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MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

720 CAPITOL MALL
ROOM 406L
SACRAMENTO, CALIFORNIA

ORIGINAL

TUESDAY, JUNE 29, 1982

10:30 A.M.

EVELYN J. DUGGAN
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION

3435 AMERICAN RIVER DRIVE, SUITE A

SACRAMENTO, CALIFORNIA 95825

TELEPHONE (916) 972-8804

MEMBERS PRESENT

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Kenneth Cory, Chairperson

Susanne Morgan, representing Mary Ann Graves,
Director of Finance

David Ackerman, representing Mike Curb,
Lieutenant Governor

STAFF PRESENT

Claire Dedrick, Executive Officer

James Trout, Assistant Executive Officer

Jan Stevens, Deputy Attorney General

Robert Hight, Chief Counsel

Greg Taylor, Assistant Attorney General

Don Everitts, Chief, Energy and Mineral
Resources Development

Jack Rump, Assistant Chief Counsel

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PETERS SHORTHAND REPORTING CORPORATION

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P R O C E E D I N G S

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3 CHAIRPERSON CORY: I call the meeting to order.
4 Everyone is here.

5 Are there any corrections or additions to the
6 minutes of the meeting of May 27th?

7 Without objection, they will be confirmed as
8 presented.

9 Executive Officer's Report, Claire.

10 EXECUTIVE OFFICER DEDRICK: Yes, I handed you the
11 Executive Officer's Report.

12 CHAIRPERSON CORY: Any questions from the
13 Commissioners on the Executive Officer's Report?

14 We'll accept the report as submitted.

15 We have the staff report on coastal matters.
16 Any questions from Commissioners on that?

17 Without objection, that'll be accepted as
18 submitted.

19 The next item is the Consent Calendar. These
20 are the items in the printed agenda which are prefixed by
21 the letter C. They are numbers 1 through 17, excluding 3.

22 If there is nobody in the audience who has any
23 objections to the proposed staff recommendations for the
24 treatment of these items, they will be taken up in a single
25 motion. Is there anybody who disagrees with the proposed

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1 staff recommendation on that item, would they please speak
2 up now?

3 Without objection, the Consent Calendar will be
4 approved as presented.

5 Item 18 is a lease for Leon and Phyllis La Hargoue,
6 dba Lakeville Marina. Is there anybody in the audience
7 opposed to the staff recommendation on this item?

8 All right, come forward and tell us what your
9 problem is.

10 MR. HUDSON: Thank you, Mr. Chairman. My name is
11 Matthew Hudson, attorney for Mrs. Natalie Miller, who
12 is the owner of adjacent property.

13 I don't see the map here today that was present
14 at the last hearing. Oh, it is here.

15 I think, Mr. Cory, you were the only one who
16 was not here at that time.

17 If I may indicate, here is the Gilardi parcel,
18 which the LaHargoues are leasing, which is here. Mrs. Miller's
19 parcel is here and extends up into the upland area. And at
20 least this portion of it is leased to a sheep operation which
21 has sheep on it presently.

22 The problem arises from this dock, which is a part
23 of the marina, and extends approximately 75 to 100 feet
24 beyond the extension of the property line between the
25 Gilardi and the Miller parcels.

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1 Our principal objection is that the dock we
2 complain of was built in about 1974 without any permission,
3 without consent of anybody. Mr. Gilardi, who owned the
4 property at the time, consulted -- actually wrote Mrs.
5 Miller, asking her if it would be all right to build these
6 docks. She immediately said no, it's not all right; I don't
7 want them there.

8 Mr. Gilardi built them anyway without consulting
9 State Lands, without talking to the Corps of Engineers,
10 or anybody else.

11 We believe that if application had been made,
12 they would have been turned down because the extension
13 of this single business enterprise in what is otherwise
14 totally agricultural area would have been rejected here.
15 We would have said at the time that there will be problems
16 if this dock is extended. There are already too many people
17 there, and they interfere with the sheep operation on
18 Mrs. Miller's property.

19 As a matter of fact, that has happened. Sheep
20 have been killed by dogs which we know to have come from
21 the docks, more particularly from the dock which was
22 extended improperly in 1974.

23 It seems to be a perverse logic which says
24 because it's there, we'll go ahead and lease it because
25 the staff would like to establish once and for all the

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1 State Lands claims on these properties.

2 I don't think that my client would object to
3 agreeing that State Lands has these lands, or has title to
4 them. She certainly objects strenuously to having this
5 arena established as a fact through this Commission.

6 We would request that any lease you give ends at
7 the Gilardi property line, and that you take steps along with
8 the Corps of Engineers, whom we are petitioning to remove
9 this dock, because it is there without permission, and it
10 is there in contravention, really, to the agriculture
11 interests in the area.

