MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ORIGINAL

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, MARCH 26, 1987
2:30 P. M.

DOREE O'CUNNELL, CSR 4068
COMMISSIONERS PRESENT

Leo T. McCarthy, Lieutenant Governor, Chairman
Jim Tucker, Deputy State Controller, Commission Alternate
for Gray Davis, State Controller
Nancy Ordway, Commission Alternate
for Jesse R. Huff, Director of Finance

STAFF PRESENT

Claire T. Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Chief Counsel
W. M. Thompson, Chief, Extractive Development
Lance Kiley, Chief, Land Management Division
Jane Smith, Commission Secretary

ALSO PRESENT

Jan Stevens, Supervising Deputy Attorney General
Dennis Eagan, Deputy Attorney General
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CHAIRMAN McCARTHY: Good afternoon, ladies and gentlemen. This is a meeting of the State Lands Commission. On my left is Commissioner Nancy Ordway. We're expecting Commissioner Jim Tucker representing the Controller to join us in just a moment.

I'd like to mention that these items on the Consent Calendar are being removed: 5, 6, 7, 20 and 25. We have had requests to remove those items from the Consent Calendar.

We also want to mention that we've had a request to remove these other items not on the Consent Calendar. They will be not heard today and put over to a future meeting. The following items: 31, 34, 36, 41 and 48.

Now, is there anyone in the audience that came on one of those items that would be gravely inconvenienced because one of them was removed today?

Thank you very much.

All right. First we'll take up the minutes of the last meeting. Any questions?

We have a motion from Commissioner Ordway. The minutes of the last meeting, without objection they are approved.

Staff report.

EXECUTIVE OFFICER DEDRICK: No staff report,
Commissioner McCarthy.

CHAIRMAN McCARTHY: Thank you very much.

COMMISSIONER ORDWAY: I will move the Consent Calendar.

CHAIRMAN McCARTHY: Move the Consent Calendar.

COMMISSIONER ORDWAY: Minus Items 5, 6, 7, 20 and 25.

CHAIRMAN McCARTHY: All right. That motion is adopted.

COMMISSIONER ORDWAY: 26.

CHAIRMAN McCARTHY: Item 26. Staff report.

EXECUTIVE OFFICER DEDRICK: Excuse me, I'm sorry. This is Item 29, Mr. Chairman. It's the first --

COMMISSIONER ORDWAY: Oh.

EXECUTIVE OFFICER DEDRICK: 26 is on the Consent Calendar.

COMMISSIONER ORDWAY: I'm sorry.

EXECUTIVE OFFICER DEDRICK: Item 29 is the first regular item.

COMMISSIONER ORDWAY: I'm sorry.

EXECUTIVE OFFICER DEDRICK: This is the approval request for approval of the 25-year General Lease Right-of-Way -- excuse me, I'm getting tangled up with my mike here -- for an outfall, a water outfall from the Pittsburg Plant -- Richmond Plant of Chevron for deep water
outfall -- I'm sorry -- in Contra Costa County. I got a little snarled up there.

CHAIRMAN McCARTHY: Commissioner Ordway has a question.

COMMISSIONER ORDWAY: It's my understanding that this action was needed in order to have them conform to the Water Board permit.

EXECUTIVE OFFICER DEDRICK: That is correct. They are required by the Water Board to put in an outfall that goes out into deeper water and they need a lease from us in order to do it.

COMMISSIONER ORDWAY: I'd move the item.

EXECUTIVE OFFICER DEDRICK: Okay, item --

CHAIRMAN McCARTHY: Excuse me, we have Mr. Michael Drennan, Senior Engineer with the Water Quality Control Board. The regional board has committed to implementing the mitigations from the EIR regarding the water quality impact here.

MR. DRENNAN: I'm just here to answer questions if need be.

CHAIRMAN McCARTHY: Fine. Thank you very much, Mr. Drennan. Am I reading your name correctly?

MR. DRENNAN: Yes.

CHAIRMAN McCARTHY: Drennan? Thank you very much.

Does any member of the public wish to be heard on this item?
The issue is before the Commission.

COMMISSIONER TUCKER: Motion.

CHAIRMAN McCARTHY: There's a motion. All right.

Unanimous that the recommendations are approved.

Item 30.

EXECUTIVE OFFICER DEDRICK: Item 30 is approval of a 20-year General Lease for the Public Agency Use for the City of Pittsburgh in Contra Costa County for construction and maintenance of the breakwater and fishing pier in Marin expansion.

COMMISSIONER ORDWAY: Motion.

CHAIRMAN McCARTHY: Any questions -- any questions from the audience on this?

Hearing none, there's a motion from Commissioner Ordway.

Seconded by Commissioner Tucker. Unanimously adopted.

Item 31.

EXECUTIVE OFFICER DEDRICK: Item 31 has been pulled, Commissioner, but since your request for -- to see if anyone were inconvenienced, we've received a request from Tom Wesley who is.

CHAIRMAN McCARTHY: All right.

EXECUTIVE OFFICER DEDRICK: -- involved with Riverbank to be able to speak.
CHAIRMAN McCarthy: I have the note here.

Mr. Wesley, would you like to step forward and make some remarks to the Commission?

MR. WESLEY: Good afternoon, everyone. Good afternoon, Commissioners. My name is Tom Wesley. I'm with Riverbank Holding Company, and we -- we've built the Riverbank Marina in Sacramento near the confluence of the American-Sacramento Rivers.

And we have been asking for some time now for first, to get to be excepted from the moratorium itself to expand our marina facilities, and that was defeated on a split vote last year after the study -- just about the time the study was coming out.

And we were told at the time that the study came out, and it was adopted by the Commission that it would be about 60 days' time to implement the plan with the local agencies. And that was, as my recollection serves me righ' sometime in August, perhaps September of last year.

We've -- the moratorium -- lifting the moratorium has come on the agenda several times since then only to be removed with -- at least there's been no explanation to me. We presently have an application pending that -- for this very same extension, once the moratorium is lifted. We have -- because we feel that we're squarely within the criteria of -- of the River Study Criteria or the report that
was commissioned, and we feel that we will eventually get approval.

We have moved forward with various agencies and in getting our funding and whatnot -- attempting to get our funding we have spent literally hundreds of hours and thousands of dollars in an attempt to be at the right place at the right time in order to get the right approvals and to do it right.

And the long and short of it is that this 60-day period for, quote, "implementation of the plan," is long since come and gone. It's now been perhaps three years since the moratorium's been in place. It's been -- it's been approaching maybe eight months, nine months since the final plan has been approved.

And this is sort of a long-winded way of just asking --

CHAIRMAN McCARTHY: I think we get the point.

MR. WESLEY: -- when is it going to come down? When is it going to be -- when is there going to be an action?

CHAIRMAN McCARTHY: All right. We get your point.

Thank you, Mr. Wesley. We'll try to come to a decision on it as soon as possible.

MR. WESLEY: Thank you very much.

CHAIRMAN McCARTHY: Thank you very much.

All right. Let's move on to Item 32.
EXECUTIVE OFFICER DEDRICK: Item 32 is an approval of a Memorandum of Agreement to extend the term of a long-standing agreement with Signal Bolsa Corporation, based in part on a 1973 Land Settlement. This is the agreement that ultimately would result in the State receiving additional land from Signal if certain conditions are met.

The extension is about two years, which will take us past the end of the next budget session.

CHAIRMAN McCARTHY: Any questions from the public on this item?

Do I hear a motion?

COMMISSIONER ORDWAY: Motion.

CHAIRMAN McCARTHY: Motion by Commissioner Ordway. Seconded by Commissioner Tucker. All right. Recommendation's unanimously approved.

Thirty-three.

EXECUTIVE OFFICER DEDRICK: Item 33, San Francisco International Homtel in Burlingame. This is the approval of a Secured Party-Lender Encumbrance of the leases occupied by the hotel.

COMMISSIONER ORDWAY: Motion.

CHAIRMAN McCARTHY: Any questions from the audience? All right. The motion by Commissioner Ordway, seconded by Commissioner Tucker. It's approved.

Item 35.
EXECUTIVE OFFICER DEDRICK: Item 35 is the tenth modification of the existing '86-'87 Long Beach Plan and Budget which updates the production projections.

CHAIRMAN McCARTHY: Any questions from the audience?

Motion by Commissioner Ordway; seconded by Commissioner Tucker. Approved.

Thirty-six.

EXECUTIVE OFFICER DEDRICK: Item 36 is off calendar.

Item 37.

CHAIRMAN McCARTHY: Oh, no, 37. Pardon me.

EXECUTIVE OFFICER DEDRICK: That's all right. Item 37 is the approval of an Amendment to an Oil and Gas Lease held by Shell Corporation in Santa Barbara County.

CHAIRMAN McCARTHY: Questions from the audience?

COMMISSIONER ORDWAY: Motion.

'CHAIRMAN McCARTHY: Motion by Commissioner Ordway, seconded by Commissioner Tucker. That's approved.

Thirty-eight.

EXECUTIVE OFFICER DEDRICK: On Item 38, Mr. Trout, would you like to briefly make this report?

ASSISTANT EXECUTIVE OFFICER TROUT: Well, basically, the report is that on the equity adjustment we will be meeting with the Royalty -- Analog Royalty Orders in Long Beach on Tuesday along with the oil companies to again determine if we can work on some kind of a way of slowing...
down their payments, although it's -- the rate of pay back to the State. And as Commissioner Ordway pointed out some months ago, it's very difficult in view of the fact that the State is not authorized to recover any money in this area.

CHAIRMAN McCARTHY: Questions from the audience?

EXECUTIVE OFFICER DEDRICK: That's really just for your information. Commissioner.

CHAIRMAN McCARTHY: Fine.

EXECUTIVE OFFICER DEDRICK: It doesn't require action.

CHAIRMAN McCARTHY: Any questions from the members?

All right. Thank you for the information.

Next item is 39.

