MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, APRIL 25, 1985
10:20 A.M.

ORIGINAL

Reported by:
Cathleen Slocum, C.S.R. #2822

PETERS SHORTHAND REPORTING CORPORATION
3435 AMERICAN RIVER DRIVE, SUITE A
SACRAMENTO, CALIFORNIA 95825
TELEPHONE (916) 972-8894
MEMBERS PRESENT
Kenneth Cory, State Controller, Chairperson
Susan Wallace, representing Leo T. McCarthy, Lieutenant Governor
Nancy Ordway, representing Jesse Huff, Director of Finance

STAFF PRESENT
Claire Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Chief Counsel
Jane Smith, Secretary
Lance Kiley
Blake Stevenson
Dwight Sanders

ALSO PRESENT
Jan Stevens, Deputy Attorney General
Rick Frank, Deputy Attorney General
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Adjournment
Certificate of Shorthand Reporter
---o0o---
CHAIRPERSON CORY: Call the meeting to order.

Are there any corrections or additions to the minutes of the March 28 meeting? Without objection, the minutes will be confirmed as presented.

We have the report of the Executive Officer.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, the report is before you. If you'd like me to read it in the minutes, I will, but I don't think we need to.

CHAIRPERSON CORY: Any questions of Commissioners on the Executive Officer's report? Okay. It will be accepted as presented.

COMMISSIONER ORDWAY: Can I ask which items are off calendar?

EXECUTIVE OFFICER DEDRICK: The items off calendar is Number 13 and Number 20.

CHAIRPERSON CORY: 13 and 20 are off calendar. The next item we have is the Consent Calendar, which are the items Cl through 11. They will be taken up in a single motion unless someone in the audience has some objection to the proposed staff recommended handling of those items. So if anyone doesn't like the proposed authorization, they should speak up now and we will remove the item from the Consent Calendar. If not, it's going to
be one motion and they're all going to be taken care of and it will be over and done with.

COMMISSIONER ORDWAY: Motion.

CHAIRPERSON CORY: Motion, second, Consent Calendar be approved as present.

Without objection, that will be the order.

Item Number 12 we are going to take up as the last item on the agenda. I think it will serve people's time if we did in that --

Item 13 is off calendar.

Item 14, approval of termination of 59 right-of-way leases and issuance of a new master lease for PG&E.

Is there anybody in the audience on this item?

Any questions of Commissioners? Without objection, Item 14 will be approved as presented.

Item 15, authorization to enter into Memorandum of Agreement regarding treatment of cultural resources on lands received from BLM. This is a tripartite agreement, California State Historical Preservation Officer?

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON CORY: Lands Commission and the Bureau.

EXECUTIVE OFFICER DEDRICK: And Bureau.

CHAIRPERSON CORY: Anybody in the audience on this item?

Questions of Commissioners? Without objection,
Item 15, authorization is granted.

Item 16, authorize the issuance of a patent title of 80 acres plus or minus school lands. This is the peak where we got the wrong peak; right?

EXECUTIVE OFFICER DEDRICK: Right.

CHAIRPERSON CORY: Is there anybody in the audience who has any problem with this item?

Questions of Commissioners?

Without objection, Item 16 will be approved. Authorization will be granted as proposed in there.

Item 17, authorize an execution of an interagency agreement with the Department of Forestry covering vegetation burning on 36 acres in Sonoma County. Anybody in the audience on this?

Questions of Commissioners?

Without objection, Item 17 approved as presented.

Item 18, this is a Commission-approved Memorandum of Understanding between the State Lands Commission and the Department of Water Resources for proposed use of lands or for a transmission line across the Kings River in Fresno County. It's pursuant to a statute. Is there anybody in the audience on this item?

Questions of Commissioners?

Without objection, Item 18 will be approved as presented.
Item 19 is the same although this is Barker Slough in Solano County.

Anybody in the audience on this item?

Questions of Commissioners?

Without objection, Item 19 is approved as presented.

Item 20 is off calendar.

Item 21, authorize the approval of the December '84 survey of the boundary in Mendocino County.

Is there anybody in the audience who disagrees with this fixing of boundary?

Questions of Commissioners?

Without objection, Item 21 is approved as presented.

Item 22, approval of assignment of a geothermal lease at the Geysers, Lake County. The assignor is Natomas; the assignee is Phillips.

Anybody in the audience on this item?

Questions of Commissioners?

Without objection, Item 22 will be approved as presented.

Item 23, award of royalty oil to Edgington Oil at 74 cents over. Is there anybody in the audience on this item?

Questions of Commissioners?
Staff, this is the high bid; right?

EXECUTIVE OFFICER DEDRICK: That is correct.

CHAIRPERSON CORY: Okay. Without objection,

Item 23, the award will be made to Edgington.

Such will be the order.

Item 24, award of royalty oil sales for 67 cents

a barrel over. Anybody on --

This is to Cal-Jet. Is there anybody in the

audience on this item?

Questions of Commissioners?

Without objection, Item 24 will be approved as

presented.

Item 25, assignment of lease and deferment of

drilling for state oil and gas lease PRC 6192 from

Shell Western E&P Inc. to Hershey Oil.

Anybody in the audience on this item?

Questions of Commissioners?

Without objection, Item 25 will be approved as

presented.

Item 26, development and operations and

budget plan for Long Beach Unit, Wilmington Oil Field,

Los Angeles County.

Anybody in the audience on this item?

We have -- Commissioners have the detailed report

before them, I believe. Any questions from Commissioners?
Without objection, Item 26 approved as presented.

Item 27, proposed authorization deferrment of drilling on PRC 2879, Santa Barbara County. Union Oil is the lessee.

Is there anyone in the audience on this item?
Any questions of Commissioners?
Without objection, proposed action as proposed will be taken.

Item 28, approval of amendments to four general leases for rights-of-way use, PRC 3014, 3015, 3016 and 3017 for Shell Oil.

Is there anyone in the audience on this item?
Is there any questions by Commissioners?
Without objection, Item 28 is approved.

Item 29, Texaco Trading and Transportation, approval of an amendment to lease PRC 550, general lease, and the consideration is $34,000 per year, five-year rent review.

Is there anybody in the audience on this item?
Any questions of Commissioners?
Without objection, Item 29 will be approved as presented.

Item 30, approval of a ten-year renewal industrial use lease for Chevron, San Luis Obispo County, Estero Bay.
Anybody in the audience on this item?
Any questions of Commissioners?

Without objection, Item 30 is approved as presented.

Item 31, this is a settlement of litigation covering a parcel of land along the Colorado River and, as I recall, there were fishing rights for each of the individual parcels faring and an additional easement --

MR. HIGHT: Public access easement.

CHAIRPERSON CORY: -- public access easement.

Is there anybody in the audience on Item 31?

Questions of Commissioners?

Without objection, settlement of litigation will be approved as presented.

Item 32, somebody wants to talk to us about.

EXECUTIVE OFFICER DEDRICK: Carolyn Sutter, Director of Tidelands Property from Long Beach is here.

MS. SUTTER: I was hoping to wait until after you voted on it.

Then my remarks could be directed appropriately.

CHAIRPERSON CORY: Okay. We can handle that one.

Hold on.

Is there anybody else in the audience who --

COMMISSIONER ORDWAY: Wants to comment to us after we vote or before?

CHAIRPERSON CORY: Before we vote. Anybody else on Item 32?
Any questions of Commissioners on 32?

This is to authorize the Executive Officer to execute an agreement with the Long Beach and the Board of Harbor Commissioners settling the Long Beach trust matters and transferring land to the tideland trust.

Any questions of Commissioners?

Without objection, the authorization will be granted.

You're on.

MS. SUTTER: Thank you.

I came to thank you, Mr. Cory, and Miss Dedrick and her staff for all of the work put in on this project and naturally we're going to reinvest the monies that is realized from this in the tidelands trust in ways that I'm certain will be pleasing.

Thank you.

CHAIRPERSON CORY: Thank you for being here and we hope you come up with some good programs for us down there.

Item 33 is a compromise title settlement involving lands at the junction of West Point Slough and Redwood Creek in San Mateo County.

Is there anybody in the audience on this item?

MR. IVESTER: Mr. Chairman.

CHAIRPERSON CORY: Yes.
MR. IVESTER: David Ivester and Ed Johnson from Ideal Basic Industries.

