COMMISSION MEMBERS PRESENT

Honorable Leo T. McCarthy, Lieutenant Governor, Chairman

Mr. Gray Davis, State Controller, represented by Mr. James Tucker, Chief Deputy Controller.

STAFF PRESENT

Ms. Claire T. Dedrick, Executive Officer

Mr. James F. Trout, Assistant Executive Officer

Mr. Robert C. Hight, Chief Counsel

Mr. W.M. Thompson, Chief, Long Beach

ALSO PRESENT

Mr. N. Gregory Taylor, Assistant Attorney General
INDEX

Page

Proceedings

Confirmation of minutes of the December 6, 1989 Meeting

Resolution regarding Executive Officer Claire Dearick

Comments by Executive Officer Claire Dearick

Consent Calendar

Consent Calendar Items C01-C13 passed as recommended

Regular Calendar Items

Item 14

Item 15

Item 16

Item 17 (Off Calendar)

Item 18

Item 19

Item 20

Item 21

Item 22

Item 23

Item 24

Item 25 (Off Calendar)

Item 26 (Off Calendar)

Item 27

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# Index

<table>
<thead>
<tr>
<th>Item</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>11</td>
</tr>
<tr>
<td>29</td>
<td>11</td>
</tr>
<tr>
<td>30</td>
<td>11</td>
</tr>
<tr>
<td>31</td>
<td>11</td>
</tr>
<tr>
<td>32</td>
<td>12</td>
</tr>
<tr>
<td>33</td>
<td>12</td>
</tr>
<tr>
<td>34</td>
<td>12</td>
</tr>
<tr>
<td>35</td>
<td>12</td>
</tr>
<tr>
<td>36</td>
<td>13</td>
</tr>
<tr>
<td>37</td>
<td>14</td>
</tr>
<tr>
<td>38</td>
<td>14</td>
</tr>
<tr>
<td>39</td>
<td>14</td>
</tr>
<tr>
<td>40</td>
<td>14</td>
</tr>
<tr>
<td>41</td>
<td>14</td>
</tr>
<tr>
<td>42</td>
<td>15</td>
</tr>
<tr>
<td>43</td>
<td>15</td>
</tr>
<tr>
<td>36</td>
<td>16</td>
</tr>
<tr>
<td>Mr. Dave Karp, Mayor, City of San Leandro</td>
<td>16</td>
</tr>
<tr>
<td>Mr. James Sullivan, Citation Homes Questions</td>
<td>19</td>
</tr>
<tr>
<td>Ms. Barbara Shockley, CALM Questions</td>
<td>29</td>
</tr>
<tr>
<td>Ms. Janice Delfino, Ohlone Audubon Society Questions</td>
<td>32</td>
</tr>
</tbody>
</table>
# I N D E X

| Appointment of Executive Officer       | 37 |
| Announcement regarding Closed Session | 37 |
| Adjournment                           | 38 |
| Certificate of Shorthand Reporter     | 39 |
CHAIRMAN McCARTHY: Ladies and gentlemen, thank you for your patience. I apologize for the delay in the beginning of this Commission meeting.

My colleague, Commissioner Jim Tucker, is on my left. My name is Leo McCarthy.

We want to approve the minutes of the previous meeting, first of all. If there is no objections on those, they are approved.

I do want to mention, if there is anybody in the audience, that items 17, 25 and 26 are pulled from the calendar, if anyone is here in connection with those three items, 17, 25 and 26.

I want to take a personal moment here, if I may. We have a seat change occurring in the leadership of this Commission, and often we leave these things to the end of the Commission's business day, but I'd like to handle it a different way this time, if the Californians in the audience would allow us.

Our Chief Executive Officer, Claire Dedrick, is leaving after years of outstanding service, leaving the position of CEO. She is an extraordinary person for whom I have a good deal of affection, and has provided tremendous devotion and intensity to her work on behalf of the State Lands Commission, and we want to pass a resolution at this
point which heartily tells our thanks and our gratitude to Claire. But we want to do this, and maybe we can find other ways to more properly and amply express our feelings for her.

I'd like to read this resolution personally, if I may.

"Whereas Claire T. Dedrick, after nearly eight years as Executive Officer of the State Lands Commission, is leaving the staff; and

"Whereas Claire has spent the last 15 years in public service to the people of California, including stints as Secretary for Resources, a member of the Public Utilities Commission and a member of the Air Resources Board;

"Whereas during her tenure with the Commission, environmental protection and conservation became paramount in carrying out the duties entrusted to her, and established the Commission as one of the premier State environmental protection agencies; and

"Whereas in these years, the Commission was provided with the opportunity to provide
and to protect more than 32,000 acres of wetlands, make 22 boundary and title settlements, turn over $1.8 billion to the General Fund, and generated over $3 million for the acquisition of public trust lands through the Kapiloff Land Bank;

"Therefore be it resolved that the State Lands Commission congratulates her for dedicated service to the people of California, and wishes her every success in whatever endeavor she next undertakes."

And I would add personally, I want her to stay close to us in whatever she does.

Ladies and gentlemen, Claire Dedrick, our Executive Officer.

(Appplause.)

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, thank you very much. That is kind of overwhelming. I did not expect to get resolved this morning.