EXECUTIVE OFFICER DEDRICK: Item 39 and 40 are related items. They are approval of the Amended Gas Sales Agreements from our lessees with Pacific Gas & Electric Company. The first one is Casex; the second one is Chevron.

CHAIRMAN McCARTHY: Questions from the audience?

COMMISSIONER ORDWAY: Motion on both.

CHAIRMAN McCARTHY: Motion from Commissioner Ordway on both for approval.

Seconded by Commissioner Tucker. Unanimous.

Next item, 40. 42. 42.

EXECUTIVE OFFICER DEDRICK: Item 42 is an award of the Royalty Oil Sales Contract at Huntington Beach to Texaco
as the high bidder, which was I think 29 cents, wasn't it?
28.9 cents.

CHAIRMAN McCARTHY: Any questions from the audience?

Motion from Commissioner Ordway. Seconded by
Commissioner Tucker.

EXECUTIVE OFFICER DEDRICK: Okay, Item 43.

CHAIRMAN McCARTHY: 43.

EXECUTIVE OFFICER DEDRICK: Approval of Award of
Crude Oil Sales Contract in -- for oil produced within the
Wilmington Field in Los Angeles. Texaco was again the high
bidder.

CHAIRMAN McCARTHY: Questions from the audience?

Motion by Commissioner Ordway. Seconded by
Commissioner Tucker. That's approved.

Forty-four.

EXECUTIVE OFFICER DEDRICK: Item 44, Erse
Corporation. This is a denial of a Request for Extension of
a permit to prospect for minerals other than oil and gas,
geothermal resources at Sunset Beach in the City and County
of San Francisco. Mr. O'Grady and his attorney Mr. Mark
Robinson are present to present their --

CHAIRMAN McCARTHY: Welcome. Welcome. Why don't
you please have a seat. Be happy to receive your testimony.
Why don't you give your name?

MR. ROBINSON: Mr. Chairman, my name is Mark
Robinson. I'm the attorney for Erse Corporation for the purposes of this hearing and I wish to make a few statements. I did not come here to testify and I've so advised the Attorney General.

MR. EAGAN: Excuse me. Just before Mr. Robinson starts I had a few preliminary remarks, Mr. Chairman. I'm Dennis Eagan, Deputy Attorney General.

CHAIRMAN McCARTHY: Excuse me, Mr. Robinson.

All right.

MR. EAGAN: I'd just like to set the context and give some background to the Members of the Commission. This does pertain to requests for extension of a prospecting permit. The staff recommendation is for denial.

The Commissioners should have before them certain materials that were excerpted from the file and had been provided also to counsel for Erse Corporation.

This matter had been set for the Commission's February hearing, and shortly prior to that scheduled hearing there was a document entitled Demand received from Erse Corporation.

It asked for a number of things. The first was a continuance of the matter from the February calendar. The second was a temporary extension of the permit which was due to expire at the end of February, 1987. And finally the demand asked for what was referred to as a due process
hearing.

Regarding the continuance requests and the request for a temporary extension on the request of staff, the Commission granted the continuance until this month, and did not extend the permits. So the permit itself is expired, but the request for an extension is still a valid one. We have so advised counsel from Erse Corporation.

Finally, with regard to the nature of the hearing, our office, the Attorney General's office, has been in contact with Mr. Robinson, attorney for Erse Corporation. We've advised him that the hearings of the State Lands Commission are conducted in a manner which is considerably more informal than a court proceeding. We have also explained, however, that there was a full opportunity to be heard by people wishing to speak on a given item before the Commission.

Just for the edification of the Commission, it's not at all clear to the Attorney General's office the concept of due process applies in the context of a state body that's allocating state-owned property rights. But conceding that it is, it is our opinion that the manner in which this Commission conducts its proceedings does it forth--with due process.

One final matter, and I don't know that I had discussed this earlier with Erse Corporation's counsel, but I
have advised him here today that the Commission does not have in these proceedings subpoena power.

And the occasion for that remark was that they either have been served or attempts to be made to serve in the last several days documents which purport to be subpoenas requiring attendance of certain individuals at this particular hearing. These documents, at least the ones I have seen, appear over the signature of the Clerk of the Superior Court of Los Angeles County, of course an individual and an entity that has no power to order people -- or compel people to appear before this Commission.

Finally, the basis for the staff's recommendation of denial of the request for extension is set forth at some length in the calendar item. I won't burden the Commission with extensive reiteration of that, just to say that there were basically two grounds for the recommendation: The first is it was staff's conclusion on the advice of the Attorney General that an initial study under California Environmental Quality Act had to be performed before the Commission could approve any such extension request.

In connection with that conclusion, Erse Corporation was requested to provide certain information. Erse Corporation failed to provide that, the information, and as I understand it their position is to seek what doesn't require an initial study in this circumstance.
The second ground is that in staff's view there had been a number of violations of the permit which expired in February consisting of really a failure to get three required permits, one from the Coastal Commission, one from the Corps of Engineers, one from the Golden Gate National Recreation Area, which is immediately adjacent to the prospecting area.

And finally, the permit initially issued did provide that access to the permit area had to be by existing roads only. And there was at least one occasion when park rangers of the GGNRA discovered employees of Erse Corporation on the beach in a four-wheel drive vehicle, having used pedestrian access to get there.

So that is in summary the basis for the staff recommendation. Thank you.

CHAIRMAN McCARTHY: Thank you.

Mr. Robinson?

MR. ROBINSON: Yes, Mr. Chairman. I would like to start by talking a little bit about some things that the Attorney General has just mentioned.

First of all, let me say that approximately February the 12th I made a demand on this Commission for a due process hearing, and I did that in writing. I filed affidavits in support of it. I filed Points and Authorities in support of it.

And as a part of that demand, I stated that I felt
that it would be necessary to cross-examine certain persons
connected with the Commission -- I shouldn't say the
Commission, but with the Agency for the reason that charges
were being made without any affidavits supporting them, just
blanket charges -- in fact, without even a signature of a
person -- and that I felt that it was necessary for me to
have a hearing because this particular Commission was being
asked not just to either grant or deny a request for an
extension, but to make a finding of fact as a basis for
denial, and there's a big difference. And so that was the
reason that I asked for the hearing.

I was told nothing. I was about to get on the
airplane, February the 17th -- in fact, I was in line to get
on the plane, and we were suddenly stopped at the door of the
plane to say that the Attorney General had called to say that
the meeting here had been cancelled. That's the only
information I ever had.

At that time I had with me a supplemental
declaration of John F. O'Grady which I think is pertinent,
and because of the fact that I never arrived in Sacramento
apparently it was never filed because I do not see that you
have any copies of it.

So I have brought with me that -- those documents
that I was bringing with me on February the 17th. I'll file
the original and I have copies for the Commission.
CHAIRMAN McCARTHY: All right. Thank you.
Commissioner Tucker would like to ask you a question, Mr. Robinson.

MR. ROBINSON: Yes.

COMMISSIONER TUCKER: The finding of fact that you're talking about is the -- that the activity subject to your requirements of CEQA.

MR. ROBINSON: No, your Honor, the findings that you're being asked to find is that we -- first of all, violated the terms of the permit; that we did things that we were not supposed to do; that we failed to do things that we were supposed to do. Those are the findings upon which they are now trying to deny an extension, which we would ordinarily in the ordinary course of business be entitled to.

This is not a situation where we are applying for the first time for a permit. We already have a permit, and in the ordinary course of business of the agency that permit is usually extended for any reason we've been caused.

If you note even in the correspondence that is attached to the file that you have with you today, you will see very benign letters going from the agency to Mr. O'Grady as late as early December of 1986 saying, "Just do this --"
factual issues that you're concerned about, you are being
given an opportunity to present your evidence or your
information on those issues; is that correct?

MR. ROBINSON: Well, see, I -- I see it differently.
In other words, I feel that I have a right to cross-examine
those people who are making these charges before I do
anything. I think that's due process. And that's what I
asked for back in February.

Now if the Attorney General knew that we would not
be permitted to have such a hearing, and if he knew that we
were not going to be able to subpoena any witnesses here,
then I think part of the due process -- at least courtesy --
required them to write me a letter, do something telling me,
"You can't do this."

First time I heard about no subpoenas was about four
or five days ago. When he told me no subpoenas, I called up
the person that's -- the name on the Commission staff and it
says, "Jane Smith," I believe, asked her what I could do
about getting witnesses of the Agency to the hearing so they
could be cross-examined.

COMMISSIONER TUCKER: Well, is it your contention
that the factual claims that were indicated are not correct?

MR. ROBINSON: They're absolutely not correct. But
over and above that, they're not supported by anything.

COMMISSIONER TUCKER: Well, okay. So your
contention is that there is no evidence to support the conclusion that the -- there was a vehicle on the beach, that excessive sand was taken out, et cetera.

MR. ROBINSON: Well, I'm saying, your Honor, that where they claimed that we did not use a road to go there, I'm saying that that is truly not the truth. That's -- that's definitely untrue.

COMMISSIONER TUCKER: Okay. But you're indicating there was a vehicle there.

MR. ROBINSON: There was a vehicle apparently found on one occasion at the foot of a road on the beach, and the only evidence that you have before you are the declarations which I filed under oath. There is nothing before you that the Commission has filed under oath. Not one word.

I keep saying the Commission. I mean the Agency. Have not filed one single piece of paper in which they have sworn to anything.

And we have -- we have an affidavit in there from a former member of the Agency who states, and it's never been rebutted, that we would in the ordinary course of business be entitled to this extension, and that where they claim that we should have had this type of approval, that type of approval, that he states right in his affidavit there would be no way that we as the Applicant would know that, that it would be up to the Agency to tell us when they issued the permit, "This
is not going to be as good; it's conditioned on you getting
in this or that." It is unrebutted before you. There is no
other evidence on that here today.

COMMISSIONER TUCKER: Okay. Could we just go
through this real quickly.

