APPEARANCES

Commission Members:

Kenneth Cory, Chairperson
Susanne Morgan, representing Mary Ann Graves, Director of Finance
David Ackerman, representing Mike Curb, Lieutenant Governor

Staff Present:

William Northrop, Executive Officer
James F. Trout, Assistant Executive Officer
Robert C. Hight, Esq., Chief Counsel
N. Gregory Taylor, Esq., Assistant Attorney General
Jane Mochon
Betty Louie

Also Present:

Ball, Hunt, Hart, Brown & Barerwitz
By: Charles Greenberg, Esq.
Representing: Santa Catalina Island Company and Santa Catalina Island Conservancy

Hertzberg, Koslow & Franzen
By: Harrison W. Hertzberg, Esq.
Representing: Catalina Marine Services Corp.

James H. Radcliffe, Esq.
Representing: Island Navigation Company, Inc.

Clancey Leland, Los Angeles Board of Supervisors
Mr. Charles Rutherford
Mr. Gordon Saunders
<table>
<thead>
<tr>
<th>Index Item</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceedings on Calendar Item 19</td>
<td>1</td>
</tr>
<tr>
<td>Staff Recommendation</td>
<td>1</td>
</tr>
<tr>
<td>Motion by Commissioner Morgan to Accept Staff Recommendation</td>
<td>2</td>
</tr>
<tr>
<td>Discussion of Motion</td>
<td>2</td>
</tr>
<tr>
<td>Discussion of Ratification of Staff Responses to Questions</td>
<td>4</td>
</tr>
<tr>
<td>Polling of Bidders</td>
<td>17</td>
</tr>
<tr>
<td>Ratification of Staff Responses with Modifications</td>
<td>19</td>
</tr>
<tr>
<td>Timeliness of Island Navigation Bid</td>
<td>19</td>
</tr>
<tr>
<td>Discussion of letter from Rather Corporation</td>
<td>21</td>
</tr>
<tr>
<td>Discussion of letter from County of Los Angeles</td>
<td>22</td>
</tr>
<tr>
<td>Representation of Los Angeles County by Clancey Leland</td>
<td>23</td>
</tr>
<tr>
<td>Discussion of Further Modification of Proposed Bid</td>
<td>29</td>
</tr>
<tr>
<td>Authorized Use by Sublessees</td>
<td>31</td>
</tr>
<tr>
<td>Length of Time for Transfer of Sublease</td>
<td>31</td>
</tr>
<tr>
<td>Possibility of Transfer Fee</td>
<td>54</td>
</tr>
<tr>
<td>Motion by Commissioner Ackerman to Amend Lease to Reflect 14-Year Transferability</td>
<td>41</td>
</tr>
<tr>
<td>Polling of bidders</td>
<td>41</td>
</tr>
<tr>
<td>Public Testimony</td>
<td></td>
</tr>
<tr>
<td>Mr. Saunders</td>
<td>46</td>
</tr>
<tr>
<td>Mr. Rutherford</td>
<td>56</td>
</tr>
</tbody>
</table>
(After preliminary orders of business and approval of the Consent Calendar, the following public meeting was held:)

CHAIRPERSON CORY: Item 19, consideration of bids regarding tidal submerged lands in Santa Catalina.

Staff, can you tell us where we are?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Ms. Jane Mochon, who's really doing the work on that, and Betty Louie will make the presentation to the commission.

MS. MOCHON: We've made a review of all the bids that have been submitted to us. Our evaluation is set forth in the Calendar item based on three factors that were to be considered, including the type and extent of services that were to be provided, the fee schedules that were to be made for charges to members of the public using the lease premises, and also the percentage of growth income that was bid as a basis for rental to the state.

We have determined -- staff's evaluation is that the Island Company Conservancy bid is the best bid.

CHAIRPERSON CORY: And your recommendation is?

MS. MOCHON: The staff recommendation basically is that the commission award the bid to the Catalina Island Company and the Catalina Island Conservancy.
COMMISSIONER MORGAN: Mr. Chairman, maybe I could kick this thing off by putting in a motion. I'll move the staff recommendation.

CHAIRPERSON CORY: Before we get to that, I think there's some procedural questions we maybe ought to look at. Whether or not, for example, looking at the second page of the staff report, there was a bid of the Island Navigation Company, Incorporated, which was received late.

MR. TAYLOR: That is correct.

CHAIRPERSON CORY: Do we need to deal with that issue before we deal --

MR. TAYLOR: Yes, Mr. Chairman. You need to determine whether to consider that bid. It was late by ten minutes. The facts are set forth in the Calendar item.

The reason for being late was the fact that there was fog. There had been no -- although the Island Conservancy bid had been opened, there was no disclosure of any terms at the time that the Island Navigation Company walked into the room. They walked in and handed a sealed bid. It was received with a notation that it was late, and the bidder was informed that there would be a ruling on that question.

As a matter of law, you have discretion as to whether or not to accept the bid or to reject it. You could
reject it on the basis that everyone knew what the time
deadline was. It was basically set forth. It was
specifically set forth in the bid proposal, and it was
confirmed on the phone to a number of people.

The two other bidders did make it on time,
despite problems with fog. On the other hand, there was no
prejudice to any of the other bidders or to the state.

There had been no disclosure of any material facts.

Under those circumstances, it is whatever your
pleasure is with regards to whichever way you want to go.

CHAIRPERSON CORY: We should dispose of that
question?

MR. TAYLOR: I believe you should, yes.

CHAIRPERSON CORY: Then should we go through the
question of any other questions of qualification of bidders
before we get down to --

MR. TAYLOR: Yes, the other procedural item
which should be dealt with is the ratification of the staff
responses to questions. That needs to be ratified.

Perhaps in the order of things, on page 9 of your
Calendar item, that would be the first item to take. Then
the next item would be the opening of bids, whether the
opening of the Island Navigation Company's bid should be --
whether that bid should be accepted because of its lateness.

Then the next matter would be on the merits of
2

CHAIRPERSON CORY: Going through them, one, two, three, you think we should do first —

MR. TAYLOR: Ratification of the staff's answers to questions that were asked by the bidders, and a number of questions arose. The bidders were told that we would not orally answer questions, but they wanted to submit them all in writing by a certain date, and the staff would respond by another date.

CHAIRPERSON CORY: Well, if we don't wish to ratify the staff's answers, what happens?

COMMISSIONER ACKERMAN: I have a problem with some of the staff's answers.

CHAIRPERSON CORY: I have some problems with the staff's answers.

MS. MOCHON: Can we ratify portions of them and discuss others?

MR. TAYLOR: I would think that you would have the problem in considering the bids because they were based upon the answers which were given.

COMMISSIONER ACKERMAN: I carefully reviewed the testimony from the October 30th and November 3rd meetings, and I'm not sure, in a couple of cases, that staff's answers correctly interpreted the intent of the commissioners when we took our actions.
What course of action does that leave us if, in fact, the Request for Proposals do not accurately, in actual writing, reflect the intent of the commission? Can we change it?

MR. TAYLOR: I believe that your concerns are addressed to two matters. One is whether the date for determining the right, the preferential right of renewal of sublessees would be October the 1st or December the 31st. The other question is whether it would be six over 15 years.

There were some variations of whether or not a change for a number of people entitled to get on a sublease for preferential rights would be limited to only certain - only family members or things of that sort. I think that it changed from the October 1st date to the December 31st date, as a blanket matter, would cover all of those, although it would be broader than had previously been discussed.

Oh, the third problem was with regard to persons who had multiple buoy subleases. And the question is whether or not they would be allowed to make an assignment of their additional subleases prior to the 31st, so that the person would have a preferential right to renew under the new lease.

Those are the three questions which I understand that the commission has had since sending out of those matters.
CHAIRPERSON CORY: It is my recollection -- I have not read the transcript -- but it was my recollection, when those questions came up, and part of what I was thinking, that people had until January 1 to do whatever they wished with those leases, that we were not in any way opposing any limitation. I'm not so sure that we legally can impose any limitation on those people. And that left a lot of options that, in essence, dealt with those three types of problems.

That was my thinking and part of why I voted for what I did, that anybody that had a problem had a mechanism to put their house in order in the best shape they could by the end of the year. And the staff imposition of an arbitrary cutoff of some date in October --

EXECUTIVE OFFICER NORTHROP: October 1,

Mr. Chairman.

CHAIRPERSON CORY: -- tended to preclude that.

I'm not sure what we do. I don't know whether the other commissioners agree with my recollection of that, but having had the staff recommendation go out, if they do, then we've got a problem whether or not people have been afforded sufficient opportunity to transfer, given the fact that it is now the 17th of December. I don't know what to do with the problem.

But that's the area that I have trouble ratifying the staff letter, and I have not read the staff
letter, but I've been told of that portion of it. I will want to read the rest of it.

MR. TAYLOR: Mr. Chairman, we have examined the record, and there were three or four items going on. Some were resolved and some weren't. The staff did its best to understand what had been said.

If they were incorrect on that, that is still a fact that they misunderstood you.

We have polled, however, all of the bidders, and we have asked them if it would make any difference to the bids which they have submitted if the period of assignments was moved from October 1st to December 31st. It's my understanding that their answer to the question is no.

I think we'd have to poll each of them. If each of the bidders are willing to waive that, and so state here today, then I believe that the answers that staff gave, with the two or possibly three changes which we have just talked about, could be ratified and then you'd be in a position to go on to the next question as to whether to accept the late bid.

If the date is changed from October the 1st to January the 31st in all -- December the 31st in all instances, then I believe that that would give anyone a right to rearrange themselves with regard to how they hold a sublease or to assign it. In the case of multiple
ownerships of subleases by a single individual, it would
give them until the 31st in which to get rid of the other
two subleases, and that person who acquired that would have
the preferential right to renew on January the 1st. So,
that would take care of the first two problems.

With regard to the third problem, the third
problem is extending the period of time in which the buoys
which the sublessee currently owns the equipment on, and
at the last commission meeting that period of time was
limited -- first, there was no right to assign. Then, after
extended debate on the Monday or Tuesday meeting following
the Friday meeting, it was decided that they would be given
the right to make one more assignment within a six-year
period.

Now, I don't believe that there is any mistake as
far as the staff is concerned in interpreting that in any
answers. There has been a question that that be
reconsidered by the commission, but as far as the first item
is concerned, if there is a consensus on the commission that
the date ought to be, for assignments and so on, the 31st of
December, then that would take care of all those problems
and put you in a position to ratify the statement of the
staff.

CHAIRPERSON GORY: First let's hear from
commissioners as to how they recall what we were doing.
COMMISSIONER ACKERMAN: More than just a recollection, a reading of the transcript, I think, makes our intent very clear that we intended to hold current mooring lessees and owners harmless until December 31st to take whatever options they wanted, and then they would enter into the new agreement beginning January 1 on the basis of the new lease that we're entering into.

CHAIRPERSON CORY: Susanne?

COMMISSIONER MORGAN: I don't remember the dates specifically, but I do recall that we said until the new lease starts, they'll have an opportunity to rearrange themselves.

MR. TAYLOR: If that is the understanding of the commission, then at this point it would be appropriate to ask a representative of each of the three bidders if the change of that factor would make any difference in the bid they've submitted.

CHAIRPERSON CORY: Let's back up.

I'm not so sure that the suggested solution provides the equity that's needed. We were talking in October or November of affording those holders basically a two-month period of time. I don't know whether we can do any more than that, but I'm saying that what you're now doing is, due to a staff error, collapsing a two-month
period of time flexibility of the owner of the tackle, to collapse that into a two-week period of time, and during the particular two-week period of time in which there is some limitations on normal commerce.

COMMISSIONER ACKERMAN: Can we pick an arbitrary date, Greg, of say, March 1st?

MR. TAYLOR: Yes, you can.

The only other thing that also has to be written into this statement is the fact that it would only be as -- yes, you could pick that date.

COMMISSIONER ACKERMAN: Where it would give someone an additional two months.

MR. HIGHT: Providing that the bidders will agree to that.

CHAIRPERSON CORY: If we could do that, I would feel more comfortable, rather than telling somebody that they've got 13 days, with the Christmas holidays in there, to make their change.

MR. TAYLOR: A person cannot have multiple subleases after the 1st of January. If they did --

COMMISSIONER ACKERMAN: Can we give them until March 1st to dispose of that?

MR. TAYLOR: You can give them until March 1st to dispose of the multiple ones, and then everyone else would have until March 1st to make assignments for the
preferential rights of renewal.

CHAIRPERSON CORY: Would you read that statement back, because I'm not sure that's what you wanted to say.

(Thereupon the record was read.)

CHAIRPERSON CORY: That's it?

MR. TAYLOR: In essence, that's right. It's not very artful.

CHAIRPERSON CORY: Do you think we could give multiple owners the right to dispose until March 1, which really just means, it seems to me, to be a generic clause that allows free transfer of owned until March 1. And then, you get one subsequent transfer from March 1 for a time certain, during a time certain.

MR. TAYLOR: I think there are two categories of people. There are sublessees where the equipment is owned by the company, and there are sublessees where they own the equipment. So you've got two categories of people. You're only addressing one of those categories.

I think that the provision would be that anyone who has a multiple sublease could assign or transfer that to anyone on the same status that he currently had on December the 31st. In other words, that would cover both sides.

In other words, if he owned it, he could transfer it and get the rights of the owned equipment. If he was
just a lesser of the company equipment, then he would get the right just to make another transfer to somebody else who would then have only the automatic right of renewal.

CHAIRPERSON CORY: All right.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, so the staff understands where we're going, to paraphrase it, there are really four groups of individuals. The group who owns in combine with other individuals a mooring, and what you're saying is, if they wanted to add or subtract from that combine, they have until March 1st; is that correct?

COMMISSIONER ACKERMAN: That's my intent.

EXECUTIVE OFFICER NORTHROP: Now we have another group of individuals where one individual may own more than one mooring. And also, they have that same time period to transfer that mooring to another person or persons or group, so we wind up with only one mooring; is that correct?

COMMISSIONER ACKERMAN: That's correct.

EXECUTIVE OFFICER NORTHROP: Thank you.

MR. TAYLOR: Well, there was a third problem addressed, and that was family members and other people who wanted to get on record.

EXECUTIVE OFFICER NORTHROP: We covered that in the first section.

COMMISSIONER ACKERMAN: Isn't that covered by the first item?
MR. TAYLOR: I thought that that was where there was a combine of people presently.

I think there is another group of people, where a father of the family has a lease, and the question was addressed --

CHAIRPERSON CORY: Are you suggesting the mother couldn't? Go ahead.

COMMISSIONER MORGAN: Thank you.

MR. TAYLOR: Whatever the person in the family, had a sublease. There was a desire expressed at the hearings that they be in a position to put that into a multiple ownership.

COMMISSIONER ACKERMAN: Can't we just give everybody until March 1st?

CHAIRPERSON CORY: That's not precluded in the generic statement of Mr. Northrop's, I don't believe. That was all-encompassing, where you could add, subtract, put your dog on.

EXECUTIVE OFFICER NORTHROP: Change dog to kitten.

CHAIRPERSON CORY: Why? A dog has a right to own things as far as I'm concerned, he said facetiously.

MR. TAYLOR: I think that you just say that anyone who had a sublease on the 31st of December has the right to make any kind of assignment or transfer or change in ownership as long as it complies with the terms of the new
lease until March the 1st. And that such an assignee will have the right, all the rights of the prior sublessee, which means that they will, in the case of the company-owned tackle, that they would have the right of an annual renewal to the period of the new lease, and in the case of the persons who own the equipment on the sublease, that they would have the right of annual renewal and the right to transfer it once more in a period of six years.

COMMISSION MORGAN: And avoid any discussion of family relationships.

MR. TAYLOR: Yes. That means that anyone can do anything.

CHAIRPERSON CORY: That would preclude anybody from altering the number of owned tackle to nonowned tackle, or vice versa?

MR. TAYLOR: Right, that can't change their status with regard to that.

COMMISSIONER MORGAN: If that's what the commission feels they wanted to do, what impact does that have to the bid process that has taken place?

MR. TAYLOR: It is our understanding from each of the bidders who were polled that that change would have no effect on the bid that they have submitted to the commission for considering. I would like to have that affirmed today.

CHAIRPERSON CORY: If you do that, do we need to
deal with the question of whether or not we consider all
of these to be valid bidders now, before we take the poll,
or can we do that after the fact?

MR. HIGHT: I think after the fact, Mr. Chairman.

CHAIRPERSON CORY: There is no implication by
polling at this point that we have made any value judgments
as to who is qualified and who is not?

MR. TAYLOR: That is correct.

COMMISSIONER MORGAN: Does that clarify all the
questions of the staff?

MR. TAYLOR: No, that does not take up the
question of whether or not the commission wishes to
reconsider its decision about only one assignment for
sublessee-owned tackle in a six-year period.

But the record is clear on that that the commission
did make a decision. I think that is not something that
would be ratified by the responses. This one thing, then,
would put you in a position to ratify the staff's
responses, if that is all right with the other parties.

COMMISSIONER MORGAN: Our question is, if a new
lease starts January 1st, and people have a right to change,
as you described, until March 1st, would that have an
impact to the bids that have been submitted?

MR. TAYLOR: Right. I think that perhaps you can
call a representative of each of the three parties to submit
packages today and ask them if their answer to that -- what their answer would be.

CHAIRPERSON CORY: Is that concept agreeable to the commission? It's fine with me. Solves my problems in terms of providing equity to those people.

COMMISSIONER ACKERMAN: Yes.

CHAIRPERSON CORY: So then, that is what we have a preference of doing, but we want to check with the three bidders, if there are representatives for the bidders.

MR. TAYLOR: Mr. Greenberg is here for the Island Company Conservancy group. Charles Greenberg.

CHAIRPERSON CORY: Mr. Greenberg, do you understand?

MR. GREENBERG: Yes, we do, Mr. Chairman. We have absolutely no objection to the change indicated.

CHAIRPERSON CORY: All right.

MR. RADCLIFFE: Jim Radcliffe, representing Island Navigation Company, and we likewise have no objection whatsoever to the change.


We have no objection, so long as we get an opportunity to talk on the other points.

MR. TAYLOR: That being the case, a motion to ratify the staff responses with the amendments which I have
just described to you would be in order.

CHAIRPERSON CORY: I have another question about the staff responses which was a question that was in the Ball, Hunt, Hart, Brown & Barerwitz letter, on page 4, with respect to the term "minimum annual rental."

Can the staff explain what this is about, and what the confusion was or was not about this item?

MS. MOCHON: I think the confusion on this item is whether or not the minimum annual rental is a biddable factor.

I believe that the record of the last commission meeting indicates fairly clearly that that was not to be a biddable factor, that in fact the only biddable factor with regard to rental was the percentage of gross annual income that would be made to the state. $125,000 was a fixed minimum annual rental and was not subject to discussion. The responses reflect that also.

CHAIRPERSON CORY: Are there any other questions about that?

MR. TAYLOR: I think the history of this is that the way the proposal was originally worded, was that it was going to be similar to a form of oil and gas proposals, which is that you have a fixed minimum and you bid the percentage. All that was ever changed on this was to take out the other end of it, which was the highest end, but there was never
any change to the fact that the 125,000 would be minimum, and that has been consistent throughout the record.

CHAIRPERSON CORY: Any other questions from commissioners?

COMMISSIONER MORGAN: The ratification that you're proposing is to clarify that this package is part of the bid process?

MR. TAYLOR: That is correct.

COMMISSIONER MORGAN: And that the commission understands what's in there with the clarifications that we made.

MR. TAYLOR: That's correct.

COMMISSIONER MORGAN: Then I think we should proceed to make it part of the ratifying.

CHAIRPERSON CORY: Without objection, then the staff -- we will ratify the staff documentation, with the exception of the cutoff time.

MR. TAYLOR: And we will work out the specific language of that afterwards for the minutes.

CHAIRPERSON CORY: All right.

Then the next item to deal with is the question of who --

MR. TAYLOR: The next question is whether or not you wish to consider the bid of the Island Navigation Company which arrived ten minutes late.
CHAIRPERSON CORY: It would seem to me that there was a question of timeliness of bids, and then there is a subsequent question of qualified bidders.

MR. TAYLOR: That's correct.

CHAIRPERSON CORY: Totality, so the discussion at this point is the question of time?

MR. TAYLOR: That is correct.

COMMISSIONER MORGAN: It's my feeling that the bid was timely, that the fact that they were ten minutes late did not have a material impact on the bid process. We should accept the bid for consideration.

CHAIRPERSON CORY: Is that okay with you?

COMMISSIONER ACKERMAN: I'll agree to that.

CHAIRPERSON CORY: So timeliness is not an issue, nothing was disclosed. There was no advantage to anybody, the bids were still sealed at the time it arrived.

The next question --

EXECUTIVE OFFICER NORTHROP: A technicality, one bid may not have been still sealed, but its contents had not been made public. They had physically opened the envelope and looked at the check, and that's as far as they had gotten when the representative from Island Navigation entered the room. So no disclosure had been made, nor had the pages been turned to look at that. But the seal had been broken on the envelope.
CHAIRPERSON CORY: What was the time lapse between
the breaking of the seal to the entering?

EXECUTIVE OFFICER NORTHROP: Probably the time
frame -- the whole thing we're talking about is ten minutes.

MR. TROUT: Mr. Chairman, I was opening the bids
that day. We announced at 4:03 that we would commence the
bid opening.

The first thing we did was read a letter to the
commission from the Rather Corporation, which will be
submitted for the record today, indicating that the
corporation did not wish to submit a bid at this time. We
read the essence of the letter.

Then I opened the Island Company bid and removed
the material that was in it, set that aside, made a note that
there was a check that was required by the bid package.

At about that moment the late bid package was
brought to the room. The time elapsed was approximately
seven minutes.

MR. TAYLOR: Mr. Chairman, there are two other
matters which should be brought to the commission's
attention.

One of them is a letter of the Rather Corporation
requesting that all bids be rejected and that this matter
go to an interim study of the year, and the interim renewal
of the existing lease, or in some way a continuation of the
Island Company's operation for a year's period.

There was also a second communication from the County of Los Angeles, which requests renewal—requests reconsideration of their proposal. You'll recall at the meeting, the first meeting on this subject in the city hall, that a representative of the County of Los Angeles indicated that the county was only interested in an operating agreement with the state, similar to that entered into between the county and the Department of Parks and Recreation. The county also stated that it intended then to go out to an operator or to have someone else operate it and to use the revenues for general county purposes, or purposes regarding its services at Catalina.

The county was asked at that time if they wished to be considered on any other basis than that, and they said no, and waived any other consideration with regard to that.

I think you'll recall that after we came back from a break for lunch that was put into the record. I don't know whether there's any representative here from the County of Los Angeles, but I think that before you proceed further, at least with regard to the county's request, that should be dealt with first, and it should be determined if you want to deal with the county on that basis.

If you do not want to proceed with it on that basis, they have a preferential right. You have the right
to specify the terms upon which the county, or any other
body, will accept the renewal lease to any other county
body.

You previously said you aren't interested in
going on the route that the county was suggesting.
Therefore, a rejection of that would then put you on a
basis to consider the bids again, and the county has
indicated it's not willing to be considered on that basis.

CHAIRPERSON CORY: Is there a representative from
the county here?

Yes, sir.

Is the county interested in having this project
based upon their request for bids?

MR. LELAND: Mr. Chairman, my name is Clancey
Loland, representing the Board of Supervisors for Los
Angeles County,

I'm not sure if there is another representative
here, but I am not aware of the situation at this time and
am unable to comment.

COMMISSIONER MORGAN: Mr. Chairman, what's the
basis for reconsideration of the request? Is there
information that was not provided, or is it simply that
they disagree with the decision of the commission?

EXECUTIVE OFFICER NORTHROP: Ms. Morgan, I have
a letter that we received by telexcopy this morning.
However, it's dated December the 24th, but we received it this morning.

It recites the history of the October 29th meeting, and then the October 30th meeting, rejection of the county's proposal, and on November 6th, our issuing of bids for solicitation packages for these submerged lands.

Then it goes on to say:

"Inasmuch as your commission in its Request for Proposal recognizes that the County currently performs a variety of recreational boating and life safety services at Santa Catalina Island and inasmuch as these activities are presently funded by County-wide general fund tax levy, it is appropriate that the revenue generated by the rental or lease of mooring facilities be used to support these services to boaters and visitors to the island. In short, the boating and recreational public should be funding the services received by them with the revenue they generate when renting or leasing mooring facilities.

"Faced with severe budgetary constraints, Los Angeles County may be unable to continue
providing such discretionary services at
Santa Catalina."

COMMISSIONER ACKERMAN: Police and fire, that's
now discretionary? Wonderful.

EXECUTIVE OFFICER NORTHROP:

"The 1980-81 cost for these nonmandatory
services totaled approximately $500,000. We
are closely reviewing current service levels,
and it is projected that a curtailment will
be required to operate within budgeted
resources. To avert the negative impact of
such a curtailment, alternative sources of
service will have to be sought or arrange-
ments will have to be negotiated wherein
revenue would be received by the County to
continue financing its services.

"Therefore, in that the County currently
provides recreational and essential life-
saving functions at Santa Catalina Island,
and to ensure their continuation for the
benefit of the boating and recreational
public, I strongly urge the commission:

"To reconsider the County's proposal
for a management agreement for the
administration of the public resources; or
"To finance County services with the revenue derived from the leasing of the mooring facilities.

"Very truly yours,

"Peter F. Schabarum, Chairman, Board of Supervisors."

It is unsigned on my copy.

CHAIRPERSON CORY: You just haven't been instructed by your mayor as to what their position is?

MR. LELAND: I have not.

COMMISSIONER MORGAN: He was afraid we would recognize he was from LA County, so he had to speak up.

CHAIRPERSON CORY: My concern is that appears to be — I'm prepared to assume that what the county is requesting and stating is that they are interested in something other than what we are interested in doing.

MR. LELAND: I would say that's correct. They're basically talking about the cost of services provided, fire boats, certain rescue services provided by the county offshore.

CHAIRPERSON CORY: I understand the problem. We're prepared to lease on this kind of a basis, and if the county wishes to be a bidder to this, I don't know whether they make money or lose money on this kind of proposal, but I do not want to preclude the county from
participating on this proposal, is sort of where my head's at. I don't know about the other commissioners.

COMMISSIONER ACKERMAN: If I remember, on October 30th, when you appeared before us, we rejected at that time the entertaining of a management contract, and instead said you were welcome to bid as any other party, and apparently you're choosing not to do so.

MR. LELAND: That's correct.

COMMISSIONER ACKERMAN: I think that's what is before us. You had the opportunity to bid as any other bidder on the project. And I think my position hasn't changed.

COMMISSIONER MORGAN: We will have to --

MR. TAYLOR: The county would be in a preferential position with regard to that, which I guess would mean that they could match a bid, but they would have to be considered on that basis.

You can define the ball game in which you'll consider proposals. The county will have a preferential right in whatever ball game you define.

CHAIRPERSON CORY: Does that extend in perpetuity for the term of the lease?

COMMISSIONER ACKERMAN: No, just now.