We filled those slips out in case the Commissioners had any questions.

CHAIRPERSON CORY: Is there anyone else in the audience who wishes to address the Commission on this proposed settlement compromise?

Any questions of Commissioners?

Without objection, proposed compromise title settlement be approved as presented.

We thank you gentlemen for being here to answer questions had any arisen at this hearing.

Now, go back to 12.

Okay. We have before us in Item 12 a request for authorization to amend the existing permit to allow 15,000 feet of emergency bank protection work along the Sacramento River south of Chico Landing, Butte and Glenn Counties. I believe we have, we have the people from the Board here.

MR. BARSCH: Yes, sir.

CHAIRPERSON CORY: Would you like to tell us why you believe that this should go ahead as an exemption from CEQA? I think that's the question before us.

MR. BARSCH: Yes, Mr. Chairman. We have -- COMMISSIONER ORDWAY: Could you identify yourself
for the record?

MR. BARSCH: I'm sorry.

I'm Ray Barsch, General Manager of the Reclamation Board and on my right is Dave Anderson, Coun's for the Board.

Because of the complexity of this item and the importance that we have placed on this, I would like to ask Don Meixner who is Chief of the Division of Flood Management from the Department of Water Resources to just kind of brief us on how the Interim Plan of Flood Control fits into the overall project of levee maintenance of the whole program.

CHAIRPERSON CORY: Can you explain to me why that is relevant to the question of whether or not there is an impending emergency that justifies the exemption from CEQA because I think that is the question before us as I understand where we're at.

MR. BARSCH: Right. I just felt in order to see how it all fits together that we, I just feel that we need a little background on it. Now, if you don't think that's necessary, we can go to the next phase I guess.

We feel --

CHAIRPERSON CORY: You have a real uphill battle as to why you should be exempt from CEQA. You know, I'd like for you to take your best shot explaining to us why
this particular project does not come under CEQA or comes under a specific exemption to CEQA. That's the thing I think we need a record to enable us to come to that conclusion because that seems to be the crux of it.

MR. BARSCH: Right.

CHAIRPERSON CORY: We need that information to get to the emergency question.

MR. BARSCH: Right. I just feel that in order -- this thing is complex. We have four sites, and it's not just like building four buildings and you build them or not build them. This thing has to operate as a system and I think until we kind of see how the system works, then in order to get, move from that into site by site why the sites have to be done this year.

CHAIRPERSON CORY: The question is what is the emergency.

MR. BARSCH: If we do not do this work this summer, each and every one of these sites has the potential at the next high water to cause an emergency, and that's the reasoning we're using on each and every one of these --

CHAIRPERSON CORY: If you can address that issue, use your time, you know. Take your best shot however you want to use it.

MR. BARSCH: In that case, we have with us a consultant that we have used and your staff has also worked
with and his name is Jerry Elliott. He works for the firm of Murray, Burns and Kienlen. I would like to ask him to go through the reasons why each of these sites needs to be built to prevent an emergency and we can start at site one upstream or work down, or whatever you choose.

CHAIRPERSON CORY: It's your time. Take your best shot.

MR. BARSCH: All right. Jerry.

CHAIRPERSON CORY: Mr. Meixner, or whatever, I just want you to focus in on what we need to do to get to where we can vote for what you want us to vote for.

EXECUTIVE OFFICER DEDRICK: Can you see those all right?

CHAIRPERSON CORY: Uh-huh.

EXECUTIVE OFFICER DEDRICK: They're okay.

MR. ELLIOTT: Good morning, Mr. Chairman, and Commissioners.

I'd like to introduce myself. I'm Jerry Elliott. I am a Civil Engineer with the firm of Murray, Burns and Kienlen here in Sacramento and we deal almost exclusively with, have been, that is, with flood control, the flood control project, flood damages, and we are consultants at the present time to the Attorney General's Office and to other people involved in flood control.

My experience goes back over 20 years with the
Sacramento River and monitoring it annually and during flood periods and I think I have a fairly extensive background related to the changes that have been taking place.

As Mr. Barsch mentioned earlier, the upper part of Butte Basin functions as a part of the Sacramento Flood Control Project. Generally at the maximum design flows the flood flows at the latitude of Chico Landing to Ord Ferry is about 300 cubic feet per second. We have to pass about half of that into Butte Basin so as not to exceed the project capacity at Butte City. To get right to it, these four sites in my opinion are necessary to be protected and stabilized as they exist today to enable this to happen.

I'd like to speak to them basically as two general areas of the river, but it does encompass the four revetment sites that are proposed.

The most upstream one is known as Monroeville Bend and Murphy Slough area. What I have here are some photographs which are dated on the left September 1974. These aerials are photoverticals. On the right is June 1984 of this reach of the river which you may already recognize. This is the Chico Landing area here. The Chico Creek comes in. This is the so-called Phelan Levee that's been there for many years. Comes around like this to the Murphy Slough plug which you either have heard about
or will hear about at this particular location here and it terminates, goes to natural ground at about this location. This is the Monroeville Bend which comes around this way in an "s" or a switchback and approaches the Murphy Slough plug at this location. Distance today of only approximately a thousand feet.

We continue on downstream and the photo ends just above the location of the Ord Ferry Bridge and on downstream about six miles or so is the beginning of the Left Bank Project at South Parrot Grant Line. The location of the Ord Ferry Bridge is the Right Bank Project Levee at the upstream end of it.

This area is actually the head of Butte Basin and it's the first opportunity for excess flood flows to leave the main river channel and depart into Butte Basin, which is a part of the Flood Control Project. It's considered to be a bypass or storage system for the excess flows of the Sacramento River which occur almost annually.

The overlay here that I have on the left, I have overlaid in blue the river channel as it existed in June of 1984, essentially today, on the 1974 photograph, a period of approximately ten years. We can see at this location -- well, all right, let's take the upstream first. Monroeville Bend, Road 29 area, as you can see in the approximate ten-year period, the river has extended a
distance of approximately a channel width at this location or a distance of about 500 feet maximum. This has been going on actively eroding for the past approximately 20 years at this location, although not specifically at this particular site. We can see here just downstream, and I'm pointing in this area now. just downstream or just below the Murphy Slough plug, the river is approaching the plug area and is threatening to destroy the so-called terrain: anchors to which the Murphy Slough plug is attached. In order to make it a viable part of the project, there has to be something on which to build it. The extension of the Monroeville Bend itself could cause a couple of things to happen. One, for the river to bypass, cut off this bend here seeping in the gradient, lower the water surface elevation at this location and diminish the ability to get water out of Butte Basin, out into Butte Basin at the so-called Chico Landing weir: site up here, but also cause a diversion of flow if there is a cut-off at this bend due to if extension is allowed to continue and destroy the revetment work that has already been placed downstream and also jeopardize the Murphy Slough plug which is again at this location. So this can be attacked or in jeopardy from two different locations. From the extension of the bend at this location and moving toward Murphy Slough plug and also the potential for this
to extend and cut off and cause also erosion in this area or a bypass in direct shot down to the Ord Ferry Bridge at this location.

So in my opinion not that it would necessarily occur next year, but it is going to occur if it's allowed to continue and once a flood is in progress, it is impossible to really prevent further damage at that time.

CHAIRPERSON CORY: How long is this condition been building? You say it's been going on for 20 years?

MR. ELLIOTT: Well, in some form or another. Not at this particular location. This erosion started all within the last three or four years would be the most active at this particular location. This has been moving for some time, but not to the point where it's, where we're just running out of space at this location.

As I said, we only have a thousand feet at this particular site before we lose. If this cuts off here, the entire Sacramento River will come through this.

There's about eight-foot head differential, eight-foot difference in the water surface elevation between the upstream side at the Murphy Slough plug and the downstream side. If this comes through here at which it did in 1970 and 1974, the water surface drops, the water surface drops up here along the Chico Landing weir site, the head of the overflow, by about three feet under
those conditions, and you greatly diminish the ability to get the flow that has to be gotten out at this location as a result of that.

So I think those two things, these two sites, Monroeville Bend, Road 29 site, and the site just below Murphy Slough plug are rather work in concert to stabilize this entire bend and maintain the split of flows, if you will, into Putte Basin and on down the Sacramento River.