MR. ROBINSON: Yes, sir.

COMMISSIONER TUCKER: The specific findings that I
think you're referring to or allegations indicate that you
failed to obtain an access permit regarding the off-road
vehicle. Is that correct?

MR. ROBINSON: That is one of the charges that are
made.

COMMISSIONER TUCKER: I understand. Did you obtain
a permit?

MR. ROBINSON: Well, let me say this, that if you
want me to tell you something of that nature I would have to
be a witness who could testify competently, and I could not
do that. And I don't think it's my job --

COMMISSIONER TUCKER: Mr. Robinson --

MR. ROBINSON: -- to come up here and have you
cross-examine --

COMMISSIONER TUCKER: I'm just --

MR. ROBINSON: -- me. I'm here to cross-examine
your agents.

COMMISSIONER TUCKER: I'm not trying to
cross-examine you; I'm just trying to understand what it is that you're contending --

MR. ROBINSON: Well, fine. Then you tell me --

COMMISSIONER TUCKER: -- facts in contention.

CHAIRMAN MCCARTHY: Let me -- may I just interrupt for a moment?

MR. ROBINSON: Yes.

CHAIRMAN MCCARTHY: Mr. Robinson, this Commission operates in a very fair way. If witnesses for an Applicant or an attorney for an Applicant or the Applicant himself makes some valid points, we question our own staff to require them to prove allegations that they give us as the foundation for taking a course of action at their suggestion.

Now Commissioner Tucker is simply trying to get at the truth in this matter. And -- and we're not cross-examining you; we're trying to say this to you in a friendly, constructive way.

If -- if you would help us by telling us that what the staff of the State Lands Commission has alleged here is either incorrect, inaccurate, or irrelevant, we'd have something to go on.

So we're not trying to -- to elicit from you some answer that we want to hear; we're trying to elicit what your view of the truth is.

MR. ROBINSON: Chairman, I'm happy to hear that, but
you see, one of the things that's right before your eyes is
the declaration that I just filed with Mr. John F. O'Grady in
which he denies almost every one of those charges under oath.
And yet you people have not presented one single bit of
evidence to the contrary.

CHAIRMAN McCARTHY: Let's see if we can just try to
get at the heart of it. Now Commissioner Tucker was asking
you whether you had obtained an access permit in the GGNRA to
drive vehicles onto the beach. I suppose that presupposes
that you did drive a vehicle onto the beach.

MR. ROBINSON: Well, I think it presupposes that we
had to have an access permit to drive on the beach.

CHAIRMAN McCARTHY: Fine.

MR. ROBINSON: That's first thing it presupposes --

CHAIRMAN McCARTHY: Fine.

MR. ROBINSON: -- and we deny that.

CHAIRMAN McCARTHY: So you deny that you had to have
an access permit?

MR. ROBINSON: Absolutely. We were told we could
use whatever existing roads, right in the permit.

CHAIRMAN McCARTHY: By -- told by --

MR. ROBINSON: By the Agency. When we were granted
the permit.

CHAIRMAN McCARTHY: Which Agency?

MR. ROBINSON: The State Lands Commission.
CHAIRMAN McCARTHY: Well, the GGNRA has supervisory authority over this land, and they can't determine whether you may drive this kind of a vehicle --

MR. ROBINSON: Commissioners --

CHAIRMAN McCARTHY: -- onto the beach.

MR. ROBINSON: -- this is the way it all came about.

In other words, all of a sudden in late December when we were about ready to process this extension, suddenly out of the blue came the contention that part of this roadway was on the GGNRA reservation. Nobody knew that; nobody told anybody that.

And as Peter Marsh says in his declaration, the person who worked for the -- your Agency, he says there would be no way that -- that the citizen would know any more than the Agency would. You people would know whether we had to drive over somebody's --

CHAIRMAN McCARTHY: Were there any signs --

MR. ROBINSON: -- property.

CHAIRMAN McCARTHY: Were there any signs posted?

MR. ROBINSON: There's no signs. There's an affidavit to that extent, no signs.

CHAIRMAN McCARTHY: So your point is if you did drive a vehicle on to the beach area it was an innocent mistake?

MR. ROBINSON: Absolutely. It would be like
spitting on the sidewalk when you have a cold.

CHAIRMAN McCARTHY: And there's no reason for you to know it was a violation of the law?

MR. ROBINSON: Absolutely. And I'll tell you, to show the good faith of it, Commissioner, the minute that we were told that there was a problem, we voluntarily, without any other act taken, stopped all of our activity on that beach. We have not been back on that beach since early December, not taken one single grain of sand out of there, even though we had a right to do so.

CHAIRMAN McCARTHY: Commissioner Tucker, did you want to pursue this line? Do you want to go to -- COMMISSIONER TUCKER: Yes.

CHAIRMAN McCARTHY: -- the allegations in B?

Commissioner Tucker.

COMMISSIONER TUCKER: Okay. The second contention is that --

MR. ROBINSON: Commissioner Tucker, before you drop that one, my client has shown me a little picture you might want to see from air map showing the roadways going right down onto the beach.

COMMISSIONER TUCKER: Well, I take it from your --

MR. O'GRADY: This is the south end of our property, that is a roadway. There is a road going in the middle of our property and there's a road at the -- at the north end.
You can see the tracks right there, sir.

MR. ROBINSON: All right. Come on back.

MR. O'GRADY: We just follow this.

COMMISSIONER TUCKER: May I assume from your answer to the first one that you obviously didn't obtain a permit because your contention is that you didn't know that you needed a permit.

MR. ROBINSON: No.

COMMISSIONER TUCKER: So you didn't have one.

MR. ROBINSON: We did not know that the CORNA had anything to do with that property.

COMMISSIONER TUCKER: But the contention was that you didn't have the permit, and I take it your answer is that's correct, you didn't have the permit.

MR. ROBINSON: We had no permit, but we didn't know that we were required to have it.

COMMISSIONER TUCKER: Okay. The second contention is that you failed to obtain a coastal permit for the prospecting activities.

MR. ROBINSON: All right. Now again I'd like to answer that. This, I think, is really sort of the Catch 22, in a sense. I've said it in the papers but maybe it escaped you.

First of all, again, as Peter Marsh says in his affidavit, there is what they call a clearing house that all of these agencies adhere to, and so when something like a
permit like this is going to be granted, first thing is it
goes to the clearing house and every agency who has any
interests in it, whether it be federal, state or anything,
city, county, they all are given automatic copies of what's
going to go on before it happens.

So as he points out, the Coastal Commission would
have known. As far as he was concerned, when he processed
this on behalf of the State Lands Commission, he did not
believe that a prospecting permit per se for this type of
activity would require a Coastal Commission permit, so he
didn't tell us to do it. So we did not do it.

COMMISSIONER TUCKER: Okay.

CHAIRMAN McCARTHY: Sir, give us the name again of
the person who --

MR. ROBINSON: Peter Marsh. He's got an affidavit
right in front of you.

CHAIRMAN McCARTHY: And his title?

MR. ROBINSON: He was one of the -- he was one of
the supervisors at the State Lands Commission who processed
this file on behalf of the State.

And secondly, what happened was that when we were
told that we had to -- had to get a Coastal Commission
permit, Commissioner Tucker, when we were told that we had to
get a Coastal Commission permit, we immediately started that.
We got a hearing granted on an expedited basis so that we
would have a hearing in January of this year to get that Coastal -- Coastal Commission permit before we appeared here in February.

And on the last day I happened to be talking to Mr. Eagan of the Attorney General's office, and by chance happened to mention that we were going before the Coastal Commission the next day or the day after. I can't remember if it was one or two days.

He -- he got all upset, said, "I didn't know there was even such a hearing; we're going to get that cancelled," which he did, within two days. It was cancelled. Our hearing.

So then they tell us, "One of the reasons that you can't have your permit is because you didn't get a Coastal Commission permit." We were not allowed to have the hearing.

COMMISSIONER TUCKER: Well -- okay. I take it then the answer to the second point is that you've not obtained the permit, is that correct?

MR. ROBINSON: We made every effort to obtain the permit. We made our applications.

And I'll tell you this. I'll tell you this, that if you let that hearing go through it would have been granted. That's the information we had from the -- from the technicians there.

COMMISSIONER TUCKER: Your contention is we stopped
the hearing?

MR. ROBINSON: You stopped the hearing.

CHAIRMAN MCCARTHY: It might be helpful if we asked Mr. Eagan to comment at this point.

Is this an accurate portrayal of the events, Mr. Eagan?

MR. EAGAN: No, it is not, Mr. Chairman. I believe in mid December at the request of Coastal Commission staff Erse Corporation did apply for a coastal permit. The staff began to process that permit at the Coastal Commission. I was aware of that. In fact, I had had conversations with the staff person who was preparing the recommendation.

The recommendation had not yet gone on to the higher levels of review in Coastal Commission staff these recommendations have to go through when I talked to the person handling it.

About this same time I was talking to Mr. Robinson and I advised him that as far as I know the recommendation was going to be heard at the January Commission meeting.

Subsequently, with absolutely no input or advice from our office or from myself, higher-ups in coastal staff decided that they could not proceed to a decision and the Coastal Commission couldn't without the type of -- the very type of environmental information State Lands Commission staff was telling Erse Corporation it needed before it could
act on the extension request. And there was subsequently a letter directed to Erse Corporation from coastal staff to that effect.

But I want to stress that at no point did I get upset. When I was told that the Coastal Commission staff was going to consider this matter, I was already aware of that. And at no point did I say I was going to have this Commission hearing of the Coastal Commission cancelled, and at no point did I seek to have it cancelled. It was cancelled at the behest of higher-ups on the staff of the Coastal Commission.

CHAIRMAN McCarthy: Why did the Coastal Commission put this on their agenda in the first place?

