MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, DECEMBER 16, 1982
10:45 A.M.

Eileen Jennings, C.S.R.
License No. 5122
COMMISSION MEMBERS

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

STAFF

Claire T. Dedrick, Executive Officer
James F. Trout, Assistant Executive Officer
Robert C. Hight, Chief Counsel
Jane Smith, Secretary
W. M. (Moose) Thompson
Jack Rump
Dwight Sanders

ALSO PRESENT

N. Gregory Taylor, Assistant Attorney General
Rick Frank, Deputy Attorney General
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PETERS SHORTHAND REPORTING CORPORATION
3435 AMERICAN RIVER DRIVE, SUITE A
SACRAMENTO, CALIFORNIA 95825
TELEPHONE (916) 972-8894
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3435 AMERICAN RIVER DRIVE, SUITE A
SACRAMENTO, CALIFORNIA 95825
TELEPHONE (916) 972-6854
CHAIRPERSON CORY: We'll call the meeting to order.

Any corrections on the Minutes of November 29th?

COMMISSIONER MORGAN: No.

COMMISSIONER ACKERMAN: None.

CHAIRPERSON CORY: Without objection, these will be confirmed as presented.

No report from the Executive Officer; is that correct?

EXECUTIVE OFFICER DEDRICK: That is correct. And no Coastal Commission.

CHAIRPERSON CORY: The next item on the agenda is the Consent Calendar. Those are the items prefixed with the letter C. They are Cl through C12; minus Item 6, which is taken off calendar.

EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRPERSON CORY: These will be taken up in one motion unless someone in the audience has an objection to the proposed staff recommendation of these items.

Is there any concern about any of these items?

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

The regular calendar, we will...
EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRPERSON CORY: And 29 and 30 are off calendar. And we'll try to accommodate some scheduling problems. We'd like to take up Item 31 first.

Claire, Bob, will you fill me in on this?

EXECUTIVE OFFICER DEDRICK: This is a certification of an Environmental Impact Report for a pipeline between Platform Edith in the OCS and Platform Eva, which is in the stateland. Edith is a project jointly of Chevron and Union. Eva is Union.

The item is certification of the EIR, which is pretty important to them today. And if you'd like details, Dwight is here who carried out the EIR.

In addition to that, we would normally be issuing a lease to them. If you certify the EIR for a pipeline, a waterline, and an electrical connection, we have not yet negotiated the terms of that lease.

If you choose, you could give me the authority to negotiate it under our regulations and Commission policy.

CHAIRPERSON CORY: Let's deal with the EIR first.

Is there anybody in the audience who has any comments on the EIR?

Questions from Commissioners?

What about the question of authorizing the staff to go ahead with the negotiations on the pipeline agreement?
COMMISSIONER ACKERMAN: I'd like to hear the position of the Applicant on that.

EXECUTIVE OFFICER DEDRICK: Chevron is here today.

CHAIRPERSON CORY: Susan Callister?

MS. CALLISTER: Yes, sir. My name is Susan Callister. I'm with Chevron. And we concur that Mrs. Dedrick could come and negotiate whatever terms of the lease would be necessary in order to have it issued today.

CHAIRPERSON CORY: Okay, without objection --

COMMISSIONER ACKERMAN: If the Applicant is not satisfied with that, do they then have the right to come back before the Commission?

CHAIRPERSON CORY: Yes.

EXECUTIVE OFFICER DEDRICK: Yes.

COMMISSIONER MORGAN: Okay, that's fine. I think you should ratify it.

CHAIRPERSON CORY: Without objection, Item 31 will be granted as on the calendar certifying the FIR and authorizing the Executive Officer to negotiate the contracts.

Item 32 --

MR. HIGHT: No.

CHAIRPERSON CORY: We're back on the numerical sequence.

The first item is the acceptance of a quitclaim deed for a mineral prospecting permit from U.S. Borax.
Is there anybody in the audience on this item? Questions from Commissioners?

COMMISSIONER ACKERMAN: None.

CHAIRPERSON CORY: Without objection, quitclaim is accepted.

Item 14, application for a permit to dredge 30,000 cubic yards by Mare Island Ferry Company.

Is there anybody in the audience on this item? Questions from Commissioners?

Without objection, Item 14 is approved as presented.

Item 15, Department of Public Utilities, City of Alameda, Bureau of Electricity wants to dredge 30,000 yards, dispose near Alcatraz. This is for a placement of underground cables.

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

Without objection, Item 15 is approved as presented.

16 is off calendar.

Item 17, approval of an amendment to change the size of a lease, as I recall, in the riverbed in the Sacramento River near Princeton in Glenn and Colusa Counties.

Anybody in the audience on this item? Questions from Commissioners?
Without objection, Item 47 is approved as presented.

Item 18 is the award of a Royalty Oil Sales Contract, South Elwood Field, Santa Barbara, the 69-cent bid on this.

Are there any questions from Commissioners? Anybody in the audience on this item?

Without objection, the award will be made to the high bidder, which was U.S. Oil and Refining Company.

Item 19 is the award of Royalty Oil Sales Contract, Elwood, the next increment. The high bidder was Fletcher.

Anybody in the audience on this item?

COMMISSIONER MORGAN: Question. There were only two bids; is that correct?

EXECUTIVE OFFICER LEDRICK: That's correct.

COMMISSIONER MORGAN: Why?

EXECUTIVE OFFICER LEDRICK: That's a pretty high bid.

COMMISSIONER MORGAN: It's a good bid? Were there any other companies that expressed interest?

EXECUTIVE OFFICER LEDRICK: Moose, could you respond to that question, please?

COMMISSIONER MORGAN: Did we put a minimum on these?

EXECUTIVE OFFICER LEDRICK: We did.

MR. THOMPSON: Thirty-five cents.
EXECUTIVE OFFICER DEDRICK: They were 35-cent bids and they were put out sequentially; isn't that correct?

MR. THOMPSON: Yes.

CHAIRPERSON CORY: This is 99.6?

EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRPERSON CORY: The Deputy Director of Finance gives us the Woody Allen response -- take the money and run.

Anybody in the audience on this?

Without objection, the award will be given to Fletcher.

Item 20. This is an informational. You're going to tell us about the operational audit from Haskins.

EXECUTIVE OFFICER DEDRICK: Would you like Mr. Thompson to present this item?

CHAIRPERSON CORY: Do Commissioners have any questions that they want answered?

COMMISSIONER MORGAN: This is follow-up to the audit that was done last year. And I'll make sure that our auditors review it and get back to you if they have any questions.

COMMISSIONER ACKERMAN: That's fine with me.

CHAIRPERSON CORY: Anybody in the audience on this item?

Without objection, we will have receipt of that
Item 21, Shell Oil Company is proposing well abandonments on PRC 2920, Molino Offshore Area, Santa Barbara.

Is there anybody in the audience on this item?

Questions from Commissioners?

COMMISSIONER ACKERMAN: Are these just gas wells?

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON CORY: Without objection, Item 21 is approved.

Item 22 is the Fifth Modification of the project for East Wilmington. The Fifth Mod is the data processing?

MR. THOMPSON: Yes, or part of it. This year's funds.

CHAIRPERSON CORY: This year's fund is just internal transfer to accommodate the data processing phase.

MR. THOMPSON: And adding to the planned concept of this data base and the whole system. Recommendation to the audit.

CHAIRPERSON CORY: Anybody in the audience on this?

Questions from Commissioners?

Without objection, Item 22 is approved as presented.

Item 23, the Eighth Modification. And this is the economic projections are being revised. And that is in conformity with the memo that came out last week.
EXECUTIVE OFFICER DEDRICK: Correct.
Moose, do you want to comment on this?

CHAIRPERSON CORY: As I understand it, it's basically oil prices probably going down a buck and an adjustment in the inflationary factor on our expenses:

MR. THOMPSON: Yes.

