STATE LANDS COMMISSION

TRANSCRIPTS

October 18, 1991
MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

PORT OF SAN FRANCISCO
3100 FERRY BUILDING
PORT COMMISSION ROOM
SAN FRANCISCO, CALIFORNIA

FRIDAY, OCTOBER 18, 1991
10:00 A.M.

Alene Weir, C.S.R
License No. 7587
COMMISSIONERS PRESENT
Honorable Leo T. McCarthy, Lieutenant Governor, Chairman
Mr. Gray Davis, State Controller, represented by
Mr. James Tucker, Chief Deputy Controller

STAFF PRESENT
Mr. Charles Warren, Executive Officer
Mr. James F. Trout, Assistant Executive Officer
Mr. Robert C. Hight, Chief Counsel
Ms. Patsy Tomasello, Executive Secretary

ALSO PRESENT
Mr. Jan S. Stevens, Deputy Attorney General
CHAIRMAN MCCARTHY: Ladies and gentlemen, this is a meeting of the State Lands Commission.

On my right is Commissioner Jim Tucker, representing the State Controller Gray Davis. My name is Leo McCarthy.

The minutes of the previous Commission meeting are approved without objection.

Let me announce that two items were pulled off the published calendar today. Item 01(B), section of 01, (B), and Item 06.

There are no items on the consent calendar today. This is the regular calendar.

Mr. Warren, would you like to open up?

EXECUTIVE OFFICER WARREN: Yes, Mr. Chairman. I'd like to skip the first calendar item temporarily and come back to that in a moment.

CHAIRMAN MCCARTHY: All right.

EXECUTIVE OFFICER WARREN: And proceed to Calendar Item 2. Calendar Item 2, Mr. Chairman and Commissioners, concerns four Recreational Pier Permits. One in Huntington Harbour in Orange County; one in Petaluma River in Marin County; one at Lake Tahoe; and one in the Sacramento River.

The applications meet all State Lands Commission
requirements and the staff is recommending approval of the permits.

CHAIRMAN McCARTHY: Any questions? Any members of the public have any questions on Item Number 2? If not, Item Number 2 is approved.

Do you want to go on to Item Number 3 now or back to --

EXECUTIVE OFFICER WARREN: No, Item Number 3.

Item Number 3, Mr. Chairman and Commissioners, is an approval of an assignment of a General Permit - Recreational Use Permit at Lake Tahoe at Carnelian Bay.

The staff recommends approval.

CHAIRMAN McCARTHY: Any questions? Questions by the public? Number 3 is approved.

EXECUTIVE OFFICER WARREN: Number 4 is the approval of the assignment of a General Lease - Commercial Use at Lake Tahoe at Camp Richardson for the operation of a commercial marina, and we recommend approval of the assignment.

CHAIRMAN McCARTHY: Any questions? Questions from the public? The item is approved.

EXECUTIVE OFFICER WARREN: Returning to Item 1, Mr. Chairman. Item 1, Sub (H) is to be removed from the calendar.

CHAIRMAN McCARTHY: All right. Item (H).
EXECUTIVE OFFICER WARREN: Yes. The George O'Neal Rent Review.

CHAIRMAN McCARTHY: We removed (B), now we're removing (H).

EXECUTIVE OFFICER WARREN: (H), yes.

CHAIRMAN McCARTHY: All right.

EXECUTIVE OFFICER WARREN: The remaining items before you, which is to approve 10 Rent Reviews, three in the Petaluma River, one in the Sacramento River and one at Lake Tahoe. Staff recommends approval; there's no objection.

CHAIRMAN McCARTHY: Are we removing (H) with the knowledge of Mr. O'Neal?

EXECUTIVE OFFICER WARREN: Yes. Mr. O'Neal is here. He was going to testify. We are removing the item with his permission in order to discuss the differences.

CHAIRMAN McCARTHY: All right. Any questions on the remainder of Item 1? Questions from the public? Item Number 1 is approved.

EXECUTIVE OFFICER WARREN: Item 5, Mr. Chairman, and Commissioners, is an application by the Port of San Francisco for a dredging permit to enable it to dredge up to 100,000 cubic yards at Piers 27, 80 and 96 for the purpose of maintaining navigation channels. There is no royalty imposed for such dredging. There is being charged
the fee that the Commission imposed several months ago on
dredging activities in the Bay waters of San Francisco, 25
cents per cubic yard for any dredge material disposed of at
any site in San Francisco Bay. The dredge spoils here are
to be disposed of at the Alcatraz disposal site.