CHAIRPERSON CORY: I don't think there is any question that some type of work needs to be done in this area. The purpose I think of this hearing is to deal with the question of identifying the emergency nature and why is it that if that's been building for three or four years, how are we justified in shortcircuiting the CEQA process? I think that's a critical question that must be dealt with and that's where I think we need to focus. Just because the work needs to be done doesn't mean that you can violate CEQA. CEQA is not to prevent work. It's just to make sure you know what you're doing when you do it I think. So that's I think the question before us is how do we get around to make a finding of fact that there is some impending emergency that something more than the facts we have self-created it. I mean, there is a classic definition of a Yiddish term, "chutzpah" of a
A young lad who kills his mother and father and places himself before the court pleading mercy because he's an orphan and that's the argument you have to overcome. If you've been sitting around for three or four years knowing this is the problem it is and that now to come in and say, gee, because we haven't done anything you have to find an emergency and, therefore, we get to violate the law, I think we're all likely to get in trouble if we opt for that option unless we create a fairly good record as to why there is an emergency that must be dealt with at this point in time.

COMMISSIONER ORDWAY: How much above or below average rainfall would cause an emergency next winter or spring on that river?

How much water has got to be moving?

MR. BARSC: Don.

MR. ELIOTT: Don Meixner might answer that better than I could.

COMMISSIONER ORDWAY: Would there be an emergency created with normal rainfall?

MR. MEIXNER: With normal rainfall, usual average rainfall, no. A once-in-a-hundred-year occurrence will undoubtedly wipe out Murphy Slough plug.

COMMISSIONER ORDWAY: How frequently in the last 100 years have we had a hundred-year flood occurrence?
MR. MEIXNER: Since Shasta Dam we haven't had.
We've had 50 year.

COMMISSIONER ORDWAY: How frequently have we
had 50 year? I assume a 50-year flood would do the same
thing?


COMMISSIONER ORDWAY: Am I correct that a 50-year
flood would do the same?

MR. MEIXNER: A 50-year flood --

COMMISSIONER ORDWAY: Or would it not?

MR. MEIXNER: In my opinion a 50-year flood would
destroy Camp 2 Bend, cause a cutoff at that point. 1983
was a 50-year event. Conditions were different at Murphy
Slough plug in 1983. A 50-year flood could destroy
Murphy Slough plug. A 100-year event would destroy
Murphy Slough plug.

COMMISSIONER ORDWAY: Thank you.

MR. BARSCH: The Reclamation Board has had varying
testimony before the Board on this and you can play with
these numbers, one in ten years, one in fifty, one in a
thousand, but no one can predict next year's rainfall.
We could get the one in one hundred, we could get the one
in fifty.

COMMISSIONER ORDWAY: I'm not asking you to. I
just wanted to get a sense of what damage is done at
various rain levels.

MR. BARSCH: I'm saying it's not an exact science. We can't say that the one in ten won't do it or the one in fifty. We know that in the last 20 years we've had four flood events that would cause damage or would case the loss of this bend and this would be devastating downstream. If you overload the project system, you get more in the levers downstream then 150 CFS, in other words, the water is not allowed -- 150,000 cubic feet per second between the project levies, then something's got to give. You break a levee downstream somewhere. That's all we're saying here. Last year we made it through. Last year --

CHAIRPERSON CORY: Why did you not start the CEQA process last year? That I think is the real bottom line question. What strange phenomenon or what has occurred that allows us to say, yes, it's okay to violate --

MR. ANDERSON: Excuse me. I'm David Anderson, Counsel for the Board. There had been some misunderstanding as to the application of CEQA to this project. But what I would like to --

COMMISSIONER ORDWAY: Could you explain that, why there would be a misunderstanding?

MR. ANDERSON: Because this area is part of the
there are a number of weirs up and down the Sacramento River that take water out of the river and put it into Butte Basin and the Sutter Bypass. If you get too much water between the levees, you're going to have a levee overtop and you're going to have some serious damage. Half of that water goes out in Butte Basin which is an unimproved section of the river, and viewed then for quite a long time, also because of the history of the Sacramento River bank protection project, was that that was a maintenance activity of a preexisting project.

CHAIRPERSON CORY: Try to be real slow on that one.

I did not understand what you just --

MR. ANDERSON: The Sacramento River Flood Control Project was authorized in about 1911 and a bypass in the weir system has been built up over basically in the twenties and thirties and forties. The functioning of the Butte Basin overflow area as a weir is essential to the operation of that project and the Corps of Engineers has expected us to maintain that in order to keep the project working. We have viewed it as project maintenance and that was the reason for the thinking that perhaps CEQA did not apply or not that it did not apply but there was a maintenance exemption to this.

Mr. Cory, if I could --

CHAIRPERSON CORY. You are sitting here of the
opinion that the only way we can proceed is to find an
emergency, that that is the only statutory thing, way we
can get to that point. Now, is there any disagreement with
that interpretation?

MR. ANDERSON: At this point we are saying that
the reason for the exception is emergency, yes. That's
what we're saying. If I could, I'd like to address your
earlier point --

CHAIRPERSON CORY: Fine.

MR. ANDERSON: -- as to why it kind of looks
like we're coming in at the last minute and how that looks
bad.

I'd like to point out that the rock work that we
put in to protect the site, to protect the river elevation,
is done under the authority of the Sacramento Bank Protection
Project which is a federal project. That project had not
been formally recognized and no funds had been appropriated
by Congress until 1983, fiscal year '83-84. So our
authorities follow federal authorities.

COMMISSIONER ORDWAY: That still gave you enough
time.

MR. ANDERSON: I was answering sort of a question
as to how late are we. It hasn't been four years that
we've been recognizing this problem and not acting on it.
Actions have been taken on an ad hoc emergency basis under
emergency work prior to this. We adopted an interim
plan of flood control in March of 1984 once Congress had
given the authorization and the money to do it. So that's
the time schedule that we've been operating on. I just
wanted to clarify that.

MR. BARSCH: Also, it doesn't exactly speak to
your question, but the Board at the last meeting,
April 19, did vote and asked or directed staff to
do an EIR on this area that would include this work that
it's proposed to do this summer. So we'll take in any
of the effects from an environmental standpoint of this
work into that EIR that's going to be prepared.

COMMISSIONER ORDWAY: What's the time line of
the EIR?

MR. BARSCH: It should be out by December of this
year. Of course, the Corps of Engineers did an EIS on this
entire area previously.

COMMISSIONER ORDWAY: When was the EIS?

MR. BARSCH: It was finished this year, the last
supplement to that was finished.

MR. SANDERS: Mr. Chairman, if I can elaborate.
The final supplement to the Final Environmental Impact
Statement has a date of January 1985.

MR. BARSCH: Thank you.

EXECUTIVE OFFICER DEDRICK: We calculated that
a supplement to that EIS, which would comply with CEQA, could have taken roughly 45 days, 45 to 60 days. Sixty was depending on how much work was necessary to do the job.

MR. ELLIOTT: I wonder, Mr. Chairman, if I could say one more brief statement, please, about -- this goes sort of toward the emergency nature. We go back to 1955, we had a major flood on the Feather River. The levees were overtopped downstream of Yuba City on the right bank. There was also a levee break without overtopping further downstream at Nicholas and other minor breaks on the Western Pacific Interceptor Canal. Some 150,000 acres of land, as I recall, was flooded. Forty-two people lost their lives in the Sutter County area.

In 1954 the last stretch of levee on the right bank, the upstream end of the project on the Feather River was completed up in the Biggs general vicinity. A wide overbank area on the right bank of the main channel of the Feather River was proposed to be cleared. The contract had been let. Between just below the mouth of the Yuba River and upstream of what is known as Shanghai Bend, a distance of about two and a half miles, as I recall. The clearing was held up by the Department of Fish and Game. The December 1955 flood occurred. The levees overtopped and broke the length of about 1800 feet there and, as I say,
flooded Yuba City and killed 42 people plus maybe some that were not identified.

    I worked on that flood. In defense of the State of California in the flood litigation that ensued in 1964, hydraulic studies that I participated in indicated that had that clearing been done, the water surface at that location at the time of the peak would have been about a foot and a half lower which would have put the water surface elevation below the crest of the levee. I can't say that the levee wouldn't have failed in any event, but nevertheless, the levee being overtopped is certain to fail and no one in 1954 or 1955 prior to December predicted the flood of that magnitude, obviously. They wouldn't have had anything to base it on if they did.

