MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ORIGINAL

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

TUESDAY, JUNE 30, 1987
10:00 A.M.

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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
COMMISSIONERS PRESENT

Susan Wallace Commission Alternate
for Leo T. McCarthy, Lieutenant Governor, Chairman

Peter Pelkofer, Commission Alternate
for Gray Davis, State Controller

Stan Stancell, 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

Jack Rump, Assistant Chief Counsel

Lisa Beutier, Chief, Enforcement Division

Lance Kiley, Chief, Land Management and Conservation Division

Dwight Sanders, Chief, Research and Planning Division

W. M. Thompson, Chief, Extractive Development Division

Lorna Burks, Commission Secretary

ALSO PRESENT

Richard Frank, Deputy Attorney General
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CHAIRPERSON WALLACE: Good morning. This is Susan Wallace. I'm representing the Chairman of the Commission, Lieutenant Governor McCarthy. To my right is our new commissioner representing the Department of Finance, Stan Stanceli. As you know, Nancy Ordway is leaving. Stan is with us and we welcome him.

I understand that Mr. Tucker may be coming and we will carry on.

The first order of business is a confirmation of the minutes from the last meeting of May 27th and 28th. Do I hear a motion to confirm those minutes?

COMMISSIONER STANCELL: I move that the minutes be confirmed.

CHAIRPERSON WALLACE: Second and approved for the minutes from the last meeting.

The second order of business is the consent calendar. C2 (A), as I understand, has been removed from the consent calendar and all other items from 1 to 20 on the consent calendar, if no one wants to speak to that, we will hear a motion to approve those consent items.

COMMISSIONER STANCELL: I move that the consent items be approved.

CHAIRPERSON WALLACE: Second and approved for the
consent items 1 through 20, with the exception of C2 (A),
which was removed.

The first item of business on the regular calendar
is Robert F. Marx, applicant for the Salvage Permit.

Staff, would you please present briefly Item 21.

EXECUTIVE OFFICER DEDRICK: Yes, Madam Chairman.

Lance Kiley, who is Chief of the Lands Division will give you
a brief description of what the permit would constitute.

Lance.

MR. KILEY: This is a permit to conduct an
exploratory operation and salvage if anything is found for
the ship San Agustin, which was a Manila Galleon which sank
around Drake's Bay I believe in the 15th Century. I'm not
good on dates.

In any event, we've worked out an agreement three
ways between the State Historic Preservation Officer, the
staff of the State Lands Commission and the Applicant that
would result in what we consider to be an archaeologically
acceptable way of doing this exploration and salvage if
anything is going to be found.

It's right offshore at Point Reyes National
Seashore. We are not asking for any permission to do work
within the boundaries of the National Seashore. It's also
purported to be within the jurisdiction of the Gulf of the
Farallones National Marine Sanctuary and they claim permit
jurisdiction over the site. We don't know for sure whether
they have it or don't have it. But without conceding that
they do, we would say that the Applicant would have to get a
permit from them to do any work within the area.

EXECUTIVE OFFICER DEDRICK: It's been a long time
since the Commission has issued such a permit,
Madam Chairman, and in no case has a permit for exploration
ever actually resulted in a find of the ship and raising of
treasure; although that's the goal that all the salvagers
have in mind, of course.

In this instance questions have come up in the last
few days as to the process by which any treasure thus found
would be evaluated.

Yesterday and this morning we sat down and went over
the details of those old permits in the light of the 1980's
and if the Commission doesn't feel that it's really critical
to go forward today after you hear witnesses -- and I really
think you need to hear the witnesses -- we would like some
time to review that aspect of the proposed permit simply
because it was written 15 years ago and this is the first
time really that it's likely to be implemented since then and
the world has really changed.

CHAIRPERSON WALLACE: I appreciate that.

EXECUTIVE OFFICER DEDRICK: I apologize that it
hadn't come up two weeks earlier than that, but the issue
just didn't arise.

CHAIRPERSON WALLACE: I had some questions that may be answered by the testimony of the two parties. So, we'll wait until after that testimony before I get into that.

Robert Marx, who I believe is the applicant, is to testify. If he would come up.

Would you sit down, please, and state your name so that we can get that into the record.

MR. MARX: My name is Robert Marx. I'm the managing director of Phoenician Exploration.

EXECUTIVE OFFICER DEDRICK: Excuse me, Madam Chairman. Mr. Pelkofer from the Controller's office has just arrived.

CHAIRPERSON WALLACE: Go ahead, Mr. Marx.

MR. MARX: Should I tell about my project? I wasn't sure.

CHAIRPERSON WALLACE: I had understood you wanted to speak on the project, which is what -- is this yours?

EXECUTIVE OFFICER DEDRICK: Mr. Marx, maybe you could just describe for the Commission what you think is there and what it is you'd like to do to look for it.

CHAIRPERSON WALLACE: You don't have to speak on the project.

MR. MARX: No, that's fine. I'd rather talk about it.
My interest in the San Agustin goes back to when I was a small child growing up in Southern California. I went up there and found pieces on the beach like people have been finding for years and years and it's one of the things that got me started in the field of underwater archaeology, which I've been working in for 33 years now fulltime around the world, 55 countries.

So, I kind of saved the important thing for the last, which is Manila Galleons. These are the most biggest fascinating ships that ever sailed on the high seas. They were the biggest, the richest, the longest voyages.

Tied into the 1992 celebration of the 500th year of the discovery of America, I would like to build a replica Manila Galleon. I've already done this several times before. In 1962 I built a replica of the Nina, Columbus' smallest ship, and duplicated a voyage from Spain to the New World. I was also helpful in building -- actually built most of the Santa Maria for the World's Fair in '63.

In '64 and '69 I made replicas of 10th Century Viking ships and had combined mileages of up to 6,700 miles.

For the last 12 years I've had the Phoenician Exploration, which is a Canadian nonprofit group which people from around the world including Americans put together for the purpose of building a replica of a Phoenician merchant ship and sailing from the Mediterranean to the New World.
Unfortunately, we have very, very little data on how these ships were constructed and the only place where there are wooden remains of Phoenician ships are in Cadiz Bay and, of course, the Spaniards thinking it would defame Columbus by building these replicas have never issued a permit for this work.