MR. TAYLOR: Just now.

CHAIRPERSON CORY: All right, thank you.
At this point, I take it there is no willingness
don the part of any commissioner to reconsider our previous
position. The record will so reflect.

MR. TAYLOR: Mr. Chairman, it should be noted
that the county has the ability to assess possessory
interest taxes on the leasehold interests of people leasing
state property, and apparently regularly does so. If it is
omitting the possibility of assessing possessory interest
taxes on the value of the buoys, that's the county's
problem. But there are sufficient areas for the county to
make up its costs with providing necessary services, in
addition to the boats.

CHAIRPERSON CORY: It seems to me that that's
more than the county's problem, since one member of this
board is a member of the Board of Equalization, I think
they're charged with their constitutional duty of assessing
that property. If they haven't, that's something for various
taxpayers and the like to deal with, but I don't think it's
a discretionary matter on the part of the county to tax or
not tax. I think the constitution says that it shall be
taxed.

MR. TAYLOR: That is correct, but in any event,
the point being made was, there is available to the county
a source of funds to take care of the costs which are
encountered around the island and the waterways.
CHAIRPERSON CORY: All right.

There's a question of whether or not we wish to entertain any discussions of any further modifications of the proposed lease, and whether or not we want to find all people who submitted documents, as to whether or not all are, in fact, qualified bidders.

MR. TAYLOR: That's correct. There really is nothing formally before you on the question of the six-year as opposed to 15-year, except that the staff and the commission has been contacted individually, mail, various ways, about the fact that they would like that question reconsidered.

There's also a question that has been requested to be reconsidered, and that is whether or not the person who, under the existing lease, owns the equipment on the sublease, would have the right to let his friends use that equipment free. Under our proposal, that would make an effect not only on the bids, but it would also have an effect upon the income to the state. So, that would be a very material change to the proposal that is before you.

However, you have unlimited options in front of you today, anything from turning down all the bids, to accepting one of them, to following the Rather Corporation's suggestions, or anything else.

So I guess if you want to consider that, you could
consider that, but that would present a far more serious problem than has been presented by the other matters that have been discussed.

CHAIRPERSON CORY: What would --

MR. TAYLOR: If a person who currently owns the equipment on the sublease has a right to phone up whoever is the Harbormaster and say, "I'm not going to be over there this weekend, but I'd like my friend, John Doe, to be allowed to use it free."

That has been the situation in the past, and under the proposal that went out, that is not the case. The person who owns the tackle, owned the tackle under the past lease, under the new lease would only have the right to use it when he or she wants to do so. But if they were not there on a weekend, then whoever was running the lease from the state would have the right to lease that to any member of the public on a first-come, first-serve basis at the normal rate for daily use.

COMMISSIONER ACKERMAN: Or other reservation, or whatever system we want to use?

MR. TAYLOR: Right.

CHAIRPERSON CORY: We, the commissioners, looking at the final product and the continual dialogue with the public, are there any other things that Greg has suggested, or any other concerns that you have with the proposed
contract that you'd like to address at this point in time?

COMMISSIONER ACKERMAN: No.

CHAIRPERSON CORY: Do you want to deal with -- you
mentioned the authorized use, is there any sympathy by
commissioners to alter the existing practice, or existing
bid package concerning authorized use, allowing the lessees
or owner to authorize his friends to use it?

Hearing none, there will be no changes in that
regard.

The other question is the length of time in which
the single transfer can occur. Is everybody happy with the
six-year limitation?

COMMISSIONER ACKERMAN: No.

COMMISSIONER MORGAN: You mean after all our
quibbling at the last meeting?

COMMISSIONER ACKERMAN: I still feel strongly
about that issue.

I would propose that we go to the entire length of
the lease for terms of transferability and use 15 years
transferability rather than six, which, in a way, kind of
makes it a moot point to some of the previous discussions
if this is happening.

MR. TAYLOR: I guess there would be two aspects
of your prior decision.

Your last decision was that a person who currently
owes the tackle on a sublease would have the right to sell it once in six years.

Now, are you proposing to continue that and say you can do it once in 15 years, or are you saying that they can -- that whoever that person is, can assign it to anybody as many times as they want? There were two levels to your decision in the past.

COMMISSIONER ACKERMAN: I would say once in 15 years.

COMMISSIONER MORGAN: Well, the other point is what happens at the end of six years?

MR. TAYLOR: Then they would just be a normal sublessee, and if they checked out for some reason, disposed of their boat, became deceased, or for some other reason, this sublease would go back and be reassigned on the basis of the waiting list for that particular cove.

COMMISSIONER MORGAN: What about the property?

CHAIRPERSON CORY: The tackle, as I understand it, would still, at the end of six years, be owned by the individual that could remove it from the premises, or they could sell it to the master lessee.

MR. TAYLOR: No, that just isn't covered, and if you read your previous debate on that subject, it was left that that was for them to work out with the new lessee at this time.
CHAIRPERSON CORY: The terms of the law would provide that the stuff is there, it is personal property, owned by the individual, and they could leave it, or they could not leave it.

MR. TAYLOR: As far as their rights under the existing lease is concerned, that is correct. Once the new lease comes into effect, all of the personality on the property, at the state's option, becomes the state's at the end of the 15 years.

Now, how it's handled in between that time is a question between the people who own the equipment right now and the next lessee of the state. And there is nothing in the package that addresses that question.

So the sublessee who owns the equipment right now has two options: one is to make some kind of an arrangement with the new lessee; or, two, if he's concerned that he's going to lose all title in this thing at the end of it because it will become part of the realty and go back to the state, he can pick it up and take it out within 90 days of January 1st. Those are his two options.

If he doesn't take it out by the 31st, it becomes the property of the state by operation of the lease, because that's the period of time in which a person has to take it out.

But under the new lease, that has changed. And it
is the property of the state, and it's the state's option whether it wishes to keep the equipment or require the lessees to take it out.

CHAIRPERSON CORY: Where is your head on six years? Dave wants to go to 15 years.

COMMISSIONER MORGAN: The reason we settled on six years was to stop our quibbling and get something moved along. It's really an arbitrary point in time.

CHAIRPERSON CORY: It is arbitrary.

COMMISSIONER MORGAN: Dave's right. I think there really is no difference from our point of view between six years and 15 years. Six years doesn't do anything more for asserting the state's rights vis-a-vis these trespassers than 15 years would, as far as I'm concerned.

I mean, it's up to you two if you want to go to 15 instead of six. That's fine with me.

My question was whether to allow this trespass to continue at all, and we decided to allow it.

COMMISSIONER ACKERMAN: Part of the discussion we had last time on the six years was, we previously discussed a situation similar to Avalon, to where it's allowed to be transferred and a fee is charged for that transfer. We did not discuss a fee last time because it was felt we give them the six years but no fee. It was kind of a quid pro quo on that.
I would think if you go for the 15 years, realistically, I think some consideration for transfer fee or charge is appropriate.

MR. TAYLOR: You are limiting it to only one, and so that is one you can consider.

You can also charge a fee, but if you limit it to only one, then if they sell it, say, in the tenth year to somebody else, there's sublease to somebody else on the tenth year, that person doesn't have -- may pay so that they don't have to stay on a waiting list and come up to the top of it.

COMMISSIONER ACKERMAN: Maybe a fee isn't appropriate.

MR. TAYLOR: But then, the person who acquires it is in the same status as any other sublessee, whether they ever owned the equipment or not under the new lease doesn't make any difference, and that person who acquires it would not have a right to sell it. When that person, or persons, or whatever group it was that came in and took over that sublease at the end of that time, and that person leaves, then the assignment of that sublease goes back to the first person on whatever list is applicable.

But you can do it any way you want if you want to put a transfer fee on it.

CHAIRPERSON CORY: You are comfortable that the
legal questions are clear as to ownership at the end of this
lease, that by allowing the transforability and the
possibility of confusion as to title, you do not believe
there will be any confusion of title beyond the commencement
of the lease?

MR. TAYLOR: In the new master lease, the lessee
is required to give notice to all of the lessees of their
status. We can work out however the lessee becomes, we can
work out the notices to each category of persons and what
happens in each situation. Those are to be distributed to
them at the beginning of this lease and upon each transfer
there is to be an acknowledgment signed that says they
acknowledge what the condition is. But this is a standard
provision. We're going to standard provisions currently
used by the commission in its leases, and that is that any
improvements on the property, at the commission's option,
become the commission's property.

CHAIRPERSON CORY: I just want to make sure that,
if we go to 15, whether there's any legal advantage to having
that period of time not be coterminus with the lease, so that
you do not have an additional lawsuit or cause of action at
the time you're up for renewal. You think that that issue
will be resolved, or that it will not be a very difficult
lawsuit for the state 15 years from now?

MR. TAYLOR: The title to the tackle on the
property at the present time is going to be settled on January the 1st. Their only rights to that equipment will continue for a 90-day period after that time.

CHAIRPERSON CORY: What about the March 1 change we made, will that cloud that?

MR. TAYLOR: No.

CHAIRPERSON CORY: I just want to make sure that we have thought about that.

MR. TAYLOR: There's going to be some drafting, going to have to think about it in terms of the drafting, but there won't be any problem to it.

COMMISSIONER ACKERMAN: What you're really saying is that 15 years from now, you don't want to have this issue before you?

CHAIRPERSON CORY: I'd like to get it behind us.

MR. TAYLOR: I think that you're getting out of the owned tackle situation. In essence what's being done here is, you're phasing out the owned tackle situation. They are given the right to sell it one more time. They have certain rental effects at the beginning, and then, by the end of this lease, it should be over. That may be looking for the millennium, but --

MR. TROUT: That's not true.

MR. TAYLOR: What do you think it is, Jim?

MR. TROUT: The commission left it last time --
we specifically asked, and at the end of the transfer period, did all tackle belong to the lessor? And at that time, Mr. Chairman, you indicated that that was something to be negotiated between the individuals and the new lessee. And that was -- would be left to the marketplace. So that we don't resolve the problem except under the general terms of the lease, where at the end of 15 years, everything on the premises belongs to the State Lands Commission.

COMMISSIONER ACKERMAN: Unless 15 years from now, we do the same thing -- not we, but the commission does the same thing it's considering now.

MR. TAYLOR: History has a funny way of repeating itself.

COMMISSIONER MORGAN: That distinction wasn't clear on the prior leases.

COMMISSIONER ACKERMAN: Now it is.

CHAIRPERSON CORY: I would like the record to reflect that it was our position that it was clear. Some other people may have some confusion, but on our side, we are sure that we own that property and we haven't given any of it away. Those people are tenants, and they cannot possibly own real estate or any interest in any real estate. They have an interest in personal property.

MR. TAYLOR: Mr. Northrop has suggested that perhaps the period in which there would be one more
assignment or transfer by the people who currently own the
tackle would be 13 or 14 years, so that before the 15th year
runs, everyone is on an equal footing.

COMMISSIONER ACKERMAN: Pick 14 years, or
something like that?

EXECUTIVE OFFICER NORTHROP: So we don't have the
problem of a concurring --

CHAIRPERSON CORY: If you don't have a problem
legally. I just raised that question, but I'm trying to
avoid going through the same stuff again.

MR. TAYLOR: I'm taking this in stages. I think
we still have to ask each of the three bidders if this
would in any way affect the bid which they have submitted.
This presents somewhat more of a significant question than
the other.

CHAIRPERSON CORY: Before we get to that question,
is there a possibility of dealing with any changes in this
issue in terms of a concept that, legislatively, I would
call severability.

If these changes have any deficiencies in them,
can we address ourselves to what portions of the contract
are annuities or not?

MR. TAYLOR: No, I think this might go to the whole
picture, and I don't think that would be severable.
What your option would be would be to reject all the bids.
CHAIRPERSON CORY: No, what I'm saying is that, if somebody -- if we make these changes, I don't want to give someone adverse to the state's interests two bites at the apple: a change in this and the ability to go to court to get it made a little better.

MR. TAYLOR: No, the appropriate remedy would be a remand. This would have to be an administrative mandamus proceeding. The appropriate redress if there was anything wrong would be to remand it to the commission with whatever instructions the Court felt were appropriate, with the commission then to reconsider it in light of the order. So, the court can improve their position.

It's our position that --

CHAIRPERSON CORY: I'm not talking about a bidder, now.

MR. TAYLOR: I understand.

I don't think those people have any rights whatsoever, and that's the position the commission has taken, and that's the position that we have asserted on behalf of the commission in court. These people are sublessees of sovereign land on a lease which is going to run out on the 31st. And after the 31st, if there is not renewal, they don't have any rights.

CHAIRPERSON CORY: All right.

What's the wish of the commissioners?
COMMISSIONER ACKERMAN: I would move amendment of the lease to reflect a 14-year transferability.

MR. TAYLOR: One time?

COMMISSIONER ACKERMAN: One time, 14 years.

CHAIRPERSON CORY: I have no objection, do you?

MR. TAYLOR: Now, before you vote on that, I think it would be appropriate, Mr. Chairman, to ask each of the bidders again if that makes any difference to the bids which they have submitted, and whether they would agree with the acceptance of such a change.

CHAIRPERSON CORY: Okay, can we hear from the three bidders.

MR. HERTZBERG: Harrison Hertzberg on behalf of Catalina Marine Services Corporation.

We have no objection.

MR. GREENBERG: Charles Greenberg on behalf of the Santa Catalina Island Company and Santa Catalina Island Conservancy.

No objection. It makes no change in our bid.

MR. RADCLIFFE: Jim Radcliffe on behalf of Island Navigation Company.

We have no objection.

CHAIRPERSON CORY: All right.

MR. TAYLOR: I take it that disposes of the question.
CHAIRPERSON CORY: Wait a minute. We have not
resolved it up here.

COMMISSIONER MORGAN: Substitute motion that no
transfers would take place, and starting January 1st there
were no private moorings.

CHAIRPERSON CORY: January 1st which year?

COMMISSIONER MORGAN: Beginning of the new lease,
January 1st, '82.

CHAIRPERSON CORY: I'm trying to fit that together
with what we had done on previous occasions, and what you're
trying to accomplish with that.

COMMISSIONER MORGAN: Well, I mean, we struggled
at the last meeting to try and resolve the difference
between the public's right to use this facility and the
rights of the people who I consider to be trespassers,
basically, but have been there for a long time. And it was
my feeling that, by allowing these people an opportunity to
have a lease, a guaranteed right of a lease if they wanted
to, that we extended ourselves sufficiently to take care of
their concerns.

And the other commissioners did not feel the same
way, so in the spirit of compromise, we said, "Okay, Morgan
is browbeaten, and we'll allow six years."

I mean, as far as I was concerned, two years, six
years, 15 years, it really doesn't matter. The issue was
I'm glad to see that the staff says to give a certain number of years. It's clear that the state owns the equipment. But it's a difficult issue, I can understand that, and I just felt that the situation had reached as far as it needed to reach to resolve the difference between private use and public facilities.

So, while Dave is proposing 15, I'm saying, let's first see if we really want to continue to reach farther than I felt we should have reached in the first place, and nobody seconded my motion.

CHAIRPERSON CORY: In terms of this one, I think the record is clear that these people who find themselves in a, quote, ownership, end quote, position, in my view, legally have nothing other than the ownership of some tackle.

Unfortunately, there are some of those people who do not understand their position. There is an equity argument on the other side that I am drawn towards.

Six years -- I feel uncomfortable making it coterminous with the other lease. Six years, 14 years doesn't make that much difference, and I think I'm willing to vote for the 14 as long as we get it resolved so that future commissioners don't have the same problem we have.

So, I'm prepared to go along with it.

I'm not denying your side of the argument, it's
just that when I meet with people who have paid out $30,000, giving them a maximum time to amortize that which I consider a foolish expenditure that they made provides more equity.

So, I'm willing to go along with the 14 years, understanding that it's an equity call, but I want to make sure the stuff, in terms of drafting and the notice, make it abundantly clear to everybody that we start shoring it up, that people cannot be told from implication that they own some part of the realty. Because there are, unfortunately, people who at this point think they own something, when in fact they don't.

COMMISSIONER MORGAN: I agree. Once we've crossed the hurdle of saying we'll extend for a period of time, you're correct, and 14 years --

CHAIRPERSON CORY: The record will clearly reflect that.

COMMISSIONER MORGAN: -- there's no reason to have six as opposed to 14.

CHAIRPERSON CORY: Now, the bidders do not disagree, so we have authorized that amendment, so the record is clear that the Morgan position is the pure position.

MS. MOCHON: We have one question, please.

There was some discussion about a transfer fee.
Have you resolved that?

CHAIRPERSON CORY: No fee.

COMMISSIONER ACKERMANN: One other legal question, not being an attorney, do we also need to consider the interests of any other interested party that did not bid on answering these questions concerning leases? We're kind of changing rules in midstream.

MR. TAYLOR: No, I don't think that anything has been material, particularly in light of the statements that have been made by the bidders. All of those people certainly had the right to keep themselves in the same position as bidders, and they failed to do so, and that'll be our position.

COMMISSIONER ACKERMANN: I'm satisfied with that. I just had to ask the question.

CHAIRPERSON CORY: The next question is whether or not the three people who submitted proposals are, in the minds of the commissioners, acceptable bidders.

COMMISSIONER MORGAN: What about the proposal to reject all the bids? Does that come later, the Rather Corporation letter?

CHAIRPERSON CORY: Procedurally we've got that question. We also have one card here which indicates that a Mr. Rutherford wishes to speak. I don't know if anyone else wishes to, and what the commissioners' tolerance is for much
further public testimony.

Mr. Rutherford, do you wish to testify?

MR. RUTHERFORD: I would like to have a moment of conference to decide that.

COMMISSIONER MORGAN: Since we are a public body, I think we should listen to anyone who wants to testify, but I do agree that we've had quite a bit of discussion, so if we're going to take testimony it should be on issues that are new or were not clear previously.

CHAIRPERSON CORY: Yes, sir.

MR. SAUNDERS: I would like a point of clarification.

CHAIRPERSON CORY: Would you identify yourself for the record, please.

MR. SAUNDERS: I would like a point of clarification on multiple ownership.

There are quite a few people who, through the years, own half of one mooring and, say, half of another mooring. And the reason is obvious, that they worked it out amongst themselves that they would have, you know, a mooring to use, so that if they have half of one and half of another, is that considered multiple ownership?

It's a real point. There are quite a few people that are involved.

COMMISSIONER ACKERMAN: What does ownership of a
MR. TAYLOR: The way that it stands now is that a person may only own one sublease. That's the way it has been written, and if there is multiple ownership of a sublease, it must be in equal shares.

Quite frankly, we've been amazed at everything we've heard at every meeting, and this is the newest wrinkle which I don't think we've considered.

If you want to say as long as a person's interest in any sublease doesn't exceed in the aggregate one, that's one way to go, I guess.

COMMISSIONER MORGAN: It's like having one mustache among two people.

MR. SAUNDERS: It's a real thing, because say you purchased a percentage of one mooring, and purchased a percentage in the other, now who is going to buy your percentage, or what can you do with your percentage?

If, as he suggested, if you make the aggregate no more than one, I'm sure that the intent of the commission is that one person doesn't own more than one mooring. But if you do anything else, it's not really the same.

CHAIRPERSON CORY: What advantage could there be to a nefarious mind of having a percentage of every mooring?

MR. TAYLOR: That could happen.

COMMISSIONER MORGAN: That's interesting.
CHAIRPERSON CORY: Would there be any down side from the state's viewpoint to that concept, because the proposed solution would permit that, and I don't know whether public policy --

MR. TAYLOR: The down side would be that for the foreseeable --

CHAIRPERSON CORY: If my nefarious mind cannot contemplate the advantage of that, maybe there is none.

MR. TAYLOR: Well, the problem is that, in essence, you may have a situation where the waiting list never came into play. So, you may want to consider limiting multiple ownerships and also the number of multiple ownerships you can be a party to. I don't know. I hadn't even thought about that problem today.

COMMISSIONER MORGAN: Let me ask you a question. Do you think that this type of ownership occurs because the person has two boats of different sizes and needs two different moorings, or it's because they want to have access to two locations?

MR. SAUNDERS: The way it occurred in most cases is that two people bought a mooring together, or three people bought a mooring together, and then found out that, well, three people want to use it every time. So, they bought another mooring together, or something, so that each could use their own mooring.
It's still less than one.

MR. TAYLOR: I think that if you run that out, then that could have an effect on the return. And I would have to say, in light of further examination of that, that I think that in order not to affect the bids which have been made, that you may only have one sublease under the lease, and that that would also include -- that that would be satisfied by any part ownership in a sublease. Otherwise, what's been described is a situation where you could get into a place where you would never be able to go out to the public for a first-come, first-serve person.

Here's a situation of most of the people who own their tackle on these existing subleases used only so many days. The assumption has been made that they use it only 20 days a year, leaving the remainder of the year for the state's prime lessee to lease it out on a first-come, first-serve basis.

The commission has now widened the scope of the assignability, so that if anyone wanted to go out and enter into a whole bunch of multiple ownership interests before the 31st, then it would be possible that all of the income that was counted on by the various bidders in three days off of buoys would be hurt. The income projections would be hurt.

Therefore, I think in light of the discussion, that
the answer, at least as it now is, would be that a person may only have one sublease or interest in a sublease. And if that question had been presented at the time of the hearings, so that we could have written it in, it might have been easier to include the situation. But otherwise, you're going to get into a situation where there's never going to be many subleases available for public use where the lessee would keep the money.

CHAIRPERSON CORY: The additional problem of transfer is what constitutes a transfer?

If you have a mooring, and a person or corporation transfers a partial interest, is that a transfer?

MR. TAYLOR: I would think that the answer to that would be yes, any transfer.

CHAIRPERSON CORY: But that means that if you have two people, somebody owns a mooring, they have an acrimonious divorce, the first one that can get their transfer in, the other one gets the shaft? I mean, there are bizarre problems to deal with here.

MR. TAYLOR: Well, I'm not sure that that would count as a transfer. I'm not sure for tax purposes bases to slide over. I don't know.

CHAIRPERSON CORY: Well, not necessarily a divorce itself, but if you've got two people splitting the mooring, each of them now owns 50 percent. And they look at this new...
contract, and there is then competition amongst the owners, that there is a single transfer available, and therefore the first one to find a customer gets a freebie and the others get the green weenie. I mean, that's hardly equitable, but if you don't do that, the multiplicity of transfers starts obviating the waiting list.

MR. TAYLOR: I think that to be consistent with your ruling, we have to say that any transfer. So, you're going to have to exercise real care when that thing occurs, and that's one of the numbers of items that, in the case of separation, would have to be carefully debated by somebody.

CHAIRPERSON CORY: Forget about divorce. Take two people who have never been married, and each own 50 percent of a mooring. They have diverse interests. One decides to sell, one goes bankrupt and the creditors take the mooring.

COMMISSIONER ACKERMAN: On Ken's point, if we were silent to that, isn't that up to a personal agreement between two joint owners to work out themselves as part of their original purchase agreement, or joint agreement, or joint purchase or something, and really something that we don't have to be concerned about?

MR. TAYLOR: I think it will probably have to be addressed, but I don't think we're prepared to address it
today.

COMMISSIONER ACKERMAN: "If I go into partnership with somebody to buy something, I'm pretty careful in terms of the financial arrangements going in, and I think it's my responsibility to exercise that caution."

MR. TAYLOR: "Jane has pointed out an answer on page 2 of the response to W. V. Davidson."

MS. MOCHON: "It's part of Exhibit A."

MR. TAYLOR: "It says:

"Each of the multiple parties appearing upon an individual mooring site sublease as of January 1, 1982, under the Bid Lease will have the right to transfer his or her proportionate interest in the sublease once on or before..."

And now it would be the 14th year.

"No further assignments of that proportionate interest will be allowed."

So, that's covered.

COMMISSIONER ACKERMAN: "For each party, right?"

MR. TAYLOR: "I guess the answer to the gentleman's question in the audience, in light of how the bid proposals went out, is that an individual mooring site means one or a fraction. If you have a fraction, you've had your bite at the apple. I'm sorry, but that's --"
CHAIRPERSON CORY: You can transfer your fraction, and each other fraction holder can transfer their fraction once?

MR. TAYLOR: But there's an additional problem, and that is that under the thing the way it's out right now, a person may only have one sublease, and that would have to be that one would count as any fractional part of one.

CHAIRPERSON CORY: I can live with the concept that the aggregate total cannot exceed one. I don't know about the other commissioners. Do you have a problem with that?

EXECUTIVE OFFICER NORTHROP: My problem with that, Mr. Chairman, is, the gentleman who spoke has as much as a 50 percent interest. He then could go and find 49 other people with 50 percent interest, and each one of them would have 50 percent interest in 50 moorings. And that still wouldn't exceed one in the aggregate, but they would have a piece of 50 moorings. That's the problem, and that's the question.

CHAIRPERSON CORY: It would foul up the priority on the waiting list unless we put a limit on how small the units could be.

MR. SAUNDERS: Yes, we could handle that very realistically. Just grandfather the present owners that they couldn't go out and do it as you're grandfathering something.
else.

It's not the intent, I'm sure, of the question — or I'm sure it's not the intent of the mooring owners that do own a fraction. All of these situations have occurred over the years. And, you know, we're sort of locked in. We can't do anything about it.

And, you know, it's three owners. So who's going to end up with what, and one person only owns one-third of another? It's just impossible to equitably solve the situation among, you know, the mooring owners.

And if you just grandfathered it, I think it would take care of itself.

COMMISSIONER MORGAN: I think one thing is clear, that we'll never have a solution to all the combinations that might possibly exist on the moorings.

I mean, from my point of view, having an interest in more than one location means the same thing as having an interest in two or three, having two places to go, and not making it available to somebody else to use.

What do you guys want to do?

CHAIRPERSON CORY: I don't see how we can address that problem.

MR. TAYLOR: Well, I think that if it's not further addressed today, the answer would have to be that any individual site can only be occupied by one mooring site
sublease. And anyone could only hold one, even if it's less than a fraction.

CHAIRPERSON CORY: It seems to me that having until March 1 gives sufficient flexibility that people should be able to accommodate to some degree their difficulties. If I were in that position, knowing that I had a free haven of transfer between now and then, I think I could figure out a way not to be adversely affected.

MR. SAUNDERS: It's possible if you own one-third of one mooring, and that's the only mooring that you own a third of, and you try -- the other people are multiple owners, as you call them, but only own a half of one and a third of another, okay? Now, they own a half of one and a third of another --

CHAIRPERSON CORY: That is their problem, not your problem if you own one-third.

MR. SAUNDERS: What are you going to do? How are you going to be Solomon and split that up?

EXECUTIVE OFFICER NORTHROP: Mr. Cory, I think we've got to keep in mind the fact that all leases are up at the end of December, every lease is up, and that may be something we should think about.

CHAIRPERSON CORY: Come January it's all a new ball game anyway.

Yes, sir, Mr. Rutherford.
MR. RUTHERFORD: Yes, Charles Rutherford is the
name.