    So that's sort of the situation potentially that we might be talking about here as far as overloading the system.

    CHAIRPERSON CORY: I have no quarrel with that end of it. My concern, and I have a strong personal interest in making sure that you do a good job maintaining the levees on the Sacramento River.

    MR. ELLIOTT: That's what I'm interested in also.

    EXECUTIVE OFFICER DEDRICK: He lives there.

    CHAIRPERSON CORY: But I'll tell you what I see from the record now, I think somebody's got a dead bank
winner in filing a lawsuit keeping you from proceeding
even if we approve this because we got nothing in the
record to explain why it is we haven't complied with the
laws of government. We passed these laws. We have to
comply with them. If we approve this, I would think we are
going to get this job done much later than if we don't
approve this if we're talking about a 45, 60-day compliance
with CEQA because I don't have anything that I've heard yet
that leads me to believe that we shouldn't comply with CEQA.

Now, you may not like the law, but it is the law
and just too many times these kinds of shortcuts end up
in taking more time and I think that's the question before
us. If it takes you 45 days to go through and by the
numbers and by the book, it seems to me we're all going to
be better off and we're going to get that done quicker because
once it gets into the hands of the courts it's going to be
longer than 45 days. I don't know where the other
Commissioners are, but I don't see a whole lot in this
record yet that deals with the question of why do we have
to proceed right now and why haven't we gone through the
normal process that the statute contemplates. I think
that's the real question. We may have to pay more overtime
because we didn't act as a government in a timely manner,
but I'm not so sure that the court isn't going to say that's
your problem and that's what you need to do and that's
my great hesitancy. So give us some kind of a record if 
you've got something. At this point I'm not persuaded to 
vote. I want the stuff done, but I think we got some 
problems with the record.

MR. BARCSCH: Well, we've got four sites. Each and 
every one of them has its own peculiar reason why it needs 
to be done because if the work isn't done, it could fail 
and it really gets, it seems to me it gets down to if we 
knew it wasn't, we weren't going to have a wet year --

CHAIRPERSON CORY: No. Wrong question. Wrong 
question. Why have you not complied with CEQA? Why are 
you using the emergency procedures as opposed to in 
'83-84 when you knew the appropriation was made, why 
wasn't the 45 to 60 days to do the EIR done so we could 
proceed? I mean, why are we here under an emergency thing 
rather than having an environmental report in front of us 
where we can say fine, boom, boom, automatic, go on the 
consent calendar. That's the question. We have got to 
have some sort of a record so when we go before the court 
we can defend ourselves as to why this is an emergency. 
Other than the fact that we just didn't do our work in a 
timely manner. I think that's our problem. Because I 
think we lose it. If we go this way without anything in 
the record, I'm afraid we lose and then we are clearly not 
going to get it done in any manner by this winter.
MR. BARSCH: Well, it seems to me like we can't back up in time. Other than that we didn't, we honestly didn't feel we had to go through the CEQA process until, I don't know, a month or two ago. So we've been working on that.

COMMISSIONER ORDWAY: Why?

CHAIRPERSON CORY: But two months ago is 60 days. We could have a CEQA report completed by then.

COMMISSIONER ORDWAY: Why wouldn't you think you had to go through CEQA?

MR. BARSCH: Because we were under the understanding that we had a permit to do work for maintenance and that maintenance, if you do work on an existing project for maintenance that predated CEQA, you were exempt from CEQA.

COMMISSIONER ORDWAY: But not all the projects are existing projects that you had done repair work on before, so how did you think it applied to all the projects?

MR. BARSCH: The permit we had covered 194 river miles of the Sacramento River for maintenance of the project levees. We interpreted that to mean that we could do work to maintain those levees. The work in this area is critical. That's why I wanted to go back to the interim plan of flood control to show you why the relationship between the project in Butte Basin and how it has to
overflow in this area or we bust the billion dollar system that's already been built. That's, you know, it goes together. In other words, you —

EXECUTIVE OFFICER DEDRICK: Excuse me. The permit that I think Mr. Barsch is referring to is a permit this Commission issued last June. That permit was processed and approved under a categorical exemption for maintenance from CEQA and the permit was for maintenance on existing construction. That is to say, not for new construction. The Commission action was very clearly stated that the permit was not for the whole 192 whatever it was there, but for the maintenance of a placement of rip-rap on existing rip-rap.

COMMISSIONER ORDWAY: How many of the four project sites fall under that permit, Miss Dedrick?

MR. BARSCH: All four sites fall within the length of the permit.

COMMISSIONER ORDWAY: That's not what I'm asking. I'm asking how many of the four sites fall within the purview of the permit that we issued last June?

MR. KILLY: The s...f doesn't feel that any of these four sites fall within the purview of that permit because no previous rip-rap work had ever been done here. So we didn't believe it was maintenance.

MR. FAYE: We say it does. That's all.
MR. KILEY: Personally I did not believe that that constitutes maintenance.

MR. BARSCH: Mr. Chairman, I have Marc Faye, one of our Board members is here. He'd like to speak on that point.

MR. FAYE: That's what it is. Our position simply, in my opinion, as a farmer and a member sitting on that Board, is that that work has been maintenance. It always has been considered maintenance and it's part of what we've been doing. We did not feel it was something that was outside the permit and from my point of view we now have a difference of opinion between the staffs of two agencies.

COMMISSIONER ORDWAY: When did the difference of opinion come up? We've been arguing this since last June?

MR. FAYE: Quite recently.

COMMISSIONER ORDWAY: We've been arguing it since last June?

MR. BARSCH: No, March of this year. March 12 there was a letter.

MR. FAYE: So we no longer have the 45 days to go back and do that. That's why we need the emergency today. We're willing to resolve those issues between the staffs and have it resolved, but I don't feel as a citizen
that difference of the government opinion between agencies should stop this work. From my experience, I've been on that Board for six years, we've been putting work off on that section much too long. We're down to a desperate point. If we delay another summer, I think it's irresponsible on the part of the State of California, and you can lay your blame on whatever bureaucracy failed in the system. But we should not prevent the work. That's my point.

CHAIRPERSON CORY: But my point is if we proceed this way, trying to cram something into an emergency not having anything, you know, that really makes me feel comfortable --

MR. FAYE: I understand.

CHAIRPERSON CORY: -- I think somebody's going to issue a temporary injunction and nobody's going to do anything. I think that's a slam dunk looser for the State of California.

MR. FAYE: That's what's going to happen if we don't take action anyway. Nobody's going to do anything. We're at the point now where we're, actually passed the point where we should have had those contracts working. So I think we're in an emergency position. If we have to fight it out in court, we would. But I think we have a defensible position. But that's my personal opinion.
simply because I'm saying, I'm maintaining that we're under permit already.

CHAIRPERSON CORY: Okay.

MR. BARSCH: About a week ago the Executive Officer called me from Los Angeles and said if you'll get a request for an application or a permit or license or whatever you want to call it over to the staff this Friday, we'll ask the Commission to approve under this CEQA ruling for the four sites. Now the whole issue has come up about whether we have a permit or not. But we were trying to go through this in order to satisfy your rules, your laws, so that you're doing what you have to do and we're doing what we have to do. We have three agencies, the Department of Water Resources, the Reclamation Board, and the Corps of Engineers. We're charged with the responsibility of maintaining this flood control project. These people have all met. They've all agreed that these sites are critical and have to get done. The next flood could break them, could overload the project system and now it seems like we're just arguing over semantics or whose rules on who. I realize that you can't give out a sort of just a blanket permit to just let us do things. We're going to do an EIR in this area. I want to know who would try to stop us? I understand there is some opposition. But the main opposition was from the Sacramento River
Preservation Trust. They have agreed orally and essentially in writing that they do not have a problem with doing these four sites. I don't think there's anybody standing in the wings who's going to sue us for maintaining the flood control project to the Sacramento River.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, may I speak to Mr. Barsch's earlier comments in his statement?

CHAIRPERSON CORY: Okay.

EXECUTIVE OFFICER DEDRICK: About somewhat over 60 days ago it came to the attention of our staff who immediately brought it to me that the Reclamation Board had a contract with the Corps of Engineers with, as I understood it, start work date of somewhere around either April 15th or May 1st to carry out this project and that they thought they had a permit from the State Lands Commission.

