MEETING
BEFORE THE
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 21, 1994
2:00 P.M.

Nadine J. Parks
Shorthand Reporter
MEMBERS PRESENT

Gray Davis, State Controller, Chairman
and Cleatta Simpson, Deputy Controller

Leo T. McCarthy, Lieutenant Governor, Commissioner

Theresa Parker for Russell S. Gould, Director of Finance

Staff:

Robert Hight
Executive Officer

James Trout
Assistant Executive Officer

Jack Rump
Chief Counsel

Blake Stevenson
Staff Counsel

Also Present:

Daniel L. Siegel
Deputy Attorney General

Ann Mills, Chief of Staff to the Lieutenant Governor
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Certificate of Reporter
COMMISSIONER McCARTHY: Good afternoon, ladies and gentlemen. Our Chairman, Gray Davis, will join us in a couple of minutes. He’s had an urgent problem upstairs he must address, and he will be with us shortly. And Commissioner Parker and I will carry the work here for a while, and my Chief of Staff, who is on my right side here, my steady hand through so many wars.

This is my last Commission meeting; so, I’d like to thank you at the beginning, in the middle, and in the end for making this part of my job as Lieutenant Governor such a pleasurable one. There is an array of talent within the State Lands Commission and the Attorney General’s Office -- and some staff from other departments that help us frequently -- that gives this a very special kind of enjoyment for me -- to know what we’re doing. We have high public purposes that we pursue, and it’s been a lot of fun.

I think we really accomplished a great deal. And it’s just been a pleasure being one of the partners in this firm. So, thank you very much.

Why don’t we start. The minutes of the last meeting approved without objection.

Items on the consent calendar, we’re pulling off Items 31, 35, and 36. Any others we’re pulling off besides
those three?

EXECUTIVE OFFICER HIGHT: And Item 32, Mr. Chairman, if we could pull it off consent. And since we have no regular agenda, we will move it to the regular agenda.

COMMISSIONER McCARTHY: Okay. Item 32 is now on the regular agenda. Any objections to passing the consent calendar with those modifications?

COMMISSIONER PARKER: No objection.

COMMISSIONER McCARTHY: No objections. If not, then that will be the action.

And now, we’re on what once was Consent Item 32 and is now Regular Calendar Item No. 1.

EXECUTIVE OFFICER HIGHT: Yes, Mr. Chairman. Item 32 is a title settlement with the California Youth Authority in the City of --

MR. TROUT: Catholic.

(Laughter.)

EXECUTIVE OFFICER HIGHT: Catholic Youth Organization -- excuse me, Mr. Chairman -- in the City of San Rafael.

The settlement has a very long history, Mr. Chairman, and I’ll go back in time very quickly.

Representatives of the CYO first approached the Lands Commission on July 22nd, 1988, to determine the
State's interest in -- why don't you point out the parcel?

MR. STEVENSON: It's this parcel right in between (indicating) -- I'm Blake Stevenson, Staff Counsel for the State Lands Commission -- right in between Highway 101, through the facility known as St. Vincent's School for Boys, out into the lowland rearward of that facility, and all the way out to the bay, but excluding an internal parcel held by the Los Gallinas Sanitary District.

EXECUTIVE OFFICER HIGHT: On October 13th of 1988, we sent a notice of a title study, which is our typical staff procedure. The study goes to all interested groups in the area, anybody who has an interest, for input into the staff's determination as to the status of title.

On May 24th, 1989, we met with representatives of the CYO and described the State's interest in that parcel. Hearing the State's interest in the parcel, they then chose wise counsel, Mr. John Briscoe, on August 3rd of 1990.

We did a series of negotiations up until 1991, at which time the City of San Rafael desired that the matter kind of be put on hold pending local planning for the use of the property.

We allowed until February of 1993 for the city to complete their plan. The City Council, in June of '94, completed the plan, but it has not been adopted by the City Council. The Planning Commission empowered by the City
Council completed the plan, but it was not adopted by the Council.

The settlement, in essence, is that the State will receive -- you might point out the area we will receive.

MR. STEVENSON: Yes. I can best direct you to refer to the map appended to the calendar item, and just look at this for references.

Under the settlement, the State would receive fee title in the area known, or referred to on your map, as the "Marsh Parcel," which is the property, which is waterward of the last levee which was constructed. This parcel, I think, is about 165 acres.

The State would also receive a public -- or have confirmed that it's subject to a public trust easement over another 66 acre piece of land, which lies just inland of the Los Gallinas Valley District spray field that you see here (indicating on map).

And, also, the State would acquire the fee title to what's referred to as the "Exchange Parcel," which is roughly in the shape of a putter, the handle being at the levee of the relocated Miller Creek, and then the head of the putter, again, running along the creek on this side up to the railroad track.