I put myself down as speaking for the Mooring
Owners Defense Fund, a group which you perhaps know as the
 crackers who filed the lawsuit which was thrown out as being
premature because no damage had been done since you hadn't
issued the contract.

But you're going to issue a contract, and then it
won't be premature. However, we don't like -- I mean,
there's better ways of doing things than lawsuits.

CHAIRPERSON CORY: I take it you're not a lawyer.

MR. RUTHERFORD: No, I am not a lawyer. If I was
a lawyer, I'd be speaking much more fluently, and I feel
myself at a slight disadvantage with the phalanx of lawyers
that I seem to be facing.

And considering the cost of lawyers, that's
why ours isn't here. Besides that, he'd be sitting in the
fog anyway.

CHAIRMAN CORY: They usually are regardless.

(Laughter.)

MR. RUTHERFORD: Well, I think that -- well, let's
put it this way: You've got a platoon of very mad mooring
owners and boat users and boaters. And in all of these
hearings up to now, the question has been are we going to
negotiate a lease, are we going to have it with the previous
bidder, you know, there's a lot of testimony down there at Long Beach. And nowhere did the rights of the users and the mooring owners get entered into the record.

Now, you look, we have an attorney who feels differently. But as I say, I don't want -- our attorney reviewed with the attorneys for Pioneer and Island Navigation some proposed changes. You've approached some of them. We couldn't get any commitment from the Island Company's attorney, but these changes have been common practice. I would say they've been acquiesced in by the last 15 years' action by the part of the Island Company.

I have here a document, and I would like to enter it into the record if that's the correct procedure, a copy of it later.

CHAIRPERSON CORY: All right.

MR. RUTHERFORD: You have approached the question of multiple moorings, and you have moved that until, I believe it was March 31, was it not?

COMMISSIONER ACKERMANN: March 1st.

MR. RUTHERFORD: Well, Mr. Cory was, I believe, quite correct in stating that the next few days is not a reasonable time to conduct business negotiations. There are other activities going on. We would agree with the two attorneys that December 31st, 1982, would be a more equitable time. Well, it's negotiable.
It's a very complicated document here.

Paragraph (b)(e), now in the amendments, you put in the October 31st claim, and I believe you've eliminated that. That parties holding existing individual mooring site subleases be given a preferential right to renew those subleases under any new lease terms. In other words, on paragraph (e) on page 17 of your solicitation for bids, you're going to remove the October 1st limitation, I believe.

We suggest a modification of paragraph 2. See, presently paragraph 2 says that he'll have no further right to assign the sublease, and we suggest that the paragraph 2 be rewritten to say that the new assignee has been informed in writing of the limitations on assignments as set forth in this subdivision.

Now paragraph 4 -- where is that thing -- that's on page 19 --

COMMISSIONER MORGAN: I don't mean to interrupt so that you lose your place, but is it possible for you to tell us the essence of your disagreement with the package?

MR. RUTHERFORD: Well, that's the essence of it. It's a number of small points.

COMMISSIONER MORGAN: Have you discussed those with staff or has your attorney approached the staff?

MR. RUTHERFORD: My attorney, I believe, has
reviewed them with staff.

MR. TAYLOR: It was my understanding that the
primary concern of the people who filed the lawsuit was
on the question of extending the six-year period. Well, I
guess, you know, this just never ends in terms of if you
satisfy one, then something else seems to occur.

But there was an offer to dismiss the lawsuit
if the commission would have extended the period of time to
15 years. At that time, we told him that we couldn't do
that because bids had not been received or opened, that that
could constitute a material change, and therefore we would
not agree to have that discretion.

It was argued in court that the other part of
that whole question of any interest of these parties, other
than as the state's lessee, was also addressed, and in
their pleadings they admit that the state owns the
property and that they are sublessees.

I think that the commission, if it had not been
for the concerns of the existing sublessees, this matter
would have been over in about three hours' time. This
commission has been extremely patient and has addressed
most of the concerns that have been raised by the
sublessees, but I think that there is a basic misunderstanding
as to the relationship between the sublessees and the state
over whose property it is.
I guess those things will exist. I thought that the commission had gone 99 percent of the way with the attorney who was handling this case. If there are additional matters, I think that the commission, as far as what I understand what Mr. Rutherford is saying, is a repeat of what was said and discussed before and the commission has acted on it. Maybe there is something we have overlooked, but I thought that those were the initial items we took up this morning. That was everything that I could gather from anyone who was making any statements to anyone who would listen.

COMMISSIONER MORGAN: What I'm trying to find out is is there something that we haven't discussed or acted on this morning or in prior hearings that we could act on today that would resolve any concerns you have?

MR. RUTHERFORD: There are some very technical problems here, but I think that, if I was to hand this in, that might -- just make the matter of record.

As I say, I'm up against a platoon of lawyers here, and I don't want --

COMMISSIONER MORGAN: Do you think these technical problems that he has raised are drafting problems or material problems?

MR. RUTHERFORD: I think that's what you might call them.
I would at this point —

MR. TAYLOR: Were there any additional ones other than the ones that were already addressed this morning?

It's my understanding that the statements I made this morning were the concerns that were being made by your attorney and by others in your group.

Are there any other things which you feel that the commission should consider?

MR. RUTHERFORD: I guess that these points are not for the commission but rather the little technicalities of how you determine whose boat is on the mooring, and things like that, whether the boat is a chartered boat, whether —

COMMISSIONER MORGAN: A question of management and operation of the lease?

MR. RUTHERFORD: Yes, you might call it that. But I just felt that I should make the statement saying that the mooring owners have an interest in this.

CHAIRPERSON CORY: You've identified yourself as representing the Santa Catalina Mooring Defense Fund. Could you identify for me who the members of that are?

MR. RUTHERFORD: No, I cannot identify for you who the members of that are because the members -- it's a very loose organization composed primarily of people who
put up some money to hire the lawyer, and as the money
keeps flowing in, I suppose you could say more people are
joining it.

But we'd rather stop the procedure, frankly.

I don't want to go to court.

COMMISSIONER MORGAN: Can you give us an idea of
how many people you represent in this group?

MR. RUTHERFORD: No, I can't. I can say I
represent myself.

COMMISSIONER MORGAN: Is it anyone besides
yourself?

MR. RUTHERFORD: Oh, yes. Yes, we have got --
I couldn't afford a lawyer. The prices they're asking.
But, yes, there are a number of people.

COMMISSIONER MORGAN: I wanted to make one other
point.

I disagree with the statement you made,
Mr. Rutherford, about the rights of the mooring owners have
not been represented or heard or listened to.

Actually you said they were not in the record
when, in fact, at our prior hearing, we made it very clear
that we considered all the testimony that had been taken in
Long Beach, and all the testimony taken at our prior hearing
to be part of the record that went towards the decisions
that were made. And I want you to know that most of us
read the entire transcript from the Long Beach hearing and participated, including staff and the commission members both, participated in the hearing to the point where we do feel that these concerns are in the record, and I just wanted to clarify that.

   MR. TAYLOR: Your comments are directed towards their concerns, because I think it's the position of the commission that they have no rights other than their discussion as to their past conduct, but they have no rights other than their existing rights as a sublessee, which expires on December the 31st.

   CHAIRPERSON CORY: If I can clarify, I presume that you meant the subsessee are the tackle owners?

   MR. TAYLOR: Or all subsessee.

   CHAIRPERSON CORY: I'm talking about Susanne's terminology, mooring owners, because I think that terminology starts to give rise to greater than the facts will dictate.

   COMMISSIONER MORGAN: I was merely objecting to the point, the implication that consideration was not given to people who are boat owners to present their case.

   CHAIRPERSON CORY: We'll take a five-minute break. (Thereupon a brief recess was taken.)

   CHAIRPERSON CORY: I call the meeting to order. I think the question that was before us before the
break was making sure that we had resolved the various options in terms of some of these final issues that have been raised vis-a-vis tackle owners.

It is my belief that the amendments that were made as to the time should provide sufficient flexibility on the part of the individuals to accommodate their fact situations to the bid package before they are locked into the program. There is some time the people can do what they have to do to maximize their position, and that we realize that we cannot deal with every eventuality, and to attempt to do so at this time, I would prefer to remain silent on that issue and not address it lest we make matters worse by not contemplating all the other problems. So, that's where I am.

If the other commissioners agree, we will proceed.

MR. TAYLOR: Then the situation is, a person can only have a fractional interest up to a whole interest in one sublease, and that would be it at the present time.

The commissioners nodded in the affirmative.

CHAIRPERSON CORY: The next question is the question of whether or not the commission wishes to come to the conclusion that all three bidders are, in fact -- whether any or all of the bidders are adequate and proper bidders. I think that is the question in terms of their capabilities, their ability to perform the lease under the terms of the
proposed lease.

COMMISSIONER ACKERMAN: Maybe we should ask the staff's opinion.

Did all bidders satisfy the requirements as set forth in the bid package?

MR. TAYLOR: The answer to that question is no, and on page 7 of the Calendar item the staff statement is that Island Navigation Company proposes a lesser increase -- I'm sorry, that's not where it is.

EXECUTIVE OFFICER NORTHROP: It starts on the bottom of page 3.

MR. TAYLOR: On page 4.

EXECUTIVE OFFICER NORTHROP: Page 4 of the Calendar item, Mr. Chairman, starting at really the bottom of page 3 under the title "Financial Qualifications of Bidders."

MR. TAYLOR: Mr. Chairman, the conclusion of the staff is stated in the last sentence on page 4, just before paragraph 3, just before the number 3, "Bid Criteria", the sentence prior to that:

"Staff, based upon the information submitted to it, is not satisfied that Island Navigation Company could meet the financial obligations of the Bid Lease without extreme difficulty."
COMMISSIONER ACKERMAN: Could the staff elaborate on that finding?

CHAIRPERSON CORY: There is a problem, I think, in terms of the fact that there was financial data that was submitted under the protection of confidentiality; is that correct?

MS. MOCHON: Yes, that's correct.

CHAIRPERSON CORY: So at this point in the meeting, how much of that can be discussed how openly is something that, you know, counsel at the table ought to advise the staff before they proceed with that as to what they can and can't say.

MR. TAYLOR: I think we ought to make it clear at the beginning that we're not -- that it's based upon the information submitted, and it's only a judgment with regard to this lease. It doesn't reflect on the bidder any other way. And I think that the problems that staff had with that is a deficiency of information submitted to establish the ability to come up with the necessary capital to get the lease under way on the operating day. And the statement that it's available is not the same thing as a guarantee attached, a guarantee attached to a bid proposal saying that we stand behind it to the extent of X dollars. The capitalization required to accomplish this lease is computable from the information supplied.
COMMISSIONER MORGAN: So is it staff's opinion that the insufficiency of data disqualifies this bidder from consideration?

EXECUTIVE OFFICER NORTHROP: That's what we're saying.

MC. MOCHON: Yes, I think that's true, based on the information we've gotten, we did not have enough information to be assured that they have these capital resources.

COMMISSIONER ACKERMAN: Maybe that's a consideration for us to make in actually considering who the bid is awarded to, and consider that as part of our receipt of their bid, not make that judgment or considering it as part of the complications.

I would like to not disqualify them based on that one element.

COMMISSIONER MORGAN: Well, apparently they were not disqualified based on that element, because staff proceeded to evaluate the three bids that were received.

COMMISSIONER ACKERMAN: I think their evaluation should be considered.

CHAIRPERSON GARY: I have a slightly different viewpoint, just in keeping with the difficulty that I have in terms of the percentage, and the percentage that the state might receive if they can't, in fact, perform, then I
have trouble dealing with the data and the estimates of the staff if they aren't going to be there and can't provide the services, so that in fact nobody will be there. I've got some difficulty.

That's, I guess, another question, we can leave it there. I just want the record to show that I have some qualms given their hesitancy.

Do you feel that the other two bidders can meet?

MS. MOCHON: I think the staff has evaluated them in order of the -- I think the staff feels the Island Company and Conservancy has the strongest -- I believe that the staff has evaluated these in order that they feel they are most or least qualified.

CHAIRPERSON CORY: That's not the question I asked you.

Does the staff believe that the other two bidders can perform, yes or no? I just need to know if --

COMMISSIONER ACKERMAN: There was a question asked earlier, in order to agree receiving bids, should one of the bidders be rejected because of financial considerations and not be considered. And the question I believe was:

Of the three bidders that had submitted bids, should the commission receive and consider all three bids, or should any one of those be rejected on these grounds?

EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
Mr. Ackerman, Mr. Harry Schreiman, chief of our Administrative Services staff, his department went over the bids in some detail. I think we can well direct that question to Mr. Schreiman as the man in charge.

CHAIRPERSON CORY: I don't care who answers, as long as somebody gives me an answer.

COMMISSIONER ACKERMAN: Staff is recommending that based upon financial information submitted, one of the bids should not be considered by the commission today. Is that the recommendation of the staff? That the bid of the Navigation Company not be considered?

MS. MOCHON: I think that the recommendation of the staff is that you consider them the least qualified through a financial soundness point of view. I think it's up to the commission whether they determine them to be qualified or not.

MR. TAYLOR: Again, that is based upon the data they supplied, the statement that they could do some things, but no substantiation.

COMMISSIONER ACKERMAN: I feel if we considered their bid, Mr. Cory's concerns could be addressed that way rather than rejecting their ability to lay their proposal on the table at the outset.

COMMISSIONER MORGAN: Well, except that is part of the package, we asked for a demonstration of financial
ability to perform the work that was requested. And staff
is saying that they have some reservations and some
questions about one of the bidder's ability to perform the
work based on the financial information which they have
reviewed.

I mean, from my point of view, that throws into
question the entire bid.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, on
behalf of the staff, I think the answer to the question
first is no, the staff had serious questions as to whether
Island Navigation could perform.

The second question is, yes, we believe the other
two bidders are financially able to handle it. And we have,
of course, some degree of variation, and that's reflected
in one, two, three.

CHAIRPERSON CORY: Harry, is there any specific
detail that you believe we should have? I'm trying to find
out from my viewpoint what shades of gray we're dealing with
here, or whether we've got some over in the area of black
and white.

MR. SCHREIMAN: No, the auditing staff has
reviewed this, and it is our opinion that the Island
Company will have extreme difficulty in handling this based
on their financial statement.

MR. TAYLOR: Island Navigation Company.
CHAIRPERSON CORY: Okay, and you believe the other two, looking at the information you have, can in fact perform?

MR. SCHREIMAN: I do.

CHAIRPERSON CORY: Procedurally, then, it's the wish of the commission to consider all, with the data, and the qualifications, and the information that the staff has put out.

The next question, at some point in the break somebody had indicated, I believe, that they wanted to know how procedurally they went about saying something to the commission. Ms. Morgan has indicated that somebody needed to say something, and we were a public body and we should accommodate them.

Keeping in mind that the mind cannot cure what the seat cannot endure, are there any of you that need to say something?

Would you please identify yourself.

MR. HERTZBERG: Harrison Hertzberg.

I wish to speak on behalf of the Catalina Marine Services Corporation. I want to reserve that right at a time when I get to the issue I wish to speak about, instead of going over a number of issues. I want to talk about our bid as far as the minimum annual rental is concerned, the fact that we've guaranteed the state over $1,361,000 more.
than the next bidder, when you get to that point.

CHAIRPERSON CORY: I think you had better take this time to cover what you wish to cover, make sure we know it, because if other people have things that are lurking in the sides of their minds, I'm not sure that after we take the final input, that there's going to be every point of that contract discussed.

COMMISSIONER ACKERMAN: That's one question. Has the commission now agreed, then, to consider and receive three bids?

CHAIRPERSON CORY: That's my view. There are three here that are going to be considered, and the personal evaluation of each commissioner based upon what the staff has told us about the three. That's my understanding.

COMMISSIONER ACKERMAN: We now have three bids before us. We've made that decision.

MR. HERTZBERG: May we approach the commissioners to pass out a comparison we prepared, which I would like to speak about.

COMMISSIONER MORGAN: Has this been provided to the staff?

MR. HERTZBERG: No, we'll give them to the staff now. I guess they can follow.

MR. TAYLOR: Mr. Chairman, in looking at some of the material here, one of the problems with the bid proposal
was that it went beyond items that were called for. And in considering or evaluating it, not all of these were considered germane or responsive. And to the extent that Pioneer was not responsive, that was not considered.

And I think that was the point in answering your questions. Despite the fact that we answered the questions in that manner, Pioneer did submit some additional material, and that material was not considered by the staff in its evaluation, since it was not responsive to the bid proposal.

I don't know just how you handle that with some of these items.

MR. HERTZBERG: May I answer that, Mr. Chairman?

CHAIRPERSON CORY: It's your time. Go ahead.

MR. HERTZBERG: Thank you, Mr. Chairman.

Suffice it to say we didn't agree with the staff.

And suffice it to say we had a different interpretation, different opinion than the staff.

And I will state very emphatically what that difference is, but first I passed out some comparisons of the financial aspects of the bids between Catalina Marine Services Corporation and the Catalina Island Company.

We have both bid 20 percent. Now, on items 12 to 15, on our Category 2, which is on page 4 of our bid package, our bid lease, the staff report has said we didn't
go up to 17 percent, so therefore they either wanted to consider us being ruled out, or as reducing our percentage. Well first of all, we state in our package we're not going to charge for water. We're not going to charge for pickup. Therefore, there would be no percentage. If I'm going to be true to you and say I'm not going to charge for it, I can't give you a percentage on it.

CHAIRPERSON CORY: Actually, you could give us 100 percent, but go ahead.

MR. HERTZBERG: You've got it.

Now, I posed a question on the 30th when I was here, and I posed that question to the staff in my letter, and that was this, I said: You got a unique situation here, ladies and gentlemen. You've got a situation where, if we win the bid, we are in competition with the Island Company because they own the land. But, if they win the bid, they're a monopoly.

Now, they asked us for a percentage on towing. I've got two items here, 12 and 15, Coastal Shuttle, Coastal Cruises and Towing.

I took those out because I considered that those two items were so far unrelated to the demise of these premises, because they're conducted away from the premises about 90 percent. But primarily I took them out for this reason: If we win the bid, and we would have said 20
percent, and they own the land, they're in competition with us and not giving the state a dime. They can conduct the same activity, towing boats. They've got the boats to do it. They've got the shuttle service. They've got the shore boats. They've got everything.

So look at the position that this locks us into when we make such bid. That's why it is this way.

But we went ahead and we offered the state, in Category 2 -- and I disagree with the staff. I think it's related to the lease premises -- we offered you percentages on bait, tackle, swimwear, sporting goods, you name it, it's all here, restaurants. They got a restaurant; they don't have to pay a dime. We're going to give you five percent on food and six percent on beverages, when we build it, and we hope to if we get the bid, to do it within a reasonable period of time.

So, you know, the bid itself is comparing apples to oranges. Let's take minimum annual rental.

The staff says that you can't guarantee the state more than $125,000 a year.

Now, I put a postscript or footnote on my letter of transmittal. Gentlemen, I've been a lawyer for a long time, and I just can't understand, unless I see some reason why I can't give the state a guarantee of $150,000 a year, plus five percent increase every year, which is $1,363,000
more that you are then going to take to the bank if you give us the lease. You know you're going to take that to the bank. You don't know what you're going to take to the bank if you don't give us the lease and give it to our competitor. We guarantee you $3,238,000 against 1,000,875.

Now, another divergence between us and the Island Company, Commissioners, there are 300,000 boats between the Channel Islands and San Diego. Marina Del Rey has got six to seven thousand pleasure boats. There's four to five thousand between San Pedro and Long Beach. You've got Huntington Harbor, Balboa, Newport, and all the way down there. And you're going to lease 729 moorings.

And we did this: We said that if a person has a lease, they're still going to have to pay when they go out there and stay for the weekend, because we figure that the value of that lease is the right to use it before anybody else. There's such a demand for these moorings. And that's a valuable asset.

And let's look at the big picture. What are we really talking about here. I've got a boat. And I'd say it's worth about $185,000. I go to Catalina. I must spend $200 to $250 on fuel; I probably spend another $100 on food, and 50 bucks on whisky.

Do you think it makes any difference to me to
spend $18 to know I'm going to sleep that night and not have to throw my hook out and my boat's going to drift on the beach? Doesn't mean a thing.

The important thing here is the servicing of the public. And if you're going to contain and continue this monopoly of certain people, and only those people using those moorings, you've precluded the one service you owe to the public.

We intend -- first of all, we have projected our income for 1982 at about a million eight. That's opposed to 800,000 of our competitor. Why? We're going to see to it those moorings are used year round, weather permitting. We're going to promote it. We're not going to sit back like has been done for 30 years and let the yacht clubs and the same people have the pleasure and beauty of Catalina, and they're hopeful they'll catch some good gill fish, like I'm hopeful and trying to do every weekend. We're going to promote it, and we're going to make it available to so many more people.

That's why we're going to charge them. But we're only going to charge 50 percent if a man owns it, and 100 percent if he doesn't own it. But yet, we're still cheaper than the Island Company.

I'd like to go through the figures. Where there's an annual mooring lease, and that's where they build leases,
the cement and the chain, he pays us a minimum of $490, and he pays them $520.

If it's a mooring contract, wherein he owns it, just leases the land, he pays us $10.70 per deck line foot to take care of his mooring, plus $1.60 per deck line foot. That's 406 plus 49, which is about the same as our competitor charges.

Now as to daily rates, which as I just said are applicable to a so-called permanent lessor, you can see that we're going to charge them $8 daily. That's seven days a week. There's no difference between Saturdays and Sundays. That's to try to encourage the small guy to come out there, 10 to 30 feet, and they're a little bit higher then. It's $9 and 11 on Saturdays.

The schedule is readily apparent, and you can see the difference in what we've done. Here's what we have done. We have made it cheaper for the smaller guy, increased it a little bit more for the larger guy.

And I figure, gentlemen, if I got a boat that's over 71 feet in length, I can pay $2 more to moor on Saturday than the competition's going to charge. That boat over 70 feet has got to be worth three-quarters of a million dollars if it's anywhere near new.

So really the issue is not, gentlemen, the issue is really not the dollars you're charging. The issue is to
make this place available to a greater segment of the public. And that's what we intend to create, and we're going to do it. I believe that we have a team that's got the proper vision, the proper ingenuity to make Catalina come alive. There's no question that we got the proper chairman of the board, president of our organization, who can see to it that that place is properly secured.

Mr. Pitchess, whom I notice just came in, has authorized me to state to you that he intends to spend full time if the bid is awarded to Catalina Marine Services.

At the proper time it is awarded to us, we intend to, as we have told you in our statement of qualifications, to expend up to a million dollars, if it costs us that, to build in that harbor a marina, floating barge, which can be towed out to sea in rough weather if it's necessary, which would have on it the restaurants, which would have on it the stores that are necessary, where you can pull up with your boat, buy what you want, and you won't have to pay a cent.

Today, you've got to pay $3 per person to go on shore in Catalina to get rid of your garbage. We'll have a barge for that garbage. We'll have one for water. We're not going to charge. And that can go into the lease that we won't charge.
Continuing on down, our projected revenue, if you take our projected revenue for 1982, we will produce for the State of California $197,214 more than the Island Company in the first year of operation, based upon our projections.

And I'll say one thing: It may be true that Wigley has more money than we got today. But don't forget, he only paid $19,000 to the state for the last 15 years, so maybe he's got it because the state doesn't have it.

As far as the garbage is concerned, as I heretofore stated, that's on the last page of our comparison sheet, that will be free. And access to all of our restaurants and stores and snack bars, bait, diving equipment, that will all be free.

I believe that our organization is sufficiently creative and aggressive to make and give access to a great, great extent to the people that have never had the opportunity to see Catalina.

As far as the interim takeover is concerned, I'm prepared to answer any questions. We will be ready. If awarded this bid, we will be ready on January 1st. We have made arrangements with the Edison Company for water, Edison Company for power, telephone company. We've made arrangements for the garbage and solid waste disposal, made arrangements for offices, and made arrangements for
shore boats and made arrangements for patrol boats.

All of these will be ready to go if we are awarded the bid.

MS. MOCHON: Mr. Chairman, may staff explain briefly what we based our evaluation on?

CHAIRPERSON CORY: When he gets done. Let everybody say what they want to say.

MS. MOCHON: I'm sorry, I thought he was finished.

MR. HERTZBERG: I'd like to point out a few things in the staff report which I do not agree with.

Number one, on the last page of their Exhibit A, on the fourth paragraph on the top, actually the last page of the exhibits, they say that we charge $17.60 per deck line foot. It's $16 per deck line foot when you lease.

CHAIRPERSON CORY: Is this the page?

MR. HERTZBERG: The page right before the end, right before Exhibit B, Mr. Commissioner. It says:

"For example, the owner of a 35' boat who leases the mooring equipment would pay an annual fee of..."

They got 17.60, and it's $16.

Drop down two paragraphs:

"In other words, the owner of a 35' boat who owns the mooring equipment will pay an annual fee of $17.60 per deck line foot."
It's not seventeen sixty. Our bid package says twelve thirty.

Now, I did make some comparisons with what we charge and what the Island Company charges on two sizes of boats. I took a 46-foot, because that happens to be the size of my own boat, and I took a 37-foot because that happened to be the size of a very popular number of boats.

On the annual mooring lease, a 46-foot boat, we would charge $736 for a lease. The Island Company will charge $798.10. They're $26 higher than us, or 85 percent.

On a mooring contract, which includes the maintenance of your mooring if you own it, and the price of the sand it sits on, if you sublease the ground, we charge on a 46-foot, $565.80, and they charge $713. Their charge is 26 percent higher.

In summary --

CHAIRPERSON CORY: Those charges you're giving include all charges to the consumer?

MR. HERTZBERG: Yes, the difference being --

I'll tell you what it is very fairly. The difference is the Island Company, if someone leases it, if they have a lease for it and they want to come out and use it, their bid package does not charge them; we do. We charge them the same as we charge anybody else.

We consider that valued right to use it before
anybody else worth what they pay. It would cost me seven to eight hundred dollars, and it's really worth it. But if you own it, we figure you've got a pretty solid investment in it, so we only charge you 50 percent to use it.

That's why I said, gentlemen, how bad can it be? You're spending hundreds of dollars to go over there for fuel, et cetera, et cetera, and 12 or 13 or 14 dollars a night really doesn't make that much difference.

It makes a lot of difference to the state, and it makes a lot of difference to the people that will use it. It will open it up to so many more people, and that's our purpose, is to make it available to so many more people.

Gentlemen, I submit that I don't see how the state can refute the fact that we're telling you we're going to give you $1,361,000 more to take to the bank over 15 years, and yet they say we won't consider it.

I'll answer any questions at the proper time if you have any.

COMMISSIONER MORGAN: Yes, on page 2 of your summary sheet, where it says "Projected Revenue".

MR. HERTZBERG: Yes, ma'am.

COMMISSIONER MORGAN: Could you break down the projected revenue?

MR. HERTZBERG: Our projected revenue, that's contained in our statement of qualifications. For the year
of 1982, we project a gross of $1,856,000.

COMMISSIONER MORGAN: That's the figure. Can you break that figure down?

