meeting
STATE OF CALIFORNIA
STATE LANDS COMMISSION

ORIGINAL

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

MONDAY, JULY 10, 1989
11:00 A.M.

Vicki L. Medeiros, C.S.R.
License No. 7871
COMMISSIONERS PRESENT

Leo T. McCarthy, Lieutenant Governor, Chairman

Jim Tucker, Commission Alternate for Gray Davis,
State Controller

LaFenus 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

Dwight Sanders, Chief, Research and Planning Division
<table>
<thead>
<tr>
<th>INDEX</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceedings</td>
<td>1</td>
</tr>
<tr>
<td>Confirmation of Minutes for the meeting of May 31, 1989</td>
<td>1</td>
</tr>
<tr>
<td>Consent Calendar Items CO1-C21</td>
<td>1</td>
</tr>
<tr>
<td>Regular Calendar Items off calendar: Items 22, 30, 40, 42, 52 and 66</td>
<td>1</td>
</tr>
<tr>
<td>Item 23, J. Jeffery Kirst (Party)</td>
<td>2</td>
</tr>
<tr>
<td>Item 24, Pacific Mariculture, Inc. (Applicant)</td>
<td>3</td>
</tr>
<tr>
<td>Item 25, Yuma Associates, Ltd., a limited California partnership (Applicant)</td>
<td>6</td>
</tr>
<tr>
<td>Item 26, Pacific Gas and Electric Company (Applicant)</td>
<td>7</td>
</tr>
<tr>
<td>Discussion:</td>
<td></td>
</tr>
<tr>
<td>Mr. Baumgartner</td>
<td>7</td>
</tr>
<tr>
<td>Mr. McKelvey</td>
<td>9</td>
</tr>
<tr>
<td>Item 27, State Lands Commission (Applicant)</td>
<td>25</td>
</tr>
<tr>
<td>Remarks by Mr. Sanders</td>
<td>26</td>
</tr>
<tr>
<td>Public Comment</td>
<td></td>
</tr>
<tr>
<td>Mr. Greg Lien</td>
<td>29</td>
</tr>
<tr>
<td>Question-and-answer session</td>
<td>30</td>
</tr>
<tr>
<td>Commission action</td>
<td>34</td>
</tr>
<tr>
<td>Item 28, James R. Barrow and Marjorie A. Barrow (Applicant)</td>
<td>34</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>29</td>
<td>Item 29, Walter Morris Hart Noble and Charles Edward Noble (Applicant)</td>
</tr>
<tr>
<td>30</td>
<td>Item 30, off calendar</td>
</tr>
<tr>
<td>31</td>
<td>Item 31, John Mozart and Patricia Mozart, Trustees (Applicant)</td>
</tr>
<tr>
<td>32</td>
<td>Item 32, Thomas E. Kaljian, Mary Grace Kaljian, Gary P. Carlson, Anne Kaljian Carlson (Applicants)</td>
</tr>
<tr>
<td>33</td>
<td>Item 33, Hugh W. Harris and Muriel M. Harris (Applicant)</td>
</tr>
<tr>
<td>34</td>
<td>Item 34, McKinney's Landing, Inc. (Applicant)</td>
</tr>
<tr>
<td>35</td>
<td>Item 35, Thacher Trelkeld, John Handlin Trelkeld, Jr., Donald Pierce Crocket and William Alexander Crocket, Jr. (Applicant)</td>
</tr>
<tr>
<td>36</td>
<td>Item 36, Northshore Townhouse Association (Applicant)</td>
</tr>
<tr>
<td>37</td>
<td>Item 37, Emile L. and Jean L. Labadie (Applicant)</td>
</tr>
<tr>
<td>38</td>
<td>Item 38, Warren E. Speiker and Carol S. Speiker, Trustees (Applicant)</td>
</tr>
<tr>
<td>39</td>
<td>Item 39, Cedar Flat Improvement Association (Applicant)</td>
</tr>
<tr>
<td>40</td>
<td>Item 40, off calendar</td>
</tr>
<tr>
<td>41</td>
<td>Item 41, Michael Shumate and Gail Shumate (Applicant)</td>
</tr>
<tr>
<td>42</td>
<td>Item 42, off calendar</td>
</tr>
<tr>
<td>43</td>
<td>Item 43, The Brockway Club (Assignor) and Glenn A. Storek (Assignee)</td>
</tr>
<tr>
<td>44</td>
<td>Item 44, Donald Sweet, Sara Sweet, George Avanassian, Patricia Avanassian, Joseph E. Venosa, and Joy Naomi Vanosa (Applicants)</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td>45</td>
<td>Item 45, Ultramar Refining Company (Applicant)</td>
</tr>
<tr>
<td>46</td>
<td>Item 46, State Lands Commission (Applicant)</td>
</tr>
<tr>
<td>47</td>
<td>Item 47, postponed</td>
</tr>
<tr>
<td>48</td>
<td>Item 48, City of Long Beach (Applicant)</td>
</tr>
<tr>
<td>49</td>
<td>Item 49, Chevron USA, Inc. (Applicant)</td>
</tr>
<tr>
<td>50</td>
<td>Item 50, Tri-Valley Oil and Gas Company (Proposed Lessee)</td>
</tr>
<tr>
<td>51</td>
<td>Item 51, Santa Fe Energy Company (Applicant/Proposed Lessee)</td>
</tr>
<tr>
<td>52</td>
<td>Item 52, off calendar</td>
</tr>
<tr>
<td>53</td>
<td>Item 53, United States Borax and Chemical Corporation (Applicant)</td>
</tr>
<tr>
<td>54</td>
<td>Item 54, Joelen Enterprises (Applicant)</td>
</tr>
<tr>
<td>55</td>
<td>Item 55, County of Orange Harbors, Beaches and Parks (Applicant)</td>
</tr>
<tr>
<td>56</td>
<td>Item 56, Southwest Marine, Inc. (Applicant)</td>
</tr>
<tr>
<td>57</td>
<td>Item 57, Santa Barbara County Flood Control Water Conservation District (Applicant)</td>
</tr>
<tr>
<td>58</td>
<td>Item 58, Tahoe Keys Property Owners Association (Applicant)</td>
</tr>
<tr>
<td>59</td>
<td>Item 59, Homewood High and Dry Marina (Applicant)</td>
</tr>
<tr>
<td>60</td>
<td>Item 60, El Dorado Improvement Corporation/Ski Run Marina (Applicant)</td>
</tr>
</tbody>
</table>

**Public Comment**

Ms. Dena Schwarte

Question-and-answer session

Commission action

Item 61, Delta Bay Club (Applicant) 44
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>62</td>
<td>Star Harbor Homeowners Association (Applicant)</td>
<td>44</td>
</tr>
<tr>
<td>63</td>
<td>Fireman's Fund Insurance (Applicant)</td>
<td>44</td>
</tr>
<tr>
<td>64</td>
<td>Southern Pacific Transportation Company (Applicant)</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td>Remarks by Executive Officer Dedrick</td>
<td>45</td>
</tr>
<tr>
<td>65</td>
<td>Public Comment</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td>Mr. Paul Evans</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td>Question-and-answer session</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td>Commission action</td>
<td>54</td>
</tr>
<tr>
<td>66</td>
<td>Item 65, State Lands Commission, U.S.D.A. Forest Service and California State Historic Preservation Office (Parties)</td>
<td>54</td>
</tr>
<tr>
<td>67</td>
<td>Item 66, off calendar</td>
<td>54</td>
</tr>
<tr>
<td>68</td>
<td>United States of America, State Lands Commission (Parties)</td>
<td>54</td>
</tr>
<tr>
<td>69</td>
<td>State Lands Commission (Applicant)</td>
<td>54</td>
</tr>
<tr>
<td>70</td>
<td>State Lands Commission (Applicant)</td>
<td>55</td>
</tr>
<tr>
<td>71</td>
<td>State Lands Commission (Applicant)</td>
<td>55</td>
</tr>
<tr>
<td>72</td>
<td>State Lands Commission (Applicant)</td>
<td>56</td>
</tr>
<tr>
<td>73</td>
<td>State Lands Commission (Applicant)</td>
<td>56</td>
</tr>
<tr>
<td>74</td>
<td>Harry W. Schilling and Harry C. Schilling (Assignors)</td>
<td>57</td>
</tr>
<tr>
<td></td>
<td>Key Lease Corporation (Assignee)</td>
<td>57</td>
</tr>
<tr>
<td>75</td>
<td>Adjournment</td>
<td>57</td>
</tr>
<tr>
<td>76</td>
<td>Certificate of Reporter</td>
<td>58</td>
</tr>
</tbody>
</table>
CHAIRMAN McCARTHY: Good morning, Ladies and Gentlemen. Welcome to this meeting of the States Lands Commission.

