MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 2133
SACRAMENTO, CALIFORNIA

THURSDAY, DECEMBER 20, 1979
10:00 A.M.

Paul D. Ramshaw
C.S.R. License No. 3434

PETERS SHORTHAND REPORTING CORPORATION
7700 COLLEGE TOWN DRIVE SUITE 210
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601
MEMBERS PRESENT OR REPRESENTED

Mr. Roy M. Bell, Acting Chairperson, representing
Ms. Mary Ann Graves, Director of Finance

Mr. David Ackerman, representing Mr. Mike Curb,
Lieutenant Governor

MEMBERS ABSENT AND UNREPRESENTED

Mr. Kenneth Cory, State Controller

STAFF PRESENT

Mr. William F. Northrop, Executive Officer

Mr. Robert C. Hight, Chief Counsel

Mr. James F. Trout

Mr. Wilbur M. Thompson

Mr. Donald J. Everitts

Mr. Leslie Grimes

Ms. Diane Jones

OTHERS PRESENT

Mr. Jan Stevens, Assistant Attorney General
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PROCEEDINGS

ACTING CHAIRPERSON BELL: At the moment there are only two of us here, but that's all it takes to get a quorum.

Mr. Northrop, can I have a quorum call?

MR. NORTHPROP: Mr. Bell.

ACTING CHAIRPERSON BELL: Here.

MR. NORTHPROP: Mr. Ackerman.

MR. ACKERMAN: Here.

MR. NORTHPROP: Mr. Chairman, there are two present: Mr. Bell and Mr. Ackerman.

ACTING CHAIRPERSON BELL: All right. A quorum is present.

The minutes of the meeting of November 20th were distributed. Are there any corrections or other changes to the minutes?

If not, they will be deemed approved.

We will start with the report of the executive officer. Mr. Northrop.

MR. NORTHPROP: Thank you. Mr. Chairman and Mr. Ackerman, the staff has been informed by Mr. Graydon Nichols, an engineer for Reclamation District 2040, that delays in obtaining a State Lands Commission permit may cause difficulty. Normal processing for their proposed
The levee maintenance project may not allow enough time to complete that phase of the work before the spring runoff.

The project involves the bank protection necessary to assure that the land within the district is protected from potential flood damage. Although the district has been in the process of obtaining the necessary permits since early this spring, they were not aware until this month that a permit from the State Lands Commission was necessary.

The applicant proposes a five-year levee rehabilitation plan for Victoria Island in western San Joaquin County just north of the Clifton Court Forebay. The plan includes placing approximately 25,000 cubic yards of stone rip-rap and 8,500 cubic yards of bedding material along the waterward levee banks of Old River, Middle River, and both North and South Victoria Canals. Rock protection would be placed first in areas in immediate need of bank protection. All material will be imported; no dredging of the waterways will occur.

The Resources Agency is satisfied that the project will not have a significant adverse impact on the environment so long as the work is done according to the standards adopted by the Department of Fish and Game and the U.S. Fish and Wildlife Service. The subject land is classified as category B in the Significant Lands Report.

The Corps of Engineers is prepared to issue their
permit for the subject project as soon as State Lands lifts its objection. The applicant has submitted the application and filing fees.

The applicant has requested that he be allowed to begin his bank protection project prior to the finalizing of a State Lands Commission permit so that the necessary work can be completed prior, as I said before, to the spring runoff. The proposed project is exempt from CEQA as a minor alteration to the land. Staff expects to submit a final permit to the commission for approval at the January meeting.

With your consent, and after this rather lengthy explanation, we will advise Mr. Nichols and the Corps of Engineers that he may proceed with his project.

MR. ACKERMAN: Was their original objection from the commission just a formality?

MR. NORTHROP: No. They really didn't realize they had to come to the commission until a week or so ago. Had they started us with everybody else, they would have had adequate time, and we would have processed it.

ACTING CHAIRPERSON BELL: So when you say "as soon as State Lands lifts its objection," we're merely talking about the fact that we've reminded them a permit is necessary.

MR. NORTHROP: Right. That's correct, Mr. Bell.

ACTING CHAIRPERSON BELL: With our consent, then,
we can give you permission to advise Mr. Nichols to go ahead on a temporary basis, and we'll have the permit on our January agenda?

MR. NORTROP: That would handle the problem.

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, then, we will act on this item as described.

MR. NORTROP: Mr. Chairman, Mr. Ackerman, the California Coastal Commission at its December 18th meeting approved a coastal energy impact program grant to the State Lands Commission in the amount of $69,964 for a study to identify the nature and extent of major oil seeps in the Santa Barbara Channel. The major objective of this project is to provide sufficient verified physical data on such seeps to map and study them.

The data collection and mapping task constitute the first phase of this project. Once completed, a grant augmentation of approximately $30,000 will be considered to complete a preliminary analysis to determine the feasibility of capturing such oil and gas for transport to onshore facilities.

Mr. Chairman, that completes my report, with the exception that I'd like to draw your attention to calendar item C11, which is off calendar, and item number 14 is also off calendar.
Mr. Chairman, that completes my report, sir.

ACTING CHAIRPERSON BELL: Thank you, Mr. Northrop.

We turn now to the calendar. The first 13 items, with the just-announced removal of item C11, are before us for our approval. These items are routine in nature. They have been reviewed by both the staff and the commission members. We see no problems with them. The only reason we bring it up is to find out if anyone in the audience would wish to object to any of the items. If so, they will be pulled off the consent calendar and heard as a regular item.

If there is no objection to items C1 through C13, with the deletion of C11, I will entertain a motion.

MR. ACKERMAN: So moved.

ACTING CHAIRPERSON BELL: All right. Without objection, items C1 through C13 with the deletion of item C11 are approved.

On the regular calendar, Mr. Northrop informs me that item 14 has been pulled off calendar, so the first item on the agenda before us on the regular calendar is item 15 for the California Department of Fish and Game.

MR. NORTHROP: Mr. Chairman, this is a permit by the California Department of Fish and Game to construct a protective barrier on Megit Island to protect a gull rookery in an existing wildlife habitat.

ACTING CHAIRPERSON BELL: Are there any objections
to the item?

