COMMISSIONERS PRESENT

Kenneth Cory, State Controller, Chairman
Nancy Ordway, Commission Alternate for Jesse R. Huff, Director of Finance
Susan Wallace, Commission Alternate for Leo T. McCarthy, Lieutenant Governor

STAFF PRESENT

Claire T. Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Chief Counsel
Lance Kiley
Lisa Butler
Dwight Sanders
Jane Smith, Commission Secretary

ALSO PRESENT

N. Gregory Taylor, Assistant Attorney General
Bruce Flushman, Deputy Attorney General
Darryl Landy, Lieutenant Governor's Office

PETERS SHORTHAND REPORTING CORPORATION (916) 972-8894
# INDEX

<table>
<thead>
<tr>
<th>Page</th>
<th>Proceedings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Approval of Minutes of Meeting of November 29, 1984</td>
</tr>
<tr>
<td>1</td>
<td>Report of the Executive Officer</td>
</tr>
<tr>
<td>2</td>
<td>Consent Calendar, Items C1-C8 and C11</td>
</tr>
<tr>
<td>2</td>
<td>Item C10, Spacecraft Engineering Co., Inc. (Applicant)</td>
</tr>
<tr>
<td>4</td>
<td>Item 12, Leslie Salt Company (Party)</td>
</tr>
<tr>
<td>4</td>
<td>Comments by Mr. Trout</td>
</tr>
<tr>
<td>8</td>
<td>Comments by Ms. Shockley</td>
</tr>
<tr>
<td>14</td>
<td>Comments by Ms. Delfino</td>
</tr>
<tr>
<td>24</td>
<td>Further comments by Ms. Shockley</td>
</tr>
<tr>
<td>28</td>
<td>Comments by Mr. Washburn</td>
</tr>
<tr>
<td>31</td>
<td>Action on Item 12</td>
</tr>
<tr>
<td>31</td>
<td>Item 13, Design and Construction Associates, Inc. (Fred Patrick) (Applicant)</td>
</tr>
<tr>
<td>32</td>
<td>Item 14, United States Forest Service Shasta-Trinity National Forest (Trespasser)</td>
</tr>
<tr>
<td>33</td>
<td>Item 15, Southwest Marine (Applicant)</td>
</tr>
<tr>
<td>33</td>
<td>Item 16, Union Oil Company of California (Lessee)</td>
</tr>
<tr>
<td>33</td>
<td>Item 17, PRI of Hawaii, Inc. (Applicant)</td>
</tr>
<tr>
<td>33</td>
<td>Item 18, County of Orange Public Works (Applicant)</td>
</tr>
<tr>
<td>34</td>
<td>Item 19, Edgington Oil Company (Applicant)</td>
</tr>
<tr>
<td>34</td>
<td>Item 20, City of Long Beach (Party)</td>
</tr>
<tr>
<td>34</td>
<td>Item 21, State Lands Commission (Party)</td>
</tr>
<tr>
<td>34</td>
<td>Item 23, State Lands Commission (Party)</td>
</tr>
<tr>
<td>36</td>
<td>Adjournment</td>
</tr>
<tr>
<td>37</td>
<td>Certificate of Reporter</td>
</tr>
</tbody>
</table>
CHAIRMAN CORY: We'll call the meeting to order.

Are there any corrections or additions to the Minutes of the November 29th meeting?

Without objection, the Minutes are confirmed as presented.

We have a report of the Executive Officer.

EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman. There are two items.

I have granted permission to the County of Sacramento for some erosion control measures at Discovery Park.

I wanted to report to you the three-year summary of the State Lands Commission forestry program. During those three years CFIP funds, the California Forest Improvement Program funds, were available to the Commission.

On-the-ground activities were completed on 32 sites, totaling 1,306 acres. Revenue from harvest totaled $1,152,000-plus. Planning, cruising or marking has been completed on another 42,000 acres.

That is all I have to report.

CHAIRMAN CORY: Questions from Commissioners?

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, before you begin the calendar, Items 9 and 22 are off. And we recommend that Consent Item 10 be moved to the regular calendar. That is
CHAIRMAN CORY: Okay. We're about to take up the Consent Calendar.

People in the audience, these are items with a prefix "C" in front of the agenda item number. They are C1 through C11, excluding C9 and C10. Ten is off calendar in its entirety.

EXECUTIVE OFFICER DEDRICK: Nine is off.

CHAIRMAN CORY: Nine is off calendar in its entirety.

Ten will be taken up on the regular calendar.

If there is anyone in the audience who disagrees with the proposed action listed on the agenda, if they would speak up now, we will remove the item from the Consent Calendar.

If no one objects, we will take up all of those items in one motion and they will be passed and you won't have a chance to discuss it.

So, is there anybody that wishes to raise any questions about any of the Consent Calendar items that are remaining?

