STATE LANDS COMMISSION

TRANSCRIPTS

MARCH 6, 1991

AND

APRIL 2, 1991
MEETING

STATE OF CALIFORNIA

STATE LANDS COMMISSION

Resources Agency Auditorium

1416 9th Street

Sacramento, California

Wednesday, March 6, 1991

1:00 p.m.

Janet H. Nicol
Shorthand Reporter
APPEARANCES

COMMISSION MEMBERS PRESENT:

Honorable Leo T. McCarthy
Lieutenant Governor
Represented by Mr. Ed Manning,
Acting Chairman

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

Mr. Thomas W. Hayes
Director of Finance
Represented by Mr. LaFenus Stancell,
Assistant Director

STAFF PRESENT:

Mr. Charles Warren, Executive Officer
Mr. James Trout, Assistant Executive Officer
Mr. Robert C. Hight, Chief Counsel
Ms. Patsy Tomasello, Executive Secretary
Ms. Debbie DeMello, Executive Secretary

ALSO PRESENT:

Mr. Jan Stevens, Supervising Deputy Attorney General
Mr. Dwight Sanders, Chief, Environmental and Planning Division
Mr. Lance Kiley, Chief, Land Management and Conservation Division
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PROCEEDINGS

ACTING CHAIRMAN MANNING: Why don’t we begin.

CHIEF COUNSEL HIGHT: Mr. Chairman, as I understand it, for the record, you will be sitting in a voting capacity for the Lieutenant Governor; and Jim Tucker will be sitting in a non-voting capacity for the State Controller.

ACTING CHAIRMAN MANNING: That’s correct. Thank you.

My name is Ed Manning. I represent Lieutenant Governor Leo McCarthy, who is currently Chairman of the State Lands Commission.

To my left is Stan Stancell, representing Tom Hayes from the Department of Finance.

We’re waiting on Mr. Tucker, who should be here shortly.

Why don’t we begin. The first order of business is adoption of the minutes from the February 6th meeting.

ACTING COMMISSIONER STANCELL: Move the minutes, Mr. Chairman.

ACTING CHAIRMAN MANNING: The minutes are adopted of the February 6th meeting.

Let’s move on to the consent calendar.

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman, maybe you’d like to announce that Items 12, 14, 16, 18, 23,
29, and 30 have been taken off the calendar for today's meeting in case anyone is here on those items.

ACTING CHAIRMAN MANNING: Is anyone here on those items?

Those items will be taken off calendar.

Also, Item No. 5 on the consent calendar will be moved onto the regular calendar because there are some people here to speak on that item. So we will move Item No. 5 to the end of the regular calendar.

Is anyone here on any of the items on the consent calendar that wants to be heard before we move those items?

Hearing no one.

ACTING COMMISSIONER STANCELL: I move the consent calendar.

ACTING CHAIRMAN MANNING: The consent calendar has been moved. I second that, and the consent calendar is unanimously adopted.

Okay. Let's move on to the regular calendar.

Starting with calendar Item No. 21.

I'm pleased to have Senator Marks here today.

Thank you for coming down, Senator Marks, to speak on this calendar item.

I'd like to please have Mr. Warren first describe the item.

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman,
Mr. Sanders with our planning and environmental unit will present the item.

MR. SANDERS: Thank you, Mr. Chairman. I will do so very briefly.

In January of 1990, Highway 1 in Muir Beach and Stinson Beach in Marin County was closed due to a landslide which apparently was accelerated by the Loma Prieta earthquake on October 17th, 1989. Since January 1 of 1990, the road has been closed.

The item before the Commission is a general permit to the State Department of Transportation for authorization to place on tide and submerged lands approximately 75,000-plus-or-minus cubic yards of material that will be used as an erodible support for fill associated with the reconstruction of the highway upland.

Let me explain erodible fill. This fill material is designed to protect the upland fill over the course of time that it needs to be stabilized. And it is with that design that we were most concerned as staff.

The erosion -- there were two forms of impact staff believed would occur from the proposed project. The first being the direct burial of approximately 2.5 acres of tide and submerged lands as a result of the fill. And then subsequent potential effects of scour and sediment transport from the erodible fill on both up coast
and down coast areas of State tide and submerged lands as well as potential effects to the north coast area of the Farallone Islands Marine Sanctuary and the down coast area of the GGNRA, or Golden Gate National Recreation Area, administered by the National Park Service.

In conjunction with those concerns, staff consulted with other responsible Federal and State agencies and has developed Special Conditions which are attached to your calendar item as Exhibit C.

These Special Conditions are meant to complement the permit conditions of other agencies and to address potential environmental impacts to lands under the Commission's jurisdiction.

The Department of Transportation has accepted these Special Conditions and has signed a general permit as an expression of that acceptance.

With that, Mr. Chairman, I would close staff's presentation. And we're obviously here to answer any questions or respond to comments as necessary.

ACTING CHAIRMAN MANNING: Thank you, Mr. Sanders. Senator Marks, thank you for being here.

SENATOR MARKS: Good afternoon.

First I want to thank you, Charlie Warren, for the expeditious consideration of this very important permit application.
Approval of the Caltrans permit application is especially urgent because of the public safety problems created by re-routing traffic over Panoramic Highway and the hardships created for Stinson Beach residents by continued closure of Highway 1 between Stinson Beach and Muir Beach.

I’m here to urge you to approve this permit with conditions that will provide the best possible enhancement of Marin County’s coastal environment and to ensure the mitigation project Caltrans ultimately selected is properly completed.

It is very common for a plan development by staff to be changed in the field as a contractor proceeds with the work to complete the project. Therefore, I strongly support requiring mitigation for whatever area may be covered by the fill this project necessitates as opposed to mitigating away for the 2.5 acres of project it is designed to cover.

I also support an inter-agency environmental team to oversee the mitigation project and the post-project monitoring as a condition of the permits issued by the Coastal Commission, the Army Corps of Engineers.

Thank you in advance for responding favorably to the need of my constituents in Marin County. Thank you.

ACTING CHAIRMAN MANNING: Thank you very much, Senator Marks.

Is anyone else interested in speaking? I have a
slip here, request to speak, from Edward Ueber -- I think
that's the proper pronunciation -- from the Gulf of the
Farallones and Cordell Bank National Marine Sanctuaries.

If anyone else would like to speak on this item or
any other item, these forms are available, and you can fill
them out.

MR. UEGER: Thank you. I can't see you with my
glasses on, and I can't see the paper with them off. Thank
you for allowing me to come to speak to you at this time.

I'm the Sanctuary Manager for the Gulf of the
Farallones and Cordell Bank National Marine Sanctuary,
roughly an area of one million acres, which is half the size
of Yellowstone. Of this one million acres, less than
one-tenth of one percent is coastal intertidal habitat such
as found in the slide area.

The sanctuary has all along been very vociferous
in wanting this rare and unique area protected. And both
the Secretary of Commerce, U.S. Senator Seymour, Senator
Marks, and the head of NOAA, and the head of the Sanctuary
and Reserve Division have attempted to make sure that the
project is not only speedily done, but safe and sound to the
environment. It's one of the reason why they have so many
criterion on the permit.

We still would like to see -- we're missing
wonderful opportunities to get the type of information that
we need because Caltrans hasn’t placed the type of monitoring equipment which should go in prior to disposal.