As I stated earlier, the permit they had does not give them permission to do what they want to do, nor could you have legally issued such a permit under a categorical exemption for maintenance on existing structures. I called Mr. Barsch, notified him of the problem. I talked to Bob James who is Chief Counsel at Department of Water Resources and convened a meeting in my office to discuss the issue. It became clear at that meeting that a supplement to the EIS, the federal document, would
probably be adequate to comply with CEQA and allow you to
issue the permit they request.

I thought at that time we had made that clear.

I notified, I had a letter in my hand available that day
to send to Mr. Barsch. I told Mr. Barsch I would like him
to review that letter to see if he had any serious problems
with it prior to my sending it. He did review it. He
stated that he felt that they had a permit. I told him
that I was advised that they did not have a permit and
as Executive Officer I sat in that meeting, I briefed the
Commission. The Commission knew what was happening. There
was a member of the Rec Board staff present who stated on
the record that he understood the permit and that the
permit did not cover what they said. I then advised
Mr. Barsch as I had advised again the, ultimately, the
Deputy Director of the Department, Alice Cunningham,
that an environmental impact work must be done. That we
put together a protocol as to the amount of time that would
be involved, the exact items that State Lands Commission
thought had to be addressed by the Reclamation Board in
such a document and estimated that from 45 to 60 days of
work, depending on the amount of time allocated by the Rec
Board, would be adequate to put you in a position where you
could vote for these permits.

Recently within the last three weeks we were
apprised that they simply would not go that route. I was advised that there was a possibility that they could make adequate findings under CEQA's emergency exemption to qualify for, to allow you to issue this permit. I apprised Mr. Barsch of that fact two weeks ago and said that if you can come up with findings which convince the Commission and the attorneys will agree and therefore advise the Commission that these findings are adequate under the law to justify an emergency exemption, I will go forward on that basis. The reason the issue is before you is that reason. I agreed that we would at least try that route after the Reclamation Board staff at least had refused to try to pursue the Environmental Negative Declaration and initial study route.

MR. BARSCH: I'd just like to say we didn't really refuse to do that. We just felt that under the -- there is a problem with timing on all of this. We're restricted on the amount of time we can work in the water in the Sacramento River because of turbidity, inundation, a lot of reasons. There is such a short time that the Board can do their work, that if we allow -- they have to advertise, they have to have bids, they have to go through the whole procedure and it's on a very tight schedule. Forty-five days would essentially stop the work this summer. When she called and said that we could do it, go this or at
least make this presentation, we said let's go that way.

EXECUTIVE OFFICER DEDRICK: Mr. Barsch, more than 60 days have passed since I advised you that within 60 days --

CHAIRPERSON CORY: I don't think any of that is -- we've got to deal with the question of can we find an emergency or can we not. So if you would like to --

MR. BARSCH: I guess I'd just like to say back to the point that if we get a flood this year, we've got an emergency. If we don't do this work, we've got a problem. If somebody can say, okay, if it rains and we have a problem, we lose a levee, we flood a town, we'll take care of it, then I guess we can say all right, we'll do an EIR and do this work next year. But I don't see how anybody can take this responsibility.

CHAIRPERSON CORY: Nice cheap shot. We'll go on to the next person.

Mr. Cook. You look vaguely familiar.

MR. COOK: My name is Walter Cook.

CHAIRPERSON CORY: I'd never guess.

MR. COOK: It's a great deal of pleasure that I have a chance to appear before the Commission again having retired several years ago.

I'm here speaking primarily on my own behalf.

I personally live along the Feather River, a short distance downstream from Shanghai Bend which was recently mentioned.
I know that if we have a flood equivalent to the 1954-55 flood at Yuba City that the levee at my place may very well not be enough. I may end up wet and washed out.

I have a personal stake in that in that sense and I think that you can say that if we have an extraordinary flood, most anybody that lives along the river could be washed out. I think that's perhaps one of the risks that we take.

I can't imagine arguing that it's an emergency because there might be a 100 year flood that would overtop that levee. I know in the 1954-55 flood I've been told by people that were there that the water was at the top of the levee. Had it not broken on the Yuba City side, it probably would have broken on our side.

That's personal and I'll try to keep this as short as I can and get to something a little more specific.

I'm also representing the Sutter-Butte Chapter of the National Audubon Society who has not had the opportunity to take specific action with respect to this request for permit from the Commission but has taken action to support AB 722 which is before the Legislature to postpone the rip-rapping on the Sacramento River until an adequate study of the meander belt alternative is made.

It's rather interesting because even though that's before the Legislature and will be coming up in fact Monday before
one of the committees, it's rather interesting this
particular emergency will complete one-third approximately
of the specific reach of the river that this interim
plan involves. It will complete it without waiting for
any further study. It will be an accomplished fact when
that bill is perhaps passed.

I'd also like to say that with respect to
another organization, Sportsman for Equal Access, that
I have talked with a number of the directors and they are
generally opposed to the rip-rap project in general. We
haven't had a chance for resolution. I will try to get to
the emergency. I'm merely pointing out that this is a
very serious thing I think and that I certainly feel that
the EIR goes to the very heart of what's being done here
and the attempt to shortcircuit the EIR process and to do
a major portion of the project without the EIR, it creates
a real problem.

As far as I'm concerned there are a number of
things that cause considerable skepticism on my part as
to the credibility of the statement that this is in fact
an emergency. One of the things is that, talking about
the maintenance of this portion of the river, in the
proposed interim plan of flood control for the Sacramento
River from the Butte County line to Chico Landing of March
1st, 1984, which I was given this morning by Mr. Stevenson
and which I believe you have as part of the record, in that
this whole area was stated to be a no man's land because
it was not within the authorized area of the currently
active Sacramento River Bank Protection Project. This
was apparently amended in 1983 to fund work in this
particular area. Prior to that it had not been deemed to
be of great importance apparently. It was on a deferred
at least basis.

I should point out historically that one of the
reasons this is a no man's land and this has not been
subject to the leveeing projects that we've had on the
rest of the river, is that back in between 1917 and 1925
under the Debris Commissioner report, the land owners in the
Butte Basin asked and voluntarily withdrew from the flood
control project. They did not want to pay the cost of
reclamation from the Sacramento River. As a result the
water has flown in there and they felt at that time,
part of the statement was, they felt this was beneficial.

In any event, we feel that there is a real
problem. There is another thing and I would like to, unless,
if the Commission would accept it, I have charts and maps
which were taken from this matter that was just given to me
this morning by Mr. Stevenson. I can give it to the
Commission or I can refer to them just very quickly.

COMMISSIONER ORDWAY: We'll accept them.
CHAIRPERSON CORY: Accept them.

MR. COOK: What happened a year ago the Reclamation Board made these studies and they determined that there was an emergency at one station of the river. They determined that there were four sites which were 1-A priority but not emergency a year ago. Those I've taken the liberty, Mr. Cory, of highlighting the ones that we are dealing with here today. If you'll notice they are all 1-A. Towards the top of the page you'll notice that there is one which is not being dealt with today which is an emergency reference. My point is, if it was not an emergency a year ago after the '82-'83 floods, I question whether there is an emergency today. They didn't apparently think it was there then.

In addition, I'd like to point out that the same engineering firm that just spoke to you prepared what was called a 50-year meander belt. We have the maps. The maps are available to State Lands and the topography with this meander belt line on it. Apparently on a 50-year basis the river would not do all the things that they're talking about. Apparently on a 50-year, so-called 50-year flood, it's unlikely that there would be, I think it was mentioned -- I don't think it was unlikely -- I think they mentioned that it's possible that there would have been excess water going into the Butte Basin but possibly not.
On a 100-year flood this plan, the interim plan and the EIS that we already have, on a 100-year flood, it's not covered. The EIS, every plan they have is only a 50-year plan up to this point. Therefore, whatever they're doing here apparently is not adequate for a 100-year flood which the engineer stated would no doubt break out the Murphy plug.