So, instead I was contacted several years ago by the Philippine government and asked to build a replica there tied into this thing and I decided I'd rather do it on my own than working with the Philippine government, which was a Marcos government at the time.

So, I went out and formed a limited partnership because my nonprofit foundation said, we'll give you the money for the replica, but it's too dangerous working in the Philippines and we're not going to put the money up. So, I went out and formed a limited partnership, a California corporation, Phoenician South Seas Treasure, for the purpose of working in the Philippines and for working in Drake's Bay.

This actually got started in January a year ago. We had a conference here, the Council of Underwater Archaeology, which I'm one of the founders of. Every year we have a meeting around the world. It just so happens it was here. During the meeting my talks were naturally on my work in the Philippines on Manila Galleons and everybody came around and said, well, what are you chasing wrecks over there for? You
have the most fantastic one on this coast. I said, yes, it is the oldest, but there's always been the controversy over who owns the waters and the rights to the thing and I don't want to get into a hassle about the whole thing.

But I did sit down with people from Park Service and from Parks and Recreation, John Foster and members of the press and everything. I tried to work out an agreement that we could all work together. Everything seemed fine in the beginning, a lot of press on it and then sometime later we were notified by the National Parks Service that they'll let us do it, except they want 100 percent and it's their waters.

So, a hassle ensued. I was in Europe at the time and I got a call for a law firm in San Francisco that I had hired to help me on this project and they said that Mel Fisher's group from Florida had had their legal counsel contact this law firm in San Francisco and they were going to put an admiralty arrest on the wreck and that would estop me or anybody from working on the site. So, I was advised to put an admiralty arrest on the site.

I've been testifying in Congress repeatedly trying to get a shipwreck bill passed in Congress, a federal shipwreck bill, and I've been fighting against admiralties. So, I was really reluctant to do it; but I had no choice but to do it.

So, a trial date was set for June last year and
because of the adverse effects it would have on the shipwreck bill -- remember, to get this bill passed I had to go around to something like five and a half million divers -- not personally, but groups that they were represented by -- and convince them that the federal shipwreck bill was good for them and that meant fighting against Mel Fisher and the treasure hunters.

So, this trial in June would have been really bad; because everybody kept say, oh, Marx, we decided to back the bill because you said you could work with big brother and now we see you're having all these troubles. So, if you're going to have all these troubles, imagine the poor sports divers who find wrecks.

So, I didn't want to have a hassle so I had the thing delayed to November 30th and again because of the shipwreck bill I just cancelled and dropped the admiralty lawsuit.

During this period I continued to work with State Lands in trying to get this permit. I contacted Mel and the different people involved and have been going through the process. A lot of people have been fired up about it, had a lot of trouble about it. But the whole thing is it is an archaeological dig. Nobody else has the money to do it. If somebody wants to give me the money, I'll do it for nothing, without a salary. But the money's not available. The
federal government does not have any money for underwater archaeology and they have never had any money for underwater archaeology.

So, we're forced to go out and get limited partners to do these things. The people that I got are all very wealthy. So, it's not win or lose and they're going to lose their shirt if we don't find anything.

One of the objectives of this thing is to find if any wood exists. Now, shallow water sites there's little likelihood that wood exists. But it so happens that Manila Galleons are made of a protected wood called Molave. I don't know how to translate it into English, there's no translation. In most places where it's found the wood actually survived.

Now, I've been working in the Philippines on deep-water wrecks. The two that I found in December hit reefs and went up in a couple thousand feet of water. Those probably have wood.

I forgot part of the story. In '44 we bombed Manila and unfortunately the whole archives went up in smoke. So, except for a few painting, we know virtually nothing about what these ships were built like. We have other documentation about where they were lost and the cargos and everything which survived in Spain and the Vatican and Mexico City. But on the ships' construction the only way we could
find out about Manila Galleons is actually finding them. None have ever been found to date until I found these two in the Philippines in December and recently I found two other ones in Guam. The two in Guam were the same problem. They hit a shallow reef, they left what we call a skid mark, went off the reef at the deep water. How deep they are, I don't know.

It's preferable to work on the deep water ones if they're not too deep. But we can only dive so deep and those reefs there go straight off to infinity. So, maybe all four of those are out of reach. The two in the Philippines are definitely out of reach. After being shot at three times in November and December, I decided it's not safe to work in those areas.

So, the project here is the oldest wreck, it is an important wreck. But this is not a treasure hunt. I started offering to work with everybody from Park Service on down the line, pay even their expenses to make this a joint project. So, it's not a deal where Bob Marx wants to be a hero or Bob Marx wants to find treasure. If I want to find treasure, there's so many easier places to go find it without having the hassle of pitch black water. It's always rough in that area. It's the worst place you could think of in the world for great white sharks. Even though I used to write that sharks don't bite, I got 268 stitches in my arm from a mako
six years ago. So, I now realize that they bite.

So, it's there and I want to do the job the best way I can without having a lot of problems. So, I think we could eventually work out the problems with Mel and National Parks Service by making them part of the project.

What I want to do is to have this thing tied into 1992. So, even if we don't find the wood, we will find a lot of artifacts on this thing. As I said, it would be like a tourist attraction like the Vaasa in Stockholm or the Mary Rose in Portsmouth. It is the oldest wreck on this coast that we know could be found. There's tails of other ones, but some of those are imaginary ghost wrecks that I don't believe exist.

So, I'm willing to answer questions. But all I can say is I want to do the job and I'll do the best job I can do.

CHAIRPERSON WALLACE: Appreciate that.

Does any other Commissioner have a question of Mr. Marx?

COMMISSIONER PELKOFER: You do know where this is? You have located --

MR. MARX: Most people know within a couple hundred yards, yes, because of all the stuff coming ashore and, also, the captain of the ship was ashore when the ship went down. He described where his ship was anchored. All the stuff
exist. From the historical documents we know, yes.

Parks Service and others have gone out there with
sensing equipment and have gotten a lot of anomalies in the
area. But they've never dug in the spots to see if it's
there.

COMMISSIONER PELKOFER: How deep is this?