Sitting on my right is Commissioner Tucker, sitting in for Controller Gray Davis. On my left is Commissioner Stancell, sitting in for Director of Finance Huff.

Minutes of the last Commission Meeting, without objection, are approved.

The consent items -- we're going to hold 21 temporarily on the Consent Calendar.

EXECUTIVE OFFICER DEDRICK: Orange County is here and could speak to that.

CHAIRMAN McCARTHY: Weren't you getting a document to Ed Manning and he was going to look that over?

EXECUTIVE OFFICER DEDRICK: Ed, do you want to speak?

CHAIRMAN McCARTHY: Are we still examining 21?

MR. MANNING: It's fine now.

CHAIRMAN McCARTHY: Fine. 21 is the last Consent item.

All right. We're on the Consent Calendar. No items are removed on the calendar by the Commission.
Anyone in the audience wish to raise any point about the Consent Calendar before the Commission acts upon it?

If not, the Consent Calendar is passed unanimously by the Commission.

We're on item -- I'm sorry. We're going to talk about pulled items next.

The following items on the rest of the Calendar have been pulled for those of you who may be here in connection with any of these items: 22, 3J, 40, 42, 52, 66. Those items are pulled from today's Calendar.

We try to give notice to everybody who has concern with those items, and we ask your forbearance if you came here in connection with one of those items without knowing they were going to be pulled.

We will proceed now to the Regular Calendar.

EXECUTIVE OFFICER DEDRICK: Item 23, Mr. Chairman, is a boundary line agreement and compromise settlement for a parcel of land adjacent to the Mokelumne River.

Party is Jeffery Kirst. This is near the town of Woodbridge. It results in full access to the river for the public along that parcel.

CHAIRMAN McCARTHY: Any questions from Members of the Commission on Item 23?

From members of the audience on Item 23?

If not, recommendation is accepted.
Item 24.

EXECUTIVE OFFICER DEDRICK: Item 24, Mr. Chairman, is Pacific Mariculture. This is the approval of a General Lease-Industrial Use for and agricultural project in Santa Cruz County for the purpose of growing abalone.

There are, I believe, some people here.

CHAIRMAN McCARTHY: I have some notices here, and I will call on members of the public in a minute.

Have you finished the staff report on this?

EXECUTIVE OFFICER DEDRICK: Basically, Mr. Chairman, let me have Dwight Sanders, who has been involved in the development of this project, give you a rundown on it and also give you the approvals that have already been reached on the subject.

MR. SANDERS: Thank you, Mr. Chairman.

As Claire, the Executive Officer, indicated, this is a mariculture facility. The County of Santa Cruz served as the lead agency, approved the project with consideration and conditions.

The Coastal Commission also considered the item at their last agenda and approved it on a vote of ten to zero with additional considerations.

The primary issues that remain in contention are twofold. One, an issue of, we believe, of view shed and access, which was dealt with by the Coastal Commission; and
secondarily, the potential or the proposed use of natural sea
caves for the facility. One sea cave to be used for the
intake pipes to provide sea water to the facility, and another
sea cave to be used for the discharge pipe for the facility.

That concludes staff's presentation to this point,
Mr. Chairman.

CHAIRMAN McCARTHY: Thank you.

I have several sign-ups for the Applicant. The
Applicant is Pacific Mariculture, Inc.

You folks are going to have to give us some guidance
as to who is going to speak for you. I have Mr. Richard
Rezle. I have Gerald Bowden. I have John Rutherford, Peter
Scrivani and that's it.

Then I have Mr. James Dorsey for questions, from
Yuba Associates.

EXECUTIVE OFFICER DEDRICK: That's another Item.

CHAIRMAN McCARTHY: I'm sorry.

EXECUTIVE OFFICER DEDRICK: We have Mr. Zeiher.

Mr. Zeiher, I believe, is the property owner in the area.

CHAIRMAN McCARTHY: That's fine. I would be happy to
hear from both sides.

I thought we should hear from the Applicant first.

Then we will hear from the property owner who is protesting
the Item.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman --
CHAIRMAN McCARTHY: You have no testimony?

Would you like to testify, Mr. Scrivani?

MR. SCRIVANI: I'm the project Applicant, and the individuals that you listed, Mr. Chairman, are all supporters of the project, and we all concur with the Staff Report for recommendation and approval.

That's the extent of my comments.

CHAIRMAN McCARTHY: Okay. Any questions of Mr. Scrivani?

All right. Mr. Kurt Zeiher.

Mr. Zeiher, would you like to give us your side?

MR. ZEIHER: Well, I don't have any side to give. I'm in favor of this project, Mr. Chairman. I just wanted to state that the property owners were very, very impressed with Mariculture's projection for this project.

That's all I wanted to say, sir.

CHAIRMAN McCARTHY: All right.

Any questions of Mr. Zeiher?

Thank you, Mr. Zeiher.

I do not have any other on this Item. Are there any other witnesses who wish to testify on this?

Any questions by the Commission Members?

All right. The matter is approved.

Item 25.

EXECUTIVE OFFICER DEDRICK: Item 25 is, Mr.
Chairman, Yuma Associates. This is another settlement agreement on land on the Colorado River.

Again, this also involves complete access to the river and a parking area.

CHAIRMAN McCARTHY: Any questions by Members of the Commission?

Anyone in the audience wish to testify on this matter?

Mr. Dorsey?

MR. DORSEY: Yes, sir.

CHAIRMAN McCARTHY: All right. Mr. Dorsey, welcome.

What would you like to tell us?

MR. DORSEY: Mr. Chairman, I am representing the Applicant. We have read the Staff Report, and we're in full concurrence.

That's all I have to say, unless there are any questions.

CHAIRMAN McCARTHY: All right. Any questions by Members of the Commission of Mr. Dorsey?

Any comments by any other members of the public?

All right. The matter is approved as recommended.

Next item --

COMMISSIONER TUCKER: Do we keep running track of
what access we have gained so that we can do like a yearly
summary for title settlements that indicates both monetary and
any land acquired and that sort of thing?

EXECUTIVE OFFICER DEDRICK: Yes, I think we do.

We have never had occasion to pull it out until
recently.

Your suggestion is right on target.

COMMISSIONER TUCKER: We should out something yearly
that indicates the benefits of the settlements so that other
people might be interested.

EXECUTIVE OFFICER DEDRICK: We will do that.

CHAIRMAN McCARTHY: Item 26.

EXECUTIVE OFFICER DEDRICK: Item 26. This is an
overhead power line proposed by Pacific Gas and Electric
Company in the area of Fresno.

Our authority is based on the fact that the power
line has to cross sovereign lands, and, therefore, we're the
lead agency for the State.

We have can give a detailed discussion from staff,
and you have a few people who appear to want to talk.

Mr. McKelvey, I believe, is in opposition to the project. I
am not sure of that.

And then we have two people from PG&E.

CHAIRMAN McCARTHY: Let's hear from one of the PG&E
representatives.
MR. BAUMGARTNER: Thank you, Mr. Chairman. My name is Peter Baumgartner. I'm an attorney for Pacific Gas and Electric Company in San Francisco.

This project is approximately 22 miles of 115 KV, thousand volts, 115,000 volt transmission line made necessary to serve the rapidly growing areas around Fresno. There are two San Joaquin River crossings. The line will essentially be built on, above an existing distribution circuit. We will have to replace the poles, of course, but essentially it will follow an existing route.