EXECUTIVE OFFICER HIGHT: Staff supports the settlement at this point in time.
One of the reasons for that settlement is, quite frankly for the record, we believe this settlement is very advantageous to the State; that the time delay involved in litigation is questionable. There are currently cases with the California Supreme court that could go either for or against us.

The applicant has indicated that they would prefer to settle it at this time. We think that -- this project, as I said, has gone on since 1988, and staff recommends the settlement as proposed.

We have three speakers -- two who are concerned about the settlement and the attorney for the project. Perhaps we should hear from Barbara Salzman first.

COMMISSIONER McCARTHY: Whatever order they want.

EXECUTIVE OFFICER HIGHT: Okay.

COMMISSIONER McCARTHY: The three proponents, whatever order they would like.

Why don't you please take a seat up here, if you would. Let's make sure that mike is on.

MR. NELSON: Thank you.

Mr. Chairman, my name is Frank Nelson, and I'm from CAPS. In fact, CAPS is a nonprofit public benefit organization. And our focus is on the preservation of these lands, which are the subject of the title settlement.

Our nonprofit organization has spent about a year
opposing the planned development for lands which are actually outside the settlement area, but owned by the Archdiocese. That opposition has been successful. As reported, the city has not approved the planned development. In fact, the public reaction to the high-density plan was so overwhelmingly in opposition that there seemed to be no choice for the City Council.

I'm here today to request of this Commission a continuance of at least 30 days to give us an opportunity to look into some of the underlying information supporting the settlement.

Just quickly, the language in the -- on the hearing calendar indicates that the settlement is in conformity or consistent with the plan. And our concern on that point is that, since the plan was so overwhelmingly opposed by the local citizens, it seems questionable to reach a settlement which is consistent with an already rejected plan.

What we're requesting is for the 30 days to have time to study the settlement, to look at the underlying documents and records, and to talk to members of the Lands Commission staff.

(Thereupon, Commissioner Cleatta Simpson took Chairman Davis' seat on the Commission.)

MR. NELSON: Quickly, a couple of examples of
areas that we're concerned about with the exchange parcel that was referred to, it, in fact, mostly runs along a ditch, which is an artificial construction and not in line with the natural flow and historical flow of Miller Creek.

And we, our organization, devoted to restoring and preserving the very, very special lands, feel that any exchange parcel should be consistent with the natural flow and the historical flow of the creek in order to preserve and protect any future restoration of that creek.

Another quick point is that the low water -- or Blake Stevenson, in our brief conversation before this meeting, indicates that I may mean the high water mark -- this is discussed in the papers and has a very important bearing on where the line is drawn that separates out the State fee interest from lands that the State has no interest in.

And we would like to have an opportunity to make sure that the line is most advantageous to the public interest.

And thirdly and quickly in winding this up, in the finding section of the material submitted on page 5 (sic), Finding A, there's reference to language that, "The trust termination parcel," which is the major in size parcel involved in this agreement, "has been filled and reclaimed and is no longer subject to the tides."
Our information is that most, if not all, of that land is historically under sea level. Our concern is that language, such as the finding in A, would tend to crystalize and send future development in the direction of assisting for development, rather than leaving the issue open as to whether or not these very special lands could be restored to a marsh or a marsh restoration project.

And so, in summary and conclusion, we received notice of this on December 10th. I got the hearing calendar printout several days later. The time has been short to look into a settlement, which contains issues, and documents, and legal cases that are very complex.

The consequences of this settlement are potentially far reaching. And so, our organization, on behalf of our public interest in preserving these lands and making sure that the lands are used in a way that promote the public interest, we’re merely asking for time to review it and satisfy ourselves that all these needs have been met.

And I would lastly add that, since there’s no plan before the city, there’s no developer waiting, that it would seem to me that there is no immediate harm to the Archdiocese. There’s no hurry.

And certainly, when such large interests are at stake for the public interest, it would seem that at least a 30-day continuance would not harm either side.
COMMISSIONER McCARTHY: Mr. Nelson, how long have you been involved in discussions of this property?

MR. NELSON: The particular item that's on today or --

COMMISSIONER McCARTHY: The whole issue.

MR. NELSON: -- entire project?

COMMISSIONER McCARTHY: Yes.

MR. NELSON: It's been about a year now that I've been involved with the CAPS organization, and attending City Council meetings, and talking --

MR. NELSON: And before the CAPS organization was formed, were you involved in any way?

MR. NELSON: Yes.

COMMISSIONER McCARTHY: How many years back does this go?

MR. NELSON: One year.

COMMISSIONER McCARTHY: I know the CAPS organization was formed a year ago. But I meant prior to that, were you involved --

MR. NELSON: No.

COMMISSIONER McCARTHY: -- as an individual?

MR. NELSON: No.

COMMISSIONER McCARTHY: Some of your neighbors were, though. This discussion has been underway involving folks in Marin County for quite a long time.
MR. NELSON: I can't speak for the others. I assume, obviously, there are others.