I think that with respect to the three sites on the left bank of the river where there are these, what they call F.D.F.'s on those maps that you have there, the Parrott F.D.F. and M&T and another one, the name escapes me -- I just read this this morning, so I'm a little bit not totally cognizant -- but in any event, the middle one is a proposed flow control into the Butte Sink. It doesn't even exist today. The water extends through that area at the present time and certainly there is no proposal here for rip-rap going into that proposed F.D.F. They do plan at some time in the future to build that meaning that there apparently is no control in that direction going into the Butte Basin. In addition to that on the Parrott F.D.F., which is further downstream -- I think I've highlighted that -- that's another structure. The rip-rap is proposed for that, but it also points out in this report that that control structure has been raised in excess of what the plans were, which were adopted several years ago by the
Reclamation Board as far as elevation. That will hold back water from going into the Butte Sink, however, they will change that if this proposal is adopted by the Commission today. So, in other words, there is a low holding water back from going into the Butte Basin there today according to this. It's along a ditch that they have so they can't seem to have that as a problem or as an emergency.

The lack of one at the middle one there, I think it's the M&T one, at least the middle one, the lack of the control structure, the fact that it isn't even built doesn't seem to be an emergency. It just seems that most everything you look at here indicates that there is no real, real emergency.

I would like to also say that it's clear from their report, from the Reclamation Board report, that I just previously mentioned, from which these particular documents were taken, that it is further the intent of the board that this interim plan of flood control shall remain in full force and effect until a permanent plan of flood control -- now, the interim plan is the one we're talking about the 50,000 lineal feet, or, you know, plus ten miles of which this is one-third, that this interim plan of flood control shall remain in full force and effect until a permanent plan of flood control, including reclamation of the Butte Basin, shall be authorized and constructed. This is a long term
plan, funds just now become available. Suddenly we find an emergency. It appears that the emergency is important where these proposals are. It appears that they just somehow fit the priority schedule for the plan even though when the plan was first set out a year ago it wasn't an emergency. It appears that all those things are very convenient.

If I may just look quickly at this map on the board, this I believe is 185.5. It's on the right bank of the river. How that controls water going into the Butte Basin I don't know, if that is the one that was mentioned previously as eroding 300 and some feet of the width of the river, that is going this way toward the road, which is on the levee. It's going in a direction which I don't understand an emergency there. I don't understand what that will do. Over here they say that this is eight feet lower than here which perhaps is the case, and perhaps this Murphy plug may be in danger. That may possibly be an emergency. I don't know. It wasn't decided a year ago as an emergency. It was merely a higher priority, one of the higher priorities.

This other end, by the way, has already been rip-rapped up here. It's a fact that this river working this way is unlikely. Down here we have another rip-rap on the right bank which is the opposite bank from the Butte
Basin. We have this one which is on the left bank and which does control erosion in this direction toward the Butte Basin. We have the Parrott F.D.F. modification needed. That is presently, according to this, several feet higher than it should be and it will only be removed in the event this is done. This is the, oh, the Three B F.D.F., that's the proposed one. This black is a proposed rip-rap, but they apparently do not consider this an emergency. They have a question mark for priority. This is to be done in the future. At the present time, water merely goes over the bank and on down into the Butte Basin. As pointed out here earlier by the engineer, it happens almost every year. The water goes into the Butte Basin. I won't belabor this much more, but I would like to ask that this report which Mr. Stevenson had on the interim plan be made part of the record. I'd like that those be made part of the record.

I would think just in a very brief summary, that the proposed emergency matches exactly what was proposed before there was any need to determine that there was an emergency and the emergency has the earmarks of a contrived method of avoiding CEQA and that avoiding CEQA is a very serious matter on this particular one.

I thank you very much, Mr. Cory.

CHAIRPERSON CORY: Any questions from Commissioners?
Mr. Cook, you are an attorney?

MR. COOK: Yes, sir.

CHAIRPERSON CORY: And you're still a member of the Bar?

MR. COOK: Yes, sir.

CHAIRPERSON CORY: So if you really felt strongly, let me put it this other way. If we should approve this, would you contemplate filing suit against us?

MR. COOK: Well, I'm not opposed to participating in lawsuits on this site. I have participated and am participating at the present time in one. I have participated in another one. We went on appeal to the Supreme Court. I can't tell you that I would in this particular instance. But on the other hand, I think in answer to your question would I contemplate, I certainly would contemplate it. I believe that there's no excuse for what's happening here and I really feel very strongly that this is an attempt to railroad something through without justification.

Thank you very much.

CHAIRPERSON CORY: Thank you.

Mr. Don Anderson.

MR. ANDERSON: I'm Don Anderson, President of Sacramento Valley Land Owners Association. I'm a land owner in the Monroeville Bend area, County Road 29. I have
with me today Bill Conan, also a land owner in County Road 29 area of Monroeville Bend.

Speaking to the emergency portion of the question this morning, naturally the first thing that comes to my mind is the declaration from the County Board of Supervisors: declaring Road 29 an emergency for protection of the county road. Prior to 1983 private funds of which Mr. Conan and myself were instrumental in developing placed some of the rip-rap being protecting that road which is now completely eroded. I think the black dots there point that out.

That is now gone. There is no protection for County Road 29. In addition --

CHAIRPERSON CORY: When did that disappear?

MR. ANDERSON: In 1983 when the river moved 500 feet. As it moved 500 feet, in addition to that, I have two neighbors, now, one of them has been in business there since 1927 in an walnut orchard, the Oscar Province residence.

Their barn is now 150 feet from the river.

The Harold Cartlidge residence is just upstream from the Oscar Province residence is in the same criteria. Two residences, two farm headquarters in jeopardy of going down the river. As a neighbor of theirs I don't really like to see that.
I think that's about all I have at the moment.

That's all I'd like to present.

CHAIRPERSON CORY: Okay. Any questions from Commissioners?

Okay. Thank you, sir.

George Basye.

MR. BASYE: Mr. Chairman, Members of the Commission, I'm George Basye. I'm an attorney in Sacramento. I'm an attorney for the California Central Valley Flood Control Association. I'm also an attorney for the Parrott Ranch Company, which is the area that's shown in pink at the lower end of that picture.

The Flood Control Association and certainly the Parrott Ranch Company urge that you approve what we understand to be a clarification of an existing permit given to the Reclamation Board for the Bank Protection Project.

First I'd like to say that --

CHAIRPERSON CORY: Let me stop and make sure you understand what we think the facts are. That there was a permit issued that was very explicit and clear on its face as to what it was and what it was not. Now, when we look at it, there is no question as to what that permit was last June. There was no question from the records that were presented to this Commission as to what it was and to the
extent there was a misunderstanding or a lack of reading
the English language, that may have occurred. But I just
want to make sure you get a chance to address the issues
that I think are going to control how people vote up here
to maximize the probability of you getting what you wish
to have happen. That there, if we are mistaken as to those
facts, we can get them out and all read them here, but I
think the staff has gone over that and it's my understanding
that the permit had explicit conditions upon it. Everybody
had sort of, yeah, we understand where we are. That's
not explicitly clear and that needs to be clarified.
If there's some other vagueness question that we need to
entertain, I'm willing to try to see what evidence will
be that. But I do not want to leave in the record some
implication that there is a vagueness issue here with
the question of defining the emergency.

MR. BASYE: Thank you, Mr. Chairman.

It was my impression, and I'm not prepared to go
into the details of that issue, but I had assumed, and
perhaps incorrectly, that a permit had been issued for the
Bank Protection Project. I'd like to address the subject
of what the Bank Protection Project does comprise. First
I'd like to suggest that we should distinguish very carefully
for the purpose of your consideration the Bank Protection
sites that are the subject of today's hearing and the
interim plan of flood control that Mr. Cook has been
talking about. Those are two totally different and distinct
issues and the interim plan of flood control has nothing
whatever to do with the issue of revetment of the riverbank
under the Bank Protection Project.