We lost a wonderful opportunity during this last week. I was out on the Farallones when we had a storm which kept me out there for three more days. And this was the perfect type of storm that we needed to evaluate to see what would happen to the material once it’s placed. But as to date, no material placement devices discern where the sediment goes, the damage that may occur, have been placed.

There is a study monitoring scour by the Moss Landing Marine Laboratory which is limited in scope and does not address the process of movement of material or the impacts up or down the coast.

And we believe that Caltrans should be instructed or encouraged to put out monitoring equipment now. That monitoring equipment should be agreed to by a committee that’s mentioned in the permit by the Corps of Engineers.

We’d also like to see some way of measuring and guaranteeing that 75,000-plus-or-minus yards doesn’t become 120,000 or 80 or 90,000. We would like to see some bound on that 75,000, rather than just a free and open access.

We’d also like to see the permit things about meeting and deciding if they could reduce the total amounts of material and the total amounts placed in the ocean in some fashion. Right now we are not aware of any meetings
that Caltrans has about that, prior to the implementation of
their bids, and we would like to see that occur prior to the
awarding of the contract, because if there was some way to
do less damage, we would like to see that.

And that's one of the reasons we'd like the
transport model in the ocean at the same time, because there
may be some placement techniques that could be used if we
know how the currents are moving, which could lessen
impact in certain ways.

And to address the six or eight points that are in
the Corps permit, we'd also like to know if the funds have
been made available for the long-term monitoring and how
much they would be and if that's part of the $7,000,000
appropriated.

We'd also like to know if in the statement on
three -- in the Corps permit they say large boulders.
Previously, people have mentioned large boulders in the
area. But armoring the tow may require more large boulders
than are presently available in the area. And if that's to
be done in a satisfactory way to protect that tow, we feel
that large boulders should be brought in.

Item No. 5 is very similar to Item No. 4, which is
the total placement of material. We also feel that
mitigation should be not only for the two and a half acres
that are believed will be covered, but for the actual
covering material, covered as stated by Mr. Sanders, also by

the material which will scour and inundate areas which are

outside that very very small area. This mitigation cost

should be funded and also included in Caltrans’ budget for

the future.

That’s on the eight points, if anybody has any

questions.

I thank you for allowing me to speak.

ACTING CHAIRMAN MANNING: Thank you.

Mr. Sanders, could you respond to some of the

concerns that were raised? My reading of the conditions and

our permit seems to address some of those concerns.

MR. SANDERS: I believe they do, Mr. Chairman.

Specifically, Special Condition 4 requires

Caltrans to conduct post-construction physical and

biological monitoring, which will, among other things, track

sediment transport from the fill.

There is also a time table specified for the first

meeting of the inter-agency working group to assist Caltrans

in the development of required mitigation plan, both

required by the Commission and by the Coastal Commission in

their permit. That is stated within 15 business days of the

issuance of this permit.

As to some of the items that Mr. Ueber recited.

The availability of funds to Caltrans on the necessary
studies and so forth, Mr. Tom McDonald, from the California Department of Transportation, is in the audience, and he may be able to speak to the items specifically in reference to the Department of Transportation.

But I believe, Mr. Chairman, that the other issues that were addressed by Mr. Ueber are indeed covered within the Special Conditions that Caltrans has accepted as a part of this general permit.

ACTING COMMISSIONER STANCELL: Before you respond to the issue, there was one point that was raised about the limitation on the cubic yards. He said that it appears to him it would be more than 75,000 cubic yards. Is there some way that you can address that to limit it?

MR. SANDERS: Mr. Stancell, in Item 4-A of the Corps permit that Caltrans has received is -- I guess you can best characterize it as an admonition to reduce the total amount of fill requiring that amount of material requiring disposal. And B, more important, reduction in the amount of material disposed in the shoreline or in the ocean.

Caltrans has indicated to us that -- and again, perhaps Mr. McDonald can speak to this -- that the contract to be let, as far as the engineering specifications, is specific to the proposed contractor as to the amount of fill.
We have, however, tried to anticipate the eventuality of more than 75,000 cubic yards being deposited in the ocean in two ways.

Number one, we are requiring what I would call an as-built survey which will give the Commission the exact area covered by the fill at the conclusion of construction activities.

And secondly, we have required that the mitigation to be supplied be in direct relationship to that as-built survey.

So there will be direct mitigation for all material placed on tide and submerged lands in addition to subsequent mitigation as determined by the monitoring plan that is included in the Special Conditions.

ACTING COMMISSIONER STANCELL: Thank you.

MR. MCDONALD: Yes. Good afternoon. My name is Tom McDonald. I'm with Caltrans; I'm in the environmental unit in San Francisco.

I'd like to just briefly respond to a couple of issues that Mr. Ueber brought up.

As to our monitoring program, we had committed to a monitoring program at the very onset of the studies for this project back about a year ago. We have a three-phase program with the Moss Landing Marine Laboratories.

The first two phases were the preliminary
investigation and some baseline investigations so that we know what is there. Those phases have been completed.

The monitoring phase focuses on the sediment transport and its effects. The sediment transport studies and monitoring can't begin until we place the material in there and then we start tracking it.

We have -- our consultant has constructed wave refraction diagrams and has done some analysis of the probable direction and volumes of the sediment transport, and the conclusions were that they would have very little risk to the sanctuary.

And based on other monitoring studies Moss Landing has done for us on other locations, that the sediment transport tends to be limited to a very short distance, half a kilometer to a kilometer.

As to the funding, as I mentioned at the beginning here, the contract was signed and is in place to conduct this monitoring. And I think the estimates will range from a half million to a million dollars.

In addition, we're proposing to provide off-site mitigation that could run another half a million dollars, away from the project site, as a coastal enhancement program.

In addition to that mitigation, we have built into the project a number of mitigation elements, among which was
mentioned was the placement and selection of the larger rocks and boulders to, so to speak, armor the buttress.

The point here is that we're not trying to make that buttress so that it doesn't erode. It is, by design, an erodible buttress. We cannot stop the mountain from coming into the ocean. All we can do is try to duplicate what's there now. And by armoring it during the initial period, we hope that the rate of erosion will be slowed and then eventually it will just resume what nature is now doing.

Thank you. I'm available for any other questions.

ACTING CHAIRMAN MANNING: I have one question. So I take it to mean that from your comments that the earlier cap on the dollar amount that you would be spending on mitigation and on monitoring has been lifted?

MR. MCDONALD: That was lifted as a condition of the Coastal Commission permit, and our District Director made a commitment that we would comply with all the conditions of the Coastal permit.

ACTING CHAIRMAN MANNING: Okay. Thank you very much.

Is there anyone else in the audience who would like to speak on this item?

ACTING COMMISSIONER STANCELL: Mr. Chairman, it appears that the staff has done a reasonably good job in
attending to this issue. In closing, I would move staff recommendation.

ACTING CHAIRMAN MANNING: I second that. Item No. 21 is adopted.

And I'd like to thank staff and recognize the efforts of Mr. Warren and Mr. Sanders, in particular, in doing a fine job on this item. Thank you very much.

Thank you, Senator Marks.

Item No. 22.

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman, Item No. 22 involves the construction of a gas pipeline from Arizona and Wyoming into the southern San Joaquin Valley. Mr. Sanders will also present this item.

MR. SANDERS: Thank you, Mr. Chairman.