12 CHAIRPERSON CORY: Questions from Commissioners?

13 COMMISSIONER ACKERMAN: Isn't it my correct under-
14 standing that there had been measures taken?

15 EXECUTIVE OFFICER DEDRICK: Yes, that's correct.

16 COMMISSIONER ACKERMAN: Recently, as a result of
17 our last meeting when we discussed that?

18 EXECUTIVE OFFICER DEDRICK: Yes, staff has been
19 up and investigated the problem at the request of the
20 Commission.

21 The lessee has put clear signs prohibiting dogs
22 on boats coming into the marina or on their property on
23 shore.

24 The dog problem, from the staff report, it's
25 perfectly obvious does not exist from the Marina. The

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1 property itself is poorly fenced, and if there are dogs in
2 there, they could easily get there from the landward
3 side. But from the marina side, the owners have been
4 extremely cooperative. They have adjusted the terms of
5 their lease to say that if dog problems occur, the lease
6 will be terminated.

7 They really have done everything that they can
8 reasonably do.

9 CHAIRPERSON CORY: Do we have court permits.

10 MR. HUDSON: No, they haven't.

11 EXECUTIVE OFFICER DEDRICK: Isn't that correct,
12 they do not have a court permit?

13 CHAIRPERSON CORY: Do not our standard leases
14 require that they have all the necessary permits?

15 MR. GRIMES: Staff has talked verbally with
16 the Corps and BCDC, and they say that they have no problems
17 with the facility itself. However, there is not a
18 permit in existence from either of those agencies at this
19 time.

20 CHAIRPERSON CORY: Does this lease purpose to have
21 the standard language of requiring those?

22 MR. GRIMES: Yes, it would be subject to
23 additional permits.

24 EXECUTIVE OFFICER DEDRICK: Subject to the approval
25 of the Corps and the BCDC.

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6
1 Let me make certain I'm right. The lease would
2 not operate unless they have permits from the Corps and
3 BCDC; is that correct, Bob?

4 MR. HIGHT: That's correct.

5 MR. HUDSON: May I also comment, sir, there are
6 two signs up, and that's the only change that the owner
7 has made.

8 As my client observes, dogs can't read. The
9 owners are going to come on the property anyway on their
10 boats without any regard, as they have in the past, despite
11 what Ms. Dedrick says, dogs have come on from the docks
12 and have killed sheep by diving off the side, swimming toward
13 the shore.

14 They are there. The staff has not seen them
15 because they've only been out there once or twice, which
16 is understandable. But we have letters on file with you
17 that say the dogs are there.

18 This is only an indication, however, of the
19 intrusion that this makes on an agricultural area. It is
20 not the main reason we want to have the lease limited to
21 the property line.

22 We don't believe that -- I'll call her Phyllis,
23 because that's how everybody knows here, who is the owner of
24 the marina -- we don't believe that she can really
25 effectively control the animals.

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1 We're objecting to the extension or enlargement
2 of this commercial enterprise in the area. We are not
3 opposed to the marina per se, but we do oppose this
4 extension which is without any permission at all.

5 CHAIRPERSON CORY: What's the wish of the
6 Commissioners?

7 COMMISSIONER MORGAN: I think we ought to move it.
8 I'd like to ask a question, though.

9 Does your client anticipate using the property
10 in any other way in the near future?

11 MR. HUDSON: She has used it in the past. There
12 is a dock which she has maintained that is downstream,
13 maybe 150-200 feet. That is in disrepair now, and she
14 has no immediate plan to put it back in repair.

15 However, this dock does foreclose several options
16 for her in the future. Right now, it's devoted to agriculture,
17 as is every other parcel in this area except this one.

18 COMMISSIONER MORGAN: Well, I don't know what
19 more we can be expected to do. I move we approve it.

20 CHAIRPERSON CORY: We have a motion.

21 COMMISSIONER ACKERMAN: Second.

22 CHAIRPERSON CORY: Without objection, the
23 application is approved as presented.

24 Item 19 is off calendar.

25 Item 20, the City of Carpinteria has negotiated

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1 the terms of a lease for a natural gas pipeline with
2 reference to the state in performance with grant statutes.

3 Is there anybody in the audience on this item?
4 Questions of Commissioners?

5 Without objection, Item 20 is approved as
6 presented.

7 Item 21, approval of management plans and authori-
8 zation for the Department of Forestry to proceed with
9 demonstration projects in Snasta and Trinity Counties.