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

The next item on the agenda is Item C10, Spacecraft Engineering; approval of a one-year salvage permit from January 1, '85 for a 37.6 acre parcel in the Owens Lake, Inyo County for salvaging bullion.

Terms of the lease are a flat $940, 25% of the net
salvage value of $25,000 or less and 50 percent of the salvage value in excess of 25,000.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, we have received some communications, which is the reason I asked you to put this item on the regular calendar, from people who are interested in the item and clearly had not had the opportunity to find out or to learn what the conditions on the permit are.

I would like to ask Dwight Sanders to give you a rundown on exactly what the permit conditions are on this item.

MR. SANDERS: Mr. Chairman, as Claire has mentioned, there were several concerns voiced by interested archaeologists and other people interested in historical relics as to who was consulted, what significance was given to the resource and what mitigation had been proposed for this particular operation.

As background, a negative declaration was circulated to the State Historic Preservation Officer, the Office of the State Archaeologist within the Department of Parks and Recreation. And those entities had no comments on the proposal that is now before you.

We have, however, included specific mitigation within the permit, one of which measures requires the applicant to provide the State Historic Preservation Officer and the Office of the State Archaeologist with a plan prior to the commencement of any operations on site that is agreeable to both of those offices for the operations there to insure that
care is given, proper care is given, to the resources that may be there and their disposition.

If the State Historic Preservation Officer or the Office of the State Archaeologist have additional concerns, those concerns will be worked into the permit as a matter of course and such is provided by your action.

We believe that through the negative declaration process and the mitigation measures that are provided within the permit, that we have satisfied the letter and spirit of CEQA and also the state antiquities legislation and so forth.

The permit, for your information, is comparable to the permit that this Commission approved for the salvage of the Brother Jonathan in the north coast of this state. And that permit was also worked out in close consultation with the State Historic Preservation Officer and the Office of the State Archaeologist.

CHAIRMAN CORY: Anybody in the audience on this item? Any questions from Commissioners?

Without objection, Item C10 will be approved as presented.

Next item on the agenda is Item 12, litigation settlement on Leslie Salt versus the State of California.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I've asked Jim Trout to present this item.

ASSISTANT EXECUTIVE OFFICER TROUT: We're going to put
an exhibit up where we can see it and we'll take you quickly through it.

This lawsuit involves roughly 2,500 acres of San Francisco Bay former marsh, existing marsh and tidelands. The entire area shown on this map in color was patented to Leslie Salt's predecessors in interest at one point in time as either swamp and overflowed or tideland patents.

The areas were reclaimed. And by reclaimed we mean they were, as required by statute, cut-off from the tidal action of the bay physically and the use as required by the statute.

The dispute in this litigation is over the true character of the land. The litigation started in 1975. And when it finally came to trial after years of discovery, the judge asked the possibility of a settlement. Earlier settlements had been attempted and were unsuccessful. However, further effort was carried out.

Leslie and the state contracted for a retired judge to sit as an independent arbiter and work with the parties in a settlement.

What's before you today is the settlement that resulted from those discussions. It is a settlement in which neither side gets all it wanted, which reflects a fair and equitable resolution of the dispute. The state is getting equal value to the claims it believes it has and is giving up.
The settlement is working kind of backwards alphabetically. Leslie Salt will get clear title to all of Parcel E shown in the red color on that map. That will be free and clear of any claims of trust for navigation, commerce and fisheries on behalf of the State of California.

CHAIRMAN CORY: Mr. Trout, that relates to title?

ASSISTANT EXECUTIVE OFFICER TROUT: To title, right.

CHAIRMAN CORY: That's the only release of claim that is granted. The only thing we're talking here is title to the property, nothing else.

ASSISTANT EXECUTIVE OFFICER TROUT: Yes, Mr. Chairman, you're correct. We're resolving a title. There still remains decisions that have to be made under CEQA and other provisions of law. That's provided for in the document.

Following on, the State of California will get fee ownership of Parcel D, with Leslie retaining two easements to cross the parcel. Parcel D is shown on the map in blue. That is, the bed of Mount Eden Creek.

Parcel C the state will get fee ownership of, with Leslie Salt retaining an easement for salt-making purposes. That totals 153 acres.

Parcels B-1, B-2 and B-3 are existing marshlands, most of which lie above today's mean high tide line. These lands are not the subject of this settlement.

Leslie will get fee title to Parcels A-1 and A-2,
which were originally patented to their predecessors as swamp
and overflowed lands. They will get a confirmatory patent to
those lands as tidelands and they have agreed that those lands
are subject to the trust for commerce, navigation and
fisheries.

CHAIRMAN CORY: Pardon me. Would you go back through
what they're getting. Are they getting a patent or are they
getting a fee simple title?

ASSISTANT EXECUTIVE OFFICER TROUT: They're getting a
partial confirmation of the patent.