MR. ACKERMAN: No, none.

ACTING CHAIRPERSON BELL: All right. Without objection, item 15 will be approved.

Item 16, City of Huntington Beach.

MR. NORTHROP: Mr. Chairman, this is for the replacement of an existing wooden bridge with a concrete highway bridge in the area of Bolsa Chica in Huntington Beach.

ACTING CHAIRPERSON BELL: Any objections to item 16?

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, item 16 is approved.

Item 17, an assignment to C. William Johnson and Carole R. Johnson.

MR. NORTHROP: Mr. Chairman, this is the assignment of a parcel in McKinney Bay in Lake Tahoe.

ACTING CHAIRPERSON BELL: No problems?

MR. NORTHROP: No problems with that one, Mr. Chairman.

ACTING CHAIRPERSON BELL: All right. Any objection?

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, item 17 is approved.

Item 18, Pacific Gas and Electric Company, applicant.
MR. NORTHROP: Mr. Chairman, this is a denial of a lease for an electric line across the San Joaquin River.

ACTING CHAIRPERSON BELL: That's all you wish to say about it?

MR. NORTHROP: Yes, I think so.

ACTING CHAIRPERSON BELL: Since we're familiar with the item -- is there any objection?

MR. ACKERMAN: I have no problem with this one.

ACTING CHAIRPERSON BELL: Any objection from the audience?

If not, item 18 will be approved as a denial of a lease.

Now we go to boundary settlements and exchanges, item 19, Alamitos Bay boundary settlement agreement.

MR NORTHROP: Mr. Chairman, Mr. Taylor from the Attorney General's office was going to present this item; however, due to weather conditions in Sacramento, he is not here. Mr. Thompson has been in recent contact with him on the phone, and he will bring us up to date on this.

ACTING CHAIRPERSON BELL: Mr. Thompson.

MR. THOMPSON: This is a second amendment to the last of a series of boundary settlements in the Alamitos Bay in Long Beach. In November 1978 a time extension of one year was given by the commission to finalize this settlement. We're now asking the commission at this time to approve some
amendments that have been worked up since the last extension
and to give a two-year time extension to the period to
obtain all the various parties' agreements and do the
filings.

ACTING CHAIRPERSON BELL: The primary thing we have
here other than cleanup is the fact that we're extending for
two more years on these last pieces of cleanup work.

MR. THOMPSON: Yes, because it would be physically
impossible to do it by the January 1st deadline.

ACTING CHAIRPERSON BELL: Are there any objections
to this item?

MR. ACKERMAN: No.

ACTING CHAIRPERSON BELL: Hearing none, item 19 is
approved.

A land bank item, number 20.

Mr. Northrop, is this yours?

MR. NORTHROP: Yes. Mr. Chairman, this is a land
bank parcel of approximately 441 acres in Suisin Bay, which
we are getting from the Trust for Public Lands. The concept
is similar to the program we accomplished on Browns Island.
We will take parcels of this land to offset other submerged
areas that are no longer useful to the state and convert
them into this parcel.

ACTING CHAIRPERSON BELL: So as we deal with
mitigation problems, the percentage of our ownership of this
particular land will go up.

MR. NORTHROP: -- will increase until one day we own the 441 acres.

ACTING CHAIRPERSON BELL: I see.

MR. ACKERMAN: I have a question.

ACTING CHAIRPERSON BELL: Mr. Ackerman.

MR. ACKERMAN: When we accept lands such as marsh lands, does the State Lands Commission actually maintain the land, or is it turned over to the Department of Fish and Game?

MR. NORTHROP: As long as we don't own it in fee, Mr. Ackerman, the ownership stays with the Trust for Public Land. They administer it. When we take it over, then we usually immediately look for another public entity that's in that management area to do it. For example, on today's calendar we have an item on Browns Island being turned over to a park district to manage.

So it's not as though we were looking for land to increase our land base, but rather to put it in an agency that is equipped to handle that sort of a program.

MR. ACKERMAN: Is all that usually part of the consideration when an exchange is made in the beginning?

MR. NORTHROP: With Browns Island it happened to be. We knew where we were going. On this one here, we probably are looking at Fish and Game. Generally, we've looked at...
Fish and Game or Parks and Recreation.

We have had informal conversations with Fish and Game, but nothing formal. They understand what we're doing, and the Resources Agency is looking forward to receiving this parcel, probably administered by Fish and Game.

As a matter of fact, the Assistant Secretary of Resources wrote a very laudatory letter recently to the commission and the staff on this particular operation.

MR. ACKERMAN: That's good.

ACTING CHAIRPERSON BELL: Mr. Ackerman's comment really, then, applies primarily to the point at which we receive fees.

MR. NORTHROP: Right.

ACTING CHAIRPERSON BELL: We ought to be careful that we have things lined up at that point.

MR. NORTHROP: It will come back to the commission for the final awarding. Staff doesn't anticipate winding up with 440 acres we don't know what to do with.

MR. ACKERMAN: But the commission normally doesn't maintain land.

MR. NORTHROP: Right. As a general rule we do not maintain land, because we're just not equipped to maintain it.

ACTING CHAIRPERSON BELL: Is there any objection to item 20?
On patents, item 21, Bureau of Land Management.

MR. NORTHROP: Mr. Chairman, Mr. Trout will discuss this, because he's been intimately involved with this item.

MR. TROUT: The reason this item is back before the commission, Mr. Chairman, is part of a common problem we have with the Justice Department and the Department of Interior. The BLM attempted to purchase a perpetual road easement, which the commission approved. However, the federal Justice Department wants the Interior Department to acquire fee interest in properties, so they have rejected the perpetual road easement and asked BLM to come back to the state and acquire a fee interest with the right of access reserved by the state. That's why this has come back.

ACTING CHAIRPERSON BELL: Mr. Ackerman.

MR. ACKERMAN: Some comments and questions arose yesterday on this. I know the Lands Commission has been in a continual battle with the Bureau of Land Management over the maintenance of lands in the state --

MR. NORTHROP: -- in-lieu selections and other things.