MR. MARX: The water is going to be somewhere
between 20 and 50 feet deep and the amount of sedimentation
could be up to 30 feet. We don't know yet.

COMMISSIONER PELKOFER: Relatively shallow.

MR. MARX: Right. But there are tales over the
years people have found bronze cannons and other things that
they've picked up. Whether it's true or not, I'm not sure.
There has been some plundering of the site.

CHAIRPERSON WALLACE: I have a question on the
contract, proposed contract, and the memorandum of agreement.
Can you hear me?

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON WALLACE: The way in which the artifacts
or the valuables are appraised just in terms from the state's
interests, as I understand they are appraised for the literal
value of whatever comes up at the time.

The question that either you may answer or staff
that I have is that presumably if an item comes up, it's
weighed and valued for insurance purpose, which is
legitimate. But my concern is that the value of that is that it plays a larger part in a find that you expect some historical significance, the value of that goes up ten-fold in some cases. I know there's not a lot of these, but the value because of its historical value. I just wanted to make sure that that contract and the memorandum dealt with that issue if it does not right now.

MR. MARX: It deals with all the unique items the state could take and then take that out of their percentage.

CHAIRPERSON WALLACE: I understand. But how it's valued. In other words, hypothetically --

MR. MARX: We always bring in outside appraisers. I usually get the job of representing a country. In this case I couldn't represent a country since I'm on the other side of the fence.

CHAIRPERSON WALLACE: I understand that. I'm not being clear. I'm sorry. Hypothetically. This is simply -- you pull a necklace out of the water and it's the first thing you pull out. You weigh it and it's worth whatever in gold. Later when it sits there you realize it is a part of a find of a larger historic significance and it's much more valuable not because of the weight of its gold.

So, my only question is: Is there some provision in the contract for things to be later costed or appraised for everyone's interest, whoever has the interest, the state
or --

MR. MARX: I don't know how it's going to be done here. But one of my actual partners in my limited partnership is Christy. He's the auction house. This is the first time they've ever been involved in a project. I'm usually a consultant to them on other finds.

So, the best thing is you bring somebody like Christy's in and then you pick a few people and they all sit down and look at all the artifacts and say, okay, this should go there and this should go there.

In a lot of cases in previous things that I have done if things are really unique, the people involved who put up the money will just say, let's just give it to the country or state. And they get a tax write-off.

So, you see, nobody's really trying to make money. We just don't want to lose millions of dollars either. We're not going to break up a collection if it's something unique. We're not going to say, let's chop the statue in half and you get half and we get half.

CHAIRPERSON WALLACE: That wasn't what I meant. I just want to make sure that we all take care of business.

MR. HIGHT: Madam Chairman, on your specific point. It was our intent that that be covered. But reading the language now in light of what you said, I believe that the language can be improved and probably should be improved to
further clarify your concerns.

CHAIRPERSON WALLACE: I don't see any problem doing it. I just want to make sure that we think about.

EXECUTIVE OFFICER DEDRICK: I think your point's very good. What Mr. Marx says he's repeatedly stated it's his intent and I'm sure that it is his intent.

The problem is that the way this -- this is the concern that you raised earlier and we've been looking at. Just simply the way the language is written it's fuzzy. We would prefer to have some time to straighten out that language so that it's clear what the Commission's options -- so that the Commission's discretion is clearly preserved is what I'm trying to say, which I believe would be the desire of the Commission.

CHAIRPERSON WALLACE: That would be my desire.

I'd like to hear from the other party before we get into that just so that everybody has a chance to share their views here. That is Roger Kelly, I believe.

Mr. Marx, are you finished?

MR. MARX: Yes.

CHAIRPERSON WALLANCE: Do you have anything else?

Thank you very much.

MS. BEUTLER: Madam Chairman, Mr. Kelly has an exhibit.

Did you want to put that up, Mr. Kelly?
DR. KELLY: It's only brought for the courtesy of
the Commission. It's a nice helpful graphic.

EXECUTIVE OFFICER DEDRICK: Would you like that up?

CHAIRPERSON WALLACE: Please. Thank you.

Mr. Kelly, are you speaking on behalf of the
project?

DR. KELLY: I'm speaking on behalf of the National
Park Service, Western Region, San Francisco.

CHAIRPERSON WALLACE: Thank you.

DR. KELLY: I'm Roger Kelly, a regional
archaeologist, National Park Service. We welcome the
opportunity to emphasize the National Park Service's position
in the matter of the phantom galleon San Agustin.

Our research in Drake's Bay and Point Reyes Seashore
jurisdiction a few years ago resulted in factual evidence of
the likely position of the wreck site. We published a report
describing that project and those data.

Historical research in Spain by our historians
working with Spanish scholars has been also helpful in recent
years. Electronic discovery devises used revealed to us
several highly likely patterns for the wreck site and the
historical information we've been able to work on in the last
couple of years shows that the wreck sites continued in
Spanish minds up until at least 1776, where the wreck site is
shown on a Spanish period map in San Francisco Bay Area.
We have reread and retranslated parts of Cermano's accounts that is in the various archives in Spain to see if the translations done in the 20's have been accurate according to modern knowledge. We have a conceptual plan to continue research and search and we can effectively call upon other agencies to share in this program as they have in the past. Specifically, NOAA, Coast Guard, Navy and other agencies.

We recognize the responsibilities of the Commission acting for the people in state lands matters and we recognize the parallel responsibility of NOAA Marine Sanctuary Program staff. Both agencies are our neighbors in Point Reyes and Channel Islands and we are in good dialogue with both agencies and particularly after our joint meeting with the Commission last spring.

We recognize also the very high significance of this oldest shipwreck on the west coast; the responsibility of each public agency, state or federal, to address highest public interest, which we believe is complete public ownership for maximum public good.

For any agency or group to investigate, identify, study and tell the nation San Agustin's story is to commit an international significant resource and considerable funds. It must be done according to highest standards. There will be no second chance.
We welcome the opportunity to work with non-NPS individuals, groups and others who meet the Department of Interior's well-known standards in archaeology and historic preservation. Such groups and individuals have already come forward. The permit authority for those kinds of activities rests in San Francisco with the Regional Director and lines of communication are always open.