(Laughter.)

EXECUTIVE OFFICER DEDRICK: I am not used to this kind of thing.

I wanted to thank you both, all three of you, even though Stan can't be here today because of the Finance Committee, finance work, but I just wanted to say a few
words, and I appreciate you giving me the time to do that.

I have had three commissions in eight years, and every one of them a very fine commission. The outstanding thing about the State Lands Commission and the State Lands Commissioners that I have worked with in these eight years is there has never been a time ever in those eight years where any commissioner's dedication and sure devotion to the protection of the public trust has ever wavered, regardless of the political issues on both sides or on any side. Never has there been a political consideration. That is a very high accomplishment or a real high dedication to public service that seems to come with the people who sit in these jobs.

Now, I am speaking to you as a staff person, and staff people don't say things like that gratuitously. I mean what I say. I have been very very proud to work for all of the Lands Commissioners that I have worked for.

I have a particular affection, as you know, for this particular Commission, and certainly for you, Governor.

In the future, I think I am seeing two exceedingly important areas beyond the ones that are most occupying your minds today. Back in 1969 I was very active in the creation of the Bay Conservation and Development Commission, and what I am seeing, I think, here in the delta now, is about where the Bay Area was in the late '50s and early '60s before the
ladies from Berkeley began the effort to create the BCDC.

I think that you have recognized and have taken
action to prove that you recognize that, that the State
Lands Commission's responsibilities in that area, the
protection of the waterways and the habitat and the
recreational uses of the delta, while in conjunction with
ongoing development or developing development, that that is
a major responsibility and a major authority of this
Commission. And I really know that you recognize this and I
think that's something that is going to occupy staff and the
Commission increasingly more in the next few years,
certainly within your terms as commissioners.

The other area which you may not be quite so
cognizant of, because it isn't in a controversial mode at
the moment, is the Colorado River. The Colorado is a major
recreational resource for southern California, and it is
only just beginning to become recognized as such. Of
course, the Commission has jurisdiction in odd ways there.
You have jurisdiction over the former bed of the Colorado
River which is sometimes several miles from the current bed
of the Colorado River. And we have been making settlements
in that area with every effort to obtain access to the
existing waterway and to obtain land along the existing
waterway for wildlife habitat or for access.

In addition to that, there are several -- well,
there are pretty close to a million dollars in the escrow fund for the Kapiloff Land Bank for acquisition down there. That's an area, Commissioners, where, as I have said, you haven't had a lot of controversy yet and I hope you don't have any controversy. But it is an area where I think the Commission can do really great things to serve the public in southern California with a long-term recreational area.

Those are my predictions for the future.

And the only other thing I wanted to tell you is something that you also already know, and that is that you have an excellent staff. You have a group of fine, hardworking, well educated, dedicated people, and it has been a real pleasure for me in this last eight years to have those people to work with and to on good days direct. When I took over the so-called wheel in the Executive Office, my predecessor, Bill Northrup, said, "don't get it into your head that that thing is ever hooked up." As a matter of fact, it rarely is.

But I want to thank you all very very much for eight fruitful years and also for your very fine work, Governor.

CHAIRMAN MCCARTHY: Thank you very much.

The Commission unanimously adopts this resolution.

All right. If we may begin with the Consent Calendar, now, please.
Any objections to any of the items on the Consent Calendar?

If not, C01-C13 is adopted as recommended.

Now, we are on item 14.

EXECUTIVE OFFICER DEDRICK: Item 14, Mr. Chairman, the lessee is Albert Giovanni. This is to approve the change in annual rental from $333 to $420 per year. This is a result of a five-year rent review.

CHAIRMAN McCARTHY: Any questions from the audience?

If no, the recommendation is accepted by the Commission.

Fifteen.

EXECUTIVE OFFICER DEDRICK: Fifteen is for the Bertagnollis, who are applicants for a five-year Recreational Pier Permit and partial reconstruction of a pier at the Lake Tahoe in Placer County.

CHAIRMAN McCARTHY: Questions from the audience?

If not, accepted as recommended.

Eighteen.

EXECUTIVE OFFICER DEDRICK: Riverbank Holding Company. This is to approve an encumbrance of a leasehold interest on the lease on the riverbank which is about 5.2 acres in the Sacramento River.

CHAIRMAN McCARTHY: Any questions?
Yes, Mr. Tucker.

ACTING COMMISSIONER TUCKER: Once again, this doesn't involve the other issues that we are concerned about in terms of riverbanks, proposed developments, et cetera?

CHIEF COUNSEL HIGHT: That is correct.

ACTING COMMISSIONER TUCKER: Is that correct?

CHIEF COUNSEL HIGHT: That is correct.

CHAIRMAN McCARTHY: All right. Any other questions?

All right. Item 18, by the Commission, is accepted.

Nineteen.

EXECUTIVE OFFICER DEDRICK: Let's see. That was Item 16, sir.

Item 18.

CHAIRMAN McCARTHY: I'm sorry.

EXECUTIVE OFFICER DEDRICK: That's okay.

The Kissel Company, dba Paradise Cove Land Company. This is approval of a ten-year General Permit-Recreational Use for a parcel of land in Santa Monica Bay.