MR. ACKERMAN: I know calendar item 22 involves an

PETERS SHORTHAND REPORTING CORPORATION
7100 COLLEGE TOWN DRIVE SUITE 210
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601
exchange of lands, where we're picking up some we think have been rightfully due us for a long time.

I have been involved in looking at this whole sagebrush rebellion issue for some time, with the federal government literally sitting on our requests for land exchanges for years, right back into the 1960s, as I understand it. For 15 years or so they simply have not acted on states' requests.

Would it be proper, at least in staff's opinion, to just withhold action on this item, or at least postpone it, so we can have some further conversation with the Bureau of Land Management on their whole policy as it pertains to the better running of lands within the state's boundaries?

MR. NORTHROP: Mr. Ackerman, staff is frustrated in attempting to deal with the federal government, and particularly with BLM. They perceive their role -- as you know, they own some 47 percent of California, and that figure is going up. We really don't know how to send them a message, and this may be a way for the commission to send them a message, because I think so far the BLM has felt that all the staff of State Lands -- and other state agencies, because this is shared by all the rest of the states, the western states in particular -- that it's some kind of bureaucratic turf problem.

The lawyers tell me it runs to a Tenth Amendment
situation, a situation of state's rights.

Staff would be pleased, I think, to have this word of support from the commission that there is serious problem with BLM and the way they're handling the problem. To make such a move, I think, would be helpful.

I would ask Mr. Trout what he thinks.

MR. TROUT: I think probably at this point the staff would say that since we've already gone underway on this thing, we would suggest the commission might approve this item, but instruct the staff in any further negotiations to explain to BLM the displeasure of the commission in their continuing attitude and indicate that in exchange for state cooperation on BLM requests we expect something back from BLM.

ACTING CHAIRPERSON BELL: I'm assuming we don't want to jeopardize item 22 by turning down 21.

MR. ACKERMANN: Would that be a likelihood?

MR. NORTHROP: I'm not sure we have agreement -- despite what we may have told you in briefing, I'm not sure we have agreement with BLM formally that the number of acres discussed in 22 is agreeable -- as of conversations I had this morning.

Mr. Trout?

MR. TROUT: The records and title staffs of both the BLM state office and the State Lands Commission now agree
that the records reflect the figures shown in calendar item 22. That has not yet been approved by the necessary heads of the divisions in Washington, D.C.

If the commission wants to reject item 21, I don't think there's any jeopardy to item 22, because that's basically just a factual situation.

MR. ACKERMAN: I'd propose that we defer item 21 -- not reject it, but simply pull it off calendar to be placed on a subsequent meeting agenda after you've had a chance to contact BLM management.

MR. NORTHROP: Thank you very kindly, if that's the wish of the commission.

ACTING CHAIRPERSON BELL: The commission is not rejecting; it is just deferring and taking item 21 off calendar. All right. That will be the action of the commission.

Now we go to item 22, which was just referred to, but we are now hearing item 22.

MR. NORTHROP: Mr. Trout will address 22.

MR. TROUT: Mr. Chairman, it's basically an informative item. As I stated, the title and records staffs of both the BLM state office and the commission have agreed on what the records show. We had expected something like 25,000 acres from BLM as the state's remaining entitlement, plus some unsurveyed land. It now appears that the total...
that the state is entitled to from BLM is 114,500 acres (in round numbers). That's a significant asset, and it is something that, as Mr. Ackerman properly pointed out, is due the State of California, and we are a little frustrated in not being able to deliver that land.

But it is significantly more acres than we had expected.

ACTING CHAIRPERSON BELL: Mr. Ackerman for a question.

MR. ACKERMAN: How is that 114,000 acres determined? Is it prime land? Is it the worst land that the federal government could select for us?

MR. TROUT: Actually, it is just determined by lot, Mr. Ackerman. It is the 16th and the 36th sections of the townships. When they place the grid on the ground, you get what's there.

The situation is that in approximately half of that volume, when the survey was made somebody else was already on the land. It was in an Indian reservation or a natural forest, or some private party already had the land. In that case we get to select other land.

Now in that half we have a significant problem. We believe we're entitled to equal acreage and that the state has an absolute right to select any lands in the public domain. The federal government, as Mr. Northrop said, in
the early sixties -- being a bureaucrat, I guess I can say that the bureaucrats in the Bureau of Land Management decided that BLM would only make certain of their lands available for selection of this purpose and that it required an equal value: the lands that the state asked for had to be relatively equal to the value of the lands the state did not get. That's not written anywhere.

The State of Utah has taken that argument through the federal court system, and it is now pending before the Supreme Court. Mr. Stevens can probably give you a little more information on that. Jan and the staff from the Attorney General's office filed an amicus brief in that case, in which we and seven other states participated.

The other half of the acreage is land that is not surveyed: in other words, the grid has not been put on the ground. We cannot get title until the grid has been put on the ground. However, we can offer that entitlement. We can agree that when the grid is put on the ground, we're going to get 1,280 acres, and we can make selections other places for that land and give up our entitlement. But again, it's subject to the same question.

The real significance of this calendar item is that we are going to get significantly more acreage than we had thought we were going to get. We are entitled to more than we had thought. But we still have a serious problem, which
will be resolved by the Supreme Court.

MR. STEVENS: If I could add a comment --

ACTING CHAIRPERSON BELL: Mr. Stevens.

MR. STEVENS: Thank you, Mr. Chairman. Items 21 and 22 are both indicative of the policy of the BLM, which is not only to retain those lands which are now in its possession and not transfer any to states or others, but also to increase its ownership of public lands. Easements are no longer favored; they prefer to obtain land in fee.

In fact, they have obtained, I believe, an additional four percent of California, or perhaps three and a half million acres, from 1970 through today, judging by the lastest GSA figures. Their fee ownerships in California are increasing enormously because of this policy. So it is a problem.

MR. ACKERMAN: The federal government is becoming a landholder and manager rather than just the holder of an easement or the right to use the land.

MR. STEVENS: Not only that, but a land acquirer as well.

MR. TROUT: The federal government is about three million acres from owning half of California.

MR. STEVENS: So we did argue on your behalf with Utah and eight other western states that the federal government was breaking its promise when it declined to make...
additional lands available to us as indemnity lands.