COMMISSIONER McCARTHY: I just want to give you some of the background. We have delayed this issue again, and again, and again in deference to both local government and neighbors in the area a number of times.

So, when the comment is made, "What's the hurry," this has been going on now for close to six years.


COMMISSIONER McCARTHY: But not all that was heavy neighbor involvement, but there are several years of very painstakingly, slow conversations. And, frankly, we have held it up so those conversations could occur. The Commission has held it up.

But let's go over the three points that Mr. Nelson raised.

MR. NELSON: If I could add that, in terms of the specific points, my reason for presenting them was not to get into the merits of this in terms of trying to illustrate and raise questions as to the complexity and the need for 30 days.

In the last six years, the argument would seem to flow naturally and calmly that another 30 days out of the six years is really a drop in the bucket.

COMMISSIONER McCARTHY: Assuming that someone else
doesn’t step forward after 30 days and say, "How about another month or two?"

MR. NELSON: Well, I guess you’d have to hold our feet to the fire and make sure we stick to that 30 days.

COMMISSIONER McCARTHY: That sort of feeling extends way back on this issue.

Let’s address the three points that you raised and see if there’s -- there are satisfactory answers.

EXECUTIVE OFFICER HIGHT: Mr. Chairman, before we do that, I left out a very important part of my presentation. And that is, the Commission today is merely settling title.

The action that you take will have no effect on any local or county planning, zoning, development process. All we’re doing here is clarifying the state of the title. And so, the normal county building process will be adhered to in any development that would go from this point on.

COMMISSIONER McCARTHY: Within that context, let’s respond to Mr. Nelson’s points.

EXECUTIVE OFFICER HIGHT: Okay. Insofar as the creek is concerned, it’s our understanding that the existing Miller Creek is in a state of "not nature." And assuming further development, it will be realigned.

The reason that we took the parcel that we took was, it has been identified as having significant
environmental values and is in a state that can be restored. So, we figured that we would take that parcel and, in the restoration process, we would have something that would be very good.

The creek ultimately will have to be realigned, and we don’t know where -- what the location of that realignment will be. And no doubt, as a county planning condition, it will have to be maintained in some kind of fashion. So, we didn’t think that, by any means, we were giving up that.

COMMISSIONER McCARTHY: Are you saying that part of the intent here is to restore the creek?

EXECUTIVE OFFICER HIGHT: The intent for the Commission is to restore the eight acres. But we felt comfortable that the creek will be restored as part of the overall --

COMMISSIONER PARKER: As well as the ditch, which is the issue Mr. Nelson has raised, will that be determined at some future time?

EXECUTIVE OFFICER HIGHT: Yes.

COMMISSIONER PARKER: At future local government hearings?

EXECUTIVE OFFICER HIGHT: Yes. Right. The exact placement on the ground, whether it’s moved, how it’s reconfigured will be determined by local government.
MR. NELSON: Should I respond? It seems to me clear that it's no mystery that -- I walk the land frequently. And you go out there and you look -- as the creek ends near the railroad tracks -- and they've just created an artificial ditch that goes south.

COMMISSIONER McCARTHY: Who's "they"?

MR. NELSON: I suppose the landowner over the years has created that ditch. And the point is that, through inspection of historical maps and through the assistance of geologists and hydrologists and that, you can determine what more or less the natural flow of that creek would be out to the bay. I don't think it's a big mystery.

COMMISSIONER McCARTHY: The response of our staff is that the county can do that.

MR. NELSON: But the problem with this settlement is that it tends to move towards -- and it does, in fact, lock in an unnatural right angle, 90-degree angle, artificial ditch, land along that ditch.

So, the question raised is why settle in the State's interest and the public interest land along an artificial ditch, when there's an opportunity to preserve land that would go along the natural flow of the creek, and encourage what was admitted is a goal, the restoration of this creek.

It seemed to me that the settlement is working
against --

COMMISSIONER McCarthy: You want the State to take more land.

MR. Nelson: No. Take the eight acres, but take them along where the natural flow would be, and that would tend to encourage the restoration, which has been stated as an agreed upon goal.

EXECUTIVE OFFICER HIGHT: This settlement does not preclude that. This settlement leaves open the ultimate placement. And what we've taken is an area that can be restored. And if part of that area is to be used later for the creek, that's fine.

MR. Stevenson: That's actually consistent with what the local planning efforts have stated.

Actually, while the committee was operating, there was a monthly circular of its work. It had about 24 members, I believe, on the committee from different walks of life in that area. We followed the working committee closely. And we saw from it -- there was discussion of not only having the creek reestablished in its original location, but also perhaps leaving the creek open where it is now and restoring above it as well. And it was really our feeling that this area was good for restoration, and that there was ample local authority to have their creek relocated for restoration in its old location, and also for
habitat along the old location.

So, in a sense, it was wise for us to acquire this land, which was available to us, because local government could acquire the remainder, if you will, through its own powers.

