MEETING
STATE LANDS COMMISSION

ENERGY COMMISSION CHAMBERS
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, MAY 5, 1992
9:55 A.M.

Nadine J. Parks
Shorthand Reporter
MEMBERS PRESENT

Leo McCarthy, Lieutenant Governor, Chairman
Jay Ziegler for Gray Davis, State Controller, Commissioner
Susanne Burton for Thomas W. Hayes, Director of Finance, Commissioner

Staff:
Charles Warren, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Chief Counsel
James Goldstene
Kim Cranston
Jane Sekelsky
Dwight Sanders
Mark Meior
Jan Stevens, Deputy Attorney General
<table>
<thead>
<tr>
<th>Index</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INDEX</td>
<td></td>
</tr>
<tr>
<td>Proceedings</td>
<td>1</td>
</tr>
<tr>
<td>AGENDA ITEMS</td>
<td></td>
</tr>
<tr>
<td>III</td>
<td>Confirmation of Minutes of the Meeting of March 2, 1992</td>
</tr>
<tr>
<td>IV</td>
<td>Consent Calendar C01 through C47, with the exception of Items C20 and C24, which were pulled</td>
</tr>
<tr>
<td>V</td>
<td>Regular Calendar</td>
</tr>
<tr>
<td>48</td>
<td>Presented by Jane Sekelsky</td>
</tr>
<tr>
<td>49</td>
<td>Commission Action</td>
</tr>
<tr>
<td>50</td>
<td>Presented by Jane Sekelsky</td>
</tr>
<tr>
<td>51</td>
<td>Questions/Comments</td>
</tr>
<tr>
<td>52</td>
<td>Commission Action</td>
</tr>
<tr>
<td>53</td>
<td>Presented by Jane Sekelsky</td>
</tr>
<tr>
<td>54</td>
<td>Commission Action</td>
</tr>
<tr>
<td>55</td>
<td>Presented by Jane Sekelsky</td>
</tr>
<tr>
<td>56</td>
<td>Commission Action</td>
</tr>
<tr>
<td>57</td>
<td>Presented by Dwight Sanders</td>
</tr>
<tr>
<td>58</td>
<td>Questions/Comments</td>
</tr>
</tbody>
</table>

Presented by Robert Hight
Commission Action

Presented by Dwight Sanders
Questions/Comments

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INDEX, continued.  

AGENDA ITEMS

57  Commission Action  

58  Presented by Mark Meier  

Questions/Comments  

(Matter put over to next meeting)  

51  Commission Action  

Adjournment  

Certificate of Reporter
CHAIRMAN MC CARTHY: Good morning, ladies and gentlemen. Welcome to this meeting of the State Lands Commission.

We want to welcome Jay Ziegler, representing the State Controller's Office this morning, working with old hands here from the State Lands Commission.

COMMISSIONER ZIEGLER: Thank you.

CHAIRMAN MC CARTHY: We'll be happy to help you through the rocky shoals of this Commission meeting.

The consent items that are going to be pulled off the calendar are 20, 24. Regular calendar items also pulled off, 54 and 55. Does that complete the number of items that are going to be removed?

EXECUTIVE OFFICER WARREN: That's it, Mr. Chairman.

CHAIRMAN MC CARTHY: The minutes of the last Commission meeting, without objection --

COMMISSIONER BURTON: Move the item.

CHAIRMAN MC CARTHY: Moved, thank you. The minutes are approved.

Any discussion on any items in the consent calendar before we adopt it as presented?

COMMISSION BURTON: I move the item.

CHAIRMAN MC CARTHY: Moved and seconded, and
unanimously adopted.

I'll now ask Charles Warren, our Executive Officer, to move into our regular calendar items.

EXECUTIVE OFFICER WARREN: Yes. Items 48 through 53 have been prepared by our Land Management Division. And Jane Sekelsky, Chief of the Division, will present those items.

MS. SEKELSKY: For the record, my name is Jane Sekelsky.

Item No. 48 is a 15-year general lease for a long-time existing marina on the San Joaquin River near Lathrop. Elva Radford, the current owner of the marina, purchased the property in 1987. The lease terms are included in the document for this --

CHAIRMAN MC CARthy: Any questions by the Commissioners?

COMMISSIONER BURTON: No.