CHAIRMAN CORY: So, it's a patent interest.

MR. FLUSHMAN: They are getting a patent which
confirms an earlier swamp and overflowed lands patent and their
title is being confirmed in an earlier tideland patent. So,
the title is two patents out there.

But their fee title is being confirmed subject to the
state's reserved interest for public trust purposes.

ASSISTANT EXECUTIVE OFFICER TROUT: That would make
them the same character as all other tidelands.

This agreement is in settlement of a title dispute, as
we've already emphasized, and a matter which is in litigation.
It does not and is not intended to limit or affect the
authority or jurisdiction or extent of regulation or control of
any regulatory agency over the lands that are the subject of
the settlement agreement based on statute, administrative
regulation or law. This is to make it clear that we're not solving any problems other than title.

Section 6307 requires the Commission to make findings which are included in the calendar item.

That's the presentation in gross. We have people here who can answer specific questions. I also believe that Leslie Salt is represented in the audience.

CHAIRMAN CORY: In terms of the staff, the AG's for the proposed settlement?

MR. FLUSHMAN: Yes, Chairman Cory, we are.

CHAIRMAN CORY: I've got some requests here, I think, from people who would like to comment.

Barbara Shockley.

MS. SHOCKLEY: Commissioners, I am Barbara Shockley. I live in San Lorenzo in the Hayward area. I represent the Hayward Area Shoreline Planning Agency. That is a joint powers agreement agency, exercise of powers agreement agency, which consists of the City of Hayward, East Bay Regional Park District, Hayward Area Recreation and Park District and two unified school districts, Hayward's and San Lorenzo's.

Just want to read a statement which amplifies somewhat the letters which the Attorney General received and which the State Lands Commission has received.

By letter dated November 19 to Michael Valentine, HASPA Chairman, Richard Sheridan, asked the State Lands
Commission to conduct a public hearing in Hayward on this agenda item. There is some precedent for that, because I think you might remember, Mr. Chairman, that you appeared in Hayward in, I think, '75 on a matter before the State Lands Commission.

We were told by telephone that this was impossible. HASPA received a written reply to this request, however, and was told that the item would appear on December 20th, today, and a private meeting with staff could be arranged in Sacramento on the 13th and 14th of December.

We were grateful that your Executive Officer, Ms. Dedrick, had met privately with members of the Citizens Advisory Committee earlier this year to explain in general terms the settlement agreement.

HASPA board sent a letter dated December 14th to the Attorney General asking that the findings on this item pursuant to Public Resources Code Section 6307 be evaluated. I wanted to read -- although you might have it in your hands -- two paragraphs from that letter.

"The members of the HASPA board, which is composed of elected officers of the member agencies, need the opportunity to evaluate the basis on which the tentative settlement has been reached. The board members consider this State
Lands Commission decision to be significant because it will establish the public trust in the Hayward area. That is their opinion.

"The settlement information should be made available through the public hearing process. Board members recognize the complexity of these decisions, but do believe that the public has the right to know before a final decision is made. It is also important that the state vigorously protect the public trust for all of its citizens."

Also, on December the 14th I received the full report. Part of it's here. HASPA received a full report on December the 18th.

It was HASPA's intent to bring the issues involved in this case to the attention of the public since one of its specific goals is to educate the citizens of the Hayward area about the importance of the shoreline, both economically and environmentally.

One of HASPA's problems arises from the fact that we
have two large industrial-commercial proposals within the HASPA jurisdiction and it has been difficult to separate the issues arising from those planning processes from the settlement of title claims on the 1700-acre Baumberg Tract.

The public's understanding of the public trust as it applies here is muddled at best. An example of the confusion is illustrated in the reactions to a stipulation of fact which deems Parcel E -- that is red on the map -- to be relatively useless for "public trust purposes." That's in quotes.

HASPA's CAC -- that's Citizens Advisory Committee -- includes several educators from the University of California at Hayward. These people have played key roles in saving, quote, "the Hayward shoreline from garbage and other assorted urban uses."

Because of this and similar statements in the findings, some of which Janice Delfino will address in a moment, we wish to correct the page 3 statement, Exhibit F, Stipulated Findings of Fact and Conclusions of Law, lines 10, 11 and 12.

EXECUTIVE OFFICER DEDRICK: Excuse me. Barbara, that's in the settlement agreement. It's not in the calendar item.

MR. FLUSHMAN: It's in the stipulation which goes before the court; is that correct?

MS. SHOCKLEY: Right.
EXECUTIVE OFFICER DEDRICK: You do not have that before you, Commissioners.

CHAIRMAN CORY: Go ahead.

MS. SHOCKLEY:

"At such time no objection was made to either the settlement, the stipulated facts and conclusions of law or to the proposed judgment."

I represent the board of the Hayward Area Shoreline Planning Agency and, as such, am saying that they again request a delay in this decision to allow time to respond responsibly to the information you have presented so recently to us in this document.