I'm available with Mr. Ralston, who is my technical advisor, to answer any questions you may have or questions from the staff.

CHAIRMAN McCARTHY: Existing route, does that mean that there are existing transmission lines there now?

MR. BAUMGARTNER: There is an existing pole line. It's a distribution line. The difference being that a 115,000 volts is considerably greater capacity than say a 12 or 24 KV line would be. So, essentially we replace the existing poles with taller one's so that we can put the three additional conductors or wires above the existing lines.

There are some areas in Fresno County particularly where a new line without existing distribution circuits will be built.

CHAIRMAN McCARTHY: Questions from the Commission
Members?

Thank you very much.

Now, we would like to hear from the landowner,

Mr. McKelvey, representing Mr. Gunner.

Mr. McKelvey, welcome.

MR. MCKELVEY: Thank you, Mr. Chairman and Members.

I'm Jim McKelvey, attorney representing Richard

Gunner, the owner of one mile of street frontage out of the 22

miles impacted by this project.

Our request of you today is simply to request

further environmental analysis of this project. We are not in

opposition to the project per se.

You're being asked, among other things, to certify a

negative declaration finding that this project will have no

adverse impact on the environment. Our position is to the

contrary.

You were told, and the document says, the proposed

negative declaration says, that the project consists simply of

elevating an existing line by adding a high tension or high

voltage line above it. The existing, I think, is a 12

kilovolt line is to have placed above it 115 kilovolt line.

We own the property depicted pictorially in Exhibit

4, in the original negative declaration, and you'll see the

impact that such an installation has on our property.

In fairness, I should say that we own the property
on the left side of that picture, which currently has no power lines shown on it. The existing power line is across Avenue 10 to the north of our property.

PG&E originally proposed to erect what you see in the picture on the bottom, across our frontage where no line currently exists.

So, the statement that the existing line is simply being increased in height is not true as to our property.

EXECUTIVE OFFICER DEDRICK: Page 400 in the calendar.

CHAIRMAN McCARTHY: Thank you.

MR. McKELVEY: Thank you.

CHAIRMAN McCARTHY: Let me see if I understand this. Is this land land that is presently agricultural land?

MR. McKELVEY: Yes, sir.

CHAIRMAN McCARTHY: And land that is, what, suitable for commercial development?

MR. McKELVEY: We have two concerns. Our neighbors and the balance of our tenants are in agriculture use, and our concern about the existence of a high voltage line at such a tremendous height around their agriculture areas because of the impact that has on crop dusting of their properties. The ag users want those effects studied environmentally.

More directly, however, as you say, Mr. Chairman, this property is at the intersection of State Freeway 41 and
Avenue 10. State Highway 41 is currently being planned for conversion to full freeway status.

This intersection is shown, this corner, as an offramp to that freeway. This then becomes a prime commercial intersection in the very near future.

Today, directly across the street, north of our property, is an existing residential subdivision, occupied by single family homes.

All of what is now State Highway and soon to be Freeway 41, from our property south to the City of Fresno, is currently developed with commercial uses. So, we are surrounded on the east by commercial development, on the north by residential development today.

We are currently negotiating with developers for commercial development on our now vacant property that you see in this picture. Commercial development on the corner and residential development to the west or rear of our property.

Those negotiations are ongoing, and the concern that the current owner and the developer have is simply this: County policy requires, number one, that the street be widened upon development. So, if this line is installed today, we would have to relocate it, let's say six months from today, the new line has to be picked up and moved at our expense; number two, current policy requires that lines of the status of the current one be underground.
The cost of undergrounding this line across our property is, approximately, we were told by PG&E, $198,000. If the 115 KV transmission line is built above it, the cost of undergrounding increases to $2 million.

At that point, upon development of our property, we have two choices. We either pay $2 million and underground that line, which is being built currently, or we have to set back any development from it at considerable distance and suffer what the lawyers call severance damages as a result of the loss of our ability to use a good portion of our land.

We think those impacts should have been in the study or the focus of an environmental impact report.

CHAIRMAN McCARTHY: The local government did not agree with you? I assume that you proposed that at the local government level?

MR. McKELVEY: No, sir. We have not had that opportunity. There has been no hearing locally.

EXECUTIVE OFFICER DEDRICK: State Lands is the lead agency on this project, Mr. Chairman.

CHAIRMAN McCARTHY: What role does local government play in making a determination?

MR. SANDERS: Local government, Mr. Chairman, has already approved the line as proposed, both Fresno County and Madera County.

The issues that have been raised thus far were not
raised in the environmental process that we did engage in.
There was no comment at all received from any entity,
including Mr. Gunner or his representatives, in the
circulation in the amended environmental documentation.

These issues are, for one, new to us in some respects. In other respects, the counties involved have
already acted on this project and given their approval as proposed.

MR. McKELVEY: On that point, may I offer that the
County of Madera has no requirement for any entitlement for
the installation of lines of this sort. Consequently, they
held no hearings, gave no notice and no opportunity to
property owners to input. We have had none.

CHAIRMAN McCARTHY: You're one mile in the County of
Madera?

MR. McKELVEY: Yes, sir.

We have sent two letters to your staff raising these
very same issues, none of which are addressed in the negative
declaration. That has been our only opportunity to comment,
that and today's hearing.

We, therefore, agree with the State Energy
Commission which raised some of these same points that a full
EIR should be required.

If, however, in your wisdom you elect not to, we
would at least ask you to impose as part of the negative
declaration a mitigating measure to require PG&E to deal with this issue. That measure could, for instance, as Fresno County did, require that they set the line back at its ultimate location so it doesn't have to be picked up and moved again six months from now.

Fresno County imposed that requirement along Coffer Avenue.

CHAIRMAN McCARTHY: What distance was that?

MR. MCKELVEY: I'm sorry, I don't know.

CHAIRMAN McCARTHY: It would still be on your client's property?

MR. MCKELVEY: Yes. Approximately thirty feet.

And/or that they pay appropriate severance damages if we were required to move the line.

CHAIRMAN McCARTHY: Mr. Baumgartner, would you come back up for a minute?

Our staff is indicating that Mr. McKelvey has provided us with some new information which might have some impact on the issue of negative declaration versus environmental impact report.

Have you heard these allegations before?

MR. BAUMGARTNER: Yes.

We have had a number of negotiations with Mr. Gunner, none of which were satisfactory.

I think I should correct the record. There was a
supplement to the environmental impact report that was prepared. As a result of some of the complaints from Mr. Gunner, PG&E agreed that we would locate the line in the vicinity of his property, within the existing right of way of the distribution circuit.

The exhibit that he referred to is no longer effective. It's Exhibit 4 in the revised environmental report which your staff prepared which clearly shows that the line will not be --

CHAIRMAN McCARTHY: Offer that to Mr. McKelvey so he's looking at the same thing.

MR. SANDERS: Mr. Chairman, Mr. McKelvey did receive that material as part of the circulation of the amended environmental documentation.

We will show him what we have here, also.

The issue -- if I might clarify one point that I raised, the new information or new issue that I was referring to is the matter of crop dusting.

All of the other issues that had been raised by Mr. McKelvey had been covered within the environmental documentation that the Commission did. Crop dusting was never an issue brought forth or to our attention by any agency with whom we have been dealing.

CHAIRMAN McCARTHY: What distance are we talking about Mr. Baumgartner?
What are we talking about in terms of moving the line? Mr. McKelvey is sort of trying to ride a couple of horses here.

We have the crop duster horse. We have the commercial development horse, and that's what a lawyer is supposed to do, I guess, put it all out there and hope one of them works.

If we move the line here, what are we talking about? If you move the line a little bit it would only cost $198,000 now versus a couple of million, or whatever it was, later on if they feel that their commercial development prospects are pretty hot.

MR. BAUMGARTNER: There is approximately 5,000 feet of frontage on this road that Mr. Gunner owns.

We, in the revised environmental report and in answer to some of his complaints, agreed that we would locate approximately 3,000 feet of the line on top of an existing distribution line.

