MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

ORIGINAl

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, APRIL 28, 1983
10:05 A.M.

Cathleen Slocum, C.S.B.
License No. 2822
MEMBERS PRESENT
Kenneth Cory, State Controller, Chairperson
Leo T. McCarthy, Lieutenant Governor

MEMBERS ABSENT
Michael Franchetti, Director of Finance

STAFF PRESENT
Claire Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight
W. M. Thompson
Al Willard
Jane Smith, Secretary

ALSO PRESENT
N. Gregory Taylor, Deputy Attorney General
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2. **Report of Executive Officer**

3. **Consent Calendar**
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5. Larry Boerner

6. Item 21 - Larry Boerner, President, Baby Comstock, Inc., request for issuance of preferential mineral extraction lease

7. Commission discussion

8. Commission action

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Adjournment

Certificate of Reporter
CHAIRPERSON CORY: We'll call the meeting to order.

I don't think necessarily, if there is anything that is controversial or on a split vote, we will be prepared to put it over for, leave the vote open in some fashion so Mr. Franchetti can participate, but he is tied up in a meeting elsewhere. It is getting down to that time where there are several meetings going at various places at the same time.

The first item is the Confirmation of the Minutes of the meeting of the 24th. Are there any corrections or additions to those minutes?

Without objection, the minutes of the 24th will be confirmed as presented.

EXECUTIVE OFFICER DEDRICK: No report.

CHAIRPERSON CORY: No report from the Executive Officer.

The next item is the Consent Calendar.

EXECUTIVE OFFICER DEDRICK: Item 5 is off.

CHAIRPERSON CORY: They are the items with the prefix letter "C," C1 through 19, excluding C5, which has been removed from the calendar.
If there is anyone in the audience who has any disagreement with the proposed staff recommendation on those items, if they would please say so now, we will remove those items from the Consent Calendar because if there is no objection, all of those items will be dealt with in one motion and not discussed in detail. If anyone has any concerns or questions, they will be removed from the Consent Calendar.

Does anybody have any problems with any of those?

Any Member of the Commission?

Without objection, the Consent Calendar will be approved as presented excluding Item C5 which has been removed from the calendar and will not be taken up today.

Next item is Item 20, Home Improvement Association. This is a prospecting permit, 480 acres of school lands near Hayfield Dry Lake, Riverside County. A Mr. Larry Boerner would like to talk to us about this matter.

The staff recommendation is that we deny him without prejudice the application for a permit.

MR. BOERNER: I have requested to tape this meeting. It was granted as long as it didn't cause any problems.

CHAIRPERSON CORY: Fine. There will be a full transcript available if you want it as well, sir.

MR. BOERNER: Is this my seat?

CHAIRPERSON CORY: Yes.
MR. BOERNER: Could we take Item 21 instead of 20, please?

CHAIRPERSON CORY: We're on 20, sir.

MR. BOERNER: The reason is because the speaking on Item 21 may clear up Item 20 totally and be unnecessary to discuss it. In fact, all the subject matter in 21, basically in 20, is basically in 21.

CHAIRPERSON CORY: Let me check with the staff. We have two separate and distinct items before us?

EXECUTIVE OFFICER DEDRICK: That is correct. Item 20 is for decision. Item 21 is for information. Item 20 is a prospecting permit, an application for a prospecting permit, and Item 21 is for the information of the Commission on Mr. Boerner's request for preferential mineral extraction lease.

CHAIRPERSON CORY: Go ahead and address them and we'll try to sort out motions at some point which item we're on. Go ahead.

MR. BOERNER: I'm going to go to Item 21. You have before you -- and I'm not familiar with the operations here -- but you have before you I suspect a printed --

CHAIRPERSON CORY: Yes.

MR. BOERNER: I have something I'd like -- If there's enough, I think maybe Mr. Willard would like one of those.
My name is Larry Boerner. I'm President of Baby Comstock Mining Corporation, a California corporation, located in El Cajon, California.

I've come here today to speak rather frankly to you and in a frank manner. I have been a general contractor for over 30 years and I've had extensive experience in dealing with public agencies and city councils, state statutes and building codes and laws and so forth. Quite frankly, I have never had the frustration that I have had to deal with with the State Lands Commission. The staff has provided false and misleading information. They have lied to me. They have made deals and then changed their minds. They have changed words and meanings of statutes. They have scrambled industry's terminology and made communication impossible. As an example, right here in this paper that comes out, that they send out. It says in about the fourth line, "Mr. Boerner has requested issuance of a preferential mineral extraction lease claiming discovery of a commercially valuable gold deposit."

That is not true. That's not a true statement. I did not do that.

If you will look on the little paper that I gave you at the top, the statute says -- I gave them all away. I don't have one myself. That's all right. I know it from memory.
It says that in the statute that the requirements for our lease is to discover commercially valuable deposits, plural, of minerals, plural. That's what I claimed. That's what I did.

We go down to where you see .06 ounces per ton. It's about two-thirds of the way down. That was done with a fire assay. For two years I've been telling the State Lands Commission in Long Beach that all ore does not fire assay properly. They provided me documentation of the fact that it did. I provided them documentation of the fact that it doesn't. In fact, in the mining journal, this month's mining journal, there is an extensive article on how fire assay is an art and not a science. It is an exact -- Strike that -- and it is not accurate on all ores and it says they don't know why.

In the example they used was they bulk sampled a hundred pounds and got five times more than they did, than the fire assay said was in the ore,

CHAIRPERSON CORY: Who is "they"?

MR. BOERNER: The California Mining Journal.

CHAIRPERSON CORY: Fine.

MR. BOERNER: Then they used this inexact .06 to go on and say: Staff did not confirm the discovery of a commercially valuable mineral deposit. Well, that little paper I gave you there shows what deposits of minerals
are to a prospector. The circles there where it says down in the lower right-hand corner, it says samples, what a prospector does is he goes out and searches areas and regions for deposits of minerals that by industry standards could meet, could be commercially valuable and that's what the statute says a prospector should do. There's a big difference between deposits of minerals and commercially valuable mineral deposit. You don't discover a commercially valuable mineral deposit, you develop one.

Then they go on and they say: Industry and Federal Courts, criteria for a valuable mineral deposit is one from which the minerals can be extracted, removed and marketed at a profit. Well, I would debate that one, but I'm not going to get into all that now because you go into a lot of legal court cases. I'm just saying so what. It has nothing to do with the statute, the requirements or anything else. So why do they even bother to mention it.

Then I go on, it goes on and in the second sentence in the second page it says: Staff suggested the further sampling of a prospect. A prospect by definition is what a prospector discovers. They are admitting I have a prospect and, therefore, I have completed what is required by the statute.

CHAIRPERSON CORY: Pardon me. Where does it say that in the statute?
MR. BOERNER: On the top of the, it says that you must find commercially valuable deposits of minerals. Once a prospector has completed, has discovered commercially valuable deposits of minerals, he has a prospect. If you'll notice over on the large printing that's slashed across there, it said -- I guess I should really have one of those -- it says: Prospectors discover commercially valuable deposits of minerals on or near the surface with potential for an ore body. This is called a prospect. Because they are on the flat, they cannot meet staff's requirements for ore body.

You'll notice the drill holes, you'll notice drill holes are needed. It's the up and down print here. Drill holes are needed to prove commercially valuable ore body. Now, this is not prospecting. You'll notice over on the left-hand large print it says mining companies drill holes to establish tonnage and grade figures. This is called developing a prospect to prove commercially valuable ore bodies. There is a big difference between prospecting and developing. As an example, 40 miles south of this particular property that we're talking about, one of the largest gold-mining companies in the world discovered deposits of minerals on or near the surface in 1979 that became a prospect. They have been drilling in it ever since. Two and a half years, they have been drilling in that property.
This is called developing the prospect. I was over there last Friday and they said they had three years to go yet. Now, what they're doing now, they couldn't get enough information from the drill hole. So they are driving a 3,000 foot decline shaft to take the samples fat and bulk sample them to determine whether they are going to have a commercially valuable ore body or not. It's going to take five and a half years minimum for them to complete their work to get to the point that your staff has asked me to do in two years. Besides, nobody does that kind of work and spends millions of dollars without a lease.

COMMISSIONER McCarthy: Do you mind if we ask some questions —

MR. BOERNER: Sure.

COMMISSIONER McCarthy: — as you move along, Mr. Boerner, because you're making a lot of points and I'm not sure I'll remember all of them later on.

You just mentioned, you referred to spending millions of dollars without having a lease. How much money would you normally expend to find enough ore, enough commercially valuable ore for you to make the economic decision that it made sense for you to expend a rather substantial sum of money in really drilling deep to find out just what the total value of that might be? Understanding the more you dig and explore, the more knowledge you gain.
MR. BOERNER: Right.

COMMISSIONER McCARTHY: Do you understand my question?

MR. BOERNER: Yes.