For 400 years the sea has both hidden and protected in a sense this evidence of a heroic human story. One of the best reasons to conduct a search, by whom and for what goals are issues faced here by the Commission, National Park Service and other agencies and citizens of California.

Thank you for the consideration of these views.

CHAIRPERSON WALLACE: Thank you, Mr. Kelly.

Does anyone have any questions of Mr. Kelly?

EXECUTIVE OFFICER DEDRICK: Perhaps for the benefit -- oh, I'm sorry.

COMMISSIONER PELKOFER: That's all right. I was just trying to see if Mr. Kelly -- I'm not sure where Mr. Kelly is coming from.

Are you in favor of going ahead, Mr. Kelly, at this point by this individual requesting a permit or are you opposed to it or do you have a position?

DR. KELLY: The position of the National Park Service is that since we are neighbors to this proposed
project and we have addressed already in correspondence our concern about environmental documents as we read them some months ago and the research design and project documents as we read them some months ago, we notice some inadequacies in there.

I think at this point we would have to say the project as we understand it is not acceptable on certain technical areas. They may have been corrected. I'm not sure. We would prefer this kind of project be accomplished with the highest public good, which is total public ownership, even though that runs counter to some of the Commission's mission and we understand and respect that view of the Commission.

COMMISSIONER PELKOFER: So, if I'm understanding you correctly, you think it's a good idea to explore this as an archaeology site; but you want to make sure it's done properly.

DR. KELLY: Exactly, sir.

COMMISSIONER PELKOFER: Thank you.

EXECUTIVE OFFICER DEDRICK: Commissioners, the timeframe issue that faces the Commission is that under the Permit Streamlining Act the year on Mr. Marx' application ran approximately two and a half months ago. As Mr. Kelly has indicated, there was some controversy on this issue, particularly within the archaeological community.
With the cooperation of the State Historic Preservation Officer, Dr. Gualtieri, and Dr. Kelly and the people at the National Park Service we had a substantial meeting discussing how to handle the jurisdictional problem; the problem being, of course, that under state law when an application is approved and certified and handled properly as this one has been, a decision has to be made. At that time Mr. Marx very generously in concern over trying to help resolve this problem gave us a 90-day extension.

Now, that extension runs on the 28th of July, as your calendar indicates. There is a scheduled Commission meeting. The July meeting is scheduled for the 16th of July. That would give us time to address the sorts of issues that I have mentioned earlier, which is primarily technical.

The problem that Dr. Kelly has raised we've had substantial discussion. The Park Service has been exceedingly courteous about this. We do not feel that the State Lands Commission is the right agency to be the arbiter of what is the right way to go archaeologically.

Therefore, we entered into a joint agreement with the State Historic Preservation Office, which is the state archaeological authority, to give them very strong control over anything that goes forward.

In this instance there's a disagreement between the federal policy, a legitimate policy, and the state policy, an
equally legitimate policy, that you've got to have some profit in here or nobody's going to explore and there isn't public funding for it. So, that's the basic archaeological/regulatory debate.

I think that any real issue that relates to archaeology -- I'm not sure, Roger, whether you were in on the last round of discussions with SHPO. But the State Historic Preservation Office addressed in detail the concerns that the Park Service had. As always, it's difficult to hold meetings. We have offered and the Park Service is considering expanding those kinds of agreements so that where they relate to issues of concern or areas of jurisdiction, are adjacent to Park Service jurisdiction, we can have an orderly process to handle the thing.

I don't believe that our staff will ever be qualified to make those judgments, nor do I think is that desirable. But I do believe the process should be orderly and that's been our effort here. In that I must say the people at Golden Gate National Recreation Area and the archaeologists, particularly Dr. Kelly, have been very cooperative.

CHAIRPERSON WALLACE: Thank you.

COMMISSIONER STANCELL: I take it from your comment then that the concerns raised by Dr. Rogers (sic) can be addressed within the two-week timeframe?
EXECUTIVE OFFICER DEDRICK: Commissioner, we believe that the process that we've set up, which is that the applicant must come back to the Commission after this permit as a condition of the permit with an archaeological plan that is approved by the State Historic Preservation Office and meets the requirements of the archaeological community as represented by that state office.

COMMISSIONER STANCELL: You think that can be done?

EXECUTIVE OFFICER DEDRICK: Yes. Then before the thing can go forward there needs to be input from all concerned and I would hope that if we ever get to that stage on this kind of a project that we will have a working arrangement with the National Park Service. There's plenty of opportunity for their input on a professional basis.

The only thing that we cannot resolve unless the Commission chooses to do that is this question of whether or not archaeological finds should be explored and there should be some element of private profit in that exploration. That's the basic issue.

If I'm misquoting you, Dr. Kelly, please --

DR. KELLY: I'm sorry?

EXECUTIVE OFFICER DEDRICK: If I'm misquoting the accuracy of our respective positions, I'd appreciate your correcting me. But I believe that's correct.

But that's a basic, I guess, governmental
philosophical difference and that we cannot resolve by our process. But the on-the-ground problems I believe we can resolve.

CHAIRPERSON WALLACE: So, I think what staff is saying is that there's two main issues here. One is our interest in terms of the contract, presuming this is something we're going to do, and how well it's done and how well the state's interests are dealt with. Secondly, that the issues that are sort of out of our purview to be able to judge such as the archaeological judgments are made with that partnership that you're creating by the agreement itself with the historical society?

EXECUTIVE OFFICER DEDRICK: With the Preservation Office. That is correct, Commissioner.

CHAIRPERSON WALLACE: I got it.

EXECUTIVE OFFICER DEDRICK: That's a good description of the situation.

CHAIRPERSON WALLACE: So, as I understand, we will put this off and hear this issue after we get the contract language and the Commissioners and anyone else that have specific interests can deal with that before the 16th? The 16th or 17th?

EXECUTIVE OFFICER DEDRICK: The 15th is the scheduled date for the Commission meeting unless something happens. So, we will be noticing that around the 6th of
July.

CHAIRPERSON WALLACE: Does anyone else in the audience have any comment on this project that they would like to share now or talk about before the 16th, which you also may do the 16th?