CHAIRMAN McCARTHY: Any questions?

All right. That is authorized.

Nineteen.

EXECUTIVE OFFICER DEDRICK: Nineteen, Pacific Gas
and Electric. That's a maintenance dredging for Suisun Bay in Contra Costa County, with the material being disposed of at the San Francisco -- that's off Alcatraz, is it not, SF 9.

CHAIRMAN McCARTHY: Questions from the audience or the Commission?

All right. That's authorized.

Twenty.

EXECUTIVE OFFICER DEDRICK: Twenty, Gary Hamilton. It's to authorize removal of 225 cubic yards of material at Newport Bay at Harbor Island in Orange County for navigational purposes.

Again, the dump in this case is the EPA approved Los Angeles 3.

CHAIRMAN McCARTHY: Questions from the audience?

All right. That's authorized.

Twenty-one.

EXECUTIVE OFFICER DEDRICK: Twenty-one. Twenty-one is the removal of 500 cubic yards of material by Steele/Todisco, who is the applicant, at Harbor Island in Orange County, the same dumping procedure.

CHAIRMAN McCARTHY: Questions from the audience?

All right. That's authorized.

Twenty-two.

EXECUTIVE OFFICER DEDRICK: Twenty-two, Robert

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Cohen. This is the same area, same dumping procedure, 740 cubic yards.

CHAIRMAN McCARTHY: Any questions from the audience?

All right. That's authorized.

Twenty-three.

EXECUTIVE OFFICER DEDRICK: Twenty-three, TXO Production Corporation. This is to approve the acceptance of a quitclaim deed for sub-surface oil and gas, it's actually a gas lease, under the bed of the Sacramento River in Colusa and Sutter Counties.

CHAIRMAN McCARTHY: Questions from the audience?

All right. That's authorized.

Twenty-four.

EXECUTIVE OFFICER DEDRICK: Twenty-four. This is an application for prospecting permit for minerals and not for oil, gas, geothermal, sand or gravel, by Bond Gold Colosseum, Inc., and the permit would be in San Bernardino County.

CHAIRMAN McCARTHY: Questions from the audience?

All right. That's recommended.

Twenty-seven.

EXECUTIVE OFFICER DEDRICK: Twenty-seven. This is approval of an award of a crude oil sales contract for the City of Long Beach for the city's share of some production.
The winning bidder has bid fifty-seven and a half cents.

CHAIRMAN McCARTHY: Questions from the audience?
Recommended and accepted.
Twenty-eight.

EXECUTIVE OFFICER DEDRICK: Chem-Oil Corporation.
Again, this is a Royalty Oil Sale, and in this case in the
Ellwood Field in Santa Barbara County. The winning bid is
55.1 cents.

CHAIRMAN McCARTHY: Questions from the audience?
All right. Recommended.
Twenty-nine.

EXECUTIVE OFFICER DEDRICK: Twenty-nine and 30 are
both dispositions of Royalty Oil Sales Contracts where staff
is asking permission to authorize awarding them to the
highest bidders. The bid will not be opened or couldn't be
opened in time for us to act today for us to give you the
details today.

CHAIRMAN McCARTHY: All right. Are there any
questions from the audience?
That is authorized.
Thirty-one.

EXECUTIVE OFFICER DEDRICK: Okay. Thirty-one,
another Royalty Oil Sale, Ultramar. The bid is 30.01 cents.

CHAIRMAN McCARTHY: Questions from the audience?
All right. That's authorized.
Thirty-two.

EXECUTIVE OFFICER DEDRICK: Thirty-two, Ultramar, is again the highest responsible bidder on a tract in Los Angeles, the Wilmington Field, 51 cents.

CHAIRMAN McCARTHY: Questions from the audience?

All right. That is authorized.

Next.

EXECUTIVE OFFICER DEDRICK: Item 33 is that we are advising you of the results of the subsidence and seismic hazard studies in the Wilmington Field. The answer is that there is no subsidence.

CHAIRMAN McCARTHY: All right. Thank you for the advice.

Thirty-four.

EXECUTIVE OFFICER DEDRICK: Okay. That is approval of the first modification of the 1989-'90 Plan of Development for the Long Beach Unit, and it is basically a report on involving the changes in the projections of revenue.

CHAIRMAN McCARTHY: All right.

Questions?

That is accepted as suggested.

Thirty-five.

EXECUTIVE OFFICER DEDRICK: Thirty-five is to approve consent by the City of Long Beach to the assignments
to Arco of the interests of Texaco, Unocal and Shell in the Field Contractor's share of the Long Beach Unit.

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

If not, that is accepted.

Item 36.

EXECUTIVE OFFICER DEDRICK: Bob, would you take the lead over on item 36?

CHIEF COUNSEL HIGHT: Mr. Chairman, do we want to move 36 to the end? What is your pleasure?

CHAIRMAN McCARTHY: If those here in Item 36 wouldn't mind our proceeding to dispose of the rest of the calendar, we have no controversy that I am aware of on any other items. It turns out that if we do, we will come back to Item 36.

All right. Thirty-seven.