MR. HERTZBERG: Yes. It's completely broken down. I personally did not do it, but the man that did it is here, Mr. Franklin is here, and he will be able to break it down for you.

That figure was arrived at by the utilization of the knowledge of someone who worked for the Island Company for many years, is harbor commissioner in Avalon right now, and their observance over years over what the occupancy is. And I would rather have him explain. He's the statistical man, Mr. Franklin.

MR. FRANKLIN: You want the breakdown on the 1.8 million.

CHAIRPERSON CORY: How did you arrive at that number?

MR. FRANKLIN: The 400 moorings that are on the lease comes out to $317,240. The 329 --

COMMISSIONER MORGAN: Can you give me the comparable figure for the Catalina Island Company?

MR. FRANKLIN: I don't have that with me. I have my own projections.

That's 317,240 for the 400 on the annual. 329 that are on contract for maintenance. The annual total
would be 187,750. Our daily mooring rentals add up to 1,080,364. Additional revenues from existing rentals, 30,720, and there's two other figures showing a total of — those two figures are the shore boat revenue, $200,000, and the projected towing and diving, 40,000.

COMMISSIONER MORGAN: Is the million eight, when you compared it with the Catalina Island Company figure, which you don't have, apparently, did you do the comparison?

MR. FRANKLIN: I did not do the comparison. I did our projection up to the million eight.

COMMISSIONER MORGAN: Do you know if the million eight depends on greater use of the facilities than currently?

MR. FRANKLIN: We think it does. Of course, we do not have access to their figures. It wasn't a matter of public record. But we feel that it would have a greater usage.

COMMISSIONER MORGAN: Thank you.

COMMISSIONER ACKERMAN: I have one question, and maybe it's more appropriate for staff at this time.

There seems to be some legal question over what we could actually consider as submitted in the bids concerning the annual gross rental figures that were presented just a moment ago.

Is there an opinion from the staff as to what can
be considered by the commissioners as far as revenue to the state?

MR. TAYLOR: Yes, that was not made a factor by the commission, was the gross. I thought we had reaffirmed that at the beginning of the meeting this morning.

Since that was the way the instructions went out, one of the bidders has not followed the instructions.

Now, what the other bidders would have done had they felt free to bid the minimum, no one knows because they followed the instructions. And so, you cannot consider those materials in the Pioneer package which are not responsive to the initial bid proposal and the answers to the questions that came in, and they were told a second time on that one. As a matter of fact, they acknowledged that there was a question about it, because in their response, they put in a letter, "Well, we talked to somebody who said this might be okay, but in the event that it isn't okay, then don't consider the minimum." Don't consider the rising minimum, and those are the words to that effect in their bid.

So, I am afraid that, given the rules of play, unless the commission wants to reject all bids and then consider some other bases, that you cannot consider the fact that they offered more of a minimum than the other people did.
CHAIRPERSON CORY: Let me take that to the next step. Does that mean that we could not enter into a contract based upon this, which would subsequently require the additional minimum with either this bidder or any of the bidders?

MS. MOCHON: I would like to point out already that we do have a five-year rent review built into the lease, so that accommodates that to a certain extent.

CHAIRPERSON CORY: Right now --

MR. TAYLOR: The answer is, if you want to consider that, you can reject all bids and authorize negotiation by the staff, or whatever you term that you want.

COMMISSIONER MORGAN: You're saying that we can't enter into a lease that's based on a bid where this portion of the bid that's in excess of 125,000 --

MR. TAYLOR: As long as you're considering the bids that have been submitted, you have got to consider them on the basis of what is responsive to the instructions given. And all of the other extraneous matter that was submitted has to be disregarded.

CHAIRPERSON CORY: I presume that the projections by the staff of the data put everybody on equal footing pursuant to the terms of the lease. There's a sheet that you gave us, financial estimates based upon data submitted.
by the bidders and data projected by staff.

On the projected staff data, in all cases, it would be your projections exceed the nonrequested increase in minimums that one bidder presented?

MR. SEKELSKY: It had nothing to do with that.

My name is Steve Sekelsky, and I'm a Senior Land Agent with the State Lands Commission.

It had nothing to do with that.

COMMISSIONER MORGAN: Did you use 150 or 125?

MR. SEKELSKY: I did not consider that. That was not a consideration in this analysis.

CHAIRPERSON CORY: But in the analysis, did, in each case, each year, the projected revenues exceed the contractual minimum and the proposed additional minimum?

MR. SEKELSKY: No, I just used the one figure that they gave us, the projected gross for the first year.

The figures that I used have to do with -- or I changed or adjusted were for utilization.

CHAIRPERSON CORY: I understand that. If you take that utilization, then this is just for the first year?

MR. SEKELSKY: Based on the first year, right, all the way across.

CHAIRPERSON CORY: So that the Pioneer would be 252, the Island Company Conservancy would be 216,000, and the Navigation Company would be 213,000 to the state, all of
which would exceed the minimum.

MR. SEKELSKY: That is correct.

COMMISSIONER MORGAN: Can I ask him a question.

The summary that you put together, comparing the
bids, do you use the same number of days of mooring for all
of these?

MR. SEKELSKY: Yes, it is a standard figure
applied to each one. Basically it is a comparison based
on equal utilization projections. And it really doesn't
reflect any actual income. That wasn't my purpose here.

COMMISSIONER ACKERMAN: Is the utilization rate
you selected one which was provided by the Island Company
as their current utilization?

MR. SEKELSKY: I did not use the Island Company's
information. I used my own information based on the past
history of the Island Company in a way, but I did not use
their figures specifically.

I did adjust down, because the main fact that I
had was, I know 93 days out of the year there is not 100
percent utilization at this time. In the future there might
be; I can't say, but at this time there are not 93 days
throughout the summer months of 100 percent utilization.

This made me go on to say, well, if there isn't,
maybe the projections are way too high, the gross income
that first year. So what it actually shows, in my opinion,
is that there might not be the large differential.

CHAIRPERSON CORY: We'll get to that end of it.

Just answer the commissioner's questions.

Dave, you're in the middle.

COMMISSIONER ACKERMAN: The other point that I was making is, if you used an average or took an average utilization rate, the way the bids were submitted, the net or gross income to the state could fluctuate under the proposals submitted by Pioneer Corporation either up or down, depending on what error factor that they had in that utilization rate, but the bid by the Island Company would not have that fluctuation; is that correct?

MR. SEKELSKY: It is not analyzed. It doesn't matter what they did as far as their minimum is concerned in this analysis.

COMMISSIONER ACKERMAN: Yes, but what we've got, you know, is a bottom line here, as Mr. Cory just mentioned. We have dollar amounts and they're based on an assumption.

I'm trying to look at this, and if that assumption changes, it may have the effect of changing the dollar figure for one bidder and not changing the dollar factor for another bidder.

MR. SEKELSKY: I don't think the minimum does that in this case.

COMMISSIONER ACKERMAN: Not the assumption changes,
but the actual utilization rate is different.

In other words, Mr. Hertzberg just mentioned that they intend to proceed and have a very aggressive campaign for use of the facilities. If their actual usage exceeds your assumption rates, then the bottom line dollar amount represented here will increase.

MR. SEKELSKY: That is correct.

COMMISSIONER ACKERMAN: That would not be true of the Island Company.

MR. SEKELSKY: No, all the way across it could change.

COMMISSIONER ACKERMAN: The Island Company is not charging, if I understand it right, a daily use fee; therefore, utilization would not have such an impact.

MR. SEKELSKY: That is correct. I had a figure in there. I subtracted that out. That is true.

COMMISSIONER MORGAN: It would only increase if the non-leaseholders increase; is that right?

COMMISSIONER ACKERMAN: Not necessarily, because again we have to go back and look at the moorings over there, and they're vacant right now a considerable amount of time. If the usage of that increases dramatically, so will a daily use fee increase dramatically. That is accommodated in one of the bidder's proposals but not in another.
Therefore, the assumptions made by staff have to take that into consideration when you're looking at the bottom line comparison.

COMMISSIONER MORGAN: Is there a daily use fee in only one of the bids?

MS. MOCHON: No, the daily use fee in the case of the Island Company bid, for example, applies to anyone who does not have a sublease. Individuals who have subleases will not pay daily use fees.

Under Pioneer's bid, if you have a sublease, you also pay a daily use fee.

Now, what you're saying would result, I would assume, if they could get a great deal more usage out of their sublessees.

COMMISSIONER MORGAN: That would be the distinction.

COMMISSIONER ACKERMAN: Probably a small variable.

CHAIRPERSON CORY: Any other questions of the commissioners?

MR. FRANKLIN: The difference on that is a half million dollars in revenue, plus charging a daily fee to those people who are on lease or maintenance.

COMMISSIONER MORGAN: That's what I was trying to get at.

COMMISSIONER ACKERMAN: I'm clear on that.
CHAIRPERSON CORY: All right.

You've got your question answered in terms of how he arrived at that number?

COMMISSIONER MORGAN: Right.

But now I hear staff saying that the million eight figure is our figure, not theirs.

MR. SEKELSKY: No, the million eight five seven six zero four is a given as what was projected as gross income by Pioneer.

CHAIRPERSON CORY: The top part of that chart, as I understand it, is each bidder has projected what they're going to do. The bottom part of the chart is to try to go through with the staff's professional analysis of what they think --

COMMISSIONER MORGAN: Would result from that.

CHAIRPERSON CORY: No, I think they've assumed constant usage by all three bidders.

MR. SEKELSKY: That's correct, other than what was really submitted.

COMMISSIONER ACKERMAN: Staff's trying to take the different variables out and compare apples with apples so that we've got a constant comparison, so we can compare one bid against another under an actual use situation, an assumed use situation, and to reflect it.

COMMISSIONER MORGAN: Thank you.
CHAIRPERSON CORY: To the extent that there may be blue sky in a bidder's proposal, this was an attempt to remove that so that the people doing the analysis, which the staff presumably does not have a bias one way or the other, and to take a constant usage, applying each of the three bidders' proposals to that. That's what it would be?

MR. SEKELSKY: That's correct.

CHAIRPERSON CORY: As I understand it, that is what you've done on that.

MR. SEKELSKY: That's exactly what I've done.

COMMISSIONER MORGAN: And the fact that you used one year, the first year, as the comparison is because you assume that the relative relationship would not change, because over time --

MR. SEKELSKY: I didn't use it because the other bidders did not have those projections. It wasn't a part of the bid, so I didn't use it.

COMMISSIONER MORGAN: But there is a provision for a five-year rent review. Thank you.

CHAIRPERSON CORY: All right. Have you concluded?

MR. HERTZBERG: I have nothing further unless the commission has any further questions or would like to hear from any of our group as to our preparedness or readiness to proceed, or our expertise, or anything along those lines.

CHAIRPERSON CORY: Thank you.
MR. HERTZBERG: Thank you.

CHAIRPERSON CORY: Is there anyone else in the audience, either of the other two bidders, who would like to make some comments?

MR. JOHNSON: My name is Bob Johnson.

Yesterday I went down and spent $5 to get a copy of all these bids. If you take on page 69, he was admitting it, $16 per deck line foot with a minimum, plus the normal daily fee.

But I just figured out what it would have cost me last summer. I got a 32-foot boat. I'm paying seventeen sixty a foot for the privilege of having a mooring, and then I pay him another $1200 for using it, which comes to $1763.20. And frankly, it wouldn't pay me to own a mooring.

I could go over there any Sunday. With luck I could use one until Saturday, because there aren't owners over there using it. It would be a lot cheaper to do that.

I'd just as soon give up my mooring if that were true.

Another thing, how many boats did he say there were in Southern California? There's 164,776.

Would you like a copy of that?

CHAIRPERSON CORY: Staff might be interested.

MR. JOHNSON: He's been talking about $3 a day every time you go to shore in Catalina. That's true if you
just go in for one day. But in my case, I pay them $20 for the year. I'm sure it costs them $20 to haul my trash up to the yard.

CHAIRPERSON CORY: The chart does reflect a yearly pass of $20, or $3 a day.

MR. JOHNSON: With that I could take four guests ashore.

Thank you.

CHAIRPERSON CORY: All right.


I think it's a general approach and underlying tone of Mr. Hertzberg's presentation illustrates to the commission the difference in philosophy and business approach to the island that gives you a clear choice as to which type of philosophy and business approach you want to be your lessee.

Mr. Hertzberg was solely concerned with economic return: economic return to his company; economic return to the state.

We view the problem as one of balancing economic return with services rendered, with preservation of the ecology, preservation of the island as it is, with maximizing services to the boat owners, both the daily
boaters and the longer term boaters to whom we are responsible.

I think in 30 years, the reason this bid is before you and Catalina is before you in the fashion it is, and we are not looking at a mini-Marina Del Rey, is because of these philosophies and business practices of the Island Company and, since 1972, the Island Conservancy in administering both the island and the Island Company in administering these leases.

I think that makes a big difference. We, for instance, would be absolutely appalled at leasing the mooring leakings to one of our lessees and then charging him from 8 to $25 a day to cook use the mooring leasing that he has rented from us on a longer term basis. That is not the kind of business decision we would make, and I'm not faulting Pioneer for it for making the decision that they have.

If you look at the situation from a purely economic point of view, it may very well be that, since there are only very few limited moorings around Catalina, and since there's a large boating public, that you could extract from the boating public the kind of daily charges that Pioneer expects to do, to abstract, to take from them. Maybe you could.

We think, however, you have to weigh a lot of
things in whether you should extract such a charge from
them. And you also ought to keep in mind the actual
information and assumptions that Pionder is making, because
some of them are wrong.

First of all, you don't have 93 days a year of
100 percent occupancy. What you have on the island is,
every Saturday night during the busy season, you basically
have 100 percent occupancy. On Friday night, you basically
have 78 percent occupancy. The rest of the week you're
down 10, 15, 20 percent occupancy. You have a 30 to 40
percent weekly occupancy rate over the summer season, and
those are historical and clear figures.

So except for Saturday night, the public always
has a mooring open to it, And on Saturday night, to get
your 100 percent occupancy, the public also has mooring
open to it also.

I don't see how you're going to encourage -- as
Mr. Ackerman's questions indicated, the only difference in
our bids as far as the state revenue is concerned, when you
come down to the bottom line on this situation, is the
policy of charging those people who have moorings already,
have long-term leases, will that policy, if you add onto that
lease a daily payment, cause them to come over more often?
Because if they come over more often, then they're going to
be paying more money for their daily charges, and the daily
charges will then be switched between the lessee and the state.

And I submit to you that just won't -- with human nature, that just isn't going to happen. If you charge the fellow more, he's not going to come over more. If anything, he's going to come over less.

But that's not a problem in terms of our bid, because we are in a position, except for Saturday night, of accepting as many of the public on a daily basis to come over for daily rent as are available.

There were some questions by Commissioner Morgan concerning where the differences in revenues flow are between the various bids.

There are only three differences really. We project at $824,000 a year. Pioneer projects about a million eight. Of course, the major, major difference in that is about a million one in income referable to these daily charges, or string-line charges for the daily use.

Two other differences where we think Pioneer is just wrong has to do with shore boat revenues, which we project at 67,000, and them at 200,000. We would submit to you, historically, they're just wrong on that. And we project a normal increase from our shore boat revenues of last year, which were about $50,000.

And the diving and towing service, where we
projected $10,000 and they project $40,000, again based on
our records, they're just not accurate. Otherwise, the
revenue side is not that different between the parties.
Other than this one basic item of philosophy as to whether
you want to charge a daily fee, the revenue sides aren't
that different between the two projects.
But what we think Mr. Hertzberg's presentation
ignores are the problems and costs involved in adhering to
the kind of services that your lessees will need and expect
when they visit Catalina Island. And I would think that
the state, as landlord, would want its lessee to provide
to those people.
I'm not going to run through all of them, but I
would like to run through just a few to illustrate where
we believe that the Pioneer bid would run into severe
problems if accepted by the state.
The first item I'd like to look at is how -- and
it seems like I picked the most mundane thing really to
start with, and that's garbage -- how do you handle garbage
from the boating public?
The way we've handled it in the past, and the way
we would intend to handle it in the future is, have two
garbage systems -- one a daily pickup system at the boat;
another where the boater brings the garbage ashore. It's
placed in receptacles, and then, in either case, taken by
truck over our land to a state-approved solid-waste disposal
dump.

Now, how does Pioneer intend to handle something
simple like garbage? First, they intend to put compactors
on. They can't have a landside pickup, but they can have
a boatside pickup. Then they want to put compactors on the
boats to compact that garbage down so that they can handle
it and haul it further, and it wouldn't be so bulky.

We looked at the compactor idea several years
ago, and right or wrong, we rejected it, because compactors
basically have steelable components. And while Pioneer
runs a marina in fresh water, we didn't believe, in a
salt-water environment, that those compactors were going to
work very long. So we rejected that as a business
decision. And it's really an essential part of the Pioneer
system, because if you can't compact that garbage, where
are you going to dispose it to?

Second, we have worked very hard to encourage,
and we've been really pleased at the response of boaters,
to use our shoreside system. Pioneer will offer something
like that. In our shoreside system, you bring your own
garbage to shore.

In the Pioneer system, you go to what I take to
be about 140- to 150-foot-long barge to deposit your
garbage, and there it will be compacted. I frankly can't --
I think it would be very inconvenient for the boaters, particularly on a weekend, to line up, to be coming aboard to dispose of their garbage, or whatever else they want to do on the boat.

And that's a concern to us, because if it's inconvenient to the boater, what he's going to do is what he did years ago and dump it over the back into the pristine waters of the bay. And it's going to have environmental effects that neither the state nor my clients would like to see.

Now then, Pioneer wants to haul the garbage. And the bid isn't clear whether it's -- I think they've left both options open, to Avalon or maybe even the mainland, but primarily to Avalon.

There is one disposal site on Avalon. The lease on that disposal site runs out the end of this year. That disposal site has five to seven years' life left in it, given the volume of garbage it now handles, and nobody knows what's going to happen after that. And if you put increased garbage to be handled from this leasehold into that site, I don't know what's going to happen.

Now, I'm not going to go through all the other elements with the same care as I did garbage, because there's two reasons for going through this long narration after you've been so patient for all these hours on the
issues.

The first reason is this: It is our legal opinion that you cannot award this bid to Pioneer without a complete environmental impact analysis of all of the systems and all the services which may have an environmental effect. If the bid is awarded Pioneer, and garbage is merely one of many items where I think you are going to have to need such an environmental analysis before you would be qualified to do the bid.

The second reason is not a lawyer-like reason, it's a matter of common sense. We worked out all our systems for handling all of these kinds of matters 30 years, in an organic manner, to meet the needs of the public. We don't believe that Pioneer can come in and do that in a mad scramble, picking up the lease, depending on an untested concept of a huge superbarge, sort of a Catalina ark, to handle all these kinds of functions.

I'll only take one more. You know all the functions they're going to do, so I'll just take one more to show you what I mean, and that's water. It's apparently a very easy thing, but take water.

We now offer water free at the dock to the boaters. Pioneer says it will offer water free at the barge. But they don't say where they're going to get the water from. Are they going to get it from Avalon? If they get it from
Avalon, they're going to run into a Public Utilities Commission problem, that all additional increments of water that may be produced for Avalon have already been allocated in Public Utilities Commission allocations. Their bid doesn't specify where they're going to get it from.

Are they going to get it from desalinization?

If they do, the costs of that are going to be so prohibitive that you're going to have problems.

Are they going to get it from the mainland?

Well, I don't know the answer to that. But we need an environmental impact report to tell you the answers to that before you can award it.

Yes, sir.

CHAIRPERSON CORY: I have a question about water. I thought we had structured this so that the dock was going to be a negotiated lease with the upland owner?

MR. GREENBERG: That's correct.

CHAIRPERSON CORY: And that the lease was going to require you to continue to provide the same services, so the water is going to be available there, I presume.

Are you telling me that you're not -- your client is not planning on making water available at that dock?

MR. GREENBERG: I can't tell you that, because we haven't -- I have not discussed it with my client.
CHAIRPERSON CORY: I want to make it clear, my view is that if you don't, you aren't going to have a dock.

MR. GREENBERG: So in your view, Pioneer will not have to have any responsibility for providing water should they get the bid.

CHAIRPERSON CORY: I'm not saying that. I'm just saying that it was my clear understanding that we were accommodating the upland owner in a manner that the upland owner had certain obligations to provide to the public. If they aren't going to provide for the public, then I'm going to have an entirely different view as to their lease on that dock.

I don't know what the other commissioners are going to do, but I just would like to know, because there was an implication in your position.

MR. GREENBERG: I'm sorry if there was such an implication. Let me tell you where it came from.

The bid for this lease specified that you should state in detail how you're going to provide water. We explained how we were going to provide water. Pioneer attempted to explain how it was going to provide water, and I was indicating to you the difficulties we saw with Pioneer's method of providing water, and it would require an environmental analysis.

I'm not sure where you got the implication from.
that we would or would not supply water from the dock.

CHAIRPERSON CORY: I want to make it explicitly clear to you and to your client, if you expect to have a negotiated lease based upon your position as littoral owner, and if you think you are free not to provide services to the public because of that, then I'm going to have a different view as to what the purpose of that is, and what fee should be charged if you want to use it for some exclusive-type purpose.

It was my understanding when we cut the thing out that the littoral owner had some obligations to the public, and was accommodating them, and had a very good record of doing so. And because of that, we were trying to reach over and make sure that they got some accommodations.

I just want to not leave stand some implication that there is an option without a price.

MR. GREENBERG: That's crystal clear to me. I hope there was no implication in what I was saying that we won't provide the water. I don't know.

CHAIRPERSON CORY: Make sure that there was an understanding based upon the past history of your client that they would continue to do that, and that's why we were trying to make sure that that dock was available to the boating public rather than to be some private dock. Because a private dock bears a different financial responsibility
than a quasi-public place.

COMMISSIONER ACKERMAN: If I recall right, we also discussed where you draw a line between a public dock and a private dock, concerns a gate, or fee for shore access, or things like that. This was a concern during our earlier discussions about how to actually set up the bid package. I don't think there was any clarity.

CHAIRPERSON CORY: You've got a lot of rights on the land, which I think we need to make clear. You can do what you want on the land, but in terms of that dock, we've got some problems since we're giving you an exclusive negotiated lease. I wanted to clarify that.

MR. GREENBERG: Fine.

I'll make the rest of these very brief.

Pioneer indicates it will use four patrol boats. We now use eight. Our proposal, which we would have done anyway, whether or not the thing went out to bid, would be to increase that to 11. We believe that's a very inadequate amount of patrol boats to take care of Fourth of July, Emerald Bay, White's Landing and Cat Harbor. We just don't think it's going to work.

We also have looked into a hover craft, which is a key component of Pioneer bid. We decided we did not wish to rely on hover craft, because we are very uncertain as to its performance ability in rough weather, when you need it
most. And we would suggest again that that's something you'd better look at in an environmental impact report before you rely upon a hovercraft for those kinds of facilities.

Pioneer indicated it was going to use four shore boats to do its shore boat service. That's fine at the isthmus for shore boat service. However, we're growing to be such a size, and it's so large, at least in the bid, that they will not fit into the rest of the cove. They're too large to do it.

That's the reason we're putting this out, is that they're going to have a lot of problems if they get the bid in trying to put this package into business.

We have great difficulty in obtaining very prompt delivery of boats that we order. We have never been able to trust even delivery dates given to us by boat yards. And yet the Pioneer bid is dependent on prompt delivery of those kinds of boats for use to the public.

Finally, in our view, if you look at the replacement costs of the equipment we use to administer the lease as we administer the lease, we believe we have about a million six in that kind of equipment.

We believe that in addition to that, you take a look at our lands that support it, such as the way we operate such things as the disposal site and garbage dump,
employee housing, that sort of thing, if you look at those,
we have at least another million six or better in those
kinds of values.

We would urge you to look very carefully to a
guarantee from the parent corporation to Pioneer to the
subsidiary that would be running this operation should you
award this lease to them of $750,000. We don't believe
that's anywhere near adequate to take care of the kind of
capital investment they will have, which will be so
considerably larger than ours because they don't have the
casier support of, say, a disposal site available to them
nearby.

Finally, we would ask you to take a very close
look at the superbarge concept. We have not researched
this. We did this all off the top of our heads, so I don't
vouch for its accuracy. But at least for the imposition of
such a superbarge, I would think that such a barge would be
a documented vessel, requiring Coast Guard approval pursuant
to the Coast Guard rules. It would require a permit from
the Coastal Commission. And I think you would have some
very serious environmental issues involved in whether such
a barge should be registered with the Coastal Commission,
approved by the Coastal Commission.

I think you need a permit, at least from your
body, under different sections of your law and
administration, but I assume that probably could be worked out.

The kind of businesses that are going to be operated there by Pioneer would certainly require County of Los Angeles at least business licenses, in meeting code requirements for conducting of such businesses.

And if water is dispensed from the barge as indicated, it would need Public Utilities Commission approval and allocation for the water that would be done.

I don't see how, given the problems in today's climate, such as a superbarge, could be put into place and in timely manner as assumed by Pioneer in making its bid.

Finally, I'd like to say this and bring this matter to a close, and it goes back to the original note: We agree with Pioneer, a lot more money can be extracted from the boating public from the operation of this lease if that is the inclination of either the state or its master lessee. We believe that that consideration should be balanced with all of the other complex situations and policies that have gone into making Catalina the kind of unique experience it is for everybody who utilizes it.

I think it's very rare -- in fact, I can't remember, in 22 years of practice, a situation where a landlord, such as the Catalina Company, the Island Company, has ever had all of its tenants come in, and there hasn't
been any complaints about overcharging; there hasn't been any complaint about lack of services; there hasn't been any complaints about any kind of deleterious conduct on the part of the landlord. To me that is a really unique situation. It reflects the unique business philosophy of the companies, how they feel about the island, how they feel about the submerged waters around the island, how they try to work them together to make the island work as it does work.

And I submit to you, you wouldn't have such a precious asset for people in California if my clients hadn't had that philosophy for so many years in administering the island. And I urge you to allow us, as your lessee, to continue to implement that philosophy with respect to this lease.

Thank you.

MR. HERTZBERG: Can I get a three-minute rebuttal?

CHAIRPERSON CORY: No, I don't think so. Wait and see.

There's a third bidder. Do you wish to say something?

MR. RADCLIFFE: Mr. Chairman, members of the commission and staff, my name is Jim Radcliffe. I'm here representing Island Navigation Company, one of the bidders.

It's not too difficult to see that I have one
hurdle that none of the other two bidders have. Make no mistake about it, Island Navigation Company does not have the kind of money that Mr. Wrigley has. We do not have the kind of money that Pioneer Chicken has, I assume, not having seen their financial material.

We don't know much about chewing gum, and we don't know much about chicken, but Island Navigation knows a lot about boats and a lot about moorings.

I would like to say at the outset, too, that we differ philosophically both with the Santa Catalina Island Company and with the Pioneer Chicken or Marine Services application. The commission would note in our bid proposal that we're not going to sell gym shoes, and swimming trunks, and alcoholic beverages, and construct restaurants and that kind of thing. On the other hand, we're not going to use the moorings and our servicing of the moorings to accommodate any of our business enterprises on the uplands.