COMMISSIONER McCarthy: Why don't we address your second point, your comment about the high water mark.

EXECUTIVE OFFICER HIGHT: Blake, why don't you address that one?

MR. STEVENSON: The location of the high water mark is always an issue in these kinds of settlements, and one which creates much controversy between the Lands Commission and private parties.

In this particular case, we have settled these conflicting questions by consolidating our interests into the exchange parcel, and also getting a heightened interest, that being a fee, and about half the marsh parcel the title party here has title to today.

So, that really was a settlement of what otherwise would be a litigated issue. I think there was some confusion about the term low water mark. What we're going to do is -- the marsh parcel today will run to the low water mark, specifically with the idea in mind of terminating private title in that area, making sure there's no vestige in our title, other than the marsh access which is
referenced in the calendar item.

    The high water mark, as I say, is a disputed issue. Its settlement's part of the entire litigation was explained to Mr. Nelson in detail in several phone calls over recent days.

    COMMISSIONER McCARTHY: But apparently not satisfactorily yet.

    MR. NELSON: Well, I think -- Mr. Chairman, I think this process that we're going through right now kind of illustrates my point, that these issues are disputed, not only here but -- as Blake mentioned -- the high water mark is disputed. They're very complex. There are voluminous records, and documents, and points of view.

    And I think all of that argues for the conclusion that a 30-day opportunity -- we would get a group of people together -- city planners, former county planners, geologists, map readers, and make an appointment to come up here and look through the material and talk to staff, and take it from there.

    COMMISSIONER McCARTHY: You'll have local government act by that day on the parts of this policy that they must address?

    MR. NELSON: In no way. But what we will be able to have an opportunity to do is look at the underlying documents, assess where that high water mark is. It may be
it’s disputed. It may be that it’s way, way up there, and that a settlement that would claim a larger area for the State may be achievable.

   We would like to have the satisfaction of at least looking into that and deciding one way or the other.

COMMISSIONER McCarthy: Okay.

MR. STEVENSON: I would like to point out, actually, that if the State were to prevail on all the issues and it’s certain that the high water mark went into the trust termination parcel, it would result in a series of remnant sloughs up the parcel, which are now filled.

   But perhaps more importantly, this information, in terms of where those sloughs were, was made available to the committee. It’s in committee publications that go back years in time.

   So, in terms of stating the strongest possible position of the State and where these interests might lie, have been known for some time. Years.

COMMISSIONER McCarthy: The third point dealt with the wording in "A." Want to address that point, the point raised by Mr. Nelson?

EXECUTIVE OFFICER HIGHT: Yes, Mr. Chairman. The issue of "has been filled." In order for the Commission to legally make a lifting of the Commission’s interest in a parcel, we have to find that they have been filled and they
are no longer subject to the trust.

And the area that we're lifting the trust from, we believe there's no question in that fact that they are filled and they're no longer susceptible of trust purposes.

MR. NELSON: What I hear being stated is that there is a legal requirement within the process that you have to make this finding in order to go forward.

That doesn’t address whether or not the finding is accurate. I talked to the Marin County Planning Director, and his comment was that this is erroneous. I mean, it's not factual.

And our concern is that, when you make a statement of finding -- having prosecuted cases for 20 years and being familiar with how the law can tie somebody into a course of action -- once you get language in the record that says, "These lands..." -- and these are very substantial lands -- "...are no longer subject to the tides, there are ramifications that run out from that. And we may be -- you know, there's an expression -- giving away the store or there may be something happening here that should be looked at very closely as to the long-range impact.

So, there may be a legal requirement that requires throwing that language in, but I'm suggesting let's look at whether or not it's factual, and raise the question as to whether or not we are tying ourselves to a course of action
that is truly not in the public interest.

EXECUTIVE OFFICER HIGHT: Mr. Chairman, my easiest rebuttal to that the staff has looked at it; the Attorney General’s Office has looked at it. And we believe that we’re making the best claims for the State and the most advantageous claims for the State. And if there were any further claims that we could make, we would certainly make them.

We believe this goes as far as we can legally go.

COMMISSIONER McCARTHY: All right. Any questions of Mr. Nelson?

Thank you, Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman.

COMMISSIONER McCARTHY: Are there any other witnesses in opposition or in favor of postponement? Yes, please.

Would you like to take the same seat? Give us your name, please.

MS. SALZMAN: My name is Barbara Salzman. I was the person that was called first. I chose to have Mr. Nelson go first.

COMMISSIONER McCARTHY: Okay.

MS. SALZMAN: I’m here representing the Marin Audubon Society. I have been involved for about 20 years on the sites -- Audubon 20 years, but what’s going on at this
site as well as many other bay land sites in Marin County.

I've spent many hours observing birds on the site.

I know it well. I also served on the advisory committee.

About -- let me pass out -- actually, I have a letter from us as well as two other organizations in Marin County. Is in the Sierra Club, Marin Group; and the other is the Environmental Forum, all asking for a continuance.