I should inform the Commission that we have
received a request from Mr. James Strock, who is the
secretary of the California Environmental Protection
Agency, to use the proceeds of that fee to support the
responsibility of the Bay Conservation and Development
Commission to manage and supervise a study of upland
disposal sites as part of the long-term management study
sponsored by the U.S. Army Corps of Engineers.

As this Commission knows, dredging in San
Francisco Bay is becoming a very critical issue, both
maintenance dredging and channel deepening dredging. Port
of Oakland proposes in the future deepening its channel 38
feet to 43 feet in order to accommodate deeper draft
vessels which are now plying the Pacific waters. Other
ports, San Francisco, Richmond, have to maintain their
existing channels by dredging.

As you also know, it is contended by some that
the dredging and the disposal of dredge spoils in the Bay
is harming the marine fisheries. Most recently the Fish
and Wildlife Service has indicated that there is a
relationship between the decline of some species of fish and dredge spoils disposition in the Bay.

The LTMS project under the Corps of Engineers in which various state agencies are participating, is designed to find alternatives to the present method of dredging and dredge-spoil deposition. They are looking off-shore disposal; they are looking for additional in-Bay disposal sites, and they are also conducting inquiries to the possibility of upland disposal.

The LTMS project is designed to last approximately two years. The upland disposal aspect of the project is presently inadequately funded. And it is because of that that we've been asked to share with BCDC the fund which this dredging fee is creating.

The staff recommends approval. And I would at this time, if it is all right with the Commission, I would like to have Veronica Sanchez of the Port of San Francisco speak to the item.

CHAIRMAN McCARTHY: Thank you.

We want to thank you, incidentally, before you begin, Ms. Sanchez, for the hospitality of the Port and allowing us to hold our State Lands Commission hearing here today. Thank you.

MS. SANCHEZ: Mr. Lieutenant Governor, thank you very much. I assure you it's our pleasure to host you at
the Ferry Building here. And it is our hope that you may consider this a site more often to come and have meetings whenever you need to have a meeting here in San Francisco. It is your home.

For the record my name is Veronica Sanchez. I'm the Director of Government and Public Affairs for the Port of San Francisco. I would like to make statement in behalf of president Jim Herman, the president of our commission, and executive director Michael Huerta, who presently is in Japan and regrettably is unable to address you personally.

We'd like to begin by thanking you. Thanking you first of all for the extraordinary effort that you are taking to meet in this special hearing session to consider this permit. You are considering it one day before we hope to get that dredger in the water; we hope to have that dredger in the water by tomorrow morning, 8:00 o'clock, at Pier 27. And so it shows the close timing.

Also I'd like to say a special word of thanks and appreciations to your staff who has responded remarkably to try to turn around the paperwork that is required for this permit, and has just shown incredible support for our need to clear these berths and these terminals so that we don't have any further disruption of business at these terminals.
This permit, as we're here standing one day before the dredger moves at those terminals, it's hard to believe we're at this last stage. A few months ago when the Chinook salmon crisis hit this Bay in June, we were very skeptical as to whether we would be able to resume our maintenance dredging operation. And basically we were at a point of crises.

We have been able to resolve this crises today and be able to proceed with our maintenance dredging operations because of the incredible consensus that was able to be achieved, particularly on our permit. And we were successful because we were able to sit down in a cooperative fashion with the environmental community, with the fishing community and with total respect for the mandate of conservation agencies like the National Marine Fishery Service, Bay Conservation Development Commission, the State Lands Commission about the quality of San Francisco Bay.

They reviewed our permit, our samples. They recommended the scope for the samples that we would take. And the objective all along was really to balance both the environmental interests and the economic interests of keeping our terminals operative.

So while it represents a new way of doing business in maintenance dredging for the Port of San
Francisco, I think we're on the cutting edge of what's to come and it's a preview of what more ports will be doing and more dredgers will have to be doing in having to figure out ways to either scale back volumes or look for alternative sites to Alcatraz for disposal of material.

So again, just thank you very much. And it is a very good day for this waterfront and we're very relieved.

CHAIRMAN McCarthy: Thank you. Any questions?