Philosophically what we want is do is maintain a low profile, to provide for the boating public, the commission, the State of California, the kind of service to the tidelands that, as a practical matter, the tidelands have not received.

As a point of example, when counsel speaking for the Santa Catalina Island Company was talking about the
number of boats, patrol boats that were required, there
was a mention of isthmus, mention of Cat Harbor. There's
a mention of Cherry Cove. What was not mentioned is the
moorings in other areas: White's Landing, Toyon, that
are also moorings on the tidelands of the State of
California.

From the isthmus Avalon Bay, since 1976, the
mooring shore boat services have been provided by Island
Navigation Company, and for several years by another
shore boat company. As a matter of fact, right now the
shore boat services are provided in that area and to all
points and places on Catalina Island except the isthmus
cove by Island Navigation Company.

Now, I might add by way of preface that I have
not been privy to the hearings that have gone before. I
came in rather late in the game, and I'd like to take this
opportunity to thank those members of the staff with whom
I have spoken to get this information, to get up to speed.

I will address myself particularly to the subject
of financial responsibility. I'm disappointed, frankly,
in that staff notion.

I would invite the commission's attention to the
fact that all the applicants, Island Navigation Company
has more shore boat equipment, has 800 moorings ready to go
and to be put in place, has a mooring service vessel, brand
new, constructed in 1981, ready to go. And I think
sometimes when you're talking about the ability financially
to respond, it depends really on what you look at.

I would use as an example that Note 4, I think it
is, on the financial data. And I don't mind mentioning
the's for the public record. So that is the fair market
value of the six shore boats that Island Navigation Company
now has is something like $470,000. The replacement value
of those boats is $600,000.

The commission can reflect on the shareholders'
equity as is presented in the financial declaration.

But there's another little item that I think is
even more significant as to what kind of a company Island
decided to construct a barge. This is described in the bid
proposal. The cost of that barge was between 143 and
$145,000. It was completed in July of 1981, and on
December 31st, it will be paid in full. Presently there's
$25,000 owed on the vessel.

Now, the reason I mention that is, it depends on
where you look at and what you're looking for. Possibly
some people would have been impressed if we had $120,000 in
cash in the bank and owed $140,000 on the boat. But this
is a company that has -- has been building since 1976.
It's a company that has taken the proceeds of their
business and dumped it back into equipment. And I don't think there's anyone in this room from any of the parties who would not agree that, of the five shore boats presently servicing the area in Avalon and its environs, that they're the finest shore boats in California today, certainly in Southern California. They were constructed for the Catalina service or modified for the Catalina service.

But these are just small points. We're talking about maybe financial responsibility, the ability of Island Navigation to perform.

I guess I should ask -- I'm not really clear on whether or not the commission has seen the bid proposal itself, or whether the commission has seen the staff report of the bid proposal. Might I be enlightened? I don't want to repeat what the commission has read.

CHAIRPERSON CORY: We have, I believe, an entire bid package. I believe they have all been presented.

MR. RADCLIFFE: That is the copy of all the applications, very well. I don't want to repeat anything that has been available to the commission.

We're talking about financial responsibility and the ability of Island Navigation Company to perform. I've recited for the commission some facts about the kind of an organization it is.

But let's consider now what the commission and the
people of the State of California have received over the last 15 years: 15 years times $19,000 is $285,000.

By the terms of this solicitation to bid, if the bid is awarded to Island Navigation Company, we have already provided to the commission a check, cashier's check, in the amount of $25,000. Within ten days of the award of the bid, we are to provide the commission the additional $100,000, being the minimum annual rental in advance. In addition to that, within that same period, we are to provide the commission or the state with a security bond, a performance bond, of $125,000. Within ten days of the award of the bid, the State of California will have, as evidence of financial responsibility, $250,000, within $35,000 of what they've gotten in the last 15 years from the present lessee.

I would suggest that that being a condition of a corporation with a history that this one has, we're small but we're building. And we've got the ability, and if it's financial responsibility we're talking about, I can't conceive of the state being in a better situation than having $250,000 worth of financial responsibility within ten days.

I would suggest to the commission that it consider that obligation, along with the assets which the corporation now has. We're not going to come up -- some years ago I was
The going conversation in those days in Avalon was, "If you're going to oppose a man who owns the island, who has $585 million, you'd better have $585 million." That was a common expression.

I don't think that's the case here. I don't think we have to have $585 million. And I don't think we have to be able to compete financially with Pioneer Chicken and their resources.

But I think what we have to show is a financial responsibility, and the ability to perform, and a proposal that is philosophically in line with what the State Land Commission, in the public interest, wants to happen in Catalina Island.

I want to compare just a few figures. But before I do, and I mentioned earlier that I haven't been privy to the earlier hearings and some of the letters that were referred to this morning -- one thing did occur to me when we're talking about -- or when the conversation was about multiple mooring ownerships.

When I was city attorney of Avalon, I rewrote the mooring lease which is presently in effect in Avalon now. As the commission knows, the City of Avalon holds the tidelands in trust by virtue of a statute in 1943, where the state conveyed to the City of Avalon in trust. They have certainly the same mooring situation on those tidelands.
that is the situation on the tidelands around Catalina Island. How they handle it, however, is the example that I would make which would have something to do with the figures I want to talk about.

In Avalon, a so-called mooring owner, whatever that is, registers a vessel on a mooring. If there's one mooring owner, and he comes to Avalon in somebody else's vessel, he has the right to use the mooring but he pays the daily rental rate.

Now, the existing situation, talking about multiple ownership, the existing situation on the rest of Catalina Island today, if there is a conveyance by a mooring owner, just one conveyance to the Young Men's Republican Club, and being as affluent as Young Republicans usually are, they have 50 boats. Under present circumstances, 50 people would have the right to use that mooring for free.

The difference when we're talking multiple ownership of the mooring site, or the mooring hardware, whatever we're talking about, is really not significant so long as there's a limitation in how many vessels. If we're only talking about one vessel on a mooring, and 50 people own it, we could care less. But if we're talking about a mooring that 50 people own a place of, and they all have a boat, and they're all entitled to be on that mooring for free, effectively what could happen, and what is happening,
is revenue is being removed from the State of California. There are mooring sites in Avalon which are on public tidelands which are leased as a part of a land lease for which the mooring or the land lessee does not pay mooring charges. It's part of the deal. That happens in a number of places in Catalina Island. There are clubs who charge membership who are entitled to moorings on state tidelands. As a result, that money isn't going to the State of California.

The point is that what we're talking about, and I think what Pioneer Chicken in some measure was talking about, is some semblance of organization of just what is the application of the proposed bid lease.

Now, when Island Navigation put together its figures and its proposal, it was basing it on, at page 13, the bottom, subparagraph 3, it says:

"Except as provided in this paragraph, all individual mooring site subleases shall be nontransferable."

And then four is really the operative phrase:

"In order to assure continued use of the mooring site by the same party, a copy of a current boat registration shall be provided annually as a prerequisite to issuance of an individual mooring."
Now, we intended that to mean that that was a new interpretation, effective January the 1st, to be something akin to what was in Avalon, namely that to each mooring there would be assigned a boat. And if that boat was sold, that's all right. The mooring owner could put the other boat there. But we can't have, and we didn't account for having, 50 people, only one-fiftieth of a mooring, and all of them having a boat, and the right to designate guests on that mooring.

So to that extent, there is a difference in our computations from what, apparently, are those computations of the Santa Catalina Island Company.

There was some comment about a comparison of the mooring fees. I have run -- just in my figuring, but just to give the commission an example -- a comparison between the Santa Catalina Island fees and the fees proposed by Island Navigation Company. For a 30-foot boat of a non-mooring owner but a lessee, for a 30-foot boat the charges proposed by the Santa Catalina Island Company would be $985 a year. Now, that includes the mooring contract, which by their terms also includes the sublease and the mooring tenants.

For a 40-foot boat, the charges proposed by the Santa Catalina Island Company would be $1314. That includes the minimum for a 40-foot vessel and a maintenance contract.
Now, as far as those fees proposed by us, as the commission may know, we separate the submerged lands sublease from anything else, so there wouldn't be any confusion about what was being charged. For a 30-foot boat of the proposed Island Navigation Company, it would be $39 for the submerged land sublease, $540 for the mooring hardware, and $306 for the mooring service contract, for a 30-foot boat, $885 as opposed to $985.

For a 40-foot vessel, our figures come to $1160, including the sublease, the mooring hardware lease and the service contract. The Santa Catalina Island Company, for a 40-foot boat, their minimum fee would be $1314, a difference of $154.

Now, as far as the so-called mooring owners are concerned, for a 40-foot boat, the charges for the Santa Catalina Island Company, which would be for the mooring service contract, which includes the sublease, $620. By the proposed charges of Island Navigation Company, we have a $52 minimum charge for the submerged land sublease annual, and $388 for mooring and maintenance, for a total of $440, as opposed to 620.

Island Navigation Company also disagrees heartily and philosophically with the proposals that someone who owns a mooring, or pays an annual mooring sublease charge, and who pays a contract maintenance, should also have to pay
when they occupy the mooring site. Our fees and our proposed charges are based on when the mooring owner occupies his site, he does at no charge. When anyone else does, they pay the daily rate which is set forth in the application.

And I might add that we propose, and it's footnoted in the bid proposal, assuming that it is not in violation of any existing enforceable contractual obligation, that a mooring owner, whether or not he consents, if he isn't occupying and hasn't reserved his mooring, that it be available for a first-come, first-serve basis. It's my understanding that presently, a mooring owner who doesn't consent is charged more on his contract of maintenance, or something. But our proposal is that all these moorings would be available to the public in the absence of the mooring owner.

I also mentioned -- or, I did not mention, but I would like to mention, what it is that the Island Navigation Company proposes as to the increase of rates.

We have committed ourselves with respect to the mooring daily rate, the mooring service contract, the mooring hardware lease, and the submerged land lease to a diennial or greater, longer adjustment, but not a lesser adjustment, based upon the consumer price index. I submit that, fair as it may not be, sometimes in these days, it is
still probably the fairest test we have, and we're willing
to be tied into it. And we do agree and commit to do that.

Now, with respect to shore boat services, Island
Navigation Company is a certificated common carrier by
vessel certified by the Public Utilities Commission. We
operate under a tariff of the Public Utilities Commission
which sets forth the rates and charges for shore boats and
harbor boat activities to and around Catalina Island, or
to and from points and places around Catalina Island.
We have vessels which are under five tons net register
which are not within the jurisdiction of the PUC, but we
abide by it for all of our charges.

In addition, the Island Navigation Company is a
franchise holder of a franchise with the City of Avalon to
provide shore boat services which are included in the
certificate of public convenience or necessity.

The wholly owned subsidiary that's mentioned is
the West Coast Navigation. West Coast Navigation Company's
primarily engaged in installing, maintaining, repairing, and
servicing moorings at the Queen's Way Hilton Marina in Long
Beach. Presently there are 176 moorings there. The
services required for that facility are essentially those
that are required for the Avalon service.

CHAIRPERSON CORY: I'd like to get through this
if it's possible, because we've got another agenda to get
on to, so try to wrap it up.

MR. RADCLIFFE: I understand.

I think one of the other things that bears comment is what it is that Island Navigation proposes to do. We set out our proposal for service in the bid proposal. It is, in virtually every case, if not superior -- that may be a poor choice of words -- it is greater than, a level of service greater than that which has ever been provided insofar as patrol boat service, shore boat service, mooring service, availability 24 hours all around the tidelands, not just at the isthmus cove, but in all the tidelands of the subject premises.

I think probably I would like to return simply and emphasize the ability, the financial ability, the guarantees that are available to the state, and to say that -- or to summarize.

I'm not clear, as I mentioned, I am disappointed that staff would have the opinion that they do. In response to a staff inquiry as to where the funds -- and it's the only inquiry we received in the financial areas -- as to where the funds would come from, where this $100,000, we responded as to where it would come from and also invited them to confirm the financial arrangements that had been put together with the Security Pacific National Bank and a representative there. I don't know whether that
confirmation was ever sought or obtained. But we feel we are a sound, financially sound company to do the job that we feel the state is invited by the solicitation to bid.

We don't have proposals that go beyond to create a Disneyland West, or invest or involve or develop the tidelands. Our application and our business proposal is to service the tidelands and the boating public.

If there are any questions in connection with our bid proposal, or with the financial data, the proposed revenues and so forth, I'd be happy to answer them.

I would make one comment. We feel that our -- in response to the request of the commission, we feel that our projected gross revenues based upon the experience and the sources available to us in Avalon and Catalina Island are conservative. The total gross revenue which we project is $1,664,778; 25 percent of that is a substantial amount of money.

I would prefer -- and make only one final comment -- the offer of the Marine Services to raise the minimum, I suppose. Well, that has been decided by the commission, has it not?

MR. TAYLOR: Yes.

CHAIRPERSON CORY: We didn't decide it.

MR. RADCLIFFE: I think a comparison of proposed revenues of Island Navigation Company with either of the
other applicants or bidders would indicate that the most realistic, and in fact probably the most accurate, are those set forth in our projected revenues.

One final word, a lot has been said about garbage and how it's going to be handled. And I would hope -- I can think of something else to conclude on other than garbage. But the Santa Catalina Island Company and Mr. Greenberg, who made the presentation, made a considerable reference. The projected revenues based on 75 cents a pickup of the Santa Catalina Island Company for 1972 is $5,000. I won't question the commission to the mathematics, because I've already done it. $5,000 at 75 cents a pickup is 6666 pickups over the course of a year. That's 18 a day. 18 bags of garbage a day is what they project they're going to do.

Now in their bid proposal, however, they talk about two bulldozers, or one bulldozer and two dump trucks, a lot of the facilities that have absolutely nothing whatsoever to do with the tidelands. A lot of assets, available equipment, have nothing whatsoever. They're to service camps and coves and the isthmus and other enterprises of the Catalina Island Company which have nothing whatsoever to do.

But I was somewhat appalled at the emphasis on garbage when, by their own estimate, they're talking about
18 bags a day over the course of a year. In any event, the
proposal of Island Navigation to patrol and to handle the
garbage disposal, I would submit, is a practical one.

The Southern California Edison Company, with
respect to water, has indicated that water would be
available to us in the isthmus. The Avalon lessees of the
Avalon dump has indicated to us that we, like the rest of
the public, can use the dump. These problems, these
straw men which have been raised are not really problems at
all.

We would submit that, for the past 16 years, it's
possible and probable to say for those who have observed
closely the administration of the tidelands, that the
tide has been going out for the people of the State of
California un these hearings were instituted.

We would suggest that the question is not what can
the people of the State of California and the voting public
do to the uplands owners or for them, or assist them in
developing their various projects; the question is what can
the bidder in this situation most do for the boating public
and the people of the State of California.

I would suggest to the commission that a careful
analysis would show that we are financially able, more than
that, to do the job that the solicitation asks to be done;
that we have the expertise, that we have the line equipment,
that we're ready to start on January the 1st, 1982, and prior to the summer season we'll develop the additional three or four pieces of equipment which are also footnoted that are required.

On that basis, I would submit as far as our application is concerned, and I invite any questions that the commission may have with respect to our documentation.

CHAIRPERSON CORY: Commissioners?

Thank you.

Is there anybody else that has not spoken that wishes to say something? Hearing none, all right.

Commissioners, there was an indication that Mr. Hertzberg, I believe, wanted a rebuttal. I am reluctant to get into that unless other commissioners want to.

MR. HERTZBERG: I'll withdraw it.

COMMISSIONER MORGAN: I think he'll be available to answer questions if there any.

CHAIRPERSON CORY: If the commissioners have questions, we are going to address those before we go to a vote. I'm not sure how much longer everybody can take this marathon session.

Do you have questions of staff or other specific things the commissioners want answered?

COMMISSIONER ACKERMAN: I had one.
In the letter that was submitted to the commission, which we really haven't discussed, by the Rather Corporation, Mr. Stevens, president, raises the question of CEQA, which has also been raised by several others of the witnesses.

I wonder if the staff would make appropriate reference to the California Environmental Quality Act, and if any of the proposed bids would have the likelihood of triggering CEQA. And if the answer's affirmative, what the impact would be on the situation that occurs about two weeks from now of having, possibly, some litigation or problems in court concerning the lease.

MR. TAYLOR: Mr. Ackerman, this bid proposal has been submitted, or has been sent out to everyone. On the basis that it would be categorically exempt from CEQA, that means that they have to provide essentially what is going on, or repair and maintenance. They can replace, or they can maintain, and they can substitute what exists. Then they will not have a problem with CEQA.

Some of the proposals have discussed rather extensive developments. As far as that is concerned, that was disregarded by staff in making its evaluation. The bidder will have to understand that until they can get an amendment of the lease with the commission, or at least a complete and full environmental evaluation, they must be
prepared to operate given the existing circumstances out there at the present time. And I wish to emphasize that, because that was what they bid on, and if they can't do it, I'm sure that the commission is going to look on them for damages for not being able to proceed in that kind of manner.

That is how we went. That is how the situation stands. That's how it was evaluated.

COMMISSIONER ACKERMAN: In the revenues and expenditures provided, the staff, then, has scoped the projects down into the parameters that were asked for in the bid package, and the revenue comparisons and all reflect a program that any of the bidders would operate out there that wouldn't be inconsistent with CEQA; is that right? That we would not trigger CEQA under the way staff has analyzed it?

MR. TAYLOR: We have done everything possible to prevent the triggering of CEQA. And we have repeatedly made that statement in the prior hearings and in the bid packages to the parties, that they have to understand that if they get the lease, that they have to operate with those constraints until they can complete all of the environmental work.

EXECUTIVE OFFICER NORTHROP: I'm not sure the answer to your question is yes.
MR. TROUT: I think Steve has to answer it, but on the assumption that the leveling analysis, did we consider the revenue, like for Pioneer, did we consider the revenue from the barge? Did you consider that in this revenue?

MR. SEKELSKY: No. Those projections are just for the daily average mooring, and the revenues produced from the leases, contracts, and sublease. It doesn't include any of those other revenues.

MR. TROUT: So, they are extracted from it?

MR. SEKELSKY: That's correct.

COMMISSIONER ACKERMAN: There's one other question.

I heard mention by one of the bidders, I think it was Mr. Greenberg, of the Coastal Commission. That also bothers me.

What likelihood is there that any Coastal Commission permit or consideration is required on Catalina, and what is the extent of the Coastal Commission's responsibility at Catalina and the tidelands?

MR. T. LOR: If there is a development, the Coastal Commission has jurisdiction over our lessees. If there is a development there, a coastal permit of some sort will be required.

And there's been no misrepresentations made in the
bid proposal as to the exemption. As a matter of fact, it's called out that they may have to yet those.

COMMISSIONER ACKERMAN: The Coastal Commission can act independently and come in and preempt the Lands Commission whenever it feels like it?

MR. TAYLOR: You're talking about one of my other clients.

COMMISSIONER ACKERMAN: You mean you might be representing them against us?

MR. TROUT: Mr. Chairman, I think in answer to Mr. Ackerman's question, staff has looked at it from the standpoint that, in comparing the services part of it, and assigning the better position to the Island Company, is that we don't believe that either of the other two applicants can provide the services required by the lease within the time frame of the lease package. That it would require them to go to CEQA and go through an environmental process, and probably would require them to go to the Coastal Commission.

For example, the Island Navigation proposes as an alternative a one-acre site on the uplands purchased from the Island Company. Well, what if the Island Company doesn't sell it? They can't do it, and even if they do build something, that would require -- that may require a coastal permit.
MR. TAYLOR: Mr. Ackerman, it's difficult to answer your questions since I am going to have to defend your decision today.

I think that we've done the best that we can to avoid the problems of CEQA and to avoid the problems with the Coastal Commission.

I've stated what the position and the assumptions have been. I can't say that it is free from doubt. But we have done the best we can.

I think that if they continue to offer the existing facilities, they may be able to get around the CEQA problems. They cannot do anything new without a CEQA report. Substitution of a barge of like kind, substitution of some other things, running services from existing facilities and so on, until they can get the other stuff done, would probably be okay.

If there is a change in taking up and putting down new mooring equipment, because there can't be any agreement if one of the bidders is not the current one and there can't be a substitution so something could be worked out, it might be necessary to get a coastal permit for that activity. Whether the staff of the Coastal Commission regards that as an administrative-type permit or will require going to a full hearing, I wouldn't predict even as their attorney how they would view it. But that would be
a problem, could be a problem.

   It's one of the things that they should have taken
   into consideration in making their bid.

   CHAIRPERSON CORY: I'm not sure from your answer
   and Jim Trout's answer --

   MR. TAYLOR: I would not be as strong as
   Mr. Trout on the statement.

   CHAIRPERSON CORY: It was my belief that some
   weeks back, when we started this, that the concept was that
   we could go to bid on the existing structure, and that the
   financial burden of complying with providing existing
   service without causing an environmental impact report or
   Coastal Commission activities involved, that rested with the
   bidder.

   I assumed that these bids reflected their
   independent judgment that, in fact, they could accomplish
   the existing status quo without any adjustments.

   Now, that does not appear to be what you and
   Mr. Trout are telling us.

   MR. TAYLOR: We have to make that assumption that
   they have, that's correct, Mr. Cory, that you've certainly
   made it clear. Staff in all the announcements and the
   other commissioners have made it clear that those things
   would be problems for a bidder in performing.

   I guess the only question in assessing how to award
the bid is your assessment of how well they took that into consideration in terms of the problems the commission might have if there were some interruption in mooring services at Catalina as a result of these problems.

Clearly, I'm sure, though, that the commission would direct us to sue someone that ran into those problems on the grounds that we made it absolutely clear to them in the beginning that they had to understand how they were going to take those on.

CHAIRPERSON CORY: But then, Mr. Trout's assumption seems to be contrary to that position. That's what I'm troubled with in terms of where we are.

I see no evidence in the staff report or anything else that any of the proposed bidders cannot, in fact, comply without going through the CEQA process.

Now, if that is not the case, then this bid is a sham, and we should not have wasted all these people's time. I'm really sort of puzzled.

It may be difficult; it may be costly for them, but it seems to me that the financial impact for those people who sat through the hearings and wished to bid were aware of what their problems were and they had to conform to them.

But from the staff, I seem to be hearing that maybe they can't, and they're going to have to do something, or in fact that these bidders do not -- in fact, what they
propose doing, they cannot maintain that status quo without
an EIR.

It seems to me that that question has to be
answered before we can look at the bids. Now I could be
mistaken.

COMMISSIONER ACKERMAN: I think we were very
careful at the beginning. That's why we spent so much time
on the lease document, so that we narrowed the scope of
services and activities to reflect the current status quo,
so that we didn't get into a situation of triggering
Coastal Commission intervention, CEQA, or anything else.
That's the last thing we want out there.

MR. TAYLOR: I think we've always noted that
that was going to be a very difficult problem. And we
have tried to write it the best way we can.

Quite frankly, in reviewing both the bids of
Catalina Marine Services and Island Navigation Company,
they proposed some things which have been noted in the staff
report, and they could run into some very serious problems
if they were to immediately implement that. Therefore,
treating them as some kind of future thing which is not
within the scope of our review at this time, staff is
recommended those on the basis that whatever is
contemplated that doesn't match with the equivalency of
what's out there right now is all that's going to be allowed.
MR. CORY: That's my understanding. But then, there's another little additional step that staff seems to be telling us, and that has to be clarified, I think, before the commission can proceed.

COMMISSIONER MORGAN: So, we had a bid that was submitted which assumed that the services required by the bid package would be provided through a barge.

MR. TAYLOR: Both Catalina Marine Services and Island Navigation Company have talked about some additional barges. They've either got to keep those barges at such a size or equivalent to a yacht, or they've got to be equivalent to the one that Mr. Baumgard currently has out there.

And they will certainly, in any circumstance, as we've been told by one of the bidders, there will be a lawsuit to determine this part of the situation.

COMMISSIONER MORGAN: If their proposal assumed something greater than what is currently in place, and in order to make the bids capable of being evaluated we had assumed that they won't exceed what's currently there, and so we took the bid and basically staff adjusted them so they could analyze the bids, we have changed the bid packages around so that what was submitted and what was evaluated are two different things.

The question is: Are the required services
still being provided, having made that adjustment, number one.

Number two, does the bidder believe that he can provide the services with the adjustments that have been made?

So where are we on those two questions?

MS. LOUIE: I believe in terms of the Catalina Marine Services Corporation, they had indicated that temporary basic facilities be based on three houseboats over the isthmus area.

COMMISSIONER MORGAN: A temporary base of facilities.

CHAIRPERSON CORY: Whose proposal?

MS. LOUIE: Catalina Marine Services' operation.

CHAIRPERSON CORY: Are those existing houseboats?

MS. LOUIE: No, not existing houseboats.

CHAIRPERSON CORY: But is the size, in your opinion and staff's opinion, that that can be accommodated without EIR?

MR. TAYLOR: That would be our position in court.

COMMISSIONER MORGAN: So we're talking about a temporary. Their proposal is that a temporary measure to accommodate the services that are required by the package.

But when we put the package out, we were talking about a 15-year lease.
MR. TAYLOR: If they could not get that, they would be stuck with whatever matches what's out there. And they would either have to provide it by ferry from Avalon, by acquisition of some upland facility at the isthmus, or by going back to the mainland. You know, that's their problem.

The only problem the commission would have in assessing those would be, if there is a failure to perform, then it would be our problem to go out there and pick up the pieces.

COMMISSIONER MORGAN: But it's the staff's feeling that what the bidders consider to be a temporary facility is sufficient to provide the services that are required by the bid? For example, repair services and things like that?

MS. LOUIE: There was no indication as to how extensive the houseboats would be.

CHAIRPERSON CORY: Jim, your statement, staff's recommendation for the Island Company was based on the inability to perform?

MR. TROUT: Mr. Chairman, yes. There were three things that the commission said that the bid would be considered. One was the type and quality of services. Second, the rate schedule to the sublessees, and third is the income to the state.

Now, the first thing, of course, was the
financial qualifications of the bidders. I think we're past that point now and looking at the three levels of consideration.

In evaluating these three levels of consideration, staff looked at, one, the type and quality of services to be provided. And we looked at it on the basis that Mr. Taylor gave you. That is, their ability to perform the services January 1st and throughout the 15-year term of the lease.

Now, two of the bidders, in offering the type and quality of services, are possibly, we think quite likely, contingent on approval of other governmental bodies and the implementation of other pieces of law. So in rating --

CHAIRPERSON CORY: That is in conflict with Greg Taylor's previous statement as to how we structured the bid. Either we required the services or we didn't.

I mean, something is not matching here from what she is saying, that there's no specificity as to the quality and the type of service. You seem to be imposing a judgment value as to what that type and quality is, and then rejecting for that reason. We do not seem to be comparing apples and apples.

MR. TROUT: They were asked to tell us in the bid package how they would supply the services. That was
one of the parts of the bid package.