I understand --

CHAIRMAN CORY: Pardon me, I'm not sure I understand the significance -- you disagree with this statement in the stipulation, page 3, lines 10 through 12?

MS. SHOCKLEY: Yes.

CHAIRMAN CORY: Are you --

MS. SHOCKLEY: We are saying that we are here to object. Does that make any sense?

CHAIRMAN CORY: What is your objection?

MS. SHOCKLEY: I think in general that the characterizations in the findings, which I probably don't have in front of me at the moment -- yes -- don't seem to square
with -- and I think what I'm trying to explain is that in the
eyes of the citizens -- and that's one reason we're here.-- is
that it's very difficult to describe this area as having no --
that E will no longer have any characteristics that are
important now for open space, for any of the environmental uses
that it now has. It describes it as no longer having that.

It's very difficult for ordinary citizens to
understand that you can make stipulations that say that it has
none and that that won't be used then in the future by someone
who wants to develop a race track there or something of that
sort.

CHAIRMAN CORY: So, it's an objection of perception on
the part of others that you're concerned about.

MS. SHOCKLEY: And my own. I think I might understand
it somewhat more than others, because they've never seen this
document. They haven't had a chance to respond to it or even
to understand it.

One of the reasons that I'm very interested that it be
delayed is because this is the best way to educate the public.
You have two school districts; part of a joint exercise of
powers agreement agency, which has had an enormous influence on
eight miles of the Hayward shoreline.

I think the State Lands Commission has seen to it more
than once that that is what we acquired publicly. And yet at
a moment like this we're asked not to be told what is happening
because it doesn't apply. And we're saying in our view it does apply. Can you give us more time to look at the complicated legal terminology and try to understand so that at least we can communicate these ideas from us to you and from you to us?

CHAIRMAN CORY: Go ahead.

MS. SHOCKLEY: That's it.

CHAIRMAN CORY: Questions from Commissioners?

MS. SHOCKLEY: There is Janice Delfino, if she may speak now.

MS. DELFINO: I am Janice Delfino. And I am speaking at this moment as a representative of Save San Francisco Bay Association.

The association is concerned that the documents that Mrs. Shockley spoke about have not been received and -- perhaps have been received by now, but have not been reviewed. And Save the Bay Association would like a continuance of this agenda item.

Now, as Janice Delfino, a member of the Citizens Advisory Committee to HASPA, which is the Hayward Area Shoreline Planning Agency, I would like to challenge the findings on page 4 pursuant to the Public Resource Code Section 6307 and its Item C.

The lands in said Parcel E, the lands in parcel E --

ASSISTANT EXECUTIVE OFFICER TROUT: That would be on page 74, Mr. Chairman, at the top of the page.
MS. DELFINO: The lands in that parcel constitute a relatively small part of the total acreage that once constituted the salt marsh at San Francisco Bay.

I contend that any land that was once San Francisco Bay tidelands or marshlands are terribly important. And I really don't know what the -- out of that 1700 acres in that colored site, what is the total acreage of Parcel E?

EXECUTIVE OFFICER DEDRICK: 1,560.06.

CHAIRMAN CORY: Approximately.

(Laughter.)

MS. DELFINO: I consider that a tremendous amount of bay land.

CHAIRMAN CORY: But I think the statement is that of that amount, a relatively small part of the total acreage once constituted the salt marsh.

Is that not what the statement says?

MR. FLUSHMAN: The salt marsh of San Francisco Bay was 300 square miles. This is a small part of what was once the salt marsh. It has not been salt marsh since the 1880's.

EXECUTIVE OFFICER DEDRICK: The real purpose of that statement is compliance with --

MR. FLUSHMAN: Case law and statute.

EXECUTIVE OFFICER DEDRICK: -- case law and it does not denigrate the value of the area in question. It's simply one of those things you --
Bruce, why don't you explain it.

MS. DELFINO: It really raises our hackles, because we protect even a half acre of salt marsh. I mean, we're concerned even about a small portion.

CHAIRMAN CORY: There is no value judgment when I read that statement that small is not significant, but merely a statement of fact that that is small in proportion to the total size of the bay. If I'm misreading it -- but I think that's all that was intended to be said.

MR. FLUSHMAN: That's correct.

MS. DELFINO: All right. Then Item D:

"The value of the interests acquired by the Commission in Parcels A, C, and D on said Exhibit C ..." that would be in that same document ... by virtue of said settlement agreement are equal to or greater than the value of those interests granted or relinquished by the Commission to Leslie Salt."