CHAIRMAN MC CARthy: Any questions from the audience on this item? If not, the recommendation is approved. Next item.

MS. SEKELSKY: Item No. 45 (sic) is a proposed title settlement and boundary line agreement regarding property along the San Joaquin River within the City of Fresno.

EXECUTIVE OFFICER WARREN: You said 45. It's Item
49.

MS. SEKELSKY: I'm sorry. Item 49. As you are aware, this is the first phase of the mapping of the high and low water marks on both sides of the river between Friant Dam and Highway 99.

You have materials this morning that include a package of 8-1/2 by 11 copies of maps prepared by the staff. This effort has taken several years for settling title for the public trust in the study area, benefiting private property owners, as well as State, local, and federal agencies in planning land uses consistent with public trust values within the study area.

The proposed title settlement will establish the boundary between the uplands and the State-owned lands in the bed of the river and the high water mark as outlined on Sheet 15 of your maps.

CHAIRMAN MC CARTHY: Any questions by Commissioners?

COMMISSIONER ZIEGLER: I was just wondering if the Commission staff has been receiving any input from the public on this issue after releasing the maps?

MS. SEKELSKY: We have begun to get some calls, yes. They have not, so far, been frequent. But there is a lot of interest in the area. We're getting calls both from tenants and landowners. But the maps -- most of the maps are just 8-1/2 by 11 reductions. The prints are being
made by different copy companies, and the maps are being made available by a blueprint company here and two in Fresno. So the property owners have not had blown-up scale prints when they do, they'll have a better opportunity to see whether they have a real problem with that.

COMMISSIONER ZIEGLER: Thank you.

CHAIRMAN MCCARTHY: Okay. Without objection, the recommendation is approved. Next item.

MS. SEKELSKY: Item No. 50 -- both Items 50 and 51 deal with proposed public agency permits: the first one in San Diego and the second one in Stockton.

As you recall, in January, you approved the original extension to Pt. Loma -- not the extension, but the original line. And, as you recall, there was a large amount of sewage that was released in the ocean waters.

Following that spill, we contacted all of our lessees, approximately 60 of them, that have sewer outfall lines, and asked them to provide information about the technical character of their lines and the current condition of these lines, and what type of monitoring they conduct.

At this point in time, we have heard back from all but nine of them. The nine include three that the Post Office returned marked "Addressee Unknown". And we're trying to chase those down.
But of the lessees that responded, approximately 30 of them still operate their lines. And we have sent the material they sent to us to our Long Beach Systems Safety staff.

These two items both include detailed monitoring requirements which have not been included in the past.

The first one, again, is the City of San Diego. The Pt. Loma outfall originally was approved prior to this spill, but now there are monitoring requirements not only on the extension to the line, but the entire line.

CHAIRMAN MC CARTHY: Any questions on 50?

All right.

COMMISSIONER BURTON: Move.

CHAIRMAN MC CARTHY: Moved and unanimously adopted.

EXECUTIVE OFFICER WARREN: Mr. Chairman, we have an attendance report of witnesses who want to speak on Item 51.

CHAIRMAN MC CARTHY: Yes. Mr. Nader Shareghi?

EXECUTIVE OFFICER WARREN: He is on his way.

He was misdirected to the Capitol. So, if we could postpone Item 51 --

CHAIRMAN MC CARTHY: All right. We'll postpone that for the moment and we'll get back to it. We'll go on to Item 52.
MS. SEKELSKY: Item 52 is a denial of an application to Del Norte County. You will see on Exhibit A two lakes along the coast, one in back of the other. Lake Talawa lies closer oceanward and opens into the Pacific Ocean. Each year, siltation causes a sand bar to be formed and the sand bar essentially closes the flow of the lake into the ocean.

Periodically, the county has gone in there and breached the sand bar, usually in the spring, in order to assure the lake waters will flow out into the ocean rather than rising and overflowing on agricultural lands and getting to the residences that are in the area.

We had, at one time, given a permit for this activity, which expired in 1987.

During the time of that permit, there was a dispute arising over how low the lake level should be dropped to at this time of year. The dispute continues to this day.

And we feel, as staff of the Commission, that environmental work ought to be done to analyze not only the need for this flood control, but also the environmental impact of it.

We have tried to encourage both the county and others to conduct studies for several years. Nevertheless, the studies have not been completed, although they have
continued to breach the sand bar on an emergency basis.