EXECUTIVE OFFICER DEDRICK: In addition to that --

MR. THOMPSON: But the expense will not offset the crude oil price anticipated cuts.

EXECUTIVE OFFICER DEDRICK: The Technical Corrections Act on windfall profits tax has gone through both Houses of the Congress and is in the President's hands. That is the adjustment of 60 to 80 million in this fiscal year.

MR. THOMPSON: The revenue protection had two alternatives. One, if we had any technical corrections on the windfall profits tax. And now it looks like that is ready for signature. So, there will be more money than the original forecast.

COMMISSIONER ACKERMAN: Probably about 60 to 80 million.

MR. TAYLOR: Most of that is ready to come in immediately. The companies are prepared to pay us.

CHAIRPERSON CORY: I thought it was funded someway. It isn't.
EXECUTIVE OFFICER DEDRICK: It's 66 million in retroactive, of which we probably could collect 90 percent within how long, Jim?

MR. TROUT: Sixty days.

EXECUTIVE OFFICER DEDRICK: Sixty days.

In addition to that, there's a projection of savings in taxes for the rest of this fiscal year of 20 to 30 million.

MR. THOMPSON: And that same savings will take place next year and the year after.

COMMISSIONER MORGAN: Some of that we'll be able to collect easily and some of it we won't?

EXECUTIVE OFFICER DEDRICK: About 90 percent of it is easy to collect. There's one company that's a complex ownership -- Petro-Lewis. And that's got to be handled.

CHAIRPERSON CORY: We should never have done that.

MR. TAYLOR: $8 million.

CHAIRPERSON CORY: Okay.

COMMISSIONER MORGAN: Thanks.

CHAIRPERSON CORY: All right, approval of the Eighth Modification without objection.

Item 24. This is authorization to the staff and/or the A.G. to take all necessary steps to deal with the breach of the lease, PRC 4049.1 in Seven Mile Slough, Sacramento County.
Is there anybody in the audience on this item?
Questions from Commissioners?

Without objection, Item 24 is approved as presented.

Item 25 is approval of Cession of Jurisdiction at Lava Beds National Monument, Whiskeytown Unit, Shasta/Trinity National Recreational Area, Point Reyes National Seashore, and Pinnacles National Monument.

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

Without objection, Item 25 is approved as presented.

Item 26 is approval of a boundary line agreement exchange among Noyo Harbor District, Wharf, in Mendocino County.

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

Without objection, Item 26 is approved as presented.

Item 27 is approval of Land Exchange in Compromise and Settlement of Litigation involving tide and submerged lands in the City of Stockton with Darrah.

Is there anybody in the audience on this item? Questions from Commissioners?

Without objection, Item 27 is approved as—
Item 28, consideration of bids --

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, should we dispose of the Union question at this point before we --

CHAIRPERSON CORY: Probably wouldn't --

EXECUTIVE OFFICER DEDRICK: In addition to that, maybe we ought to take a couple of minutes. I think people have some presentations they want to put together. So when we finish with Union, maybe we could take a couple-minute break, if that meets your approval.

CHAIRPERSON CORY: I'm not so sure.

EXECUTIVE OFFICER DEDRICK: Okay.

CHAIRPERSON CORY: Item 32 is a resolution of a royalty dispute with Union Oil Company. This is a negotiated settlement that Union and staff has agreed to.

MR. HIGHT: Correct.

CHAIRPERSON CORY: Is there anybody in the audience on this item? Questions from Commissioners?

COMMISSIONER ACKERMAN: No.

CHAIRPERSON CORY: Without objection, we'll authorize the staff to go ahead and resolve the dispute. Item 32 is taken care of.

You do have something else you want to take up?

EXECUTIVE OFFICER DEDRICK: Well, the Catalina item seems to be before you today.
CHAIRPERSON CORY: Do you have something else you want to take up?

EXECUTIVE OFFICER DEDRICK: No.

CHAIRPERSON CORY: I thought you said there was something else.

EXECUTIVE OFFICER DEDRICK: No, I apologize. If you're going to receive testimony from witnesses on the Catalina item, they had wanted to set up screens and so forth. If you're going to do that, I thought we ought to take a couple-minute break. But if you're not, it's not necessary.

COMMISSIONER ACKERMAN: See how things proceed.

CHAIRPERSON CORY: I have no great desire to have a dog-and-pony show. I think we're down to the point where it's time to get on with the decision process myself. I don't know what the other Commissioners desire.

But, I mean, we've had umpty skump hours of data and testimony. And I'm mindful that the mind cannot cure what the self cannot endure. And I think we ought to get this issue resolved.

COMMISSIONER MORGAN: Why don't we go ahead and see how it goes.

CHAIRPERSON CORY: All right.

MR. RUMP: The first order of business is to note that in front of you are copies of all the letters that we
have received. I'll just go down them briefly.

First of all is a letter received from Senator Robert Beverly. Secondly is a letter from Charles Greenberg. We also have a letter to the Commission from Gilbert Saldana, Mayor of the City of Avalon; a letter from Joseph Steele, a representative of B.O.A.T.; telegrams to all the Commissioners from Reinhold, John S. Reinhold. We have a telegram to the Executive Officer as well.

We got telegrams, mailgram, from Bob Gayman; and a letter from John and Bobbie Love. And I believe you've seen most of these before, but that's a complete package in front of you.

CHAIRPERSON CORY: Okay.

MR. RUMP: Perhaps the first step would be to briefly explain what is in the staff report before you.

CHAIRPERSON CORY: Okay.

MR. RUMP: There is an introductory section, which I think you're all familiar with the background. Then we address what is before us today, the present bid solicitation. On pages 2 and 3 are what we will be focusing on now and are the considerations for the award of the bid.

CHAIRPERSON CORY: Have the people who have bid, are they in receipt of this document?

MR. RUMP: I believe they are.

Is there any bidder who has not received a copy
of the staff report?

CHAIRPERSON CORY: All of the bidders are here, are represented? We have three bidders.

MR. RUMP: Yes, I see all three bidder representatives.

CHAIRPERSON CORY: Mr. Radcliffe is --

MR. RUMP: Is in the back of the room.

CHAIRPERSON CORY: And Mr. Greenberg.

MR. RUMP: And Mr. Hertzberg.

CHAIRPERSON CORY: And you've got --

MR. GREENBERG: Yes, we received it a few minutes ago.

CHAIRPERSON CORY: And, Rosemary?

MS. WOODLOCK: Yes.

MR. RUMP: Turning then to pages 2 and 3, these are the focal points of your consideration today.

For the award of the bid, we'll focus on, one, the type and quality of services to be provided to the existing operation; secondly, the financial responsibility of the bidders to perform the provisions of the lease; third, the rental factor submitted; fourth is the categorical exemption of the proposal from CEQA.

The weight to be given each of those foregoing elements shall be at your sole discretion. And you reserve the right to reject any and all bids.
Section III is a summary, brief summary, of the bids that we received.

The Island Company/Conservancy bid $706,500 as annual rental. There is also a description of the Preliminary Environmental Assessment which was submitted with it. And our evaluation is that it's based upon a hypothetical situation and does not fit necessarily the bids which have been submitted to you today.

CATMAR's bid is summarized as annual rental of $252,000 annually. They propose to manage the lease from vessels located as existing moorings on lease premises. We have further description of some of the facilities there.

Additionally with their bid they have submitted a Certificate of Opinion by Antonio Rossman, attorney and Professor of Law at Hastings College. CATMAR's bid is categorically exempt from CEQA.

Third bid from Island Navigation Company and Seaway Company bid $276,000 as the annual rental. Roughly that proposes to divide the lease premises into two components -- the East and West Tidelands Areas. Housing of the employees will be in Avalon. They have done a brief description of the services that they're planning to provide, which is on page 6.