COMMISSIONER McCARTHY: All right. How much money would you have to expend normally in the first couple of years where you made a major financial commitment?

MR. BOERNER: I would say that would depend entirely on the property, the type of property that we're talking about.

COMMISSIONER McCARTHY: Give me a set of circumstances to work with so we're not dealing only in --

MR. BOERNER: I would say that property is similar to the property that's 40 miles south and it could very well take ten million and probably five years. It's considerable, yes. I would say it's very similar property. That's why I went over to see it.

COMMISSIONER McCARTHY: So you're saying that if you had what length lease, what term of years in the lease?

MR. BOERNER: I'm saying that it can't be done without a long-term lease.

COMMISSIONER McCARTHY: What term of years?

MR. BOERNER: I haven't --

COMMISSIONER McCARTHY: What are you asking for?
MR. BOERNER: Twenty years. Twenty years is the statute's limit.

COMMISSIONER McCARTHY: What's the normal practice that you've got? I take it you've done this on other occasions on state or federally owned property.

MR. BOERNER: Right.

COMMISSIONER McCARTHY: Is that correct?

MR. BOERNER: That's correct.

COMMISSIONER McCARTHY: All right. What term of years do you normally get? What do you get under the federal process?

MR. BOERNER: There's no such thing as a lease under federal. You file -- it's an altogether different operation. You file a claim and first you discover it, you make your discovery first, then you're entitled to file claim. The state works backwards. They make you get the permit first and then make the discovery. Then once you do this on federal land, you have to do a minimum amount of work each year to maintain it.

COMMISSIONER McCARTHY: Let me focus here. What term of years would you ask for in this state? Yes, the statute allows 20 years.

MR. BOERNER: Could we proceed because I can't answer your question. You keep asking me the same question in a different manner and I can't answer it. If
I could proceed with my presentation, maybe it will come out.

COMMISSIONER McCARTHY: I asked you if you'd mind.

MR. BOERNER: I've answered, but I can't answer it any better than that, sir. I'm sorry. I don't know what term of years at the present. The statute states 20.

COMMISSIONER McCARTHY: So you would ask for 20 years?

MR. BOERNER: A minimum of ten, yes, but 20 is what the statute is, what the agreement was when I got the permit.

COMMISSIONER McCARTHY: All right. Now in this particular piece of property, how much money would you normally expend in that ten-year period of time?

MR. BOERNER: Depends on the size of the company that would do the development work. In other words, the larger the development company, the more money they would spend. It's not in exact ratio. One little man, one little prospector out there, he could go out maybe and drill one hole and to him he would be satisfied. But a large company that's going to go into -- see, the mining business is a large production now. The thought of finding the vein and going out and taking it out and crushing it and panning
it and so forth, that's gone. This gold you can't even see it.

COMMISSIONER McCARTHY: If you were a manager of State Lands and someone seeking what you are approached you as a manager of State Lands, what are reasonable requirements to impose on the applicant understanding that there's a trust involved in managing State Lands to make sure that if you do contract for mining operation, you want it done somewhat expeditiously. You want some reasonable assurances about the amount of the investment going into it. You don't want someone to take the land and maybe hold it without any activity. What's reasonable?

MR. BOERNER: I understand, I understand that question. I can answer that one.

Industry normally sets a minimum amount that you spend on the land each year to keep your lease valid. In other words, let's say that I have a valid claim on a piece of federal land. I could lease it to a large company and you would put in that lease a certain amount of money that you would be willing, that they would be willing to spend developing that property and any time they feel it's not worth it, they can get out and you get that development work free.

CHAIRPERSON CORY: What is that amount?

MR. BOERNER: It depends on the size of the property
CHAIRPERSON CORY: This particular property.

COMMISSIONER McCARTHY: Yes.

MR. BOERNER: This property, I am relating it to the one that's 40 miles south. I would say something on the order of a minimum of five million maybe. I can't look into their books and they won't let me do that.

COMMISSIONER McCARTHY: Am I getting the drift that your ability to go out and -- I don't know whether it's subleasing -- your ability in effect to contract with a major investor really depends upon the terms you get from the State. How much of your money goes into this project?

MR. BOERNER: At this point, no more. Personal money, no more of my personal money or my corporation's money goes into that.

COMMISSIONER McCARTHY: Well, if you got the lease that you're looking for, how much of your money would go into the project?

MR. BOERNER: None.

COMMISSIONER McCARTHY: So then what you are then is a sort of a -- you then start acting as a lessor?

MR. BOERNER: Correct.

COMMISSIONER McCARTHY: You go get an investor and say I've got this for 20 years, we can explore it.

MR. BOERNER: Right.
COMMISSIONER McCARTHY: Are you interested in it?

MR. BOERNER: Right.

COMMISSIONER McCARTHY: And then you get a piece --

MR. BOERNER: Right.

COMMISSIONER McCARTHY: -- of, you get something up front --

MR. BOERNER: No.

COMMISSIONER McCARTHY: -- or do you get a percentage of whatever this property is?

MR. BOERNER: I'm not saying it's not done that way.

COMMISSIONER McCARTHY: How do you do it?

MR. BOERNER: No. I would demand the money spent on the property because --

COMMISSIONER McCARTHY: How do you participate in any profits?

MR. BOERNER: With State Lands it's a little more difficult because you get ten percent. So it has to be -- See, the normal lease is somewhere between five and ten percent. State has a pretty stiff lease going in. So, therefore, it's almost impossible to sublease a piece of state land and get a royalty. So you name a figure that you are willing to take for the property, that I would be willing to take for the property and my
efforts and then if they spend, say, $200,000 a year or $300,000 a year drilling holes or half a million a year, whatever I can work out with the company, then as long as they keep doing that, then obviously they feel that it's worth it.

COMMISSIONER McCarthy: Now, you apparently feel that in this particular piece of land there's some ore down there that's commercially marketable?

MR. BOERNER: That's correct, sir.

COMMISSIONER McCarthy: You have looked at the ore?

MR. BOERNER: No, I haven't seen it because it's under the ground.

COMMISSIONER McCarthy: So your assumption is that because in the general vicinity --

MR. BOERNER: Correct.

COMMISSIONER McCarthy: -- there are similar conditions where commercially marketable ore have been found --

MR. BOERNER: Correct.

COMMISSIONER McCarthy: -- there's a good chance it's going to be here as well?

MR. BOERNER: That's correct.

COMMISSIONER McCarthy: And you're telling us that two years is not enough time for you to go out and...
get a major company to invest, to put the money in. Is that the point of your testimony?

MR. BOERNER: No. The point of my testimony is that after I did what the statutes say I should do, your State Lands Commission changed the rules.

COMMISSIONER McCARTHY: Well, there's some difference apparently in the interpretation of just what the statute does require. So let's leave that aside for now. I'm trying to find out from you what you basically think is fair practice for the managers of State Lands.

MR. BOERNER: You just made a statement that let's leave that aside. That's the point, sir. That is the problem.

CHAIRPERSON CORY: Mr. Taylor, you have a --

MR. TAYLOR: I think that the problem may be as a result of a misunderstanding of the difference between State statutes and Federal statutes.

In Federal statutes you can get prospecting permits and as long as you work the claim, you can tie the property up. California doesn't have the abundance of property that the Federal Government does and also because of the kind of restraint on the ability to use property that's subject to mining claims, California went a different direction. That is that if there are no known minerals on a parcel of property that the State owns, a person...
May apply for a prospecting permit. That person has two years in which to prove up his claim and may apply to the Commission for an extension of an additional year or a total of three years. At the end of that time the Commission must make a finding as Mr. Boerner points out to you in this piece of paper that he's handed to you in the statute that 6895 says that upon establishing to the satisfaction of the Commission, and it's totally in your discretion, that commercially valuable deposits of minerals have been discovered within the limits of any permit, the permittee may be entitled to lease not more than 160 acres.

Now, apparently -- now, his permit was effective on May the 1st, 1981. His initial term is about to run out. He can get an additional one-year period if he wants to continue the prospecting permit. The standard for that which the staff must recommend to you is a prudent man test which is that a prudent man would justify the expenditure of his labor and means only where there is a reasonable prospect of success in developing a valuable mine wherein valuable mineral deposits is one from which minerals can be extracted, removed and marketed at a profit.

Now, so far the material submitted by Mr. Boerner to the staff shows an insufficient amount of minerals to justify a finding that it's in commercial quantity. Apparently what he's asking you to do is to ignore the
statute and to give him a lease at this point so that he can go out and market it.

Now, it would be a different situation under federal law. The reason for California law is that we believe there should only be a brief interruption of time when someone can tie up property from other uses and that period that the Legislature has determined to be two years with extension of a third. Therefore, I think that we would have to advise you that since your staff could not recommend that there is a commercial quantity of minerals, that Mr. Boerner's only option under the law at the present time is to apply for a one-year extension of time in which to go out and prospect. If he cannot convince the staff that there is commercially valuable minerals at the end of the year, his prospecting permit is over. The property then becomes available for any other use or any use that the State wants to make of it.