As much as I would love to, I think the honor of presenting this item to the Commission should go to an individual who has lived with it for six years. By that means of introduction, I would like to ask Mary Griggs, of my staff, who has served as the project officer for this monumental effort, to present her portion of the staff report, which will then be followed by Mr. Ron Small, a staff counsel, who will address the items more related to the use of the school lands in the project.

MS. GRIGGS: The project before you today are pipelines from Wyoming and Arizona to serve the enhanced oil
recovery fields near Bakersfield in Kern County.

The oil producers in the San Joaquin Valley would use this gas as boiler fuel to create steam which will be injected into the oil fields to produce crude which is otherwise unrecoverable by primary methods.

The Kern River Transmission Company project encompasses 676 miles of pipeline from Wyoming to Daggett.

The Mohave Pipeline Company encompasses 159 miles of pipe from Arizona to Daggett, California.

And then the joint venture of the two companies will transport the gas over a 225-mile joint pipeline from Daggett into the Bakersfield area.

These projects cross three parcels of school land and two parcels of sovereign lands.

In 1985, applications were filed with Federal Energy Regulatory Commission and the State Lands Commission. This was a precedent setting move for FERC, who had never done a joint project with the State of California.

And the State Lands Commission entered into a memorandum of understanding to do a joint environmental impact report, environmental impact statement.

A notice of preparation was circulated in 1985 through the clearing house. Draft and final documents were prepared. Scoping meetings were held. And subsequent to that, a supplement to the final EIR was also prepared. And
just recently an amendment to the documents was prepared. The entire deed of this document is before the Commission today for certification. Staff has received several letters of comment on this recent amendment. You have them before you in your packets.

Late Monday afternoon we received extensive comments from counsel for Mr. and Mrs. Robert Sutton, landowners in the Tehachapi Mountains. On Tuesday morning, we received a second letter from Mr. Sutton's attorney, which indicates that the Suttons and the applicants have resolved their differences.

In any event, staff feels that all environmental issues discussed in these latest comments have been adequately addressed within the documentation before you. As part of the project consideration, the necessary CEQA findings have also been prepared for adoption. For each impact identified as significant, one or more findings are made.

In spite of the substantial mitigation required of this project, there remains significant impacts. Therefore, a statement of overriding consideration has also been prepared for your consideration.

Within the statement, the Commission must weigh the unavoidable adverse impacts against the benefits of the
project. Staff believes that the benefits of the project exceeds its negative impacts.

For example, the benefits include reduction in the air quality impacts in Kern County, and the economic benefits to San Bernardino County realized during construction.

The largest benefit is with regard to availability of natural gas in California. The California Energy Commission, in its recent publication, California Energy Outlook, said that its key policy goal is to increase competition by allowing the first interstate pipeline into California -- interstate gas pipeline, that is.

The CPUC has as both a near-term and a long-term -- I'm sorry. California has both a near-term and long-term need for additional natural gas capacity. They have found that the Mohave-Kern River Project's address these needs with minimal adverse environmental effects.

Lastly, recent legislation requires that the Commission, as lead agency, adopt a reporting and monitoring program to ensure the implementation of all required changes to mitigate or avoid a project significant environmental effect.

The California Department of Fish and Game, the Federal Energy Regulatory Commission, and the Bureau of Land Management have requested that the Commission monitor this
project in its entirety to ensure continuity and consistent protection of the varied natural resources along the pipeline route, both in California and in the states of Wyoming, Utah, Nevada, and Arizona.

The proposed monitoring program presented for your consideration as Exhibit H will ensure compliance with requirements of law.

Ron Small now has some additional points that he'll make regarding the lease.

ACTING CHAIRMAN MANNING: Thank you.

MR. SMALL: Ron Small, staff counsel with the Commission.

One of the most significant items in this project was that habitat mitigation was found for desert tortoise. Fish and Game and Fish and Wildlife Service has required that the companies provide about 10,000 acres of habitat mitigation for those endangered species.

As part of this lease we're going to enter into with the companies, we're going to require first consideration for fire and school lands that are tortoise habitat for transfer to the Department of Fish and Game for habitat mitigation. And we are currently working on that agreement right now with Fish and Game and the companies.

ACTING CHAIRMAN MANNING: Thank you. Mr. Small, there's a question.
ACTING COMMISSIONER TUCKER: What's the amount of money you think it will cost them?

MR. SMALL: Between four and six million dollars.

ACTING COMMISSIONER TUCKER: 10,000 acres?

MR. SMALL: Right.

ACTING CHAIRMAN MANNING: Thank you.

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman, we also have received a letter from the Paragon Companies on March 5th indicating that more environmental assessment is needed before approval. Mr. Sanders can respond to that if you have any questions, but I think the presentation covers that.

There's also Scott Doksansky, who asked to speak on this item.

ACTING CHAIRMAN MANNING: Mr. Doksansky.

MR. DOKSANSKY: Scott Doksansky. That's D-o-k-s-a-n-s-k-y. I'm the Executive Director of the Barstow Area Chamber of Commerce.

And I am here today to read into the record a letter from the city manager of the City of Barstow, Eric Ziegler.

"Honorable Commission:

"It is with a sense of deep frustration that the following letter is written."
"The City of Barstow has been commenting on and following this project since February of 1986, when the first scoping meeting was conducted in Barstow on what was then referred to as the Mohave-Kern River-El Dorado Environmental Impact Report. We submitted comments at that time on issues that should be addressed in the EIR.

"Since that time, the following has occurred:

"April 15, 1987 - Written comments submitted to the Federal Energy Regulatory Commission on the EIR/EIS. FERC is the lead agency.

"January, 1988 - Received Final EIR/EIS. Barstow's comments were not addressed.

"January 26, 1988 - Spoke with Robert Arvedlund, Federal Energy Regulatory Commission, about the failure of the EIR/EIS to address Barstow's comments. He suggested I send another copy to his attention and he would make
them part of the record.

"January 26, 1988 - Mailed another copy of the comments to FERC. No response.

"February, 1990 - A representative of Mohave Pipeline Company came to Barstow with a preliminary pipeline route. This particular route did not coincide with previous proposals to place the pipeline in the BLM utility corridor north of Barstow. Mohave Pipeline was advised in writing (copy attached).


"January 24, 1991 - Mohave Pipeline Company graciously delivers a copy of Mohave-Kern River Pipeline Projects - Environmental Impact Report Amendment. (State Lands Commission). Unfortunately the final date for comments was January 18, 1991. Why was Barstow not in the...
distribution list for this revised EIR?

"February 11, 1991 - Comments sent to Al Powers (Mohave Pipeline) and the State Lands Commission.

"February 21, 1991 - Final EIR amendment received. Barstow's comments not addressed.

"As I think you can see, this whole EIR process has been fatally defective from beginning to end, both in process and in substance.

"The Mohave Pipeline route crosses an active fault (Lenwood), which is on the Alquist-Priolo Special Studies Zone Maps of the State Division of Mines and geology. There is a considerable amount of residential development, both existing and planned, in the area of West Main Street where the pipeline will be constructed. These impacts are not addressed in the EIR.

"Given the foregoing, we urge the Commission to deny certification of EIR 400, Mohave-Kern River Pipeline Projects.
"The City of Barstow remains ready and willing to discuss the impacts and alternatives of this project.

"Signed, Eric Ziegler. City Manager, City of Barstow."

I have copies of all that correspondence.

ACTING CHAIRMAN MANNING: Thank you. Do you want to wait a minute.