Two of the bidders have told us they supply
those services through the use of barges. That's what's
in the bid packages that we received.

So in rating the type and quality of services, in
looking at what we have to look to, that is what they
submitted to us.

And they said they were going to meet it in this
fashion. Now, that was what the bidders came up with.

And in evaluating that one factor of the bid
consideration, then staff rated the three bidders.

MR. TAYLOR: I think when you started this, you
wanted to get some idea, since people had not told you at a
hearing what they could do, and we recognize that it would
be a difficult situation since it was going to be a fairly
open-ended kind of bidding proposal; that you would ask
people what can you do in comparison, you know. Taking the
given situation, can you do that and how would you measure
up to what's being done. That was what was really, when
you went out to this thing, being done.

And as I recall one of the commissioner's
statements, when you got that back, you take a look at
that, and then reassess the situation as to what you wanted
to do.

COMMISSIONER ACKERMAN: Tha was my statement.
MR. TAYLOR: Yes.

And basically, in order to accomplish that within the time constraints they had, at least in coming to a close, we had to structure this down just to as low a basis as possible. And it is a very close case. They were told it was a close case, and that they would have at least three initial periods, and with no guarantee that they would ever get anything more, have to be able to operate this essentially in the same kind of manner that's now being done.

CHAIRPERSON CORY: But I'm still saying that I assumed that we had a lease that required specific services that were finite in number.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, we did. We expected -- first, we expected more bidders than three.

Secondly, the bidders told us how they were going to supply the services. We didn't tell them to use the barge. They well could have bought an air boat in and flew it.

CHAIRPERSON CORY: Nobody has submitted anything that the services cannot be provided by a barge, yet there seems to be an implication there, from Mr. Trout, that in fact they cannot maintain the status quo, that they will need an EIR. I want to know which side of this rock are we
EXECUTIVE OFFICER NORTHROP: It's clear to staff that, if you put a four-story barge out there, you're going to have to have an EIR. We took that into consideration when we evaluated that bid.

CHAIRPERSON CORY: Do you believe that the proposal requires a four-story barge?

EXECUTIVE OFFICER NORTHROP: Mr. Cory, we did not make the proposal.

CHAIRPERSON CORY: Do the existing bids contemplate meeting the services without an EIR and a CEQA application, yea or nay?

If the people who have submitted bids have not submitted a proposal to comply without an EIR, then we need to know that now.

MR. TAYLOR: I would say that we have noted that there are problems with two of the bids.

CHAIRPERSON CORY: I want to know specifically what those problems are.

MR. TAYLOR: There may be a problem.

CHAIRPERSON CORY: No, I want to know what specifically that is. I mean, we are asked to vote and deal with this thing. It was my assumption that, all right, if they're going to have barges or houseboats, they're going to run it from that. Somebody has said, yeah, that could be
done; that does not appear to me to be an impossible option, for someone to have something about the size of a yacht on a mooring, and they can provide the service. So, I'm prepared to then look at other criteria.

But the staff keeps saying no, there's only one bidder that can do this without an EIR. And I want that question answered yea or nay. And if it's nay, I want to know why not.

COMMISSIONER ACKERMAN: That was instrumental in our initial decision whether or not to bid. If it could have been concluded that you could not solicit bids without an EIR, there is no point for even going for the solicitation of bids.

MR. TAYLOR: There are two problems here. One problem is to see if they could do it. And by that I mean to see if they could offer it.

CHAIRPERSON CORY: It's now 2:00 o'clock. We started at 10:00.

I'm sorry to do this for the people, but we are going to take an hour break. I want the staff and the commissioners to immediately come to my office to deal with a person matter. We will take care of that one so that'll be resolved, and then we can proceed from here.

We will come back here within an hour and take up this discussion right where it is, and the court reporter...
can deal with her problems.

(Thereupon the luncheon recess was taken, and this terminates the morning-early afternoon session of the State Lands Commission meeting.)

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. DUGGAN, a shorthand reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission meeting was reported in shorthand by me, Evelyn J. Duggan, 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 21st day of December, 1981.

EVELYN J. DUGGAN
Shorthand Reporter

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ORIGINAL

EXCERPT
AFTERNOON SESSION

THURSDAY, DECEMBER 17, 1981

Evelyn J. Duggan
Shorthand Reporter
APPEARANCES

Commission Members:

Kenneth Cory, Chairperson

Susanne Morgan, representing Mary Ann Grave,
Director of Finance

David Ackerman, representing Mike Curb,
Lieutenant Governor

Staff Present:

William Northrop, Executive Officer

James F. Trout, Assistant Executive Officer

Robert C. Hight, Esq., Chief Counsel

N. Gregory Taylor, Esq., Assistant Attorney
General

Jane Mochon

Betty Louie

Also Present:

Ball, Hunt, Hart, Brown & Barerwitz
By: Charles Greenberg, Esq.
Representing: Santa Catalina Island Company and
Santa Catalina Island Conservancy

Hertzberg, Koslow & Franzen
By: Harrison W. Hertzberg, Esq.
Representing: Catalina Marine Services
Corporation

James H. Radcliffe, Esq.
Representing: Island Navigation Company, Inc.

Clancey Leland, Los Angeles County Board of
Supervisors

Mr. Charles Rutherford

Mr. Gordon Saunders
<table>
<thead>
<tr>
<th>Index</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceedings</td>
<td>2</td>
</tr>
<tr>
<td>General discussion</td>
<td>2-5</td>
</tr>
<tr>
<td>Statements by Mr. Radcliffe</td>
<td>5-6</td>
</tr>
<tr>
<td>General discussion</td>
<td>6-9</td>
</tr>
<tr>
<td>Statements by Mr. Hertzberg</td>
<td>9-10</td>
</tr>
<tr>
<td>Statements by Mr. Thomas B. Wilson</td>
<td>11</td>
</tr>
<tr>
<td>Statements by Mr. Hertzberg</td>
<td>14-15</td>
</tr>
<tr>
<td>General discussion</td>
<td>15</td>
</tr>
<tr>
<td>Statements by Mr. Radcliffe</td>
<td>16-17</td>
</tr>
<tr>
<td>General discussion</td>
<td>19-22</td>
</tr>
<tr>
<td>Statements by Mr. Hertzberg</td>
<td>22-24</td>
</tr>
<tr>
<td>General discussion</td>
<td>24-51</td>
</tr>
<tr>
<td>Adjournment</td>
<td>51</td>
</tr>
<tr>
<td>Certificate of court reporter</td>
<td>52</td>
</tr>
</tbody>
</table>
CHAIRPERSON CORY: Now we're going to go back to where we started. Item 19.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, if I may, Mr. Trout had a staff meeting in which we tried to get our act together. I think maybe he'd like to share where we're coming from with you at this time.

MR. TROUT: As to the three bids received —

MR. HIGHT: For the record, Mr. Chairman, the commission met in closed session and discussed matters of personnel and litigation.

CHAIRPERSON CORY: Mr. Trout.

MR. TROUT: Back to 2:00 o'clock, I don't know whether I'm out of the woods yet or not. But of the three lessees, proposed lessees, staff has reviewed it and, in the cases of Pioneer Takeout or Catalina Marine Services Company and in the case of Island Navigation Company, staff believes that their proposals include substantial environmental problems.

We have considered for evaluation of the bids only that part of the bid package which was responsive to the solicitation. Of that portion of the bid package, taking out the portions of the proposal that were not responsive, it would appear that there is still considerable
uncertainty as to whether the remaining portions of the packages could be implemented without triggering an environmental treatment. We cannot say for sure. There may be also other problems of regulatory requirements.

MR. TAYLOR: Mr. Chairman, I would concur in the statement of Mr. Trout. There are substantial problems with regard to the items that he's mentioned with regard to those two lessees.

CHAIRPERSON CORY: So that the staff is now informing us that, given where we are and the bids the way they came in, that we may not be in a position to proceed because they would be triggering the CEQA or other regulatory, Coastal Commission and like problems?

MR. TAYLOR: Clearly to implement the four-story or three-story barge is going to take at least amendments, and would take an environmental review.

The staff has considered the lease excluding those aspects of the problem, since they were not responsive. There's a problem as to whether the lessee would accept our way we viewed his bid. If he signed it, I guess he will.

But, there is substantial likelihood of litigation over these items, even taking the restrictive view of the commission's staff on those matters.

With regard to the Coastal Commission, it's
difficult to assess what would be required, whether any
permit would be required or not. But based upon the
statement to the staff, it might require at least an
administrative permit, which could take a varying amount of
time to obtain, irrespective of whether or not it would
trigger a CEQA process.

CHAIRPERSON CORY: The statement you made
concerning the prospective bidders, it applies to all the
bidders, or one bidder, or two bidders?

MR. TROUT: Two bidders, Mr. Chairman.

CHAIRPERSON CORY: Who are they?

MR. TROUT: Catalina Marine Services and Island
Navigation Company.

CHAIRPERSON CORY: And Island Navigation.

COMMISSIONER MORGAN: Mr. Chairman, it seems to
me that we touched on these issues at at least one of our
prior meetings discussing this. And we determined after
listening to the staff, saying that it appeared that there
would be some difficulty in entering into a new lease,
but it may not be impossible to enter into a new lease, and
if we wanted to go to bid it was conceivable that a bidder
might come forth with a package that met the conditions
that we had set forth, and did not require extensive time
relating to environmental review, from what I've seen and
heard up to this point, that hasn't happened. What we wanted
to do was to maintain a similar operation to the one that
has existed at Catalina, to make some changes in the
mooring fees, and to test the market to see if what we
were getting was a reasonable price.

I guess we've tested the market. I don't know.

One bid attempted to change the services, and what the
staff did was change the bid, I think, in order to make
it comply with the restrictions that we put on the bid
package.

I still feel that if we want to continue the same
service, we are not dissatisfied with the operation as it
has existed, we have received a bid from the current lessee
which satisfies the conditions which we set forth and does
not raise the questions which are raised by the other two
bidders.

And it was because of these considerations that
I, at the beginning of the meeting, indicated that I was
ready to move the staff recommendation. And I assumed when
I did that that we were operating under the Senate rules
for small committees, where a second is not required. And
my motion was still on the floor.

MR. RADCLIFFE: Mr. Chairman, may I address the
chair?

I have just one -- I am concerned about three
substantial errors, erroneous misconceptions stated by a
member of the staff as to three additional items proposed by Island Navigation Company.

CHAIRPERSON CORY: We have to resolve amongst ourselves where we, as commissioners, are, and if we have any specific questions from anybody, the commissioners are free to ask those questions. I'm hesitant --

MR. RADCLIFFE: I understand.

CHAIRPERSON CORY: -- to add any more input from the audience. I think we have to find out where the commissioners are at this point as to what our options are or are not.

MR. RADCLIFFE: I understand.

CHAIRPERSON CORY: Thank you, sir. If anyone has any questions, they are free to address them to you.

MR. RADCLIFFE: Thank you.

CHAIRPERSON CORY: So, we have Commissioner Morgan's motion that is before us, and we have been proceeding on that discussion with some flexibility as to parliamentary concepts.

I want to make sure I understand the import of what I think the staff has just informed us.

It is the staff's view that before us there is only one bid which needs the narrow bid restrictions which were drafted to avoid the CEQA in the permitting process.

MR. TROUT: That's correct, Mr. Chairman.
CHAIRPERSON CORY: That is the Island Company's bid.

MR. TROUT: That's correct.

CHAIRPERSON CORY: That the others contemplate changes or cannot sustain themselves on the status quo for the term of the lease, that the concept of having three equal bidders at this point, it is the staff's opinion that, no, to provide the services required by the lease, two of the bidders contemplate changes which will precipitate either regulatory applications to other agencies or EIR's or both.

MR. TROUT: That's correct.

CHAIRPERSON CORY: Greg, that's your view?

MR. TAYLOR: That's correct.

CHAIRPERSON CORY: Are there any questions, in fact input, that other commissioners need from any of the staff people or resource people that we have in the audience?

COMMISSIONER ACKERMAN: One question that I have, and Susie, you raised it.

As it impacts one, maybe two bidders, as I heard the gentleman from the Island Navigation Company just a second ago, the bids that they submitted had elements contained in them that have been concluded by the staff and concurred in by the commission as not applicable to the
bid or nonconforming to the initial proposal.

Susie, I think you asked if the bidders were still interested in proceeding with the modifications that the commission has instituted today and staff has recommended.

In light, I think, of the staff comment right now, which obviously prior to our break there were three different opinions or interpretations —

COMMISSIONER MORGAN: Either that, or we weren't receiving.

COMMISSIONER ACKERMAN: -- or three different questions asked, whatever. There was some confusion.

Maybe I ought to ask each of the bidders, at least the two in question, is there any reassessment from them, is there any change, based upon one of the changes the commission has done?

For instance, with the Marine Services Corporation, obviously some changes have been wrought today which change what you offered us; the revenues that you offered us. The staff has advised us, and the commission has said we can't accept the increases, for instance, in the minimum annual rent over the 15-year life of the bid.

Is there any change in your position, or any change in your ability to provide services based upon that, because that must change some revenue projections for
yourselves.

Secondly, I think the concern I had was very obviously in order to provide the services, both other bidders have proposed providing a basis of operations on the water. Those require barges which the staff now advises very realistically might trigger environmental quality statutes from the state. I think the bidders should -- obviously they have had to consider this in putting their packages together. I think we owe it to them the opportunity to state their concerns to the commission as to how they have made this consideration, and obviously they feel that they won't trigger them, and I think they ought to have the opportunity to at least say why it won't. Staff feels that it does.

Since this wasn't in the original staff report, I think the bidders should be given the opportunity to respond to that.

MR. HERTZBERG: Thank you.

COMMISSIONER ACKERMAN: Have you understood?

MR. HERTZBERG: Yes, I understand it.

COMMISSIONER ACKERMAN: Let me point out to you, I mentioned it to one of the audience at the break, that at the very outset when I supported -- in fact I think I made the motion to go to competitive bidding -- originally that was under the basis that we would not trigger all the
reports and permits and everything required. I saw that as a pretty monumental task for a bidder to undertake. I felt very strongly that interested parties should have the opportunity to show us how they could do it without triggering those.

That's what I would like to hear, how your bid would not trigger the different environmental concerns, because I have grave concerns about that personally. I think it would be a disservice to everyone involved if we got ourselves into that kind of morass.

MR. HERTZBERG: Mr. Ackerman, I find myself extremely deeply troubled with the staff's strained and extremely strained interpretation of our statement of qualifications.

It is very simple. We said we would go in there, and we would operate this exactly as it's operated now, without triggering anything. If we took out a mooring, we'd put a mooring right back. Put some houseboats out there and operate out of houseboats. They use it now. There is no change.

We further said, down the road, it is contemplated that we would put in a barge, but we would comply with all applicable CEQA and everything down the road.

If they've got the idea that we're going to come in there with this big barge now, they're wrong. And I
never said that, I never intended that. It is so clear, I
don't see how anybody could mistake it.

We can go in there without upsetting anything
immediately. And we can run it for 15 years that way. And
if we don't get the approval for a barge, we won't have a
barge. That's what we said.

And I can't understand what they're saying.

Now, Mr. Wilson is a naval architect. He's a
graduate of Annapolis. He's been in naval architecture,
one of the most famous on the West Coast, for 30-35 years.
He has worked on Coastal Commission matters.

He will tell you exactly what we're going to do.
There's nothing we're going to trigger. And there's no
way a reasonable person could have interpreted it that way.

MR. WILSON: For identification, my name's Thomas B.
Wilson. I'm a naval architect from Wilmington, California.

Mr. Chairman and commissioners, what we are
proposing is to put in a barge for general services and
two smaller barges, one of them to be a trash barge, the
other to be a restaurant barge, along with water supply
facilities.

As best as I can determine, you're talking a
maximum of something like 5,000 gallons a day of water.
This is well within the state of the art for a reverse
osmosis plant or a regular marine-type evaporator.
The head facilities, we use a Type Two
micro four unit which is made in Redwood City. It's a
complete flow-through system completely approved by
everybody. The one that I put on that barge is designed
for 100 people a day. We're using it on the Isle of
Redondo, which some of you all may have seen, which is a
fishing barge off the coast of Redondo Beach, which is the
same size. In fact, it's a larger problem, the barge we're
putting up, because it's 120 by 60 at normally about
300 people a day. So this is not a new concept. We're
adding on to it.

The other barge that I'm doing right now is for
down on Belmont Shore. It's a 150- by 44-foot barge for
fishing that they will put behind the pier. The Navy has
used a similar barge concept all the way since 1940 as an
advanced base, where they've had machine shops, they've
had personnel accommodations, they've had eating facilities
on board. Nothing that we are proposing is new and
startling.

The actual barge itself would be someplace on the
order of 120 feet long, and it could be from 35 to
possibly 60 feet.

As far as it being very high in a building, we
don't follow the same rules that the building code does,
because we can get by with seven or seven and a half feet.
So, we put three decks on. On the first deck you will have your general service shops, your country store, your marine store and your diving equipment.

The second deck would have a restaurant and head facilities.

The third deck, so that the Harbormaster can see all around, you put a little cubicle on top where the Harbormaster could get 360-degree vision. I would envision this being 22-24 feet above the water.

And the same size barge is run in and out of Catalina all the time. I'm doing one for Catalina Freight Lines right now, a new barge design, for them to carry the motor vehicles over that supply the island. Connolly-Pacific runs a much bigger barge through the rock quarry.

Now, I don't claim to be an expert on environmental rules. And we may have a problem because it is a new project and have to go through an environmental study, but I've taken bigger yachts in. I used to take care of Parson's yacht, Pegasus, and Arco, and they were 168 and 178 feet long. The Silverado, which is Harry See's, from See's Candies, is 125. John Wayne's yacht is 136 feet long.

And what we're proposing is nothing that's really much bigger than you're already getting over there on the island now, and it's certainly not going to be any more polluting. Lots of these older yachts are very
polluting.

But I'll shut up now, Mr. Chairman, but basically what I'm trying to say, we aren't changing the state of the art. We're not proposing anything that's abnormal.

What we are proposing to do is give the public an additional service to what they already have.

MR. HERTZBERG: I want to make it unmistakably clear that what we've proposed immediately is to go in there with two simple small barges, one for water and one for garbage, no way could trigger it off. And your staff even said so initially. The houseboats couldn't possibly trigger it off. There's no way.

Any future development with Mr. Wilson will go through the normal routine, whatever we need, whatever permits are required.

But to say that we couldn't do it now is wrong.

And we never proposed that.

But I'd like to say one thing in closing, that there's been a lot of comments made here about not wanting a mini-Marina Del Rey. And I'd like to read from the preliminary Santa Catalina Island Local Coastal Plan that is proposed over there as to what the Island Company has proposed at the isthmus, the very place we're talking about.

"In April of 1980, a draft design for the two harbors was presented to the staff of the
County Department of Regional Planning and
Parks and Recreation by the Santa Catalina
Island Company."

That plan which they have provided provides, at
the isthmus, 650 rental units, 2,000 resort units, 400
hotel rooms, 90,000 commercial square feet space, and it's
75 to 150 possible, total development of 240 acres.

And we're talking about two barges. They're
talking about a development for 2,000 residents. Two
barges, and you want to rule us out.

I submit I just don't understand the strange
interpretation.

CHAIRPERSON CORY: It is your belief that the
barges do not trigger, and you could operate with two
barges and some houseboats for the 15-year period of the
lease without going through an EIR process?

MR. HERTZBERG: Yes, absolutely.

CHAIRPERSON CORY: Questions from commissioners?

COMMISSIONER MORGAN: I want to follow up, because
when we asked the staff previously at this interim, I think
this is how we got started, this interim provision of
services would comply with our required services to be
provided.

Will the houseboats provide the services
sufficiently to comply with the lease?
MS. MOCHON: I believe the staff has made an assumption that that is what they would have to work with; and on that basis evaluated their services as not quite as good as the Island Company's.

COMMISSIONER MORGAN: All right.

CHAIRPERSON CORY: Yes, sir.

MR. RADCLIFFE: Jim Radcliffe, again, for Island Navigation Company.

I am a bit nonplused as to where the staff has gotten its information.

I was concerned about a statement of fact made in the presentation to the effect that, on page 4 of our bid proposal, the one-acre yard facility, leased yard facility available for complete maintenance. And then a member of the staff stated that that was a one-year lease from the Santa Catalina Island Company and would be terminated at the end of one year.

First of all, it has nothing whatsoever to do with the Santa Catalina Island Company.

Mr. Stickler (phonetic) personally has a lease with them, but that is not the lease for the mooring yard that's set forth here. Now, I don't know where that information came from, but it didn't come from the application and it didn't come from us.

Our position is that --
MR. TAYLOR: That wasn't a stuffy statement.
That was a statement made in the presentation by the
Santa Catalina Island Conservancy Company.

MR. RADCLIFFE: I understood it to have been
repeated by a member of staff. I stand corrected.

In any event, it is our position, and we
meticulously tried to stay within the constraints of the
solicitation to bid, the one-acre facility is a mooring
facility. It's in Long Beach, and our plan there was to
remove the welding and the heavy kind of work on moorings
and so forth out of the isthmus area completely into the
Long Beach mooring yard, where our other moorings, the
heavy work on them is done. Island Navigation Company
makes two regular runs a week between Santa Catalina Island
and the mooring yard.

So, rather than having an environmental impact
that would increase, this would diminish, in fact, the
impact on the island.

I refer now, and unfortunately the choice of words
in our application to refer -- and I'm referring now to
page 10, and this is the acquisition of additional
facilities. Items two, three and five.

We meticulously tried to assure that any of the
additional equipment that we propose to obtain as at no
more than is presently located in the isthmus harbor and
probably less.

Presently in the isthmus harbor are two steel wood floats, slash, barges, whatever you want to call them.

We are proposing, and it's footnoted herein states, items two, three and five, may or may not be required, depending upon whether the bidder is refused by, or unable to negotiate with the Santa Catalina Island Company or the Catalina Island Conservancy.

The two barges which were referred to by staff as being possibly invoking or triggering an EIR complication are simply replacements for what are there right now.

The existing docks are public docks. Presently there are two float, plus a fuel float, plus four or five dinghy docks.

Our proposal is to put less in the isthmus, not more. The two barges to which we refer are simply replacements for those that are in there right now.

On that basis, and on the basis of the removal and cleaning up the one-acre facility, and the fact that nothing we propose even meets what's already there, I would submit to the commission that there is no danger whatsoever of triggering an environmental impact. We will be ending up with less of an environmental problem with this proposal than presently exists.

Thank you very much.
MR. TAYLOR: Mr. Chairman, if you look at page 49 of the Pioneer Island -- Catalina Marine Services-Pioneer bid, if you look at page 49, it talks about an initial 60-day period. Temporary arrangements that have been made for that period of time.

Then page 39, it talks about proposals that they subsequently presented, which are the barge proposals. On page 21 also:

"It is to be noted and discussed at length that upon commencement or takeover, the bidder may be temporarily required to use some services of Avalon prior to the permanent setup. Bidder anticipates this period will be no longer than 60 days."

And the setup that's mentioned in here is the barge arrangement.

CHAIRPERSON CORY: So nothing has altered the staff's position in the last two statements?

MR. TROUT: No, sir.

MR. TAYLOR: For the record, I would agree. In the last proposal, there is one barge presently, and Marine Services proposes three.

MR. TROUT: Mr. Radcliffe was making some reference to the floats currently attached to the wharf, which is not a part of this solicitation and would be
included in a separate lease to be negotiated with the Island Company later, that the chairman already mentioned.

CHAIRPERSON CORY: So that the area under lease that this bid contemplates putting under lease currently has a single barge, as opposed to two or three barges?

MR. TROUT: That's what our visits have developed.

CHAIRPERSON CORY: That if we proceed, our best shot is to prevail after litigation, and our position as a commission is a series of steps short of that. That's our best position, is to prevail after litigation, in your judgment, as to where we're at, and more than likely into something short of that.

MR. TROUT: There is available to the commission, of course, the option of rejecting all bids, and perhaps following Rather's proposal to negotiate a short-term lease with the present lessee and seek proposals, or to reject all bids and negotiate with the upland owner, or to choose, given the risks, one of the submitted bids.

CHAIRPERSON CORY: What is the time to get through the permitting and EIR process?

MR. TROUT: I think, Mr. Chairman, from the staff's standpoint, we could go back to the commission's earlier expressions in the City Hall, that we were looking to see what was out there. We would suggest it would take about 24 months minimum. That would include a period of
requests for proposal, evaluating proposals which come in, and processing the full environmental treating of the proposal the commission chooses. So, one option would be to ask the present --

CHAIRPERSON CORY: There's a minimum of 24 months?

EXECUTIVE OFFICER NORTHROP: I think the outside probably would be 36.

MR. TROUT: I was about to say, one solution would be to ask the company if they would agree to take a three-year lease while this process went along, and it could be five.

CHAIRPERSON CORY: But 24 is the minimum time frame, with no delays, for the EIR permit?

MR. TROUT: No, sir. I would say that is a reasonable time frame. It could be -- I'd ask Dwight Sanders if he's still here to comment -- but I'd say you could probably do it in maybe 15 to 18 months, but nothing seems to go exactly smoothly, so I would say 24 is a reasonable period of time.

CHAIRPERSON CORY: David, any thoughts?

COMMISSIONER ACKERMAN: A comment, I guess.

This may also be a question to Mr. Hertzberg:

On pages 21 and 49, are the permanent facilities that are referenced there greater or in excess than what you already described, or are those two or three barges your permanent
facilities?

MR. HERTZBERG: I fail to find on this page 49 --

COMMISSIONER ACKERMAN: On page 49, it's down about the eighth line, it says anticipated requirements, you made temporary arrangements for 60 days until more permanent facilities can get on line.

What are those permanent facilities?

MR. HERTZBERG: Oh, the permanent facilities were the barges we're talking about. We were going to go in with three houseboats and use skiffs to pick up the garbage until we can make the barges, cause them to be made.

COMMISSIONER ACKERMAN: And barges are your permanent facilities?

MR. HERTZBERG: Oh, yeah, they would be permanent.

But those barges will comply. They're no bigger than a boat. They'll be moored out there.

I forgot to answer your first question when I was up here before, Mr. Ackerman. That is having to do with our minimum annual guaranteed rental.

We, of course, guaranteed 150,000, stepped up at five percent.

Now I didn't -- could you repeat the question?

COMMISSIONER ACKERMAN: I think what I was concerned was that, at the time you made the bid, and today,
We have said that certain elements of that bid cannot be considered by the commission.

My question to you was: Does that in any way change your position on bidding, or your perception as to whether or not you could effectively, and more or less effectively, provide the services?

MR. HERTZBERG: Oh, we can provide the services. As a matter of fact, we can provide even better, because we're giving you even more money by our bid than we would if you reduced it to 125,000. That would be guaranteeing more money. The percentage may be higher, maybe higher than guaranteeing.

Am I answering your question?

COMMISSIONER ACKERMAN: I'm not sure.