ACTING COMMISSIONER Tucker: Could you just tell us briefly what the impact has been in the last few months of not being able to dredge.

MS. Sanchez: Mr. Tucker, through the Chair, the impact, we had a ship go aground at Pier 29, which is our newsprint terminal. And we also had a ship go aground at Pier 48.

Because both of those terminals had to be closed because they were mud-locked, we could only bring in ships to Pier 27. Which means the newsprint terminals were operating at minimal capacity. It was particularly a problem when the Navy needed to come in for fleet week to bring its ships in, and we had to balance both the need to accommodate the newsprint terminal and the Navy ships.

Newsprint is one of our biggest commodities at the port. So the dollars lost are opportunity losses that we have not been able to obtain. Additionally we suffered
problems, navigational problems at our north container
terminal, Pier 80, which will be I think the bulk of the
work that will be taking place. There was a lot of concern
by the operator of that terminal and our biggest shipping
line there, Nedlloyd Shipping Line, which is a $2 million
customer to this port a year, about their ability to bring
in those container ships in there, that we assured them
that we would be able to secure the permits in a timely
basis and that gave them confidence.

No doubt though that if there was any further
delay in this permit, that we would be talking about the
shutdown of Pier 27, and also serious reduction in business
at Pier 80 and the south terminal. The worst case
scenario, if all the terminals that we would need to do in
our dredging program, in this dredging program, couldn't
have been done, we were talking about maybe a $10 million
annual loss to this port.

ACTING COMMISSIONER TUCKER: What does that
represent in terms of the number of people that are
working; loading, unloading, all that type of thing?

MS. SANCHEZ: Direct and indirect jobs are
calculated to be over 6,000 jobs. Just on this side of the
water.

ACTING COMMISSIONER TUCKER: Thank you.

MS. SANCHEZ: Thank you.
CHAIRMAN MCCARTHY: Let me just make sure now. We obviously need the support of each port in the Bay area for the plan. The problem we're facing is that we have a multi-billion dollar shipping industry with tens of thousands of jobs involved, all over the Bay area, a very important object for us to try to save so that the people, the families depending upon this part of our economy will continue to be able to work. And we also have the critical issue of the serious environmental problems we have with a great amount of the marine life being poisoned and killed off because of all kinds of pollution being dumped into the Delta and the Bay.

The Port of San Francisco is going in the same direction that the State Lands Commission is in trying, through this two-year study, to find upland sites where we could deposit the dredging spoils. Are we together on that?

MS. SANCHEZ: Mr. Chairman, correct. Let me make the distinction for members of the public, too, who might value this information. We're talking about short-term and long-term needs for sites. Not all of our material will be able to go to Alcatraz because of the concern by the National Marine Fishery Service of the impact of this material on the Chinook salmon.

Therefore what the Service is recommending is
that dredgers cut the volume that's disposed at Alcatraz.

So short-term we need to find a place to put the balance of that volume. So whereas in prior years we were dredging on an annual basis about 300,000 to 500,000 cubic yards, we anticipate that we will only be able to dredge 100,000 cubic yards and dump that at Alcatraz. That means that's a lot more material that has to be disposed someplace. And we need to find places for that. And that might be the ocean or that might be upland sites. But we need to identify them. So before this huge planning process is completed in 1994, that is being spearheaded by the Army Corps of Engineers, the EPA, there are short-term solutions that need to take place.

The port is independently right now working with the BCDC to try to attempt to see if we can have a demonstration project for some of the yardage from that newsprint terminal that is mud-locked right now and that material will be able to go to Alcatraz. But we are pursuing to find a landfill where we can dump that material, as well as the material from the south terminal.

That's the short-term need. The long-term needs we are absolutely in agreement with the State Lands Commission about the need to study upland sites for disposal of this material. And for that reason the Port of San Francisco supported Assembly Bill 1058 by Assemblyman
Sher that was signed by the Governor two weeks ago to encourage and provide for the mechanism so the Bay Conservation and Development Commission can participate in those upland studies and have those results.

So I think we are on the same wavelength.

CHAIRMAN McCARTHY: Thank you very much.

MS. SANCHEZ: Thank you.

EXECUTIVE OFFICER WARREN: Mr. Chairman, let he interrupt at this point from the usual procedure.

CHAIRMAN McCARTHY: Yes.

