure which has a life of probably 40, 50 years on it. So we feel at staff level, and the Attorney General has looked at
this, that the trust asset has been maintained, not
depreciated.

CHAIRPERSON BELL: All right. Without objection?
Without objection, Item 20 will be approved.

Item 21, County of Humboldt.

MR. TROUT: Item 21 is some bank protection on the
Eel River by the County of Humboldt.

CHAIRPERSON BELL: Oh, yes. I have seen that. I
have no problem with the item, do you?

MR. ACKERMAN: No.

CHAIRPERSON BELL: Without objection, Item 21 is
approved.

Item 22, County of Humboldt.

As I go through these, if anyone in the audience
objects, just let me know. Otherwise I'm going to go fairly
fast.

Item 22, County of Humboldt.

MR. TROUT: Item 22 is similar. It happens to be
some rock protection along the Pacific Coast, Mattole Road.
It's to keep the highway from falling into the ocean.

CHAIRPERSON BELL: I see no problem here.

Without objection, Item 22 is approved.

Item 23, the title of this item is Leon Fink,
settlement of the litigation regarding school land parcel,
Los Angeles County.
MR. TROUT: Mr. Hight can explain this.

MR. HIGHT: Mr. Chairman, this is the settlement of a lawsuit by which the Commission will receive $50,000 for a parcel of land in Los Angeles County. It will be $20,000 down, with the remainder within one year. This is a settlement in litigation, and the estate of the litigant is paying for the price.

CHAIRPERSON BELL: Is this one where the estate is sort of landlocked or something, and therefore we're taking a one-year settlement instead of outright cash?

MR. HIGHT: Yes.

CHAIRPERSON BELL: All right.

MR. ACKERMAN: There is no objection by any one of the parties?

MR. HIGHT: No.

CHAIRPERSON BELL: All right. Without objection, Item 23 is approved.

Now we're on the item of litigation, Item 24, Halvorsen Industries.

MR. TROUT: Item 24 is relatively simple. It's a parcel of Halvorsen Industries which the Commission may remember was in a massive settlement for about half of the Eureka waterfront. This parcel is on a bluff, significant elevation, and could not have been tide land. We are not certain that the finding is necessary, but we're quite willing...
to recommend to the Commission that they find that the trust never existed on this piece of property.

CHAIRPERSON BELL: Well, at that level, above sea level, it would be pretty hard to say then that it was even at the high tide level.

All right. Without objection, Item 24 will be approved.

Item 25.

MR. HIGHT: Mr. Chairman, could we take Item 25 and Item 26 together?

CHAIRPERSON BELL: Yes. Item 25 and Item 26 can go together.

MR. HIGHT: They're both condemnation actions for the New Melones Lake and Dam Project. The Commission has no interest in these.

CHAIRPERSON BELL: I think it should be pointed out that these are again examples where the Federal Government is now coming to us notifying us about finding out whether we do or don't have any interest in lands. And we are taking official action saying no, we do not.

Item 25, 26, without objection, will be approved.

Item 27.

MR. HIGHT: Item 27, Mr. Chairman, is a settlement of a quiet title action whereby the State will acquire partial title and some access to the area.
CHAIRPERSON BELL: This is in the Delta?

MR. HIGHT: Yes, sir.

CHAIRPERSON BELL: Without objection?

Without objection, Item 27 is approved.

Item 28, Gerome Anolik.

MR. HIGHT: 28, Mr. Chairman, is the settlement of litigation which was authorized by the Commission. The litigant, the proposed litigant has agreed to sign up for a lease, and a structure will be placed in conformance with navigation safety requirements.

CHAIRPERSON BELL: Of the Coast Guard?

MR. HIGHT: Of the Coast Guard, yes.

CHAIRPERSON BELL: All right. Without objection then, Item 28 will be approved.

Item 29.

MR. HIGHT: Item 29, Mr. Chairman, is a settlement of litigation against Standard Resources for a sand lease in Monterey County. Standard Resources did not dredge any sand from the area. And in a settlement of the litigation, they are paying us $500.

CHAIRPERSON BELL: They are paying us $500 because they didn't do anything?

MR. HIGHT: Right.

CHAIRPERSON BELL: Okay. Without objection, Item 29 is approved.
Subject of Delegation of Authority, Item 30.

MR. TROUT: Mr. Chairman, Item 30 is authority for the Executive Officer or his designee to approve individual private recreational pier permits under specified conditions: one, that an environmental document is not required. The delegation would also require that those approved be reported back to the Commission at the next meeting. Similar delegations have been made for dredging permits under a small amount.