10 Anybody in the audience on this item?
11 Questions from Commissioners?

12 Without objection, Item 21 is approved as
13 presented.

14 Item 22 is informational.

15 MR. HIGHT: Can we put that one over, Mr. Chairman?

16 CHAIRPERSON CORY: Okay, Item 22 is put over at
17 this time.

18 Item 23 is a request to award royalty oil sales
19 contract, Carpinteria and Summerland selloff.

20 EXECUTIVE OFFICER DEDRICK: Yes, this is the
21 Royalty sale where you rejected the bid of 1.1 cent at about
22 the last Commission meeting. We put it out to rebid. The
23 winning bid is a dollar thirty-two point five, and we want
24 authorization to accept that.

25 CHAIRPERSON CORY: Anybody in the audience on this

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1 item: Questions from Commissioners?

2 Without objection, approval is awarded to the
3 highest bidder.

4 Item 24, staff is requesting authority to
5 enter into an agreement for funding of consulting services
6 with WOGA. If they decide they wish to do it, then it is
7 to permit terms to minimize conflicts in the fishing
8 industry.

9 Anybody in the audience on this item? Any questions
10 from the Commissioners?

11 Without objection, authorization is granted.

12 Item 25, Bell Marin Keys dredging permit at
13 25 cents a cubic yard from 6,200 feet of the channel,
14 50,000 cubic yards.

15 Anybody in the audience on this item? Questions
16 from Commissioners?

17 Without objection, Item 25 is approved as
18 presented.

19 Item 26 --

20 MR. HIGHT: Mr. Chairman, I'd also like to put
21 that one over.

22 CHAIRPERSON CORY: Item 26 is put over.

23 Item 27, Long Beach operations, we've got a
24 Ninth Modification of the Long Beach Unit. This is
25 transferring funds within the budget for paying the tax on

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1 hazardous wastes as required by statute.

2 Anybody in the audience on this item?

3 COMMISSIONER MORGAN: I think there is actually
4 augmentation there for the hazardous waste.

5 MR. TROUT: Yes, Mr. Chairman. It has two steps
6 in it. It has a small budget transfer and an augmentation
7 of \$437,000.

8 CHAIRPERSON CORY: Okay, and budget augmentation.

9 Anybody in the audience on this item?

10 Questions from Commissioners?

11 Without objection, Item 27 is approved as
12 presented.

13 Item 28, subsidence costs of \$235,000 for vertical
14 and horizontal measurements and studies, City of Long
15 Beach, during the '82-83 fiscal year.

16 Anybody in the audience? Questions from the
17 Commissioners?

18 Item 28 is approved as presented.

19 Item 29, City of Lakeport, annexation of Sovereign
20 Public Trust Lands to the City of Lakeport in the County
21 of Lake.

22 Anybody in the audience on this item? Questions
23 of Commissioners?

24 Without objection, Item 29 is approved as
25 presented?

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1 Item 30, this is a proposed boundary, proposed
2 annexation of tide and submerged lands to the City of
3 Oceanside, San Diego County. This is the area of Camp
4 Pendleton.

5 Questions from the audience? Questions from
6 Commissioners?

7 Without objection, Item 30 is approved as
8 presented.

9 Item 31, Kuechel, authorization to file a
10 disclaimer in Superior Court. This is on property in
11 Kern County.

12 MR. HIGHT: Kern County, that is correct,
13 Mr. Chairman. The Commission has no interest in this item.

14 CHAIRPERSON CORY: Anybody in the audience on this
15 item?

16 Commissioners?

17 Without objection, approved as presented.

18 Item 32, this is Port Hueneme redevelopment, is
19 off calendar.

20 Item 33, Brumbaugh versus the County of Imperial.
21 This is a request by the County to join, have the Attorney
22 General represent us in a matter concerning a roadway;
23 is that correct?

24 MR. HIGHT: Correct, Mr. Chairman.

25 CHAIRPERSON CORY: Questions from the Commissioners?

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1 Anybody in the audience on this item?

2 Without objection, Item 33 is approved as
3 presented.

4 Item 34, requesting authorization for the staff
5 of either the Lands Commission or the Attorney General to
6 file action if necessary with respect to Playmate Resort,
7 Robert Breeze.

8 The defendants were in the Delta?

9 MR. HIGHT: In the Delta, correct, Mr. Chairman.

10 CHAIRPERSON CORY: This is somebody using State
11 property without a lease?

12 EXECUTIVE OFFICER DEDRICK: Correct.

13 CHAIRPERSON CORY: Anybody in the audience on this
14 item? Questions from Commissioners?

15 Without objection, Item 34 is approved as
16 presented.

17 Item 35 is to adopt the Resolution of Commendation
18 acknowledging the extraordinary effort by the National
19 Geodetic Survey work at Lake Tahoe on the California-
20 Nevada border.