MR. EAGAN: They put it on the agenda, I assume -- I'm not sure of this -- on the assumption that they had all the information that they needed to act upon it. Apparently this early decision was made by someone who wasn't later -- in fairly low echelon -- who wasn't involved in the review by coastal staff of the ultimate recommendation on application.

Apparently at this later date someone decided that really they didn't have sufficient information to make a recommendation to their Commission, and at that juncture, in their terminology, unfiled the Coastal Commission application and directed to -- a letter to Mr. O'Grady explaining why that was being done.

CHAIRMAN McCarthy: How far in advance of the
scheduled Coastal Commission meeting do they do that?

MR. EAGAN: I could get a precise date for you. I think it was on the order of a week to 10 days, but I'm not positive about that. If it's important I can try to find the letter, my copy of the letter from coastal staff to Erse.

CHAIRMAN McCARTHY: It's a little bit unusual for the Coastal Commission to be scheduling an item and then discover that they -- they didn't have the data they needed to make a judgment.

MR. EAGAN: I think that's true.

CHAIRMAN McCARTHY: The application and the report.

MR. EAGAN: It's not the usual procedure, but it does happen on occasion, however.

CHAIRMAN McCARTHY: All right. Has the Coastal Commission reduced to writing its own reasons for moving that item off the file?

MR. ROBINSON: Your Honor, may I say --

CHAIRMAN McCARTHY: Mr. Robinson, I'll call on you in just a second. Let me get an answer for this from Mr. Eagan.

MR. EAGAN: Yes, they have.

CHAIRMAN McCARTHY: Do we have a copy of it?

MR. EAGAN: Somewhere in the file I'm sure we do, Mr. Chairman. I'll try to --

CHAIRMAN McCARTHY: Do you want to pluck it out,
please?

Mr. Robinson, let's let you get your two cents in.

MR. ROBINSON: Mr. Chairman, I was hesitant to be a witness in this action since I'm operating as a lawyer, but since I'm the only one who could testify, I'm willing to go under oath and tell this Commission exactly what really happened, and it's not anything close to what Mr. Eagan has told you here today.

MR. EAGAN: Well, I have the letter, Mr. Chairman. It's my only copy. I can either read it or provide a copy.

MR. ROBINSON: Read the letter, if you will, but I'd like to testify as to what happened between you and me.

CHAIRMAN McCARTHY: We're not going to put you under oath, Mr. Robinson, and if you wish to make any statements further characterizing the sequence of events, you can do that to the members of the Commission and we'll try to make the best intelligent judgment that we can.

MR. ROBINSON: All right.

CHAIRMAN McCARTHY: Why don't you read the letter?


COMMISSIONER ORDWAY: Excuse me, what -- the letter's dated January 6th?
MR. EAGAN: Yes.

COMMISSIONER ORDWAY: What was the scheduled date of the Commission meeting for January?

MR. EAGAN: I believe it was January 14th.

COMMISSIONER ORDWAY: Thank you.

MR. EAGAN: "Subject application number 1-85-210 for coastal development for sampling sand for mineral content at Ocean Beach, City of San Francisco.

"Dear Mr. O'Grady, in reviewing your application for a California Coastal Development Permit, it has become apparent that we do not have sufficient information to evaluate its environmental impacts on the beach and ocean area under consideration.

"Pursuant to the Permit Streamline Act which allows 30 days to review the filing status of applications, it seems appropriate at this time to unfile your application pending the completion of your request for a one-year extension on your permit from the State Lands Commission.

"Normally the Coastal Commission does not act upon a permit request until the State Lands Commission has taken action. It is my understanding in conversation with representatives of the State Lands Commission that they will function as the lead agency and require an initial study of your sampling proposal based on..."
requirements of the California Environmental Quality Act.

"Our Agency will be one of the reviewers on this initial environmental study which must be acted upon by the State Lands Commission at the time they consider your extension requests.

"Following this action, you can then proceed with your permit application with this Agency. Thank you for your cooperation in this matter.

"Sincerely, Gary L. Holloway, North Coast Planner."

CHAIRMAN McCARTHY: All right. Let me just pause for a moment here, Mr. Robinson, please. Let me ask the staff, what was the original date of the permit granted to Erse Corporation?

MR. EAGAN: It commenced, Mr. Chairman, March 1st, 1985.

CHAIRMAN McCARTHY: March 1st, 1985. All right. Mr. Robinson, if you could sum up in a few words, what is it you have done, your client has done in reliance upon this permit in terms of expenditure of money or any other kind of action that you think has created inequity for you.

I wouldn't want you to proceed on the assumption that permits are automatically extended when they expire.

I've sat on this Commission only four years and three months,
but there have been other occasions when we did not extend the permit or if -- any number things happen. If the permittees did not move expeditiously to exercise their rights under the permit. It could be for a variety of reasons.

So I say this in connection with an earlier comment I believe I heard you make, that extensions of permits are routinely done for the Commission.

MR. ROBINSON: I'm only quoting what's in that affidavit from Mr. Peter Marsh.

CHAIRMAN McCARTHY: Well, I appreciate that, and Mr. Marsh has a right to say that. But as Chairman of this Commission I would indicate to you my own experience as a voting member that I've seen a number of occasions when permits are not extended unless there is a case made.

MR. ROBINSON: I think --

CHAIRMAN McCARTHY: A permit is a very valuable economic asset extended. There can be any number reasons why it wouldn't be extended.

So I think what we need to hear here is whether -- whether the coastal permit was granted or not granted or delayed, what we really need to hear is what's the equity case that you have to present for extending this permit, and also want to hear from you what is invalid or improper or inappropriate about our staff's request to gain from your
client some environmental information so that we can make a judgment.

You know, it may be that this Commission in the first place should have asked for certain kinds of environment -- and its staff should have advised it to ask for certain kinds of environmental information, and we may simply have failed to do that. We may not have performed our responsibilities fully and correctly the first time on this permit. That's frankly what's beginning to occur to me in this issue.

This -- this whole proposal is not without some controversy in the San Francisco area, I think we'll agree. Now, could you address those couple points?

MR. ROBINSON: Yes, your Honor, and I -- I would like to perhaps start with something very simple, first, so that we all know what we're all talking about. I don't know whether you've had occasion to be down to that beach area recently or not.

CHAIRMAN McCARTHY: I live in San Francisco and I spend a fair number of hours on that beach.

MR. ROBINSON: Now basically what -- what we had in mind was this: We thought that from a half a mile out in the water up to the mean high tide that there existed a unique source of minerals which we felt -- maybe perhaps erroneously, but we still believe is in some part due to the
San Andreas fault which happens to come in there, and that the San Andreas fault is regurgitating in there all the time and causing these minerals to flow into the water and settle on the bottom of the ocean there.

And so the concept was that we would like to go in and prospect and take out samples from every part of the area, and then subject those to some type of recognized analysis and process and so forth, and then make a determination whether or not there was in fact valuable minerals there which would be worthwhile for somebody to mine, and secondly for the state and/or the other entities that might be involved to share in it. That was the concept.

And so we were given what's known as a prospector's permit.

Now one of the problems that developed was this, that we began to find that one of the richest sources that we had there was titanium, and titanium is a very, very valuable mineral today. We import most of -- the United States imports most of its titanium from other sources, so we felt that titanium was a very important item.

But one of the problems with titanium is that in the normal, usual processing of it, as is done in the usual market, is that it permits environmental -- you know, what do you call it, environmental poisons to be sent out into the atmosphere and so forth.

Also, it requires a place to dump all these
byproducts and so forth. So it's a very unhealthy and not a
very good way to -- to run a train, if I may use that
expression. That's probably one of the reasons why we import
so much of it, because it's hard to find ways to do it
environmentally safely.

So what Mr. O'Grady did, along with people who put a
lot of money into trying to do this -- and I -- I'm not going
to overstate the case; I'm going to tell you that it's
somewhere between a half a million and a million dollars has
been expended trying to develop a process which would not
require the type of environmental impact that we were
ordinarily confronted with.

And to that end, he employed a person who apparently
is one of the top mineralogists in the world, and I say that
without too much hesitation because apparently -- I didn't
know this -- the United States doesn't even have a university
that specializes in that, believe it or not. Most of the
good universities that know about mineralogy are in Russia.
And this person happened to be from Afghanistan and
he trained in Moscow, got out of Afghanistan before the --
all the hostilities and was available and is apparently a
brilliant guy. And he's come up with some real ideas about
how to process this so it can be done as a powder mineralogy.

So that's what we did. We spent most of the time
and money trying to develop the process because we knew
without a process that would meet the environmental requirements that we would now at the end, even though we might get the extension, at the end we want to go into business, you're not going to let us do it. So there was where most of the time and money was spent.

Meantime, the sands were taken, the nonmagnetic sands were taken off of the surface of the ocean from various parts. They were stacked in barrels, marked exactly where they had come from, and various samples were being taken of that.

And we were in the last process of trying to get all this stuff together so that we could come up and ask for the extension on the permit when this sort of hit the fan with the San Francisco Chronicle. And everything stopped from that time on.

Now what I guess I wanted to say to you is this, that everybody talks about this environmental impact, and really what we've been doing is would be like if you took a little shovel, and got out there in the water where the -- where you can still stand up, and when the waves are coming in and out you grab a scoop of sand. And there's a temporary hole there for five seconds, but as the water sweeps back and forth you never even knew that it happened. And that's the type of grading we've been taking off the surface of that ocean.
There is no holes there at all. We've not left one scar there. And so there's been no environmental impact today.

What I think is the concern is, at least of the City of San Francisco, as I read their papers, is that we were going to come out there with some great big plant, if you permitted this, and sit out there in the water and dredge all this stuff up and make big holes and ruin their beach and so forth. If that's what we were going to do, I wouldn't blame them for being upset, but that is not what we had in mind at all.

Now we can go in there. We don't even -- if you would give us the extension on the permit we don't even have to go on the roads or anything else. We can take a little boat, we can go there off hours, like early in the mornings, you know, 5:00 o'clock in the morning, eight, go there late hours in the late evening, and get all of this stuff out of there.