EXECUTIVE OFFICER DEDRICK: Thirty-seven. I just asked Bob to do these, but I wanted to do this one because this is the establishment of some underwater parks, and as you may recall, Governor, when you very first came into office, we were having a controversy. It has taken this many years, but we have reached an amicable solution and this is the approval of those underwater parks.

CHAIRMAN McCARTHY: Okay. Thank you.

Accepted.
Thirty-eight.

CHIEF COUNSEL HIGHT: Thirty-eight, Mr. Chairman, is the amendment to an existing exchange at Owens Lake whereby the Commission exchanges land with Los Angeles Water and Power and acquires some other.

CHAIRMAN McCARTHY: All right. No questions?

Accepted.

Thirty-nine.

CHIEF COUNSEL HIGHT: Thirty-nine, Mr. Chairman, is an approval of a Settlement of Trespass in San Diego County.

CHAIRMAN McCARTHY: Any questions?

If not, accepted.

Forty.

CHIEF COUNSEL HIGHT: Forty, Mr. Chairman, is the approval to enter into a Boundary Line Agreement which will settle the State's boundary to the Ten-Mile River.

CHAIRMAN McCARTHY: Questions?

All right. Accepted.

Next.

CHIEF COUNSEL HIGHT: Forty-one, Mr. Chairman, is the authorization to enter into a sand extraction lease with Monterey Sand Company.

CHAIRMAN McCARTHY: Questions?

All right. You have the authorization.
EXECUTIVE OFFICER DEDRICK: Do you want to do this one?

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman, item 42 is to allow the Commission to enter into an agreement with the Orange County and other Federal and State agencies to do an EIR to implement the Bolsa Chica Coalition Plan. An environmental report will be required and the County is doing an Environmental Impact Report right now on that part of it, and it will be the Federal part under Environmental Impact Statement. So we are asking to participate in that development.

CHAIRMAN McCARTHY: Okay.

Any questions from any member of the audience? If not, that is authorized.

ASSISTANT EXECUTIVE OFFICER TROUT: Forty-three. Under the Bolsa Chica Conservation Plan, Coalition Plan, the interpretation of the restored wetlands would be conducted by a Conservancy. To form a Conservancy, the initial Board of Directors needs to be named in advance. It is proposed that the Directors of the Conservancy be the same five agencies and members that were on the Bolsa Chica Planning Coalition, and so this is to allow us to be a member of that Conservancy and to appoint myself as the initial director.
with Dan Gorfain, the Project Manager, as the backup. Other representatives would be from Orange County, the City of Huntington Beach, the Amigos De Bolsa Chica and the Signal Landmark Company.

After the plan is implemented, the Conservancy would then follow however the Plan ultimately turns out in terms of maybe the Department of Fish and Game would thereupon take over this seat on it.

CHAIRMAN McCARTHY: Any questions?

All right. That's authorized by the Commission.

Now, we revert back to 36 at this point. I have slips from four Californians who desire to be heard.

Mayor Dave Karp from San Leandro. Mr. James Sullivan, representing the Citation Homes. Ms. Barbara Shockley, representing Citizens for Alameda's Last Marshlands. And Ms. Janice Delfino, representing the Ohlone Audubon Society.

Let's start with Mayor Karp.

Welcome, Mr. Mayor.

MAYOR KARP: It is nice to see you, Leo.

Chairman McCarthy, Commissioner Tucker, good morning.

My name is Dave Karp, as was mentioned before. I am Mayor of the City of San Leandro. I am here today on behalf of the citizens of San Leandro, to talk for a
continuance of the Title Settlement between the State Lands Commission, the City of San Leandro and Citation Homes.

The City is committed towards achieving the following goals.

One, resolution of completing jurisdictional claims in the resolution of outstanding obligations by all parties including the City.

Two, the City's acquisition of adequate and fully engineered dredge spoils areas, sufficient in size to accommodate future dredging requirements for San Leandro Marina. As you know, dredging is getting to be a problem.

There is no place within the Bay now with the exception of Alcatraz in our dredge spoil site for removal of dredge spoils for our beautiful marina, of which that is a Federal channel and has to be dredged every four years.

The development of a plan that provides for the acquisition and operation by the appropriate government agencies of a workable habitat area. This is something that is very important to all of us, and we need to work out some sort of a habitat area so the people of Alameda County, the people that want to enjoy that, can use that area as well as the schools where we can bring the youngsters down to teach them something about the background of the habitat that migrate within that area.

The creation of additional habitat or enhancement
of existing habitat to provide for maximum developable acreage for the property consistent with the jurisdictional claims and the requirements of the various agencies involved, as well as the provisions of the San Leandro General Plan.

Fifth, the full performance of the compromise Settlement Agreement with the State Lands Commission. We are happy to work with those groups that are interested in working in the area and working out some sort of compromise.

We are very proud of the four miles of shoreline that we have developed in San Leandro, which is now the largest public ownership of recreational land in the Bay Area. It was transformed from a cesspool of rubble and tires into a marina park and golf course which is now recognized as one of the premier areas of recreation in the whole Bay Area. You have to see it to believe it.

I humbly ask for some continuance by the State Lands Commission so that we may come to an agreement with the community and with the State Lands Commission.

Thank you very much for your time.

Any questions?

CHAIRMAN McCARTHY: Not at the moment. Thank you, Mr. Mayor.