Could someone from the staff respond to those concerns?

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman, perhaps Michael Ferguson, with Mohave Pipeline Company, could initially respond, and then staff would be available.

ACTING CHAIRMAN MANNING: That would be fine.

MR. FERGUSON: Mr. Chairman, I'm Michael Ferguson, an attorney representing Mohave Pipeline Company.

We have had a number of discussions with the City of Barstow and have explained to them on numerous occasions that the reason that the route selection was made to the south of the City of Barstow, rather than north, is because Mohave is required to do that by one of the specific mitigation measures required by the FERC.

One of the specific mitigation measures required the Federal EIS and the State EIR promulgated back in 1986.

I cannot explain to you the relationship or the
lack of relationship between the FERC and the City of
Barstow. But we have been very forthcoming about that
requirement. And I'm not sure if I can elaborate on that
any more at this point in time.

ACTING COMMISSIONER TUCKER: On the issue of
whether or not the impact of having the pipeline going
through the proposed residential area, has that been
addressed?

MR. FERGUSON: My understanding is that the
pipeline does not go through a residential area that exists
now. It goes south of the city, which is an area that the
city is growing in and where there may be development in the
future. The impact of the pipeline on development has been
addressed generally in the EIS and EIR. And the findings
there was that it did not have a significant effect in the
aggregate on future development in the State of California.

ACTING COMMISSIONER TUCKER: What about the issue
of the earthquake fault -one?

MR. FERGUSON: There are specific mitigation
measures we are required to follow to mitigate the fault
process. There are a number of them in the State of
California. These involve special engineering designs for
the pipeline and other geological hazards mitigation
measures that we intend to comply with.

ACTING CHAIRMAN MANNING: One question. Can you
give a little bit of insight into why FERC chose the location it chose as mitigation?

MR. FERGUSON: I'm sorry, I was not prepared to discuss this particular issue here today. But my recollection -- and I have to go back and check the documents -- but my recollection is that the Bureau of Land Management and their comments on the original EIS/EIR recommended that we follow a utility corridor to the south of the city rather than the north of the city. The route we are following is also a utility corridor. That recommendation was adopted by the FERC.

ASSISTANT EXECUTIVE OFFICER TROUT: I think Ms. Griggs can maybe answer that question, too. She seems to have the answer.

MS. GRIGGS: If I could add to that. Mr. Ferguson is correct. The original Mohave application was north of the city and FERC required them to move south of the city to be in the established utility corridor.

And I'd also like to add as far as the Lenwood Fault issue is concerned, because that also was an issue in the Paragon letter that Mr. Trout mentioned, the Lenwood Fault does not cross, it comes close, but it does not cross the pipeline route.

ACTING COMMISSIONER TUCKER: Well, it's pretty hard, I take it, to build a pipeline across California that
doesn't cross some earthquake fault, I would think.

MS. GRIGGS: That's correct.

And there are many mitigation measures that have been imposed and adopted and will be part of our extensive monitoring plan that I discussed earlier that will assure that the pipeline is built in conformance with all the regulations and codes.

ACTING COMMISSIONER TUCKER: Do you know if the corridor that's going south of the city, one, do you know if that's zoned residential now? And two, do you know if there are other pipelines that go through that corridor?

MS. GRIGGS: Ken Lord has been project manager for Chambers Group, who are the consultants that prepared the document, and perhaps he can answer some of those questions, too:

MR. LORD: I believe that the PG&E --

ACTING CHAIRMAN MANNING: Excuse me. Could you please state your name for the record.

MR. LORD: Kenneth Lord, with Chambers Group.

ACTING CHAIRMAN MANNING: Thank you.

MR. LORD: I believe that the PG&E pipeline goes through that established corridor at this point in time. And the main reason -- what FERC was trying to do is to keep all the pipelines in one place instead of starting a new corridor to the north of town. Although I think that
All American goes through the north.

ACTING COMMISSIONER TUCKER: Do you know if there's an area that crosses that that is now zoned residential?

MR. LORD: No. I'm not aware of that.

ACTING CHAIRMAN MANNING: Thank you.

MS. GRIGGS: I'd like to make one other point regarding circulation of the environmental document for the City of Barstow. The City of Barstow has always been on our mailing list. I'm anxious to see the information that the gentleman from the City has placed in the record so I can check it out. But they are on our mailing list. They're on our mailing list for each document that was circulated. And I'm not sure -- I'm having a hard time understanding what the problem could be.

ACTING CHAIRMAN MANNING: Mr. Sanders?

MR. SANDERS: That was the point I wanted to bring into the record, Mr. Chairman, is the fact that Ms. Griggs has stated as to the City of Barstow's involvement in the entirety of this process which has extended from 1985.

ACTING CHAIRMAN MANNING: Thank you.

I don't have any other slips to speak on this item. Does anyone else want to speak on this item?

Nothing?

ACTING COMMISSIONER STANCELL: Move staff
recommendation.

ACTING CHAIRMAN MANNING: Second staff recommendation, and the item is adopted.

Item No. 24.

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman,

Item No. 24 involves a recreation pier permit at Lake Tahoe. Mr. Kiley of the Land Management Division will present that item.

MR. KILEY: Mr. Chairman, this is a proposal to expand a pier over near Rubicon Bay about 20 feet farther out into the Lake and to create a boat hoist adjacent to the pier. This is a modest expansion.

ACTING CHAIRMAN MANNING: Anyone want to be heard on Item No. 24?

ACTING COMMISSIONER STANCELL: Move.

ACTING CHAIRMAN MANNING: Second. Item No. 24 is adopted.

Item No. 25.

ASSISTANT EXECUTIVE OFFICER TROUT: Item No. 25 is an informational report regarding the First Seven Months Status of the Long Beach Unit. Mr. Thompson will present that item.

MR. THOMPSON: This is an informational calendar item on the first seven months of activity on the Long Beach Unit. I'll summarize this by referring to the first four
exhibits that are attached to this.

Exhibit No. 2 is the oil production rate in the unit. And I think you can see that we have an increase in production in this period of time. This reflects additional building activity and increased oil price to put back in production.

The oil price scenario for this period has been rather erratic. You can see that in Exhibit 3 where crude oil prices were almost $28 and then ended somewhere below $12. That's also reflected in the total revenue that you'll see on Exhibit 3 -- sorry, on Exhibit 4 -- which peaks along with the oil price and then declines.

Exhibit 1 shows the monthly expenditures in the unit, and they are slightly above last year.

This is an information item only.

ACTING CHAIRMAN MANNING: Thank you very much, Mr. Thompson.

ASSISTANT EXECUTIVE OFFICER TROUT: Item No. 26 is a similar report involving just the three months, and it is a revision of the operations, plant, and development for the Long Beach Unit, and basically reflects the information that Mr. Thompson just covered. And if there's any other questions on this one, which does require action, he'd be ready to answer them.

ACTING CHAIRMAN MANNING: Any questions?
ACTING COMMISSIONER STANCELL: I'll move that.

ACTING CHAIRMAN MANNING: Item is seconded. Item is adopted.

ASSISTANT EXECUTIVE OFFICER TROUT: Item No. 27 is the Seventh Modification of the plan and budget to fund water injection well conversion work through June 30th of 1991. Again, Mr. Thompson is available if there are any questions.

MR. THOMPSON: This is merely an internal transfer of monies.