Okay.

COMMISSIONER STANCELL: Madam Chairman, I would move that this item be put over until the next Commission meeting.

CHAIRPERSON WALLACE: Second and approved.

Item 22. Staff, would you present Item 22, please.

EXECUTIVE OFFICER DEDRICK: Item 22 is to consider -- the Commission requested in the case of the Bolsa Chica proposed area that staff ascertain the position of local government. Huntington Beach and Orange County have been consulted and met with and Mr. Trout has done all those things and I'd ask him to report directly to you.

ASSISTANT EXECUTIVE OFFICER TROUT: The report is that local government is working with the developer to enter into an agreement which would provide for the County of Orange to get the local coastal plan approved and certified by the Coastal Commission and that thereafter the issuance of development permits would be made by the City of Huntington Beach after annexation. They're working on what would be called a development plan agreement and we're monitoring that. Both the City of Huntington Beach and Orange County
are supportive of the work that's now going on.

CHAIRPERSON WALLACE: Thank you, Mr. Trout.

EXECUTIVE OFFICER DEDRICK: This doesn't require action by the Commission.

CHAIRPERSON WALLACE: This is just information for the Commission. Thank you.

Item 23.

EXECUTIVE OFFICER DEDRICK: Item 23 is another information item for the Commission. As you recall, there has been a moratorium on new marina construction or marina expansion imposed by the Commission while we tried to get a handle on what's happening out there and how best to proceed with a reasonable level of development in the river. Staff conducted a major study which came up with a great many recommendations and a lot of information generally supported by the public and the respective public agencies.

In about March staff began -- we've been trying to put together an implementation plan for utilizing this information in the Commission's decisionmaking process along the river.

It turns out to be quite a difficult thing to do partly because there are a variety of jurisdictions and, also, of course, if the Commission decides to get into a definite regulatory area here, that invokes the Office of Administrative Law process, which can take at least a year.
before regulations of that sort can be carried out.

Obviously, the moratorium would have to stay in effect during that period or the -- I mean, staff would recommend that the moratorium couldn't be lifted under those circumstances.

So, in March you had a couple of people, including Mr. Skidmore, who is here and wants to testify today, asking when are we going to get this act together. I told the Commission at that time that we would give you our best estimate in June and that's what this report to you is about today.

We believe that extremely useful information came from that marina study. We do not believe that a blanket lifting of a moratorium is the way to go at the moment, because we're in the process of trying to come up with a method of utilizing that information in the Commission's decisionmaking process.

What we would like to do -- we have, as the calendar item says, three or four applications that are in before the Commission now. What we would like to do is to try to apply our knowledge on a case-by-case basis to applications as they come before us and develop -- I believe what will be the most useful thing is an addition to the CEQA Checklist that covers the kinds of issues that are specific to the Sacramento River.
We, therefore, would recommend that in the general way -- we're not asking you for action today. We would just prefer to have two or three months -- I would say around August or September -- to work through these four applications that are before us in the light of the information that we have and see if we can devise a process that will be functional, but will meet the Commission's concerns about cumulative impacts and all of the other impacts that were identified in the marina study.

CHAIRPERSON WALLACE: Thank you.

Any questions before we hear Mr. Skidmore?

MR. SKIDMORE: Madam Chairman, Commissioners, my name is Kip Skidmore. I represent Riverbank Holding Company. We have been an applicant to expand our existing marina on the Sacramento River. I think we've applied and taken our application and withdrawn it and then applied it again.

But, basically, I think this is about the third year anniversary of this study that is now being conducted. We were the last ones through and had our marina that is now existing passed in I think it was June or July of '84.

That study was undertaken by the staff as a capacity study for the Sacramento River, which we fully agree with. The staff and its consultants I think did an admiral job in putting together that study. We as developers and users of the river think that study was necessary, although probably
not as supportive at that time it was going to be a three-year study. Now I'm hearing a little bit longer.

But in any case, we do support that study. We had input into that study, as all the jurisdictions did and the public and everybody else had input. We think it's an admirable study.

We were also under the impression that that study was going to be adopted by this Commission last October or November. It was not, obviously. It was put over until January or February. The time is now -- I appeared in April at your meeting and asked the specific question as to when this study was going to either be adopted or amended or whatever. April we said it was going to be -- I thought it was May. Claire, maybe it was in June which you were going to give us a specific date as to when the Commission would either adopt or modify the staff recommendations.

Also in light of this, it's the Commission's responsibility to the public of Sacramento that are now our best estimate -- and I probably think this will be substantiated by staff. There are 3,000 boaters in this general Sacramento area who do not have boat slips. They've been waiting three years, the number hasn't changed in three years. The same 3,000 people are still looking for boat slips.

The study addressed that, I think, and all 3,000 are
not going to have boat slips in Sacramento. The river is not
going to support that. We all know that. We're not asking
for 3,000. We're asking, I think, for 66 or 60 additional
boat slips.

I think the public needs to know as we need to know
is this Commission going to adopt that study? Is it going to
modify it? When is it going to do that? That's simply what
I think I'm asking here today.

Again, I think this is the third or fourth time
which I've asked that question. I simply want some
indication. I hear Claire saying that it may be three or
four months.

The application we have in meets fully in our
opinion and I think staff's opinion, too, the conditions that
the study lays out as to how you approve new marinas and that
sort of thing. We're asking for an extension of an existing
marina and the removal of an older marina and it fits into
the study. So, are we going to be asked to wait another year
or three months?

EXECUTIVE OFFICER DEDRICK: Madam Chairman, for the
information of the Commission the item relating to the area
that Mr. Skidmore is referring to -- that is to say, a lease
for the area where he would like to do the expansion -- is
Item No. 28 on this calendar. We would be granting to
Riverbank a lease for an existing marina which they have had
control of for the past three years and which is in trespass.

You should not understand from what I have said that the Riverbank Holding Company is really responsible for the trespass, because they're really not. They bought the upland area from the people who have been in trespass for many years and have since been trying to get a lease for the area.

I didn't want to misrepresent your position here at all, Kip.