That line crosses the road to Mr. Gunner's side of the road. Our proposed route is to put the line right on top of the poles all the way on the 5,000. That leaves about 2,000 feet of Mr. Gunner's property which will have a higher line on it which potentially might affect crop dusting.

CHAIRMAN McCARTHY: How close is that to this intersection that he referred to of Highway 41 and whatever
the other cross street?

This is Mr. Ralston?

MR. RALSTON: Right.

CHAIRMAN McCARTHY: Go ahead.

MR. RALSTON: Highway 41 is here, and the San Joaquin River goes down here. The crossing adjacent to the location and north to the top and there is Mr. Gunner's property.

The existing distribution line is on the south side of the street.

Our initial proposal was to stay on the south side, but because we wished to make sure that we minimized the impact, we agreed to over build and reconstruct the distribution line on the route. We are going to reconstruct this pole line in the ultimate position. We talked to Madera County and --

CHAIRMAN McCARTHY: And those neighbors over there have not said anything?

MR. RALSTON: We're in the county road right of way.

EXECUTIVE OFFICER DEDRICK: They haven't complained?

MR. RALSTON: No.

EXECUTIVE OFFICER DEDRICK: Did they know about it?

MR. RALSTON: They had been notified. We conducted a public hearing process in Madera County and all the property
owners were notified.

This is Highway 41.

CHAIRMAN McCarthy: Where is the 2,000 feet?

MR. RALSTON: Between here and here is

Mr. Gunner's.

CHAIRMAN McCarthy: And the intersection of Highway 41?

MR. RALSTON: This is where the interchange is planned.

EXECUTIVE OFFICER DEDRICK: The map, as I understood what Mr. Baumgartner was saying, Mr. Chairman, 3,000 feet would not be on his property and 2,000 feet would be.

Basically, 2,000 feet will be on the residential property, or adjacent to the residents, and 3,000 feet on his property.

MR. RALSTON: Also, another issue that Mr. McKelvey raised with regard to the crop dusting, with the exception of one property --

CHAIRMAN McCarthy: We don't want to go to crop dusting yet. Let's stick to the other problem for a moment, okay?

Mr. McKelvey, do you want to explain how that impacts your client's prospects of developing commercially in and around that intersection?

MR. MCKELVEY: Yes, sir. The impacts are the
several that I mentioned.

Upon development of our property, as I say, commercial on the corner and residential abutting it, we are required to widen Avenue 10, at which point we would have to pick up this new line up and relocate it.

CHAIRMAN McCARTHY: Would you point to that, Mr. Ralston?

Okay. We're moving away from the intersection now?

MR. McKELVEY: Yes, sir. The whole street has to be widened the entire length of our property has to be widened as a condition of that development.

CHAIRMAN McCARTHY: For 3,000 feet of that is the point now that should they, should his client want to develop commercially along that street, he would have to move the line in a certain distance.

Is there some prospect or possibility of figuring out how to do that now in the original agreement, assuming they drop all other objections like crop dusting problems?

MR. BAUMGARTNER: Mr. Chairman, the problem is that the property owner does not have a plan for development so it's not clear exactly where we would locate the line.

It is the policy of PG&E, however, in situations like this to offer to relocate the line once, provided the property owner provides a suitable right of way for doing so.

CHAIRMAN McCARTHY: At PG&E's cost?
MR. BAUMGARTNER: Yes.

That offer was made to the property owner in our negotiations with him.

MR. McKELVEY: What we were told was that PG&E would pay for the labor cost of moving the line, and it would be our responsibility to provide the land for the relocation.

MR. BAUMGARTNER: That's correct. Provided the property owner provides suitable right of way.

CHAIRMAN McCARTHY: A piece of your land is going to be taken in either event.

MR. McKELVEY: Yes, sir. As long as we pay for it.

COMMISSIONER TUCKER: If they decide not to develop it, the line is going to be located further in to his property under their proposal, which may negatively impact the sale of that property.

It doesn't make sense to move it until you know where you're going to move it to.

CHAIRMAN McCARTHY: It's up to the landowner to decide within a time frame whether they are going to develop or not.

EXECUTIVE OFFICER DEDRICK: Doesn't local government require in the construction of residential subdivisions or is it a state law requiring the undergrounding of power lines?

MR. McKELVEY: It does below a certain capacity.

PG&E will have to help me. 115 KV is exempt.
MR. EAUMGARTNER: Well, 115 KV line, the cost of undergrounding is absolutely astronomical. It would cost between $1 and $6 million to build the transition point, that is from overhead to underground; and then there is a significantly increased cost per foot of digging the trench and putting the proper facilities in.

In some cases, depending upon what the load the line is designed to carry, it would have to have an oil cooling system with pumps and all the rest of it in order to. That's why we don't.

The smaller lines, or the lower capacity lines, those facilities are not necessary and the cost of undergrounding is not significantly greater. Even when undergrounding is required for a subdivision, overhead is permitted up to the boundary line, and then all of the streets inside the subdivision would have -- we wouldn't underground the whole county just to serve one subdivision.

MR. McKELVEY: Mr. Chairman, you have been very patient. My point is really very simple.

You're being asked to certify a document that says this project will have no affect on the environment. It concludes as follows: Where the proposed line is located along existing county roads, no land use impacts are identified. No significant land use impacts were found and no need for mitigation exists.
I realize this is not the forum at which these issues should be resolved. I simply highlight the issues do exist and need to be addressed environmentally. They need to be resolved and they were not. They are significant.

CHAIRMAN McCARTHY: As I get it, Mr. Sanders, the only issue not resolved that may affect the decision on the negative declaration versus environmental impact report is the crop dusting issue.

Now, if we were to somehow make a different decision on this or require that this be examined on the crop dusting issue, is that what you're aiming at? Is that where you really want to end up?

MR. McKELVEY: What I really seriously am addressing is the land use issue.

CHAIRMAN McCARTHY: It doesn't sound like you're interested in leaving this land in agricultural usage. It sounds like you want to do some decent negotiating with PG&E on this as to how you are going to maximize your potential for commercial and residential development.

We're not the -- what do they call the new judges that solve of these problems?

MR. BAUMGARTNER: Private judges?

CHAIRMAN McCARTHY: Yes. We're not sitting in that capacity. It might be fun, but we're not.

COMMISSIONER TUCKER: I do not see any question on
the issue of environmental impacts. There is not a thing that is indicated that is described as to what might be a potential environmental impact.

CHAIRMAN McCARTHY: Mr. Sanders, do you want a comment from them on the crop dusting issue?

MR. SANDERS: No. I do not, Mr. Chairman. I think that's a moot point.

I think that the major point to emphasize here is that the plans for this property are merely conceptual at this particular point in time. They have not been submitted, to my knowledge, to any public entity for consideration and certainly not figured very strongly as it appears in the conversations between these two parties.

As such, the documentation that was prepared that we prepared as lead agency had no wherewithal to consider something that merely exists as a concept.

The issues that have been raised are ones of land use. The land use question is not defined to the point that Mr. McKelvey would have us discuss them.

CHAIRMAN McCARTHY: Mr. Baumgartner, would you please tell me how long PG&E will give this landowner to make a decision on commercial development, the question of where the line might finally be planted could be made?

MR. BAUMGARTNER: Mr. Chairman, as I said, it's the policy of company to relocate in kind this of situation when
the plans are well-known. However, we would like to get
working tomorrow if we can to complete this project because
we're running into really severe capacity shortages in this
particular area.

With all the growth that's going on, particularly in
Fresno County, we have to get the power over there or we risk
serious outages which could affect lots of customers for up to
24 hours.

That really isn't acceptable.

COMMISSIONER TUCKER: Is this area that is proposed,
would they use this power?

MR. BAUMGARTNER: There is no question that they
will be served out of these general facilities.

COMMISSIONER TUCKER: There is an advantage to have
that line there.

MR. BAUMGARTNER: Yes.

But also the issue as to the timing of this project,
we want to start work on it as soon as possible. Because of
the, what we consider to be the critical need, it's cost
effective to relocate it later when he has the necessary land
use permit so we know how it is going to be engineered.