And then we can come back after we've analyzed it, and at the end of the year we can then come back and say, "Here's what we've got, and here's what we think we can do with it." Then you can decide whether or not it's worth going forward with it.

And we can do that without any impact whatsoever.

That's the point. I don't understand why everybody is making
such a big deal at this point. If we were going to go out there with a great big dredge, I can understand it.

CHAIRMAN McCARTHY: Just a moment, Mr. Robinson.

Does our staff wish to comment on the environmental impact that might ensue from digging up the sea level or does -- has the Coastal Commission staff made any comment on this that suggests that the additional environmental information that's being proposed now is appropriate?

MR. EAGAN: The -- there are two concerns that staff has and that we have -- Attorney General's office has concurred in as a legal matter. Obviously the prospecting permit is not an end in and of itself --

CHAIRMAN McCARTHY: Correct.

MR. EAGAN: -- regarding Erse Corporation, and presumably they're hoping to find commercial quantities of mineral out there -- titanium, whatever -- and if they're fortunate in that regard to seek the lease from this Commission and commence mining.

It is the staff's position that if it can be seen at the outset that there may be environmental problems with the mineral lease in terms of the actual extraction, the processing, the transportation off the site of whatever mineral is out there, that problem or problems ought to be addressed at the earliest possible juncture, both as a favor to the Commissioners and to the Applicant, in order to
forestall the situation where another year of investment is put into the situation, and then it's only later in connection with the lease application, if that's what develops, that it turns out that there's significant, severe environmental problems that might prohibit or substantially affect whether or in what manner it might even be conducted out there.

Now there's also a conceivable problem -- and we don't know this, and the staff doesn't know this until it conducts an initial study -- a conceivable problem even with just one more year of prospecting. Really the level of prospecting that was conducted in the first two years, at least until the very last few months in the fall, was very light in terms of the total number of samples that were authorized to be taken out of there. I think the total, for instance, of samples taken at about 50 pounds each up through September of 1986 was only 341 out of an authorized total of over 17,000.

At some juncture we have been advised that -- by Mr. O'Grady that it was his intent in this new phase of the permit to take 80 to 100 samples per day out of the prospecting area.

In addition to possible problems that that might create, being conducted -- that kind of operation hired by the Golden Gate National Recreation Area, there is a problem
with sand erosion along certain portions of Ocean Beach and this has been a cause for concern and continuing discussions with the staff of the Coastal Commission and the city.

Now it may be that given the extent of what Erse Corporation intends to do and where it intends to do it, that that won't be a problem with regard to sand erosion. The problem is at this point that judgment or that conclusion can't be made based upon the information or the lack of information in the hands of the Commission.

That was another reason why the Commission with the concurrence of our office thought an initial study was appropriate.

Now initial study does not necessarily require preparation of an Environmental Impact Report. The question is you do the study to find out is there a possibility that the -- that the activity may have a significant effect on the environment. If you do your study and find out there's no possibility, then your negative declaration evolves.

So we're really at the very threshold stage in this where Commission staff feels it really can't reach the conclusions it has to reach to go forward unless it has an initial study, for those two reasons: The further operations under the permit and the eventuality that there may be at some point a mineral lease functioning off the beach.

CHAIRMAN McCarthy: In our response to the Applicant
before us, have we described clearly the nature of the
information that we seek from them?

MR. EAGAN: I'll direct Commission's attention in
the materials provided that there are a number of letters
that -- perhaps individually, certainly in aggregation -- let
the Applicant know what it is that the Commission wants.

The first I guess would be the letter D in the
materials, the letter from Mr. Willard to Erse Corporation
dated November 26th, 1986. Then there is a further letter
to -- to Mr. -- from Mr. Willard to Mr. O'Grady dated
December 30th, 1986. Then a fairly lengthy letter from
Executive Officer Ms. Dedrick to Mr. O'Grady dated January

And I think certainly to the best of staff's ability
those letters laid out what it was that staff wanted to see
in the way of information and why it thought it needed to see
it.

CHAIRMAN McCARTHY: Okay.

Mr. Robinson?

MR. ROBINSON: Your Honor, with respect to the last
mention of request for information, that did not come about
until after all of this began.

In other words, we had -- if you'll notice right in
your own file, we had letters from the Long Beach office
telling us simply what they -- what we needed to do to extend
the permit, and we were doing all the things that we are asked to do. That was a very simple thing.

Then when all of this began, when they suddenly found out that there's supposed to be all this environmental and so forth, and they had the problem with Golden Gate upset about it and the Coastal Commission upset about it, then came this letter saying, "You've got to do this and this and this and this and this," all of which was brand new and most of which Mr. O'Grady's answered by saying, "The scope and quantity of the information that you requested cannot be furnished to you by anything less than a complete Environmental Impact Report," which is obviously not a requirement for an extension of the -

CHAIRMAN McCARTHY: When was that letter?

MR. ROBINSON: That was from Mr. O'Grady back to them when they wrote that letter of December 30.

Now what I -- what I'm trying to point out to the Commission is this, and I -- and I don't want to quarrel with Mr. Eagan. Actually, he's got a good name and I'm sort of an adopted son of San Francisco, myself, and I have no quarrel with Mr. Eagan. And I'm sure that he's a busy man just like everybody else, perhaps does not have total recall.

CHAIRMAN McCARTHY: I'm confident Mr. Eagan appreciates all those remarks.

MR. ROBINSON: But I'd just like to say that what we
have here, your Honor, is this: The truth of the matter is I did get a call from Mr. Eagan, or I called him -- I can't remember which -- couple of days before this January 6th letter, and I mentioned to him that there was going to be a hearing of the Coastal Commission.

And he -- without any question -- said, "I didn't know that." And he said, "I don't think that there should be any action taken on your Coastal Commission permit until we have the Land Commission hearing in February."

And two days later we got this letter cancelling the -- we didn't get this letter, but we got a letter cancelling the hearing.

Now --

CHAIRMAN McCARTHY: Mr. Robinson, I think we understand your point on that. Let's --

MR. ROBINSON: All right.

CHAIRMAN McCARTHY: -- let's just stipulate there's a difference of opinion --

MR. ROBINSON: All right.

CHAIRMAN McCARTHY: -- in the sequence. Can we get back to my --

MR. ROBINSON: Yes.

CHAIRMAN McCARTHY: -- major question?

MR. ROBINSON: Yes.

CHAIRMAN McCARTHY: The major question was what
equity do you have into this whole enterprise acting in reliance upon the permit that you had? You indicated that the Erse Corporation, led by Mr. O'Grady, has spent one-half million to one million dollars to develop the process to mine titanium.

MR. ROBINSON: Plus the activities that we did at the beach. All inclusive I'd say about a million dollars.

MR. O'GRADY: Million dollars -- over a million dollars.

CHAIRMAN MCCARTHY: Does --

MR. O'GRADY: Over a million dollars.

CHAIRMAN MCCARTHY: Does the Erse Corporation do mining in other places?

MR. ROBINSON: No.

CHAIRMAN MCCARTHY: Is this the only single instance --

MR. ROBINSON: Right.

CHAIRMAN MCCARTHY: -- in which mining has been attempted by the Erse Corporation?

MR. O'GRADY: Sir, I am acting under a present mandate from People's Republic of China to set up the titanium industry. When I did that, I made a world survey --

MR. ROBINSON: That's all in your paper.

MR. O'GRADY: -- I made a world survey and found that the United States was 25 years behind Russia, 15 years
behind the United States, and 10 years behind the rest of the world.

Mr. Chairman, please be patient with me because this -- the whole basis of the thing --

CHAIRMAN McCARTHY: Would you answer the question I asked, Mr. O'Grady?

MR. O'GRADY: Yes, sir. Yes, sir. Yes, sir.

MR. ROBINSON: He wants to know how much you spent.

MR. O'GRADY: Oh. Over a million dollars, sir.

By the way, part of my money and part of patriots, where -- I could only go to patriots to assist me because of the situation that the United States is in at the present time.

I've served my country two times, sir, and I feel that this -- this third time, I'm serving it a third time with this titanium program.

And by the way, one more point, Mr. Chairman:

Beside the titanium, we have 12 other elements in that mass of material that has no part of the land. It's a gigantic floating mass of raw -- raw strategic elements that's floating back and forth in tens of millions of tons. None of these peoples understand that.

I have made a study of this for four-and-a-half years. I'm almost 72 years old. I've devoted four-and-a-half years to this program, and I could have been
a millionaire, had I been like everybody else, working for the monetary bit. But that's not so. My code is for God, for country, for self. I'm serving my country with this program.

CHAIRMAN MccARTHY: Thank you, Mr. O'Grady.

Do you have some information you provided to the Commissioner and staff to demonstrate that one million dollars has been spent on developing a process?

MR. ROBINSON: We could do that very quickly, in a day or so.

CHAIRMAN MccARTHY: I would -- given the number of samples that were taken out, as indicated by Mr. Zagan's testimony, which was a small fraction of the samples that were authorized to be extracted from the soil, I'm just wondering how the million dollars invested in the process is applicable to the -- to the issue before us.

MR. ROBINSON: It's the development of the plant to do it. That's the problem. And --

CHAIRMAN MccARTHY: Development of a plant?

MR. ROBINSON: Yes, to do this.

CHAIRMAN MccARTHY: All right.

MR. ROBINSON: And we have pictures of it.

MR. O'GRADY: Could I show you?

CHAIRMAN MccARTHY: Commissioner Tucker?

COMMISSIONER TUCKER: The -- Mr. Robinson, I wanted
to return to these points because --

MR. ROBINSON: Surely.

COMMISSIONER TUCKER: -- I think you made a serious accusation that -- and I think the Commissioners are all sensitive to the claim that you or your client's opportunity to be fully heard is somehow being abridged by this hearing.