This year, through a series of errors, they have breached the sand bar, and all but about a foot of water is left in the lake, which subsequently reduced the amount of wetlands existing.

The Corps has ordered the county to rebuild the sand bar to a level to keep the waters from continuing to flow from the lake.

Although the activity for which Del Norte applied to us for a period has already occurred, we don't feel that it is appropriate to give an after-the-fact permit.

We would like to ask you to deny the permit, but in recognition of the order to rebuild the sand bar, we ask also that you authorize us to send a no-objection letter to the rebuilding of the sand bar according to the Corps specifications.

CHAIRMAN MC CARthy: Any questions by members of the Commission? By the audience? If not, the recommendation is approved.

Next item.

MS. SEKELSKY: Item No. 53 is a termination of a permit to place rip-rap along the Sacramento River. The staff is requesting you to terminate this protective structure permit for three reasons:
First, the fill that was authorized in the permit was broken concrete and rock. It was to be clean fill. In fact, the upland property owner dumped all kinds of rubble in there -- pieces of rebar and other unsafe and unclean fill.

The second reason is that the original property owner -- this is the person to whom we issued the permit and assigned this permit -- sold to a purchaser without getting prior written consent, as was required in the permit.

The third reason is that the current owner of the property proposes to use this fill to support a wall to increase the stability of the upland area upon which he is choosing to build residential units.

And we do not feel that residential use is an appropriate use of our land, which would essentially be the critical portion of the residential use.

CHAIRMAN MC CARTHY. Questions by members of the Commission? Anyone in the audience on this one?

All right. Approved as recommended. Next item.

EXECUTIVE OFFICER WARREN: 54 and 55 have been pulled. Before Ms. Sekelsky leaves, let's see if Mr. Shareghi is here.

CHAIRMAN MC CARTHY: Is Mr. Shareghi in the audience yet?
EXECUTIVE OFFICER WARREN: He's not here, Mr. Chairman.

(thereupon, Mr. Shareghi entered the hearing room.)

CHAIRMAN MC CARTHY: Are you Mr. Shareghi?

MR. SHAREGHI: Yes.

CHAIRMAN MC CARTHY: Good. Would you like to address Item 51, or would you like to have a few minutes to collect your thoughts while we go to some other items?

MR. SHAREGHI: I'd like to take a minute.

CHAIRMAN MC CARTHY: All right. We're on 56?

EXECUTIVE OFFICER WARREN: That item will be presented by our Chief Legal Counsel, Mr. Hight.

MR. HIGHT: Mr. Chairman, 56 is an extension of time to construct a pedestrian/bike trial by Grupe Development in Stockton, San Joaquin County. As you will recall, the Commission approved a settlement of the litigation with Grupe Development, which included construction of the trail along the levee. Through no fault of their own, this process has taken longer than we anticipated. We are asking for an extension of time until March 31st of '93 to complete the construction.

CHAIRMAN MC CARTHY: Any questions by members of the Commission on that?

COMMISSIONER BURTON: No.
CHAIRMAN MC ARTHY: Anyone in the audience?

That's fine. Approved. Next item?

EXECUTIVE OFFICER WARREN: Item No. 57, Mr. Chairman and Commissioners, was prepared by the Environmental Planning and Management Division.

Mr. Sanders, who is Chief of the Division, will present this item.

MR. SANDERS: Thank you. For the record, I am Dwight Sanders.

Item 57, Mr. Chairman, would authorize a pilot bioremediation program at Owens Lake in Inyo County. To give you some background, the lake has been dry since 1952 as a result of the water withdrawals through and by the City of Los Angeles. Subsequently, a dust problem has developed with the dry lake bed.

In 1987, the Environmental Protection Agency revised the suspended particulate standard and identified the southern Owens Valley as having the highest particulate emissions in California at this time.

The EPA subsequently required, as part of the provisions of the State Implementation Plan to bring the area into compliance with the federal standards by the year 2001.

Now, this State Implementation Plan, or SIP, was approved in 1992 by the Great Basin Unified Air...
Pollution Control District, with whom we've been working extensively on this program.