EXECUTIVE OFFICER WARREN: Before we hear from a next witness. I'd like to address briefly another aspect of this item and subject to which Ms. Sanchez referred in her presentation. And that concerns the legislation that was passed this year enabling BCDC to impose a 10 cent per cubic yard charge on all dredging within all areas of the Bay in order to help fund its responsibilities under the long-term management study which we have mentioned.

That legislation unfortunately contained no appropriation language, and it will be some months until BCDC is in a position to implement its provisions. The delay in implementing the legislation was the reason why Mr. Strock, Secretary Strock of Cal EPA wrote us to assist them during the interim. We have negotiated with Bay Conservation Development Commission an agreement whereby
the benefit of our funds will be made available to BCDC immediately. It is understood by BCDC and by Port of San Francisco and other ports in the Bay that upon BCDC being able to effectively implement the legislation it will be our recommendation to you that our fee be terminated. Because what we would like to avoid here is a multiplicity of fees confronting the dredgers and the ports.

So I did want to mention that to you. We have the terms, a copy of the MOU or agreement between State Lands and BCDC is available. And speaking to that, I believe we have here Mr. Steve McAdam of BCDC. Mr. Pendleton, who is the director, was unable to be here due to other commitments. But I think Mr. McAdam can address that point.

CHAIRMAN McCARTHY: You are correct, Mr. Warren. This is what you and I have discussed several times. I'm strongly opposed to several state agencies imposing dredging fees. So ours will terminate and we will use all of the money that we have gathered to pay BCDC costs for the beginning of this long-term management study to try to identify upland sites. The total cost of this study, as I understand it, is about $600,000. The total amount that the State Lands Commission will be able to pay out of the fee it has imposed is approximately $160,000. Our fee will terminate at the instant that the BCDC fee kicks in under
Assemblyman Sher's new legislation under AB 1059, which the
Governor has signed.

Why don't we hear from you, Mr. McAdam.

MR. McADAM: Thank you, Mr. Chairman. I'm here
simply to support the adoption of the MOU and to gratefully
accept, should you chose to give us this money. I think it
reflects several things. It reflects the good working
relationship we've had with this Lands Commission for many
years. It reflects both of our commissions' desires to
move towards reusing this material, particularly in upland
sites rather than disposing of it in the Bay and I think it
reflects the generosity and the leadership that you are
providing to us and we thank you very much.

CHAIRMAN McCARTHY: Thank you very much.

Now Pat Flanagan, Port of San Francisco
Waterfront Committee. Mr. Flanagan.

MR. FLANAGAN: Good morning, Honorable
Commissioners. I guess that's proper.

CHAIRMAN McCARTHY: We'll take it even if it
isn't. That's all right.

MR. FLANAGAN: Just as a way of introduction, I've
been president of a fishing company for 35 years on San
Francisco waterfront, Standard Fisheries Corporation.

As far as politics, I think it's apropos to what
I'm going to speak to today regarding the Burton Act, that
Phil Burton used to describe me, God rest his soul, as his probably closest Republican friend after his race against Senator Marx.

A number of years ago at the same time under Dianne Feinstein, I went to Japan and we spent eight days in Japan, which became, we had national press on the review of Bay of Tokyo in relationship to the Bay of San Francisco. And from that trip I came back, we spent eight days with scientists from the University of Chiba in Japan. And out of that, I was the author of a critique of the U.S. Army procedures on dredge materials in the United States. Which at that point had found that there were a tremendous amount of flaws in the Army Corps procedures. And that led to a number of almost three years of being told by the Army Corps I was crazy, and the press refused to cover it, Chronicle, Examiner, and it was very frustrating those first three years. And I look back and I almost think of myself as the father of this dredging issue.

There was a final breakthrough. After the Army Corps kicked me out of their office, I went to the regional water quality control board and the board told me to shut up, that I was out of order, and Marion Otsea said "I don't think he is. I want to hear what he has to say." And from that came all the, in fact the regional board adopted far
more stringent regulations on dredging than I had been requesting because they found that the situation was far worse than I had imagined.

Just trying to give you some background. I'm also a University of San Francisco graduate and Jesuit training. And I think that's important to what I'm going to address today in the fact that the Jesuits train you to think and also to be fully responsible for your actions.