As I understand it, he has two disputes. One is he disputes whether there is commercially valuable minerals there and he doesn't agree with the staff's conclusion on that and maybe he should address himself to that.

Secondly, he's making an argument that there isn't enough, that he can't prove the mineral quality of this lease, of this prospecting permit, unless he's given
a lease so he can get enough money to go ahead. I just
have to say that while I may have sympathy for his position,
that's not what is entitled under the law and I think
there's good reason for the California law on this subject.
So I think those are the two standards that you have.

Now, the statute also provides another point that
the Office of the Attorney General must concur that the
requirements of the law have been met. I would just like
to inform you that as of this time we cannot make the finding
that is necessary based upon the information that has been
provided to us by your staff.

COMMISSIONER McCARTHY: Let me ask, there is
no set weight for the amount of ore that has to be presented
to the Commission in this first phase, this first two
year period. The test I take it is that in whatever amount
of ore is presented, as described from a particular
geographical area, there be within that ore some
indication of commercially marketable deposit.

MR. TAYLOR: That is correct.

COMMISSIONER McCARTHY: Now, is it the staff's
position that the amount of ore, and someone should indicate
to me how much ore that was, that the amount of ore
presented so far -- has any ore been presented by Mr. Boerner
in the first two years?

EXECUTIVE OFFICER DEDRICK: Governor McCarthy,
this is Al Willard who is in charge of this kind of leasing and has been very closely --

COMMISSIONER McCARTHY: Let me ask the same questions and give me some succinct answers, please.

What ore has been presented by Mr. Boerner in this first two-year period?

MR. WILLARD: Mr. Boerner submitted evidence of some samples that he had taken and the tests that he had run on those samples plus some mining costs, estimated mining costs for the claim which he, it was my understanding that he implied that this was a commercially valuable deposit. We went out, visited the area, sampled the area and a registered mining engineer and registered geologist, they sampled it and we had those samples run. They did not bear out what Mr. Boerner's samples had indicated.

CHAIRPERSON CORY: That is the difference between the .74 and the point, .074 and .06?

MR. WILLARD: The point --

EXECUTIVE OFFICER DEDRICK: 0.2.

MR. WILLARD: .2 and .06. Our samples checked out .06. Mr. Boerner's samples indicated an average of .2. Running this through the economic analysis, the .06 was not in our opinion a commercially valuable deposit.

COMMISSIONER McCARTHY: What kind of ore are we talking about?
MR. WILLARD: Gold.

MR. HIGHT: Gold.

COMMISSIONER McCARTHY: Can you establish that it's normal staff practice to require that percentage deposit of gold in the ore that is presented to you?

MR. WILLARD: Followed up with an economic analysis as to the mining costs. I mean, it's possible you could have a lesser amount of gold present if the mining costs were such that it could be mined at a profit. So it bears an economic analysis also.

COMMISSIONER McCARTHY: What does that mean? I don't understand.

CHAIRPERSON CORY: I think what he's trying to say is that you could have a lesser percentage if you had some way of rendering it to raw gold bullion --

EXECUTIVE OFFICER DEDRICK: Cheaper.

CHAIRPERSON CORY: -- in a cheaper form so you could make a profit. If it's going to cost you more to extract 8,000 tons to get "X" number of ounces and transport it and all, but if you happen to discover it closer to an existing --

MR. WILLARD: Market probably or maybe some unique processing method you might --

COMMISSIONER McCARTHY: Does the Commission staff have a set of regulations which makes it clear to Californians...
who want to go through this permit process what they have to achieve in order to reach the second step?

MR. WILLARD: I think it's sufficiently known in the industry what a commercially valuable deposit of mineral --

CHAIRPERSON CORY: But we do not by regulation define it?

MR. WILLARD: No, we do not define it.

MR. TAYLOR: I don't know that you could because it would vary.

COMMISSIONER McCARTHY: An outer range.

MR. BOERNER: Sir, could I --

COMMISSIONER McCARTHY: I will get to you in a moment, Mr. Boerner.

I'm not suggesting that you can define every conceivable circumstance, but you can to try to give some sort of notice to Californians who want to go through this permit process, certainly provide them with the samples.

Is there a stream of practice that's predictable enough so that permit applicants know what is required of them? That's all I'm asking you. How do you lay that out for them so they can read it before they even begin the two-year process?

EXECUTIVE OFFICER DEDRICK: When they apply, if they're interested, they talk to the Commission. The
application form has all the information that the Commission needs to have.

CHAIRPERSON CORY: But there are no examples.

MR. WILLARD: There is no examples. Now, again, there is such an accepted standard in industry, industry knows what a commercially valuable deposit is.

COMMISSIONER MCCARTHY: I don't know what that means. We have already been told that we have a different set of practices than the Federal Government.

MR. BOERNER: That's irrelevant.

COMMISSIONER MCCARTHY: We have a different set of practices than the Federal Government.

EXECUTIVE OFFICER DEDRICK: But we have the same standards.

CHAIRPERSON CORY: What do you mean?

EXECUTIVE OFFICER DEDRICK: The standard for commercially valuable is prudent man test. That is the same standard -- the one Mr. Taylor read to you.

MR. TAYLOR: That standard has been set up and accepted by the United States Supreme Court. It is an industrywide standard. I think if you'll look at the statutes they are extremely detailed about that and there is no -- Mr. Boerner doesn't misunderstand the standard. It says in the discretion of the Commission commercially --
EXECUTIVE OFFICER DEDRICK: Valuable.

MR. TAYLOR: -- valuable minerals.

MR. BOERNER: It says deposits of minerals.

MR. TAYLOR: Commercially --

CHAIRPERSON CORY: Commercially valuable deposits of minerals.

MR. BOERNER: If I could give my presentation, this would all be cleared up. I've got it right here.

COMMISSIONER MCCARTHY: Thank you. That's all the questions I have for now.

CHAIRPERSON CORY: Go ahead, sir, and how long do you think it will take?

MR. BOERNER: It's only this two and a half pages.

CHAIRPERSON CORY: Go for it.

MR. BOERNER: All right. The statutes are prepared by legislators and industry and they are written in industry's terminology. If the legislators had intended or interpreted or had intended staff's interpretation, they would have said as everybody is saying here today; mineral deposits or ore body. That would be in the statute. It's not. It says deposits of minerals. An ore body, let me ask you a question. In order to establish an ore body, do you have to delineate three dimensions?

MR. WILLARD: Yes.

MR. BOERNER: To find deposits of minerals on
or near the surface, do you find three dimensions or two?

MR. WILLARD: It depends on how you're prospecting.

MR. BOERNER: Now, if commercially valuable ore body was in the statute as all these gentlemen seem to believe it is, which I have showed you is not, then they would not have used the word "discover" because you do not, industry does not discover ore body. They develop them or prove them. Also, the permit would not be called a prospector's permit. It would be a development permit.

Now, regarding commercially valuable. Other industries have easily recognized products that they manufacture and sell such as shoes, autos, banking service et cetera. The mining industry uses commercially valuable as a metaphor to communicate and differentiate. We do it all the time. Commercially valuable deposit. That's one from a worthless deposit. Commercially valuable mineral is one from a worthless rock. Commercially valuable process is a process that will produce money instead of eat up money. A commercially valuable location is one that you can get to it instead of having to take a helicopter into some isolated place. Industry works to make a profit and we work with commercially valuable ore and we process it to make a commercially valuable product. It's a metaphor. You can't take a metaphor. English language will not allow
you to take a metaphor literally.

Now, yes, the statute has to put less metaphor in the statute because otherwise the statute would have said go out and find deposits of minerals and we'll give you a lease. Now, that wouldn't be right. So, the statutes cannot make assumption and that's why commercially valuable is in the statute.

If you took the statute literally as it is written, it would say: Go out and find two or more commercially valuable ore bodies, each containing two or more commercially valuable minerals. Now, they didn't intend that, but that's what it would be if you take it literally.

CHAIRPERSON CORY: Excuse me. Where do you find two?

MR. BOERNER: Because deposits in the statute is plural.

CHAIRPERSON CORY: Oh, okay.

MR. BOERNER: That means two or more, several, as many as it takes to prove what? That there is a reasonable possibility that there is an ore body, an invisible ore body below the surface which he just admits takes three dimensions. You will see on your little thing here, prospectors work areas and regions sampling on the surface to find an invisible commercially valuable ore body potential.

Okay. That's the first page.
I think the staff has handled this very unprofessionally and I think they're trying to mix you up with words as has been my frustration for two words. Prospectors -- I've gone through that. We're further than we think. So much for that.

Commercially valuable deposits is plural. We've already gone through that. The prospector must sample as many as is required to establish the reasonable possibility a commercially valuable ore body exists below the surface. This discovery is called a prospect.