Section IV gets into more depth the type of quality services aspect of the bid. In there is referenced
as an attachment to the back of the report Exhibit A. What that is is a list of equipment which has been filled out on the forms which were provided in the bid package on page 14. For each of the bidders it designates also the service categories that the equipment will be used in.

Behind that is another series of charts which state each service category and then give an analysis as to the location of the services, the frequency, the vessel, auxiliary equipment, other comments, facilities, and personnel assigned. So, that follows roughly that first listing. So, you can look at that to see what the comparison is for the type of quality services that are being rendered.

On page 7 is the list of service categories -- garbage pick-up, harbor patrol, health and safety, towing, mechanical services, mooring services, water reprovisioning, and water transportation.

I don't know how much detail you wish at this time; but beginning at page 7 we go through the analysis of the various methods of garbage pick-up. Perhaps I won't dwell on that at the present time.

CHAIRPERSON CORY: Are there specific questions from Commissioners?

COMMISSIONER ACKERMAN: No.

CHAIRPERSON CORY: Go ahead.

MR. RUMP: I believe you all had receipt of the
bids shortly after they were received by staff. This is taking that material and proposing it -- that you haven't seen.

Section B is the financial responsibility. And that section of the bid package was to remain confidential. So, it's a brief summary here of what the information is and how it's been evaluated.

The important elements are the ranking system. It roughly is the Island Company and Conservancy, followed by Island Navigation and Seaway Company, and Transpacific for CATMAR.

The bottom line is that the staff in their evaluation of both their ability to perform services and the financial statements does not find that any of these bidders are disqualified from participating in the bid process.

C: on page 15 runs down the annual rental which has been received or bid.

Section D, the categorical exemption from CEQA, is a lengthy section, but I think it's one that is important. It speaks of each of the service categories after an introduction of what is reported today.

Essentially, for the categorical exemption, you must find that there is not a reasonable possibility of a significant environmental effect.

The section which follows that discusses each of...
the service categories and some general categories to evaluate whether or not that has been complied with.

Staff has done considerable work in this area. We have been in contact with a number of state agencies. We've been in touch with each of the bidders for further clarification of services and have a section at the back of this report of conditions which I think are consistent with the categorical exemption analysis. And I'll turn to that in just a minute. But, as you can see as you go through it, we have an analysis of each one of the categories.

Finally, the Commission alternatives are discussed on pages 30 and 31. And just to repeat again, you have considerable latitude in giving weight to the categories once the initial qualification is found.

Now, turning to the back part of the package, we have first behind the charts, we have some recommended findings. And these would vary depending on what ultimate decision you make today. So, there are some alternate clauses in there. But we feel that these represent the areas of the categories that you might wish to have findings based upon evidence that you hear today and what you know as we've gone through this process plus what's contained in the staff report.

Do you have a question?

CHAIRPERSON CORY: Would it be appropriate at this
time to deal with the conditions to ascertain from the
three bidders that they will accept the conditions? Because
it seems to me from this report and your presentation that
the conditions are necessary to be accepted for all bidders
to be deemed qualified and in compliance.

MR. RUMP: That is correct. As long as we're on
that, I would like to turn to the conditions section. There
are a couple typographic errors in there.

In terms of Island Navigation, I don't believe
there are any changes.

On the second page of the CATMAR conditions, in
my attempt to make language consistent, it has Island
Navigation/Seaway instead of CATMAR. So, with that
correction, I believe --

CHAIRPERSON CORY: Condition 5.

MR. RUMP: Condition 5.

CHAIRPERSON CORY: It should be "CATMAR shall
provide documentation . . ." rather than Island Navigation.

MR. RUMP: That's correct.

Additionally, in terms of overall fairness to
all bidders, we would also recommend a similar paragraph
applicable as a third item under the Island Company/Conservancy. We have two proposed. So, that would be that
the Island Company/Conservancy shall provide documentation
satisfactory to the Executive Officer that it has secured
all necessary leases, governmental permits, and other
approvals incident to its operation under this lease prior
to the giving of notice necessary to take possession of the
lease premises. So, essentially then all three bidders
would have that same requirement.

So, those are the modifications to the conditions.

And you are correct, Mr. Cory, that in order to proceed
with this in terms of our evaluation, we would like to know
whether or not the bidders would accept these conditions.

CHAIRPERSON CORY: Can we hear from the bidders?
The first to speak is Mr. Radclife, if I can discern in
the shadows correctly.

EXECUTIVE OFFICER DEDRICK: Mr. Radclife, could
you come forward please.

MR. RADCLIFE: Jim Radclife, representing Island
Navigation Company and Seaway Company, joint bidders.

I'm authorized to represent to the Commission that
the joint bidders do accept the conditions set forth, being
seven in number, as an addendum to the staff report.

CHAIRPERSON CORY: And they also understand that
you do not have veto power over CATMAR.

(Laughter.)

CHAIRPERSON CORY: In their conditions, that you
do not -- staff did have it that you had to apply for the
permits. That has been eliminated.
MR. RADCLIFE: I understand, yes. That's correct.

CHAIRPERSON CORY: All right. Thank you, sir. Who's representing CATMAR? Rosemary?

MS. WOODLOCK: I'm Rosemary Woodlock, representing CATMAR.

I have one comment to make before we accept the conditions. And that's with respect to the liquid wastes under Condition No. 1.

In our proposal we do plan to dispose of our own liquid wastes. Under the state requirements, in that situation we do not need a permit according to the state representative. If we accept third-party wastes, then you are subject to permit inspection requirements and, I believe, some insurance and other aspects of it.

As I understand the reason this is in here is that liquid wastes have not been a part of the bid. However, it was Island Company has raised the comment about their service in accepting chemical toilet wastes on land. And I gather the implication is that they would no longer do so.

In my discussions with the Solid Waste Management Board and the Hazardous Waste Section of the State Department of Health, the current disposal system has a reasonable possibility of being an illegal disposal system, because neither of the dumps on Catalina Island are...
authorized to accept hazardous waste at this time.

With that explanation, I would like to state that Catalina Marine Services will accept these conditions.

MR. RUMP: Do you want me to comment on that?

CHAIRPERSON CORY: Yes. Obviously, the Applicant has more knowledge in this particular area than at least this Commissioner does. So, if you would.

MR. RUMP: It would seem to me important for this condition to be here regardless of the proposed mechanism for the disposal.

I guess as we understand the explanation, this is something that had not been presented to us until last week about the transport of porta-potty waste on shore. And I guess maybe the best source to find out whether or not this is something new which has developed only this year would be the Island Company. But it is new and it has only been raised --

CHAIRPERSON CORY: The question that comes to my mind first is did the bid proposal require the prospective bidders to deal with liquid waste?

MR. RUMP: Liquid waste was not specified. If you recall, the waste provision which we had was talking about the picking up of waste by the garbage boat. So, apparently, that disposal method is -- you know, none of the liquid wastes were transported to that disposal boat. They
are actually taken ashore.

So, it's possible that if you desire, we could separate the liquid waste requirement; although it is being produced on supposedly lease premises.

Greg, do you have any --

MR. TAYLOR: I believe the contemplation was trash.

CHAIRPERSON CORY: That was my understanding that we were talking about trash and garbage, not sewage waste.

MR. RUMP: Uh-huh.

MR. TAYLOR: I think it's important to distinguish between things on the uplands, which I presume will continue to take place on the uplands; things that occur on the piers, which are a separate matter for this Commission; and things that occur on the lease premises. And it's important to separate those out.

Whether they continue to receive liquid wastes on the mainland or on the island, that's a question between the business judgment of whoever is running that facility.

CHAIRPERSON CORY: You are not implying that we need to concern ourselves with the creation of liquid waste on board the vessels of the lease premises?

MR. TAYLOR: No.

CHAIRPERSON CORY: And that the lease, in terms of what we had put in the lease bid package, contemplated
dealing with what I would call conventional trash.

MR. TAYLOR: That is correct.