12 years after I introduced the dredging issue, I never imagined, never imagined, that it would reach this proportion. In fact the original solutions that I offered to the Army colonel in privacy was way below where we are today. And it's ironic that the colonel, instead of kicking me out of his office, if he had just listened and acted, we wouldn't be in this predicament today. I'm not asking for the moon. I was just asking for what's reasonable in balancing environmental issues with the shipping industry.

Well now looking at all the money we're spending and where we've come today, I felt that there was other issues involved: Where are we going to get the money? And this is not just the only problem that the Port of San Francisco is faced with. They are faced with deteriorating infrastructure, a number of other issues.

About five or six years ago we had a hearing in
Long Beach under Senator Dills, who was author of State Lands. And out of that hearing Senator Dills, we spent a lot of time in the Port of San Francisco, and Allen Pendleton was there. And we kept on raising all these problems, all these problems. But we couldn't find a common thread, a common solution, real answers. And that really bothered me. And staying in the port for probably six, seven years now, stopped the budget, and now all of a sudden on the waterfront committee I think I found part of the problem. And this is a statewide problem. This goes back to the Burton Act.

And on August 31st -- I'll submit this -- I wrote a letter to -- I'm also a Republican. So I wrote this letter thinking that maybe this should go to Daniel Lundgren. And this letter was given to Daniel Lundgren on August 31st. It was about seven pages on the legal background of the Burton Act and the transfer agreement with San Francisco approved by the voters of San Francisco. I've been told by a number of attorneys that this is probably irrefutable legally, and I've done it all myself. I'm not a lawyer.

This letter was copied to almost 30 government officials, in city government as well as state, including Mr. Warren, of State Lands. I'll submit this, because I know you people have got so many files you probably lose
things in those files. So anyways a month and a half has
gone by and I'm getting pressure. This has been in the
Examiner, the Chronicle is watching it. A month and a half
has gone by and I've not got a letter or response from my
fellow Republican. This isn't the first time, but I'm
still thinking about going Independent or Democrat if this
keeps up.

But anyways, two days ago I called the attorney
general's office. I said "What's going on? How come
there's no response? I have to report back to the Port of
San Francisco." Mr. Tufts of BCDC requested that I write
this letter to the city attorney's office for relief, and I
told Mr. Tufts "Look, after review of the Burton Act and
the transfer agreement, the responsible party in this
matter is the attorney general's office. He is supposed to
be the overseer."

So I called and all of things, 25 people in
government received this letter but the attorney general
can't find it. So I said "Okay, fine. We got to get this
thing moving. Give me your fax number." She gives me a
fax. It ends to be the housing department. Call back and
I says "Look, are you Republican or Democrat?" And she says
"I'm a civil servant." I said "How do we get this thing
going?"

So I finally got her right fax. Then I wanted to
call the attorney general's and their phone was off the
hook all day yesterday. We tried 60 times to reach the
attorney general's office yesterday. Not once all day was
that phone on the hook, including 5:30 in the evening. I
think they all went home, but why is the phone busy then at
5:30.

So anyways, they wrote back immediately and says
"We cannot respond to this; we're not going to give this
ruling." And they give me a section in the code, that
yeah, they're right if they read it. But I've been
involved in San Francisco politics. Phil Burton is
classic. You want to get something done, you can get it
done. You don't send that kind of letter. So I gave you a
copy of the letter from the attorney general's office.

Why I have come here today is to follow the
bureaucratic method. And I'm asking -- couldn't ask for a
better forum. We have Mr. Warren, you can request that
ruling from the attorney general. You have the Lieutenant
Governor -- or I'm sorry, today "Governor" I understand.
You can request that ruling from the attorney general.

I have also been in contact with Willie Brown's
office, Assemblyman Burton's office.

CHAIRMAN McCarthy: We'll believe it's a long
list, Mr. Flanagan. Help us with what's before us here.

MR. FLANAGAN: I think that all I'm asking is this
is really coming to the grips of the issue of regional ports. It's going to have a major impact, I believe.

Looking in the future I think I know where the rulings are going to go. This is going to be strong argument for regional ports. It is also going to finally come to grips with the issues of how various local ports fund their ports as opposed to Los Angeles, Long Beach, Oakland and San Francisco. There are underlying problems with certain ports and less problems with other ports.

And I believe this letter not only touches on the microcosm of Port of San Francisco, but will eventually affect all ports. And that the issue is how is it funded, where does the money go and how is it administered. And it states that very explicitly in the Burton Act, how it should have been done. The issue I'm raising is in the City of San Francisco, and I'm probably positive that the City of Los Angeles have adopted a different procedure of funding that's different than the Port of Long Beach and the Port of Oakland.