The program before you this morning is a critical step in the implementation of this SIP. And the Commission has taken a pivotal role in a cooperative effort with the Great Basin Air Pollution Control District, the University of California at Davis campus, the University of Nevada, the State Air Resources Board, and the Los Angeles Department of Water and Power.

The pilot program is composed of nine separate pilot or exploratory projects, each of which will approach the dust emissions in a different manner.

The final design of the dust mitigation strategy will be based on the scientific information developed by each of these pilot projects. The design of the final mitigation plan would be completed by a technical group which is composed of the staff of the Great Basin Unified Air Pollution Control District, the University of California at Davis, and the State Lands Commission.

The Commission staff has prepared an extensive initial study on this program to examine its potential for causing any negative environmental effects in conjunction with the District and with the Department of Fish & Game in the area.

The initial study concludes that the program,
as proposed, incorporates mitigation measures which will avoid any significant environmental impacts. And the comments received in response to the initial study agree that the program will not have a significant effect on the environment.

Staff are thus proposing your adoption of the proposed negative declaration for the program.

We have received four letters during the review period: one from Los Angeles Water & Power, which provided some suggestions from an editorial point of view, and clarification of some of the information in the document.

The Department of Fish & Game also sent us a letter indicating that they are in support of the mitigation measures included within the program and the mitigation monitoring plan, which you're also requested to adopt, and requesting they be continued to be involved in the continuing process of the program, which we intend to do.

The last two letters, Mr. Chairman, came from the City of Kecker, which is in the area. One of the letters was received out of the comment period. The first letter expresses concern over the potential affect on the city's water supplies.

We have examined this problem rather
extensively, Mr. Chairman. And based on the fact that no pumping will occur at the well of concern to the City of Keeler, and on the basis of historical information, staff at the Great Basin District feel that there will not be any adverse effects to the city's water supply by this program.

The second letter, which was received outside the comment period, requested that we prepare an environmental impact report for this program. Staff believe, Mr. Chairman, that the program, as constructed, is more appropriately covered by a negative declaration, and this is what is before you today.

I'm available for any questions, if you have any.

CHAIRMAN MC CARTHY: Questions by the Commissioners?

COMMISSIONER BURTON: About the funding of this first step, it looks to me like a five or six million dollar project. Could you explain what the funding sources will be and what the State's involvement will be for the future costs?

MR. SANDERS: Yes. The program is expected to cost approximately $5,081,989; $300,000 of which is attributable to the UCD project components, and the remainder of the amount is attributable to the Great Basin project components.
Other funding is coming from a variety of sources, including legislatively authorized funds for the control of air pollution through the Air Resources Board. And we're funded also from sources outside of the State -- namely, Los Angeles Department of Water & Power.

COMMISSIONER BURTON: How much money is the Commission putting in?

MR. SANDERS: None out of our budget.

COMMISSIONER BURTON: And the staff support costs?

MR. SANDERS: That's --

MR. STEVENS: There's a Health & Safety Code provision expressly providing -- once the program is settled on and embarked upon, the District has the authority to charge the cost of it to the Los Angeles Department of Water and Power, which, of course, removed the water from the lake and is basically responsible for the dust coming off it.

EXECUTIVE OFFICER WARREN: Ultimately, it will be the Los Angeles Department of Water & Power. They are obligated to underwrite any project required to mitigate the effects of their water withdrawals. They can do so, as ordered by the District, and the District can go to the Air Resources Board for relief.

But the statutory provision is rather rigid on this issue.
I would like to take the opportunity, if I may, Mr. Chairman and Commissioners, to introduce Professor Tom Cahill of the University of California at Davis, one of the world's renowned experts in this field. Tom, would you stand up?

(Thereupon, Professor Cahill stood in the audience to be recognized.)

EXECUTIVE OFFICER WARREN: As Mr. Sanders indicated, this is a cooperative effort among the Air Pollution Control District, University of California at Davis, the Air Resources Board, the State Lands Commission, and the LAWPD is an active participant. All agencies are moving forward.

We understand that the area will soon be visited by Russian scholars who are working on a far greater problem, but similar problem, involving the Aral Sea in Russia.

CHAIRMAN MC CARTHY: Thank you, Mr. Cahill, for attending.

EXECUTIVE OFFICER WARREN: That concludes our presentation, Mr. Chairman.

CHAIRMAN MC CARTHY: Any other comments? Anybody in the audience wish to comment on this item?