CHAIRPERSON CORY: That was my understanding. I don't know what the other Commissioners --

So that Ms. Woodlock's comments about liquid waste are consistent with the bid package.

MR. TAYLOR: Yes.

MR. RUMP: Appear to be.

MR. TAYLOR: Yes.

CHAIRPERSON CORY: If the lawyers are happy --

So, with that explanation and understanding, CATMAR has accepted the conditions.

MS. WOODLOCK: Yes. However, we would like to state that the uncovering of the liquid waste handling by Bombard right now shows that there's an existing possible adverse effect which the Commission should mitigate by prohibiting handling it at all; whether transporting across the lease premises or not, or going along with the previously discussed conditions.

COMMISSIONER MORGAN: Can I ask a question about the hovercraft?

MR. TAYLOR: We should just rule that the liquid waste disposal occurring on the uplands is not part of the lease premises and is not part of this --

CHAIRPERSON CORY: Not one of the conditions. And
the thing I think we get -- we start trying to deal with that question, then there's a question which the existing operation has not dealt with in the existing lease as to whether people have porta-potties, don't have porta-potties, whatever else they're doing. I'm not sure that we should, as a matter of lease record, try to start policing that function.

MR. TAYLOR: The disposal of liquid waste takes place off of the lease premises and, therefore, has not been considered a part of this operation.

CHAIRPERSON CORY: That is a nice statement. I'm not so sure that the facts will support it. I'm sure that there is a variety of ways that vacationers take care of liquid waste. And I'd just as soon we not get into that question.

MR. TAYLOR: As far as the kinds we've been discussing -- well, even that.

CHAIRPERSON CORY: It is not a function of this lease to deal with that problem.

MR. TAYLOR: That's correct.

CHAIRPERSON CORY: I think that's the best way to leave it.

COMMISSIONER MORGAN: Have you disposed of that?

CHAIRPERSON CORY: Yes.

COMMISSIONER MORGAN: You're agreeing to the
substitution in accepting the hovercraft that were
previously --

MS. WOODLOCK: Yes, we do. We feel that we could
make a case that the hovercraft is environmentally
acceptable, but I don't believe this is the place to get
into that argument. And we would be more than willing to
accept regular conventional shore boats. In fact, we would
substitute, I believe, the technical description of our
Harbor Patrol Craft No. 1 and the substitution also of
Harbor Patrol Craft, 16 feet 7 inches for the two:
hovercraft.

I might add that this will save a substantial
capital investment also. We do agree to that.

COMMISSIONER MORGAN: They have similar capacity,
carrying power?

MS. WOODLOCK: Yes, they do.

COMMISSIONER MORGAN: Thank you.

CHAIRPERSON CORY: Okay, thank you.

The Island Company.

MR. GREENBERG: Charles Greenberg, representing
your present lessees.

We will accept the conditions as drafted.

I would state for the record that I do not believe
that ignoring the environmental problem such as liquid
wastes are allowable under CEQA. And I believe it would be
in error for this Commission to award a lease without considering the environmental effects of what it is doing, whether or not those effects occur on or off the lease premises. I'm just stating that for the record.

CHAIRPERSON CORY: Would you like to state for the record that you are policing liquid waste on all the vessels in the harbor?

MR. GREENBERG: No, we have a method -- over the years we've worked out with the boaters, who are normally responsible people if given a reasonable alternative, a reasonable way of handling liquid waste.

COMMISSIONER ACKERMAN: What do you do?

MR. GREENBERG: What we do is when they come ashore, they bring -- normally on Saturday night or Sunday, because these are involved with small boats. When they're out of capacity, they bring aboard their porta-potty. They put it into an underground container system that we maintain. And then because the liquid wastes have chemical agents in them which destroy the bacteria and are sterile by themselves, they cannot be put into our liquid waste disposal facility.

So, we then take those wastes and we put them into our solid waste disposal facility. And as far as we know, it's absolutely legal. And I see no environmental reason why it shouldn't be done. But that's what we do.
COMMISSIONER ACKERMAN: Do you charge for that service?

MR. GREENBERG: No, we do not.

COMMISSIONER ACKERMAN: Is there any reason for us to suspect that service would be discontinued if other than yourselves are the master lessee?

MR. GREENBERG: The other two lessees have not indicated whether they would or if they would, how they would provide a similar service. I can't answer for them. I would suspect that there would be a big problem in doing it.

MR. TAYLOR: I think there has to be a clarification. Mr. Bombard, who is the operator for the Conservancy and Island Company, has a number of facilities. I believe he has a restaurant, there's a store, and there are other things that are at the Isthmus. And it's important to keep his various operations separated. What we're talking about is the disposal that occurs on the uplands. And that has not been treated in any of the discussions prior to the communication we had from the Island Company in reacting to these proposals as being part of the lease premises; any more than the purchase of groceries, liquor, or restaurant supplies at the Isthmus is a part of the lease premises. It's a part of another lease. And I presume that those operations are going to continue. But whether they continue...
or don't continue is really immaterial to these proceedings.

COMMISSIONER ACKERMAN: I disagree.

MR. GREENBERG: We have -- and would like to state to the Commission -- in doing our environmental analysis, we have assumed that which would occur if we did not continue our existing operations on land.

I wish we could tell you which of those operations would or would not be continued. If we do not have the revenues from moorings, we then have to make an economic judgment as to whether or not those operations are -- whether or not we can continue to carry on those operations. I assume our restaurants and stores will certainly continue. Free disposal of porta-potty waste I suppose depends on whether if our bay gets into bad shape, whether or not we're willing to take the cost and expense of maintaining that to keep our bay clean.

And I can't tell you in advance what's going to happen with that particular service. And there's a lot of services in that category such as the showers and the restrooms and so forth which we can't respond to you. I wish we could. I wish we could tell you. But they're going to have to now -- if we don't have the bid, they'll have to justify themselves on another basis.

Those services are used by the people who utilize the lease premises and, therefore, have environmental effects.
CHAIRPERSON CORY: I don't know what the other Commissioners think, but I frankly think this whole issue is sheer sophistry in that the question of those kinds of wastes are not contemplated in the existing lease, is not a requirement of the existing lease to deal with them. And to raise -- and I go along with Greg's reasoning that that is something that occurs on the uplands for those boaters who choose to bring the waste ashore.

I don't know of any evidence which indicates whether that is 100 percent of the boaters, 10 percent, or one-tenth of 1 percent. But there are a lot of options that people have.

I will presume that everybody is behaving legally and properly. And I think we should presume that they will continue to behave legally and properly. And if we try through this lease to manage the body elimination process of anybody who wanders across the surface of the lease, you're undertaking something that is beyond the scope of the lease. And there have to be some limits to what we can do. And I just think we're talking about how many angels are dancing on the head of a pin.

COMMISSIONER ACKERMAN: Go ahead.

COMMISSIONER MORGAN: On the other hand, it seems to me that what we're talking about is just another example of how impractical it is to consider leasing this operation
to anyone other than the upland owner. It's the question
of whether we can put together a package that tells an
operator how to do a good job, be a good neighbor, serve the
public, and spell out all the details.

I think that what we see before us is an effort
to try and take something that is a service to the public
and brings in a little money for the state and turn it
into something that you can package and shape and whittle
down to specification similar to bidding on a chair. And
I think this is nonsense.

It's my feeling that the findings, for example,
which the staff are proposing that we make are not acceptable
to me, with the exception of only -- are acceptable only if
we insert the current operator of the lease.

I don't see how we can make certain of these
findings otherwise. And I'd be willing to make a motion
that we award -- accept the bid of the current operator and
award the lease to them.

CHAIRPERSON CORY: There's a motion. Is there a
second?

Motion dies for lack of a second.