And as a result we've got a tremendous disparity in the local ports that are competing with each other. And we really need to address that. We're wasting a lot of money. And again, I think that it's even more of a stronger reason why we need regional ports. Not just for dredging, but for rebuilding our infrastructure, bringing
it up into the 21st century. There's a lot of issues. Dredging is just the tip of the iceberg and the provision of jobs and everything else.

What I'm really doing is asking you responsible parties to ask the attorney general formally to give us a response to this letter. Thank you.

CHAIRMAN McCARTHY: Thank you Mr. Flanagan.

Any other witnesses on this issue?

I want to just conclude by saying that I strongly support this action, because I think that the multibillion dollar shipping industry around the Bay area is something the State Lands Commission must fight very hard, with others, to try to save. A lot of people depend on this industry for their livelihood. And at the same time we are going to fulfill our very important public trust responsibility to make sure that avoidable environmental damage does not occur in this area. We think there are ways to achieve both goals, and we're going to be working with the ports and with other agencies to make sure that we achieve both goals.

ACTING COMMISSIONER TJCKER: I wanted to ask Mr. Warren some questions.

The Controller's support of this is based on a few assumptions, and I just wanted to state those and make sure he's understanding these correctly.
First of all, your strong interest in the Bay and its resuscitation, if that's possible, I'm assuming that you personally think this is a desirable thing to do, given all the circumstances; is that right?

EXECUTIVE OFFICER WARREN: This particular item?

Yes.

ACTING COMMISSIONER TUCKER: Okay. And I assume that that's based on the limited nature of the dredging involved and that the objections that were raised by Fish and Wildlife Services to the Corps of Engineers have been sufficiently addressed for the purposes of this limited permit; is that correct?

EXECUTIVE OFFICER WARREN: I'm not sure it's correct to say that the concerns of Fish and Wildlife Services have been adequately addressed, because as I understand it they still have those concerns.

ACTING COMMISSIONER TUCKER: I'm asking though in your view.

EXECUTIVE OFFICER WARREN: My view is that the concerns of Fish and Wildlife Services remain; they have not been resolved; they are there, but it is my view that this action has to be taken despite those concerns. And let me explain. We're in a very critical period right now, as the Chairman has indicated. What we are attempting to do is to maintain the integrity of a major industry in San
Francisco Bay while at the same time trying to implement to the maximum a program of avoiding environmental harm. The means by which we are going to do the latter rests with the success and the integrity of this long-term management study sponsored by the Army Corps of Engineers and the EPA in which the state is participating.

As we know unfortunately this LTMS program, as the witness indicated, should have been instituted years ago. But for the next two or three years, until that LTMS program is completed, until we identify either upland or offshore disposal sites for dredge spoils or possibly other substitute in-Bay disposal sites, although that is not a preferred option in so far as the state agencies are concerned, we're going to have to make some hard decisions. And this is one of them. We're looking to the future with hope on the success of this program. But at the same time I think we have to protect the industry as it exists. The ports are contributing, as I think Ms. Sanchez indicated, ordinarily they would be dredging/disposing of up to 500,000 cubic yards a year. That's just San Francisco. They are cutting back their dredging.

So I think that they're cooperating. To the extent that they are, we ought to work with them in exchange for their working with us to ensure the success of the LTMS program.
So the decision such as this will be tricky. But I think that in this instance it should be supported.

ACTING COMMISSIONER TUCKER: Okay. And so would you say it's fair to say that this decision isn't in any way turning our back on concerns about the health of the Bay and its ability to sustain fishing and other industries that are also important along with the ports?

EXECUTIVE OFFICER WARREN: Not at all. I think the State Lands Commission has been very aggressive in this effort. I think that our role in encouraging the formation of a state agency working group to participate more actively and aggressively in the Corps of Engineers' EPA-sponsored program reflects the urgency that staff feels about the need to deal with the dredging issue seriously as a critical issue confronting the state. We've sensed for some months that it was not that the issue was not receiving the appropriate attention that it deserved. I think that we are now beginning to move responsibly towards resolving the issue. And I'm personally assured that with the cooperation of agencies such as we're having with BCDC, such as we're having with Cal EPA, that we will have made a major contribution toward the success of this effort.