Essentially what I gather from your presentation so far is that all of the staff statements regarding factual issues, that is the failure to obtain a permit from the GGNRA, the failure to obtain a coastal permit and failure to obtain a permit from the U. S. Army Corps of Engineers are essentially correct, and I think it's important for you to focus on the fact that really what your dispute is is a question of law. You are contending essentially that in each of these instances you are not required to obtain permits.

MR. ROBINSON: No, I've never said that, because I've never made a study of the law sufficiently to tell you that.

COMMISSIONER TUCKER: Well --

MR. ROBINSON: All I'm saying --

COMMISSIONER TUCKER: -- but you're contending that these facts are somehow in contention, yet you've indicated that you didn't have the permit from GGNRA, you don't have the coastal permit, and you don't have the permit for the U. S. Army Corps of Engineers.
MR. ROBINSON: Well, Commissioner, may I answer it this way, if I may. As of November 26th and again in December 30th, I believe it is, they've quoted to you a letter which is in your file in which they tell us there, "You should get this and get this and get this and get this," right?

But if you look at the -- at the permit that was granted or any of the papers that were issued up to and including the issuance of the permit, there is no such statements.

In other words, there is at no --

COMMISSIONER TUCKER: Mr. Robinson, look, you're not focusing on what the issue is here. You've contended that you're somehow being denied the opportunity to make a full presentation here.

MR. ROBINSON: I am.

COMMISSIONER TUCKER: Okay. The issues raised are issues regarding whether or not you've obtained permits. Okay. You've indicated you haven't obtained those permits. If you have some reason why you did not obtain them, you are certainly being provided through this hearing the opportunity to explain --

MR. ROBINSON: No, I'm not --

COMMISSIONER TUCKER: -- why you did not.

MR. ROBINSON: That's exactly what I'm not being --
I'll -- look, I really had decided not to say this, but I'm going to say it in view of your remarks, Commissioner Tucker. This happens to be the 44th anniversary of the date that I was shot down over Nazi Germany. And I spent some time there. And I was advised that the reason that I was there was to preserve democracy.

And I will tell you, sir, that my concept of democracy goes further than freedom of speech. It goes to the concept of the sensitivity of the individual and his person and his property.

Now this is not a situation where we're coming in here for the first time and saying, "Please, Commissioner Tucker, let us go down to your beach and see what we can find out." That's what we did two years ago, as Commissioner --

COMMISSIONER TUCKER: Well, at -- at --

MR. ROBINSON: Just a minute; I'd like to finish my remarks.

COMMISSIONER TUCKER: Well, at that time --

MR. ROBINSON: Commissioner McCarthy has pointed out that since that time, in reliance upon a permit that's very broad, approved by the Attorney General's office who now comes in and tells us, "Oh, you didn't do this and you didn't do that," but approved by the Attorney General's office, we went out and we relied upon in good faith and did everything that we thought we were doing legally.
As soon as we were told that we were not doing what you people wanted us to do, we stopped, because we are in good faith. We thought that by stopping and doing and showing that we were in good faith, by immediately applying for the coastal permit, which you then for the first time said we had to have that, then we would then be able to come in here and get this thing accomplished.

What happened? As soon as we get the thing on the calendar, it's taken off the calendar. If you read -- if you hear what he said in the letter it was taken off the calendar because they thought that this hearing should go first. And yet when we come down here you say, "Well, you didn't get the permit from the Land Commission."

COMMISSIONER TUCKER: No, that's not --

MR. ROBINSON: Now that's Catch 22.

COMMISSIONER TUCKER: No, I -- you are distorting what is going on here. What is going on here -- and on the issue of good faith I think it's important for the record to be clear, that if you look at the application that was filed for this permit originally, you did not disclose or your client did not disclose the fact that you had attempted to obtain a permit from the National Park Service and had been turned down on that. I think it's --

MR. ROBINSON: See, now if --

COMMISSIONER TUCKER: -- if the staff --
MR. ROBINSON: See, now just a minute.

COMMISSIONER TUCKER: -- wasn't aware of that --

MR. ROBINSON: I'm going to interrupt you right there. When I talk about Nazi Germany, I really begin to wonder what's going on here. You don't have a shred of evidence that that ever happened. Not a shred of evidence.

COMMISSIONER TUCKER: Is that --

MR. ROBINSON: No, all you've got is an accusation. You've got a -- you've got a statement under oath that it didn't happen.

COMMISSIONER TUCKER: I have the permit right here that fails to disclose any of that information.

MR. ROBINSON: What permit?

COMMISSIONER TUCKER: The application for the permit that was filed.

MR. ROBINSON: Well, what does it fail to disclose? Tell me.

COMMISSIONER TUCKER: Right here where it asks on the second page, "Identify any public agencies having approval authority over the --"

MR. ROBINSON: How would we know who has approval over it? That's a legal conclusion. If your staff doesn't know --

COMMISSIONER TUCKER: You did not apply to the National Park Service?
MR. ROBINSON: Pardon me?

COMMISSIONER TUCKER: You did not apply to the National Park Service?

MR. ROBINSON: If you read Mr. O'Grady's affidavit -- it's under oath and it's uncontradicted -- he said it didn't happen, and if it did happen, it had nothing to do with the permit.

COMMISSIONER TUCKER: Wait, wait, wait. It did or it didn't happen?

MR. ROBINSON: He says it didn't happen, to his recollection, and nobody says -- nobody's ever showed me any copy of it, nobody's ever given me a piece of paper to show it's true. I -- I have no record to indicate that ever happened.

CHAIRMAN MCCARTHY: May I -- may I just assert myself for a moment?

Of course, Mr. Robinson, in all fairness, now, the Golden Gate National Recreation Area has had extensive media coverage in the Bay Area media, and it's relatively easy to ascertain its existence and its geographical jurisdiction.

I think I seem to hear you saying that your client had no reasonable way to learn of that jurisdiction or to know of it, to either -- on his own volition or through the use of his staff or his attorney.

MR. ROBINSON: Well, I'm saying certainly not --
CHAIRMAN McCARTHY: Is that a fair -- is that a fair characterization?

MR. ROBINSON: Not quite. Not quite, Commissioner. I'd say to make it fair would be to say that his ability to do it was less than your Agency's, or your Commission's.

CHAIRMAN McCARTHY: Do what, sir?

MR. ROBINSON: To know which agencies had jurisdiction in that area, because you have maps that show all that. If you read again Peter Marsh's declaration he says that all those things are known to you, not to the person that comes in, the citizen.

CHAIRMAN McCARTHY: Well, I appreciate that, but there is a burden on an Applicant before the State Lands Commission for a permit of this kind to ascertain what authorities have jurisdiction over the the site that's involved and what permits might be required for any action that you would take in connection with your exercise of the permit.

I think the only point being made here -- and I'm not sure I want to dwell too much longer on this specific issue -- that the point being made here is that it's reasonable for us to assume that successful business people, corporate leaders with available staff, are in a position to readily ascertain what governmental authorities have jurisdiction over this area. That's --
MR. ROBINSON: But see, you're not describing that was what the facts were. I mean, he's not a corporation; he's a one-man shop at that time.

And secondly, if I recall correctly, the records will show that he had -- he made an application for two areas. One where you say the Golden Gate Park Service is, and the other was some place in San Mateo. And at the request of the Agency, they came and said, "Would you withdraw the one against -- for San Mateo and we'll give you the one on the coastal thing."

CHAIRMAN McCARTHY: I think it's only -- it's a reasonable conclusion for us to draw that if permits required for several different purposes by the GGNRA or the Army Corps of Engineer, the burden was on the Applicant to try to ascertain what those permits were. It was certainly reasonable for you to ask this Commission or its staff to assist you in identifying any such --

MR. ROBINSON: Which we did.

CHAIRMAN McCARTHY: -- authorities.

MR. ROBINSON: Which we did.

CHAIRMAN McCARTHY: Is that in the record?

MR. ROBINSON: Yes. If Peter Marsh says that he was the one that approved it because he did not think that there was any -- and I think he's told me this; I don't know if this is in his affidavit -- that the action --
CHAIRMAN McCarthy: Does Peter Marsh still work for us?

EXECUTIVE OFFICER Dedrick: No, he does not.

MR. ROBINSON: No, he's left the Agency.

COMMISSIONER Tucker: It's not i... here.

MR. ROBINSON: What he does say is, I believe, Commissioner McCarthy, that this particular property that the Golden Gate -- whatever it is, Golden Gate --

MR. O'Grady: Recreation.

MR. ROBINSON: -- Recreation is now -- has domain

CHAIRMAN McCarthy: Golden Gate National Recreation.

MR. ROBINSON: I believe -- I believe was purchased from the City of San Francisco. I may be mistaken, but I believe it was purchased from the City of San Francisco, and that this purchase was apparently going on about the time of the application and that's why it didn't surface. I don't know exactly how it happened.

CHAIRMAN McCarthy: I'm looking at Mr. Marsh's declaration. I don't see any reference in the declaration -- unless it's more than one declaration -- to the point we're addressing now as to who carried the burden to inquire what permits under the different governmental jurisdictions were required.

MR. ROBINSON: May I address --
CHAIRMAN McCARTHY: There's nothing in Mr. Marsh's declaration.

MR. ROBINSON: If I may be so bold as to read a portion of it.

CHAIRMAN McCARTHY: We have no reason to conceal any of that from your client -- Mr. Robinson.

MR. ROBINSON: Okay.

CHAIRMAN McCARTHY: -- if we could.

MR. ROBINSON: Mr. -- Mr. McCarthy, it's in the -- it's in the declaration of Mr. O'Grady.

CHAIRMAN McCARTHY: Well, that doesn't help my earlier point, which was that Mr. O'Grady had two choices: Either he could -- he could use his own staff or do it himself to inquire which governmental jurisdictions required permits for activities reasonably related to the exercise of the permit granted by this Commission; or Mr. O'Grady could have asked the State Lands Commission for assistance in identifying any governmental jurisdiction.