COMMISSIONER ZIEGLER: One question. Is there a timetable when this project is to start and a target for
completion at this point?

MR. SANDERS: The first phase of the project will begin almost immediately by Great Basin District, which if I recall correctly, is to occur on the 15th of this month. The project, in its entirety, will span two to four years. At the end of that time, the information from each one of the scientific studies, as I indicated, will determine the final plan for the control of the dust to meet the standard at Owens Lake. So, to answer your question, it will begin almost immediately.

EXECUTIVE OFFICER WARREN: But it will take a number of years, at least 10 years, to completion.

COMMISSIONER ZIEGLER: And the correspondence was from the City of Keeler, and --

MR. SANDERS: The correspondent, Mr. Ziegler, is Richard M. Lopez, who's Chairman of the Board of Directors of the Keeler Community Service District. It is this district that is responsible for the water supply for the City of Keeler.

COMMISSIONER ZIEGLER: Okay. Thank you, Mr. Chairman.

CHAIRMAN MC CARthy: All right. Any further comments on this issue? Approved as recommended.

EXECUTIVE OFFICER WARREN: The next item, Mr. Chairman and Commissioners, is Item 58, which was
prepared for us by our Marine Facilities Inspection
Division.

Commander Gregory is the Division Chief of the
Oil Spill Prevention Service in Houston.

Mark Meier is counsel to the Division.

MR. MEIER: This is a memorandum of understanding
between the Texas General Land Office and the State Lands
Office of Oil Spill Prevention.

The Texas General Land Office is responsible
for marine oil pollution prevention and responsible to the
State of Texas; and the State Lands Commission is
responsible for oil pollution prevention from the marine
terminals and offshore oil production in the State of
California.

Staff from the two agencies in the past have
attended conferences on these matters and have found
that most of the attention has been addressed to response
issues. And the staffs have desired to establish some
framework for promoting prevention. For that reason, we
have worked on this memorandum of understanding, which
would be for communication between Texas and the State
Lands Commission to that end.

There are basically three parts to the agreement.
The first involves sharing information on regulatory
development and the affect of regulatory programs by the
two agencies.

The second part concerns sharing information regarding research and development which will, in effect, allow us to pool our efforts and avoid unnecessary duplication.

And the third matter concerns the establishment and development of an interstate oil pollution prevention association.

Staff has already had some initial communications with representatives from the State of Washington, Florida, and New Jersey, since those states have been in the forefront in this area. And we expect to be in contact with representatives from other coastal states.

CHAIRMAN MC CARTHY: Questions from the Commissioners?

COMMISSIONER BURTON: I have a question. It sounds like a good idea to find out ways to share information about this important issue.

To what extent, though, has the State agency that's responsible for California's oil spill program been involved in this?

MR. MEIER: There has been communication with the Oil Spill Prevention Office in the Department of Fish & Game. That office is responsible for oil spill response and also a significant number of responsibilities
in the prevention area.

However, the Commission's responsibility is pretty much limited to prevention. In a sense, we are in a better position to promote oil spill prevention, and we feel we have specific responsibilities for prevention under the OSPR Act.

EXECUTIVE OFFICER WARREN: There have been and there are scheduled to be numerous conference committees on changing management strategies and emerging technologies that deal with oil spills, cleanup of oil spills, but everybody recognizes that, at best, they will be successful in cleaning up maybe 25 or 30 percent of any oil spill.

So, we feel what's being lost here from the agenda is the different strategies and technologies for preventing oil spills.

This MOU is directed exclusively to oil spill prevention. And this effort initially began when we received an inquiry from Texas asking about our oil spill prevention program and our regulations.

We, during the course of a visit, learned from them that they had undertaken some research efforts in order to improve their oil spill prevention program, the results of which we felt would also benefit us.

So, we decided that it might be worthwhile, in
order to showcase oil spill prevention more than it has been in the past, to form a coastal states oil spill prevention association, so that conferences among the professionals from those states could focus exclusively on oil spill prevention. That's the ultimate purpose of this effort.

Of course, to the extent that oil spill prevention remains part of the OSPR's agenda, they'll be given an opportunity or offered an opportunity to become involved in the effort.

This is just a first step in what we hope will be a successful government response to the whole problem of oil spills.