ACTING CHAIRPERSON BELL: I think we should be clear that item 22, which is merely a report to us for information purposes, is a determination between the state and BLM that the State of California is eventually entitled to 114,000-plus acres. But that is no guarantee that we're going to see those right away. There's a little difference between deciding, "Yes, you are entitled to it, but no, I don't intend to give it to you."

Since item 22 is informative only and does not require commission action, we will now go to item 23, which is the United States of America (National Park Service) item.

MR. NORTHPROP: Mr. Chairman, this will be addressed by Mr. Les Grimes, assistant manager of the lands section.

ACTING CHAIRPERSON BELL: Mr. Grimes.

MR. GRIMES: Mr. Chairman, Dave Ackerman, I'd like to make one more comment on item 22. Because the feds own so much land, they seldom need anything from us, so if you want to hold them up and get some attention, this is probably the last chance you'll get for a year or so.

MR. ACKERMAN: One more question on that.

ACTING CHAIRPERSON BELL: Mr. Ackerman.

MR. ACKERMAN: Do we have any estimate of what mineral deposits or resources are on federal lands? I looked at a map last week that showed all the federal land
holdings in the Imperial Valley. You look at practically the whole eastern half of San Bernardino County, and I think they owe their life to the federal government out there. We're looking at geothermal resources and other resources. Are there any surveys?

MR. NORTHROP: Mr. Chairman, Mr. Everitts from our mineral section may have a comment on that.

MR. EVERITTS: We look at specific parcels when we're asked to, but as to making a general study of all the land the federal people have, we don't.

MR. NORTHROP: Mr. Ackerman, Mr. Stevens wrote a very scholarly piece on the federal lands.

As I recall, Jan, you did discuss the mineral deposits.

MR. STEVENS: There have been some partial studies made of this subject to date, and they indicate that the federal estimates of mineral deposits differ vastly from those of others who are interested in developing those deposits. There is no comprehensive estimate, but I know that in one desert area alone the difference is something like $500,000 worth of mineral deposits estimated by the United States and a billion dollars estimated by others. So there is a lot to be done, and a lot of study needed, and I think the motives of the various people have to be evaluated.
MR. ACKERMAN: Is my understanding correct that any royalties for mineral extraction go to the federal government and the state has no interest in that?

MR. NORTHROP: In some areas there is a formula -- I'm thinking of geothermal particularly now, and I think timber as well. There is a formula by which some of the local entities participate.

Usually -- and this is a problem we're going to have to face -- the federal government pays some in-lieu taxes, or some payments in lieu of taxes, on federally held lands.

MR. ACKERMAN: Do they pay that to the state?

MR. NORTHROP: They pay that to the local entity. They do participate. With the OCS they give some coastal impact funds, as we discussed earlier this meeting. They do make some payments to the locals to offset it.

MR. ACKERMAN: Okay.

MR. GRIMES: One more point on that. Earlier in the year the commission authorized us to make a 3,000-plus-acre indemnity selection up in the Geysers area. We did that about two and a half months ago, and we haven't even had an acknowledgement of receipt of our application from BLM.

MR. ACKERMAN: Maybe we'll hear in three or four years.
MR. GRIMES: On calendar item 23 the National Park Service wants to build a headquarters for the Channel Islands National Monument just south of Ventura. They bought a piece of land that has a title exception in the policy for possible interest of the state. The staff has made a rather exhaustive study and feels that the commission has no interest in the parcel.

However, as Mr. Trout said earlier, the attorneys for the federal people would like the delivery of a quit-claim deed for our nonexistent interest.

ACTING CHAIRPERSON BELL: I think the title company would, too.

(Laughter.)

ACTING CHAIRPERSON BELL: Do you have any objection to this?

MR. ACKERMAN: No. That's okay.

ACTING CHAIRPERSON BELL: All right. If there is no objection to item 23, it will be approved.

Now we go to leases and permits, item 24, the East Bay Regional Park District.

MR. NORTHROP: Mr. Chairman, this also falls in Mr. Grimes' area of purview.

MR. GRIMES: This is an application by the East Bay Regional Park, which has been working down in Contra Costa
County with Shell Oil. This is immediately landward of Shell’s long wharf in Martinez. It’s 42-plus acres that will be developed into a bird-viewing type of activity.

ACTING CHAIRPERSON BELL: This is on the Martinez side of Port Costa, isn’t it?

MR. GRIMES: Yes.

ACTING CHAIRPERSON BELL: In fact, it’s right within the flatlands of Martinez, isn’t it?

MR. GRIMES: Yes. It’s between Shell’s long wharf and the boat harbor there.

ACTING CHAIRPERSON BELL: Any objection?

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, item 24 will be approved.

Item 25, leases and permits again, Federal Resources Corporation.

MR. NORTHROP: Mr. Chairman, this falls in Mr. Everitts’ area.

ACTING CHAIRPERSON BELL: Mr. Everitts.

MR. EVERITTS: This is an application by the Federal Resources Corporation for some prospecting permits on seven noncontiguous parcels of land comprising about 3,700 acres southerly of Owens Lake. Federal Resources has a large holding of federal leases in the area, and they propose to explore for uranium and other minerals, uranium
being the primary target.

Basically, it's drilling a series of holes anywhere from 100 feet deep to 1,500 feet deep and doing core analysis work.

ACTING CHAIRPERSON BELL: I notice that this excludes oil, gas, or geothermal.

MR. EVERITTS: Yes.

ACTING CHAIRPERSON BELL: So this is a relatively limited lease.

MR. EVERITTS: Right. In fact, we can't issue prospecting permits for oil and gas.

ACTING CHAIRPERSON BELL: Do you have any objection to this item?

MR. ACKERMAN: No. This is a clear-cut example of a prospecting permit.

MR. NORTHRUP: Yes. This is a prospecting permit.

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: If there is no objection to item 25, item 25 will be approved.

Item 26 for Chevron U.S.A.

MR. NORTHRUP: Mr. Chairman, Mr. Everitts would like to do some work with Chevron on some offshore wells.

ACTING CHAIRPERSON BELL: This is existing, underwater wells?