MAYOR KARP: Thank you.

CHAIRMAN McCARTHY: Mr. Sullivan.
MR. SULLIVAN: Good morning, Chairman McCarthy and Commissioner Tucker.

The compromise Title Settlement Agreement of 1985 that was entered into by Citation Homes, the City of San Leandro and the State Lands Commission, if not extended, will expire and become null and void on its own terms on January 8th, 1990. Although five years may be considered a long time, we at Citation Homes have been faced with problems beyond our control.

Redesignation of the habitat enhancement area, due in main part to the 1987 jurisdictional claim of additional wetlands by the US Army Corps of Engineers and the discovery of the salt marsh harvest mouse in previously unidentified areas, have forced us to deal with these time consuming issues. Prior to this hearing, we have been requesting a three-year extension. We now, however, feel that we may accomplish and fulfill the conditions of our agreement within an 18-month timeframe.

We have a good working relationship with the City of San Leandro and we feel that we can now progress towards a final resolution with the Army Corps of Engineers and US Fish and Wildlife Service.

Citation Homes appreciates the efforts and fully appreciates the frustration that Jane Sekelsky has felt in dealing with this issue. However, we feel that we have made
progress, both in a meeting on September 18th of this year
and additionally, a meeting scheduled between Citation, the
City and the various agencies that are laying claim to this
jurisdiction of property, and we feel that through these
kind of meetings, it will be beneficial to all parties
involved.

I apologize for Mr. Schott, the General Manager of
Citation Homes not being here personally, however he was
unavoidably detained on personal business.

Do you have any questions for me, Chairman
McCarthy or Commissioner Tucker?

CHAIRMAN McCARTHY: I am told that there is a
meeting that will involve all the parties tomorrow down in
San Leandro --

MR. SULLIVAN: Yes, sir. It is scheduled for
tomorrow.

CHAIRMAN McCARTHY: -- that you are going to
participate in. And just so you understand what may be a
dearth of questions today, I think the Commission will be
well represented tomorrow.

Are you going, yourself?

ACTING COMMISSIONER TUCKER: Yes.

CHAIRMAN McCARTHY: Mr. Tucker tells me he is
going to be there personally and a member of my staff will
be there, and of course the State Lands Commission staff
will be there as well to try to look at this at the moment.

Is anybody here from the Army Corps of Engineers?

We have been shown some maps which apparently
reflect the Army Corps of Engineers' redefinition of what
constitutes wetlands, or a contention on their part that
there are some areas that are now wet that were not defined
as wet when this agreement was approved by this Commission
approximately five and a half years ago.

Is the Army Corps of Engineers going to be a party
to those discussions tomorrow?

CHIEF COUNSEL HIGHT: Yes.

CHAIRMAN McCARTHY: Okay. So I really don't have
anything more to ask at this point. I am sorry that those
discussions didn't start a couple of months ago. I think
the kind that is going to occur tomorrow involving citizens,
a representative of all interests and the company and the
City and the State Lands Commission, I guess, and other
State or Federal agencies, it's too bad that it's this close
to the January 8th date. It would have been good if we
could have started those discussions a couple of months ago
to see what latitude there is for action in this whole area.
But at least we'll get to it tomorrow.

And then, if there is the necessity for Commission
action on or before January 8th, the Commission can convene
another meeting at that time.
MR. SULLIVAN: Okay, sir.

CHAIRMAN McCARTHY: At this moment we don't know what is going to come out of those discussions tomorrow.

ACTING COMMISSIONER TUCKER: I have a question.

CHAIRMAN McCARTHY: Commissioner Tucker.

ACTING COMMISSIONER TUCKER: I just wanted to add one thing, and this is really directed to everybody that is interested in this to think about for tomorrow, we are being advised by the Attorney General that there are legal constraints on simply extending this agreement, and that those legal constraints may be such that it simply is impossible to simply say, okay, we have got the same agreement and let's continue it for some period of time, that if we were going to do anything, that we would, in effect, have to negotiate a new agreement either by the 8th or sometime after the 8th.

Okay. That's one consideration for Citation and for the City of San Leandro to keep in mind. And that's a constraint that is based upon the advice of our counsel and so that's what we have to live with. And I'm sure it's good advice.

The other side of this, though, I think, for the people from the citizens' groups, et cetera, to keep in mind, is that we are not a permitting agency. We are not reviewing this project to determine if it is a good project...
or a bad project or, you know, it should have more houses or fewer houses or anything along that nature, that's a function of your local government, and it's not a role that we really would want to take on, that we have the expertise to take on or that we are provided by law with having to take on. We have a boundary dispute with the owners of this property.

Our goal is to try and define a boundary for them that indicates where the State has title to its property and where the State does not. This is based on a number of historical factors and it is pretty complicated. And that's why we have got lots of lawyers that advise us. But you need to keep in mind that your comments to us really should be directed to that one issue. That is, what does the State have a legitimate claim to and how might we best fulfill our claim and our obligation? That's all we can deal with.

So, to the extent that you don't like what they want to do, et cetera, obviously we are happy to hear any comments that you would like to address to us, but I think it's really important that you remember we are only one party in this and that we have only, and I think it's an important responsibility but it's limited to certain legally defined roles, and that other concerns that you may have about this development, you really have to address to your local government, to the planning commission, to the
regional planning officers and the county, et cetera.