CHAIRPERSON BELL: Private recreational pier permits, this is one the Legislature has recently decided to be more lenient about; and therefore in order to expedite permits, we will delegate this authority to the Executive Officer where it's designated. Is that right?

MR. TROUT: The Legislature has actually found there is no rent coming from these facilities.

CHAIRPERSON BELL: In that case -- yes, Mr. Ackerman.

MR. ACKERMAN: Are there any other areas to where such delegations on a routine basis would be done to expedite?

MR. TROUT: We think there are. We've got a recommendation that we submitted to this calendar which Mr. Hight and I had some problems with. We expect that there will be more coming to the Commission to the extent that
you're willing to do so over the next few months.

ACKERMAN: Okay.

CHAIRPERSON BELL: But at the moment just those you have mentioned are the only delegations?

MR. TROUT: It's my understanding that there are three. There is one regarding the dredging. And I think the figure may be 10,000 yards or something like that. Anyway, it's a minimum number of yards. Mr. Everitts?

MR. EVERITTS: That's right. 10,000 yards. There is one regarding an emergency permit in an extreme circumstances for the Executive Officer to act, and now there's a recreational pier permit.

CHAIRPERSON BELL: All right. Without objection then, we'll delegate that authority under Item 13 to the Executive Officer as designated.

The next subject matter is tide height measuring program, Item 31.

MR. TROUT: For the past three years the Commission has been budgeting for the cost sharing of a tide height measuring program with the National Ocean Survey. This proposal is to renew that contract for the first six months of the next fiscal year or the last six months of the calendar year which terminates that program. The money included in the budget for the Commission which at this point has been approved by subcommittees of both houses,
and this is to get the documents started through the Federal Government.

CHAIRPERSON BELL: All right. Without objection, Item 31 is approved.

Item 32, Department of Justice.

MR. TROUT: I think Mr. Hight wants to give Mr. Taylor $160,000 to act in our place on Long Beach operations in Alamitos Bay.

MR. TAYLOR: This is of the same level as last year and, I believe, almost the same as the year before.

CHAIRPERSON BELL: All right. Without objection, Item 32 is approved.

The next group of items are called Energy and Mineral Resources of Long Beach, Item 33.

MR. TROUT: Mr. Thompson, Chief of Long Beach operations, is going to present these.

CHAIRPERSON BELL: Do we take all three of these items together, or do we --

MR. THOMPSON: It depends on how much presentation you want us to make on these. We can just go through this first item, the plan and budget, and we can make a presentation or we can answer your questions.

CHAIRPERSON BELL: All right. Item 33 is approval of the '79-'80 plan of development and operations, while Items 34 and 35 are approval of the Seventh Modification and
Eighth Modification of the 1978-'79 plan. Why don't you take the '79-'80 first.

MR. THOMPSON: All right. What we're proposing here for your recommendation and adoption is a budget for the next year. And this is coming up to 80.449 million dollars. Just in skimming through this real fast, this is to drill 16 new wells, plan for three rig years of activity. We do have problems here with inflation rate. The expense items we put in here, we normally were using about eight percent inflation. As we mentioned to the Board in February, one came up that was high. It dropped a little bit down there, but we can't tell. So there may be some augmentation necessary.

CHAIRPERSON BELL: Three new --

MR. THOMPSON: Three rig years of activity.

CHAIRPERSON BELL: Three rig years. One of your later modifications of the current year is four rig years. Is there any relationship between that and the fact that your new budget only has three rig years?

MR. THOMPSON: I think we just want to forewarn you that we may be coming in and asking you to approve more money. And we think this would be justified as soon as we get the final shakedown on Carter's last action as far as the energy program is concerned. Again we can go through what we think is happening with his energy program, but that
depends on your time constraints.

CHAIRPERSON BELL: Well, I'm relatively familiar with it myself.

All right. Without objection then, Item 33 is approved.

Items 34 and 35 are two modifications.

MR. THOMPSON: Neither one of these requires any allocation of budget. They are merely adding things to the plan and transferring funds.

CHAIRPERSON BELL: I notice they are moving from one item to another.

MR. THOMPSON: Yes.

CHAIRPERSON BELL: I assume you split two of them so that they wouldn't look so big.

MR. THOMPSON: Well, one of them was the ratification of the Exec Officer's action, and that was already -- the money was cast. And the other one we're asking for your approval.