In 1991, I was a member of the group that met with the then Executive Officer, Charles Warren, about this site. And we were informed that there was some discussions going on and some interest by the property owners in settling the claim.

We were also told, as I remember -- and I checked this out with others who were there -- that we would -- that we would -- that the Commission would be in touch with us when there was -- when this settlement had moved along and when there was some likelihood it would be a settlement in the near future.

I don't feel that that commitment was honored.

I'm happy that I received a telephone call and a fax from Mary Howe. But I don't think that a fax of the staff report received a week ahead of time during the Christmas holidays is really giving organizations a fair opportunity to look at what's going on here.

Frankly, none of us even -- have even had a
meeting during that week. So, you know, we’ve had to
scramble about just to get at least a request for -- for a
continuance.

If this has been going on so long, it doesn’t
really seem that another month is going to make that much
difference.

Basically, we agree with what Mr. Nelson has said.
And I would like to make a few points about that issue as
well as other issues -- a few other issues.

We commented and other organizations, and many
individuals commented during your notice of title study that
was referenced earlier. There is no reference to how that
information was factored into arriving at this settlement.

I know that we submitted substantial bird lists
for these sites, and there’s actually not even any reference
to birds. What is referenced, in terms of public trust
interest, is navigation and fish. Of course, the site’s
diked, so there’s not much, except at Miller Creek, the fish
use there. But there is extensive bird use.

And one of the things we would like to achieve, if
we can get a delay, is to find out how that information was
factored in.

Secondly, as a participant in the advisory
committee, I have to really express some concern about how--
about the statement that the -- that this settlement is in
accord with policies of the advisory committee, because at no time did the advisory committee discuss -- the advisory committee did not have policies that favored filling these lands, with the exception of a small piece that came up at the end that was maybe 50 acres as opposed to something like 600 acres, which the school wanted to use for their school facilities.

That was always envisioned by the committee as a site that would remain bay land, or there was even discussion of restoring, using dredge material to -- which is a big deal now on what to do with the dredge material -- using that to restore tidal marsh. So, I think that’s another concern that we have. With regard to the finding about fill, there was also, to my recollection -- I only missed one meeting -- there’s been no evidence presented that this -- these sites -- this site is filled.

Perhaps now there’s been agricultural in it and, if there’s been some levees built -- but this site is like every other site around the North Bay, it is some -- I don’t have the figures in front of me -- but it is a number of feet below sea level. I’m sure there has been movement of material, dirt, earth around in the process of growing crops there. But to say that it’s been filled so that it would not be subject to tidal action, if those dikes were breached, either naturally or not naturally, is just not the
case (sic), it would be flooded if somebody breached those
dikes.

So, I'm not sure what you mean by "filled." Maybe
that's the problem. But they have not been filled so that
they are raised above the level of tidal action.

With regard to the Miller Creek settlement, I'd
like to -- one of the things I would like to see if we could
do would be to look to see if we could locate that
settlement parcel so that it would be able to useful if the
creek were relocated. In other words, is there an area
where it could be relocated to; so that, if the creek were
restored to its normal or historic meander, could -- is
there a location where it could be adjacent to the present
creek as well as the historic meander of the creek? Because
what you're going to have if you -- and certainly this
doesn't preclude restoring the creek to its historic
meander.

But if you do that, you're going to have a public
trust parcel stuck in the middle of nowhere not related to
that parcel, and that's not in the public interest.

Basically, that's, you know, some of the examples
of things. And I don't -- I think that the environmental
community of Marin County has an honest reputation, and none
of us are approaching this from the point of view of wanting
to, you know, delay things interminably. We simply would
like to have an opportunity to know how this settlement was arrived at. If there are some differences of opinion, then, at least know how -- why our views could not be incorporated. And that's it.

I think, if there's an absolute date set or -- especially with the county's letter asking for -- obviously, they didn't have notice either -- the county's request to have a delay of --

COMMISSIONER McCARTHY: The county didn't have notice?

MS. SALZMAN: There's a letter from -- the one from the County of Marin that they had no notice, and that they are also asking for a request (sic) -- for a delay for 30 to 60 days.

MR. STEVENSON: The county was noticed. The notice was sent to the Planning Department. I put it in the mailbox.

MS. SALZMAN: Well, I guess it didn't get to the --

COMMISSIONER McCARTHY: Remember that TV ad, where the boss yells at the person who's supposed to have sent the letter?

(Laughter.)

MS. SALZMAN: I don't know. There's a possibility. I know the Planning Director didn't get one.

COMMISSIONER McCARTHY: I know the Marin County
government doesn't make any mistakes. So, we must be wrong.

MS. SALZMAN: I didn't say that.

(Laughter.)

COMMISSIONER McCARTHY: Let me just ask a couple of questions here.

On the advisory committee, could you remind us, the Commission members, once again, please, what the diversity was of the organizations serving on the advisory committee?