We are recommending that the existing facilities -- I think I just said it was Item 28 -- go under lease. The proposal for expansion of the marina is very, very substantial.

I am not certain that any of the three of you were sitting at the time that the Commission adopted the -- or directed staff to put a moratorium into effect; but it was the direct result of the Riverbank application and the magnitude of that marina which is now in existence and which, as you know, is a very large marina. That isn't to say there's anything wrong about that.

Kip understands, I know, that that's what started the Commission's intense concern about what's going to happen to the river. Because it's a substantial change in the kind of use that has historically been the case along the river.

CHAIRPERSON WALLACE: I think his point though, too, is that we need to get down and decide what those rules are
so that they know how to play by them.

EXECUTIVE OFFICER DEDRICK: Absolutely true. As I pointed out, it has turned out to my consternation frankly to have been extremely difficult to put this into a form where the Commission can actually use it. I simply several months ago brought a whole new set of planning people in who had not dealt with it before to try to get a fresh look at it and I think that that was a positive move. I think we'll have something for you along the lines described in the calendar item within the next couple or three months. Certainly by the end of the summer.

Excuse me, one more point. Riverbank is one of the applications that will be used as our process example.

CHAIRPERSON WALLACE: What you're concerned about is going to be dealt with at any rate because you're going to use that to deal with the study.

EXECUTIVE OFFICER DEDRICK: Precisely correct.

I don't know whether anybody's asked you, Rip, but we are hoping to have a good deal of cooperation from you two or three applicants and a lot of discussion on the way we're going here.

MR. SKIDMORE: We are totally supportive of the study and all the conclusions reached in that study. Our application that we have in we are applying as if that study was adopted. We agree with all of the conclusions reached in
that study. We are simply asking -- there it is, there's the study. Implement it. It's been around six months. Are we going to wait another six months to do it?

Keep in mind that the building season on the Sacramento River ends November 15th. Any project that is not substantially completed by that time will not be completed. Because the requirements of the Reclamation Board require you to be off the marina from November 15th to, I believe, March 15th.

CHAIRPERSON WALLACE: Do you have a project other than Item 28? Do we have a timeline on that? Is that what we're getting at here?

MR. SKIDMORE: We have Item 28 on the calendar at the request of the staff. We had put that on there prior to that because that lease would be superseded by our expansion request. That is an old marina that's been there, I don't know, 20 years or so.

EXECUTIVE OFFICER DEDRICK: Wait a minute now. That's on at the request of your owners. You asked that we give you a lease to chat area.

MR. SKIDMORE: I'm sorry. What I meant is that will be superseded by -- it's a marina that's sitting here. Our expansion will go right across that marina. This is a dilapidated marina that we need to have under lease.

COMMISSIONER PELKOFER: Excuse me. Are we on
Item 23 or Item 28?

CHAIRPERSON WALLACE: We're on Item 23, but 28 relates to this, I think, and it's been up so often that I really wanted to get that on the table and get some closure on this report.

COMMISSIONER PELKOFER: So, we are looking at a finished report in three months?

EXECUTIVE OFFICER DEDRICK: Yes. Commissioners, one of the major problems is that the results of the study make recommendations which internally conflict with each other. That's one of the problems. Trying to resolve those kinds of things are what has caused us a lot of problems. If we take one set of recommendations, it could kill this person's marina. If we take another set, it will kill somebody else's marina.

What is the best thing? I mean, what's in the public's interest and how does the Commission retain its discretion to make a public interest decision within these guidelines? That's the reason there's a difficulty.

CHAIRPERSON WALLACE: Okay.

EXECUTIVE OFFICER DEDRICK: But, yes, three months.

CHAIRPERSON WALLACE: That's what you were trying to get is three months?

EXECUTIVE OFFICER DEDRICK: The September meeting.

CHAIRPERSON WALLACE: September meeting. Fine.
This is an informational item. We sure did spend a lot of time on it.

MR. SKIDMORE: Thank you.

CHAIRPERSON WALLACE: We appreciate your time.

Twenty-three. We passed 23.

Time. Excuse me.

(Thereupon a short discussion was held off the record.)

MR. FIGHT: For the record I would like to make a statement that Peter Pelkofer is sitting in a non-voting capacity for the State Controller.

CHAIRPERSON WALLACE: Item 24.

EXECUTIVE OFFICER DEDRICK: Item 24 is the recommendation of approval of a 49-year General Permit-Public Agency Use for a very small parcel of land for a public walkway to the City of Redding.

CHAIRPERSON WALLACE: Do I hear a motion on Item 24?

COMMISSIONER STANCELL: I so move.

CHAIRPERSON WALLACE: Second and approved for Item 24.

EXECUTIVE OFFICER DEDRICK: Item 25 is authorization for the execution of a memorandum of understanding between the staff of the Lands Commission and the Southwest Region of the Forest Service for land exchanges.
COMMISSIONER STANCELL: I move.

CHAIRPERSON WALLACE: Second and approved Item 25.

Item 26.

EXECUTIVE OFFICER DEDRICK: Item 26 is approval of a 25-year General Public Agency Permit to the State Reclamation Board for levee protection work in the Delta.

CHAIRPERSON WALLACE: Do I hear a motion?

COMMISSIONER STANCELL: I move Item 26.

CHAIRPERSON WALLACE: Second and approved for Item 26.

Item 27.

EXECUTIVE OFFICER DEDRICK: Item 27 is to deny without prejudice an application for a gas pipeline into the San Joaquin Valley around Bakersfield.

CHAIRPERSON WALLACE: Do I hear a motion on Item 27?

COMMISSIONER STANCELL: I so move.

CHAIRPERSON WALLACE: Second and approved.

Item 28.

EXECUTIVE OFFICER DEDRICK: Item 28 is the Riverbank lease. We recommend a ten-year General Lease with the payment of an annual payment of about 1,062 subject to five-year rent review and the payment of three years of back rent.

COMMISSIONER STANCELL: I so move.

COMMISSIONER PELKOFER: Comment, Madam Chairperson.
The Controller would like to express his concern with this item. Even though I'm not voting today and he has no objection to its passage today, I think it should be very clear to the applicant that the Controller may not support any of the other plans and he shouldn't interpret any actions of support here as support for any of the expansion that he has before the Commission, that is proposed before the Commission.