As I read this or as I understand it, the value -- E doesn't seem to have much value according to this --

MR. FLUSHMAN: This is the legal judgment that's made as to what our ownership claims are in the area. It has nothing to do with the environmental value past or present.
CHAIRMAN CORY: But there is a question also that I think needs to be put on the table here that E is 1,500-plus acres, but there is a further delineation of what our interests are in E. And there is, I do not believe, any indication that we own all of E in fee simple or that we have ever owned all of E in fee simple. There are portions of E which the state claims ownership to and it is those portions which are equal to -- that's the equality question that's being asked. Not the total value of E, but that portion of E to which the state has a legitimate, viable claim.

ASSISTANT EXECUTIVE OFFICER TROUT: That's exactly correct, Mr. Chairman. The state's claim in Parcel E we estimate to be equivalent in value -- it is not of the whole of Parcel E -- being equivalent in value on a fair-market-appraisal standpoint to the 153 acres the state is acquiring in Parcel C.

MS. DELFINO: I just don't --

MR. FLUSHMAN: Maybe I can explain it in a different way.

In litigation, claims are made for purposes of positions that have to be taken to assert the state's interest. In this litigation the state asserted that it had an interest or owned in fee all of the acreage that was in dispute.

As a matter of resolving a disputed title -- because Leslie vigorously contests that the state has no interest
whatsoever in any part of this area, regardless of what the nature of the land is presently and regardless of its value for wildlife habitat. Leslie claims they own it in fee simple absolute, free of any state interests.

We are reserving that dispute here. Judgment was made based on the kinds of evidence that you see highlighted — only say highlighted — in the settlement agreement, which was composed of a number of documents, including a stipulated set of facts which highlight what the underlying facts are of this case.

Based on the judgments that are made in resolving by negotiation a title dispute, the state's interests in what is described as Parcel E was determined to be equal to the interest in value that it's receiving in the remaining parcels that it's receiving by the settlement agreement.

MS. DELFINO: But who is to judge the value of one parcel as compared with — all right, Parcel E as compared with A, C, B and D? I'm thinking of the — oh, let me see.

The public trust needs also include open space and wetland wildlife habitat protective needs. Therefore, I feel that through continued amateur observations, scientific studies, we know that Parcel E has tremendous wildlife uses, nesting, roosting, resting areas, plus the open space aspect.

I feel that the public trust should be exercised in this area.
MR. FLUSHMAN: I don't mean to quibble with you, Ms. Delfino. That's the question, is there a public trust. That's been the whole question in this lawsuit that's gone on for nine years. And we're resolving what is public trust areas and ownership interests. Not on land use, not on land use regulatory interests, but an ownership interest. That's all that's being resolved.

If there are wildlife values that have to be retained in the Baumberg area that is not being resolved in this settlement, then that is a subject that has to be taken up in the permit, in the land use regulatory process.

That, as I understand, is what's going on right now.

There has been a proposal made to the Corps of Engineers for a permit to construct a development.

CHAIRMAN CORY: The question before us at this point is trying to resolve an ownership question and how much of that area that there in fact is a legal, documentable, certifiable public trust in; not what the public trust might want to be or what our value judgments might be.

As I understand the situation, if we don't take this settlement and we choose to litigate, given the facts, the court could find that there is no public trust and no public interest in any of E and we have no title interest and we own nothing. Is that a correct statement?

MR. FLUSHMAN: That would be the worst-case result of
this against us. That's a potential.

CHAIRMAN CORY: The question before us in the settlement is not what we would like to have in terms of land use or where we would like to exercise the public trust, but how much can we get given the facts, circumstances that exist. And some trier of fact somewhere is going to come down and say, this is what you own and this is what you don't own and this is what you have a public trust that you can exercise some control over. That's the question before the court in this case.

MS. DELFINO: In one of the documents I read that the Commission contends that the lands in the settlement area are sovereign tidelands in which the State of California retains an inalienable public trust easement or are sovereign submerged lands never available for sale. That was on page 10 of the Certificate of Acceptance.

When I read a statement like that, it makes me feel that the State of California has not really exercised its public trust over that Baumberg site, the full public trust. I mean, I think we're giving away too much.

CHAIRMAN CORY: How would you feel if we litigated it and the court says, you don't have anything, it's all over, Leslie owns all of that?

MS. DELFINO: What's wrong with trying that?

CHAIRMAN CORY: Because we could lose everything and we wouldn't get the 150-some acres.
MS. DELFINO: I'm really not worried about that bayward acreage, because that probably could not be developed.

CHAIRMAN CORY: See, our problem is that if that happened, it's not just this parcel. There's a whole lot of other properties and a whole lot of other settlements in which the state would lose a great deal and the environment would lose a great deal.

MS. DELFINO: But aren't we doing that right now? Because there is a proposal to develop all of Parcel E. We know that. We've been -- well, we know that. That's why I feel that --

CHAIRMAN CORY: If Leslie owns Parcel E, they have certain rights as a property owner which we can't interfere with.