CHAIRMAN McCARTHY: Mr. McKelvey, how soon do you
think your client is going to have a fairly firm idea as to
where he would want this line located?

MR. MCKELVEY: Thank you, Mr. Chairman. We have
development plans that we could present to PG&E within thirty
days. They are in the final stage of development.

We're prepared to negotiate with them the final
location of that line if given the opportunity to do so within
that period.

CHAIRMAN McCARTHY: How does that sound, Mr.
Baumgartner? Can you give them thirty days?

MR. BAUMGARTNER: We'll give them thirty days.

CHAIRMAN McCARTHY: The Commission approves the
recommendation with that understanding.

EXECUTIVE OFFICER DEDRICK: Item 27, Mr. Chairman,
this is the Tahoe item in which staff is presenting a program
to the Commission for approval for how to handle construction,
reconstruction of old piers, construction of new piers and any
other activities in the shore zone of Lake Tahoe where an
endangered species has just been identified.

The endangered species is called the Tahoe Yellow
Crest. The scientific name is Roripa, and is referred to by
both names.

Staff is prepared to present the program to you. I
would like to ask Dwight Sanders to present the program for
dealing with the Roripa in the shore zone at Lake Tahoe.

CHAIRMAN McCARTHY: Just one moment, please.

Is there a Mr. Peter Brierty in the audience?

What did you wish to speak on, Mr. Brierty?
MR. BRIERTY: Item 64.

CHAIRMAN MCCARTHY: Would you mind coming up and filling out one of these witness pages?

Thank you very much.

All right. Mr. Sanders.

MR. SANDERS: Thank you, Mr. Chairman.

As Claire described, this is a Staff Proposal for seeking direction from the Commission to process various types of applications that the Commission has before it for work up at Lake Tahoe.

Specifically, those actions fall into five major categories: One, of existing piers under permit; two, renewal of permits for existing piers; three, application to permit existing piers that are currently not under lease to the Commission; four, repairs, extensions, modifications of existing permitted piers where such activities affect the lake bed below the low water line, which is below the area inhabited by the endangered species; and five, new construction, or reconstruction with or without modifications where those activities affect both the shore zone and the bed of the lake.

Staff was ready to come before you in March with this program, and in the process of putting that together, discovered the listing of an endangered species at Lake Tahoe. The species, as the Executive Officer has indicated,
is the Tahoe Yellow Crest. It is endemic to the Tahoe area alone, and that is all the more reason for its significance.

The program, as proposed to you, would allow staff to process all applications that come accompanied with a permit from the Tahoe Regional Planning Agency. That agency is currently permitting activity within the lake with the exception of new piers that would be proposed in identified fish habitat, fish restoration or fish spawning areas.

The program would honor TRPA's, if you will, not acceptance of applications for those types of facilities. It would, however, allow staff to process all of the forms of activities with the exception of one; and that would be deferred to the development of Roripa Enhancement Plan which would in effect create an active program to enhance the survival of the species at Lake Tahoe. That plan would be developed through an academic institution within the next three to five months, at which point the plan would be, if you will, offered to applicants that have piers that would affect the Roripa habitat.

If the applicants signed on to the plan, staff could then process the applications under CEQA, indicating that no substantial impact would occur to that habitat since it is, in fact, being enhanced by the plan.

All other forms of facilities that I have outlined for you would be capable of being processed by the Commission,
if this item is accepted. Along with the processing comes an agreement between applicants and the Commission where by the shore zone area, which is the major habitat of the species, would not be disturbed unless the Commission was notified and given an opportunity to respond to such notification.

Staff would also perform a public trust determination or investigation at the time of application to determine that the facility that is being proposed is not only consistent with the aspects of the public trust but would not interfere with any other trust uses up at Tahoe.

That, Mr. Chairman, unless there are questions, concludes staff presentation at this time. We would certainly answer questions after.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, may I, before we get started, give you a brief rundown on what follows 27.

Items 28 through 44, with four exceptions, are dependent on your action on Item 27. Three of the exceptions are 30, 40 and 42, which have been pulled, as you have noted. The reason they were pulled was because they lacked, as I understand it, a certificate from Fish and Game.

Item 43 is not effected by Item 27 and should be acted on independently. It's only an assignment.

CHAIRMAN McCARTHY: All right. Now, I have two witness slips, Ms. Dena Schwarte, and Greg Lien.
Are you on the same side of this issue? Are you on opposite sides of the issue?

MR. LIEN: Completely different parties.

CHAIRMAN McCARTHY: You're welcome to both come up or whatever you want to do.

Mr. Greg Lien.

MR. LIEN: Thank you and good morning, Mr. Chairman. I wanted to just make some very brief comments. At the outset, let me say that I have appreciated working with Mr. Sanders of your staff. I believe that they have identified a positive approach to the problem that we do have in trying to work our way through the mine field of regulations that we do need to address, particularly in an environmentally sensitive area, such as Lake Tahoe, with its overlapping agencies and restrictions.

The one point that I do want to address today is the very limited time within which we need to proceed with repairs of certain structures at Lake Tahoe that are vitally in need of that repair.

TRPA independently imposes a construction season that lasts between July 1 and October 1 of each year. October 1 is very rapidly approaching. Mr. Sanders has just indicated to you that it will take three to five months to get this program under way.

The problem, again, is that many structures are
currently sitting in an unsafe condition at Lake Tahoe, piers primarily. Their owners are, frankly, quite worried about the liability issue if someone were to be injured on one of those structures.

As a parenthetical note, the contracts that they have entered into with your agencies, the permits or the leases, if you will, require them to make those repairs to keep those structures safe.

Again, our worry is liability. Can we do anything to move the program ahead more vigorously, perhaps more quickly than your staff has outlined because we feel that it is very, very critical.

Secondly, the fees.

CHAIRMAN McCARTHY: Excuse me. Commissioner Tucker has a question.

COMMISSIONER TUCKER: What about that, Dwight? Can't we address the maintenance of existing facilities?

MR. SANDERS: Mr. Chairman, the maintenance of existing facilities are, in fact, provided for in this particular program that we have proposed to you.

In fact, even under the -- recognizing Mr. Lien's point of leases requiring the maintenance, that discussion is on page 436 of your Item, under "Maintenance Of Existing Facilities."
Staff feels that the Endangered Species Act even under those maintenance conditions obligates us to look at those proposals to see that they do not damage the habitat of the endangered species up at Lake Tahoe.

COMMISSIONER TUCKER: I understand that.

How long will it take you?

MR. SANDERS: Those piers can be evaluated upon the submittal of required information.

I think what Mr. Lien is really referring to in his, quote, "maintenance," unquote, is reconstruction of the pier which involves a little bit more than replacing just planking or one or two pilings. So, it is not in essence a standard maintenance of a facility. It's a total removal and total reconstruction attendant with all the physical impacts of that particular activity.

EXECUTIVE OFFICER DEDRICK: Commissioner, I believe, and correct me if I'm wrong, Dwight, but the twelve items that are here for your approval are in the main, the repair, reconstruction items which fit, which are in such a way that they not do damage near the shore zone where the habitat exists.

The three Items we pulled do not have a certificate from Fish and Game to prove they were not.

COMMISSIONER TUCKER: The answer to the question is that it's not three to five months to get the program going;
the program is going as of today, but it takes a different period of time depending on the nature of the request. Some requests are approved quickly and others take more time.

MR. SANDERS: There are six Items in the category of maintenance called reconstruction, but those occur in the low water, out in the bed of the lake and do not involve the piers and can be dealt with in this manner.

Projects are considered in the program as it goes forward from today.

CHAIRMAN McCARTHY: All right. Do you have anything else?

MR. LIEN: I appreciate the staff's consideration on the timing. We are worried that the people who are needing to do the construction between low and high water, that they find a solution.

The other point is, I suppose, a plea for the fees to be reduced. $2500 by way of contract is ten times more than that which TRPA would charge.

Thank you.

CHAIRMAN McCARTHY: Any questions?