ACTING COMMISSIONER STANCELL: Move that.

ACTING CHAIRMAN MANNING: Second. Item is adopted.

Next item.

ASSISTANT EXECUTIVE OFFICER TROUT: Item 28 is the award of a royalty oil sales contract.

Mr. Thompson will present that item.

MR. THOMPSON: This is for two leases in the Santa Barbara Channel area, PRC 208 and 3120. The State has taken their royalty oil in kind and putting it up for sale. The State put 25.1 cents above closing price. We recommend approval of that also.

ACTING COMMISSIONER TUCKER: So once again posted price was wrong.

ACTING COMMISSIONER STANCELL: Move.
ACTING CHAIRMAN MANNING: Second that. Item is adopted.

That puts us back to consent calendar Item No. 5, I believe.

ASSISTANT EXECUTIVE OFFICER TROUT: Yes. Item No. 5 is the consideration and approval of an environmental impact report and lease for US Sprint Communications for a fiber optic cable.

You have before you slips from people who want to testify.

And Mr. Sanders will summarize the project for you.

MR. SANDERS: Mr. Chairman, as Mr. Trout has indicated, this is an application to construct an approximately 45-mile three-quarter-inch fiber optic cable line between Oakland and Stockton. The application is by US Sprint.

A portion of the route goes through the City of Lafayette, from which you will hear later in this proceeding.

Staff has prepared and circulated under the provisions of the California Environmental Quality Act the Proposed Negative Declaration. That Negative Declaration was commented upon by all responsible agencies to this project, a list of which is shown on calendar page 42.
We received no negative comments on staff's proposal to adopt -- for the Commission to adopt a Proposed Negative Declaration for the project.

We have also indicated or also received a no jeopardy opinion from the Department of Fish and Game as to consultation under the Endangered Species Act for the entirety of the project.

You also have before you a packet of information which contains letters dated, I believe, January 13th and January 21st from the City of Lafayette, which expressed concerns with the project. The responses to those concerns and proposed monitoring program for the project are also contained within the packet of information before you.

Staff has just today, just prior to the meeting, received a copy of a letter dated March 6th from the City of Lafayette. And I'm sure that the City will address that letter specifically.

I have been handed a letter dated March 6th from Senator Petris indicating his hope that the Commission will support the City of Lafayette and quote, "Reject the EIR," unquote.

While we are in sympathy with the City's position on the project, we do not feel and we do not agree with their conclusions that the Proposed Negative Declaration is inadequate. And we believe we have responded cogently to
and thoroughly to the concerns that have been expressed thus far by the City.

Thus, I would conclude that the staff -- I believe the Commission should certify or adopt the Negative Declaration before it and proceed with the consideration of the project.

ACTING CHAIRMAN MANNING: Thank you, Mr. Sanders.

ACTING COMMISSIONER TUCKER: What portion of the route goes through Lafayette?

MR. SANDERS: Mr. Tucker, I can't answer that question. Perhaps Mr. Wilmar, who is here today representing US Sprint, can give an indication of the 45 miles, what portion of the project does pass through the City of Lafayette.

MR. WILMAR: Mr. Chairman, members of the Commission, my name is Michael Wilmar. I'm an attorney with Nossaman, Guthner, Knox and Elliott. I'm representing Sprint here today.

My understanding, for the record, is that of the -- how many miles -- 93 miles, 2.5 is under the City of Lafayette. Approximately 2.5, roughly somewhere between two and a half and three percent.

ACTING COMMISSIONER TUCKER: What I'm really trying to get at is it goes through other cities?

MR. WILMAR: Yes. And counties.
ACTING COMMISSIONER TUCKER: Under other roadways through other cities?

MR. WILMAR: Yes; that's correct. All the way from Oakland to Stockton.

ACTING COMMISSIONER TUCKER: Have any other cities filed any complaints, raised any kinds of issues regarding the EIR?

MR. SANDERS: Not to my knowledge, Mr. Tucker. The City of Lafayette is the only city.

ACTING COMMISSIONER TUCKER: The other cities are similarly situated; is that correct to say? I mean, it would have similar impacts on them as Lafayette would have?

MR. SANDERS: Yes, sir. With perhaps the exception of the issue raised as to soils stability that is specific to the City of Lafayette. That issue, we feel, has been eliminated through geologic reports by Dames and Moore.

ACTING CHAIRMAN MANNING: I have a couple of questions.

According to the comments of the EIR, there would be some lane closures during construction. Do you know how big an area we're talking about?

MR. WILMAR: For the record, there have been a couple of references to EIR. The documents you have before you for certification is a Negative Declaration.

ACTING CHAIRMAN MANNING: Right.
MR. WILMAR: My understanding from the construction personnel is that no more than 500 feet of the trench will be open at any one point in time.

What exactly -- how much -- how that would affect lane closures, I can't tell you right now. I'm not prepared to answer that question, although there are representatives of Sprint here who can answer that question.

It is clear that from time to time there will be -- they will have to have traffic running in one lane, one lane only. In other words, they'll have to have lane controls in order to allow the construction to take place.

MR. SANDERS: One addition to that information, Mr. Chairman. Within your packet is information that indicates that within the City of Lafayette there will be (no lane closures before 8:00 a.m. or after 4:30 p.m.)

Presumably those times having been arrived at on the basis of prime commute traffic.

MR. WILMAR: Mr. Chairman, it had been my contention to defer to the City of Lafayette to making any further comments, because I think that what I have to say would be in response. In fact, in response to what Mr. Sanders just said, we're prepared to be even more flexible in our construction to accommodate what we believe to be legitimate traffic concerns to the City of Lafayette, including (constructing entirely on weekends) if that's what
the City requires, or in seven working days along the
most -- limiting our construction and getting out of the
most congested portion within seven working days, working
during non-commute hours. We could start later if
necessary.

ACTING COMMISSIONER TUCKER: The City has to give
them some kind of permit?

MR. WILMAR: Yes; that's correct. And we still
require an encroachment permit from the City of Lafayette,
and therefore we will be subject to whatever reasonable --

ACTING COMMISSIONER TUCKER: They could set
conditions on that?

MR. WILMAR: Yes; that's correct.

ACTING CHAIRMAN MANNING: Thank you.

I have a request to --

ACTING COMMISSIONER STANCELL: In answer to the
question of how many miles of construction we're talking
about, did you say 93 miles?

MR. WILMAR: The total fiber optic line is 93
miles.

ACTING COMMISSIONER STANCELL: I am confused. I'm
reading something here that says 45 miles. Am I reading
wrong?

MR. WILMAR: I believe it's to be constructed in
two phases. Is that correct. And the one phase is 45 miles
and the remainder would be the 48 miles.

    ACTING COMMISSIONER STANCELL: 45 miles is what affects Lafayette?

    MR. WILMAR: Lafayette has a portion of the 45 miles.

    ACTING COMMISSIONER STANCELL: Thank you.

    ACTING CHAIRMAN MANNING: I have a request to speak from Avon Wilson, City Councilmember from the City of Lafayette.

    Welcome.

    COUNCILWOMAN WILSON: Thank you very much. Thank you for the opportunity to address you.

    As you had indicated, I am Avon Wilson. I am a member of the Lafayette City Council, and I have been authorized to speak on the Council's behalf.

    Staff has indicated that there has been no opposition to the issuance of a Negative Declaration. That is quite untrue. Our city engineer's communication to you of February the 13th clearly stated our opposition to a Negative Declaration of environmental impact.