CHAIRPERSON BELL: All right. Do you have any problems with these?

MR. ACKERMAN: No, I don't.

CHAIRPERSON BELL: All right. Without objection, Items 34 and 35 will be approved.

The next item is Energy and Mineral, Statewide, oil and gas, Item 36.
MR. TROUT: This is the Royalty Oil sell-off that's been before the Commission once before. The Commission previously rejected all of this without the rebate. The successful draw out of the hand went to Lunday-Thagard.

Mr. Edwards informs me that there should be a change on Page 3, recommendation item number 5. The starting date should be changed from May 1, 1979, to June 1, 1979. There apparently is a 30-day notification period that would make the May 1 date impossible to meet. This is at ceiling price. The major developer, who has about 91 percent, has chosen to exercise the option to match the bid. That would be approximately nine percent.

CHAIRPERSON BELL: Nine percent. And the correction is June instead of May 1st?

MR. TROUT: That's correct.

CHAIRPERSON BELL: On item 5. All right. It's corrected on item 5. The final date would be June 1st, 1979, instead of May 1st, 1979, as shown in the actions before us.

MR. ACKERMAN: No problem.

CHAIRPERSON BELL: All right. Without objection, Item 36 is approved.

We have two items under archaeological study, geothermal land, Item 37.

MR. TROUT: The Bureau of Land Management is
undertaking some exploration for archaeological studies in
native American occupation in an area. There is a request
that the State look at some of its adjoining parcels. This
would be a proposal to spend up to $15,000 in an
archaeological study. If possible, we would contract with
the same contractor the Federal Government does. This may
require some negotiations with the State Department of
General Services. If that doesn't work, this would also
authorize the Executive Officer to go out for proposals and
enter into a contract on his own.

CHAIRPERSON BELL: All right. It might actually
be to our advantage to have the same contractor that's
appropriate.

MR. TROUT: We think so. General Services has
some questions as to whether the Federal building procedure
is as stringent as the State procedure. We'll continue to
work on that. There is authority, however, if that fails,
for the Commission to request its own proposals and
authorize the Executive Officer to enter into a contract
of the specified amount.

CHAIRPERSON BELL: All right. Without objection,
Item 37 is approved.

The last item on the agenda is Item 38.

MR. TROUT: Item 38 relates to a piece of property
that the Commission acquired in an exchange in Seal Beach.
There is now underway the development of a proposal approved by the Commission to put a development there called Marine Racquetball. It will be a racquetball-tennis complex. The City of Seal Beach will require a dedication of access to the parcel as part of the approval. It appears that the street that runs alongside -- which is paved, striped, and has speed limit signs. There is a signal at the intersection of Pacific Coast Highway. There is considerable evidence that this street, although not owned on the record by the public, has in fact been given, dedicated to the public. This would allow the staff to make a preliminary --

CHAIRPERSON BELL: Implied dedication.

MR. TROUT: -- to determine whether there are already public rights in there. There was also a request of Southern California Edison to close off the street to the public. We understand that that request has been withdrawn, at least for the time being. But we'd like the Commission to go ahead and grant us this authorization.

CHAIRPERSON BELL: May I ask if Southern California Edison wants to close that street, do they have a complete right to do so without anybody's approval?

MR. TROUT: They apparently must have approval of the Coastal Commission. At least they applied to the Coastal Commission for approval to close it off and then recently withdrew that request. Mr. Taylor might have some comments
regarding the implied dedication of the prescriptive rights aspect. But it's clear that the road has been maintained and used by the public and has been treated by the City of Seal Beach as a City street.

MR. GRIMES: There is an exhibit on the thing.

MR. TROUT: Mr. Grimes might point out that this is right across from the City of Long Beach.

MR. GRIMES: Pacific Coast Highway. This is a Commission parcel here. This is the road that goes from Pacific Coast Highway over to Westminster Street, both very busy. There is a five-way stoplight here put in by the City. There is a city sign and speed limit signs all along here, striping down the middle. And the road actually goes across the State parcel. Where they wanted to close it off was right here. And they close off the road where it does cross the State parcel. So I don't think they have that right.

CHAIRPERSON BELL: Mr. Ackerman has a question.

MR. ACKERMAN: Is the City involved in this at all? I would anticipate they'd be very upset about the closure of the street.

MR. GRIMES: My information is that the City, all they wanted was keys to the lock that was going to be put on the gate. And they got it.

MR. ACKERMAN: What does that mean?
MR. GRIMES: Pardon me?