Thank you, Mr. Lien.

Ms. Schwarte, do you wish to make a statement?

MS. SCHWARTE: I'll pass on this one.

CHAIRMAN McCARTHY: Thank you very much.

Anybody else in the audience wishing to comment on
I think we will address this one first and then address the others as a group.

COMMISSIONER TUCKER: The other issue that we have discussed, and I think it's important in this, is that it be publicized aggressively by staff, and we discussed this before, so that realtors, or anybody else who might be dealing with these properties, are on notice to give notice to people who may be purchasing the property, so that, to an extent, we can avoid it, where we don't have situations where people think they buy a place that has a pier, and somebody has told them, yeah, it's no problem putting a pier in, and then suddenly they find out that they come into one of these categories that will take quite a while or impossible to be built.

It's an important thing for us to do as much as we can to get the word out to other people about this program.

EXECUTIVE OFFICER DEDRICK: Commissioner, upon your approval of this program, staff, following up on that suggestion you made earlier, intends to notify all realtors in the area, or anyone we know who handles Tahoe property, to tell them precisely what the program is and what is significant about this project.

CHAIRMAN McCARTHY: Will that be a condition in any sales document, or is that a voluntary action on the part of
each real estate commissioner?

I think that Commissioner Tucker was suggesting that we make a point that each prospective buyer would know of the pier reconstruction.

MR. HIGHT: Mr. Chairman, it would be an item that we would attempt to notify all the appropriate realtors in the area.

I don't believe it's an item that we can legally make a condition of any private sale agreement.

CHAIRMAN McCARTHY: No way to require notice?

MR. HIGHT: We thought about it and would we couldn't find an answer, but we'll continue to explore that.

CHAIRMAN McCARTHY: Item 27 is approved.

Now, is there any legal or appropriate reason why we should not take all of the remaining items, minus 30, 42 and 43?

EXECUTIVE OFFICER DEDRICK: You don't need to include 43. 30, 40 and 42 are the pulled items.

43 is one you should act on.

CHAIRMAN McCARTHY: Is there any reason why we can't take those as a group and vote upon them?

Any questions from the audience?

If not, all of the items are approved.

EXECUTIVE OFFICER DEDRICK: 28 through 44, except for the pulled items.
CHAIRMAN McCARTHY: Minus 30, 40 and 42.

EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRMAN McCARTHY: All right.

Now, we're on Item 45.

EXECUTIVE OFFICER DEDRICK: Item 45, this is an award of a Royalty Oil Sales Contract for the Huntington Beach area to Ultramar Refining Company. The bid is thirty cents above the posted price.

CHAIRMAN McCARTHY: Any questions by the Commission?

By the audience?

All right. The Item is approved.

Next?

EXECUTIVE OFFICER DEDRICK: Item 46, this is a proposed sale of royalty crude oil from a variety of leases in Santa Barbara County with a twenty-five-cent minimum.

CHAIRMAN McCARTHY: Okay. Any questions by the Commission?

By the audience?

Okay. The Item is approved.

At Commissioner Tucker's request, Item 47 is postponed until the next Calendar.

Item 48.

EXECUTIVE OFFICER DEDRICK: Item 43 is the fifth modification of the '88-'89 plan and budget for the Wilmington
Oil Field, and it requires your approval.

CHAIRMAN McCARTHY: Any questions on 48?

Item 48 is approved.

49.

EXECUTIVE OFFICER DEDRICK: Item 49 is approval of a letter agreement amendment to an existing gas purchase agreement for Chevron to sell gas to PG&E for the price that PG&E will pay them.

CHAIRMAN McCARTHY: Any questions from the Members of the Commission or members of the audience?

The Item is approved.

50.

EXECUTIVE OFFICER DEDRICK: Item 50, Tri-Valley Jil, the approval of a subsurface oil and gas lease on Piper Slough and Taylor Slough in Contra Costa County.

CHAIRMAN McCARTHY: Any questions from Members of the Commission?

Members of the audience?

Item 50 is approved.

Item 51.

EXECUTIVE OFFICER DEDRICK: Item 51, Santa Fe Energy Company, this is another negotiated oil and gas lease on submerged lands in San Joaquin County.

CHAIRMAN McCARTHY: Any questions on Item 51 all right.
We'll acknowledge the presence of Mr. Roger Narinian who has indicated to us that he doesn't need to testify if there are no questions on the Item.

Is that correct, Mr. Narinian?

All right. Thank you.

Any questions?

The Item is approved.

52 is off the Calendar.

53.

EXECUTIVE OFFICER DEDRICK: Item 53, this is for the United States Borax Company, approve extensions of prospecting permits in Inyo County in the location of their existing deposits.

CHAIRMAN McCARTHY: Any questions on Item 53 from the Commission or the audience?

If not, the matter is approved.

Item 54.

EXECUTIVE OFFICER DEDRICK: Item 54, this is Joelen Enterprises. It's a one-year extension of a dredging permit to dredge 3900 cubic yards from San Diego Bay at Crown Isle, in San Diego County.

CHAIRMAN McCARTHY: Any questions from Members of the Commission or the Audience?

If not, Item 54 is approved.

55.
EXECUTIVE OFFICER DEDRICK: 55 is the County of Orange Harbors, Beaches and Parks, authorize dredging of a maximum of 33,300 cubic yards in the Dana Point Harbor.

CHAIRMAN McCARTHY: Any questions from Members of the Commission?

Members of the audience?

If not, 55 is approved.

56.

EXECUTIVE OFFICER DEDRICK: 56 is the Southwest Marine. This is to authorize the dredging of 212,020 cubic yards of material in San Francisco Bay with the soils disposal at Alcatraz in the Corps of Engineers approved dump.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

The audience?

Item 56 is approved.

57.

EXECUTIVE OFFICER DEDRICK: Item 57 is the Santa Barbara County Flood Control Water Conservation District to authorize dredging of a maximum of 50,000 cubic yards at the mouth of Goleta Slough, Santa Barbara County.

CHAIRMAN McCARTHY: Questions by Members of the Commission.

Anyone in the audience?

All right. 57 is approved.
EXECUTIVE OFFICER DEDRICK: 58 is the Tahoe Keys Property Association, a dredging item, a maximum of 3,000 cubic yards at the Tahoe Keys West Entrance Channel, in El Dorado County. Disposal of an upland cite in this case.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

The audience?

58 is approved.

59.

EXECUTIVE OFFICER DEDRICK: 59 is Homewood High and Dry Marina. This authorizes the maximum of 3500 cubic yards of dredged material at the location of that marina in Placer County.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

This was one of Items that you were interested in, Ms. Schwarte. Is there no dissention on this?

Do you wish to testify?

MS. SCHWARTE: I would like to ask a question.

CHAIRMAN McCARTHY: Any questions by Members of the Commission?

The matter is approved.

Excuse me. You want to make a comment? I'm sorry.

MS. SCHWARTE: I just wanted to ask a question.
It wasn't in the written staff report. I have the next two dredgings. I represent two dredging projects, Homewood and El Dorado Improvement Corporation.

We did receive a call in my office suggesting that there would be a hundred percent bond to put up for these projects.

EXECUTIVE OFFICER DEDRICK: That is for Item 60, which is the next item.

CHAIRMAN McCARTHY: Why don't you just stay there and we'll get to that.

Item 60.

EXECUTIVE OFFICER DEDRICK: Item 60 is El Dorado Improvement Corporation and Ski Run Marina. This is the dredging of 1245 cubic yards in the interior of the marina. Staff is recommending a $40,000 bond to cover the full cost of dredging to assure performance. The reason staff is making this recommendation is because Ski Run Marina has in the past dredged a channel into Tahoe without permit from the State Lands Commission or any notification to the State Lands Commission, and we feel that that justifies or requires us to pay a little more attention to Ski Run than we do many people up there and make sure that they don't violate the conditions of their permit this time.

CHAIRMAN McCARTHY: Any questions by Members of the Commission?
Ms. Schwarte.

MS. SCHWARTE: I just wanted to make a statement that, first of all, I thought that it was both projects and I'm relieved to hear that it is only one now.