I don't want to lead him down the path into thinking because this was approved necessarily anything else that he has planned before this Commission will be or will not be approved. Thank you.

CHAIRPERSON WALLACE: As I understand it, until the plan is approved that would be --

EXECUTIVE OFFICER DEDRICK: That is correct. This lease is, as Mr. Pelkofer correctly interprets it, for the existing facilities there and carries no further commitment by the Commission in any way.

COMMISSIONER PELKOFER: My purpose was just to indicate that the action and approval, even though I'm not voting today, should not be signified as any action of approving anything else or an intent to approve anything else. Thank you.

CHAIRPERSON WALLACE: Item 28 is --

COMMISSIONER STANCELL: Just moved.
CHAIRPERSON WALLACE: Just moved and seconded and approved, Item 28.

Item 29.

EXECUTIVE OFFICER DEDRICK: Item 29 is the approval of a new rescission of an old 49-year Public Agency Lease at Wildcat Creek to the Contra Costa Flood Control District. To my knowledge this is a non-controversial item, although Mr. Connaughton of the Flood Control District is here to answer questions if the Commission would like questions answered.

CHAIRPERSON WALLACE: I don't have any. I'm comfortable with this item.

COMMISSIONER STANCELL: I move Item 29.

CHAIRPERSON WALLACE: Item 29 seconded and approved.

Item 30.

EXECUTIVE OFFICER DEDRICK: Item 30 is the approval of two Non-Exclusive Geophysical Survey Permits for the use of instruments not including acoustical pulse generators.

The reason I'm making those funny-sounding noises is, as you remember, Commissioners, we are in the process of developing a reassessment of the acoustical -- you call them air gun -- system of exploration.

These two permits are not for that kind of equipment. They are strictly for the use of side-scan sonar and non-acoustical generators.

I should call your attention to the fact that we
received a letter from Chase Mellen, an attorney in Santa Barbara, in relation to this. That letter is before you. He feels that no permit should be issued without an EIR. He calls this a seismic blasting permit in his lead and since specifically the -- first place, seismic blasting does not occur and has not occurred in California waters for over 25 years. But I think he means air guns and this permit does not allow air guns.

CHAIRPERSON WALLACE: I understand that.

COMMISSIONER STANCELL: I move Item 30.

CHAIRPERSON WALLACE: Item 30 is seconded and approved.

Item 31.

EXECUTIVE OFFICER DEDRICK: Item 31 is the issuance of a Preferential Geothermal Lease to the Kennecott Corporation on 40 acres of resource in Imperial County right next to the Salton Sea. It's the result of a very impressive and very deep well test that was run by the Department of Energy to determine the temperatures there and it looks like a promising area.

COMMISSIONER STANCELL: I so move.

CHAIRPERSON WALLACE: Second and approved for Item 31.

Item 32.

EXECUTIVE OFFICER DEDRICK: Item 32 is the Twelfth
Modification of the Long Beach Plan and Budget. This revises economic projections. I think perhaps Mr. Thompson would like to speak to this, but I'm not certain.

Mr. Thompson, do you have some comments for Mr. Stancell's benefit at least here?

MR. THOMPSON: Well, it's actually a little out of date now. Just that we had very drastic low price reductions about a year ago. Now they're turning around very rapidly and coming back. We'll probably have a revised revenue projection. I believe it's scheduled for the August meeting and I would say the revenues probably will be up.

EXECUTIVE OFFICER DEDRICK: Things have moved so fast this one's out of date before it gets on the calendar.

CHAIRPERSON WALLACE: It's going up.

COMMISSIONER STANCELL: I move that item.

CHAIRPERSON WALLACE: Approved of Item 32.

Item 33.

EXECUTIVE OFFICER DEDRICK: Item 33 is a Negotiation Subsurface Oil and Gas Lease to Russell Green and the Rio Delta Associates in Solano County. As you know, negotiated leases result because of there being no physical access to allow a competitive lease to go forward. That is the case here.

CHAIRPERSON WALLACE: Motion?

COMMISSIONER STANCELL: I so move.
CHAIRPERSON WALLACE: Second and approved for Item 33.

Item 34.

EXECUTIVE OFFICER DEDRICK: Mr. Hight will cover the legal items.

MR. HIGHT: Item 34, Madam Chairman, is the authorization to do a Title Settlement at Sausalito whereby the state will obtain 12,500 in the Kapiloff Land Bank and a public easement over Richardson Bay and the existing marina area access road to the marina.

Staff recommends approval.

COMMISSIONER STANCELL: I so move.

CHAIRPERSON WALLACE: Seconded. Item 34 is approved.

MR. HIGHT: Item 35 is the authorization of a sufficiency of a legal description of the proposed annexation to Laguna Beach. In this case the Commission is acting only on the sufficiency of the legal description.

CHAIRPERSON WALLACE: Boundaries.

MR. HIGHT: Yes.

CHAIRPERSON WALLACE: Motion?

COMMISSIONER STANCELL: I move.

CHAIRPERSON WALLACE: Second and approved Item 35. Item 36.

MR. HIGHT: Item 36 is the proposed annexation by
the City of Anderson of an area adjacent. In this case it is
staff's recommendation that the Commission act once again
only on the legal sufficiency of the description. The City
of Redding, I believe, is here.

EXECUTIVE OFFICER DEDRICK: No, that's the City of
Anderson.

MR. HIGHT: The City of Redding has written to the
Commission objecting to this annexation and it's staff's
position that the legal description is sufficient and this
really an area where LAFCO should make the decision.

EXECUTIVE OFFICER DEDRICK: Mr. Hart of the City of
Anderson is here to answer questions if the Commissioner
desires to ask them.

CHAIRPERSON WALLACE: I have a question of staff.

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON WALLACE: This is a proposal for
boundaries, not the annexation.

EXECUTIVE OFFICER DEDRICK: That is correct.

CHAIRPERSON WALLACE: So, we are not at this
Commission approving the annexation; we're only clarifying
boundaries.

EXECUTIVE OFFICER DEDRICK: That is correct.