ACTING COMMISSIONER TUCKER: The only other assumption or fact that our decision is based on, other than the things that you've recited, are that it either has
been or will be approved by BCDC, Regional Water Quality
Board, the Corps of Engineers; and our office has not
received any opposition to the granting of this particular
permit, other than the letter that I saw from the Fish and
Wildlife Service to the Corps of Engineers.

EXECUTIVE OFFICER WARREN: As I understand it, the
Fish and Wildlife Service advises the Corps of Engineers on
the issuance of this 404 permit. That letter from Fish and
Wildlife Services was directed to the Army Corps of
Engineers in its review of this particular matter. The
Army Corps of Engineers has issued a permit on this
particular matter having satisfied itself that the concerns
of the Fish and Wildlife Service were not sufficient to
prevent the issuance of the permit. With that decision we
are in concurrence. This is the last permit, as I
understand it, necessary to undertake the activity. And
you will be begin tomorrow, if approved?

MS. SANCHEZ: Mr. Chairman, Members, this is the
last permit to be obtained. Wednesday the Regional Water
Quality Control Board voted to approve our permit. We are
waiting for the paperwork of the state Water Resources
Board, and the U.S. Army Corps of Engineers did issue the
permit and all that needs to be done is to be executed by
the colonel this afternoon. So it's a matter of signatures
only.
I do, for the benefit of Mr. Tucker if I may, I would like to read from the letter that was sent by the National Marine Fishery Service, which is a sister conservation agency of Fish and Wildlife, which addresses your concerns about the ecology of the Bay and the protection of marine species. This is specific to the Chinook salmon. In the letter they state: We've reviewed the information provided with reference to possible impacts on winter run Chinook salmon listed as threatened under the federal endangered species act. Based on the nature of the sediments and the biological test results presented, we conclude that the project as conditioned will not adversely affect the winter run salmon. And as you know NMFA is the lead agency in expressing their concern for the species.

ACTING COMMISSIONER TUCKER: Okay. Thank you.

EXECUTIVE OFFICER WARREN: Thank you very much.

CHAIRMAN McCARTHY: Thank you.

I think we're ready to move to a vote on this issue.

All right. It's a unanimous vote. This commission approves the recommendation. Thank you, ladies and gentlemen.

All right. The remainder of the calendar?

EXECUTIVE OFFICER WARREN: Thank you, Mr. Chairman.
Item Number 6 has been pulled.

Item Number 7 is the annual report on management of state school lands. It's an informational item. We're pleased with this year's report, the contents of which are before you. I would like to just have a postscript. As you know, day before yesterday the House Interior Committee approved House of Representatives Bill 2929 establishing a desert protection area in the Mojave region of the State of California, included within the region to be protected, for over 250,000 acres of school lands. It was important to State Lands Commission to ensure that adequate compensation for those school lands was received in order to meet its obligation to protect the trust supporting education in California. After many months of negotiations and meeting with members of Congress, members of the committee, meeting personally with the authors of the bill and meeting with the Congressman Miller, who is the chairman of the committee, we were able to last weekend to successfully negotiate language protecting school land trust in the bill. We're very pleased with the results. We can now wholeheartedly, while we always supported the bill, we always had in mind the need to protect the trust. So we're very pleased with the results and we wanted to report to you the success of your effort.

CHAIRMAN McCARTHY: Good work.
EXECUTIVE OFFICER WARREN: Item Number 8 is to approve a Reciprocal Agreement for the exchange of information between the State Board of Equalization and the State Lands Commission. This is a standard agreement which will enable us to better meet our enforcement responsibilities, and we ask for approval.

CHAIRMAN McCARTHY: Questions? All right. So approved.

EXECUTIVE OFFICER WARREN: That concludes the calendar for today, Mr. Chairman.

CHAIRMAN McCARTHY: Anything else to come before the Commission?

The meeting is adjourned. Thank you very much.

EXECUTIVE OFFICER WARREN: Thank you very much.

(Thereupon the October 18, 1991 meeting of the State Lands Commission was concluded at 10:50 a.m.)
CERTIFICATE OF SHORTHAND REPORTER

I, ALENE D. WEIR, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing State Lands Commission Meeting was reported in shorthand and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of November, 1991.

[Signature]

Alene D. Weir
Certified Shorthand Reporter
License Number 7587