21 They were so kind as to solve some of the technical
22 problems, which cost them dearly. Since we're so broke,
23 we're going to give them a rather modest token of our esteem.

24 Anybody in the audience that has any problems
25 with this?

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1 We are indeed grateful for what they have done,
2 and without objection we will adopt the Resolution and
3 hope that the staff gets that with our good wishes that we
4 hope they continue to help us resolve our budgetary problems.

5 COMMISSIONER ACKERMAN: Does this close the boundary
6 questions at Tahoe?

7 MR. STEVENS: This is the final description
8 which will be in the decree describing the boundary in
9 detail and setting it for -- in Lake Tahoe for the first
10 time. It's never been set there before.

11 COMMISSIONER ACKERMAN: They put a buoy up?

12 MR. TAYLOR: We're now ready for Oregon.

13 CHAIRPERSON CORY: Okay, Item 35 is approved.

14 Item 36, this is authorization for the Executive
15 Officer to execute on behalf of the Lands Commission a
16 cooperative agreement between the Lands Commission and the
17 State Historic Preservation Officer and the Bureau of
18 Land Management, and it says here requiring that we have
19 one of these folks certifying this for us.

20 EXECUTIVE OFFICER DEDRICK: Correct.

21 MR. TROUT: Correct.

22 CHAIRPERSON CORY: Ronald Reagan is making us do
23 this? Oh, well, anybody in the audience on this item?

24 Without objection, authorization requesting --

25 COMMISSIONER ACKERMAN: We're expediting

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1 transfer of land.

2 CHAIRPERSON CORY: -- is approved.

3 Item 37, this is approval of modification to
4 application lists and criteria.

5 What's that mean?

6 EXECUTIVE OFFICER DEDRICK: Jim will explain.

7 MR. TROUT: The California Environmental
8 Quality Act and some of the other acts require us to keep
9 a list of criteria on board. This just makes a couple of
10 technical amendments and includes in those lists and
11 criteria the results of the Lyon-Fogarty decision on high
12 water/low water..

13 CHAIRPERSON CORY: Anybody in the audience on this
14 item? Questions from Commissioners?

15 COMMISSIONER ACKERMAN: Sir, is there universal
16 agreement on adoption of this language or criteria? I
17 know the legislators questioned both in Clear Lake and
18 Lake Tahoe, had some question about our adoption of language
19 previously, and we did adopt the language based upon
20 litigation.

21 If my memory serves me correct, we asked that
22 any amendment and modifications would come back every meeting
23 and make whatever modifications were necessary.

24 I'm sensitive about the high water/low water issue.
25 I don't want to be approving something that there's

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1 disagreement on.

2 CHAIRPERSON CORY: You have some problems with
3 the Deukmejian high water/low water?

4 MR. STEVENS: The questions raised, Mr. Ackerman,
5 related to precise locations above sea level of the high
6 water/low water marks at the lakes.

7 This language merely incorporates the general
8 description and legal theory which the Fogarty and Lyon
9 cases set forth.

10 I know of no objection to the use of this language.
11 We do have a dispute about where these lines fall at the
12 particular lakes involved.

13 COMMISSIONER ACKERMAN: What is the effect of the
14 Commission's action that's being requested today?

15 MR. STEVENS: It simply conforms our criteria
16 to the language that the court employed in Lyon and Fogarty.

17 EXECUTIVE OFFICER DEDRICK: General language, not
18 specifically what feet above sea level.

19 MR. HIGHT: Correct.

20 COMMISSIONER ACKERMAN: I'll respectfully
21 dissent anyway.

22 CHAIRPERSON CORY: All right. Are you ready to
23 vote on it?

24 COMMISSIONER MORGAN: Uh-huh.

25 CHAIRPERSON CORY: Ms. Morgan moves, I second,

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1 that the modification to the lists be adopted. All those
2 in favor signify by saying aye.

3 (Ayes.)

4 CHAIRPERSON CORY: Opposed?

5 COMMISSIONER ACKERMAN: Nay.

6 CHAIRPERSON CORY: The ayes have it.

7 (The final item, Item 38, and adjournment
8 have been submitted in a previous
9 transcript under separate cover.)

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CERTIFICATE OF SHORTHAND REPORTER

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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 hearing was reported in shorthand by me, Evelyn J. Duggan, a Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of July, 1982.


EVELYN J. DUGGAN
Shorthand Reporter

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MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

In the Matter of:)
Item 38: Consideration by)
Commission of Future Management)
of Certain Submerged Lands at)
Santa Catalina Island.)