So I think if you will keep that in mind for
tomorrow's discussions, obviously we are going to be there
to try and facilitate everyone meeting their goals, if there
is a way of accommodating everybody, fine. And if we can
help, that's what we want to do. But there's only so much
that we can do and we have a fairly well-defined role in all
of this. So I hope everybody will keep it in mind.

Citation has to remember our legal constraints as do the
people who would like something else to happen with that.

CHAIRMAN McCARTHY: I might say, just to extend
that comment, that my staff advises me and reminds me
earlier today that in signing off on that boundary agreement
five and a half years ago, they think we struck a good deal
for the people of California in ensuring a hundred sixty
acres of wetlands at that time. This is prior to the Corps
of Engineers redefining, and the EPA redefining what
wetlands was.

I think it might be appropriate to ask our own
staff and the Attorney General to comment upon your first
point, Commissioner Tucker, so that it's understood. I
think it's very important. And that is, what findings would
have to be made in order for us to consider any extension of
this existing agreement with the same terms and conditions?

Who wants to go first? Mr. Hight?
Mr. Taylor?

ASSISTANT ATTORNEY GENERAL TAYLOR: Mr. Chairman, you would have to remake the findings in order to provide the extension. I understand that given recent studies, there may be some difficulty in doing that. And that would be the issue.

ACTING COMMISSIONER TUCKER: Excuse me. Can you explain that a little more for the people out there, what that means? Greg, could you just briefly go through what originally had to be done to enter into an agreement and then what we would have to do now?

ASSISTANT ATTORNEY GENERAL TAYLOR: The Commission went through the transaction and made findings concerning the nature of the property as it was understood at that time. It is my understanding that if we were to go through and do that now with the additional information, it would be even more difficult for the Commission to make those findings. And it would seem to be the most defendable position for the Citation Homes to stay with the original agreement and close it because at that time those findings were good. But that means you would have to do it by January the 8th.

ACTING COMMISSIONER TUCKER: Greg, it's your opinion that this agreement is, in fact, self-executing, meaning that if Citation were to go ahead and convey the
property, that your advice to the Commission would be that it then go ahead and clear title?

ASSISTANT ATTORNEY GENERAL TAYLOR: We believe the Commission is bound to perform under the terms of the agreement as it exists now for the period of time that the agreement runs.

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

CHIEF COUNSEL HIGHT: No.

CHAIRMAN McCARTHY: Mr. Sullivan, do you have anything further that you want to add on this?

MR. SULLIVAN: I'd just like to clarify that. I mean, Chairman McCarthy, are we talking that a decision is not necessarily within reach right now but that we are going to wait until after?

CHAIRMAN McCARTHY: A decision is not going to be reached today on this. I think we would want that discussion to take place tomorrow that involves all of the parties in interest, government officials, property owners, private citizens and so on.

MR. SULLIVAN: Okay. But I mean, there's also, from what I am hearing, that legally the word from the Attorney General is that you, you know, it cannot be extended, the agreement cannot be extended --

CHAIRMAN McCARTHY: Without making new findings.
MR. SULLIVAN: Without making new findings. And that would have to be done prior to January 8th of 1990?

CHAIRMAN McCARTHY: Well, now, you could enter into a new agreement after that.

MR. SULLIVAN: That's something that we are trying to avoid.

CHAIRMAN McCARTHY: If that were the mutual will of all of the parties involved.

MR. SULLIVAN: I spoke with Mr. Schott also just yesterday. He is down in southern California at the present time. I realize that Citation Homes has pushed for a meeting of all the various agencies. Unfortunately, I wasn't notified until Friday afternoon and received written verification on Monday. There may be a slight problem because we would also like to have our consultants present. We have consultants that are dealing with the Corps of Engineers and with Fish and Wildlife.

CHAIRMAN McCARTHY: For tomorrow's meeting?

MR. SULLIVAN: For tomorrow's meeting.

CHAIRMAN McCARTHY: And the problem is as to whether they are going to be there or not?

MR. SULLIVAN: Mr. Schott expressed concern and wanted me to bring that up to yourself and the Commission.

CHAIRMAN McCARTHY: Mr. Tucker.

ACTING COMMISSIONER TUCKER: The problem we have
is with Christmas and with this headline, et cetera. If we
don't meet soon, maybe we don't meet.

    MR. SULLIVAN: Well, what I had hoped to do is,
you know, I wanted to see you give a decision which could be
made, number one, prior to the meeting. It sounds from
listening to you gentlemen that basically you want to see
what happens at the meeting and then, you know, kind of
think about, okay, where do we go from there?

    So I will have to just impress upon Mr. Schott to
press ahead and to meet.

    MAYOR KARP: Speaking for the City of San Leandro,
Mr. Chairman --

    CHAIRMAN McCARTHY: Sit down, Mr. Mayor. You can
join us up here.

    MAYOR KARP: Just real briefly, speaking for the
City of San Leandro, we are quite anxious to settle this and
I am looking forward to the meeting tomorrow. And we want
to help in any way we can and come to a resolve on this for
the benefit of all of the people of Alameda County and the
State. So I just wanted to add that. Okay.