    ACTING COMMISSIONER TUCKER: They just said that opposition from other cities.

    COUNCILWOMAN WILSON: Excuse me. I misunderstood from his comments.

    Our reason for asking that a focused EIR be
prepared on this rather than issuing a Negative Declaration is as follows.

We have two major concerns, one of which is traffic impact, the other is soils stability.

And staff has indicated that they're satisfied with the reports which have been prepared on behalf of US Sprint. And we would like to speak to that.

You have received our communication of March 6th. I do have additional copies of that. I will not be reading that into the record. I will summarize it. But I would like it entered into the record as official testimony on behalf of the City Council.

The corridor that is being proposed by US Sprint and which is being opposed by the City of Lafayette to this point -- we have suggested an alternate -- is a very narrow, winding road. It is an old cart road that used to haul logs from the redwood logging fields in Moraga. It was aligned along the old cart road. It follows Las Trampas Creek. It has a known history of slope failure.

We have had a lot of expense as a City to repair slides on this road. We have had slides during the winter of 1972, '82, '83, and '86. Each slide repair costs our City a quarter to a half a million dollars per each.

We have had several additional slide failures compared to the two which the Dames and Moore report
indicates. And we feel that the Dames and Moore study is less than exhaustive.

Quite frankly, a field study done by our City during the recent rain indicated that in addition to the cracks which Dames and Moore have identified, there are additional perpendicular cracks; there is sloughing from the hillside above St. Mary's Road onto the road, which is a common occurrence on this road.

We have constant erosion of this road adjacent to the creek. It is an ongoing process. And it is exacerbated by the storms.

So Dames and Moore's very superficial study done on a dry day really did not understand. If they had talked to staff as they had indicated in their letter, they would have found out a more complete history of this road.

So I really think that the Dames and Moore study is not exhaustive and should not be used as a reason to say, there have been two slides, they have been repaired, everything is cool.

The transportation study which we received by fax yesterday from the Lands Commission, Associated Transportation Engineers. This is another study which apparently the staff feels will mitigate the traffic problems.

This study indicates that St. Mary's Road corridor
including Reliez Station Road, varies from four lanes with
left turn lanes to two lanes with 24 feet of pavement. At
its widest, this corridor is 22 feet wide. At its
narrowest, which is Snake Hill, which is the section where
the East Bay MUD water main broke, it is 19 feet wide. It
has sheer cliffs on one side and drop-offs on the other in
many locations.

That leads us to a problem of the trenching. The
negative dec indicates that trenching will take place along
the shoulders, and it indicates that clean fill may be used
if possible compaction to the greatest degree possible.

We assert that given the slope stability on this
road, that we need to have a high degree of compaction, the
standard of which should be articulated in an environmental
study.

As we have indicated, there has been a washout on
this road which closed the road for four weeks. This caused
diversion throughout the City, which placed a strain on our
very very small police force. We have two officers on duty
at any one time. We do not have the capability to handle
the anger; to handle the safety problems in schools, in
neighborhoods, et cetera, that will be caused by closure of
the road.

It has been indicated that the road would not be
closed probably until 8:00 o'clock. 8:00 o'clock is our
morning peak time on this commute route.

This commute route is also the major emergency access to Moraga, to Rheem Valley, to Burton Valley. There is no hospital in Moraga. The only way that ambulances can get through to Moraga to service them to hospitals in the central county is on this route.

We believe that we have raised several issues that deserve attention. We believe that the studies which staff has depended upon are inadequate and are not a replacement for an appropriate focused EIR.

We are asking that you uphold the Environmental Quality Act, that you allow the scrutiny of this project with appropriate mitigations and alternatives considered to be open to the light of day.

We do not want to be in a position where we have to depend on trust. We want it articulated for everybody to see exactly what the impacts are. And we are looking to you to uphold the law in this regard.

Thank you very much.

ACTING CHAIRMAN MANNING: Any questions?

I have one question.

COUNCILWOMAN WILSON: Certainly.

ACTING CHAIRMAN MANNING: Through the issuance of encroachment permits and through your City’s health and safety and police powers, you can condition, I believe --
and please tell me if I'm wrong -- the times of lane closures and trying to mitigate the traffic impact within certain framework. In other words, you don't lose all ability to control what time the lane closures take place; isn't that true?

COUNCILWOMAN WILSON: We can condition; yes. But you need to be aware that we will still have a diversion problem in the downtown adjacent to elementary schools, along the bike trail. We are talking about conflicts with school-oriented traffic, with neighborhood traffic. And we do not have the staff to accommodate this.

ACTING CHAIRMAN MANNING: Okay. Thank you.

Mr. Sanders, one more question regarding the slide information.

MR. SANDERS: Yes.

ACTING CHAIRMAN MANNING: Can you just speak to some of the concerns that were raised on that?

MR. SANDERS: What I can refer to, Mr. Chairman, is the material within the staff report between pages 87 and 89.

The Dames and Moore letter that addressed the landslides recites the fact that the fiber optic cable is planned to be on the east side of St. Mary's Road, where the slides, I believe, occurred on the west side, quote, "a relatively large distance from the previous landslide..."
areas," unquote.

The conclusions that the consultant reached are at
the bottom of page 89, and indicate that:

"Based on the results of our
assessment, we conclude that
installation of the fiber optic cable
using the planned route through the City
of Lafayette is feasible from a
geologic/slope stability standpoint."
And that last sentence, in that area:

"In our opinion, the effect of the
cable on slope stability along the
proposed route is negligible."

Beyond that, I believe it would be appropriate for
Mr. Wilmar and representatives from US Sprint to discuss
some of the other construction related and other issues
raised by the Councilwoman.

MR. WILMAR: Mr. Chairman, members of the
Commission, thank you, again, for allowing me to speak.

I also would like to thank the staff, particularly
Mr. Brown, for very able assistance in bringing this matter
to closure today.

First of all, just for the record, I would like to
interpose an objection to the comments that are being made
today. The comment period closed some time ago, as far as
we know. And without saying anything further about that, I'll preserve that point in the event that we ultimately come to legal blows over this. I just want to state that for the record.

At the same time, however, I do want to reiterate what we've said to the Lafayette City Council and to you, we are committed -- and I mean that -- we are committed to working with the City to resolve these issues.

As you notice, Lafayette is the only city that's objected to the Negative Declaration. We take those objections quite seriously. I would add, however, that Lafayette did not want this Sprint fiber optics cable to go through Lafayette at all. Only when the Public Utility Commission advised them we had legal right to do it, that we began to talk seriously about alternatives.

The only issue before you today is whether there is any substantial evidence that this project will have a significant effect on the environment. And we submit, in fact, it will not.

Two issues have been raised.

One is the traffic issue. We acknowledge that traffic is at issue in Lafayette. We acknowledge that there is a segment of the route in Lafayette where traffic will need to receive some special attention. It's the area that Councilwoman Wilson mentioned.
In response to that, we have offered and are prepared to commit to the City to complete all work in that segment of the route (within seven working days, working not from 8:00 a.m. to 5:00 p.m., but from 9:00 a.m. to 4:00 p.m.) And, in fact, if necessary, we will do it all on weekends over eight days, which I think is fairly reasonable.

I want to emphasize we're not building BART through the City of Lafayette. We're talking about a trench that's 12 inches wide with 48 inches deep and will be located in an existing road right-of-way. So it's not a major construction project.