MS. DELFINO: But maybe I misunderstand what the public trust is or what that statement was that the --

CHAIRMAN CORY: There is a dispute as to what the facts are as to what area the public trust applies to and that is the question of the lawsuit which we're trying to resolve.

Our option, as I understand it at this point, is we can get D, C and A-1 and A-2; or we can continue to litigate and we can end up with what the little boy shot at, nothing. That's a possibility.

Our lawyers are telling us, take what you can get and get out while you can, because the facts ain't too good in this
one. I mean, that's what they're telling us.

Now, if you've got some facts that would indicate something contra, I'm very interested in listening. But we're getting sort of a unanimous opinion from our staff that we've got some weaknesses with the lawsuit that we better look at.

MR. FLUSHMAN: Chairman Cory, may I add that this is not something -- Ms. Delfino, if you'll bear with me. This was not something that was entered into on the spur of the moment. This litigation has been going on for nine years.

Mr. Washburn and his enormous staff have been preparing this case for trial. And in preparation for trial we took 28 depositions of mutual expert witnesses. The expert witnesses in this case costs alone are enormous.

It was not done on the decision to resolve a case. It has not been done just because it's convenient for the state. A lot of thought and a lot of effort went into preparing this case for trial and a lot of effort has been made in making the decision as to whether to pursue it or not and what other interests could be effected if the case was pursued and lost.

To respond to your specific point, the Commission's findings are not intended to -- and this is right in the calendar item and in the settlement agreement to which Leslie has agreed -- are not intended to and do not affect the authority or jurisdiction or the extent of regulation or control, if any, of any regulatory agency that claims to have
such control.

So, for example, if there is a BCDC permit process that has to be undertaken, the agreement itself and the findings made by the Commission have no bearing on that. That is a separate determination that is going to be made by another regulatory agency based on its own authority looking at what it -- based on whatever authority it has and can make whatever decision it needs to do to agree or to deny a permit for the development.

The findings here determine only ownership interest.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman and Ms. Delfino, on page 75, the item headed "J" was added to the findings for the Commission and also to the settlement agreement in response to the concerns of Ms. Delfino, among others, that making a property settlement would in some way hamper the City of Hayward or the Department of Fish and Game or the other appropriate agencies from carrying out their duties.

So, we specifically have stated in both the settlement agreement, with the agreement of Leslie, and in the findings before the Commission that that is not the case and cannot be construed to be the case.

MS. DELFINO: Thank you for the opportunity.

CHAIRMAN CORY: If there are any other -- I don't mean to cut you off. I'm just trying to get at the heart of the
matter as to what we're dealing with here. And any information you have to put on the table concerning that, we want to hear that.

MS. DELFINO: Well, I think I've said what I had to say. Thank you.

CHAIRMAN CORY: Thank you.

Yes.

MS. SHOCKLEY: I think you're asking a rather difficult question on the basis that we haven't had the information in front of us to even look at.

But aside from that, what would it mean if you decided not to settle?

CHAIRMAN CORY: One of the first things it would mean, as I understand it, that we would probably have to litigate this case. And if we litigated this case, we could end up having virtually no title in this area if we lost everything. And the technicians --

MS. SHOCKLEY: Then does that mean in the future that we are to accept the stipulation that Leslie and you have agreed to, which is, I guess, that the tidelands -- that there's no agreement? But could it possibly be used that the tideland is not at the Rancho line, but rather at the shoreline?

MR. FLUSHMAN: No.

CHAIRMAN CORY: That is a question that, as I
understand it, both sides have agreed that their self interest is in avoiding the determination of the answer to that question. Is that correct?

MR. FLUSHMAN: Yes, Chairman Cory. The questions in the lawsuit are not being resolved. The legal questions and the factual questions are not being resolved. There are different contentions made by the parties concerning those legal and factual questions.

CHAIRMAN CORY: We are in essence coming to the conclusion that to get to that bottom-line question, we would like a better set of facts to ask the court to come to that conclusion on.

MS. SHOCKLEY: Is that possible in the Bay Area? And do you have have cites that you're looking at? May I ask that question?

MR. FLUSHMAN: You're asking it of me?

MS. SHOCKLEY: Anyone who wants to answer.

MR. FLUSHMAN: I would hope that there would be a case with better facts. There are remaining unresolved title questions in the Bay Area.

Let me just add one thing quickly so you'll understand.

Let's assume that we went through the entire litigation and lost the case. That does not mean that during the permit, land use and planning process the same values that
you're concerned with would be taken care of. Because Leslie still has to get those sort of permits.

MS. SHOCKLEY: I'm not concerned at the moment about other jurisdictions and their opportunity for making some effects on the future of this development or any other in the way.

What I am concerned about is that the State Lands Commission is going to stand up -- and what I feel that I haven't had the information on that I would have liked is the case by case that has made this determination so strong. I would like to know that before the decision is made. I don't mean specifics, but I mean case law. Which ones? Is it Berkeley?