COMMISSIONER ACKERMAN: What I'd like to do is
hear from the -- at least comment from each of the bidders.
They've only commented just on the section --

CHAIRPERSON CORY: If we dealt with this issue --
COMMISSIONER ACKERMAN: We're kind of going through this. I'd like to complete this process before we consider any motions or anything like that. I'm not prepared --

COMMISSIONER MORGAN: I'll table my motion.

CHAIRPERSON CORY: The Chair yields to that issue.

There was a motion and no second.

COMMISSIONER MORGAN: There was a proposal for a motion.

CHAIRPERSON CORY: Okay. We now have the three bidders have accepted the conditions.

MR. RUMP: The conditions.

I guess also in the preliminary stages, there have been minor technicalities in the form of the bids. And the first finding in the recommendations to you are that you find that the bids are in substantial compliance with the procedural requirements of the solicitation.

For instance, what technicalities are before you in our evaluation is that they're substantial. We have found no technicalities regarding the Island Company/Conservancy.

CHAIRPERSON CORY: The question of findings -- well, do you want to go through those findings, or do you want to hear from people before we go into the findings question? That's the question. Do you have a suggestion, Jack?

MR. RUMP: We can hold that in a minute. I'm
merely addressing merely the technicality of compliance for that.

For instance, there is only one outstanding item which I have not received. And that is a corporate acknowledgement for the execution of Transpacific of bidder's acceptance. And it was going to be telexcopied to me this morning. And I've asked staff to check. I haven't gotten it yet. Maybe we can ask CATMAR to check that out. That is one point I'll bring up later. I haven't received the corporate --

MS. WOODLOCK: It's being arranged to be sent from the Attorney General's Office in Los Angeles to the Lands Commission Office.

MR. RUMP: Okay.

CHAIRPERSON CORY: What you're asking for is a corporate resolution --

MR. RUMP: That's correct.

CHAIRPERSON CORY: -- that Transpacific is standing behind CATMAR.

MR. RUMP: That's correct.

CHAIRPERSON CORY: And that is a resolution from the board of directors of the corporation.

MS. WOODLOCK: If I may clarify the purpose of this. Over the past year, Pioneer Take-Out Corporation changed its name to Transpacific Industries Corporation and
created a wholly new subsidiary called Pioneer Take-Out Corporation, which runs the restaurant operations. So that all this is is a technicality.

We have provided the corporate documentation with respect to the name change. And this is merely a technicality of changing -- a resolution that's already been filed, but under a different name.

MR. RUMP: We can address that later on if you'd like to take the testimony. I just bring it up since I haven't gotten that form.

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

COMMISSIONER ACKERMAN: I think I'd just like to stipulate that we have three bids before us that are all technically sufficient to be considered against one another. And if they all meet the criteria that we established, we will weigh the technical problems are sufficient and I'm satisfied.

CHAIRPERSON CORY: With the conditions that they have accepted.

COMMISSIONER ACKERMAN: With the conditions. And, basically, we have three bids before us. And at this point we are not rejecting -- or at least I'm not going to propose to reject any bid on technical grounds that they failed to meet the conditions we set forth in the
solicitation of the bid.

CHAIRPERSON CORY: Okay.

Who shipped this over? What am I supposed to do with it?

MR. TAYLOR: I think it's one more communication. I'm sorry, I passed it.

CHAIRPERSON CORY: Is this to be made part of the record or it is part of the record?

MR. RUMP: It has not been yet.

MR. HIGHT: We just received it, Mr. Chairman. I think you should just indicate you've received the telegram and it should be made part of the record.

CHAIRPERSON CORY: From the Blue Water Cruising Club.

COMMISSIONER MORGAN: You did that with such aplomb.

CHAIRPERSON CORY: So, you would prefer hearing from --

COMMISSIONER ACKERMAN: No, I'm just saying if there's no objection, we can stipulate that we have the bids before us, they're technically sufficient to warrant consideration, and none of them are rejected on technical grounds of failing to comply.

CHAIRPERSON CORY: I'm willing to accept that.

COMMISSIONER MORGAN: Is that what the staff is --
MR. TAYLOR: Subject to the receipt of the resolution from CATMAR and their acceptance of the other conditions.

CHAIRPERSON CORY: And they have accepted those conditions.

MR. TAYLOR: That's correct.

CHAIRPERSON CORY: So, it's not subject to that. They have accepted; is that not correct?

MR. RUMP: That's correct.

CHAIRPERSON CORY: Now what's before us? What is the wish of the Commissioners?

COMMISSIONER ACKERMAN: I guess we've gone through this a great deal, obviously. I think I'd prefer at this point just to hear final brief summary statements from each of the bidders, if that's appropriate.

CHAIRPERSON CORY: What about other people?

COMMISSIONER ACKERMAN: Let's go through the bidders and let's see how many are left that wish to address the Commission.

CHAIRPERSON CORY: Okay.

COMMISSIONER MORGAN: How about a time limit?

CHAIRPERSON CORY: What kind of a time limit would you like?

COMMISSIONER ACKERMAN: Five minutes per.

CHAIRPERSON CORY: Okay, we've got five minutes a
bidder.

And I guess for no other reason than the fact that
they happen to be put in the thing under the condition list,
shall we have the Island Navigation Company?

MR. RADCLIFE: Mr. Chairman, members of the
Commission, members of the staff, and Ms. Dedrick, my name
is Jim Radcliffe, again. And I represent the high bidder
in this process, Island Navigation Company and Seaway
Company of Catalina as joint bidders.

I think probably in order of priority I will
address the porta-potty situation.

At the outset we accepted the terms and conditions
recommended by the staff.

CHAIRPERSON CORY: Pardon me, Mr. Radcliffe, does
that mean that's your highest priority or your lowest
priority?

MR. RADCLIFE: Somewhere in between, Mr. Chairman.

But, in any event, we accepted the terms and
conditions added today at the recommendation of the staff,
which included obtaining all appropriate licenses, permits,
and complying with all appropriate standards for the
disposal of solid and liquid wastes and we will stick by
that regardless of the decision of the Commission. If they
want us to dispose of the liquid waste on lease premises,
we'll do it.
I would comment only that we've been involved in this process for a year and a half. And I find it difficult to believe that this subject just arose 48 hours ago when I received notice of it -- or less than 48 hours.

In any event, Island Navigation Company and Seaway Company of Catalina from the outset have attempted at least to participate in the processes of this Commission with some kind of dignity, with some kind of honor, and to reply to the inquiries of the staff and of the Commission with the candidness that will get the answers for the Commission that they desire.

So far as I know, we have done that. At no time have I or any member of the joint bidders' staffs or the joint bidders, so far as I know, participated in any dialogue of innuendo, of rumor, and the like, and we don't intend to start today.

I made a statement to a representative of the South Bay Daily News two weeks ago which was reported that I feel all three bidders are qualified financially, all three bidders are qualified by virtue of the equipment, all three bidders are qualified by virtue of talent to perform the service that the State Lands Commission and the people of the State of California have a right to expect.

But we're dealing here with the administration of tidelands premises. We're not dealing with the
administration of Catalina Island.

I would invite the Commission's attention to the fact that these joint bidders whom I represent have committed themselves to a $276,000 annual rent payable in advance, to a $125,000 required services bond, to a $500,000 performance bond; a total of $900,000 up front that these bidders have committed themselves to.

Now, I suggest to the Commission if any Commissioner seriously feels that we can't handle 30 gallons a day of porta-potty refuse, then there's something wrong with my computation.

We have covenanted in the course of these proceedings and in the course of our bid to provide services above the current rate that is being provided as indicated by the current services provided to us from this Commission staff.

We have covenanted and agreed to comply with all the terms and conditions of the bid package, the solicitation to bid, the lease, and our bid proposal.

We have covenanted and agreed to obtain all licenses and permits, to comply with all standards of any agency applicable.

We have covenanted and agreed to conduct our operation so as to be categorically exempt of any California Environmental Quality Act requirements.
The Chairman stated at a September meeting of this Commission that what the Commission really wanted was the bidders to belly up to the bar to commit their financial --

COMMISSIONER MORGAN: Sounds like you.