The other issue that's been raised is slope stability. We have two representative here today from Dames and Moore, both of whom were responsible for portions of the study referred to. And one of whom, Phil Mabry, is personally familiar with the areas mentioned in question, and has, in fact, done some soils engineering work and other work in that area.

If it would be — with your indulgence, I would like to ask Mr. Mabry to make a few brief comments on the level of specificity and the appropriateness of the engineering information that has been submitted to staff.

ACTING CHAIRMAN MANNING: That would be fine.

MR. MABRY: My name is Phillip Mabry. I'm the senior geotechnical engineer with Dames and Moore, and I

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prepared the report that the staff has reviewed.

Let me just go over, briefly, the scope of work that we did for our studies. We reviewed available geologic information. We also had copies of US Sprint's plans and profiles for their planned cable. I discussed it with their engineering department regarding the trenching depth within the backfill procedures.

East Bay MUD had a pipe break on Reliez Station Road, which is part of the route, that the water coming out of the pipe washed away a portion of the slope.

I talked to their geotechnical engineer. And, basically, what they had found out from their studies is that not slope stability, but rather corrosion of the pipe caused their failure. And in their opinion, it had been repaired properly and the slope was brought back to its stable condition.

Myself and Ray Rice, an engineering geologist in our firm, drove the route, and we walked portions of it and observed the areas where we thought there could be a slope stability problem, to see if there was.

In fact, upon doing that, we only found a very minor crack near the Las Trampas Creek Bridge. And we did not see evidence of any significant ongoing landslides.

With that in mind, we prepared a report which described what we had done. And it's my opinion that the
level of effort that we put into this is adequate. And we
wouldn't do any more for any other client for a similar
project.

If we had found an area where there was an active
landslide or it appeared that there would be one in the near
future, we would have recommended additional studies.

But considering the very small width, shallow
depth of the trench, and the fact that it's only there for a
limited period of time, we didn't see reason to do any
additional investigation.

ACTING CHAIRMAN MANNING: Mr. Sanders?

MR. SANDERS: Mr. Chairman, I'd also like to ask
Mr. Mabry.

Are you, sir, a registered professional engineer?

MR. MABRY: Yes; I'm a registered civil engineer,
and also I have the title of geotechnical engineer in
California.

MR. SANDERS: And was the individual who prepared
the report with you of similar qualifications?

MR. MABRY: Yes. Ray Rice is a registered
engineering geologist and geologist in California.

MR. SANDERS: And that's the conclusions of your
report -- in effect, your license is subject to the accuracy
of the conclusions in this report?

MR. MABRY: Exactly. Yes, sir; they are.
MR. SANDERS: Thank you.

ACTING CHAIRMAN MANNING: Mr. Stancell has a question.

ACTING COMMISSIONER STANCELL: Mr. Mabry, the methodology that you just described to us, in your approach in arriving at your conclusion, is this a standard practice for those type of projects that are used throughout the profession, or is this something that you developed for this particular situation?

MR. MABRY: The investigation that we did was standard practice. We would always, for this type of project, start with a review of available information and site reconnaissance. And then if there was an apparent need for additional work, it would be based on that. And the results of our studies were such that after we had completed this initial phase, there was no reason to do additional work.

ACTING CHAIRMAN MANNING: Thank you.

We're going to have some more questions for Mr. Wilmar. Before we do that, I have another request to speak from a representative from the City of Lafayette. I think it's Mark Lander. I can't read the writing very well.

MR. LANDER: Good afternoon. My name is Mark Lander. I apologize for the handwriting. I'm the City Engineer of the City of Lafayette and also a registered
civil engineer in the State of California.

I did have some points I wanted to bring up, and I will combine those points in response to a number of statements made by Mr. Wilmar and Mr. Mabry.

There seems to be a -- Mr. Wilmar seems to be implying that this is sort of a last-minute protest that, you know, sort of an eleventh-hour concern being brought to the State Lands Commission.

As Councilperson Wilson indicated, we did respond two weeks ago, a memo of February 13th, and again a memo of February 21st, outlining a number of concerns we have of the project. I have copies of those memoranda right here.

But beyond that, I think it should be mentioned that we have been dealing with US Sprint since April of last year. US Sprint approached us in April suggesting a route along Reliez Station Road, Glenside Drive, St. Mary’s.

We responded in writing at the time that we had a number of concerns regarding the route, geologic stability, traffic problems and a road reconstruction project which we’re now beginning to design, which we believe will conflict with the fiber optics line. We told them a year ago, almost a year ago.

They asked again in April for permission. We again told them that we had a number of concerns with that route.
We suggested in July to them a number of alternate routes through the City, which a staff person and I felt I could recommend to my Council. They chose not to follow those alternate routes that we suggested to them.

We are not denying them access through the town. We have never denied them access through the town. They do not want to consider alternate routes. There is absolutely no consideration of alternate routes that I can see in the proposed Negative Declaration.

What also concerns us is that we were not contacted by the State Lands Commission staff. Recognizing your staff is just as busy as our staff, but we were not contacted by them regarding any concerns that we might have with the route.

I think we've been making an effort for almost a year now to try and bring this to your attention and to try to bring this to Sprint's attention. And Sprint has not cooperated with us.

Touching on the soils problems. I believe Mr. Sanders indicated that the slides on St. Mary's Road were on the west side of the road and the cable will be going on the east side of the road. That's true for part of the route.

On Reliez Station Road there is a slide, unstable fill, on the easterly side of the road where the cable will
be going.

The gentleman from Dames and Moore indicated that he could find no evidence of sliding in looking over the route. He apparently missed a whole series of cracks which are on Reliez Station Road immediately north of Richelle Court, which I see daily, which shows exactly where the unsupported fill is located at. And I can see those. They are visible to the naked eye. I don't know why he missed those.

There were no borings done by Dames and Moore. And what really bothers me is there is apparently no research of previous slide history in the property.

Reliez Station Road lies — it's a material called Orinda formation, which is sort of a geologic slag heap. It's an unconsolidated — it's a downhill creeping of material, very unstable, and there's a history of slides in Contra Costa County on the Orinda formation.

That is mapped very clearly on the geologic map for Contra Costa County, which is prepared by the State Division of Mines and Geology, which I believe is located in this building. It's readily available information.

There is also a 40-year-old cast iron East Bay Municipal Utility District water main in Reliez Station Road. It's a 16-inch line. It serves the greater part of the Town of Moraga. That line broke roughly a year ago,
February of 1990. It blew a hole in the road the size of
that podium and blocked the road for four weeks.

In addition to major traffic problems it caused us
while the road was closed, a slide and the erosion and the
water from that pipeline pulled one house below the roadway,
almost drowned a child who was sleeping on the ground floor
of the house, and severely damaged another house.

There’s also an impact on the water supply to the
Town of Moraga.

Now, US Sprint maintains this project is supposed
to provide a backup line for their communications. I
question, is this the place to put a backup line in an
unstable area?

That brings me to the final point, and I’ll try to
wrap this up as briefly as I can.

The City of Lafayette is proposing a rehab of the
roadway. We hope to begin the design work in the next month
or so. We believe it will be under construction in 1992.
That will involve two lines. One relocation of the
waterline, and also the addition of an underground storm
drain, as well as retaining walls, and fill reconstruction
to stabilize the roadway.