MR. STEVENSON: The people on the advisory committee.

COMMISSIONER McCARTHY: The organizations particularly.

MR. STEVENSON: Uh-huh. Well, they run from members of the City Council --

COMMISSIONER McCARTHY: I'm interested in environmental groups.

MR. STEVENSON: Okay.

COMMISSIONER McCARTHY: Or neighborhood groups.

MR. STEVENSON: North San Rafael Coalition, Marinwood Association, Captain's Cove Homeowners, United Montecito Neighborhoods Association, Marin Conservation League, Ecumenical Association for Housing, Mont Marin Homeowners, Marin Audubon Society. That completes it.

COMMISSIONER McCARTHY: Okay. Now, how was the
attendance at meetings? We’ve got a list. How many groups
attended and had serious opportunity to participate in
discussions?

MR. STEVENSON: We know, basically from the couple
of meetings which we attended, they were well attended.
Otherwise, we’d monitor the circular that came out every
month with the roster of people that were on -- my
recollection is that they were all extremely well attended.

COMMISSIONER McCARTHY: And I note the language
they use in the resolution regarding commerce, navigation,
and fisheries, I think, is just taken out of the State
Constitution.

MS. SALZMAN: And they’re public trust, as you
know.

COMMISSIONER McCARTHY: Of course, and we act on--
our vision of the public trust is much larger than this.
We’ve had many discussions before the Commission on wildlife
in many forms. Was there some discussion -- there must have
been -- during the advisory committee meetings -- now, you
were -- I don’t know how many you attended.

MR. STEVENSON: I attended one time when I spoke.

COMMISSIONER McCARTHY: Okay. Did you attend on
behalf of the Audubon Society?

MS. SALZMAN: I attended all but one, yes.

COMMISSIONER McCARTHY: Did you raise issues of
birds and opportunities for --

MS. SALZMAN: (Interjecting) Well, yes, I did. But that’s not -- the point I’m making here is about the State -- I did not think that I was raising them then as to effect a public trust settlement. I mean I did raise them then.

COMMISSIONER McCARTHY: Tell us what you would have liked to have seen in a settlement that referenced birds and the opportunities for pleasure and growth that they represent to Marin residents?

MS. SALZMAN: Well, I’d like to see that there’s some -- some habitat protection for wildlife -- for wildlife other than fish -- for birds that use the area. And maybe that was -- I mean, again, I’m approaching this from the point of view of wanting to have more information.

I do not see that -- how that was taken into consideration. Maybe it was, but --

COMMISSIONER McCARTHY: Well, let’s get an answer. I’m interesting in knowing what you feel should have been incorporated into this policy-making in connection with bird life in the area.

MS. SALZMAN: Well, those lands are flooded from time to time when -- the years when there’s a heavy rainfall. And they provide important wildlife use for migratory birds of the Pacific Flyway.
I don't know how those values are going to be preserved with this settlement, because it's basically giving up all of those lands. So --

COMMISSIONER McCARTHY: Would you --

MR. STEVENSON: We can point out that. The settlement really incorporates everything in many ways which we at least could hope to win in court if we prevailed. And it follows, really, any reasonable expectation the plan takes. In this area (indicating on map), the active marsh today, the committee identified it as being extremely important. Everyone has. that will come to the State in fee. It can be leased out to a local agency if that's desirable.

In this area (indicating on map), where we will have a public trust easement, it's about --

COMMISSIONER McCARTHY: There was a local agency or a nonprofit entity to help, to advise us as to the supervision of the area for the usages of wildlife and birds?

MR. STEVENSON: That's right. That is right.

COMMISSIONER McCARTHY: For migratory birds. All right.

MR. STEVENSON: One of the consultants to the committee also identified the behavior or the importance of today's active marsh. What we did in this area was we
retained the State's public trust easement, which we asserted -- it was contested. We retained that easement. And, constantly, what we were hearing locally -- we worked into this settlement this area is to be used for agriculture or to be used for marsh restoration, or they would have to revisit the State Lands Commission.

So, we used our underlying easement in this property really to enhance this area and to keep this area open (indicating on map).

Where we hit larger issues was that we had some scattered interest in remnant sloughs through this parcel, up to the railroad track roughly (indicating on map). I think it's important to remember that the interests were scattered. They were not fee, which we were asserting, and they were very, very much disputed.

So, you reach a policy point where one has to decide -- do you want to continue pursuing your course or interests which are particularly usable or administrable; but, instead, do you want to consolidate them into what would be usable land for restoration. That's what we chose to do.

Otherwise, we're left with potential litigation of some scattered interests roughly (indicating on map) through this parcel.

I think there may be a tendency to envision our
interests in a grander way than they exist, even according to our own assertions.

As to upland of the railroad track, where the proposed development might occur, the State has no ostensible interest. It’s included within the trust termination parcel here -- really doesn’t indicate the State will recognize that through the settlement. We’re not terminating any trust, because none exists.