COMMISSIONER BURTON: Well, I agree. It's an important area. I guess I would be more comfortable if we have some comments from that organization. Because, to the extent that we diffuse the responsibilities, then it makes us -- it seems to me even less effective. And I'm not an expert in this area, but it was clear to me they were the lead agency in oil spill prevention, and I'd be a lot more comfortable if we had some recommendation from them about whether to proceed with this organization with such an agenda -- this memorandum of understanding with such an agenda.

EXECUTIVE OFFICER WARREN: They will be informed
and welcome to participate. That's all I can say. There is no intention to leave them out or exclude them. But someone has to make the effort to begin the process, and this is the beginning of the process, I think.

And once this MOU has been approved, then we can proceed to bring other agencies in other states into the process.

It's not our intent to exclude anybody, and we just want to get things started, and hope that somebody else may want to take a leadership role.

CHAIRMAN MC CARTHY: I think Commissioner Burton's concern has some value to it. Why don't we just -- I'm not sure if anybody from Fish & Game, the lead agency, wants to attend any meetings in this area. But why don't we make sure that -- even though it's pretty clear what the statutory responsibilities are -- they are completely informed from the beginning of such an undertaking and what we have in mind to do.

EXECUTIVE OFFICER WARREN: We will be happy to do that, Mr. Chairman, forthwith.

CHAIRMAN MC CARTHY: And affirmatively ask them to participate in such meetings. And they can choose whether to do so. Don't just leave it to our own staff to do so.

EXECUTIVE OFFICER WARREN: We thought our first
steps would be to get the ideas of this Commission and
the thoughts and wisdom of this Commission on this
approach, and if you thought it was worthwhile and
approved the MOU --

CHAIRMAN MC CARTHY: Do you understand the larger
point being made? Since the statute names them as the
lead agency, that we just want to keep them informed on
all things that we do on this issue.

EXECUTIVE OFFICER WARREN: Very good. We will be
happy to do that.

COMMISSIONER ZIEGLER: Just a quick comment.
It would be a good idea to find out what progress the
Energy Department is making on this problem, and that we
recognize in California what our vulnerability is on oil
spills, and the weakest link is with other states that
import oil and have a lot of oil traffic off their
coasts. And I think, from that perspective, that it
would be useful to move ahead and also let the Federal
Government know that we'd appreciate their action on
this -- in this area. I think it would be very useful
for the Commission to be involved in this, and it should
be a cooperative effort with the Administration.

CHAIRMAN MC CARTHY: I think we all agree on that.

COMMISSIONER BURTON: I would be more comfortable
that -- before actually officially signing the MOU --
you had a clear understanding from the Oil Spill
Prevention Office that they concur that we should proceed with it.

MR. MEIER: I will say that Commander Gregory has been in touch with Roger Dunstan at the Department and discussed this matter. And Roger indicated no concern about this matter.

CHAIRMAN MC CARTHY: What would you like from Roger, or whoever the appropriate official is?

COMMISSIONER BURTON: I think I'd like in writing a concurrence and a recommendation that the Executive Officer proceed with this. Are you unlikely to get that?

EXECUTIVE OFFICER WARREN: Yes.

COMMISSIONER BURTON: I'd like to hear from the Oil Spill Prevention Office. I think it's best to make sure that California operates with one voice in this area.

CHAIRMAN MC CARTHY: All right. We'll put this matter over until the next Commission meeting.

COMMISSIONER BURTON: Okay. Thanks.

EXECUTIVE OFFICER WARREN: Okay, Mr. Chairman.

We're back to Item 51.

CHAIRMAN MC CARTHY: Mr. Shareghi?

MR. SHAREGHI: I have no comments at this time.

CHAIRMAN MC CARTHY: Any questions or comments on 51? Approved as recommended.

Does that conclude the full calendar for today?
EXECUTIVE OFFICER WARREN: Yes, it seems so.

CHAIRMAN MC CARTHY: Thank you very much, ladies and gentlemen. We're adjourned.

(Thereupon, the meeting was adjourned at 10:25 a.m.)

--oo0o--
CERTIFICATE OF SHORTHAND REPORTER

I, Nadine J. Parks, a shorthand reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing meeting before the State Lands Commission was reported in shorthand writing by me, 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 am I interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of June, 1992.

Nadine J. Parks
Shorthand Reporter