That fiber optics line would very much be in the
way of our construction. And we’ve requested that if US
Sprint cannot find an alternate route, that they defer
construction until 1992. At that time, we will be more than happy to try and coordinate their project with our project. I think that's prudent use of the City's funds, of US Sprint's funds, and service to their customers, and to the ratepayers for East Bay MUD, who has a facility that is impacted by the construction.

I think that covers my comments. I think my three minutes are about up. If there are no questions, I'll sit down.

ACTING CHAIRMAN MANNING: I have a question. So is that your main concern here that you have a plan for significant roadwork there, and relocation of a waterline that you have had problems with in the past?

MR. LANDER: There are really two equal concerns. One would be the traffic along the route. It's a very heavily-traveled route. Yes, there's a heavy p.m. and a heavy p.m. commute time. The traffic really never really slows down on the roadway. The traffic would be a problem in any case.

Second concern is that, yes, we do have a major reconstruction project planned in the near future. And the placement of one more utility line, especially a very sensitive utility line such as a fiber optics telephone cable, which is difficult to relocate, would be in the way of our project.
It will probably cause additional costs to the N City due to the need to relocate that line or work around it. I expect any contractor bidding on the City's project would have concern with that line being in our way. And I can see our construction costs going up because of that.

And there's going to be additional delay to the public if that line is damaged if it has to be relocated to accommodate our facility.

ACTING CHAIRMAN MANNING: I believe that Sprint has agreed, though, to pay for relocation and for your costs for further improvements down the road.

MR. LANDER: Sprint has proposed a fee which they maintain would offset any financial impact to us. We're not convinced that, at this point, that fee is high enough. I'm not sure there's a way you can quantify that feat.

And it doesn't take care of the non-monetary problems such as delay to the public if that fiber optics line has to be put in once and then put in a second time or if we find that line is in conflict with our project during construction.

It doesn't deal with the problems associated with the 16-inch waterline.

We have three projects -- three lines that have to be put in -- our storm drain, our retaining walls, that is one project; their line; and the East Bay MUD line.
There's only so much room in that corridor to put those three utility lines in place. And this is the time for us all to sit down, agree where do those lines go in the street. We need to do some advance planning, some advance engineering. We may find that their line is very much in the way later on.

If East Bay MUD ever had to come in and reconstruct or repair that line, I think they would find the fiber optics line to be in the way. Their fiber optics line is proposed to go directly over the portion of the water main that broke a year ago.

ACTING CHAIRMAN MANNING: Okay. Thank you.

Mr. Wilmar, will you come back up for a minute.

I believe Mr. Tucker has a question for you.

ACTING COMMISSIONER TUCKER: I wanted to reiterate a couple of commitments and ask you about those.

As I understand it, now, you are committing that construction would be between 9:00 and 4:00 or on weekends?

MR. WILMAR: On the most heavily congested portion of the route; that's correct, which is Glenside Drive, Reliez Station to Olympic Boulevard.

ACTING COMMISSIONER TUCKER: And that you will complete this within eight days?

MR. WILMAR: Eight weekend working days or seven regular working days.
ACTING COMMISSIONER TUCKER: Okay. And I understand from the letter that the Lands Commission staff wrote to Mr. Lander that also we’re requiring, in effect, that any of the ground fill — (any of the disturbed surfaces will be returned to the preexisting condition).

MR. WILMAR: That’s correct.

ACTING COMMISSIONER TUCKER: Okay. And then I would ask for your commitment on one other thing that’s been raised here and that is that Sprint will have enough personnel present to direct traffic and monitor traffic so that it doesn’t require that the City of Lafayette have whatever law enforcement they have there directing traffic, et cetera.

MR. WILMAR: I can make that commitment to you, and I can add that even if I were not prepared to make that commitment to you, I can assure you that the City of Lafayette will require it as a condition of whatever encroachment permit they ultimately --

ACTING COMMISSIONER TUCKER: I’m concerned now that your commitment involve — that you be generous about the number of people you have there so that there’s no question that there is sufficient —

MR. WILMAR: I think I can make that commitment.

I might add that not only have we agreed to complete the construction within the time allowed, but we
will be prepared to commit and are prepared to commit to a penalty provision of $5,000 per day for every day that we exceed that construction. And I think that’s evidence of the generosity that you’re talking about. I mean, we’re prepared to satisfy the City of Lafayette’s reasonable and legitimate concerns about traffic and traffic control.

ACTING COMMISSIONER TUCKER: The other point for the people here from Lafayette, I’d just like to make the point that the Lands Commission will have staff present, as I understand, to work with Sprint to ensure that the conditions are met.

Is that correct?

EXECUTIVE OFFICER WARREN: Yes, sir.

ACTING COMMISSIONER TUCKER: That’s all I have.

ACTING CHAIRMAN MANNING: Thank you very much.

ACTING COMMISSIONER STANCELL: Mr. Chairman, after hearing the various speakers, I’ve come to the conclusion that the staff recommendation is appropriate on the Negative Declaration. It appears that the issue that really is of paramount with the City of Lafayette is the potential of inconveniencing their morning and afternoon commutes more than once in a short period of time. And I can appreciate that, but I think the issue before us is the Negative Declaration, and I haven’t heard anything to convince me that that’s not appropriate. So I would move the staff
recommendation.

ACTING CHAIRMAN MANNING: Thank you. I would
second that motion, and also encourage US Sprint to keep the
promises that they made here today.

Mr. Stevens?

SUPERVISING DEPUTY ATTORNEY GENERAL STEVENS: Yes.

Mr. Chairman, if I could just ask for the clarification of
the record.

Are the conditions referred to by Mr. Tucker being
incorporated into the conditions imposed by the Commission
as mitigation for this negative dec? The completion within
eight days, for instance; the weekend only.

ACTING COMMISSIONER TUCKER: Is that your
recommendation?

SUPERVISING DEPUTY ATTORNEY GENERAL STEVENS:
Requirements as mitigation, it would be appropriate.

ACTING CHAIRMAN MANNING: Yes. I was going to add
that Mr. Tucker's suggestions, as you just stated, be
incorporated as mitigation measures.

MR. WILMAR: Could I just clarify? Mr. Stevens
only mentioned the eight weekend working days. We will
leave that to the City of Lafayette as to whether or not
seven. Just make sure the entire issue is incorporated.

SUPERVISING DEPUTY ATTORNEY GENERAL STEVENS: As
determined by the City.
ACTING COMMISSIONER TUCKER: We're talking about the four things. Did you get all those pearls of wisdom?

ACTING CHAIRMAN MANNING: The other conditions would be the assistance to the City in terms of personnel.

ACTING COMMISSIONER TUCKER: Hours of work complete in the period of time and the return to existing condition.

ACTING CHAIRMAN MANNING: That's right.

SUPERVISING DEPUTY ATTORNEY GENERAL STEVENS: And the penalty for failure to complete, which I think is already there.

ACTING CHAIRMAN MANNING: With those conditions, I second Mr. Stancell's motion and the calendar item is adopted.

And I believe that concludes the calendar for today.

Thank you all for coming.

And we will move into executive session, closed session, to discuss litigation.

(Thereupon the March 6th, 1991, meeting of the State Lands Commission was concluded at 2:25 p.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, JANET H. NICOL, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing State Lands Commission Meeting in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of March, 1991.

Janet H. Nicol
Shorthand Reporter