MR. FLUSHMAN: That's a very difficult question. You haven't lived with the case for nine years.

MS. SHOCKLEY: I know it's a difficult question.

CHAIRMAN CORY: The question, I think -- the difficulty of putting that in the public sector is a problem and a vexing one for public officials. Because when you get to a question where there are two sides to a lawsuit, for us to expose and discuss in detail the weaknesses of our lawsuit undermines our position in asserting our full rights in other areas.

MS. SHOCKLEY: I find that -- I'm sorry, I'm not that sophisticated about this. But I found that almost as amusing
as questioning whether the Soviets can tell what we're doing and we can tell what the Soviets are doing in the way of armaments.

CHAIRMAN CORY: In litigation, if we go through and lay out here in a public record chapter and verse of the weaknesses, then you don't need to have a rocket scientist as your lawyer when you take on the state in your next lawsuit.

I mean, that's the difficulty. I think there are people who have similar value judgments to yours who are relatively close to this organization who could share with you those things privately, because they feel that you would treat them in confidence.

I am unwilling to do that; because when I think about my public health, I don't think I can in good conscious disclose either here or privately the weakness of the state's position, because I think I would adversely affect our ability to win title suits in other areas.

All I can say is that in total there is unanimous agreement on the part of the staff that we should take what we can get out of this one and terminate the lawsuit; that the settlement offered is more than fair and is probably more than we could get if we litigate it.

MS. SHOCKLEY: Well, thank you for --

CHAIRMAN CORY: That's a value judgment. I don't have anybody on the immediate staff who is contending anything other
than that, save one input that I have had. That person has
some theories, but no hard facts to back up the theories. And
we've spent nine years developing theories and we haven't been
able to get the facts for that additional theory. It's an
intriguing theory, but I'd like to test it someplace where
we've got some better facts.

MS. SHOCKLEY: Going back to my original argument,
which was that this is an educational process. I would hope
that you would still consider, on the basis of influencing
people about all this, that you would delay the decision.

I have a feeling that there's a great need to finish
it up in the year '84. But I would hope that, considering
information we've received, you would consider at least a
continuance.

I thank you for this opportunity very much.

CHAIRMAN CORY: Thank you.

Questions from Commissioners?

We have two other people.

Mr. Alan Woodhill, any comments?

MR. WOODHILL: I don't have any comments to make at
this time.

CHAIRMAN CORY: Mr. Washburn?

MR. WASHBURN: I'm the attorney for Leslie Salt and I
would like to make just several brief comments.

First of all, from our perspective --
CHAIRMAN CORY: Could you use the microphone? Because we probably won't get you for the record. Although most all of us can hear you, the record may not.

MR. WASHBURN: I would like to give you some perspective from Leslie Salt's point of view concerning the settlement. That is, that we strongly believe that were this lawsuit to go full term, that we would prevail on all of the property and, with that in mind, consider the settlement to be one highly beneficial to the state in the sense that Leslie is giving up more than it thinks it ought to; the reason being that this case has gone on for nine years. It takes time, it takes money.

With all those considerations in mind, it makes sense from Leslie's point of view to give up lands to which it believes it's entitled to terminate this proceeding now.

So, although some people may think the state didn't get enough, we certainly don't perceive it that way.

Secondly, we certainly do understand that this is a title settlement. That's all that's been involved in this litigation. I don't think that the documents that support the settlement in any way indicate that land-use decisions are being affected one way or the other.

Lastly, regarding the request for additional time, this case has gone on for nine years. The settlement has taken -- I counted the weeks. It was arrived at exactly 54
weeks ago today. It has taken 54 weeks to arrive at the language that's in the settlement. It's been given wide publicity in the Bay Area from the time it was initially announced a year ago. There's nothing secret about it. The basic terms have remained the same throughout, with the exception that Leslie has given up certain lands that it originally did not agree to give up.

So that we really don't believe that there's any valid basis to claim that this is something that was not known publically. It's been given wide distribution in this area.

The delay we don't think is called for, given the fact that interested parties have known about this lawsuit not only since the time the settlement was originally announced, but also since the time the lawsuit was commenced in 1975.

The documents are public. Various parties have been in communication with the court, with the attorneys. Nothing is secret.

We have a practical problem aside from continued delays with regard to the settlement. That is, the judge who has been hearing this matter, Judge Sabraw in Alameda County, has devoted a great deal of time already familiarizing himself with the case. He has been elevated to the Court of Appeals and will no longer be available beyond next week.

This particular settlement has to be approved by the judge and we do not believe it's fair to the court or to
ourselves to delay this matter any further and require a new judge to familiarize himself with something that might be as complex as this particular dispute is.

For these reasons we feel that further delays will not benefit anyone. It will inconvenience the court, cost more money in time for all concerned. The matter should be approved now.