    MR. SULLIVAN: I have nothing further to add.

    CHAIRMAN McCARTHY: Thank you, Mr. Sullivan.

    Now we would like to hear from Ms. Barbara
Shockley representing CALM.

    Welcome.
MS. SHOCKLEY: Chairman McCarthy, Commissioner Tucker, we are grateful for the opportunity to comment on this matter, Citation Homes, San Leandro, State Lands Commission Title Settlement Agreement agenda item.

And as you announced, I am speaking for CALM, which is affiliated with the Citizens' Committee to Complete the Wildlife in the San Francisco Bay Wildlife Refuge. And I would like to suggest that this map includes this property in that extension of the San Francisco Bay Wildlife Refuge.

We are pleased that the Citation property is included in the draft in this particular instance. It can be classified under Priority I, seasonal wetlands with adjacent interspersed uplands, and Citation demonstrates the interrelationship between tidal and mud flats, wetlands and uplands, and I know that I am not talking about the proposed development. I am talking about the land itself and its value to the State.

CALM has an interest in the future of that property and the request for a deadline extension. Of course, I have heard only today that there are legal qualifications about what you can do about that.

Along with other groups in the Bay Area who have written their comments earlier, we want to express our opposition to any extension. This won't take long.

We believe --
CHAIRMAN McCARTHY: Just a minute. We have not tried to rush you. I hope I didn't imply that.

MS. SHOCKLEY: Well, I thought everyone was starting to go to sleep --

(Laughter.)

MS. SHOCKLEY: -- or maybe you are hungry. I am sorry.

We believe that the extension of the denial would serve our purpose -- would not serve our purpose -- which calls for a protection and preservation of wetlands and adjacent uplands in areas which were formerly historic marshlands.

Studies made before this Title Agreement was signed, and as recently as this November, indicate that lands covered by the agreement possess significant environmental values of statewide interest. CALM has many concerns, but will mention only these.

In '73, 1978, '85, '89, dredge spoils were deposited on an historic wetland. No action to compensate has been taken to date. We haven't heard that record yet today. The public trust values have not been protected in the five-year agreement. In fact, large volumes of illegal fill have been placed in the settlement areas.

The jurisdictional determinations are changed, and you say that's not relevant, but it is interesting. The
latest change is evident in the November 14 letter to the
City, Citation and the US Corps from the State Regional
Water Quality Control Board. The presence of toxic and
hazardous wastes which have been placed on the Citation
property, it has placed the Citation property on the EPA
list of hazardous waste sites, and it was not considered in
the Title Settlement Agreement. This fact must be
anticipated in any exchange of private land to a public
agency such as the State Department of Fish and Game or the
East Bay Regional Park District, which are both interested
in its future.

CALM believes that the Settlement Agreement is no
longer relevant. A denial for extension would seem to be in
the public interest. The ultimate solution to the complex
problem is public acquisition and proper management for the
protection of this valuable resource area, and we think that
that is saying something. Thank you.

CHAIRMAN McCARTHY: Thank you.

Was CALM a participant in the discussions five or
six years ago?

MS. SHOCKLEY: No, it didn't exist then.

CHAIRMAN McCARTHY: It didn't exist then?

MS. SHOCKLEY: No.

CHAIRMAN McCARTHY: Okay. Thank you.

Now, Ms. Janice Delfino.
Welcome. You are representing the Ohlone --

MS. DELFINO: Ohlone Audubon Society.

CHAIRMAN McCARTHY: Ohlone Audubon Society.

MS. DELFINO: Yes. Thank you, Commissioners.


Thank you for this opportunity to express our concern regarding the request by Citation Homes and the City of San Leandro to extend the January 8, 1990 termination date for the Title Settlement Agreement.

During the past five years, while the Agreement has been in existence, none of the conditions set forth in the Agreement has been fulfilled. Even the perimeter levee that separates the Roberts Landing Marsh from the proposed Citation Homes development site was placed 60 to 70 feet too far west, thus filling unnecessarily valuable wetland marsh.

And that's one of the things that we have to keep in mind.

Number two, the City of San Leandro and Citation Homes have been negligent in protecting the wildlife resource values on this 450 acre site in which the State of California has a public interest and trust. These are fragile wetlands with public trust values. To date, San Leandro and Citation Homes have not shown good faith effort...
in protecting the area.

    Now, that isn't exactly what we heard from Mayor Karp. And we have monitored the area for years and we have slides and photos indicating the degradation that has gone on, not only in the wetlands, but on those famous sand dunes that Mr. Karp spoke about, terrible degradation.

    In the Settlement Agreement on page 6, there is reference to a Habitat Management Plan. Has that plan been completed?

    As a reminder, and you are involved in this, since 1983 the California Legislature, through Senate Concurrent Resolution Number 28, has recognized the importance of wetland preservation and protection. The Legislature declared its desire to increase wetland habitat acreage by 50 percent by the year 2000.

    And with all this information in mind, we ask you to deny an extension of the Title Settlement Agreement.

    CHAIRMAN McCARTHY: Ms. Delfino, may I ask you the same question I asked Ms. Shockley?