Prospector's work is done on the flat and, therefore, it cannot meet the staff's requirements.

On April 5th, an Assembly Committee approved AB 128 deleting the word "commercially" from the statute. Can you imagine that? Professionally I do not believe the change is prudent or necessary, but you can see what they are doing to stop what's going on in this Commission. They are going to great lengths to stop it.

Now, staff's action is they have changed the words "deposits of minerals" in this meeting, in all my communication -- I can document everything I'm saying. They changed this incidentally after I applied for a lease. Everything before this was deposits of minerals. No problem. The minute I applied for a lease, they changed my requirements for a lease. They have changed "deposits of minerals"
to "ore body" in all the communications. They have used improper terminology. They have taken commercially valuable literally, our metaphor, literally. They have changed a two-dimensional discovery into a three-dimensional development and they have changed the legislators' intent of the statute. Staff's action implies the legislators were incapable of communicating their intent into words.

Now, here is your decision. If you do not give me a lease, you could be documenting their error. If you do give me a lease, you could be opening up a can of worms here that won't quit. The problem is yours, gentlemen.

MR. TAYLOR: Mr. Chairman, for the record, it's my understanding from speaking with Mr. Willard that the break-even point in terms of economic analysis for this area that Mr. Boerner and the staff generally agree on is about two-tenths. That the staff's independent attempts to verify that figure have never come in with that amount and an independent consultant hired by Mr. Boerner confirmed the staff's result of .07, .07.

COMMISSIONER MCCARTHY: Do you agree with that, Mr. Boerner?

MR. BOERNER: I think that's immaterial, sir.

COMMISSIONER MCCARTHY: Do you agree with it?

MR. BOERNER: I didn't --

COMMISSIONER MCCARTHY: All it takes is a yes
or no answer.

Do you confirm that the independent --

MR. BOERNER: That their independent or that my independent? My independent took it. He just took a piece of the mountain, the entire mountain. Your man took a piece of the vein. He fire assayed his and my man ran it in a chemical test.

MR. TAYLOR: I believe that both of them came out with point --

MR. BOERNER: It's immaterial, sir, because they were taken differently.

MR. TAYLOR: But irrespective of how they were taken, they both came out with the same results.

MR. BOERNER: It was different material.

COMMISSIONER McCARTHY: Mr. Boerner is attacking the method of which the deposit was taken, therefore, says it has no validity. That's your point?

MR. BOERNER: I'm saying they fire assayed it and it has no validity, but it's where they took it and how the independent -- I was going for large bulk type of material and to see if it could be extracted commercially. The letter they sent back said that it appeared as though it was of commercial value and that it should be further tested.

COMMISSIONER McCARTHY: Okay. Go ahead.
MR. TAYLOR: I think the record before you indicates that the results by the consultant he hired and by the staff were the same and that's in the record before you.

MR. BOERNER: They are taking and processing ore down to three dollars a ton now. Even at .06 and even taking all worst case situations, your staff checked out the material to be worth 25 to 28 dollars a ton. They have several -- Mr. Fry, I don't know who Mr. Fry is or where he is. Mr. Fry lied to me. He told me that if I could move or document that three dollars a ton material was commercial, he would back me before this Commission. When I proved it to him, he changed his mind.

COMMISSIONER McCARTHY: Mr. Boerner, may I suggest something. Of course, you're a witness here and you're free to take whatever approach you want and use whatever language you want. But your whole testimony indicates an intentional effort to engage in a conspiracy, to somehow defraud you or work dishonestly with you. That's the strength and intensity of your language. Now, if you have something that substantiates that, of course, I'd want to hear it. If you don't, why don't we try to figure out what the answers are to the two basic issues in front of us that you've heard presented so far. The first one is --
MR. BOERNER: But --

COMMISSIONER McCARTHY: Are you listening to me?

MR. BOERNER: Uh-huh.

COMMISSIONER McCARTHY: Thank you. The first one is, when the ground rules changed so that you were prejudiced, were they applied any differently to you than they were to other Californians who came to this Commission staff prior to you applying for the same permit under the law? The second issue is, are ground rules applied rational? Now, the first issue. I want to ask the staff, can you give us other examples of similar cases in which the same requirements were exacted of other applicants that came to this Commission staff or conversely, can Mr. Boerner show us that other applicants were treated differently which is the allegation I heard him make.

MR. BOERNER: I didn't make that comment.

COMMISSIONER McCARTHY: You said they changed the ground rules on me after this began. I want you to substantiate that for me.

MR. TAYLOR: Governor, the statute has been unamended since 1976 and '77. '78 in the case of 6895. Therefore, the statutes have remained consistent, which set forth the standard, have been consistent during the period of his prospecting permit.
COMMISSIONER McCARTHY: The statute was the same, but I'm talking about how the statute is implemented. What I heard from Mr. Boerner, and he should correct me immediately if I misunderstood him, was that the ground rules being applied were changed after he got into this process.

MR. BOERNER: Right.

COMMISSIONER McCARTHY: The implication to me was that he was being treated differently unless the ground rules were changed for other applicants in this permit process as well after they got into it.

EXECUTIVE OFFICER DEDRICK: If I may respond, when this problem came to my attention several months ago I very carefully looked into exactly the question that was raised. We do not have a lot of applicants, although you will observe there are two other prospecting permits on this calendar. But the way in which the process is handled is consistent. Now, in the case of Mr. Boerner, the only difference in the way that he has been treated is that the staff has gone to great lengths to try to accommodate his problem. I personally directed the staff to offer him a situation where an independent consultant selected by him should take samples from the claim or from the prospected areas in the process of Mr. Boerner and with the State Lands Commission staff and should select
those samples from the places where Mr. Boerner wants those samples selected and in addition to where the State Lands Commission wants them to be selected. Mr. Boerner apparently has refused that offer.

I can't see any other way to resolve that concern except to have everybody present and take the samples and have them analyzed by a qualified metallurgist. At any rate, I can honestly tell you that Mr. Boerner has been treated with great fairness and with a great deal more time and care and effort to resolve this issue than the staff is normally called upon to do in the question of a prospecting permit or a mineral lease.

COMMISSIONER McCARTHY: Thank you.

Mr. Boerner, you wanted to say something.

MR. BOERNER: Well, you said that I would get to say something. Everybody here is missing the point. Taking the samples that the lady referred to, the reason that she wants to take the samples and everybody wants to take the samples is to try to establish the existence of a commercially valuable ore body not what the statute says which is deposits of minerals. What everybody is saying here is changing, that's the exact change that took place. I went by the statutes.

CHAIRPERSON CORY: It is your belief that if there is the existence of any amount of gold, that entitles
you to the long-term lease so that you can go ahead and
develop it. Is that the essence of your point?

MR. BOERNER: The statutes state that if I prove
to the satisfaction of the Commission that commercially
valuable deposits of minerals, plural, prospect, industry's
terminology.

CHAIRPERSON CORY: It doesn't say "prospect."

MR. BOERNER: It's named a prospector's permit.

I received a prospector's permit.

CHAIRPERSON CORY: It could be glove bonnet,
and the section would still have the same connotation.

MR. BOERNER: Correct. Then after I did what
the statute said, all the communication came. Here's one
here. Paragraph 15 of the prospector's permit outlines
the requirements for a lease. It doesn't outline it. It
states it. Because they say it outlines it, now they go
on: Discovery of a commercially valuable ore body. Now,
that doesn't say that in the statutes. We all know what
a commercially valuable ore body is and all of industry
knows what commercially valuable deposits of minerals are
and we all know what a prospector's permit is. But when
you switch words like that this is changing the rules
after I did my work. I have three letters here that
document what I just said all from the State Lands
Commission.
CHAIRPERSON CORY: I think we have the issue before us.

EXECUTIVE OFFICER DEDRICK: Actually the issue before you, if I may, on Item 20, is — well, 21 is merely informational. There is no action requested. Mr. Boerner wanted an opportunity to bring this case before the Commission, so we provided that opportunity.

CHAIRPERSON CORY: Okay. We have received the information. It's part of the record. We have Item 20 before us which is a request for a prospecting permit.

I think there are some substantive information with respect to the prospecting permit and you are prepared to issue a prospecting permit with certain conditions.

EXECUTIVE OFFICER DEDRICK: That is correct.

CHAIRPERSON CORY: There are eight conditions.

MR. WILLARD: Eight environmental conditions.

CHAIRPERSON CORY: Eight environmental conditions requirements that you are prepared and is it Mr. Boerner?

MR. BOERNER: Boerner.

CHAIRPERSON CORY: — Boerner, we have had representations that you find those, at least one or more of these conditions, environmental restrictions unacceptable. Is that your position?

MR. BOERNER: I find several things in that prospector's permit that are not. Number one is I need
a clarification as to what --

CHAIRPERSON CORY: Sir.

MR. BOERNER: Excuse me.