MR. EVERITTS: This is an ocean floor,
yes. They are specifically interested in the Monterey Zone, which is a highly prolific zone that Exxon has.

ACTING CHAIRPERSON BELL: That is where Holly is working, too?

MR. EVERITT: Yes.

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, item 26 is approved.

Now we go to the Long Beach operations. Under the subject matter of subsidence, item 27 is an agreement for proposed earthfill of purchased properties.

MR. NORTHROP: Mr. Chairman, Mr. Thompson will address that.

ACTING CHAIRPERSON BELL: Mr. Thompson.

MR. THOMPSON: There's a difference of opinion between the commission and the Attorney General's staff and the City of Long Beach as to the reimbursable costs for subsidence in raising parcels of land which have been purchased by the City of Long Beach after substantial subsidence on those lands has occurred. If the commission agrees with the staff position and wants to allow the city to proceed with the first-phase planning, and then act on a complete presentation by the city and the state within 120 days, that is the gist of this particular calendar item.

We recommend this because we'd like to allow the
Port of Long Beach to proceed with this harbor expansion on land that it has purchased or is purchasing, because it's in the best interests of both parties to proceed and do the work as planned in order to avoid additional costs due to inflation, because those costs are going to have to be borne by one of the two parties eventually.

To explain the staff's position on this -- this may not be precisely in legal terms, but we might use the following analogy: If you imagine the state as an insurance company insuring automobiles owned by the City of Long Beach for collision damage, with any blanket policy as you add additional cars you just add them under the same policy.

The problem now is that the city is notifying the state, as its insurance company, that they're purchasing damaged automobiles to be covered by the insurance policy and it expects the state as its insurance carrier to pay for the damage to the cars which occurred before they were purchased by the City of Long Beach. That is not a rigorous legal analogy, but this is the way the staff views it.

What would happen under this agreement is that we would have a hearing in which the state's position and the city's position would be gathered by the executive officer and presented at a commission meeting within 120 days. The city may go ahead with their first-phase planning. They may not deduct the cost of this from oil revenue funds. Then
subject to what happens at that particular meeting in 120
days as far as the commission's attitude on this question
of reimbursable subsidence costs on purchased lands, then we
can proceed to the second phase.

MR. NORTHROP: Mr. Chairman, the minutes in the
calendar reflect that the harbor commission has approved
this. However, I understand that due to lack of a quorum
they have not approved it, and Long Beach's premiere used
car dealer, Einar Petersen, may want to make a statement
as to what the recommendation was.

ACTING CHAIRPERSON BELL: Mr. Petersen, City of
Long Beach.

MR. PETERSEN: That's correct, representing the
city attorney's office. The Board of Harbor Commissioners
was not in a quorum on Monday. This matter was on the
agenda for their consideration. It is a recommendation of
both the general manager of the port and the city attorney's
office that the Board of Harbor Commissioners accept and
approve the agreement as drafted. I make that representa-
tion to you.

But we did not have a quorum on Monday, and
probably will not have one next Monday either, being
Christmas Eve. We don't know yet.

MR. NORTHROP: It applies to the next item also.

MR. PETERSEN: Yes, the next item also, which
relates to the closure of the outstanding AFES and the subsidence studies matters. Both of those agreements were on the agenda for last Monday.

ACTING CHAIRPERSON BELL: It doesn't really matter whether we approve something before the harbor commission approves it, because if the harbor commission does not approve it, it is null and void anyway.

MR. PETERSEN: Both contracts speak to the question that they are effective only upon execution by both parties.

MR. THOMPSON: The agreements authorize the executive officer to execute the documents.

ACTING CHAIRPERSON BELL: Thank you, Mr. Petersen. Not being an attorney, I read the words "without prejudice" to mean that if we approve item 27 before us today, this does not in any way color our decision or commit us in any way to a finding of any other type 120 days from now when we have all the facts before us from both sides; is that correct?

MR. THOMPSON: That's my understanding. The lawyers will have to speak on that.

ACTING CHAIRPERSON BELL: I read the agreement, and that's what it sounded like to me.

MR. PETERSEN: That's the city's understanding.

MR. STEVENS: That's our understanding, also, Mr. Chairman. Go ahead and do it, and we'll decide later who pays for it.
MR. ACKERMAN: This just allows all of us to proceed?

MR. THOMPSON: And to prepare a record in which the whole issue can be laid before you within 120 days.

ACTING CHAIRPERSON BELL: Is there any objection to item 27?

MR. ACKERMAN: None.

ACTING CHAIRPERSON BELL: Hearing no objection, item 27 is approved.

Item 28 is Mr. Thompson again, I assume: agreement to close subsidence accounts that go clear back to April 1956.

MR. THOMPSON: Yes, this is a closing of some items that go back to Chapter 29 and run on through Chapter 138. They include seven AFEs and all these annuals from 1956.

There are differences of opinion between the city and the state, and this is an attempt to more or less compromise all these agreements and get these closed. There's nothing to be gained by keeping them open for this number of years, and so we've reached a compromise agreement.

ACTING CHAIRPERSON BELL: Here again if both parties agree, we are then in agreement and in effect have closed the door on all of the subsidence issues up through June 30, 1978?

MR. THOMPSON: I'll speak for the lawyers, and they can comment. We are closing the items, settling the dollar
amount. Both sides again, I think, maintain their particular legal positions on these.

MR. PETERSEN: That is correct.

MR. HIGHT: That is correct.

MR. ACKERMAN: This is on all subsidence issues?

MR. THOMPSON: The specific annuals to date, and the seven specific AFEs that are mentioned in here. As a matter of fact, this is all the subsidence project works that were closed through June 30th, also, as far as projects are concerned. So this is trying to bring this as current as possible.

MR. ACKERMAN: That's quite an undertaking.

MR. THOMPSON: Well, it's something that's been hanging fire, and I think it shows the cooperation between the city and the state. We can fight forever on some of these little legal issues. We might as well get them closed.

ACTING CHAIRPERSON BELL: They must want something else.

(Laughter.)

ACTING CHAIRPERSON BELL: All right. Is there any objection to item 28 on the agreement to close the subsidence accounts?

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, item 28 is approved.
Item 29 on elevation surveys. Again, Mr. Thompson.