COMMISSIONER MORGAN: You're correct, 150 is more than 125, but 150 plus five percent per year is not necessarily more than 125 for five years adjusted at that point, and then the higher rate adjusted at the next five-year point. So over the terms of the lease, it's not necessarily providing a higher rate.

And I think Dave's question to you simply is, although you submitted the bid that was 150, and with five percent increases, do you still consider that you have a bid that you want to stand behind when our staff changed the bid to be 125 with a five-year rent review as specified.
in the bid package?

MR. HERTZBERG: Ms. Morgan, you have the rent review in our bid, the same as you have the 125, so that don't change.

As to the second part of the question, the postscript to my letter said -- have you read the letter? I couldn't understand why the state couldn't take more money, but in the event that they can't, consider it at the highest maximum possible, which would be 125,000. So you would consider 125,000 if you can't take the money.

But explain to me someday why you can't.

COMMISSIONER ACKERMAN: We can't because we didn't ask for it.

MR. HERTZBERG: Well, at any rate, the permanent ones I'm talking about are those barges and that stuff.

CHAIRPERSON CORY: Other questions, or is it time to make a decision.

The time frame to go through an EIR process is 14-15 months minimum, 24 months reasonable. Given that government is unreasonable, and this process clearly shows that --

MR. TAYLOR: And an appropriation --

EXECUTIVE OFFICER NORTHROP: Appropriate money to do it with as well.

MR. TROUT: Well, what I was suggesting was that
the commission could consider going out for proposals, and
six-eight months down the line, evaluating and selecting
one of those proposals. That proposal would then
finance the environmental document necessary to implement
the selected proposal.

EXECUTIVE OFFICER NORTHROP: That's six months
to two years right there.

MR. TROUT: So to be safe, if that were the
process to be chosen, then you would need to have an
operator for the next three years, I would say.

CHAIRPERSON CORY: Or not lease it.

MR. TROUT: Or not lease it, or direct the staff
to lease it directly. That's kind of a terrifying thought,
but --

CHAIRPERSON CORY: Susanne, your original
proposal was to -- I'm not sure, was that to reject, or to
award the bid pursuant to --

COMMISSIONER MORGAN: Right.

CHAIRPERSON CORY: I am uncomfortable about voting
for that one, in that there are three people who are very
serious and perhaps a fourth that are interested. I'm not
so sure that they have been dealt with all that fairly
in this process, given where we find ourselves and what our
staff is telling us. That's why I'm hesitant about --
assuming that this is the end of that, and I certainly had
hoped to put an end to this at this meeting, but I'm not so sure that we can.

If you have anything you can live with, I'm willing to listen to that.

COMMISSIONER ACKERMAN: I'm not in a position right now to support the proposal on the table.

CHAIRMAN CORY: Come up with something. Maybe there's something you can live with or Susie can live with.

COMMISSIONER ACKERMAN: When it comes down to realities, it's one of those hypothetical things that one has to live with, but if we get into this, and we either have legal action, or we have an environmental suit, or Coastal Commission activity.

But what I'm concerned about, and the reason, I guess, maybe I got into too much detail on this thing in the beginning, is still the one consumer out there, and that's still the boater. And I guess they feel like they've been deserted by everybody, including myself.

But come six months down the road, when Memorial Day gets here, if we're in the midst of a lawsuit, and buoys have been unattended because of problems, I think we've done a disservice, if either the Island Company or someone else was the operator, we do a disservice to them and their reputation as well as to the boater.
I definitely, no matter what, do not want to be in that position. It's not fair to anybody.

I don't know what options exist in between, except maybe an interim arrangement. That is kind of punting and postponing the problem.

I have no good reading right now as to whether the Coastal Commission would interject itself into this. I hope not. I'd like to have a piece of paper in front of me right now that had them take a look at each of the proposals, and have them sign on them saying there's no problem with them. That sure should have been before today, or there should have been adequate time to have the bids received, and since that's a concern, that they would have gone through that consideration. The Coastal Commission would have looked at it, and maybe also rendered an opinion through the Attorney General's office, maybe someone other than Greg -- no offense.

(Laughter.)

COMMISSIONER ACKERMAN: I want a real lawyer -- of what liabilities exist under the CEQA process here.

CHAIRPERSON CORY: Where did you go to school?

COMMISSIONER ACKERMAN: UCLA.

CHAIRPERSON CORY: That explains it, Greg.

That explains the bias.

COMMISSIONER ACKERMAN: That's just my own thoughts.
I'm concerned about the situation from the bidders, from that aspect.

If the staff recommendation is real, and we are looking at some extreme environmental problems, everyone loses. And that's not the intent of the commission.

It was never the intent. It's really my number one concern. That doesn't do anybody any good.

I guess if you want to look at it that way, the only one that could get through within a year or two, through the process, would be the existing operator.

CHAIRPERSON CORY: What period of time?

COMMISSIONER ACKERMAN: I'm not necessarily offering that as a proposal.

CHAIRPERSON CORY: I think it's time to move one way or the other.

COMMISSIONER ACKERMAN: I mean, I could offer it in another way, another motion that would be to go with one of these other two, and offer a motion for each one, see if there's one more vote for them, too.

CHAIRPERSON CORY: Given what the staff has informed us of, both counsel and professional staff, I don't think that we have that option.

COMMISSIONER ACKERMAN: I don't think the votes are here for the option.

CHAIRPERSON CORY: I mean, as I hear and interpret
what Greg and Jim have told us, we do not have the option of awarding this bid to anyone other than Island Company if we go with the bid. Or if we do, there is very limited probabilities of us prevailing, and that would be some way down the line. That's what I'm hearing.

Now, if that's where we are, I also am uncomfortable, having started this process, about using the mechanism of rejecting the people who wanted to bid on this and giving a bid, in essence, to the sole source for 15 years. If you can make it something of a stopgap, I'm willing to go along with that. If not, I would guess that maybe where we are --

COMMISSIONER ACKERMAN: I'm opposed to the sole source. That was my whole point of going for bidding in the first place.

CHAIRPERSON CORY: So if that's where we are, the option is to either not lease at all, because we don't have enough votes to award a lease, which is clearly one option. Nobody gets it, and nobody has anything. Drop your hook where you want to, guys, and good luck out there.

Or, some interim arrangement along the lines that Trout suggests, of asking the staff to request proposals, then go through the full megillah of the environmental thing, and get the ducks in a row on all the regulatory agencies, such as the Coastal Commission. And as I hear it,
it would seem to me that it would be foolhardy to try to
do that in 24 months. As preposterous as it seems, it
seems to me you've got to go 30 to 36 months.

It seems you've got to go a full-year cycle, that
you do not want a change occurring in the middle of the
summer season.

MR. TROUT: I was going to say, I don't think you
want 30 months.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
Mr. Ackerman and Ms. Morgan, if I could ask you to perhaps
consider one other thing.

We're looking at the environmental side of it.
It seems as though the commission is in some kind of
agreement of what to do with the boat leases.

Is that in your mind, to put that to bed so we
don't have to deal with that again, or do you want us to
deal with that also?

CHAIRPERSON CORY: I would contemplate, from my
viewpoint, that I'm willing to stand with those issues and
not reopen that, that we have decided those issues, and that
those people who own tackle, their equity claims and
arguments have been heard. And we have reached for them to
do what we can, and we should try to extend that protection
for them. And whether we have a three-year interim lease
or two-year lease, that the new lessee, if there was one,
would be obligated to protect their rights subsequently, so they aren't left hanging. That hopefully is what we developed out of that, that they have some contractual rights.

MR. TAYLOR: Have it set up with a master lease, with a master lessee. Have it 15 years with a master lessee, terminating in three years, with the right, at the option of the commission, the right to substitute somebody else at that point.

COMMISSIONER MORGAN: The idea you're toying with now is one that I think we considered and rejected several meetings ago in favor of continuing the operation along the lines that's been conducted in the past.

And there were people who thought that they could provide those same services, same level of service, and still get the state a better deal. And that's where I'm at at this point today.

What you're suggesting is go back to that point and say what we really want is to know if there's a whole new proposal for a commercial development of some sort that would be different from our operation and still give us a good return.

CHAIRPERSON CORY: Being more specific, as I understand it from looking at these, there are specific proposals which private entrepreneurs believe they can meet
the same requirements that we set up in terms of providing services. They believe they can meet them without triggering and invoking a regulatory and CEQA mechanism.

Our staff says that is not the case. And I am unwilling, on that issue, to override the staff, but I would like to have those people have the opportunity to present their views. But unfortunately, that means a rather long process. We try to do it in a hurry-up-quick way, and somewhere, upon the state's side of the table, we had some problems in understanding and communicating fully between commission and staff as to what was going on, and that's where we are.

So, whether it's another proposal or something else, some of these proposals make sense to me. But if it's going to take a full EIR, I don't see how you can start, given what the staff has told us down that road, and award a bid at this point other than to the Island Company.

I understand your position.

COMMISSIONER MORGAN: It's conceivable. I mean, if we want to rethink our previous decision and status quo operation, about testing the market, if we want to rethink that, and call for a whole new operation at Catalina, then it seems to me that even the proposals that we've been considering today might have been different. And you're talking about a completely different set of rules than what
we've agreed to and considered to this point.

I think the boaters would have something to say again.

CHAIRPERSON CORY: I'm sure they would.

I just would like to preserve in the process some protection for their tenuous equity argument that they have, rather than put them through the full drill of being at full risk again.

That's why I would contemplate trying to -- they would be put aside, and that's what the concept that Greg has suggested, a lease with the concept that, if a better proposal, something that makes sense to the majority of the commissioners comes along, presumably at that point, the boaters will still prevail. We could amend mutually based upon that proposal under the master lease. But the boaters would still have their end-line position rather than have someone decide that, no, they're going to have coin-operated electronic boat games in place of moorings, and the people will be out totally.

COMMISSIONER ACKERMAN: I don't want my position misrepresented to the fact that I'm opening this up to a whole new development schematic.

We spent an awful lot of time zeroing in on the service, we designated the moorings, we designated the coves shall have anchorages, shall be leased. We've gone through
it item by item, and not acceptable to anything much at all but that. I think we've set the parameters.

It's just when we started this, I think we had every real expectation that the level of service that we had outlined would be easily met without environmental and CEQA problems. I believe that. Otherwise, there would have been no reason to go through this.

To some extent, I feel that that's a very risky risk to take. And perhaps it needs an evaluation of the CEQA process, but under the same type of operation that --

CHAIRPERSON CORY: But we don't have the time to go through that evaluation.

COMMISSIONER ACKERMAN: I can understand that.

CHAIRPERSON CORY: We've got to either make a decision that we're not going to have any kind of a lease, we're going to have an interim lease, or we're going to go --

COMMISSIONER ACKERMAN: The ideal would have been, five years ago, to have done this process and come up today.

MR. TAYLOR: Mr. Chairman, the lease --

CHAIRPERSON CORY: That's what Mr. Dymally called up and told me.

MR. TAYLOR: Mr. Chairman, the lease terminates on the 31st.

There's going to have to be either some kind of short extension of the time, and then a longer interim; or
there's going to have to be an interim period set now, and
direction to the staff to negotiate. Because there's also
got to be -- before you do that, you've got to close off
the bidding process. And if that is now your intent, to
reject all bids, you must exercise your discretion, which
was reserved in the lease, and reject all bids. And then
you have to go to the first two things that I discussed,
whether you want to do it for a 30-day extension, 90-day
extension, and then come back with something more, or
direct the staff to try to negotiate a three-year extension
with some kind of terms to it.

Those are the options at this point.

CHAIRPERSON CORY: Go through those again?

MR. TAYLOR: The first thing you have to do is
to decide whether or not you are going to reject all bids.

It's my understanding, at least from what is
happening so far, that there is no majority vote for any
of the three bidders. If that is the case, then you must
reject all bids.

At that point, then you can begin discussion about
what you're going to do with regard to renewal or extension,
or some kind of interim provision.

CHAIRPERSON CORY: The concept that you mentioned
a short while ago, master lease up to 15 with the state's
option of substituting the master lessee at the end of three
is not available?

MR. TAYLOR: That's available, yes, that would be one of them. You have to have a party that's willing to enter into that with you, and you'd have to have the terms and conditions. But if that were the case, you could go ahead and do it.

It may be that you would just want to -- I don't know whether you want to extend this for 30 days, and then try to put something together, or if you want to try to dispose of it today.

COMMISSIONER ACKERMAN: I think we've hammered out the issue relating to the boaters. That's been a fairly painful process as well. I'd like to see that stand and like to leave it alone. I think it's a good arrangement, and I think it ought to stand.

MR. TAYLOR: That could be incorporated into a proposed interim lease.

COMMISSIONER ACKERMAN: Can that simply be proposed in the interim lease with the stipulation that that also would be incorporated into any subsequent --

MR. TAYLOR: Yes, I think that it can, but it's going to be a unique document, but I think that it can.

EXECUTIVE OFFICER NORTHRUP: Mr. Ackerman, so that we understand and so that the record is clear, you're saying that we leave the number of moorings the same as we
have done in the solicitation, leave the coves the same as
we've done in the solicitation, and as far as the
gеоgrарhіс locations, hold those the same as we have in
our previous solicitations; іs that correct?

COMMlSSlONER ACKERMAN: Correct.

EXECUTIVE OFFICER NORTlROP: Thank you.

MR. TAYLOR: On an interim arrangement, the
consideration is going to have to be set for the interim
period. That may be a matter of negotiation, find out іf
we can get somebody to operate it on an interim basis.

COMMlSSlONER ACKERMAN: Obviously the three
parties that would be eligible to operate іt are here.

COMMlSSlONER MORGAN: Not necessarily.

CHAIRPERSON CORY: No, іt seems to me from what I
understand the staff іs saying, there could only be one
operator for іn interim relation. But іf you use anyone
other than that, you have a series of problems, the same
reason we have difficulty proceeding to award a bid. That
would take place іf, іn fact, you tried to impose a different
interim operator.

MR. TAYLOR: You would still face the same
scale of problems, depending upon what was done, yes.

CHAIRPERSON CORY: So, to the extent that we are
obviating problems, there іs only one potential interim
operator, or no lease for anyone.
COMMISSIONER ACKERMAN: I see our options are fairly limited if we take that course of action.

MR. TAYLOR: I think that in order to get an interim extension, we're going to have to have 30 days to negotiate with somebody. I think --

COMMISSIONER ACKERMAN: I'm disturbed at the term "negotiate".

Greg, can't the commission just set forth the terms of an interim agreement?

MR. TAYLOR: Yes, they could. And if they're accepted, that's fine. If they aren't accepted, then we would have to do something further.

CHAIRPERSON CORY: Then there is no lease.

MR. TAYLOR: There is no lease.

CHAIRPERSON CORY: The lease terminates December 31.

MR. TAYLOR: A proposal which could be considered are the terms of the Santa Catalina Island Conservancy's bid on a three-year basis. And it would be up to them to say whether they would accept that or not, and just go on that basis.

However, we still haven't concluded the question of whether or not all the bids are going to be rejected. I think for clarity of the record, it would be more appropriate to start at that point.
MR. TROUT: Well, the bids are supposed to be good for 60 days under the proposal.

CHAIRPERSON CORY: It seems to be that the staff is proposing that we either accept a bid, reject all bids, then move to a motion for setting terms for an interim, for a fixed period of time in that interim period.

COMMISSIONER MORGAN: And call for a proposal during that interim to do something other than which we did already.

CHAIRPERSON CORY: Or to do that.

What I hear is that we cannot do what we requested, given the way people replied.

COMMISSIONER MORGAN: I'm not necessarily sure we're into that.

MR. HERTZBERG: One quick suggestion.

On behalf of my client, we're willing to bond and hold the state harmless from any claim as a result of the issuing problem that has arisen here, whatever bonds would be proper, the amount. And we'd be willing to do that.

CHAIRPERSON CORY: I appreciate that and accept it as a good-faith offer.

My concern is that there are people who are not here who are likely to be significantly inconvenienced. I'm not so sure we could live with the political consequences of
that inconvenience, and that would not be a bondable item. I don't think I can be a beneficiary of a bond when I'm going to have to bear the brunt. That's the difficulty.

You can protect the state. But if we attempt, and there ends up being a court order where there are, in fact, no moorings, if there are going to be no moorings I think we're going to make that decision here and know we're doing it, rather than let some crazy court end up doing that. That's my concern with it.

If the other members want to accept that, I'm willing to go along. But I'm more concerned about the political consequences of starting a process which falls apart, rather than financial remuneration to the state. I don't know where the other two commissioners are.

MR. SAUNDERS: I'd like to represent the boaters. Everybody's talked except the boaters.

Could I just say one thing?

CHAIRPERSON CORY: No.

MR. SAUNDERS: It's not fair to let him speak --

CHAIRPERSON CORY: That's right. It doesn't say anyplace that I have to be fair.

Now, as I understand it, we do not have a motion that is capable of passing to award a bid.

I am willing to entertain a proposal to reject all bids. If there is someone else who's prepared to vote
for that, I will make the motion.

COMMISSIONER MORGAN: No.

CHAIRPERSON CORY: Okay, if that is not the case, then procedurally I think where we're going to be -- David.

COMMISSIONER ACKERMAN: Otherwise, then, we just let it elapse.

CHAIRPERSON CORY: Then there's apparently not two votes to accomplish anything, and there is.

MR. TAYLOR: Let me say this: The bids are an offer of 60 days. They haven't run out yet. It's 60 days from the 7th of December.

We need at least an extension or something of the lease. The offers are on the table at least for their term to be 60 days. And until that occurs, I think the only option up to you is to extend the existing lease for not to exceed that period of time.

CHAIRPERSON CORY: Or to not lease.

MR. TAYLOR: Or not to lease. But you'd have to let the 60 days run out.

I guess there are several things that could happen. If there's no majority, what you may have to do is simply wait until the end of the 60 days, during which time the lease will expire.

And you will have to do something about the outstanding bids, either to act on them or reject them before
you can move on to do anything outside that period of time.

EXECUTIVE OFFICER NORTHRUP: We could run it ourselves.

MR. TAYLOR: Mr. Northrop has raised just another option.

CHAIRPERSON CORY: That's really not an option. I don't think so, because when you contemplate the full end of legal probabilities, I don't think that's an option. I may be mistaken, but --

MR. HIGHT: There is a way, Mr. Chairman, that could work, but --

COMMISSIONER ACKERMAN: We were discussing Mr. Taylor's option of the 60-day period that the bids remain alive on the table.

CHAIRPERSON CORY: Which is now 50 days.

MR. TROUT: One solution, Mr. Chairman, Mr. Sanders suggested that one thing we might do is put the proposals that we have out as an initial study with an environmental check list, and see what kind of response we get in the next 30 to whatever days. Let's say there's ten of the 60 days, so we've got roughly 50 days to run it out and see what the environmental impacts of the three proposals are.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman, to give you the benefit of what we've been discussing here, Dwight
Sanders, who runs the Environmental section and is our environmental expert on how things can be done, says that it's possible to -- Dwight, do you want to lay out where we could go on this?

MR. SANDERS: Mr. Chairman and members, I believe that it would be possible to put together what is termed an initial study with, as the core, the proposals that are before you now. It is rather unique in one sense, but generally when we go out with such a document asking the responsible agency what type of document is necessary, there is only one project. But there may be the possibility to get at least a reading as to the environmental consequences of one or more of the proposals in that manner.

MR. TAYLOR: The biggest problem with that is going to be -- well, I guess it may give you a range of things, but one bidder has shown an awful lot of stuff for the future. One of the other bidders was a little bit further off, in that he has three barges as opposed to one. And then one didn't do anything.

I guess that gives you a spectrum, but it doesn't say what the other two would have done if they had read the lease proposal the same way as the Pioneer group did. But it would give you a chance to test the waters on each of the three options, I guess. I don't know what you could get from it.
CHAIRPERSON CORY: We can offer an interim lease for enough time to go through the regulatory and environmental process, or admit that nobody else can bid. I have trouble with that.

COMMISSIONER ACKERMAN: I will give you a vote to do something, because just doing nothing doesn't serve anything.

MR. TAYLOR: Well, if you want to go off to a study, if your decision is to leave the bids open, then we need a motion to extend the term of the existing lease for another 30 or 40 days, whatever you want to do, some interim time. And then, if you want to direct the staff to put out an interim study to see what kind of reaction is drawn, I think there will be a reaction, but I don't know whether that would change your dilemma.

CHAIRPERSON CORY: It would seem to me that, given the way you've stated the dilemma, the problem is that anybody other than the Island Company must go through the full regulatory process. If that's the case, then it seems to me we should reject all bids and set up the proposals that you suggested, Greg, a master lease, make it available if the existing operator wishes to take it, add some fee for a two- or three-year period of time, whichever the staff recommends, so that the regulatory processes can be concluded, rather than to bet on the one chance in a
hundred that you can prevail. That's where I come from.

It seems to me that that is not a choice that I
like, but it appears to be the only choice, given the
obligation to the other prospective bidders, people that
have asked to come in here, and resolving that with the
fact situation as the staff counsel advises us.

Otherwise, I don't see that the 30 to 60 days
buys up much, other than further muddying of the water.

EXECUTIVE OFFICER NORTHROP: I'm sure it's going
to tell us what we already know: We've got an environmental
document problem.

CHAIRPERSON CORY: I would propose that the
existing process be started down that regulatory mechanism,
however staff wishes to put that together, rather than to
put it off for another 30 to 60 days, where we're going to
be at the same point, agonizing over the same imponderables,
and we will have lost that 30 to 60 days given the fact that
it's going to take that much time. We might as well get
the clock running, because from what he's told us, that
clock is going to have to run if it's going to be anybody
other than the Island Company that has a realistic chance of
making a proposal.

It may be that one of the other bidders will see
that they're no longer going to be interested. That's my
view of it, that we go with that option.
So, I would propose that we reject all bids, offer to the existing lessee -- pick a term. I'm not hung up on the term.

MR. TAYLOR: Could we do it in separate steps? Do you want to know what you're going to do secondly to make sure you're comfortable with the fact --

CHAIRPERSON CORY: Staff, is it your view that that process can be done in 24 months, or is it more realistically three years?

EXECUTIVE OFFICER NORTHROP: Given that what we have to do is come back to the commission with a proposal, I think it realistically is three years.

If we had a proposal in hand, and ran out with it, then we've got a two-year, slam dunk. But if we've got to come back to the commission with a proposal and lay it out, and then go to an EIR, then we've added six or seven months to the process.

CHAIRPERSON CORY: You take the existing request for proposal that we put together, and go out with that, then you can do it --

EXECUTIVE OFFICER NORTHROP: We can do that, Dwight, in two years? Wait until I get my expert.

MR. SANDERS: Again, Mr. Chairman, what was your question? If we --

CHAIRPERSON CORY: We take the existing --
MR. SANDERS: -- request for bids and went out, the commission, I would presume, would set a time at which those new bids would come back in. They would be re-evaluated, and then from then, the process would start with one proposal being chosen by the commission. From that time, about 18 months should pass, counting lead agency action and responsible agency action.

CHAIRPERSON CORY: So that if we use the existing, it can be done in 24; if not, it takes three years.

EXECUTIVE OFFICER NORTHROP: If you could give us a package and say this is what we want, then it's two years. That would mean that you have to decide today which package you'd want to look at.

CHAIRPERSON CORY: The interim period, I would guess three years, just given the problem of where we are, is what they're telling me.

EXECUTIVE OFFICER NORTHROP: Under any, before we have one-year time frame from the time it's deemed complete, but the catch is "deemed complete".

CHAIRPERSON CORY: In that process, you would have, in essence, a master lease with the boat question resolved, somebody in place to operate, and as quick as legally possible in the practical sense, bidders able to deal with the commission.

That seems to me to be the only kind of middle
ground that tries to preserve the option for those people that are interested in this project and that are maintaining so that the boaters don't have to go through the process and keeping a lessee in place.

I don't know if you've got any minor adjustments you want to make on that. I don't have any strong feelings about any of that. It seems to me that's about all we can do from what staff has told us.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, also it should be understood that the proposer is going to have to front the EIR money. I just want to get that clear on the record.

CHAIRPERSON CORY: That is normal of who finances most of the EIR's in the stuff we do?

EXECUTIVE OFFICER NORTHROP: The proposer.

MR. SANDERS: The commission is responsible for the cost of the document.

COMMISSIONER ACKERMAN: I think you've got to have somebody in charge out there January 1st through the boating season. I think it's ridiculous to think otherwise. So, an option to just kind of let it phase out in a free-for-all is not right. It just won't work. If this is the only option --

CHAIRPERSON CORY: Think what we could get for the phone rights with that.
COMMISSIONER ACKERMAN: Go west, young man.

MR. TAYLOR: It's my understanding there are a couple of ways. But I guess my first understanding with it was that you would -- the second part of it would be, you'd offer the Island Company Conservancy a lease on the terms that they have bid, set it up for 15 years with their interest as the master lessee, terminable in three years at the will of the state.

CHAIRPERSON CORY: That would be acceptable with me if that's the case that it could be in there to get something done. If you'd like to make some changes on that, you could do that.

COMMISSIONER ACKERMAN: That's ok, with me.

CHAIRPERSON CORY: We've got two votes for something. Hooray. I'm gaining.

MR. TAYLOR: Then, as I understand it, it is the motion of the commission to reject all bids and --

CHAIRPERSON CORY: Start over again.

MR. TAYLOR: It's the motion of the commission to reject all bids, and to offer to the Island Company and Santa Catalina Conservancy a master lease which is for the term of 15 years, with all the provisions that you have in it, except for the fact that their right as the master lessee would be terminable at the state's option at the end of three years.
CHAIRPERSON CORY: I'll preserve the rights of the boaters.

MR. TAYLOR: The boaters' rights would be fixed for 15 years, and they would be a third-party beneficiary of this contract. And then you would just have to make provisions for sliding somebody into the master lessee role.

It would also give you the right to reset the rents as far as that part was concerned also.

CHAIRPERSON CORY: I'm prepared to vote for that.

MR. TAYLOR: The boaters' rights are for 14 years, all the previous terms we discussed today.

CHAIRPERSON CORY: Dave, would you go along with that?

COMMISSIONER ACKERMAN: Reluctantly, I guess.

I'll go along with it.

CHAIRPERSON CORY: All right, that's to be the order.

So, at that point now the staff can start putting together how to go out to the proposals and get something together, and you will confer with the commissioners to get that together as quickly as possible.

EXECUTIVE OFFICER NORTHROP: Yes, sir.

CHAIRPERSON CORY: It's up to the staff.

COMMISSIONER MORGAN: What happens if the staff is unable to negotiate?
MR. TAYLOR: You have an emergency meeting.

CHAIRPERSON CORY: Okay, that's where we are.

We've acted on that.

Dave and I voted yes.

COMMISSIONER MORGAN: I voted no. Do I talk about it, or do you just want to do it?

CHAIRPERSON CORY: We've done it.

COMMISSIONER MORGAN: All right.

CHAIRPERSON CORY: It's already done.

Any other item to come before the commission?

EXECUTIVE OFFICER NORTHROP: Yes, sir, Mr. Chairman. We have an executive session. Do you want to --

CHAIRPERSON CORY: Do those things have to come today?