MR. ROBINSON: And that's what the thrust of his affidavit is that he did. Peter Marsh has told me --

CHAIRMAN McCARTHY: I mean when the original permit --

MR. ROBINSON: I'm talking about the original permit.

CHAIRMAN McCARTHY: -- was -- fine.
MR. ROBINSON: When the original permit was applied for, he was dealing directly with Mr. Marsh, and Mr. Marsh has advised me -- and I believe it's in Mr. O'Grady's affidavit -- that the -- there are maps that you people have that tell you where all these things are, and that also each of the agencies gets a copy of this thing and that for some reason it fell through the cracks or whatever and nobody knew about it.

But you see, the point I'm trying to make is why are we making such a point of this? Because what has really happened -- I mean in what way has the Golden Gate Commission been harmed?

CHAIRMAN McCARTHY: Well, Commissioner Tucker wanted to pursue this line of questioning, and I was attempting to find out whether there could be a meeting of the minds.

MR. ROBINSON: All right.

CHAIRMAN McCARTHY: Apparently there is not.

MR. ROBINSON: I'm willing to accept your statement, Commissioner, that ordinarily we would -- if we were a normal corporation we should probably have a staff that would be able to figure this out, but unfortunately we did not.

CHAIRMAN McCARTHY: All right. On any of the points raised, do either of the Commissioners have questions that they wish to ask of Mr. Robinson or Mr. O'Grady?

COMMISSIONER ORDWAY: No.
CHAIRMAN McCARTHY: Mr. Robinson, would you like to bring any other points or arguments on behalf of your client to the Commission's attention?

MR. ROBINSON: Yes, I would like to say this, that apparently what's now being suggested by the Attorney General is this: He is saying that one of the reasons why they would like to bring this to a halt is because it may turn out that ultimately we would not be able to engage in a process there, and so therefore why burden everybody including Erse Corporation with more expense and so forth.

And my position is since we have taken the time and in good faith relied upon the permit, spent the money, are prepared to go forward, why not let us go forward with getting the permit from the -- from the -- what do you call it, the -- help me.

COMMISSIONER ORDWAY: Coastal Commission.

MR. ROBINSON: -- Coastal Commission as we attempt -- started to to do. That seems to be one of the conditions that you want cleared up.

In the meantime, we can -- we would be able to demonstrate also, if we are able to get that approval, then we can also demonstrate to you there will be no need for us to in any way trespass upon the Golden Gate property. We can do this by boat. There's no problem. And if we had known there was any problem we would have done it by boat.
So all we're talking about is getting the samples. If we get the samples and then we can demonstrate what we can do down there, then you will still have an opportunity to decide whether or not, with the Coastal Commission's information, whether we can accomplish what is probably a good objective for everyone without impacting the -- you know, the environment. Seems to me that's the fair, appropriate way to do it.

In the meantime, we're not going to hurt anything. We're not going to trespass on anybody's property. And if we have something there, maybe we'll all benefit; if we have nothing, then we lose.

CHAIRMAN McCARTHY: Commissioner Tucker has a question.

MR. ROBINSON: Yeah.

COMMISSIONER TUCKER: On the investment in this process, is this a process that is unique to that particular area?

MR. O'GRADY: The only one in the world.

COMMISSIONER TUCKER: No, no, no I'm not asking you if the process is unique; I'm asking if it could only be applied at that particular beach.

MR. ROBINSON: At that particular beach? I would say -- I would say if you could find another beach that had the kind of quality of materials, it would probably work at
any other beach. And this is not tailored to a beach, it's tailored to a mineral.

COMMISSIONER TUCKER: Okay. Well, I think that's important to understand, because the -- in other words, the investment made is not like a structure that's built at that point and if you walk away from it you can't take anything with you. If you walk away from this I assume that you take with you this process; is that correct?

MR. ROBINSON: Well, but the problem that I see with it, Commissioner Tucker, is that, as I've told you, we believe that there may not be another beach, at least on the west coast of California.

Now if we're going to have to go all around the world prospecting, we don't have that money; we're out of money. So what we're saying is this is a unique beach because of the San Andreas fault, because of the materials we're getting out of there, and that it ought to be explored, at least.

And it's costing the State nothing. You get 20 percent if we sell any of it. So why not permit us to at least do the prospecting sufficiently enough to come back and show you, and with the Environmental Commission's authority.

MR. O'GRADY: Allow me, please.

CHAIRMAN McCARTHY: Mr. O'Grady.

MR. O'GRADY: There's 13 elements, Mr. Chairman.
elements which our country needs very badly. At the present
time, we are importing into our country to exist and function
all of these elements which are -- are strategic elements.
They're importing them.

I have blocked out for you what the system that
myself and my peoples have put together here. I've done
that.

Secondly, the 13 elements that we have broken down
with your material, it begins with 2,000 pounds of sand.

By the way, it's not sand from the land; there is a
floating mass of tens of millions of tons floating back and
forth out there, and nobody will contest me on that. Nobody.
I'll stand up before God.

Secondly, sir, when I break that material down I get
1400 pounds of magnetics. From that 1400 pounds of magnetics
I get 400 pounds of chemically pure titanium powder.
Chemically pure titanium powder is selling today for $35
dollars a pound.

Now we take this and we finish -- I'm sorry, I -- we
have not done anything with the magnetite that's there, but
we know there's elements locked into the magnetite.

Let's go over here, sir. This is the startling
thing that we've just run into which you need the extra time
to confirm. At the present time in 600 pounds of the
nonmagnetics in that ordinary sand that's off the beach in
that mass of metals --

MR. ROBINSON: Under the water.

MR. O'GRADY: -- under the water we get 355 pounds, which, when we break it down, we get platinum, palladium, uranium and gold. These four. Enormous.

Now when we break it down again, we get 45 pounds -- I'm sorry, 45 pounds of rare earth elements. These are two elements which are -- monazite, xenotime. When we break the monazite and xenotime, sir, we get six rare elements.

We just shut -- Union Oil just shut their plant down there. We had $40 million invested in, and let 750 people go and closed the town down because they were manufacturing these.

God, I'll give this to them. This is a byproduct. Six rare elements. That's all this United States needs. To function.

Well, I could go on and on and on with you.

MR. ROBINSON: You've said enough. You've said enough.

MR. O'GRADY: This is important, sir. This one here makes me cry. That one. That's what we need and the system that we now control here in California -- God Almighty, sir, California -- and I make this statement unequivocally -- at the present time is the richest state in the world with what's off the beaches here. The richest state in the world.
MR. ROBINSON: Okay.

MR. O'GRADY: And all you have to do is let me prove it. I'm not asking for any monies from anybody. I pay for it, myself and my peoples.

MR. ROBINSON: Sit down.

MR. O'GRADY: Sorry. I apologize. I get so wrapped up.

MR. ROBINSON: I don't think -- I think you have the picture.

CHAIRMAN McCARTHY: I think you appreciate it's impossible for the members of this Commission to make a judgment on major points that Mr. O'Grady's been making. It may be that the United States Government, if it agrees with basic thrust of Mr. O'Grady's points, would want to move in some way and work with state and local government agencies to try to suggest that this is in the national security or very basic economic interest to American industry. This Commission is really not in the place to make that evaluation.

MR. ROBINSON: I know.

CHAIRMAN McCARTHY: So I don't think any of us would even try to contend with the points that Mr. O'Grady is making.

The issue before this Commission is -- with its responsibility over this title of area -- is to determine
whether or not with our public trust responsibilities we should renew or deny the permit before us.

Staff has recommended a denial of the extension of the permit because they think that some -- based on what experience has been derived by the permittee and what samples have been taken so far, that there ought to be some additional environmental information.

Frankly, it strikes me that these questions should have been asked in the first place, when the permit was being considered in the first place. And there is an element in this lateness that is unfair.

Nevertheless, in the public's interest I think it's sound, even if it's a couple years late, that this kind of environmental information should have been sought, and should now be sought.

Is there a motion from the members of this Commission?

MR. EAGAN: Excuse me, Mr. Chairman. One further item of information in the interests of an accurate record on something Commissioner Tucker said earlier. I want this to be clear both in the interests of an accurate record and in fairness to Mr. O'Grady.

The staff does not take the position that at some prior point in time several years ago Mr. O'Grady or his corporation applied to GGNRA for an access permit across the
beach. I think the most recent -- the only instance of that we're aware of is the quite recent discussions that the two have had.

There was, however, in the fall of 1983 at the same time that Mr. O'Grady was applying to the Commission for a prospecting permit off the beach, a similar set of discussions that he had with representatives of the National Park Service concerning actual prospecting on Ocean Beach, and I guess it is that circumstance that led the staff to conclude that at least if there was fault -- and there was fault I think on the part of the staff in not concluding earlier that there should have been an EIR -- excuse me, CEQA compliance, Mr. O'Grady was aware that GGNRA was in the picture and probably should have himself inquired much earlier for the required permit.

CHAIRMAN McCARTHY: One final point: On a number of issues that come before this Commission, I and the other Commissioners have asked what the nature of the contact has been with community leaders, with local government authorities, because although we ultimately have the responsibility to act on this permit, we try to do so with some sensitivity to what local feelings are at issue.

Perfect example of that is we have an interest in ARCO application before this Commission which is estimated to range up to $800 million, and we have dealt at length with
Santa Barbara county and city authorities and special
district authorities, trying to give them the opportunity for
input.

I don't know how much connection there has been with
city and county of San Francisco authorities on this issue,
whether about any concerns they may have had has been
discussed. I appreciate that this whole thing gets
enormously complex and very lengthy often in nature, but I
would suggest that probably is an appropriate part of the
dialogue that should be underway in all of this.

The matter's before the Commission. Do I hear a
motion?

MR. O'GRADY: Mr. Chairman --

COMMISSIONER ORDWAY: Motion.