The problem here is that we have got two different applicants. The person who was responsible for dredging the channel was not the same entity as applying for the inner harbor permit. That was Lake Tahoe Cruises for the Tahoe Queen, the maintenance dredging of the channel, and they did not have a permit.

I represent El Dorado Improvement Company, who is responsible and manages the marina. We are asking for permits and we will do it legally. I really feel that this is a penalty put upon my client that I object to.

CHAIRMAN McCARthy: Would staff like to respond to Ms. Schwarte?

MR. HIGHT: Mr. Chairman, it was our understanding that El Dorado Improvement was a party in the prior dredging.

MS. SCHWARTE: Because they leased the pier, they are the owners of the pier, and they leased it to Lake Tahoe Cruises.

They do not need to have that channel maintained for any activities that they conduct at the marina other than what Lake Tahoe Cruises does. Lake Tahoe Cruises paid for the dredging, and they were the applicant.
CHAIRMAN McCARTHY: It was still your lessee who did the illegal dredging?

MS. SCHWARTE: Yes.

CHAIRMAN McCARTHY: I think our staff's position was that you, as the lessor, had responsibility for the dredging. You shared the responsibility that did occur.

Normally we do not charge a performance bond, but when this unfortunate dredging happened before, I think it is the staff's recommendation -- you say it's $40,000?

EXECUTIVE OFFICER DEDRICK: That covers the cost of the dredging project.

CHAIRMAN McCARTHY: Any questions Members of the Commission?

Do you care to add anything else, Ms. Schwarte?

MS. SCHWARTE: I guess I have to accept it that way if that's the way it comes down. I feel that there is a major mitigation project that is going along with this, that wasn't part of our application; but all the agencies up a Lake Tahoe know about it, that is costing $15,000, which coming out of my client's pocket right now to do scientific experiments on water quality.

I would like to see some recognition given for that. We're doing that with the University of California at Davis.

Whatever.
I think they are trying cooperate.

EXECUTIVE OFFICER DEDRICK: Those are separate problems.

The issue that staff feels very strongly about here is that that was a blatantly illegal act and resulted in substantial damage. In fact, some of the reason for the need for dredging inside the marina at this time is a result of the spoils from the illegal dredging.

We feel very strongly that it's very difficult to enforce at Tahoe. We do not have adequate inspections. If we allow those lessees who clearly have violated the law to go on without any means of recourse by the Commission, we're really encouraging people to take that step.

One of the things that I have been talking to staff about is that we may come back to you in the future with a recommendation that some level of bonding, performance bonding, be put on all of the dredging projects at Lake Tahoe because of the sensitivity of the area.

Basically, we feel that it's really important that when really blatant things occur that the Commission take a firm stand, and that's why we're making that recommendation to you.

CHAIRMAN McCARTHY: Questions by Commissioners?

The item is approved.

Thank you, Ms. Schwarte.
61.

EXECUTIVE OFFICER DEDRICK: 61 is another dredging operation. This one is in the San Joaquin River at Andrus Island by the Delta Bay Club of only 450 cubic yards.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

Or the audience?

61 is approved.

62.

EXECUTIVE OFFICER DEDRICK: 62, Star Harbor Homeowners Association. Again, this is a dredging operation, Placer County, 800 cubic yards.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

By the audience?

62 is approved.

63.

EXECUTIVE OFFICER DEDRICK: 63, Fireman's Fund Company, 500 cubic yards, again, at Tahoe, the Lake Tahoe Marina Resort, Placer County.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

Or the audience?

63 is approved.

64.
EXECUTIVE OFFICER DEDRICK: Item 64, Southern Pacific Company is the Applicant. They are applying to deposit 15,000 cubic yards of materials, which is a mixture of trona and dirt, which was dumped as a result of the train accident in San Bernardino. They are asking for permission to redeposit that material in the bed of Owens Lake.

The trona was originally taken from Owens Lake under a lease with Lake minerals and it's a valuable mineral resource.

The train was carrying a lot of trona, and when the train wrecked, it dumped the trona along the track. To cleanup the mess, they had to pick up -- about half of it is trona and half of it is junk and dirt from beside the railroad tracks.

The health agencies, in San Bernardino County -- I believe the county health person is here.

The State Department of Health have tested the material and found it nontoxic. We have -- we believe that they now have a permit from the Great Basin Unified Air Pollution Control District for a part of the project, and also from the Lahontan District.

We could go into a lot of detail on this, but basically, the people living in San Bernardino are very concerned about the trona being there, and so SP is trying to move it back to where it came from, except it also has some...
dirt with it.

CHAIRMAN McCARTHY: We have three witness sheets, Mr. Robert Taggart of Southern Pacific Transportation Company; Mr. Peter Brierty, of the County of San Bernardino, Environmental Health Department; and Mr. Paul Evans of the Duffy Street Disaster Committee.

Am I reading that correctly?
Are all of you on the same side?
Is there a different point of view on this issue?
You're all in favor of this item before the Committee; is that correct?

Mr. Taggart: I have no need to testify then.

CHAIRMAN McCARTHY: That's what I was getting at.

All right. Please step forward.

Mr. Evans?

MR. EVANS: I'm Paul Evans, and I live on Duffy Street.

It seems that all of the testing of the trona by toxicologists, they found that -- let me retrogress.

When the train crashed, there was a fuel spill of diesel and some of the trona was soaked with the diesel fuel. That was moved, and we have been told in the community that is removed to a dump site.

Since that time, the trona has been moved to the west of our homes. This map here shows exactly where the
trona was placed. The arrow pointing as to the prevailing winds, points, I believe, northwest.

Prevailing winds have been blowing due east. It's blowing right at my house. I leave in house track 59. You can see from that map the trona blows right across my residence. There are also houses on the other side, the whole tract 39 and 48.

It seems that all the analysis has shown that the levels of benzene cyanide truly are insignificant, but there is 80 percent of the community who have been stricken with raspy voice, as I have, flu-like symptoms, burning eyes, burning throat.

A month after the train crash, I had occasion to go to a hospital out of the area and have some blood work done, a work up, and it was found that I had a high incidence of CO2 tension, that is the CO2 taken from the blood and absorbed by the lungs. It was explained by a doctor at Norden Air Force Base, Dr. Griffin, that the alveolus is on the end of the bronchial tube, and the reason why the CO2 doesn't get from the artery to the alveolus is high resistance in the alveolus itself.

It's not picking up the CO2. With that, and my bicarbonate level is raised as a reaction to something in my lungs. This is just one individual out of 80 percent of the community that is affected by something in the area. Prior to
the being trona being moved, I did not have this problem I am just one physical specimen.

The trona also has a PH of 9, has affinity for mucous membranes. We were also told that it is nontoxic and nonhazardous, but, in fact, the trona has been placed on a nonporous plastic, called visqueen plastic, so it won't seep into the ground.

There seems to be a lot of concern of it going into the water table. We're told that it is nonhazardous and nontoxic, but, in fact, we have these symptoms.

I guess the bottom line is, we do not want to see this trona. We would like to see it out of our community, but we wouldn't like to see it moved to a place in close proximity of another community.

CHAIRMAN McCARTHY: Okay. Thank you very much.

Any questions of Mr. Evans?

Thank you, Mr. Evans.

Did anything Mr. Evans had to say suggest to either of the other two witnesses that they wanted to make comment or should the Commission now act on the matter?

MR. TAGGART: On behalf of Southern pacific, we are willing to stand on the competent medical evidence and toxicology testing, unless there are questions, and I would be pleased to respond to any questions.

CHAIRMAN McCARTHY: Does staff have anything further
to add?

MR. HIGHT: Mr. Chairman, as part of the conditions of the permit, Southern Pacific will remain responsible for any hazards or toxics that show up after the material is placed in the lake in the event that there is something that shows up. They are responsible for removing it to another site.

We believe, at this point, that you may validly act, and that Mr. Duffy's (sic) concern about appropriate residence or areas --

CHAIRMAN McCARTHY: Mr. Evans.

MR. HIGHT: Mr. Evans, yes.