    I know the Audubon Society has been in existence for a long time. I assume the Ohlone chapter has been in existence for some time?

    MS. DELFINO: Yes.

    CHAIRMAN McCARTHY: Do you know if anybody from your organization participated in the discussions five to
six years ago on this matter?

MS. DELFINO: No. We were not considered a public agency.

CHAIRMAN McCARTHY: I am aware of that, but we send notices automatically to all known environmental groups in the area.

MS. DELFINO: Yes, there were members, two that I know for sure, did walk the area with Fish and Game and perhaps the Fish and Wildlife people, but when it came to the round-table discussion, I do not believe we were invited to that.

CHAIRMAN McCARTHY: Well, see, one of the things I asked our staff to dig out for me this morning was what groups registered any form of objections when this matter was before this Commission five and a half years ago, and there were none.

MS. DELFINO: I think that's right, and perhaps we were not -- we were negligent, perhaps, and we did not know what was going on with the State lands. And we were not informed by the City of San Leandro as to this.

CHAIRMAN McCARTHY: Well, I had in mind groups that received a notice with some descriptive material about this subject.

MS. DELFINO: Okay.

CHAIRMAN McCARTHY: We routinely do that. We try
to identify all relevant groups, and particularly because this is an environmentally oriented Commission membership, we notice organizations, and what the staff told me was that none had objected to the agreement bringing 160 acres into habitat area five and a half years ago when the Commission acted upon it.

Now, I understand that the Army Corps of Engineers has redefined what constitutes a wetland since then. At that time, when we negotiated, keep in mind, now, our negotiating point from this Commission is, do we have any claim of title in any of the area involved here under State law? Do we have a legal standing to negotiate a boundary settlement? This is what Commissioner Tucker was referring to at the beginning.

So when we got a hundred sixty acres committed five and a half years ago, I think the general impression I get is that everybody at that time thought it was a fairly good deal.

MS. DELFINO: Yes, I believe that would be true.

CHAIRMAN McCARTHY: Anybody is entitled to change their mind.

MS. DELFINO: That's why we feel that the agreement should be terminated. I mean, it should be settled and not drag on because our main concern is, by dragging on, and I shouldn't use the word dragging, but
continuing, the degradation in the area of the public trust

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CHAIRMAN McCarthy: So whatever area that we
define as wetlands area, you want the management plan to be
put in place?

MS. DELFINO: It should have been put in place
already.

CHAIRMAN McCarthy: You are not suggesting that
there should be no homes built on any part of the acreage?

MS. DELFINO: No, Citation Homes has to go through
the regulatory process. Now, I understand the title and the
boundary stuff, and time after time, when we are in that
area walking the area where the public trust will be
exercised, why we see the degradation and we just feel that
termination should be January 8th, and that's it. And then
get the Fish and Game management or another public agency in
there to manage this.

CHAIRMAN McCarthy: All right.

MS. DELFINO: The wildlife habitat value is
marvelous and we are going to do a Point Reyes bird
observatory shore bird census on Saturday because this is a
good tide and a good time to do another census. We did one
two months previous.

CHAIRMAN McCarthy: Okay.

MS. DELFINO: So it's a good area, a good wildlife
CHAIRMAN McCARTHY: Thank you.

MS. DELFINO: Thank you.

CHAIRMAN McCARTHY: Thank you very much. I assume you both will be there at tomorrow's meeting to enter into more full discussions on this matter.

All right. Thank you.

That concludes this Commission's business except for one additional item.

Since we are losing Claire, we have to take action on replacing her, and there is a name before the Commission for that, Charles Warren, the former Chairman of the President's Council on Environmental Quality, a former member of the State Assembly here and a Member of the Coastal Commission.

Are you prepared to take action on that?

ACTING COMMISSIONER TUCKER: Yes.

CHAIRMAN McCARTHY: All right. The Commission names Charles Warren as the successor to Claire Dedrick.

That will be our official action for this meeting.

Thank you all very much.

ASSISTANT ATTORNEY GENERAL TAYLOR: Mr. Chairman, before ending, could I just announce that in the Executive Session with regard to the California versus Stockton and the LAFCO of San Joaquin County, an action was taken to send
a counterproposal to Grupe and the City of Stockton which
will be sent out to them.

In the case of Monterey Sands, we authorized
litigation against Monterey Sands and the Corps of Engineers
with regard to that transaction.

With regard to the Redevelopment Agency of
Huntington Beach, we authorized a position consistent with
the opinion of the Attorney General of the Commission.

And we accepted an accessway in Bess versus
Humboldt County and the defense of that litigation.

CHAIRMAN McCARTHY: Is there anybody here on those
matters that wishes to address the Commission?

If not, thank you all very much, ladies and
gentlemen.

EXECUTIVE OFFICER DEDRICK: Thank you, Governor.

CHAIRMAN McCARTHY: Thank you.

(Thereupon the December 12, 1989 meeting of the
State Lands Commission was adjourned at
12:25 p.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, RONALD J. PETERS, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing State Lands Commission Meeting in shorthand and thereafter caused my shorthand to be 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 2nd day of January, 1990.

[Signature]

Ronald J. Peters
Certified Shorthand Reporter
License Number 2780