MR. RADCLIFE: -- assets. And that's what we have done.

And I would suggest to the Commission that $900,000 worth of security ought to be enough to assure the Commission that they can expect compliance from these joint bidders.

I would invite the Commission's attention to the fact that one year ago -- 1981 -- the people of the State of California were receiving $19,267.81 for the lease of the premises under consideration here. Within the period of one year, that rental has gone from roughly $20,000 to our high bid of $276,000.

I would suggest to the Commission that that fact in and of itself represents a responsibility and a service of this Commission to the people of the State of California.

I am not normally inclined to advance, I guess I should say, the representation of any bidder or particularly of our own. But I would invite the Commission's attention that had it not been for Mr. Jack Fennie approximately 13 months ago or more who perceived that there was something
amiss with the kind of monies that the people of the State of California were having returned for this valuable property, that we would not be here today.

We have submitted our bid and we submitted it before some of these issues arose. But I would suggest to the Commission that we in the State of California, all of us are in a financial situation today that it behooves all of us to inquire who is paying for what and who's enjoying what services without paying.

Two or three days after the election, I heard on the radio a quote of an official of the State of California. And I don't remember the exact quote. But paraphrasing it, it went something like that this official was going to use all his cunning and expertise to ferret out sources of additional revenue to the State of California.

When we compare the difference between the high bid and the low bid in this case, we're talking about roughly $70,000 a year. During the course of the lease term, if there is no more changes or if there are no more changes in the rental rates, we're talking about approximately $1 million -- $910,000 to be exact. And even though some may say a little money here or a little money there, I'm a country boy and that's a lot of money as far as I'm concerned.

I read in the paper just this morning where the
state deficit may approach 2.4 billion and I've heard
rumors that it may go to 4 billion. And I would suggest
that all of us-- the bidders, the yachtsmen, the State
Lands Commission, and all of us involved in this process --
must certainly concern ourselves with the return on the bid
to the State of California.

It would appear that my five minutes are
approximately up. And with that, I would say that Island
Navigation Company and Seaway Company of Catalina are
prepared to submit the bid as submitted and to accept the
terms and conditions, including the porta-potty as I have
represented it. Thank you very much.

CHAIRPERSON CORY: Any questions from
Commissioners?

I will try to remember to ask this of each of the
bidders. But you seem to go over the one question that I
have is that you fully understand that you're in the chute
for a lot of bucks and you've got to perform or we're going
to take your money and take your lease from you?

MR. RADCLIFE: There's no question about it,
Mr. Chairman.

CHAIRPERSON CORY: Okay.

CATMAR.

MS. WOODLOCK: I'd like to split our presentation
into two parts and have Antonio Rossmann make a brief
discussion on the environmental issues.

MR. ROSSMAN: It pains me to be here, members of the Commission, as much as I enjoy seeing familiar faces; that at least it looks as though the environmental law is becoming the tail wagging the dog. And I've been asked to talk at that issue and want to give you further assurance that I think your staff are a set of clients that I would like to have any time. They have done a commendable job of leading you through the thicket of the Environmental Quality Act to leave you in a position where you do have discretion, in my opinion, to approve any of the bids that are before you today.

By the same token, because of this recent development that you were just discussing on the porta-potties, as I believe they are known, there is a risk in not accepting any bid. And I will explain that in just a moment.

But, simply because there has been presented to the Commission a lot of paper to try to show that the Environmental Quality Act only authorizes the acceptance of one bid, I would like to reiterate that the courts have made clear recently in a decision that your staff has cited in the staff report to you that the categorical exemption does not depend upon the size of the project and it does not depend upon a precise correlation between what is being replaced and that which will replace it.
Rather, the language of the courts is that as long as there is a substantial similarity, then the categorical exemption is within your discretion to examine.

Your staff's conditions very wisely and conservatively, in my view, have eliminated all of the possible environmental objections that have been raised in the communications you have received. And, therefore, you also cross the bridge of having a categorical exemption that will be valid in substance as well as form. Because if the conditions that are set forth by the staff are adopted, you will then have eliminated all possible adverse effects that have been identified to you by members of the public including the competing bidders.

So, I think your staff deserves high marks on that respect. I would make a recommendation that the findings at page 4 have a technical correction. I think there's a miscitation to the Administrative Code in subfinding (j). It should read 14 California Administrative Code Section 15101.

There is a subsequent reference to a California Administrative Code Section 2905(a)(2) with which I'm not familiar, but it should probably have a title number in front of it. I presume that is the Commission's own regulations dealing with CEQA.

MR. FRANK: That's correct.
CHAIRPERSON CORY: What about the first correction?

MR. FRANK: Mr. Rossman is also correct on that one. That is a typographical error. It should read 15101.

CHAIRPERSON CORY: Okay.

MR. ROSSMAN: Now, at the risk of taking all of the five minutes, which I don't want to do because that's really not what we should be here to discuss; the porta-potty issue does create a risk to the legality of a Commission decision if it does not do what your Condition 2 presently proposes to do. So, we are advocating that Condition 2 that you have imposed upon us be imposed.

It appears, based upon investigations that took place last week and consultations with both the State Solids Waste Management Board and the Department of Health, that the existing lease operation results in the dumping of liquid wastes generated on the lease premises into a solid waste facility ashore that is only a Class II dump. Whereas in order to legally dump liquid wastes, that would have to be a Class I dump.

The risk then is continuing the present operation would possibly or probably have an adverse effect on the environment. You eliminate that problem by approving one of the leases with Condition 2 in it and thereby requiring whoever gets the bid to correct that existing deficiency in
the operation.

CHAIRPERSON CORY: When you say Condition 2, you are referring to Condition 2 in the conditions section, proposed conditions of Island Navigation Company?

MR. ROSSMAN: Excuse me, it's Condition No. 1 for CATMAR and Condition No. 2 for the Island Company/Conservancy.

EXECUTIVE OFFICER DEDRECK: That's the compliance with applicable law.

MR. ROSSMAN: And the same would be with respect to Condition 2 for the Island Navigation Company.

CHAIRPERSON CORY: So, they are similar conditions substantively --

MR. ROSSMAN: Yes.

CHAIRPERSON CORY: -- they're just numbered differently.

MR. ROSSMAN: That's correct, Mr. Chairman.

My recommendation is that they be imposed to correct the existing situation which, frankly, would not qualify for a categorical exemption, the existing lease.

CHAIRPERSON CORY: Rosemary.

MR. ROSSMAN: Thank you very much.

MS. WOODLOCK: Just briefly I would like to stress that we feel that we've demonstrated in our bid that we can administer the lease premises from offshore. And in doing
So, we have provided a balance between environmental sensitivity and a good return to the state for the use of its land.

We've attempted to provide for mitigation measures and to mitigate some of the environmental damage that's being inflicted on the island at this time.

We also are the only bidders who are committed in our proposal to expand the use of this island to those who have been discouraged from it.

In one of the comments they refer to the fact that we plan to encourage small boats to sort of paddle their way across the channel. When we refer to trailer boats, there are approximately 20,000 trailer boats in Los Angeles and Orange Counties that range from 18 feet to 26 feet. But this is not a group that's really been encouraged to come across and use this.

Furthermore, and I think possibly the strongest reason for accepting our bid, is that the heated discussions that have surrounded this entire proceeding indicate that the best possible choice by the Commission would really be to take -- to give the lease to Catalina Marine Services. We have no conflict of interest in either future development or monetary return from existing land lessees.

And I also feel that by giving the lease to another entity than the one who holds it now, you will have
a much better policing mechanism; not only on the state lands which are in the water, but also on public access, which is in the record before the Coastal Commission as also being discouraged through some of the privately leased coves and harbors.

So, again, I respectfully request that you accept the fact that we can administer this land from the water and that we do have a project that fits within the categorical exemption. Thank you.