MR. NORTHROP: Mr. Thompson has some displays over on the wall. Long Beach is not sinking.

MR. THOMPSON: This is an informative calendar item, and the main thing we want to place on the record is the second paragraph of this calendar item, which says:

"Staff review of ground elevation survey data for the period May 1965 to August 1979 substantiates that no subsidence of the land surface has occurred as the result of operations in the Long Beach Unit."

That cumulative period of time is shown on the upper right-hand map. The area between the green which is way over on the far right and the green in the center indicates that there has been positive change in ground elevation between May of 1965, which was prior to the time that any production occurred at the Long Beach Unit, and August of 1979. That whole area between the greens there, which is offsetting the Long Beach Unit --

ACTING CHAIRPERSON BELL: Between the greens? From left to right?

MR. THOMPSON: -- between the greens is all positive. That ground elevation actually has increased during that period of time.
Now the last survey that was run was anomalous in
the fact that it showed all negatives throughout the whole
Long Beach area. That map is the one on the lower left.
That is contrasted with the one that was run the previous
six months, the one on the lower right, and again you'll see
there that everything outside of the green -- this time
everything outside of the green -- was positive.

Because of this last survey having a negative
trend, there was a short survey run in November, and that is
shown on the upper left. That is a blown-up portion of a
very small area. Diane, could you point with your left
hand to the map on the lower left? That area just above her
hand there. That area right there is what is enlarged in
the map on the upper left.

So this abbreviated survey was run, and every
benchmark there now comes out to be plus. This again is a
question of determining really what the accuracy is that
we're measuring here, and a matter of the whole area being
somewhat unstable. We really don't understand the inter-
relationships sometimes between tides, possible earth tides,
and the general instability in the area, plus possible
errors in surveying.

So again we now have trends that look more like the
previous trend.

Do you have the exhibits in front of you, these
curves, the benchmark curves?

ACTING CHAIRPERSON BELL: Yes.

MR. THOMPSON: You can see how the points run on these, which are shown by the large red circles there. The top of your stack is from the west, from your left moving to the right. You'll see that they appear to be back on previous trends.

ACTING CHAIRPERSON BELL: Each one of those red marks is one of these charts here?

MR. THOMPSON: Right, starting from left to right. Again, you can see the rebound phenomena there. So what this says is that whatever is happening is not suddenly showing a change of trend. We will be running another survey in February, which will help establish any trends. There actually is rebound here, as you can see from the curves. It's the stability of that rebound that time will establish.

This is purely an informational calendar item.

ACTING CHAIRPERSON BELL: Thank you, Mr. Thompson. Since it is an informational item only, and designed, I think, primarily to assure the public that Long Beach is not sinking into the ocean, we do not require an action on this item.

We will now go to the Downtown Shoreline Marina, item 30, capital improvement project.
MR. THOMPSON: The main purpose of the commission here is to make a finding that the expenditure proposed by the City of Long Beach falls within one of the categories of Section 6(a) through (f) of Chapter 138. There are certain uses for tideland revenue expenditures that are outlined in Chapter 138. Section 6(d) specifically mentions small boat harbors and marinas, so therefore this expenditure for these marinas is a proper expenditure. That is really the finding here.

There is a combining of a previous action by the commission with this, because there is some overlap between the two marinas, so they want the approvals to go together.

ACTING CHAIRPERSON BELL: Mr. Thompson, part of this is to rescind a prior action, isn't it, for a small --

MR. THOMPSON: Well, "rescind" or "incorporate into this", whichever way you want to think about it. Again, it's the same finding that you made before.

MR. ACKERMAN: So the action we're being asked to do is the same?

MR. THOMPSON: Right. We're merely making the finding that this particular use is authorized by Chapter 138, Sections 6(d) and (f).

MR. ACKERMAN: We weren't asked to pass any judgment on the Shoreline Marina?
MR. THOMPSON: No.

ACTING CHAIRPERSON BELL: This is a purely a finding as required by Chapter 138.

MR. THOMPSON: The city manager notifies us that they're going to make this expenditure, and the commission then makes the finding that it's authorized by Chapter 138.

ACTING CHAIRPERSON BELL: In reading the pertinent information on the calendar item -- not in the summary, but in the back -- there is a sentence here that intrigues me, because there are three actions that we could possibly take. One is no action at all. The second is to determine that it is in accordance with Section 138 authorization, and the third is to determine that it isn't.

Two of the actions apparently would allow this project to go ahead. One of them is the one that you are recommending for us to accept -- saying that it is qualified under Section 6(d) and (f) of Chapter 138 -- and the other action is to say no action at all. I'm rather curious to know what happens if we take no action at all.

MR. THOMPSON: There's a time limitation in Chapter 138 according to which you must act. If you don't act, I gather that's taken to be approval. The lawyers would have to comment further on that. That's the way the language in 138 reads.

ACTING CHAIRPERSON BELL: I admit I should have
asked the question earlier, but that just caught my eye last
night when I was going over the agenda.

MR. THOMPSON: In effect, this is protection for
the city so the commission can't in effect extend forever
without giving them some kind of approval. There's a fixed
time in which you must make a decision.

ACTING CHAIRPERSON BELL: Thank you.

MR. ACKERMAN: Thirty days? six months?

MR. PETERSEN: Sixty days.

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Is there any objection
from anyone in the audience on this item?

If not, calendar item 30 is approved. We will now
go to calendar item 31. This is an informative item?

MR. NORTHROP: Right, Mr. Chairman. Mr. Thompson is
going to review Parcel A revenue.

MR. THOMPSON: This is just capping up for the
'78-'79 year and giving a forecast for the future year. As
far as revenue for the coming year, we merely said it would
exceed $3.1 million. This is because of the uncertainty
involved with oil pricing and heavy-oil decontrol and the
federal excise tax. But it will exceed that amount.

ACTING CHAIRPERSON BELL: As to whether they will
tax state oil.

MR. THOMPSON: Right. That particular issue is now
in conference committee between the House of Representatives and the Senate. The state exemption is in both bills in one form or another, the House bill version being primarily for educational purposes, and the Senate bill being a complete exemption.