COMMISSIONER McCARTHY: What arrangements do we have elsewhere in the State in areas where migratory bird flight patterns are at stake? Do we enter into agreements with local bodies or nonprofit entities that may be statewide or regional groups to help in the policies that determine the supervision? How do we work that out?

EXECUTIVE OFFICER HIGHT: We have leases with the Department of Fish & Game and with the Department of Interior for areas that are refuges.

(Thereupon, Chairman Davis took his seat at the dais.)

MR. TROUT: The Fish & Wildlife Service, I believe, already has a lease from the Commission for the area here in front of Hamilton Air Force Base and about 30,000 and some acres in San Francisco Bay, I think part of the South Bay Refuge and some of the other issues there.

COMMISSIONER McCARTHY: Has that proved a
satisfactory method of preserving those areas? Are you
familiar with any of those, especially --

MS. SALZMAN: (Interjecting) Well, our concern
wasn't about the tidelands. It was about the diked bay
lands.

COMMISSIONER McCARTHY: No, I know. You're
talking about the functioning of the land --

MS. SALZMAN: Yes.

COMMISSIONER McCARTHY: -- and do you know
anything about those other areas that we've entered into
these agreements with --

MS. SALZMAN: Well, yes.

COMMISSIONER McCARTHY: -- both State and federal
agencies, whose direct responsibility it is to protect
migratory birdlife?

MS. SALZMAN: I know about most of those.

COMMISSIONER McCARTHY: And are they satisfactory
arrangements?

MS. SALZMAN: Well, yes, but that doesn't answer
my concern about whether this is a fair solution or
settlement for the public interest.

COMMISSIONER McCARTHY: Well, I'm trying to
respond to the specific point that you made in the first
place.

MS. SALZMAN: Right.
COMMISSIONER McCARTHY: I'm quite familiar with
the charter of the Audubon Society. I'm trying to respond
to the issue you raised that this -- the issue of birds and
their migratory patterns and so on seem to you to be ignored
in the deliberations, and was not referenced --

MS. SALZMAN: Right.

COMMISSIONER McCARTHY: -- anywhere.

I'm trying to respond to that first point, which I
thought was perhaps your biggest concern. Not your only
concern.

MS. SALZMAN: Right.

COMMISSIONER McCARTHY: Your biggest concern. I'm
trying to respond to that.

MS. SALZMAN: Yeah.

COMMISSIONER McCARTHY: Now, I'm asking, given the
explanation you just received, would this be a satisfactory
way to protect those interests?

MS. SALZMAN: Well, what -- my interests were in
the settlement of the diked bay lands, the possible loss of
those diked bay lands. Because, when you settle this,
you're going to be -- you know, they're going to be subject
to filling and, you know, whatever.

So, they're going to be lost to wildlife. And I
was interested in how the wildlife interests were -- were a
part of the determination of the settlement for the diked
bay lands, the 70 acres, in other words, that are inland of
the Los Gallinas Sanitary District piece.

MR. STEVENSON: That was doubled from really two
angles. One was, in adopting the plan's discussion
regarding the need for a buffer area, we kept our title in
this area (indicating on map). That would serve as a buffer
down here. It also had its own boundary. Any birds could
choose to use that area.

Secondly, we've just participated in a restoration
scheme, which local interests have talked about, in this
area (indicating on map) as well.

I think it's important to point out that the
Department of Fish & Game, as recently as this week,
indicated they do not have -- they looked at the settlement
and they have no objection to the settlement.

I think there's, once again, the prospect of some
unproven State interest in a very small part -- maybe 20
acres out of 260 acres -- in this area, which are not
contiguous interests. It militates towards the settlement
of those kinds of things for areas that have been found
quite useful.

COMMISSIONER McCARTHY: Okay. Do you want to
respond to something?

EXECUTIVE OFFICER HIGHT: The only point that I
think I'd like to respond to is the fill issue. Once again,
that's a local issue. What we're doing in no way precludes or prejudices anything that will happen at a later date on this parcel.

   Everything is still subject to local approval.

  COMMISSIONER McCARTHY: Any questions by the Commissioners of Ms. Salzman?

   Thank you very much.

  MS. SALZMAN: May I make one other comment about the committee?

   It concerns me that there seems to be reference to the committee's -- well, recommendations or policies as having some validity for -- I don't know -- local governments, or legally, or whatever. And I'd just like to point out that there really hasn't been any adoption of this plan, because it was -- it created such a public uproar when it was made public, that there -- no government had adopted this.

   So, it has no standing really anywhere. I mean, there was a long deliberation. But it's troublesome that it's given so much credence here.

  COMMISSIONER McCARTHY: No, I think we understand what an --

  MS. SALZMAN: Okay.

  COMMISSIONER McCARTHY: -- advisory committee is.