CHAIRPERSON CORY: Questions from Commissioners?

As I asked the previous bidder, you understand that we are, from our side of the table, going to take your money and make you perform and if you don't, we're going to throw you out?

MS. WOODLOCK: Yes, we understand that entirely. I can assure you it's been the subject of many discussions within our offices.

CHAIRPERSON CORY: I don't want anybody to go in thinking that those are conditions that they do not have to live with; that somehow people, as soon as this bid is awarded, people are going to look the other way and people are not going to have to perform. Whoever the successful bidder is is going to have to perform. And that is the reason for the advance payment, the $125,600 liquidity fund, if you will, for transgressions and the $500,000 performance
bond. Okay, good.

All right, Mr. Greenberg.

MR. GREENBERG: Thank you, Mr. Chairman.

When we were at the bid opening and when we first ascertained what all the bidders had bid, we left in a state of shock and dismay. We simply could not understand how the other bidders could bid substantially more money than we could; particularly since we do own the adjoining lands, we do know what it takes to operate the lease premises, and we should be able to do it more efficiently and less expensively than anyone else.

Some days later we received their bid packages. And when we received their bid packages, we began to understand how these bidders can offer more money to the State of California and what the cost of that money would be in terms of inferior services, environmental damage, and other kinds of public policy objectives that we believe this Commission should not be in favor of.

I wish you would have seen our longer slide show. It's not R rated. But it would have illustrated these points with a lot more getting down to earth of what's happening in Catalina.

But just in very summary fashion, the high bidder proposes to do the work of our 13 patrol boats with 7 patrol boats between Avalon some 14 miles or a half hour or 40
minutes away from our site. We don't believe that can be properly done.

In fact, the high bidder, instead of our 31 work boats, to employ 21 work boats. CATMAR proposes to employ 23 working boats when you take out the barges and live-aboards and stuff like that.

If you think they can perform, then we've been dopes all these years and we have unnecessary equipment and are undergoing unnecessary cost and expense to administer the lease premises properly, then I suppose award it to them.

If you look at the other side of the coin and you say to yourself, what could the Island Company/Conservancy have bid if it -- for instance, in shore boats -- had had six less shore boats and nine less patrolmen to pay for than Island Navigation?

I can assure you that for a summer season, it's about $10,000 a patrolman, the cost. The cost of buying the boat and maintaining the boat and all that sort of thing on top of that, you begin to reach an explanation of why there was the difference in bids between the parties.

With CATMAR with its 23 boats -- I won't go through all the boats. But you know what CATMAR proposes to use for shore boat service? H2O water taxis built from 30 to 40 years ago to take people from fixed point to fixed point. You might remember the fixed point. It was from a fixed
point ashore to the gambling ship locks -- two of these three boats -- back in the late 1940's. Large, 46 feet, completely inappropriate boats for that kind of purpose.

If we had time, we could go through -- I'm not exaggerating. And I hope to be able to do it -- 30 to 40 illustrations of that type to show you the differences between the two bids.

Much has been made of the fact that we paid the state very little money until recently when Mr. Fennie raised the problem.

The opposite side of that coin is that we are not paying that money to the state, the boaters who use our premises are paying money to the state. We had to raise our fees by one-third to those boaters to obtain the money to pay the state. So, if there's any implication -- so, you've got to remember that if that's great social policy, I'll leave that to your judgment. You administered that kind of policy. But it doesn't mean that the state has gotten a tremendous deal and ignored things in the past.

As far as the California Environmental Quality Act is concerned and compliance of this matter with the California Environmental Quality Act, I'm not going to argue technically. I think the Chairman put it best the last meeting when he asked, let me get this straight -- and he asked it three times -- do the other bids mirror the...
present operation? And I think in a lay sense that's about as good a term as you can use to analyze when a categorical exemption is available.

These bids do not mirror those operations. These bids do something else -- the other bids. They tear apart an integrated community. They take out 60 people with skills from a rather primitive isolated community of 200 who serve that whole end of Catalina Island. They have an effect on campers and camps and hikers and natural resources. And I do not believe that the California Environmental Quality Act will allow you to restrict the scope of your inquiry to exactly what occurs on the lease premises or to restrict the scope of your inquiry to the environmental effects that occur on the lease premises.

Now, I think that if I was on this Commission, I wouldn't know what to do with the Environmental Quality Act arguments. That's a lawyer's argument. And I tried to phrase it in a common sensical kind of way.

But what is really true is that to evaluate what bid should be adopted -- if I was sitting on your Commission, I would be looking at the total value, what was the most totally valuable bid to the people of California and to the resource and to the boaters and to how these premises are administered in this rather primitive, isolated, but very, very important asset for the people of California.
And I submit as we look over these bids, there's no question about it. Unless we are absolute fools, unless we provide services to the boaters that have no meaning that you know won't be provided by the new bidders -- they weren't even required to provide them -- such as the toilets and the showers and the porta-potty. And if there's a problem -- I can't believe there's a problem with the way we handle porta-potty waste. If there is, we'll handle them a different way. But we've got the land to do it with.

When you look at the total value to everyone involved in the administration of these premises and when you say to yourself, what if we had skinnied down our services, what if we had reduced our people by the amounts of money, the amounts of personnel, the amounts of equipment that both of these bidders have done? We could have too raised our bid substantially more than these bidders are bidding to you.

We chose not to do that. We thought you wanted the quality of this operation to stay the way it is. We don't want to alter that operation except to improve it organically over a period of time. And we ask you to look at the total value to California of the assets you're managing and the people who are going to use it and ask yourself whether or not it isn't in better, safer, hands to leave it where it's stayed for the last 30 years and to
leaves it as part of a larger whole where the lease premises are administered with all of the other public uses at that end of the island. And more, together they all organically make sense and mesh together. Thank you very much.

CHAIRPERSON CORY: Questions?

COMMISSIONER ACKERMAN: Unless you want to ask your same question. It's relevant.

CHAIRPERSON CORY: Mr. Greenberg, you understand that the conditions -- as I asked the other bidders -- we plan on having them lived up to.

MR. GREENBERG: Surely.

CHAIRPERSON CORY: Okay, you clearly understand that?

MR. GREENBERG: Yes.

CHAIRPERSON CORY: Is there anyone else in the audience who wishes to address the Commission?

Mr. Steele, I presume.

MR. STEELE: Yes, I'm Joe Steele, President of the Boat Owners Associated Together.

Commissioners, it's our contention that there are two or three items in both Island Navigation and CATMAR's bid which will in fact require an EIR. We believe that an EIR is required if you are going to store garbage for several days, whether you store it on garbage scows at the Isthmus, on Float 5 in the middle of Avalon Harbor, or
ashore at Pebbly Beach.

Another issue which we believe requires an EIR is the operation of dormitory vessels wherever. And CATMAR does propose to operate vessels which, I think, could best be described as dormitories.

So, we think that if you give the bid to either of these bidders, an EIR will in fact be required. And that was the condition that it not be required in order to bid.

One other matter that I'd like to call to your attention.

COMMISSIONER MORGAN: Could I interrupt a minute.

Mr. Steele, I don't know if it's fair to accept testimony from individuals who have been here before who obviously support one or the other of the bidders. It seems we're simply granting an extension of time to one party. And your thoughts have been expressed time after time after time to us.

MR. STEELE: Well, I'd like to point out though that some of these things have only come to light with the bids.

COMMISSIONER MORGAN: Okay.

STEELE: I think I'll only take another minute or two.

COMMISSIONER ACKERMAN: Another minute or two
CHAIRPERSON CORY: Okay.

MR. STEELE: We do not believe the shore boat situation mirrors the current situation at all.

I'd like to read to you from the Franchise Agreement of Island Navigation with the City of Avalon.