CHAIRPERSON WALLACE: Does any other Commissioner
have a question for Mr. Hart, who's with Anderson? I don't.

Thank you very much for coming all the way from
Shasta County.

COMMISSIONER STANCELL: I move this item.

CHAIRPERSON WALLACE: Second. The item is approved.

MR. HIGHT: Item 37 is the authorization to enter
into a Boundary Line Agreement to clarify title along the
Sacramento River in Tehama County.

COMMISSIONER STANCELL: I so move.

CHAIRPERSON WALLACE: Second and approved Item 37.

Item 38.

MR. HIGHT: Mr. Trout will present the
administrative items, Madam Chairman.

MR. TROUT: Item 38 resulted from the Commission's
request to establish an enforcement program. Two years ago
through agreements with the Department of Finance and the
Resources Agency, rather than establish the program, a pilot
program was established that would run for two years.

We've obtained the services of Lisa Beutler, who has
headed up that enforcement program. She's prepared an
enforcement report of the first year's activities and perhaps
we could just take a minute for her to highlight that.

We're now getting ready tomorrow to start into the
second year of the program.

CHAIRPERSON WALLACE: Thank you very much.

MS. BEUTLER: Essentially what we tried to do was
develop a program to expand resources to assist us in the
enforcement effort. We have over four and a half million acres of property throughout California and clearly a staff of 250 people could not hope to address and properly monitor this.

So, what we did was develop six goals and objectives which include information and education, a goal for revenue enhancement, expedition or resolution of violations, investigation services, assistance to the hazard removal program, as well as having the enforcement officer serve as a member of the executive staff.

We had excellent efforts in terms of education and information. We provided or established six major relationships with agencies and community groups. As a result of this, 34 agencies made enforcement referrals to us and 40.7 percent of cases came from sources out of the Commission staff.

Staff found the program to be revenue effective. We had an actual revenue collection of $103,819 collected as of June 10th and achieved a savings to a grant trust fund through a settlement of $290,000 where investigative services were provided.

With over 81 investigations opened as of June 10th I'm now up to about 93 cases. I think we've opened seven or eight cases since this report was written. We have closed 58 percent of the cases or have those cases in litigation or
some other pending action.

We also were very effective in the hazard removal program. We worked with other jurisdictions and were able to do some hazard removal at no cost to the Commission or the state in this case and reduced cost in the other cases and we were acting in the capacity of health and safety for emergency purposes in those cases.

I'm also the Safe Water Drinking Coordinator for the agency. So, it's been a very busy year and I expect it will be another busy year. We've got a lot of work to do out there. I don't believe we understood the magnitude of the problem before we started the program. But we'll be very busy and there's graphs and all kinds of -- there's also a listing of cases. I'd be happy to brief the Commissioners on any of the cases. They are confidential because they're investigative. But privately feel free to call me.

ASSISTANT EXECUTIVE OFFICER TROUT: When we submitted our Budget Change Proposal, we believed very strongly from dealing with other states that this was a cost-effective program. It's turned out that way and we will be using this information to prepare a new budget proposal for consideration in the 88-89 budget.

CHAIRPERSON WALLACE: That's very good. I had a copy of this sent over to the office and I had the fortune of reading this last night and I am duly impressed.
EXECUTIVE OFFICER DEDRICK: It's really about twice as effective as we expected. We thought we were maybe being optimistic.

But one of the things that's really terrific are the spin-offs; not just cash, which has been excellent and I think will continue.

CHAIRPERSON WALLACE: Cash isn't bad.

EXECUTIVE OFFICER DEDRICK: No, that doesn't hurt. But in fact we're getting just a lot better information about our own land management or areas that we haven't been managing than we've ever had in the past to a large extent just through the contacts that Lisa has made to local government, particularly rural area law enforcement agencies. Just getting a terrific amount of useful information.

You've taken actions in the past few months based on those kinds of contacts and the information that Lisa obtained. Remember a couple cases of some illegal waterskiing activities that were actively dangerous. That was one that came out of Lisa's investigations.

CHAIRPERSON WALLACE: I also think that there's more of a tendency for people to actually perform when there's enforcement people that actually go out and enforce the rules. A bit difficult. Anyway, I congratulate you on behalf of the Commission.

Is this the last item?
EXECUTIVE OFFICER DEDRICK: One more.

ASSISTANT EXECUTIVE OFFICER TROUT: One more item as soon as you dispose of this. We'd ask that you accept the report here.

COMMISSIONER STANCELL: I move that the report be accepted.

CHAIRPERSON WALLACE: I second. Approved.

ASSISTANT EXECUTIVE OFFICER TROUT: Item 39 is a request for authority to sign an Interagency Agreement with the State Controller's Office for $30,000 for 87-88.

Over the past several years the Commission has been performing technical and expert functions where the Controller's Office did not have staff involving the settlement of the Howard Hughes' estate. This would carry that activity into the 87-88 fiscal year for the $30,000.

We've in the past performed legal services, engineering services and appraisal services.

CHAIRPERSON WALLACE: Do I hear a motion?

COMMISSIONER STANCELL: I so move. The Controller's going to pay him.

CHAIRPERSON WALLACE: I second and approve.

COMMISSIONER PELKOFER: Which turkey is this that we're employing for this job?

EXECUTIVE OFFICER DEDRICK: Oh, they're all good turkeys.
Mr. Hight: This is the wonderful staff of the Lands Commission and nobody else.

Executive Officer Derrick: All our turkeys are good turkeys, sir.

Commissioner Pelkoper: I figured it was somebody outside.

Executive Officer Derrick: No, this is staff work strictly.

Commissioner Pelkoper: We'll write the check for that.

Chairperson Wallace: Before we close, I did want to thank the parties that came from all over to testify today and provided us information.

If there's no other item of business, we will adjourn.

Executive Officer Derrick: That's the end of the agenda.

(Thereupon the meeting of the State Lands Commission was adjourned at 11:05 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER

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

That I am a disinterested person herein; that the foregoing meeting was reported in shorthand by me, Eileen Jennings, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of July, 1987.

EILEEN JENNINGS
Certified Shorthand Reporter
License No. 5122