ORIGINAL

EXCERPT OF PROCEEDINGS

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722 CAPITOL MALL
ROOM 4061
SACRAMENTO, CALIFORNIA

TUESDAY, JUNE 29, 1982
10:30 P.M.

EVELYN J. DUGGAN
Shorthand Reporter

COMMISSIONERS PRESENT

1
2 Kenneth Cory, Chairperson

3 Susanne Morgan, representing Director of Finance,
4 Mary Ann Graves

5 David Ackerman, representing Lieutenant Governor,
6 Mike Curb

COMMISSIONERS ABSENT

7
8 None

STAFF PRESENT

9
10 Claire Dedrick, Executive Officer

11 James Trout, Assistant Executive Officer

12 Robert Hight, Esq., Chief Counsel

13 Greg Taylor, Esq., Assistant Attorney General

14 Jan Stevens, Esq., Deputy Attorney General

15 Jack Rump, Esq., Assistant Chief Counsel

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EXCERPT OF PROCEEDINGS

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CHAIRPERSON CORY: Item 38, which is consideration of the staff report on the future management of Catalina, and I just want to tell you what we're going to do at this point.

A decision is not being made at this point. We are going to, in essence, get the details from the staff report, have the Commissioners make some brief suggestions to make sure we understand what the staff is going to do. At that point, those ideas are going to be rendered to writing, and they will be submitted out to the various interested parties, and the interested parties will have time to comment back to the Commission before any action is taken.

So the purpose of this is to make sure that everybody is aware, the Commissioners and the staff, of what's going on. We are not adopting any final procedures. We are going to, in essence, make some fine tuning of the staff's draft at this point by the Commission. That fine tuning will be submitted for public comment.

Interested parties that are here that have commented will get copies of it. We will then hear those comments after you've had time to reflect upon the final draft of it.

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1 We are ~~not~~ going to be conducting a hearing or
2 making any decisions at this point in time. The decision
3 will be -- what is the time frame?

4 MR. TAYLOR: In August.

5 CHAIRPERSON CORY: In August as opposed to now.

6 Jack, will you give us a quick rundown of
7 basically what the report contains?

8 MR. RUMP: Before you is the Calendar Item which
9 discusses the various meetings staff has had with
10 interested parties on this matter. It tries to summarize
11 succinctly their comments.

12 Additionally we have prepared a description of the
13 current lease operation, which you have copies of, which
14 consists of a copy of the lease, a rather detailed
15 description of the present operation, including the
16 equipment, the frequency of service and precise details of
17 that operation.

18 We also have copies of the current fee schedule
19 with all of the charges pertaining to the lease site.

20 Finally, at the back, we have maps showing the
21 mooring diagrams and those under lease.

22 For the record, we should also note that we have
23 received considerable correspondence, and you have in front
24 of you copies to that effect.

25 CHAIRPERSON CORY: Correspondence will be included

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1 in the record.

2 MK. RUMP: I don't think there's anything further
3 at this time. I can answer questions.

4 CHAIRPERSON CORY: The proposal, as I understand
5 it, the sort of general area of staff views are that we
6 go out to bid with a mirroring of the existing operation.

7 MR. RUMP: First is the primary decision of going
8 out to bid. Beyond that point, there is a question of the
9 scope of operation.

10 CHAIRPERSON CORY: I am clearly on record in the
11 past, and I believe there is one other Commissioner who's
12 clearly on record, of being in favor of taking that option.

13 Am I mistaken in that or not?

14 COMMISSIONER ACKERMAN: That's correct.

15 CHAIRPERSON CORY: So that decision, as far as
16 I'm concerned, is behind us.

17 It's a question of, mechanically, how we go out
18 to bid, Greg.

19 MR. TAYLOR: In individual conversations with
20 two Commissioners, I believe that this at least reflects
21 your views, Mr. Cory, and I guess Mr. Ackerman can indicate
22 at this time whether or not he would concur in them. It's
23 that it's the desire of the Commission, at least the
24 majority of the Commission, to seek consideration of a
25 straight substitution of a lessee in such a manner that will

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1 fit the categorical exemption process of the EIR, which
2 means that it will be categorically exempt. In other words,
3 in order to do so, you will consider substitution on the
4 basis of demonstration of their ability to match the
5 existing operations. This will have to be in the bid form.
6 They will have to supply that information showing you how
7 they can match the existing operations.

8 Only one or two things will be bid: the amount of
9 rent, and possibly the amount of charges to the user, or
10 that may be fixed, depending on conversations with
11 individual Commissioners following the meeting. There would
12 be no variation permitted in existing operations, other
13 than maybe incidental kinds of things, such as change in
14 the size of boats, but the same services must be met or
15 the bids will be rejected.