"The company shall own or have under contract and available to it for operations under this agreement a minimum of five vessels and at least equivalent to those vessels described in Exhibit A attached hereto throughout the term of this agreement except during the periods from December 1 to December 29. Company shall maintain and operate hereunder a minimum of two vessels during the winter season and a minimum of four vessels during the summer season."

The company owns five, which meets this condition. They use one in Queensway Bay. We don't believe they even meet the Franchise Agreement by using that one.

These are the five that they list as their primary shore boats under your lease. If they use these shore boats under your lease, they will have to forfeit the lease in Avalon and leave 300 moorings there without shore
They're also proposing to build four shore boats, 20-footers, to be used as both harbor patrols and shore boats. You simply cannot operate a taxi service and a police department with the same boat at the same time.

So, we don't believe that they're going to provide adequate service.

As far as CATMAR is concerned, they're offering to use 40-foot boats or so. And we think these will be a hazard around -- close to the motorboats.

And, lastly, since CATMAR brought up the issue of trailer boats paddling across -- I think it had to do with my letter to the Commission. I'd like to point out that I was a Coast Guard officer for 36 years and retired as a Commander of the 11th District. And I certainly know what a trailer boat is. And my statement was that encouraging trailer boats to operate in the ocean, increasing the hazard, is still true; although it probably has little to do with this lease. Thank you very much.

CHAIRPERSON CORY: That last statement can go for a lot of things that have gone on.

(Laughter.)

CHAIRPERSON CORY: Any questions from Commissioners?

Yes, sir.
MR. JOHNSON: My name is Bob Johnson. And I'm a boater. I have been going to Catalina since way back in the '40's, all kinds of weather.

I think one thing we've overlooked -- and I'm going to be on the receiving end of however you make a decision. In a storm -- and I've been caught in a lot of them -- I think it's going to be very hard for anybody to service the Isthmus out of Avalon. I've spent as long as five hours from Long Point getting into the Isthmus with a 32-foot sailboat it was so stormy.

Also, I don't know how in the world one can anchor a 110-foot barge that I read about in this report so that in these storms that we've had over there -- especially just recently -- it doesn't end up on the beach and take everything going in there with it.

I wish you'd give that some consideration, because a lot of us have been caught through the years over there in storms and fortunately very few of us have been killed so far. Thank you.

CHAIRPERSON CORY: Thank you.

Questions from Commissioners?

Thank you, Mr. Johnson.

Is there anybody else?

Does staff have any comments that they would like to make at this point?
MR. RUMP: Maybe just a few from the points that have been raised.

As usual, we've heard a lot of testimony. Not a great deal is new to us. There are a couple of points I would like to make in that at least my evaluation of reading the present lease terms, that any of the bids proposed could be operated underneath this. In fact, the lease that you're considering in this bid proposal is far more specific and more stringent, with quite a few protections, I think, for the services being rendered, including financial ones.

We're talking here -- and I think there's so many aspects of it, it's sometimes confusing and you can get lost in what the purpose for the lease is. The lease purpose is for the operation and maintenance of the 720 revenue moorings. And you can digress into various layers of the cake. But, primarily, that's what we're focusing on. And the evaluation of this should be whether or not that is matched.

The Commission through its action over the last year or more has taken stringent steps. And I'm personally aware of all the contractual provisions which you have built into your lease to see that that happens. You have fixed fees, you have had the bonding and insurance.

One other observation which I find curious in that
it is different from anything I've seen before is normally when there are environmental controversies, there are appearances made by environmental groups. Essentially, what we've seen throughout the course of this are essentially either the vested or potential economic parties to the bid and the patrons, but we haven't had any testimony of environmental groups and whatever.

Obviously, this matter has been in the newspapers and television and radio. And I just find that unusual in light of we're examining the CEQA problems here.

A couple other points. For instance, on the storage of garbage, that's primarily why staff has suggested the conditions to be added. Obviously if they comply with --

CHAIRPERSON CORY: Jack, should we sneak in the amendment now to put in an oil platform there?

(Laughter.)

CHAIRPERSON CORY: That's a joke, folks. All of you listening out there, that was a joke.

MR. RUMP: Anyway, staff took the time to sit down with the people over at Solid Waste Management and discussed the garbage disposal method. I feel that we've complied with their concerns and standards in there. We also affirmatively required that that be carried out.

As to other things such as storm response and the
like, that's why we've suggested the emergency response plan.

Other concerns about dormitory vessels and these sorts of options I think are covered under your Standard Lease Provisions, Section 46, which says that lessor and lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes, or ordinances with the State Lands Commission or any other government agencies or entity having lawful authority and jurisdiction.

That's about all we can do for you. I mean, if they don't comply with that -- I mean, you certainly have a lot of options under the lease to prosecute them, including declaring a breach of the lease.

So, I think we've tried to meet all the issues that have been before you. That's all the comments I have.

COMMISSIONER MORGAN: What about the rent review?

It's my understanding that the proposed list includes a rent review at some point.

EXECUTIVE OFFICER DEDRICK: Five years.

COMMISSIONER MORGAN: Five years out; is that right?

MR. RUMP: Yes, the rent review is our standard rent review, five year anniversary.

CHAIRPERSON CORY: It's five years from the
commencement of the lease, which was a year ago.

MR. RUMP: That's correct, January 1st of this year.

COMMISSIONER MORGAN: So, in four years all rents would be equal basically.

MR. RUMP: It would go through the rent review process, that's correct.

COMMISSIONER ACKERMAN: It wouldn't have the impact of making all the rents equal, but it would have the impact of equalizing them; but not making them exactly equal.

COMMISSIONER MORGAN: Right.

CHAIRPERSON CORY: Okay, it's now our turn.

COMMISSIONER MORGAN: Does anybody want me to make a motion? Does anybody else want to make a motion?

CHAIRPERSON CORY: You know, the floor is open.

COMMISSIONER ACKERMAN: Why don't you go ahead.

COMMISSIONER MORGAN: Okay. I'll move that we accept the bid from the current lessee and award the new lease to them.

CHAIRPERSON CORY: We have a motion.

COMMISSIONER ACKERMAN: I'll second it.

CHAIRPERSON CORY: Motion is seconded.

Ready for the question?

All those in favor, signify by saying aye.
COMMISSIONER MORGAN: Aye.

COMMISSIONER ACKERMAN: Aye.

CHAIRPERSON CORY: Motion passed.

MR. RUMP: Okay, I would suggest then that we address the findings.

MR. TAYLOR: Mr. Chairman, I believe we have the authorization to make the appropriate adjustment to the findings.

CHAIRPERSON CORY: Now, in terms of the findings, do the Commissioners wish to go through --

MR. TAYLOR: I think we can just adjust the -- we'll strike the parts that would be inapplicable to --

CHAIRPERSON CORY: Are there any particular things the Commissioners wanted in those findings?

COMMISSIONER MORGAN: I think they covered everything.

MR. TAYLOR: With your permission, we will adjust the inapplicable parts and we'll bring it back to you for your approval in the Minutes of the next meeting.

CHAIRPERSON CORY: Okay.

COMMISSIONER MORGAN: Thank you.

CHAIRPERSON CORY: Anything, Claire?

EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman, one thing.

Carolyn Sutter, the General Manager of Long Beach
Tidelands Agency and two of her staff are here. And I thought perhaps you'd like to be introduced to them. They're hiding out in the back of the room I'm told.

CHAIRPERSON CORY: They probably went to lunch.

EXECUTIVE OFFICER DEDRICK: Carolyn, why don't you and Zen and Jim come up and get acquainted with the Commission.

CHAIRPERSON CORY: Any other items to come before us? If not, we stand adjourned.

(Thereupon the meeting before the State Lands Commission adjourned at 12:10 p.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, EILEEN JENNINGS, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission meeting was reported in shorthand by me, Eileen Jennings, 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 11th day of January, 1983.

EILEEN JENNINGS
Certified Shorthand Reporter
License No. 5122