The Bank Protection Project is one of course which
is designed to protect the levee system of the Sacramento
River Flood Control Project from Chico Landing down. This
reach which Mr. Cook has described as a no man's land
and it was at one time referred to that, is within the
reach that is authorized in the project. It's within the
area of jurisdiction of the Sacramento and San Joaquin
Drainage District. It was a part of what was intended to
be protected by the overall project. It was, as Mr. Cook
says, left open for those upper few miles at that time as
a result of the request of the land owners. The
Parrott Ranch Company, which has owned the ranch there for
100 years, ever since the original grant, they thought that
it was safe for them to live with the river. They've lived
with the river for 100 years, since 1861 or 2. They were
accustomed to the problems that this river presented. What
they didn't appreciate in 1925 which they do now is the
impact of being the only area that is open to the river
overflow and flooding. That has contributed it would appear
to a serious erosion that's occurred in that reach which I'm
sure has been described to you already and which is
continuing and which, if allowed to continue, will jeopardize,
according to the engineers, the Flood Control Project
downstream. That's the purpose, of course, of the
Bank Protection Project. These revetment sites are simply
that. They are bank protection sites for the purpose of
holding revetment of the riverbank. They have nothing to
do with the impact of the overflow, which is what the
Interim Plan of Flood Control would address. That's a
totally separate issue of course, and that is still to be
resolved.

But it assumes that there will be a protection of
the present bank location which if it is not revetted as
proposed in this project, will continue to be moving
perhaps as much as several hundred feet per year. More
than that in the last very serious years. Fortunately
this last winter has been a mild one. We haven't had the
problems except it is continuing to erode at least in
the Parrott Ranch Company because it's an abrupt, straight
up and down riverbank.

CHAIRPERSON CORY: Commissioner has a question.

MR. BASYE: Yes.

COMMISSIONER ORDWAY: I personally don't have
a problem with the purpose of the project. My problem is
with showing me that there's an emergency that exists.
So could you maybe speak to that issue?

MR. BASYEA: Yes, I concur with the conclusion of the State Reclamation Board that there is an emergency. Now, the question is if it's an emergency, why wasn't it last year or the year before. Funding is now available to treat this. It's an emergency in the sense that the river is working very hard and in any sizeable year works very much harder than it has in this last year against that riverbank.

If that riverbank erodes, particularly the one on the Parrott Ranch, the farthest one down, the result of that will be, can very well be as the engineers say the river realigning itself behind the downstream project levee. It's working in that direction. We know that over the years the Sacramento River has moved in all directions. Below Chico Landing it can't be allowed to do that because we have a levee system that would be destroyed if it moved out of that levee system. That's what the river is trying to do at that lowest location on Parrott Ranch. We consider that to be an emergency. That's evidenced by the fact that there is very dangerous erosion occurring downstream in the farmlands, scouring a substantial hole. That's the river trying to go that way. Now, when's it going to go that way? Maybe it won't go that way this year. But a substantial flood can put it that way and that is the...
reason that the State of California has expended the
department of Water Resources, the Resources Agency has
expended a great deal of effort to assist the Corps in being
able to work on these sites within this one year
before the next flood control season. Otherwise the
ordinary planning would have carried it over into subsequent
seasons. It's structured now so that it can be taken care
of before the next winter because how are we to know,
who is to know that the next winter won't be the big one?

CHAIRPERSON CORY: It can be taken care of if
we find there is an emergency that allows us the exemption
from the CEQA process.

MR. BASYE: And that I believe to be the emergency.
We don't know that emergency will happen now. This is an
emergency about to happen if you want to call it that.

CHAIRPERSON CORY: What I am concerned about is
whether or not that is a self-created emergency because
we, the government, chose not to comply with CEQA until
the point at which we could then say it was an emergency.
I'm not so sure that taking that posture is truly going to
please the court. My great fear is if we're talking 45
days and everybody got their act together and did the
amendment to the Environmental Report, the strength of
doing that in 45 days as opposed to running the risk of
litigating and having this thing tied up in litigation for
two to three years. I mean, that seems to be the question and I'm trying to ask those of you who would like to do this, please give me a record that will enable me to vote for an emergency and have it upheld by the court if it's challenged. Saying it is an emergency or saying that, gee, we haven't done anything for a long period of time, now we have an emergency, seems to say it is an emergency that we created and, therefore, we are going to take advantage of our inaction to exempt ourselves from the law.

Now, I am not very comfortable with that and if you as a lawyer could help me be more comfortable with it, you would help your cause because I frankly would like to protect those levies. But what I see happening is a slam dunk case against us if we find for an emergency with this relatively flimsy evidence in the record at best that there is an emergency other than saying, yeah, it's an emergency. Well, why is it an emergency? Why wasn't it an emergency back when the Reclamation Board adopted some things? What has changed? What facts are different today than when those were put together? That's the record I'd like somebody to address because I would be frankly more comfortable not voting against this. But at this point I don't see anything in the record that enables me to vote for it.

MR. BASYE: Well, I'm a lawyer as Mr. Cook is,
but I don't relish the concept of litigation and I share
the Chairman's desire that that be avoided. That certainly
would be desired that it not be ensnared in litigation.
We don't wish to have that result obviously. From the
standpoint of the evidence to support --

CHAIRPERSON CORY: Is there anything new in the
Parrott Ranch? Has there been any, in the last 60 days,
any increase in scouring? I mean, you say that all the
evidence we've got so far is that this has been going on
for three, four-year period of time. Is there anything
new?

MR. CHACKTO: It's continuous working.

CHAIRPERSON CORY: It's continuous, someone in
the audience?

MR. BAW: Yes, Mr. Chackto is a representative
of the Parrott Ranch Company advises that it's continuing
to erode. I can't say that it's eroded dramatically in the
last 60 days. I have not been there to know that and the
manager of the ranch is not here. The erosion does
constantly continue because that soil is straight up and
down and very soft.

CHAIRPERSON CORY: I completely understand that.
I live along the river. I suffer the same kinds of
problems and I am deeply concerned about it. Please
believe me. But I'm trying to get a record that we can
defend and I'm not sure we've got much. Go ahead with what you wish to say.

MR. BASYE: Well, I think I've indicated my position. I suppose that what you're looking for is engineering testimony I'm not prepared to give. I'm not the one to offer that. So from a factual standpoint, it's my position that there is an emergency, I believe, and I think it is demonstrated by the continuing working of the river. Beyond that I have not a factual basis to offer to you.

CHAIRPERSON CORY: Could you differentiate and help the record in the regard of, I mean, it would seem to me that continual working along the river exists anyplace that there is not a revetment or rip-rap or concrete structure. What is unique about this other than the fact that you have a client that owns property there?

MR. BASYE: Well, what would be unique, Mr. Chairman, I appreciate that question, because it does point up the difference. Let's suppose there were a half mile of berm or a quarter mile of berm between the river and the levee, and that's true downstream in the reach of Butte City, for example, where the levee is set a considerable distance back from the river. There's a considerable erosion going on there. I, like the Chairman, I have an interest in property on the Sacramento River near Colusa and there's about
an eighth of a mile between the levee and the berm and
the river washes a little bit, but it's a long ways to the
levee.

That's not an emergency. You could lose a
quarter of a mile of berm. It's a shame if you did, but
it wouldn't be an emergency because of that erosion.

What we have here is no levee backing up this
overflow. You have erosion on a bank which is declining.

As Chairman and the Members know, along the Sacramento
River the highest point is the river. The river has built
it up and from there at least below Chico Landing falls
away. So as you erode, you lose elevation as well and you
increase the overflow and there's no levee to backstop it
at this point except -- well, there isn't any levee to
backstop it. It would go behind the levee system which
starts downstream about three miles below at the lower
end of the Parrott Ranch. Therefore, it is distinctly
different from any other kind of erosion because where you
have a levee system standing as a backstop erosion, and this
is what the Bank Protection Project was designed to try and
reach, to hold those banks there so we didn't get to the
levee. But we're still trying to catch up on that.

Unfortunately you do it just about when it's close to the
levee. You can't get at the berms that are a long ways out
to protect them. If you don't, the levee system is there
as a backstop to prevent the river from shifting and
destroying the levee system. Here there is no bank stop
to prevent the river from shifting which is exactly what
we're saying and the engineers have said is the potential
emergency that if the river shifts, it will not simply
stop at the levee. It will go behind the downstream system
and the levee system will be gone.

CHAIRPERSON CORY: Okay. Thank you very much.
Is there anyone else who wishes -- Mr. Cook.

MR. COOK: Mr. Cory, could I make just one
brief statement in response to Mr. Basye's statement that
the interim report has nothing to do with the present
proposal.

The interim report, of course, the Interim Plan
for Development includes the identical locations that are
being discussed today, the identical action along with
others. It places them in a priority basis. It was a
year ago. What that has to do with the present proposal
is that a year ago there were certain comments made, certain
things made with respect to the river at this reach which
are not quite consistent with today's proposal.