16 It will be subject to getting any permits which
17 may be applicable, and it will be subject to a finding of
18 financial ability to perform.

19 So the Commission will determine two to four
20 things: financial ability; capability of matching existing
21 operations; and the amount of the rent to be offered; and
22 possibly the amount of charges to be made, although it's
23 my understanding that the amount of charges to be made
24 might be a fixed item in the bid package.

25 That package would go out within the next two weeks

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1 to the three persons who bid on the proposal previously for
2 their comments. They would be given a period of time to
3 get these comments in in time for staff to digest them and
4 present them to the Commission for their consideration in
5 August.

6 The Commission, after considering the package
7 and comments of parties, would then adopt a formal
8 package to go out for bid shortly after the August meeting.
9 There will be action taken on the bids, any bids that were
10 received, at the September meeting.

11 I hope I've accurately reflected your views.

12 CHAIRPERSON CORY: The question of the financial
13 variable, it would seem to me to try to simplify the matter,
14 the question that should be asked, rather than flexibility,
15 is what is the amount of the minimum bid, and probably
16 allowing that to go up annually by the CPI, or something
17 like that, so people will know there's a bid; that's what
18 you're bidding; that's it. Have that rather than a percentage
19 of fees or the like.

20 EXECUTIVE OFFICER DEDRICK: I think if I
21 understood correctly at this point, what Greg is saying is
22 that we request the only variable in the bid would be the
23 total sum paid. The Commission would set the mooring
24 rentals, the charges based on some, perhaps, existing
25 operation, or whatever you choose, in order to protect

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1 the boaters, and that both the total sum paid and the
2 boat costs would be tied to some inflationary/deflationary
3 factor.

4 Is that your intent?

5 COMMISSIONER ACKERMAN: It would be my intent to
6 have the mooring fees and other such charges involved with
7 the mooring fees to be specifically stated and limited.

8 EXECUTIVE OFFICER DEDRICK: All right.

9 COMMISSIONER ACKERMAN: So that those would be
10 controllable either by one or two factors, and I think this
11 is something that staff can look at while they're talking
12 to parties involved. Either those should be subject to a
13 predetermined increase, which would be paid to the CPI,
14 or some other increase over a set period of time. Or,
15 should be subject possibly to a review period, either
16 three years, five years, or something like that, so that
17 you don't have an increase every year.

18 I looked back at the incidence of increases over
19 the last 15 years of the lease, and those were not annual
20 increases, but they weren't at any predetermined interval,
21 either. So perhaps a predetermined interval should be
22 established for a basis upon which known increases will take
23 place.

24 CHAIRPERSON CORY: I sort of prefer to have the
25 charges to the boaters in terms of minimizing the variables,

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1 both on the bid and other future governmental actions that
2 may take place, to have that specified. Staff can come
3 up with something, and that's something people could, in
4 fact, comment on, but either the existing fees or other
5 fees that various bidders had suggested, if some of those
6 make sense. None of them seemed to be particularly out-
7 landish or outrageous. But after that, there should be
8 some mechanism in there for capping what those would be in
9 the future, I would guess, CPI, or whatever, where it's
10 annual, bi-annual, and I don't have any strong feeling one
11 way or another about that.

12 COMMISSIONER ACKERMAN: Are you suggesting, Ken,
13 that the fees should be biddable and then capped?

14 CHAIRPERSON CORY: No, fees, we should
15 designate that they may charge less than, but they may not
16 charge more than.

17 COMMISSIONER ACKERMAN: I see.

18 CHAIRPERSON CORY: Yes, that would be my thinking,
19 so that we can put to rest some of the red herrings that
20 we've dealt with in some of the other communications over,
21 you know, exorbitant charges to the consumer.

22 COMMISSIONER ACKERMAN: In some of my discussions
23 already with some people that I notice in the audience, the
24 fees that are being charged now may already be having a slight,
25 maybe a minimal negative impact, but it does seem to be

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1 having some impact: how measurable, I don't know. I think
2 the point of fixing the fees is very important.

3 CHAIRPERSON CORY: That's what I would prefer,
4 to have them fixed in there so everybody knows that's what
5 it is, and let them slide. And after that goes out, that's
6 one of the things that we would like people to comment upon.

7 EXECUTIVE OFFICER DEDRICK: So the staff should
8 determine what we think are a reasonable fixed fee and a
9 reasonable process, and that would go out to the public
10 during this month and a half period prior to the August
11 meeting for public comment, right?

12 COMMISSIONER ACKERMAN: My suggestion, for
13 purposes of clarity, is to take the fees that are in effect
14 right now as at least a starting point. I've had several
15 suggestions made to me by individuals that are in the
16 audience that those fees should be lowered somewhat because
17 of the negative impact on use. I think let's use that as
18 a starting point, and then the Commission can decide what
19 the appropriate level should be.