ACTING CHAIRPERSON BELL: I don’t know whether this question should go to Mr. Thompson or to the attorneys or to Mr. Northrop. Perhaps it should go to Mr. Northrop for inquiry back in Washington.

I would like to know what alternatives are left to the State of California if the House version prevails, which in effect exempts that state oil which is used for educational purposes, but not for general state purposes.

MR. THOMPSON: I think at the present time the lawyers are looking into what would happen in the exact definition of how the Long Beach entitlements would have to be handled in a legal way and if legislation would be required.

MR. NORTHROP: I have discussed this with Mr. Lamont.

ACTING CHAIRPERSON BELL: I was wondering whether Mr. Lamont was looking into it.

MR. NORTHROP: He is, and we have found another problem and we are proceeding on that line now, Mr. Bell. If the House version passes, we may have some fast footwork to
do, which would involve not only the state but possibly the City of Long Beach.

MR. THOMPSON: Mr. Northrop also pointed this out with the staffs of the Finance Department and the Legislative Analyst and also brought it out at the Joint Finance Committee hearing in Long Beach that this probably would require some legislative action.

MR. NORTHROP: But we didn't realize it may also involve Long Beach. This is what we're looking at now.

MR. THOMPSON: In hindsight we hope this is the last time we'll bring this type of adverse deal, but in '78-'79 you can see what happened when we did one additional redrill. It actually knocked 17 percent of our revenue down. In effect, we could have redrilled six more wells and come up with no revenue, and that's exactly the state we have been in for the last six or eight years. Hopefully, it's not going to be that way in the future.

ACTING CHAIRPERSON BELL: If my memory does not fail me, Parcel A was one of those that was becoming quite marginal at the time the federal government was putting those very restrictive prices on us.

MR. THOMPSON: That's right.

ACTING CHAIRPERSON BELL: All right. This is an informative item only and does not require action by the commission.
We now go to the litigation items. Item 32 is
Guard C. Darrah V. State of California.

MR. NORTHROP: This will be handled by our counsel,
Mr. Hight, Mr. Chairman.

ACTING CHAIRPERSON BELL: Mr. Hight.

MR. HIGHT: Mr. Chairman, this is a settlement of
a lawsuit initiated by Mr. Darrah against the commission.
In settlement of the lawsuit the state will give Mr. Darrah
some land along the Calaveras River in return for an island.

ACTING CHAIRPERSON BELL: This is land exchange?

MR. HIGHT: Yes.

ACTING CHAIRPERSON BELL: Equal value?

MR. HIGHT: Yes.

ACTING CHAIRPERSON BELL: Without objection --

MR. ACKERMAN: Without objection.

ACTING CHAIRPERSON BELL: Without objection, item
32 is approved.

Item 33, United States of America.

MR. HIGHT: Mr. Chairman, this is a federal
condemnation for the Miramar Naval Air Station in which the
Lands Commission has no interest.

ACTING CHAIRPERSON BELL: Without objection --

MR. ACKERMAN: Without objection.

ACTING CHAIRPERSON BELL: -- item 33 is approved.

Item 34, Andrus V. Idaho.
MR. HIGHT: If I can give that one to Mr. Stevens.

MR. NORTHROP: Mr. Stevens has been working on this, Mr. Chairman. This is the request of the Attorney General to file an amicus brief.

MR. STEVENS: This is another issue, Mr. Chairman, involving the rights of the state as against the federal government, and specifically the Bureau of Land Management. Basically, the same principles are involved in this as in the indemnity case that is now before the U.S. Supreme Court. This one is up there now. We have the same basic principle of a federal grant of land which by interpretation is now being withdrawn.

There is an opportunity to join in a brief which is being filed by the Western States Water Council, and I expect it to be satisfactory and to represent California as being on the side of Idaho and a number of other western states on the same issue.

ACTING CHAIRPERSON BELL: This would appear to be a common problem for a number of western states and not just Idaho and California.

MR. STEVENS: It's so common that we formed a sub-committee of the Western Attorneys General, and I believe there is a similar group in Western State Lands Commissioners to deal with that very thing. We have a lot of common problems in this area.
ACTING CHAIRPERSON BELL: It's my understanding that although the Carey Act is still enabling legislation, the commission is inactive. So our joining in the suit here is primarily to protect the right of the State of California to this Carey Act land if we choose to exercise it.

MR. STEVENS: That's correct, Mr. Bell. We have an entitlement of desert lands, but getting the water necessary to reclaim these lands under present circumstances could be a problem. However, we believe we should protect our rights.

ACTING CHAIRPERSON BELL: This is primarily protective action to protect our rights.

MR. STEVENS: Exactly.

MR. ACKERMAN: I think it's a good action.

ACTING CHAIRPERSON BELL: Okay. Without objection, item 34 is approved.

Item 35, Bruce Martin.

MR. HIGHT: Item 35, Mr. Chairman, is authorization for litigation against Mr. Martin. He has filled in a portion of the old bed of the San Joaquin River. We've had recent communication with him, and it is hoped that this item can be settled without litigation.

ACTING CHAIRPERSON BELL: All right. Our action here would authorize you both to negotiate with him and to go to litigation if necessary as a trespasser.

MR. HIGHT: Correct, Mr. Chairman.
ACTING CHAIRPERSON BELL: Without objection --

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: Without objection, item

35 is approved.

Item 36 is again litigation: Department of the

Army, Corps of Engineers.

MR. HIGHT: Mr. Chairman, the Oakland Army Station
desires a cession of concurrent criminal jurisdiction over
a portion of a street within the army base. The Army now
has criminal jurisdiction over the entire area with the
exception of this street. There has apparently been some
speeding and some driving problems there, and they desire
this.

This is the authorization to hold a hearing, and we
will be back at a subsequent commission meeting with the
results of that hearing.

MR. ACKERMAN: This piece of property is under our
jurisdiction?

MR. HIGHT: No, the property is not under our
jurisdiction, but the Government Code has given the
commission the jurisdiction to determine whether or not the
federal government should be given criminal jurisdiction or
can give the state criminal jurisdiction.