It's been, from our perspective, a tough fight with the state. You have been well represented. Your negotiators have been tough. We certainly don't perceive this as a victory for Leslie Salt. We think it's a fair resolution of a fairly complicated lawsuit concerning the title of these lands.

CHAIRMAN CORY: The settlement does go before a judge in open public court?

MR. WASHBURN: That's correct.

CHAIRMAN CORY: Questions from Commissioners?

COMMISSIONER ORDWAY: So move.

CHAIRMAN CORY: We have a motion to approve the settlement.

All those in favor, say aye.

(Ayes.)

CHAIRMAN CORY: Opposed?

Motion is carried.

Item 13. If I can find my place back on the agenda.

This is to deny without prejudice an application for use of
state-owned land. What location is this property?

EXECUTIVE OFFICER DEDRICK: This is Las Tunas Beach, just up the coast from Malibu.

CHAIRMAN CORY: Malibu.

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

Without objection, Item 13 will be denied without prejudice.

Item 14, authorization of the staff of the Commission to submit a claim for damage to the Forestry Service for some trees they took off our property.

EXECUTIVE OFFICER DEDRICK: That's right.

MR. TAYLOR: Mrs. Patrick is in the audience on Item 13. I don't believe she has anything to say, but we might acknowledge that she's here.

CHAIRMAN CORY: On Item 13, is there anybody who wishes to say anything?

I asked and nobody came forward. So, that item has been disposed of.

We're now on item 14. Do you have any comments on the feds and their continual wanton disregard of private property rights, stealing from the State of California again in their continual fashion that they've been doing through many administrations of any political party?

EXECUTIVE OFFICER DEDRICK: The facts speak for
themselves.

CHAIRMAN CORY: Any objection to authorizing staff to assert our rights and get our dough back from these timber thieves? Nothing lower than a timber thief. Without objection, Item 14 is approved.

Item 15, amend existing dredging permit for Southwest Marine Shipyards in San Diego Bay.

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

Without objection, Item 15 approved as presented.

Item 16, proposed authorization for Union Oil to defer drilling operations, Santa Barbara County.

Anybody in the audience on this? Questions from Commissioners?

Without objection, Item 16 approved as presented.

Item 17, assessment of penalty and interest for late payment made by PRI of Hawaii under Royalty Oil Contract on the offshore in Santa Barbara.

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

Without objection, Item 17 approved as presented.

Item 18, approval of one-year permit, January 1, '85, to dredge 120,000 cubic yards from the bottom of Newport Dunes Marina, Orange County.

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

Without objection, Item 18 approved as presented.

Item 19, assessment of penalty and interest against Edginton Oil on a late payment for the Huntington Beach field.

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

Without objection, Item 19 approved as presented.

Item 20, fourth modification for Plan of Development and Operations. Where's Moose?

You got anything to tell us about this?

MR. THOMPSON: It's all good news. More revenue.

CHAIRMAN CORY: Not enough, but it helps.

Any questions from Commissioners?

Without objection, Item 20 is approved as presented.

Item 21, authorize acceptance of sovereign land parcels in Santa Clara and Alameda County to be leased to the United States Fish and Wildlife Service for inclusion in the San Francisco Bay Refuge.

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

Without objection, Item 21 is approved as presented.

22 is off.

And 23. The Executive Officer has trouble communicating and needs fifteen grand to be bailed out. Speak to us, poorly.
EXECUTIVE OFFICER DEDRICK: We have been working with a management consultant to improve the deficiencies of the State Lands Commission staff. We've been working with someone for about the last year. We've been getting very positive results, positive results from the staff.

CHAIRMAN CORY: Must be a hell of a sweet talker if he's going to get another fifteen grand out of you.

EXECUTIVE OFFICER DEDRICK: Well, in regards to the amount of money, Commissioners, the actual contract will be in the range of $3,000. We're asking for 18 months -- $3,000 a year, maybe four. We're asking for enough money to go through an 18-month program.

I don't know who picked the 15,000 and I didn't stop it in time to get it down to ten. Just think, after all, we need to have something to talk about.

COMMISSIONER ORDWAY: Is this sole source or out to bid?

EXECUTIVE OFFICER DEDRICK: No, it's out to bid.

CHAIRMAN CORY: Questions?

Okay, without objection, Item 23 is approved as presented.

We've completed our calendar.

Bud, are you here to tell us about Oregon boundary
or --

MR. UZES: We had a meeting, met with the attorneys
and state land officials in Oregon and sort of established a relationship with them to continue working in the future.

CHAIRMAN CORY: Okay.

If there's nothing else to come before us, we stand adjourned. Thank you for your patience.

(Thereupon the meeting of the State Lands Commission adjourned at 11:15 a.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 meeting was reported in shorthand by me, Eileen Jennings, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of December, 1984.

EILEEN JENNINGS
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