20 MR. TAYLOR: So then, the only factor that would
21 be bid would be the amount of minimum rent to be received
22 by the State?

23 CHAIRPERSON CORY: That should be subject to
24 some adjustment periodically based upon the CPI, so the
25 lessor knows what he's up against.

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1 EXECUTIVE OFFICER DEDRICK: Are you preferring an
2 automatic adjustment to a rent window, say, every five
3 years? Rent review?

4 COMMISSIONER MORGAN: Rent review is the standard
5 language that we use.

6 CHAIRPERSON CORY: But if, in fact, you are
7 closing in the gross receipts, you need to likewise close
8 in what we're going to do to them.

9 EXECUTIVE OFFICER DEDRICK: All right.

10 CHAIRPERSON CORY: I don't think you can do both.
11 They're interrelated, in my view, so it seems to me whatever
12 the index is on one should be the index on the other, and
13 we should move accordingly. If you're going to adjust
14 the consumer's fees annually, the rent should be adjusted
15 annually. If you're going to adjust it every five years,
16 do it every five years. Other than that, I wouldn't care
17 what the adjustment is.

18 EXECUTIVE OFFICER DEDRICK: So they need to
19 parallel each other.

20 CHAIRPERSON CORY: Yes, they need to parallel,
21 in my view.

22 COMMISSIONER MORGAN: Yes, my only caution is our
23 experience in budgeting using automatic indexes, which has
24 been less than favorable. It's impossible to predict what
25 those things really will do.

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1 EXECUTIVE OFFICER DEDRICK: Yes, I understand
2 what you're saying.

3 Let us take a hard look at that and, if necessary,
4 we can get back to you.

5 COMMISSIONER MORGAN: I think you're right, you
6 ought to be consistent.

7 CHAIRPERSON CORY: I don't think you can say that
8 you're going to cap the consumer gross receipts and rape
9 the lessee.

10 EXECUTIVE OFFICER DEDRICK: That sounds perfectly
11 logical to me.

12 COMMISSIONER ACKERMAN: Claire, when you
13 normally do a rent review, a rent review is negotiable, I
14 assume, based on numerous factors.

15 EXECUTIVE OFFICER DEDRICK: Within the limits
16 of existing regulations.

17 COMMISSIONER ACKERMAN: I know it's happened to
18 us. We've had several cases before us to where you have
19 sought a rent review, and the lessee has come before the
20 Commission, explained that extenuating circumstances should
21 be cause for a lower rent than was negotiated or that the
22 Commission staff wanted. So, we're talking about -- I think
23 I personally like a rent review that can take into account
24 extenuating circumstances or other circumstances beyond our
25 control, so that you're not automatically locked into a set

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1 percentage per the CPI that may ignore other circumstances.
2 I think that's what Susie's point was.

3 EXECUTIVE OFFICER DEDRICK: It's certainly true,
4 Commissioner Ackerman, the first two items on the Consent
5 Calendar are rent reviews which have all been negotiated
6 within the regs.

7 COMMISSIONER ACKERMAN: But then you take into
8 account the particular circumstances.

9 EXECUTIVE OFFICER DEDRICK: To a certain degree the
10 regulations are that flexible; in some areas they're not.
11 But in this case I think they are.

12 CHAIRPERSON CORY: Okay, so you've got --

13 EXECUTIVE OFFICER DEDRICK: I have one question
14 here.

15 On the finding of financial ability, what exactly
16 do you mean by that, Greg?

17 MR. TAYLOR: It's the same kind of financial
18 ability we find with all lessees. We have to review it
19 and make a recommendation to the Commission.

20 Also, the Commission will have to make a
21 determination about whether or not they can match the
22 existing operations and better serve than the existing
23 operator.

24 CHAIRPERSON CORY: This approach, in your
25 opinion, Greg, is the one that has the greatest probability

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1 of success?

2 MR. TAYLOR: In terms of a categorical exemption.

3 COMMISSIONER ACKERMAN: I might point out, too,
4 that the staff report will be available to anyone that
5 requests it. That was done by Jack Rump, and is a listing
6 of the current operations that exist at the Island.

7 Now, there have been, I understand, too, some
8 disagreements about what the current operations are.
9 Again, what I hope that the staff report will do is lay that
10 out on the table, too, so if there's some errors in it,
11 or disagreements, or omissions, those can be resolved, too,
12 because it's the Commission's interest and intent here to
13 reflect the current operations. We can't do that unless
14 the staff report accurately portrays what the current
15 operations are.