CHAIRPERSON CORY: Okay. Is there proponents,
any of the people from the Rec Board have anything they
want to say before we vote?

MR. BARSCH: We are prepared to go through the
sites one by one, but if the engineering testimony on the
particular problem with each site is not what you're
looking for, then I guess we're through.

CHAIRPERSON CORY: If there is an engineering
problem that addresses itself to the existence of an
emergency, I think that would be very helpful. But there
is no -- I don't have any question that this seems to be
the kind of work that should be done. It's a question of
whether or not we can exempt it from CEQA is the question
before us. So if there are factual information that helps
us reach the conclusion of the emergency exemption from
CEQA, that would be helpful. I think you have no quarrel
at least with me or other members if, yes, the work needs
to be done, but it's a question of how we procedurally
approach getting that work done.

Yes, sir. Would you identify yourself?

MR. CONAN: Bill Conan from the Road 29 area.

Just one little supplement to what Don Anderson said.

I spent some time there yesterday on Road 29 and with this
Province family in particular where they established their
residence in 1927. There's two homes where it moved
500 feet in 1983 toward their residence and it's within
150 feet now. So you can see that one small flood is going
to take out two homes and a homesite and, of course,
Road 29 goes, which is a County road and a federally funded
levee and is so set for this work to be done, it would just be a shame if it weren't done. Thank you.

MR. ELLIOTT: Mr. Chairman, if I could say one more thing briefly on this, and I hope it addresses, it's addressing to the point.

Engineers have a little trouble, I suppose, perceiving an emergency situation such as what we're talking about here. It's pretty obvious if you're in flood, the levee's eroding, threatening to inundate an area where the water is not intended to go, that's an obvious emergency. That's an easy decision. This situation here, as I perceive it, is an emergency as someone said, to coin someone's phrase here, about to happen. We have the opportunity with the river in its present regime at these two locations to hold what we have, to prevent the loss of those two sites at which time we lose the ability to maintain the operation of the federal-state flood control project as it was conceived and as it has been operating. That I see as an emergency. We talk about how close do we get down the levee portion. How close do we let the berm erode to the levee before we finally revet it. When does it become an emergency? That's an easy definition. It's defined as when the riverbank encroaches to the theoretical slope of the levee if it were continued on down. That also is an easy shot
to call.

I believe we are within a thousand feet of the Murphy Slough plug at the one location. I don't think we can afford to lose any more land at that point because if we do, we end up with a situation such as up at Mile 215, the so-called Kaiser-Aetna area where a cutoff occurred several years ago. There's nothing left to build anything on. The river has done what it wants to do.

The situation here is that we are at the top of the project and if we have a 100-year flood, whenever that may be, next year, a flood of the magnitude of 1983 or larger, which we could well have, we will lose these two sites. We will lose the ability to discharge water into Butte Basin. We will exceed the design and safe capacity of the Sacramento River Flood Control Project levees; and who knows what can happen? That is an emergency. If we wait another year, we might have exactly the same situation. When does it become the point where it is not viable to maintain the status quo at these two sites, and that's what's unique about these two sites. These are the points of overflow and the Camp 2 Bend site is the last, the south site, is the last chance we have before we reach the portion of the levee project which is leveed on both sides.

CHAIRPERSON CORY: If I ask you a question,
maybe it will shed some light.

MR. ELLIOTT: I think I understand the problem.

CHAIRPERSON CORY: My problem is not that they should do the work.

MR. ELLIOTT: I realize that.

CHAIRPERSON CORY: But can you tell me is there anything that is recently occurred because I am very fearful that we come to a conclusion of saying that it's an emergency, yet the record said money was available in '33, everybody's been sitting around sort of planning for it. It doesn't sound to me like an emergency. It sounds to me like, yes, it's something that very much needs to be done. But we have a law we're supposed to comply with and not to comply with that law, we must make a finding of fact. If you as an engineer, the things you address are something that we should have done last December sometime. Now we're here. I just think we lose in court if we do that. If I'm wrong --

MR. ELLIOTT: We may lose in court if we don't. There's present lawsuits filed downstream right now dealing with bank erosion which could relate to allowing the river to do what it's done thus far. The consequences could be much more severe.

CHAIRPERSON CORY: Okay. Thank you, sir.

MR. DAVID ANDERSON: If I could make just one
final point and maybe tell you why we're at this juncture today. The Sacramento River Bank Protection Project as has been described to you before was created to protect the existing levee bypass system and as originally envisioned in phase one it was rock work to protect the levees and I think very readily seen as maintenance of an existing structure.

Phase two was a little more forward looking. It was to protect the banks in front of the levees; before they were subject to erosion, a little more remote.

This no man's land was always sort of a problem area. Nobody really had clear authority or clear idea what to do about it except it was up there and it was important. A clarification was had in '83 and it was done in the form of extending the Bank Protection Project. With that extension, our view went along that this was still in that same sense but one step further of maintaining the integrity of that project. All I can tell you is that the reason for the emergency today is because we have gone along all this time in good faith saying that this was maintenance of existing facilities.

CHAIRPERSON CORY: That question is not before us today.

MR. DAVID ANDERSON: Well, inasmuch as you're wondering why work wasn't done before. I'm explaining to
MR. COOK has presented to us?

MR. DAVID ANDERSON: I don't believe I have.

CHAIRPERSON CORY: It purports to be the Sacramento Butte Basin overflow area bank protection sites and I believe it is the interim, this is from the Interim Plan.

MR. COOK: Those were attachments to the Interim Plan.

CHAIRPERSON CORY: Of the Reclamation?

MR. COOK: As I understand it, I received them this morning from Mr. Stevenson and I believe he received them perhaps the day before yesterday from the Reclamation Board. Is that right, Blake?

MR. STEVENSON: Either that day or the day before that.

MR. COOK: All right. In any event, they were just received from the Reclamation Board and they refer to the Interim Plan.

CHAIRPERSON CORY: Okay. Fine. Any questions from Commissioners?

Anybody wish to make a motion to approve the application?

Hearing no motion, the application is denied.

Any more business to come before the Commission?

EXECUTIVE OFFICER DEDRICK: No, Mr. Chairman.

CHAIRPERSON CORY: I am about to adjourn, but
you why work wasn't done before. I'm explaining to you why --

CHAIRPERSON CORY: I understand.

MR. DAVID ANDERSON: -- we've been operating in good faith.

CHAIRPERSON CORY: I just wanted to make sure that I understood the question of what we have before us is an emergency application, not an existing maintenance application.

MR. DAVID ANDERSON: Surely.

CHAIRPERSON CORY: I just wanted to make sure I understood it correctly.

MR. DAVID ANDERSON: In order to perhaps accommodate other agencies and groups, if one were to say at this point, no, Reclamation Board, you're incorrect, we think this is not maintenance, it doesn't have a maintenance exemption, then we have to say: My gosh, this work which we thought was so important you're now saying is not exempt from CEQA as maintenance, it is still as essential... physically that it be done. So now it is an emergency, but not because we backslid or dragged our feet or for any reason like that. We've operated in good faith on this. We've never hidden our views as to the relationship with CEQA to this project.

CHAIRPERSON CORY: Have you seen the stuff that
I would like people from the Reclamation Board to know that I do not lack sympathy for what you're trying to accomplish. If it requires this Commission to adjust its meeting schedule so that we can comply with the CEQA law and you can have the maximum amount of time, I am prepared to do that.

COMMISSIONER ORDWAY: Or hold a special meeting.
CHAIRPERSON CORY: Special meetings or what have you, but I think we have to obey the law. I think whether we like it or not it is the law and we took an oath to uphold the law and that's our problem and that's why we are where we are. So in the future if there is some accommodation or if you need us to beat on our staff to work around the clock, if you will, to accomplish those amendments to the EIR so that we can go through the normal CEQA process, I am prepared to give all the encouragement to the staff to do that almost to the point of demanding it of them. So that's where we are. I think the other Commissioners feel similarly.

So with that, we stand adjourned. Thank you.

(Thereupon the meeting of the State Lands Commission was adjourned at 11:50 a.m.)

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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 __ day of May, 1985.

[Cathleen Slocum]

CATHLEEN SLOCUM
Certified Shorthand Reporter
License No. 2822