There isn't a community near the lake that would be affected.

CHAIRMAN McCARTHY: Commissioner Tucker.

COMMISSIONER TUCKER: My understanding is that this is going back to the place where it came from; is that right?

MR. HIGHT: That's correct.

COMMISSIONER TUCKER: And this is similar material. There is lots of this material in the area right now?

MR. HIGHT: Yes, lots of similar material.

COMMISSIONER TUCKER: And Southern Pacific will continue to be responsible if the Lands Commission were to determine, or any other public agency were to determine, that for some reason putting it back there had some negative impact.
on the environment, Southern Pacific is responsible for that?

MR. HIGHT: That's correct.

COMMISSIONER TUCKER: Forever?

MR. HIGHT: Yes, forever.

COMMISSIONER TUCKER: Okay. The one thing I wanted
to add, I received communication from a number of people
representing the area. They are very anxious to get it out of
there, and I think that, combined with the fact of the
reassurances that we have received from the health officers
that it's not toxic material, combined with the fact that it's
same material as all the rest of lake bed, it's my assumption,
but it seems to me that it's reasonable for the Commission to
approve this.

It's important to the community to get the material
out of there.

CHAIRMAN McCARTHY: One final point, of the 15,000
cubic yards, 6,000 is trona?

EXECUTIVE OFFICER DEDRICK: Yes, about 7,000.

CHAIRMAN McCARTHY: About 7,000 is trona and other
8,000?

EXECUTIVE OFFICER DEDRICK: Dirt from the side of
the road bed, I guess. They are going to sift it to get out
any large things like railroad ties and pieces of wreckage.

For that process they needed air pollution control.

CHAIRMAN McCARTHY: The total time frame for the
total removal of the stockpiles in the area? Mr. Taggart, maybe you could help us on that.

Do you have a rough idea of how many weeks it will take?

MR. TAGGART: We're ready to go to work today. Thirty days total.

CHAIRMAN McCARTHY: Any other questions?

MR. EVANS: I have a concern about this trona being disturbed because we're having a very unusual wind condition at this time, and the people in the community are concerned about the trona.

CHAIRMAN McCARTHY: Why don't you step up to the microphone, Mr. Evans, and see if we can give you an answer, Why don't you repeat it?

Did the reporter get the question?

All right. Mr. Taggart, why don't you answer the question.

MR. TAGGART: We have had air monitoring devices out in trona pile itself, stockpile area, as well as in the community, which is located between an eighth and a quarter of a mile, depending on where the houses are located from the stockpile area.

We monitor these air monitoring devices each day.

There has been a high degree of particulates noted in the air; however, every one of those has been analyzed as part of the
smog problem in the San Bernardino area.

As far as the particulates that could be apportioned to the trona, those monitoring have been ND on the scale, which means non-detectible.

There simply -- in order for an individual to be harmed by a poisonous substance, you need two things. Number one, you need exposure. There is no exposure. Winds or no winds, if there is nothing in the air, and we're monitoring the air and measuring the air on a daily basis.

The second thing you need, of course, is a dosage of a toxic substance. All of the toxicological and medical, including the Department of Health Services requirements, have been that substance itself is nontoxic.

As far as dust going in the air, we would take whatever measures are deemed appropriate to control the dust, just as you would if you were raking leaves in your backyard.

I mean that only as a nontoxic kind of arrangement. We would spray water, which is the appropriate method to be used to keep down the dust as the trucks are loaded with the material.

CHAIRMAN McCARTHY: Mr. Brierty, do you have anything to add?

MR. BRIERTY: My name is Peter Brierty. I am the Division Manager of the Hazardous Material Division, and I'm here to support the negative declaration, and the finding made
by staff who worked very diligently to review all of the
findings that we had made available. The most appropriate
location is back at the mining site for this material, that's
where it came from.

I'm here to support the Lands Commission staff
negative declaration.

CHAIRMAN McCARTHY: Any other questions by Members
of the Commission?

COMMISSIONER TUCKER: In terms of responding to the
issue raised, my assumption is that the Air Pollution Control
District will monitor the moving of the material to assure the
quality --

MR. BRIERTY: Yes. In Southern California, they are
the provider of monitoring for fugitive dusts or nuisance
dust, for PM10 under the standards for hazardous air
pollutants.

COMMISSIONER TUCKER: Will they be on the site?

MR. BRIERTY: I will make sure that they are there.

This is of extremely high visibility nature in the San
Bernardino area, and we will make sure that the South Coast
District area representatives are on site.

CHAIRMAN McCARTHY: Why don't you take a step to let
Mr. Evans' group know who is coming out to the area.

Okay.

Anything else on this matter?
The Commission is ready to act.

Approve the recommendation.

Item 65.

EXECUTIVE OFFICER DEDRICK: Item 65. This is a Memorandum of Agreement between the State Lands Commission and the State Historic Preservation Office to give us the input we need on cultural resource in exchanges with the Forest Service.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

Or members of the audience?

65 is proved.

66 is off Calendar. 67.

EXECUTIVE OFFICER DEDRICK: 67 is one of Bob's disclaimers.

CHAIRMAN McCARTHY: Any questions by Members of the Commission or members of the audience?

Recommend that we disclaim is approved.

68.

EXECUTIVE OFFICER DEDRICK: 68 is authorize Interagency Agreement with State Controller's Office to provide technical assistance not to exceed $85,000. The $85,000 from the Controller's Office to the State Land Commission.

CHAIRMAN McCARTHY: Do we have to pay interest on
that?

EXECUTIVE OFFICER DEDRICK: I don't think so. We are getting it for free.

CHAIRMAN McCARTHY: Any questions from Members of the Commission?

Approved as recommended.

69.

EXECUTIVE OFFICER DEDRICK: 69 is partly where it goes. This is to approve the contract with Paul Ideker Associates for the work that they are doing for a variety of projects, including the CCORS and the Off Shore Pollution project, but not limited to those.

Paul also does a lot of training.

CHAIRMAN McCARTHY: Questions by Members of the Commission?

Audience?

Approved.

70.

EXECUTIVE OFFICER DEDRICK: Item 70 is delegate the authority to execute the majority of the contracts that are left. We ran out of numbers because this is a big Calendar. Basically, Department of Justice contract, blue prints, helicopters and health and welfare data center.

CHAIRMAN McCARTHY: Any questions on Item 70?

Approved as recommend.
71.

EXECUTIVE OFFICER DEDRICK: 71. This is delegation of authority to the Executive Officer to execute an interagency agreement with the University of California to do archeological, literature review on archeological aspects of potential trades with the United States Forest Service.

CHAIRMAN McCARTHY: Questions on 71?

Approver, as recommended.

72.

EXECUTIVE OFFICER DEDRICK: 72. This is an Interagency Agreement between the Department of Parks and the State Lands Commission for enforcement services.

If our legislation passes, it give the Commission the authority to do enforcement and actions. We will no longer need this kind of a contract, but we need it until that legislation becomes effective.

CHAIRMAN McCARTHY: Questions from the Commission? Or the audience?

72 is approved.

73.

EXECUTIVE OFFICER DEDRICK: 73 is and Interagency Agreement for Legislative Monitoring Services with the Lieutenant Governor's Office.

CHAIRMAN McCARTHY: Any questions?

Approved.
EXECUTIVE OFFICER DEDRICK: Item 74 is an assignment of lease for a commercial marina located in the San Joaquin River at Andrus Island. The Assignor is the Schillings, and the Assignee is the Key Lease Corporation.

It is out of order because it came in late, but it's an easy one to handle, so we put it on the end of the Agenda.

CHAIRMAN McCARTHY: Questions?

74 is approved. That's it.

Thank you, Ladies and Gentlemen.

EXECUTIVE OFFICER DEDRICK: Thank you, Commissioners.

(Thereupon the meeting of the State Lands Commission was adjourned at 12:30 p.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, VICKI L. MEDEIROS, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Vicki L. Medeiros, 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 hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of August, 1989.

VICKI L. MEDEIROS
Certified Shorthand Reporter
License No. 7871