CHAIRMAN McCARTHY: Commissioner Ordway moves.

COMMISSIONER TUCKER: Second.

CHAIRMAN McCARTHY: Commissioner Tucker seconds that
the staff recommendation for denial of the request for
extension of a permit to prospect be approved --

COMMISSIONER TUCKER: Mr. Chairman --

CHAIRMAN McCARTHY: -- that --

COMMISSIONER TUCKER: -- I just wanted to have a
discussion on the motion.

CHAIRMAN McCARTHY: All right. Commissioner Tucker.

COMMISSIONER TUCKER: All right. I just wanted to
indicate that it seems to me that the Commission does not need to make findings of fact, that the issues that have been raised are really issues of law, and that ultimately, as far as I'm concerned, what the Commission is concluding is that reasonable questions have been put to the permit holder -- the person who was the permit holder regarding potential environmental impact, and I think the Commission would be derelict in not obtain that information.

And I think that is what is the issue here today. I think all of the discussion about the -- you know, whether certain claims are claims of fact and whether they're true or not true is really irrelevant to that very central issue, and that is that we have a responsibility to obtain information to assure that there's not an uneven impact on the environment. And I think until such time as the permit holder is willing to provide that information that the Commission should not grant the -- or extend the permit. And I would vote for the motion.

MR. ROBINSON: Well, may I be heard, please?

CHAIRMAN McCARTHY: Yes.

MR. ROBINSON: I think this is what I was suggesting, that you grant the permit on condition that we obtain an environmental study approved by the Coastal Commission. That's all I'm asking, is that -- at least I would think that would have the element of fairness. I mean,
you admitted that there's some unfairness in the way this has come down at the last minute.

So rather than to say that you are out, why don't you say you -- the extension is permitted on -- on condition that you obtain --

CHAIRMAN McCARTHY: Mr. Robinson, you are not prohibited from reapplying for this permit.

MR. ROBINSON: But there's a big difference; there's a big difference. If we come in here on the extension of a permit and we meet the specific conditions that you as the Commission set out for us, then we will have our extension; whereas if we have to come in from all over again, then we can be put down at the bottom of the ladder in terms of all the other things that they may want to try to place upon us.

CHAIRMAN McCARTHY: I think -- I don't think that's an accurate reading of the situation.

MR. O'GRADY: Mr. Chairman, sir.

CHAIRMAN McCARTHY: Mr. O'Grady.

MR. O'GRADY: In talking with the peoples at the Commission -- at the staff level there, that was one of the requirements. I was to devote six to seven months on -- on running it through the equipment which I just showed you which would cost us about three-quarters of a million dollars. You were talking about dollars. And then we were to bring in an arm's length research and development people
to make the environmental study.

When we're finished with that, sir, we'll have a book something like this which is a study of the titanium in the world which we will give to Mrs. Dedrick and to everybody concerned throughout the world to evaluate it.

CHAIRMAN McCARTHY: Mr. O'Grady.

MR. O'GRADY: Yes, sir.

CHAIRMAN McCARTHY: I want you to be healthy for the next appearance you may make before the State Lands Commission.

MR. O'GRADY: Thank you very much.

By the way, I apologize, but as you understand, this is my whole life.

CHAIRMAN McCARTHY: I understand.

MR. ROBINSON: I'm 72 years old and I devoted four-and-a-half years of my time at my age when I could be making monies. But this is so important.

Let me read something for you, sir, please. "In our hands lies the decision which will determine the future of immediate and coming generations. Titanium resources and technology is only one strategic area where we have fallen far behind. It constitutes a threat not to be ignored today so as to become a grim reality tomorrow.

"We need not bequest that legacy to our children. We have presently in our hands the means not only to catch up
to these foreign peoples, but to pull ahead of competitors and potential in the vital pursuit of the freedom of the United States of America."

MR. ROBINSON: I --

MR. O'GRADY: That's all I have to say to you, gentlemen. I'm sorry: Ladies and gentlemen.

MR. ROBINSON: Commissioner McCarthy, may I ask once more if I could --

CHAIRMAN McCARTHY: Yes, Mr. Robinson.

MR. ROBINSON: It seems to me that in view of the fact that we've had a lot of people who have invested a lot of money in this thing, and they've done it in good faith and as Mr. O'Grady has pointed out whatever things have not been done here they've been -- as a result of perhaps mistakes on both sides, now what would be unfair to extend the permit on condition -- and you don't have to have the conditions here today; if you want to think about them for a day or so and spell them out and set forth an official report of your decision, setting forth, "We will extend your permit for X number of months," or whatever it is, "provided that you do A, B, C, D and E and report back and do this," then at least we can go back to the people who have been supporting us all the way and show them that at least there's some hope that maybe we can get this thing accomplished.

CHAIRMAN McCARTHY: I think you can report back --
we haven't taken the vote yet, but on the assumption that the
Commission follows the staff advice on this, I think you can
report back to your people that our recommendation to you is
that you develop this environmental information and that you
make contact with city and county of San Francisco governmen
to involve them in a serious way in this discussion, and --
and then we can proceed from there. We're saying in a very
open and plain way that you can do that.

MR. ROBINSON: But is that binding on the
Commission?

CHAIRMAN MCCARTHY: Is it binding on -- on the
members of the Commission?

MR. ROBINSON: See, in other words if the next --

CHAIRMAN MCCARTHY: It's a matter of public record
that we're making this -- well, those of us that are here
hopefully will be here for a couple of years more. We assume
that you'll pursue this.

MR. ROBINSON: But what I'm getting is sometimes the
Commission has different personalities on the Commission.

CHAIRMAN MCCARTHY: Finance is here on a permanent
basis. People come and go, but Finance will always be here.

COMMISSIONER ORDWAY: Not necessarily me but the
Department of Finance on an ongoing basis.

MR. ROBINSON: So whatever you're saying now is
binding on them?
CHAIRMAN McCARTHY: That's right. Actually, Commissioner Ordway has the most to say on this Commission. Her opinion -- her opinion is very persuasive.

MR. ROBINSON: No, I mean is it binding on Finance?

That's all I --

CHAIRMAN McCARTHY: Oh, no.

COMMISSIONER ORDWAY: When I speak for the Department of Finance I speak for the Department of Finance under this Administration. I would say that would be the position of the Department of Finance as long as this Administration is in office. Given the information we know right now, yes.

CHAIRMAN McCARTHY: Mr. Robinson, you've presented your case ably for your client. I think the Commission is ready for a vote.

And I think the vote is unanimous to accept the staff recommendation on this and to advise you to proceed diligently to make contact with city and county of San Francisco authorities, involve them.

And we'll instruct our staff to be in contact with them as well, so that this can be a three-cornered discussion. And that you please develop the environmental information that's being requested by our staff. And we'll proceed down the road and see what happens from that point.

MR. O'GRADY: If Mr. O'Neill approves --
CHAIRMAN McCARTHY: That will be the action of the Commission.

Yes, Mr. O'Grady?

MR. ROBINSON: If Mr. O'Neill, who I've talked to about this, and I've talked to Jack Fairless and I've talked to Pembrook who is the Planning Commissioner in San Francisco -- by the way, they buy what I say, but they cannot -- until I -- until I am satisfied -- until I satisfy the Land Commission, they will not do anything for me. But they're very cooperative and they understand.

And by the way, they're real patriots. Real patriots, gentlemen.

CHAIRMAN McCARTHY: Well, nothing will impede them from being involved in the discussions.

MR. ROBINSON: Right, and we'll be able to get a transcript of your remarks?

CHAIRMAN McCARTHY: Oh, yes. Thank you very much.

MR. O'GRADY: By the way, thank you for your patience with me.

CHAIRMAN McCARTHY: Thank you, Mr. O'Grady.

Item 45.

EXECUTIVE OFFICER DEDRICK: Item 45, exemption of oil and gas lease from competitive public bidding requirements requested by the City of Maricopa.

COMMISSIONER ORDWAY: Motion.
CHAIRMAN McCarthy: Motion by Commissioner Ordway. Seconded by Commissioner Tucker.

Any questions from the audience? If not, approved as recommended.

Forty-six.

EXECUTIVE OFFICER Dedrick: Item 46 is an approval of the deferment of the drilling obligation on Phillips lease in Santa Barbara County.


Forty-seven.

EXECUTIVE OFFICER Dedrick: Item 47 is an authorization to purchase with Kapiloff Land Bank Trust Funds a parcel of land in Tiburon.

Commissioners, in this instance you'll be acting as Kapiloff Land Bank Trustees, as well as State Lands Commission Trustees.

The proposal is for the State to commit $100,000 of the Land Bank funds toward the purchase of a parcel of land in Tiburon which, when purchased, would be become entirely sovereign land of the state.

CHAIRMAN McCarthy: All right. Any questions from the audience?

Motion by Trustee Ordway, seconded by Trustee Tucker.
that the action be approved. It's unanimous.

Forty-nine.

EXECUTIVE OFFICER DEDRICK: Item 49 is approval of Memorandum of Agreement between the State and the Army Corps of Engineers Waterways Experiment Station to conduct technical study of feasibility of an ocean entrance at Bolsa Chica.

COMMISSIONER ORDWAY: Motion.

CHAIRMAN McCARTHY: Motion by Commissioner Ordway, seconded by Commissioner Tucker.

Any questions from the audience?

That's unanimously approved.

COMMISSIONER ORDWAY: In the absence of further business I move to adjourn.

CHAIRMAN McCARTHY: Motion to adjourn is unanimously approved.

Thank you, ladies and gentlemen.

EXECUTIVE OFFICER DEDRICK: Thank you.

(Thereupon the State Lands Commission meeting was concluded at 4:10 p.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, DOREE O'CONNELL, 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, Doree O'Connell, 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 8th day of April, 1987.

DOREE O'CONNELL
Certified Shorthand Reporter
License No. 4068