16 But again, I've heard, over the last two or three
17 weeks, various estimates of even the number of mooring
18 facilities that exist around the Island. Again, the
19 staff report has to be accepted as a statistical and
20 factual document, so we have a basis on which we can proceed,
21 and we did not have this in the previous effort that we
22 undertook.

23 EXECUTIVE OFFICER DEDRICK: I think we should set
24 a deadline by which comments are received by the staff so
25 that they can be incorporated into a report to you for

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1 August.

2 COMMISSIONER ACKERMAN: What if we set a deadline
3 both for mailing of a framework proposal and --

4 CHAIRPERSON CORY: When can you get the framework
5 proposal out?

6 EXECUTIVE OFFICER DEDRICK: Jack, when can you
7 get the framework proposal out? This will be a deadline
8 the Commission will set where the staff should mail out
9 the framework proposal, the package.

10 MR. RUMP: I think Greg had mentioned two weeks.
11 I don't think that's impossible.

12 EXECUTIVE OFFICER DEDRICK: Is it reasonable?
13 Can you do it within two weeks?

14 CHAIRPERSON CORY: We need to meet the deadline
15 you set so we can get it done.

16 EXECUTIVE OFFICER DEDRICK: Is two weeks enough?

17 MR. RUMP: I think two weeks would be sufficient.

18 CHAIRPERSON CORY: You've got a holiday in there.

19 MR. RUMP: Three weeks would be with considerable
20 safety.

21 EXECUTIVE OFFICER DEDRICK: How about the 16th,
22 which is a compromise between two weeks and three weeks,
23 to allow for the 4th of July?

24 CHAIRPERSON CORY: Another baby has been had.

25 EXECUTIVE OFFICER DEDRICK: Yes, indeed, sir.

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1 We'd mail it on the 16th.

2 MR. HIGHT: If not sooner.

3 EXECUTIVE OFFICER DEDRICK: At the latest.

4 CHAIRPERSON CORY: It'll be mailed on the 16th,
5 then if you go ---

6 EXECUTIVE OFFICER DEDRICK: How much time will we
7 need to review?

8 Excuse me, sir.

9 CHAIRPERSON CORY: If you go four weeks after
10 that ---

11 EXECUTIVE OFFICER DEDRICK: That will be about
12 the 13th of August. That will give the staff two working
13 weeks, just about, to review the input. I don't think
14 we ought to make that period shorter than that.

15 CHAIRPERSON CORY: So, we will mail out the
16 draft bid proposal no later than the 16th. We would
17 request responses by the 13th.

18 EXECUTIVE OFFICER DEDRICK: Which is a Friday.

19 CHAIRPERSON CORY: Of August.

20 EXECUTIVE OFFICER DEDRICK: Thank you.

21 CHAIRPERSON CORY: And we will have the meeting
22 on the 26th to consider changes in the draft, and then
23 we'll go out to bid after that, okay?

24 EXECUTIVE OFFICER DEDRICK: Thank you very much.

25 COMMISSIONER ACKERMAN: Let me make one other

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1 comment, too.

2 Originally, mention was made that distribution
3 of the packages should be only to the three parties that
4 had previously bid.

5 I think the specifics of the bid package are of
6 far greater interest than to just those three people.

7 Jack, in your preparation of the staff report,
8 you contacted many more people than just the three.

9 CHAIRPERSON CORY: I agree with you that the bid
10 package should be made available to all interested parties.
11 But we are limiting the bid to those people who are already
12 in the bid process evidenced by having submitted first
13 initial bids, which we could not proceed with because of
14 legal difficulties per CEQA policies.

15 COMMISSIONER ACKERMAN: That's correct.

16 CHAIRPERSON CORY: If you can bid, we're here
17 to do the public's work, and we're interested in hearing
18 their views when we get down to that from the broad
19 sector. We shouldn't be limiting that.

20 EXECUTIVE OFFICER DEDRICK: We will make a point
21 of meeting with the boaters to make sure we really do get
22 their input and their reasons for the choice of fees.

23 CHAIRPERSON CORY: Is everybody happy?

24 COMMISSIONER MORGAN: No.

25 CHAIRPERSON CORY: Two of us are happy?

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1 Okay, staff has the direction.

2 MR. RUMP: Yes.

3 CHAIRPERSON CORY: That concludes the agenda item.

4 We stand adjourned.

5 (Thereupon this meeting of the State
6 Lands Commission was adjourned at
7 approximately 11:15 a.m.)

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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 Excerpt of Proceedings of the State Lands Commission meeting was reported in shorthand by me, Evelyn J. Duggan, a Shorthand Reporter, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of June, 1982, at Sacramento, California.


EVELYN J. DUGGAN
Shorthand Reporter

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