CHAIRPERSON CORY: Sir, you are unwilling to accept the eight as presented, yes or no?

MR. BOERNER: When they sent me my permit --

CHAIRPERSON CORY: Yes or no.

MR. BOERNER: Yes or no? Yes. They sent me a permit, but that wasn't the reason I didn't sign it.

I didn't sign it because there are, number one, the error that we're going through in Number 21 is still unresolved.

CHAIRPERSON CORY: You would like us to resolve 21 is the whole thing?

MR. BOERNER: That's right. Plus there's two other errors in there.

CHAIRPERSON CORY: Governor, do you have any comments you'd like to make as to where we are?

COMMISSIONER MCCARTHY: Mr. Boerner, of course, the choice is yours, but I would recommend that you accept Mrs. Dedrick's offer to jointly go out now and establish clear ground rules for how a proper deposit will occur. From my point of view sitting on this Commission which is to try to administer these laws, when you're dealing with State Lands, you have a couple of useful public policy objectives. One is to make the land commercially useful
and return some revenue to the state and help the private sector make some money and help the engines of business in the state. The second is we also want to have some ground rules so that we're dealing with a public land. We want to make sure it's reasonably protected because there are other uses as well, recreational, whatever they might be.

I am not yet impressed with your case which bottom line is that the requirements of the staff are unreasonable. I've come to that conclusion. I will support you. So I've heard what you said about the interpretation of these statutes. I think that the offer made by Mrs. Dedrick repeated here sounds to me to be reasonable. I don't necessarily go along with what our staff does routinely. Sound reasonable. Why don't you establish a joint method of taking the deposit that can then be tested. I understand you basically don't believe that's the requirement of the statute. I at least think that's a reasonable interpretation of the statute.

MR. BOERNER: May I make one more comment?

COMMISSIONER MCCARTHY: Yes.

MR. BOERNER: Doing that would not prove three dimension, sir, and it would not prove what they want.

MR. STOCKMAN: May I be allowed to say something?

MR. BOERNER: This is the gentleman who is the
attorney for  

CHAIRPERSON CORY: We have now spent an hour on this item. I think that with three people here or the Commission Members, the Governor has made his position clear. I tend to concur with him. I think the interpretation is a reasonable interpretation of the statutes and that's where I am. I think at this point that's how I'm going to exercise the discretion that appears to be in the statute. That you're going to have to come in and establish that there is a commercial dimension to a mineral deposit before a long-term lease is going to be issued with my vote. So given that there are only two of us here with the votes, we have both come close to the same conclusion, I don't think there's much more that can be done or said other than to waste your time and the Commission and everybody else's time who are here with other items.

COMMISSIONER McCARTHY: I think that's where I am, too. The only thing that would change my mind is if you prove that the steps required would exact so much of an initial investment on your part that in reality the chance to prospect and find a commercially valuable deposit is truly not there inherent within the process.

MR. BOERNER: One more.

CHAIRPERSON CORY: Thank you very much, sir.

We have Item 22, pardon me, 20, Item 20 before
us. Do you wish to go ahead and make that denial without prejudice?

COMMISSIONER McCARTHY: [Nodding head.]

CHAIRPERSON CORY: Without objection, Item 20 application will be denied without prejudice.

Next item is Item 22. This is a settlement of a lease quitclaim and a settlement of, what, Candlestick Park area?

MR. TAYLOR: Yes. Mr. Chairman, the State has set up a State Park at Candlestick Point. The area is part of the area that is granted tidelands and submerged lands and under this agreement those are going to be returned to the State on the condition that it be used for a State Park. When tide and submerged lands are involved, it has to come back to the State Lands Commission and then be leased to Parks and Rec.

CHAIRPERSON CORY: Anybody in the audience that has any objection to the proposed staff recommendation on this?

Questions from Commissioners?

COMMISSIONER McCARTHY: No.

CHAIRPERSON CORY: Without objection, Item 22 is approved as presented.

Item 23 is ratification of lease terms. This is an item which was required to go to Coastal Commission
for approval. They put some conditions on it and this is issuing it subject to those conditions. Is that where we are?

EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRPERSON CORY: Anybody in the audience on this item?

Questions from Commissioners?

COMMISSIONER McCARTHY: No.

CHAIRPERSON CORY: Without objection, Item 23 is approved as presented.

Item 24, recommendation that we deny without prejudice an application for State-owned property in Riverside. The setback as I understand it on this one that the County has some concern about it. Rather than fight the battle at this point, the suggestion is that we go ahead and deny it without prejudice.

Is there anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 24 will be approved as presented.

Item 25, authorization of an amendment to add eight parcels of State school land to be managed as demonstration forests on behalf of the Commission to the Department of Forestry.

Ken Mitchell would like to address us on this
item. He was with the Department of Parks and Recreation.

MR. MITCHELL: Thank you, Mr. Chairman, Mr. Lieutenant Governor. I am Ken Mitchell. I'm Chief of the Acquisition Division for the State Department of Parks and Recreation.

One of the items, one of the parcels, one of these eight, there's a piece of property that we would like to see removed from this particular lease if possible. This piece of property is adjacent to our Wilder Ranch State Park. To show you where the parcel is, the State Department of Parks and Recreation has acquired all the areas in yellow. This piece up here was acquired by Save the Redwoods League and we have now taken title to that. The piece of property that you are including in this lease to the Department of Forestry is this piece of property here.

ASSISTANT EXECUTIVE OFFICER TROUT: Perhaps I should step in and indicate that Mr. Mitchell has shown you about 900 acres of property acquired by the State in an exchange. The proposal to put into management by Forestry is second growth redwoods amounting to about 240 acres which is this piece up the Major Creek Drainage in this area. That agreement with the Department of Forestry which includes seven other parcels provides that those lands can be removed from the agreement on the request of the
Commission with 90 days' notice. So we're not talking about a long-term tie-up of the lands here. It's our understanding that Parks has no money to acquire this land and no money to develop it. The second growth redwoods do --

CHAIRPERSON CORY: Go ahead with your --

MR. MITCHELL: Thank you very much.

I would like to point out that this land in question was acquired subject to Chapter 973 of 1973 which is commonly referred to as the Sealy Bill. The provision within that bill states: The State Lands Commission should be authorized to exchange vacant school land under its jurisdiction for lands owned by any State agency, political subdivision, person, partnership or corporation for the purpose of acquiring lands for the following projects.

Item C is this particular parcel and it states: Acquisition of coastal, beach and uplands in Santa Cruz County for the State Parks System. The property was acquired in 1977, I believe, and it was approved by the State Public Works Board. According to Exhibit S, the resolution approved by the State Public Works Board, states: Whereas Chapter 973, Statutes of '73, as amended by Chapters 346 Statutes of '74, authorizes the State Lands Commission, with approval of the State Public Works Board, to exchange vacant lands for coastal beach and uplands in Santa Cruz County for
the State Park System which is of substantially equal value.

It goes on and approves that resolution.

In 1977, our Director did send a letter to Mr. Trout asking that we enter into a method of trying to obtain that land. As Mr. Trout points out, we do not currently have funding authority or lands that we can use for exchange. Essentially what we wanted to do was enter into a lease so that we can proceed with the development. I've been told by our Development Division which, by the way, the General Plan has been approved for this particular park. It was about a two-year process of public hearings and there's considerable interest in this park. One of the areas, the first areas to be developed will be a campground right in the middle of that particular parcel. It's a 130 acre campground. I understand that there are funds to help us reforest that this coming summer. That there's some grant to help the various State agencies to reforest property.

We're hoping to take advantage of that and reforest the area where our campgrounds would go.

Unfortunately, we have not been able to obtain funding for the campground for a variety of reasons; one of which is of course we don't hold title to the property yet. It's still under State Lands control. If this is, as Mr. Trout says, just an interim arrangement for 90 days...
or can be revoked in 90 days, I suppose we don't have any
problems if it could be considered as an interim proposal.
But obviously the Department has been considering this
as a part of the State Parks System for many years and
have attempted over a period of time -- I know, Mr. Cory,
you were involved in this last year and one of our area
managers was down here and showed you around several pieces
of property in that area. We have been working very closely
with you in trying to effectuate some kind of an agreement.

CHAIRPERSON CORY: Well, it can be terminated
with 90-day notice on Forestry and that just enables the
technicians to manage the forest and there's apparently
some problem with the trees and that's the purpose of this.
They're concerned with respect to they would like to acquire
this and we have not been able to reach terms in the past.
At some point that long saga could be discussed in private.
But you've been cooperating, but not cooperating enough.

MR. MITCHELL: As I understand there is one parcel
that was suggested for exchange and that was a critical
parcel acquired for the State Parks System with bond act
funds. Obviously it was not something that we were
interested in exchanging, that particular park.

CHAIRPERSON CORY: Well, the question before
us is the parcel which is treed, the forested portion.