MR. ACKERMAN: What does that mean? You mean the City was going to go along with it as long as --

MR. GRIMES: They were going to go along with it as long as they could get keys to the lock.

CHAIRPERSON BELL: What does the action of our Commission do in dealing with this item, merely review it, investigate it?

MR. TAYLOR: It just authorizes the staff to go ahead and make an investigation. They would have to report back to you for any further action.

CHAIRPERSON BELL: I see.

MR. ACKERMAN: Again, this is just to protect the interests of the State along that street boundary.

CHAIRPERSON BELL: Not to determine them?

MR. TAYLOR: I guess Mr. Grimes and I could speculate on what's going on. But there is large development coming in, and the question is that Edison feels that it has a certain price that it would like from the State and from the developer that's going to be coming in for this street. And so I think it's an appropriate time to close the street since both the State and the other side want to do something about it. And we're not sure that they have the right to do that. And that's what it comes down to.

CHAIRPERSON BELL: It's merely an investigation to
see what they're going to do.

All right. Without objection, Item 38 is approved.

There is an item called Status of Major Litigation.

Any comments?

MR. TAYLOR: Three quick ones. One is that we completed hearings in Washington and New York City in U.S. vs. California, which is the continuing litigation with the Federal Government over where the three-mile limit of State ownership is in the offshore area. Judge Jessup, formerly of the World Court, testified. The Federal Government brought in an expert from Europe who testified in New York City for three days last week. And then discovery continued in Washington, D.C. The final argument of that case will be held shortly in Denver, Colorado, where the Special Master appointed by the United States Supreme Court is. We would expect a report of the Special Master sometime this summer and have the matter argued before the Supreme Court sometime next year.

The second item is that we are getting ready to make -- file a motion with the United States Supreme Court to compel the Federal Government to be a party to California vs. Nevada. Now, the reason for that is that the Federal Government by not being a party might seek to reopen the entire litigation, and it wouldn't be conclusively determined. Despite the pleas of the California Legislature, the members
of this Commission, the Governor, and all members of the
California Congressional Delegation, the Federal Government
has refused to voluntarily join as a party. Now, we believe
that as a result of some language in the recent Supreme
Court case that came down in our favor on the Colorado
River, that there may be a chance of dragging the Federal
Government in. At least we want them to make a statement
one way or the other as to what their position will be with
regard to this litigation formally before the court. It
would be a crime not to have this matter totally settled
and to have the Federal Government at a later time be
able to question it and not to resolve the title problems
with regard to the private parties who are affected.

I would just call the Commission's attention to the
fact that we settled a lawsuit today resolving a controversy
over Delta land ownership, apparently to the satisfaction
of the private party. That has been the attitude. I believe
that it is the only Constitutional way to resolve Delta
title problems and that the pending Senate Bill 664 by
Nielsen will do great mischief in terms of trying to resolve
these problems. The staff will appear again before the
Senate GO Committee on Tuesday at ten a.m. for a special
sitting with regard to this bill. I think there are serious
questions about the Constitutionality of this statute, and
there are also problems with the form of the bill. It has
now been amended so it is not necessary for the person to have made full payment to the State for the land. And they have now also amended the bill so that it no longer applies only to land within the levees, but also includes the berm areas outside the levees and the burrow pits. The burrow pits are the areas where they get the dredge material to make the levees. Most burrow pits, if they are outside of the levee -- and there are two ways you can do it. You can have burrow pits either on the outside or inside. When they are on the outside, those burrow pits will be very deep water areas and will not have been reclaimed and are currently wet. I don't understand the title company's action in bringing this lawsuit when we're standing with them in two cases of litigation where we are with them in defending the validity of this Commission's action in the past to the tune of a minimum of forty million dollars. We have already been told by one of our opponents in one of the lawsuits that they hope the bill passes so they can add it to the Upper Newport Bay litigation and allege it is unconstitu- tional. I hope that some way we get a handle on this matter, and we're working with it.

CHAIRPERSON BELL: Thank you.

The only item remaining on the agenda is the confirmation of the date, time, and place of the next Commission meeting will be Thursday, May 24th, 1979, in
Sacramento, at ten a.m.

Any other items to come before the meeting?
If not, we're adjourned.

(Thereupon the meeting of the State Lands Commission was adjourned at 12:22 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, FRANCES ANN PETERSON, a Certified 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, Frances Ann Peterson, 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 16th day of May, 1979.

[Signature]
FRANCES ANN PETERSON
Certified Shorthand Reporter
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