EXECUTIVE OFFICER NORTHROP: Let it go. I want to go over Susie's staff a little more anyway.

CHAIRPERSON CORY: I have got to get home.

(Thereupon this meeting before the State Lands Commission was adjourned at approximately 5:15 p.m.)
CERTIFICATE OF SHORTHAND REPORTER

--o0o--

I, EVELYN J. DUGGAN, a shorthand reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission meeting was reported in shorthand by me, Evelyn J. Duggan, 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 21st day of December, 1981.

EVELYN J. DUGGAN
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION
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MEETING
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 4203

PARTIAL TRANSCRIPT

THURSDAY, DECEMBER 17, 1981
10:20 A.M.

Evelyn J. Duggan
Shorthand Reporter
APPEARANCES

Commission Members:

Kenneth Cory, Chairperson

Susanne Morgan, representing Mary Ann Grave, Director of Finance

David Ackerman, representing Mike Curb, Lieutenant Governor

Staff Present:

William Northrop, Executive Officer

James F. Trout, Assistant Executive Officer

Robert C. Hight, Esq., Chief Counsel

N. Gregory Taylor, Esq., Assistant Attorney General

Les Grimes

Moose Thompson

Dave Hadley

Robert Faber

Dwight Sanders

Don Everitts

Lance Kiler
<table>
<thead>
<tr>
<th>Index</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceedings</td>
<td>2</td>
</tr>
<tr>
<td>11/23/81 Minutes approved</td>
<td>2</td>
</tr>
<tr>
<td>Consent Calendar approved</td>
<td>2</td>
</tr>
<tr>
<td>Discussion of Item 20</td>
<td>4</td>
</tr>
<tr>
<td>Approval of Item 20</td>
<td>5</td>
</tr>
<tr>
<td>Discussion of Item 21</td>
<td>5</td>
</tr>
<tr>
<td>Approval of Item 21</td>
<td>5</td>
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<td>Discussion of Item 22</td>
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<td>Discussion of Item 23</td>
<td>6</td>
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<td>6</td>
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<td>Discussion of Item 25</td>
<td>6</td>
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<td>Approval of Item 25</td>
<td>7</td>
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<td>Discussion of Item 26</td>
<td>8</td>
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<td>9</td>
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<td>Discussion of Item 28</td>
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<td>Discussion of Item 29</td>
<td>9</td>
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<td>Approval of Item 29</td>
<td>10</td>
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<tr>
<td>Discussion of Item 30</td>
<td>10</td>
</tr>
<tr>
<td>Approval of Item 30</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>INDEX (continued)</td>
</tr>
<tr>
<td>---</td>
<td>------------------</td>
</tr>
<tr>
<td>1</td>
<td>Discussion of Item 31</td>
</tr>
<tr>
<td>2</td>
<td>Approval of Item 31</td>
</tr>
<tr>
<td>3</td>
<td>Discussion of Item 32</td>
</tr>
<tr>
<td>4</td>
<td>Approval of Item 32</td>
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<td>5</td>
<td>Discussion of Item 33</td>
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<td>6</td>
<td>Approval of Item 33</td>
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<tr>
<td>7</td>
<td>Discussion of Item 34</td>
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<tr>
<td>8</td>
<td>Approval of Item 34</td>
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<tr>
<td>9</td>
<td>Discussion of Item 35</td>
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<td>10</td>
<td>Approval of Item 35</td>
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<td>11</td>
<td>Discussion of Item 36</td>
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<td>Approval of Item 36</td>
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<tr>
<td>13</td>
<td>Discussion of Item 37</td>
</tr>
<tr>
<td>14</td>
<td>Approval of Item 37</td>
</tr>
<tr>
<td>15</td>
<td>Discussion of Item 38</td>
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<tr>
<td>16</td>
<td>Approval of Item 38</td>
</tr>
<tr>
<td>17</td>
<td>Discussion of Item 39</td>
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<tr>
<td>18</td>
<td>Discussion of Item 40</td>
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<tr>
<td>19</td>
<td>Discussion of Item 41</td>
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<td>20</td>
<td>Approval of Item 41</td>
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<td>21</td>
<td>Discussion of Item 42</td>
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<td>22</td>
<td>Approval of Item 42</td>
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<td>23</td>
<td>Discussion of Item 43</td>
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<td>24</td>
<td>Approval of Item 43</td>
</tr>
<tr>
<td>25</td>
<td>Discussion of Item 44</td>
</tr>
<tr>
<td>26</td>
<td>Approval of Item 44</td>
</tr>
<tr>
<td>27</td>
<td>Certificate of Court Reporter</td>
</tr>
</tbody>
</table>
CHAIRPERSON CORY: All right, we'll call the meeting to order.

Are there any corrections or additions to the minutes of the meeting of November 23rd? Without objection, the minutes will be confirmed as presented.

Is there a report of the Executive Officer?

EXECUTIVE OFFICER NORTHROP: There is no report of the Executive Officer, Mr. Chairman.

CHAIRPERSON CORY: Is there a report of the Coastal Commission?

EXECUTIVE OFFICER NORTHROP: There is no report of the Coastal Commission today, Mr. Chairman.

CHAIRPERSON CORY: The next item is the Consent Calendar item. They're on the front of the agenda, preceded by the letter C, and they go from C1 through C18.

Unless there is some objection by somebody in the audience to these proposed staff recommendations, all of those will be taken up at once. If there is anyone who wishes to object to the proposed staff recommendations, please say so now.

Without objection, the Consent Calendar will be approved as presented.

(Thereupon Calendar Item No. 19 came under
consideration, which has previously been submitted in a prior transcript of this proceeding.)

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CHAIRPERSON CORY: We'll reconvene the meeting.

While part of our staff, the part that is most
directly involved with the Catalina Island thing, has not
yet returned, we'll proceed ahead and proceed with the other
calendar items and try to dispense with those, and then take
Item 19 as soon as they come back or when we have concluded
the other items.

The next item on the agenda is Item 20. This is
relating to high water/low water.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
a change, revocation of existing policy on high water/low
water, and sets up a new policy for administration of that
area in the State Lands Commission.

CHAIRPERSON CORY: Is there anyone in the audience
on Item 20? Any questions from the commissioners?

COMMISSIONER MORGAN: What was the basis for the
change?

CHAIRPERSON CORY: The reason for the change is the
Supreme Court in Lyon versus Fogerty.

EXECUTIVE OFFICER NORTHROP: That's correct.

CHAIRPERSON CORY: We need to deal with the
easement that they, in essence, ascribed by a court case
between high water and low water.
COMMISSIONER MORGAN: We didn't do that at the last meeting?

EXECUTIVE DIRECTOR NORTHROP: No, the last Commission meeting -- Mr. Hadley is here, who is familiar with that.

Dave, would you give them a breakdown on that?

MR. HADLEY: Yes.

Dave Hadley from the staff.

The basic intent of this Calendar Item is to implement the Lyon-Fogerty decision and to change the policy that was in effect at the time the litigation was initiated.

COMMISSIONER ACKERMAN: Was Mr. Herger's office notified of this calendar item, because he had some objections the last time.

MR. HADLEY: Yes, he was.

COMMISSIONER ACKERMAN: Okay, thank you.

CHAIRPERSON CORY: Without objection, Item 20 will be approved as presented.

Item 21, request of approval for a general lease here in Sacramento County to Jolly Roger, Incorporated.

Is there anybody in the audience on this item?

Any questions from commissioners?

COMMISSIONER MORGAN: I want to ask about the lease rate.

EXECUTIVE OFFICER NORTHROP: Yes, ma'am.
COMMISSIONER MORGAN: Is this done according to our normal policy?

MR. GRIMES: This is done according to our normal policies, scheduled to fit a rather confused title situation and allow a development to go ahead.

CHAIRPERSON CORY: I have not recalled seeing a lease on electronic game machines before.

MR. GRIMES: That's because they're fairly new, I think.

CHAIRPERSON CORY: This is our first one?

MR. GRIMES: Yes, it's our first.

CHAIRPERSON CORY: How did we arrive at 25 percent?

MR. GRIMES: According to information that our appraisal staff gathered, that's what it's common.

CHAIRPERSON CORY: All right.

COMMISSIONER MORGAN: Fine.

CHAIRPERSON CORY: Without objection, anyone in the audience on that item? Without objection, Item 21 is approved as presented.

Item 22 is approval of a 30-year general lease for Thomas Raley in the Sacramento River.

Any questions from commissioners?

Without objection, Item 22 is approved as presented.
Item 23, approve authorization for compensation on a tide and submerged land parcel in Seven Mile Slough from Roy Gustafson dba Owl Harbor, and a lease on a standard percentage.

EXECUTIVE OFFICER NORTHROP: That's correct, Mr. Chairman.

CHAIRPERSON CORY: Anybody in the audience on this item? Any questions from the commissioners?

Without objection, Item 23 is approved as presented.

Item 24, a bunch of people want to give us some land. Is there anybody in the audience on this item? Questions from the commissioners?

Without objection, Item 24 is approved as presented.

Item 25 gives us some information on Wickland's coal at Selby.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is a report on a proposed coal terminal at Selby, and Mr. Dwight Sanders of our staff has been working it out.

MR. SANDERS: Mr. Chairman, this is basically an informational item in one sense. The Wickland Oil Company has filed an application to the Commission for a Coal Export Terminal at Selby to be adjacent to their existing oil facility.
We are reporting to you that it is our intent, pursuant to your delegation to the Executive Officer, to go out to bid for an environmental impact report that is required for the project and to avoid that contract to the best qualified bidder and to enter into a reimbursement agreement with the applicant to pay for such costs.

CHAIRPERSON CORY: Any questions from the Commissioners?

COMMISSIONER ACKERMAN: My understanding is that the Land Commission is the lead agency?

MR. SANDERS: That's correct.

COMMISSIONER ACKERMAN: Is this to expedite all permits and requirements, or just for the EIR?

MR. SANDERS: The Commission is the lead agency, period. It has one year to act from the time of permit or application deemed approved, and that was done approximately November 2nd of this year.

COMMISSIONER ACKERMAN: It is our capacity to take this project through BCDC?

EXECUTIVE OFFICER NORTHROP: It's our job to shuffle it through completion.

CHAIRPERSON CORY: Any further questions?

Any questions from anyone in the audience?

Without objection, we will accept the information, as if we could reject it.
Item 26, this is approval of a lease between the City of Long Beach and Crowley Development. This is the day for it. The lease has been assigned to Catalina Landing Associates.

EXECUTIVE OFFICER NORTHROP: This is a lease which will eventually result in the construction of, I believe, four office buildings, of which the bulk of the space is dedicated to navigational trust purposes.

CHAIRPERSON CORY: Any questions?

COMMISSIONER ACKERMAN: This is in Long Beach?

EXECUTIVE OFFICER NORTHROP: Right, this is in Long Beach on the water.

CHAIRPERSON CORY: Anyone from the audience on this item?

MS. ORFANOS: Elaine Orfanos of Crowley Maritime Corporation in San Francisco. I'm appearing on behalf of Catalina Land and Associates.

I have nothing further to add, but I'm available to any questions of the Commission's.

CHAIRPERSON CORY: Any questions of the commissioners?

Without objection, Item 26 is approved as presented.

Item 27, this is an application to resume limited drilling. This is the substitution of Exxon wells for
EXECUTIVE OFFICER NORTHROP: That's right. It's Exxon wells for Chevron wells.

CHAIRPERSON CORY: All right, what's Arco got to do with it?

EXECUTIVE OFFICER NORTHROP: They're a joint lessee.

CHAIRPERSON CORY: All three of them, okay.

Anybody in the audience on this item?

Any questions from commissioners?

Without objection, Item 27 is approved as presented.

Item 28, award of a negotiated oil and gas lease at the confluence of the San Joaquin River and False River, Contra Costa and Sacramento Counties, to Russell Green and Robert Reedy.

Is there anybody in the audience on this item?

Any questions from commissioners?

COMMISSIONER ACKERMAN: Am I to understand this is because there is no other access?

EXECUTIVE OFFICER NORTHROP: We have no way of getting to it. We just do not have a land base operation.

CHAIRPERSON CORY: Without objection, Item 28 is approved as presented.

Item 29, request for approval of a Geothermal
Prospecting Permit for two years, option of two-year renewal.

EXECUTIVE OFFICER NORTHROP: That's in this particular area right here, Mr. Chairman.

COMMISSIONER MORGAN: That's fine.

CHAIRPERSON CORY: Any questions from anybody in the audience on this item? Any questions from the commissioners?

No problems, Item 29 is approved as presented.

Item 30, Phillips Petroleum Company, Prospecting Permit for how much land?

EXECUTIVE OFFICER NORTHROP: Eight parcels broken into three separate leases, Mr. Chairman,

Staff recommends that we give up these three parcels in one lease, and I believe Bob Faber has the language that would cover that, and these three parcels in another lease, and these two parcels in another.

This would have the effect of, while Phillips has some holdings here, and they may want to drill here, but we also own these surrounding parcels which would give us a chance to prove up ours, and if it's productive, make it into a known geothermal area. That would allow these areas to get some play, as well as the top two, it would give the others some play.

CHAIRPERSON CORY: Anybody in the audience on this item?
COMMISSIONER ACKERMAN: Question, the applicant didn't request three leases. Didn't the applicant request just a single lease?

EXECUTIVE OFFICER NORTHROP: That's correct.

COMMISSIONER ACKERMAN: Are they in agreement with our counter proposal?

EXECUTIVE OFFICER NORTHROP: I've not discussed it.

MR. EVERITTS: They applied originally for -- I'm Don Everitts on staff.

Their original application was for all of those colored sections up there. The surface owner exercised his preferential right on the four pink ones.

There was never any specific evidence that they applied for permits on eight sections. We had decided that the best way to issue those eight sections were not through eight leases or one lease, but the three broken-up permits that Mr. Northrop discussed.

CHAIRPERSON CORY: Does Phillips like that or dislike it?

MR. EVERITTS: They have said that they don't like it, but they'll accept it.

COMMISSIONER MORGAN: Is there anyone here to protest?

MR. EVERITTS: They are here.
COMMISSIONER ACKERMAN: But not necessarily to protest.

CHAIRMAN CORY: Without objection, Item 29 will be approved as presented for three leases.

EXECUTIVE OFFICER NORTHROP: That was Item 30, Mr. Chairman.

CHAIRPERSON CORY: Item 30, pardon me, you're right.

Item 31, Geothermal Prospecting Permit to Larry Durkin in Sonoma.

Is there anybody in the audience on this? Any questions from the commissioners?

Without objection, Item 31 is approved as presented.

Item 32, the City of Emeryville is requesting the issuance of a Dredging Permit for 30,000 cubic yards in Emeryville.

Is there anybody in the audience on this item? Any questions from the commissioners?

Without objection, Item 32 is approved as presented.

Item 33, this is a Sell-Off Bid, in which the bidder was 13-1/2 cents.

EXECUTIVE OFFICER NORTHROP: That's correct, Mr. Chairman, there were four bidders that ranged from zero to 13-1/2 cents.
CHAIRPERSON CORY: And the staff recommends that we reject all bids, since the 13-1/2 cents, we are currently getting 10 cents, the 3-1/2 cents would lock us in for a significant period of time, and there is a likelihood of market proportions changing.

EXECUTIVE OFFICER NORTHRUP: Yes, we tend to think in six or eight months it's going to change.

CHAIRPERSON CORY: Is there anybody in the audience on this?

Without objection, Item 33 is approved as presented.

Item 34, approval to close accounts of tidelands oil revenue in Long Beach on subsidence, $173,814.55.

Is there anybody in the audience on this item?

Any questions from commissioners?

Without objection.

Item 35 is a review of Enhanced Recovery Projects for the Wilmington Oil Field.

COMMISSIONER MORGAN: That's where we're pouring money into the ground?

MR. THOMPSON: I see this as a bad day all the way around.

This is merely an informational calendar item. I don't think we really want to take much time on it.

CHAIRPERSON CORY: How much money have we poured
into the ground, and is there any chance of getting any of it back?

MR. THOMPSON: Well, you multiply that, and we've talked about it several times, and that has returned about three and a half million dollars, and we have about nine and a half million dollars in it. So, the project, again, is a test project. It shows that you can recover additional oil, but the economics are just not there with the present price of oil.

COMMISSIONER MORGAN: Have we gotten far enough with that to say it's a lost cause, or do you want to --

MR. THOMPSON: This is probably the end of the line for that one as far as getting down to the economics.

Some of the more interesting ones are to start injecting carbon dioxide in one project, and we're going to take from the stack of a refinery, and this combination products, as far as environmental, of getting CO$_2$ out of the air and injecting it into the ground.

Another project, of course, we're testing the down-hole generators for steam, and there's two of those; one where we're using air-diesel mix, and another where we're using air-oxygen mix. These projects are, again, right in the testing stage right now and we really can't forecast much. You saw the projects before.

CHAIRPERSON CORY: The down-hole scheme is
generating steam with a chemical mixture as opposed to institutional combustion?

MR. THOMPSON: Yes, actually you're taking diesel and mixing it with air and burning it down there.

CHAIRPERSON CORY: You're burning, actually igniting?

MR. THOMPSON: Right. Of course the advantage there is if you do it down in the hole is you don't have heat losses going down. Of course all the combustion products are then also left in the ground.

CHAIRPERSON CORY: I'm having trouble, without igniting it, how are you going to get the steam, but if you're igniting, you're going to solve that problem.

COMMISSIONER MORGAN: What's your testing period anticipated to be?

MR. THOMPSON: Again, on CO2, we probably should be getting an answer to that probably about a year and a half to two years.

COMMISSIONER MORGAN: Let's see, I won't be here then.

Could you keep us informed about every three months on what you're doing, because if this starts looking like it's going to be pouring more money into the ground, maybe we should stop sooner.

MR. THOMPSON: Of course on most of these projects
now, we have tertiary loading under the price control situation, so these have a certain advantage to them.

CHAIRPERSON CORY: So we're making money even if we lose money. Making it up for volume.

MR. THOMPSON: I would say we're using less.

COMMISSIONER MORGAN: How much are we spending on these two projects?

MR. THOMPSON: Which two projects?

COMMISSIONER MORGAN: The two new projects.

MR. THOMPSON: The CO₂ projects, I don't have a figure on that right now, but the total package on those will be probably in the millions of dollars. But again, most of that will be gained by the upgrading of the control of oil into uncontrolled oil, and all those expenses were prepaid. So most of the expenses on the front end are behind us already on those projects.

COMMISSIONER MORGAN: Okay. Are you going to come to my office and give me a briefing on the financing of these two?

MR. THOMPSON: I sure will.

CHAIRPERSON CORY: All right, thank you, Moose.

EXECUTIVE OFFICER NORTHROP: Chief Counsel is back with us, Mr. Chairman.

CHAIRPERSON CORY: Go ahead.

MR. HIGHT: Mr. Chairman, on 36, Lincoln Benicia
 Associates is asking for modification of an existing title settlement which the Commission approved in August. The modification would allow them until July of 1984 to perfect title to the parcel of land which they will then convey to us. During that time we will have possession of the parcel, and during that time, hopefully, they'll be able to clarify their problems.

CHAIRPERSON CORY: Anybody in the audience on this item? Any questions from commissioners?

Without objection, authorization is granted.

Item 37.

MR. HIGHT: The Boundary Line Agreement in the grant area in the City of Morro Bay to allow the City to develop a tidelands park and establish a boundary along that cliff area which has been filled.

CHAIRPERSON CORY: Any questions from the commissioners? Anybody in the audience on this item?

Without objection, approval is granted as requested in Item 37.

Item 38 is clarification of jurisdictional status on retrocession of Los Alamitos Air Station. That's concurrent, and we're supposed to give it exclusive to them?

MR. HIGHT: To us.

CHAIRPERSON CORY: Exclusively to us.
MR. HIGHT: It went from, we gave them concurrent
and we should have -- the wording should have been exclusive.

CHAIRPERSON COR: All right. Is there anybody in
the audience on this item?

Without objection, the change is made as requested
in Item 38.

Item 39.

EXECUTIVE OFFICER NORTHROP: Mr. Chairman, item 39
will be handled by Lance Kiley.

MR. KILEY: At the last meeting, Mr. Chairman,
the Commission said that Mr. Heist presented a problem that
he has had with the Colusa County Board of Supervisors who
closed Laux Road, which was the only access into about a
12-mile stretch of Butte Creek.

Mr. Heist asked for the Commission's assistance
and intervention in a lawsuit that he has not yet filed, and
he recommended or indicated that it might be premature to
talk about this until after he's been before the Council
again to ask whether or not they would possibly reconsider
their action.

They reconsidered their action the following day,
after the last Commission meeting. They turned down
Mr. Heist's petition, and Laux Road remains closed. They
said they would welcome an inquiry by the Commission.

I've done some preliminary investigating and found
that both the Department of Fish and Game and the
Department of Boating and Waterways may be interested in it.
They want to know more facts. They would like to have
a rundown of it.

CHAIRPERSON CORY: What are we to do at this point?
MR. KILEY: At this point, it's just more or less
up to you whether or not you would like to become involved
in this at all. Mr. Taylor pointed out that the Commission
has, in the past, not been directly involved in protecting
this type of accessway to the waterway. There's no real
precedent for it.

MR. TAYLOR: I would qualify that in one manner.
It was the understanding that it was a nonnavigable waterway.
There is a possibility that that may be a navigable waterway.

MR. KILEY: Yes, I did some investigating
preliminarily. The thing was sold as swamp and overflow
lands. The swamp and overflow land patent apparently did
not include the waterway; however, we have not had time to
make a sufficient investigation to determine whether there
was, in fact, navigation in there, at least navigation of a
commercial sort. Certainly there has been small-boat
navigation for a long period of time. There may never have
been steamboats going up this far.

COMMISSIONER MORGAN: So, we don't know if we
have jurisdiction, but we feel that some State agency does?
MR. KILEY: Yeah, some of the State agencies certainly would have some jurisdiction over it. My personal feeling is that there's a good chance that the State Lands Commission does have jurisdiction over the stream.

MR. TAYLOR: You may have a title problem over the stream, similar to other waterway title problems that we have, where we assert that it's a navigable waterway and therefore passed to us on admission to the Union. That's different than the last hearing that we had.

CHAIRPERSON CORY: Which was the access across the river?

MR. TAYLOR: Which was the access across the road. Your interest would be in the ownership of the river and not in the abandonment of the road, but it would be addressed to the same problem. I guess both of them could be worked out in the process of it if someone wanted to make a reasonable settlement.

CHAIRPERSON CORY: The question is, who should be the moving party to initiate the festivities? Is that what you're saying?

MR. KILEY: Mr. Heist has already hired an attorney to initiate the festivities. He would only like some indication that the Commission would like to get involved with this to the point of, say, filing an Amicus
brief, or something along those lines.

MR. TAYLOR: I think the Commission told
Mr. Heist last time that if he wanted to sue us, that that
was his privilege. So, that part he can make up his mind
about. We'd certainly have to respond to any lawsuit that
he would bring.

Perhaps the best course at this point would be to
have the staff investigate the title situation a little bit
more, talk more to Fish and Game and Waterways, and other
people, and come back to you in another 30 days.

COMMISSIONER ACKERMAN: Maybe do that, and maybe
the Resources Agency themselves is a more appropriate body
to initiate matters on behalf of the State, because more
than one State body is interested.

MR. KILEY: I think we may be able to get more
than one State agency interested. I think the Commission
might be the only other State agency that might have an
actual property interest, and its property interest would
be limited to the bed of a waterway.

COMMISSIONER MORGAN: Are you having trouble
getting information?

MR. KILEY: No, just haven't had time to get it
out.

COMMISSIONER MORGAN: So you don't need a letter
from the Commission asking for information?
MR. KILEY: No.

CHAIRPERSON CORY: Just go ahead with the staff work, keep us informed. You might check out the resource agencies, since there are other departments and resources that have some interests as how they wish to proceed.

COMMISSIONER MORGAN: Charley Fullerton might be interested in this.

MR. KILEY: He expressed some interest in this, yes. I talked to him about it.

CHAIRPERSON CORY: All right, Item 40.

EXECUTIVE OFFICER NORTHROP: Item 40 is off calendar, Mr. Chairman.

CHAIRPERSON CORY: Item 41 is the execution of an agreement with the Richmond Redevelopment Agency for an undivided 6.2 percent interest in land grant.

MR. RIGATI: Correct, Mr. Chairman.

CHAIRPERSON CORY: Anybody in the audience on this item? Any questions from commissioners?

Without objection, Item 41 is approved as presented.

Item 42, this is modification to the Commission's regulations concerning the meeting notice on the sessions on retrocessions. The Office of Administrative Law has requested this?

EXECUTIVE OFFICER NORTHROP: Right.
CHAIRPERSON CORY: Is there anybody in the audience on this item? Any questions from the commissioners?

Without objection, Item 42 is approved as presented.

I would like the staff to keep a record of how much the Office of Administrative Law is costing to taxpayers of California --

EXECUTIVE OFFICER NORTHROP: Yes, sir.

CHAIRPERSON CORY: -- with that kind of stuff, because I think it's time that the people know what kind of nonsense of having one bureaucrat watch another is costing us. It's just beyond belief, that plus the legislators can't enact laws without them causing difficulty.

Go ahead, we're at 43.

EXECUTIVE OFFICER NORTHROP: Same problem.

CHAIRPERSON CORY: Same problem, nice group.

Anybody in the audience on this item?

Any questions from the commissioners?

Without objection, Item 43, we are making an addition to the application lists and criteria for projects requiring Commission approval.

EXECUTIVE OFFICER NORTHROP: That's right.

CHAIRPERSON CORY: All right.

Item 44, this is a consultant contract for drilling on Santa Barbara County leases.
EXECUTIVE OFFICER NORTHROP: That's right. It allows us to have the money and pay it back. We may have some legislative problems, but we'll get the Commission out of the way.

CHAIRPERSON CORY: Any questions?

COMMISSIONER ACKERMAN: Bill, what's your time frame?

EXECUTIVE OFFICER NORTHROP: Dwight Sanders will respond to that because he's been working on it.

MR. SANDERS: Mr. Ackerman, a general time period between the EIR in this area could run from seven to nine months for the actual preparation and review period and so forth. We could possibly shorten that time period because of other existing environmental impact reports that have occurred in and around the area, but that would be the extent.

COMMISSIONER ACKERMAN: So about a year from now this might be before the Commission?

MR. SANDERS: Before that time.

EXECUTIVE OFFICER NORTHROP: I would think within about a year, Mr. Ackerman, we'll be coming at you for some kind of a program to work on leasing.

CHAIRPERSON CORY: All right, any questions from anybody in the audience on this matter?

Without objection, the item is approved as presented.
(Thereupon the Commission returned to
Item 19, the transcript of which has
previously been submitted.)

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. DUGGAN, a shorthand reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission meeting was reported in shorthand by me, Evelyn J. Duggan, 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 13th day of January, 1982.

EVELYN J. DUGGAN
Shorthand Reporter