MR. MITCHELL: That's true.
CHAIRPERSON CORY: And the flat portion is relatively minor agricultural, grazing lease.

ASSISTANT EXECUTIVE OFFICER TROUT: The grazing lease, Mr. Chairman, over this area and an agricultural lease over a portion of this area.

CHAIRPERSON CORY: And then when you get seaward of the highway, there's rather extensive agriculture there and a significant amount of revenue that's coming in from those ag leases.

MR. MITCHELL: That's correct.

CHAIRPERSON CORY: The grazing one is of modest proportion.

EXECUTIVE OFFICER PEDRICK: About $20,000 a year.

MR. MITCHELL: Actually the lands that are under our control have the same situation on the coastal tariffs. We have brussel sprouts growing there also. We have not obtained those lands from the Department of General Services because we don't have the leasing authority until Senator Presley's bill is through this year to give us that authority.

CHAIRPERSON CORY: What we're talking about here is just the forest. I don't think there is -- so I think there's not a problem we're aware of. Your concern is maybe some day we'll find something we can swap for it.

MR. MITCHELL: Very good. I don't know if staff
has a copy of our General Plan, but I can leave it with staff if you wish.

ASSISTANT EXECUTIVE OFFICER TROUT: Please do.

CHAIRPERSON CORY: Is there anybody else in the audience on this item?

Without objection, we will approve the Forestry Agreement with the understanding there's a 90-day termination clause in it.

Without objection, Item 25 is approved.

Item 26, this is a request for determination of whether State Lands Commission can conduct a hearing on the public trust uses in the sovereign parcel in the City of Belmont.

Okay. We have some people who would like to talk to us on that. I would guess what, Mr. Deyoung, you would like us to hold --

MR. DEYOUNG: That's correct.

CHAIRPERSON CORY: -- hearings. So why don't we put the burden first upon you to address that issue.

MR. DEYOUNG: That's fair enough. I want to thank you for giving me this time. My name is Doug Deyoung. I live in Belmont, California. I'm treasurer of a group known as Citizens for Orderly Growth. We are a group concerned with land use issues in our community.

I have a brief statement I would like to read --
CHAIRPERSON CORY: Please.

MR. DEYOUNG: -- in support of a hearing.

We've requested the State Lands Commission have its staff conduct a public hearing regarding Belmont's claim to ownership of land near Belmont and O'Neill Slough. One of the issues that the Commission must address is whether Belmont's proposed use of the claimed land will adversely affect a public interest in the existing tidelands which will remain in State ownership. There is prima facie evidence that Belmont's proposed use will in the long run make public access to the tidelands difficult, if not dangerous. There's also evidence that one portion of this proposal is not in the public interest. A public hearing will allow the opportunity to produce evidence relating to the impact of the proposed use on shoreline access and to suggest appropriate alternatives and conditions.

We also have a request on the timing of the hearing. One of the problems we share with the Commission and staff is that so far Belmont's proposal is conceptual and respecting the critical area adjacent to the shoreline, vague at best. While the concepts that have been defined are useful in partially evaluating the impacts on shoreline access, we believe the hearing should be scheduled when we all know what Belmont plans to do with all its claimed shoreline land, whether or not a claim is now pending.
before the Commission and that no action should be taken by the Commission until after the hearing.

In addition to proposing playing fields and a hotel which because of their location we think will enhance the shoreline, Belmont proposes to construct a road primarily to serve privately owned land to the north in which the owner proposes to build 900,000 square feet of buildings with 2,670 parking spaces. The road is designed to handle a projected peak traffic flow of 2,000 cars per hour from this proposed private development. A road of this proposed carrying capacity is not necessary to develop the lands claimed by Belmont, nor is it necessary if modern ingress and egress were to be allowed to privately owned lands. While such a road most certainly will enhance the size of the private developer's proposed project, it cannot be found that such intense traffic in the proximity of a band of shoreline will enhance that shoreline. Obviously, such traffic will detract from it.

Secondly, because Belmont has not defined a proposed use for the land between the road and Belmont Slough, it is quite possible that a traffic-laden road will become a barrier to free and easy access to the shoreline. When you do not know what use Belmont may propose for that land, you cannot make a finding that such a road will enhance it and the water.
In conclusion, I am asking you to provide a proper public forum for the examination of public trust issues. There is sufficient controversy surrounding this development involving elements within the jurisdiction of the Commission to warrant such a hearing. This is the democratic process and your favorable consideration of a hearing would be appreciated.

Thank you.

CHAIRPERSON CORY: Governor,

I think we have also the Mayor of the City of Belmont and the Commissioner of the Parks and Recreation Department. I presume they are on the same side of this issue. I've made an assumption. It may be in error.

Is that correct? That's not correct.

Who is on which side? Who would like to have a hearing, and the Commissioner? Okay. We have -- Do you wish to testify, the woman and someone?

MR. DEYOUNG: Not at this time. I would yield to the other gentleman to speak at this time.

CHAIRPERSON CORY: And you are?

MR. MOORE: William Moore.

CHAIRPERSON CORY: William Moore. Would you like to come forward and give us that side of it and you are the Mayor of --

MR. MOORE: Yes, sir, I am.
I appreciate the opportunity to chat with you a little this morning. You’ve seen the plan. Your staff has seen the plan. The State has identified the shortage of regional park space in Central San Mateo County. This is through the State Parks and Recreation Commission, the California Outdoor Recreational Resource Plan. This proposed use is also consistent with the San Mateo County General Plan and this is also, the use has also been endorsed by the Department of Environmental Management.

This use will not only assure but augment existing waterways and maximize accessibility to the public. On the adjacent privately held land which is free and clear, it’s the City of Belmont’s intent to impose restrictions to assure adequate flow of water and public accessibility.

The commercial development on this site is essential if Belmont is to maintain this 15-acre badly needed recreational facility. We just can’t maintain it without the revenue to do so.

In Belmont this plan has been unanimously, unanimously embraced by the City Council, the Planning Commission and the Parks and Rec Commission. None of this land incidentally has been affected for many, many years with the ebb and flow of tide.

I have no objections to the State Lands Commission having a public hearing in Belmont. That’s all well and
good if you care to immerse yourself in Belmont politics.

My real focus is to get this thing moving.

COMMISSIONER McCarthy: Is it interesting?

[Laughter.]

MR. Moore: We have plenty of room in Belmont

for a few more politicians.

[Laughter.]

MR. Moore: I think this essentially is a political

issue between a faction of people on the private land that

wants to see growth and another faction that wants to see

no growth. As far as the State’s interest, I think that’s

pretty well been documented through the State and through

the County and through the City of Belmont. We have a

need. It’s been identified. It’s a very real need. I

think this is an excellent use of State and public lands.

The City of Belmont is very anxious in accordance with

your staff to purchase the State’s interest in that little

bit of land that the State does have an interest in.

I’d be anxious to respond to any questions if

you have any.

ASSISTANT EXECUTIVE OFFICER Trout: Let me hasten
to add that we’re not going to purchase the State’s interest.

They are going to make an exchange with the State through

the acquisition, through the land bank of some other

property. That’s a fine technical point, but it should
CHAIRPERSON CORY: Okay.

COMMISSIONER McCarthy: I guess the issue that the members of this Commission would have to respond to, and this is addressed to both of the witnesses, is whether or not our trust responsibility in connection with this State land is called into issue by the kind of use to which the State land would be put or whether or not any immediate peripheral use would threaten the use to which the State land would be put.

MR. MOORE: Again, if I might respond. This plan reacts to the plan that's put forth by the State Parks and Recreational Department, the California Outdoor Recreational Resource Plan, the General Plan of San Mateo County. I think we're operating in accordance with what the State has declared is an appropriate use. We need a regional ballpark complex.

CHAIRPERSON CORY: The actual State property or that which there is a State trust obligation upon, the use of that property is for what purpose?

ASSISTANT EXECUTIVE OFFICER TROUT: According to the plan submitted to the staff, it would be public recreation, ballparks, lawn areas.

CHAIRPERSON CORY: What you would traditionally think of as a normal park?
ASSISTANT EXECUTIVE OFFICER TROUT: Trust use, yes.

MR. MOORE: Yes.

CHAIRPERSON CORY: And that is system use. But the impact that Mr. Deyoung is worried about is whether or not the adjacent development plan would in fact adversely impact the trust use of the State property. Is that --

MR. DEYOUNG: Yes, that is one of the basic issues here. The matter before us we're considering right now is not a matter of resolving the substantive issues at hand. The decision today is simply whether or not we should have a hearing as I understand the agenda item. What I hope we have demonstrated here, that there is a sufficient difference of opinion as to whether or not there are issues falling within the jurisdiction of the Commission to warrant a formal public hearing. It is our contention that there is. Unfortunately, we can get into a chicken-and-egg problem here. I don't know how we can convince you of that without actually going through all the substantive issues. That's kind of the problem.