ACTING CHAIRPERSON BELL: Actually, this is a
determination as to whether the federal government can arrest
somebody who is speeding on that street and apply its laws
to him or whether it has to be done by the state under the
state's laws. Concurrent jurisdiction allows the exercise
of both.

In some areas which are sensitive to some local
sheriffs, they have objected to giving the United States
concurrent jurisdiction in past meetings. I would ask if
the Sheriff of Alameda County has expressed any problems of
this nature.

MR. HIGHT: He has not, but that would be one of
the purposes of the public hearing: to determine whether
there is any opposition to this. We don't anticipate at the
present time that there will be any opposition.

ACTING CHAIRPERSON BELL: All right. All this does
is authorize a public hearing?

MR. HIGHT: That's all this does, Mr. Chairman.

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

Item 37, State Lands Commission standard lease
provisions.

MR. NORTHROP: Mr. Chairman, there has been some
criticism with all governmental leases that they are so
cumbered with legalese that it's difficult for the lay
person to understand it. With this in mind we have attempted
to revise the State Lands Commission standard lease covenant
into lay language. I think we've accomplished that with some degree of success. The staff recommends that you approve these new lease covenants.

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

ACTING CHAIRPERSON BELL: Our private conversation here merely dealt with the fact that as part of all legal documents it's always printed in type that guarantees that most of the people can't read it without a magnifying glass.

(Laughter.)

ACTING CHAIRPERSON BELL: We happen to have an example of that here, and we were kidding that we ought to insist that you put it in readable type.

MR. NORTHRUP: Mr. Chairman, that criticism is well taken, and we will take those steps.

ACTING CHAIRPERSON BELL: Without objection --

MR. ACKERMAN: No objection.

ACTING CHAIRPERSON BELL: I've read them, and frankly I congratulate the staff, and particularly the lawyers who have sacrificed their sacrilegious language so that ordinary people can understand it. I think it's a very good job.

Without objection, then, item 37 will be approved.

Item 38, the last item on the agenda, is the Lake Tahoe shorezone assessment.
MR. NORTHROP: Mr. Chairman, as you recall, Mr. Trout at some previous meeting asked the commission to hold off things on the Tahoe shorezone, so I will ask him to respond to this item.

ACTING CHAIRPERSON BELL: Mr. Trout.

MR. TROUT: Mr. Chairman: We had a considerable concern from the staff's standpoint at Tahoe as to how many individual piers could be built up there without having a significant environmental impact. Many people were coming up with categorical exemptions from CEQA because the piers were less than 3,000 square feet in area.

The primary governing agency up there was the Tahoe Regional Planning Agency. As a bi-state creation, they did not feel they came under the provisions of the California Environmental Quality Act.

Until we could do something about that, we asked the commission to adopt a policy of not granting any further recreational pier permits at Lake Tahoe with a couple of exceptions: existing piers would be permitted and assigned; multiple-use piers (in other words, where several people got together and built a joint pier, a homeowners' association or some other kind of thing which shared the use of a pier) would be approved under the policy; and mooring buoys off shore.

MR. ACKERMAN: Would that be like two adjoining lots
MR. TROUT: Right, any shared use, so that you reduce the number of piers, with more than one party sharing the use of a common pier.

At the time I recommended that to the commission, we had thought that the funding of a cumulative environmental impact report would be soon available. We were unable to get that funding from several sources during the year, and in the summer the commission extended the policy through December 30th of this year.

The Resources Agency has now included -- from the funds from the sale of personalized license plates, they have approved the funding of a cumulative environmental impact report. We understand that $175,000 will probably be included in the Governor's budget for this purpose. That money would become available July 1st.

We'd like to suggest that the commission continue its policy either until that cumulative environmental impact report is completed, or December 31, 1980, or until the adoption by the California Tahoe Regional Planning Agency of shorezone development criteria.

We continue to feel that an unlimited number of piers being permitted without an environmental report is probably a poor position for the state, so we recommend that we just continue the policy.
ACTING CHAIRPERSON BELL: Do we have a cutoff on this of one year, or would this extend beyond one year?

MR. TROUT: Yes, sir. We don't believe it would extend beyond a year. We're asking your permission, as part of the calendar item, to somewhat anticipate favorable legislative and gubernatorial action on that budget item. We would be prepared on July 1st to contract with consultants to make the study, and we believe that prior to the expiration of the year, which is the maximum extension of this policy, that Cal-TRPA would have adopted the shorezone development criteria and we will have had completion of a cumulative EIR.

ACTING CHAIRPERSON BELL: Thank you, Mr. Trout.

MR. ACKERMAN: How long has the moratorium been in effect? About a year?

MR. TROUT: Yes. It was adopted, I believe, at the November commission meeting last year. Yes, it was the November 1978 commission meeting.

MR. ACKERMAN: Do you have any idea how many applications have been received for piers?

MR. TROUT: No, I don't. Mr. Grimes might.

MR. GRIMES: Seven or eight. I know of seven that we have deferred action on, and I think there's another one in shop now that we'll have to defer.

MR. ACKERMAN: Did any of those then come back as a
MR. GRIMES: Not yet.

MR. ACKERMAN: They were all single requests?

MR. GRIMES: Right.

ACTING CHAIRPERSON BELL: Okay. Without objection, item 38 is approved.

That completes the regular part of our agenda. I am informed that the commission will now go into executive session.

MR. NORTHROP: Mr. Chairman, I notice the city attorney of Long Beach is here, and while this deals with a tax problem, I would think it might be helpful if he would be willing to sit in on the executive session. It would be helpful to the staff to get his thinking on it.

ACTING CHAIRPERSON BELL: All right. If Mr. Petersen has no objection --

MR. NORTHROP: No, it would be Mr. Bob Parkin.

ACTING CHAIRPERSON BELL: All right. I will now declare that we are in executive session, and we will ask everyone else to leave the room.

(Thereupon the public portion of this meeting of the State Lands Commission was adjourned at 11:07 a.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, PAUL D. RAMSHAW, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing meeting of the State Lands Commission was reported in shorthand by me, Paul D. Ramshaw, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have heretounto set my hand this 16th day of January, 1980.

PAUL D. RAMSHAW
Certified Shorthand Reporter
C.S.R. License No. 3434