CHAIRPERSON CORY: Would it perhaps be appropriate to have the staff and the Attorney General look at a potential agenda of that hearing and try to then get some written comments from these people? I don't want to necessarily put you to the task of having to drive back
up here, but I'm a little -- I'm not sure if the time frame that we have available with the short Commission, with the other things that are going to happen, that we can go into the substantive issue right now. But I'd kind of like to feel what that agenda would likely be.

MR. DEYOUNG: That would be acceptable.

MR. MOORE: Gentlemen, we have --

CHAIRPERSON CORY: In essence I would like the staff to look at that trustee question and if there is a ballpark that nobody's going to be able to use --

MR. DEYOUNG: I'm not intending that.

MR. MOORE: No.

CHAIRPERSON CORY: I don't know. I don't want to get into that substantive question, but I would like the staff to look deeply into the substantive issue where you can outline an agenda for a hearing if we had one so we would know what it is you were doing other than -- I see no purpose to be served in muck raking in your political affairs unless there is a substantive trust issue that we should address ourselves to.

MR. MOORE: Gentlemen, if I might, it is the City's intent on the adjacent privately held land to assure -- obviously, we need the ballpark -- to assure adequate accessibility and adequate flow of water in the tideland portion. We have at this point not entered into a development
agreement or have not negotiated with this private developer for a project. Our focus today is primarily on those properties where the State has an interest. I can assure you it's the intent of the City, the Planning Commission, the Parks and Recreational Commission, we have no intent of building a ball field complex that is going to be adversely affected or impacted by private development.

My focus is what do we have to do to get moving.

CHAIRPERSON CORY: Okay. Could the staff come up with that agenda? Make sure you confer with the people who were here because they think those are totally all wrong, that proposed agenda, then we could come up with a decision rather than try to make it at this point without getting into the substance.

MR. MOORE: Mr. Chairman, I understand the intent is to come to Belmont with a public hearing?

CHAIRPERSON CORY: No. The staff is going to come back to us with a proposed agenda. We'll take the matter under submission to look at that proposed agenda before we bite that bullet.

MR. HIGHT: One suggestion, Mr. Chairman. Perhaps some input from both sides on the agenda.

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON CORY: We were anticipating you would call and talk to the interested parties as to what items
might be on that agenda rather than us send somebody down there as a circuit rider without knowing what it is they're to accomplish.

MR. DEYOUNG: That's fair.

COMMISSIONER MCCARTHY: As I understood the Chairman's direction to the staff, it is for them to take a look at the facts, to make the first preliminary judgment as to whether or not this Commission has a responsibility because there's some threat to our responsibility to look at lands in trust. The first issue is that. If the answer to that were a yes, then the decision on a hearing would have to take place.

EXECUTIVE OFFICER DEDRICK: That's fine, Commissioner.

CHAIRPERSON CORY: That's what I mean by the agenda, how does it fit.

EXECUTIVE OFFICER DEDRICK: I understand.

CHAIRPERSON CORY: And we'll be back to you and the staff will be calling on you.

MR. MOORE: May I ask one question, and excuse me if it's a naiy question. Belmont, our Park and Recreational System, is dependent on our schools. We've just had to close three of our six elementary schools. This is a serious need of ours for soccer, for Little League, for our youth in our city. I'm concerned as to how long
this process might take.

CHAIRPERSON CORY: I would hope that it should be resolved rather quickly and at the most 30 days. I would hope the staff could do it quicker than that.

ASSISTANT EXECUTIVE OFFICER TROUT: I suggested to Mr. Valentine that if he could catch these two gentlemen while they're here in Sacramento and go back to the office and see what we can get down on paper today.

CHAIRPERSON CORY: Very quickly. I just am sitting here with a plane schedule problem and that sort of thing and if we try to learn what we need to know in this Commission, we won't get through this agenda today and it seems to be probably an inappropriate time to try to structure what the issues of that public hearing might be should we decide to have it.

MR. MOORE: All right.

EXECUTIVE OFFICER DEDRICK: We can get back to you individually and get a feeling for what we want to do and see whether you want to calendar it.

CHAIRPERSON CORY: We understand that the facts need to get out as quickly as possible if there's going to be a public hearing and if there's not going to be the existence of a public hearing, I don't think should impede your time schedule. It's not the purpose of taking this under submission to impede your time schedule.
MR. MOORE: All right.

CHAIRPERSON CORY: It's to ascertain how we get the facts.

MR. MOORE: Sure.

CHAIRPERSON CORY: All right.

MR. MOORE: Thank you very much.

CHAIRPERSON CORY: Item 27, approval of a prospecting permit application on State school lands in Inyo County. Anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 27 is approved as presented.

Item 28, a prospecting permit for Queenstake Resources on 320 acres in Inyo County.

Anybody in the audience on this one?

Questions from Commissioners?

Without objection, such will be approved as presented.

Item 29, approval of the assignment of a geothermal lease in Sonoma County from Aminoil to GRI Exploration.

Is there anyone in the audience on this item?

Questions from Commissioners?

Without objection, Item 29 is approved as presented.
Item 30. This is public hearing approval on pollution and subsidence control plan on PRC 6873.2, negotiated oil and gas lease in Taylor Slough, Contra Costa County.

Anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 30 is approved as presented.

Item 31, interim reduction in the amount of Letter of Credit on Royalty Oil Sales Contract for Sunland. This is due to the fact that we have a platform that is down. The oil is not being produced. So our risk is less.

Is there anybody in the audience on this?

Without objection, Item 31 is approved as presented.

Item 32, Big Red wants to invoke Force Majeure Conditions.

MR. TAYLOR: I don't know if there's any objection to the Commission making the finding that the event which occurred which was severe wave action has caused some serious problems, but I don't think that your action today should be understood as excusing them from diligently attempting to get back into production or into a position to --

CHAIRPERSON CORY: Is there anyone from Chevron here?
Please come forth and identify yourself. It's probably worthwhile to make sure we have this on the record.

Mr. Taylor here from the Attorney General's Office is suggesting we make it abundantly clear to Chevron that the natural forces that put us in this condition do in fact exist and we're prepared to acknowledge that, but that does not absolve Chevron from its duty to as rapidly as possibly come to a conclusion and get that lease back into production or quitclaim the lease and negotiate some settlement.

EXECUTIVE OFFICER DEDRICK: Could you identify yourself?

MR. DOWN: My name is Carl Down with Chevron. I understood that this was not going to be an indefinite suspension of the obligations; however, I think the Commission should keep in mind that to put that island back on production requires a tremendous amount of engineering, resources. There are insurance issues that have not been resolved and the amount of time taken is going to— I don't know whether or not he's talking a year or five years or something like that, but it is going to take time.

CHAIRPERSON CORY: It's not a year or five years that we're talking.

MR. DOWN: We are diligently trying to put the
island back on production.

CHAIRPERSON CORY: That is our expectation and I would also add I am not sure that your insurance problems are our problems.

MR. DOWN: Okay. I would concur with that.

CHAIRPERSON CORY: The problems are there. We just need extreme diligence to get that back on because we need the money.

MR. DOWN: Okay.

ASSISTANT, EXECUTIVE OFFICER TROUT: Mr. Chairman, the recommendation of the staff includes a request that Chevron report on the status on July 1st of this year. I'd like to suggest perhaps in strengthening that that we change it and say that the Commission acknowledges and requests or finds that Chevron is to report back. Make it a positive action rather than just a request.

MR. TAYLOR: I think we should also include that this does not exclude due diligence to get back into position for production.

CHAIRPERSON CORY: That's what we're really trying to see, due diligence, and give us a report July 1. Is that fine?

MR. DOWN: That's fine. You're requesting it as a positive obligation on our part to report by July 1st?
CHAIRPERSON CORY: Yes. By July 1st as to where you are. That's what I would think --

COMMISSIONER McCARTHY: Positive obligation is to answer into repair and restore this to a productive condition.

MR. TAYLOR: Everyone understands it will take some time, we just don't think it ought to wobble off into the future and that you ought to demonstrate all the way along that you're going to get back on. We're not letting you off of a requirement of due diligence by the finding. That's what we're trying to make clear for the record.

MR. DOWN: It was our understanding that this was not an indefinite suspension.

CHAIRPERSON CORY: With that clarification of a positive obligation to report back on Chevron's part by the 1st of July, and it is not relief from the due diligence requirement of the existing obligation of the lease, we will approve Item 32 as presented.

MR. DOWN: Thank you, Mr. Chairman.

CHAIRPERSON CORY: Thank you, sir.

Item 33, deferment of drilling obligation for Texaco in the Santa Barbara Channel.

This is to coincide with some Coastal Commission permits in the drilling vessels. It is necessary to extend this.
Is there anyone in the audience on this item?

Questions from Commissioners?

Okay: Without objection, Item 33 is approved as presented.

Item 34, assignment of a partial interest in oil and gas lease. The assignee is Celeron from Pauley.

EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRPERSON CORY: Anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 34 is approved as presented.

Item 35.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, we have a subsidence map on the wall which shows no subsidence and Mr. Thompson is here to answer any questions you may have.

MR. THOMPSON: This map is to show the progress of the ground elevations from this period of time from May, 1965, which is prior to the start of any production in the Long Beach Unit through November of 1982. What it shows is that in all the areas that are between the green lines there in effect are at the same or higher elevations than they were in May of 1965.

CHAIRPERSON CORY: Questions from Commissioners?
Anybody in the audience on this item?
Without objection, the report is accepted.
Item 36, the award of contract for a sell-off on Parcel A.

EXECUTIVE OFFICER DEDRICK: 87 cents.
CHAIRPERSON CORY: 87 cents was the high bidder?
EXECUTIVE OFFICER DEDRICK: On all three, and Edgington Oil Company.
CHAIRPERSON CORY: Edgington Oil is the --
EXECUTIVE OFFICER DEDRICK: That's correct.
CHAIRPERSON CORY: Identical bids on all and some people were pushing them.
Is there anybody in the audience on this item?
Questions from Commissioners?
Without objection, well award the contracts as recommended by the staff on Item 36.
Item 37, this is the Plan of Development and Operations of Long Beach Unit found on calendar pages 250.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, Carolyn Sutter who is the Director of Tideland Properties for the City of Long Beach and Xenophon Colazas who is the Director of Oil Properties are here and I'd like to introduce you. Mr. Cory, I think you've met them before, but I don't think Governor McCarthy has.
CHAIRPERSON CORY: Very glad to have you with us and you like the Plan of Development; right?

MR. COLAZAS: Yes.

CHAIRPERSON CORY: Anybody else in the audience who would like to comment on this outrageous expenditure of funds?

[Laughter.]

CHAIRPERSON CORY: No. Without objection, the Plan of Development and Operations will be approved as presented.

Item 38, a Quarterly Report.

ASSISTANT EXECUTIVE OFFICER TROUT: Required by statute.

CHAIRPERSON CORY: The report is in the file.

ASSISTANT EXECUTIVE OFFICER TROUT: The report is in the file and the only changes is the indication that Santa Barbara County and other parties filed suit against the Commission concerning the adequacy of the EIR. I don't know if Mr. Taylor wants to cover it.

MR. TAYLOR: Excuse me, can I go back to the Plan of Budget?

CHAIRPERSON CORY: Yes.

MR. TAYLOR: I'm worried about that item because if it includes the city's raising of the barrel tax, I think that that should be noted for the Commission's
information. I think that it also ought to be clear that the approval of this budget does not indicate the concurrence of the State in the raising of the barrel tax amount of money unless the Commission cares to do so. But I think that that item is in there and I don't think that this action should be cited as approval of the barrel tax situation which I understand was being discussed.

ASSISTANT EXECUTIVE OFFICER TROUT: In effect Mr. Thompson can discuss it in detail. In fact, the calendar item mentions the increase in the barrel tax and indicates a transfer or adjustment will be required, about a million dollars during the fiscal year.

MR. THOMPSON: The present funding is at the current level. The change takes place I believe July 1st.

CHAIRPERSON CORY: I thought there was not any change in this plan and development of dollars to accommodate that, and that's why I thought that we'd need not acknowledge it because we weren't changing it.

MR. TAYLOR: It is in?

MR. THOMPSON: No. The funding for the increased barrel tax is not in the plan of the budget. It will require transfer or augmentation of a million dollars.

MR. TAYLOR: Which will require future Commission action.

EXECUTIVE OFFICER DEDRICK: That's correct. It
will require approval of a modification.

CHAIRPERSON CORY: Are we okay on that, Mr. Taylor?

MR. TAYLOR: Yes.

CHAIRPERSON CORY: So we can leave it stand as it is with the caveat that if it's not in there, and it will take an adjustment to the future development plan for it to come out or we end up drawing our swords and doing whatever we have to do.

MR. HIGHT: Yes.

CHAIRPERSON CORY: We can go on to Item 38. We have the Quarterly Report here. Any questions from Commissioners?

Without objection, Item 38 is received.

Item 39, this is to authorize staff and the Attorney General to take all necessary steps, including litigation, to settle title disputes regarding certain parcels adjacent to Catalina.

Are there any questions by anybody in the audience?

Any questions from Commissioners?

Without objection, authorization will be granted.

Item 40 is authorization to file a disclaimer in Fong v. Fong, et al., in the Superior Court here -- Wait a minute. Where is that parcel?

MR. HIGHT: It's on the Sacramento River just
down Freeport.

CHAIRPERSON CORY: It's not Omochummes Rancho?

MR. HIGHT: No.

CHAIRPERSON CORY: Okay, I just want to make sure. You guys ripped me off of 11 acres of land you said you had an interest in and I want to make sure you get my neighbors. I just want to be treated fairly, that's all.

[Laughter.]

CHAIRPERSON CORY: Anybody in the audience on this item?

The staff is of the opinion we have no interest in the property.

Without objection, Item 40 is approved as presented.

Item 41, a land bank acquisition, settlement in Desmond v. State of California, Butte County. The portion of the land bank parcel will be purchased and exchange made to effectuate the title clearance?

MR. HIGHT: Correct. Mr. Chairman, you're acting as the land bank trustee commissioners in this case.

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

Questions from Commissioners?

Without objection, Item 41 is approved as

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presented.

Item 42 is off calendar.

Item 43, title dispute litigation of land in the Wilmington District of the City of Los Angeles which is on the board to the left and we are acquiring in that the red parcels as I understand.

MR. TAYLOR: The city is trustee.

CHAIRPERSON CORY: The city trustee will be acquiring that and we will be approving the acquisition of that for the freeing of the trust obligation on the part surrounded by black except those portions which are red are surrounded by green. Is that --

MR. TAYLOR: That's correct, Mr. Chairman, with the understanding that this action is contingent upon the approval of this matter by the City Council of the City of Los Angeles.

CHAIRPERSON CORY: Approved by the Harbor Department Commission and the Council Subcommittee but not the full council.

MR. TAYLOR: No, it hasn't been approved by either the City Council Committee or the City Council. It's been transmitted to them. It's calendared. It hasn't been acted on.

CHAIRPERSON CORY: Okay. Anybody in the audience on this item?
Without objection, Item 43 is approved as presented.

Item 44, approval of a contract for legal consulting services, Lobel, Novins and Lamont, to handle the Washington, D.C. administrative hearings and the like. Is there anybody in the audience on this item? Questions from Commissioners?

Without objection, Item 44 is approved as presented.

Item 45, this is the contract for the reproduction blueprint services for State Lands. Is there anybody in the audience on this item?

This is for a bid contract?

MR. HIGHT: It will be a bid.

CHAIRPERSON CORY: Okay. Questions?

Without objection, Item 45 is approved as presented.

Item 46, helicopter services in Santa Barbara for the offshore. Anybody in the audience on this one?

This is also bid?

EXECUTIVE OFFICER DEDRICK: It's also bid.

CHAIRPERSON CORY: Questions from the Commission?

Without objection, Item 46 approved as presented.

Item 47.

MR. HIGHT: Item 47, Mr. Chairman, I have some
question with, but I think --

ASSISTANT EXECUTIVE OFFICER TROUT: Maybe we should go on --

[Laughter.]

CHAIRPERSON CORY: Could we have a personnel session?

This is the Attorney General's contract to provide services for the Long Beach Operation.

MR. TAYLOR: It appears we've overrun this year's contract. So we may be next month to see you.

CHAIRPERSON CORY: I want, in next year's contract, I want exclusion from billable hours the time that Greg talks.

[Laughter.]

CHAIRPERSON CORY: I think we can live with the budget if we can accomplish that.

The comment should be made that as long as he talks, much as we may not like him personally, he brought home the bacon again in the Bolsachica lawsuit and rather good Appellate Court decision affirming that we have been proceeding in a legal and proper fashion in exercising the public trust in the various exchanges to clear up title and I think it's a very worthwhile decision. It's one that if you don't have something to read on an airplane, I commend to you. It's good legal scholarship that Greg
pulled the wool over their eyes one more time.

[Laughter.]

CHAIRPERSON CORY: Without objection, we will
approve Item 47.

MR. TAYLOR: Thank you, Mr. Chairman.
Actually the case was argued by Teddy Berger.
There was a long line of attorneys that worked on that
case over the years, but thank you for your comment.

CHAIRPERSON CORY: Thank you.
If there's nothing else, we'll stand adjourned.

[Thereupon the State Lands Commission
Meeting was adjourned at 11:45 a.m.]
CERTIFICATE OF SHORTHAND REPORTER

I, CATHLEEN SLOCUM, 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, Cathleen Slocum, 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 12 day of May, 1983.

CATHLEEN SLOCUM
Certified Shorthand Reporter
License No. 2822