  MS. SALZMAN: Well, the intent here was to have it
adopted by the city.

COMMISSIONER McCARTHY: It's to try to maximize participation by citizens groups in the area, so that they're not ignored. They have some voice in the discussions. That's why I was asking the questions about attendance, about whether it was a real offer for some significant participation. This is never a perfect process, but --

MS. SALZMAN: (Interjecting) No, well, this was ---

COMMISSIONER McCARTHY: -- it's a good thing to attempt, to try to involve people.

This Commission, as I mentioned at the outset, has delayed this issue several times so that could occur.

MS. SALZMAN: Well, let me point out that, as a member of the committee, that there were two environmental organizations and maybe four to five homeowners associations. We were vastly outnumbered, although we were part of the committee and appreciate that.

COMMISSIONER McCARTHY: I'm sorry. Vastly outnumbered by whom?

MS. SALZMAN: By other interests. By a number of development interests. When you look at the --

COMMISSIONER McCARTHY: That list that was just read to us?

MS. SALZMAN: That was only a partial list. Some
of those -- well, there were a number of representatives of both property owners. There were -- a real estate interest represented. There was the Chamber of Commerce, housing interests, several housing organizations. So, the makeup of the committee was -- there was a very minor part -- there's only two out of the whole 24.

COMMISSIONER McCARTHY: Two what?

MS. SALZMAN: Two environmental representatives. And there were a number of homeowner --

COMMISSIONER McCARTHY: From what I know about Marin environmentalists, that makes it about even.

(Laughter.)

MS. SALZMAN: Oh, no. We might speak loudly.

COMMISSIONER McCARTHY: Thank you..

MS. SALZMAN: Okay. Thank you.

COMMISSIONER McCARTHY: Our Chairman has joined us now. We have heard from two witnesses who posed some differences or qualifications to the proposed resolution before us. And, Mr. Chairman, I don't know if there are any others in the audience that likewise would want to pose any differences with what is proposed before you move to those in favor of the resolution.

CHAIRMAN DAVIS: Does anyone else care to speak in opposition to the item before the Commission?

Seeing no one, the only other -- first, let me
apologize. I missed -- I didn't miss. I got up at 5:30 today, and L.A. was fogged in. And so, I drove to Burbank, just missing their flight, so I had to wait till twelve o'clock to get up here. And our holiday party was going on, so I had to attend that. And I have to leave at 3:30 to see the Governor. And I'm determined to spend at least 10 minutes honoring our departing Lieutenant Governor.

So, to accommodate all those needs, I'd appreciate your indulgence.

COMMISSIONER McCarthy: So this is a celebration?
(Laughter.)

CHAIRMAN DAVIS: And you are many, many contributions to the Lands Commission.

So hearing no other person in opposition, the only other name I have here, I assume in support of the matter, is John Briscoe.

MR. BRISCOE: Mr. Chairman and Mr. Chairman of a moment ago, I'm John Briscoe, representing the Catholic Youth Organization, not the California Youth Authority --
(Laughter.)

CHAIRMAN DAVIS: Is that correct?

MR. BRISCOE: That's true. We've been in these negotiations for six years. You could say that perhaps the question of title has been brewing for 130 years, because this property was sold by the State for money to my client's
predecessors, and this is, in one case, Archbishop Alemany himself of San Francisco.

    The two prior speakers reminded me of a wonderful practical joke that was played on me several years back when, on behalf of the Port of Oakland, I settled a case with an environmental group. And the head of the environmental group and I were having a Calistoga together in a tavern to congratulate ourselves on having accomplished peace.

    He was shuffling in his pocket, and he took out and quickly showed something that appeared to be a small red book. And I said, "What was that?"

    And he said, "Oh, that's the -- that's the little red book of guerilla no-growth tactics."

    And I said, "There really is such a thing?"

    He said, "Oh, yes." And he said -- I asked if I could see it.

    He says, "Sure."

    And I opened it up, and there was only one word in it, "Delay."

    And I'm afraid that's what is being requested of this Commission today.

    We thought that this time we settled what our predecessors did 130 years ago. We've been in negotiations. We've been delayed two -- it was a two-year period when the
Lands Commission would not negotiate with the Archdiocese of San Francisco.

We want this deal to go through. We've got many, many, many other regulatory and environmental hurdles to accomplish before anything can be done with this property.

And if I can amplify just briefly on what Mr. Hight said. He alluded to a case pending before the California Supreme Court.

If we are successful in that case, I believe there's a substantial likelihood that what would be the true state of title here is fee simple in St. Vincent's, unencumbered by any public trust interest, out to here (indicating on map), the outer edge of the marsh today, and another parcel of property owned by St. Vincent's in the bay out to the low water mark, subject to the public trust.

That is a very plausible outcome if the California Supreme Court agrees with Judge Robie and with the Court of Appeal and, in effect, returns it to the Court of Appeal.

So, it's with some reluctance that I go to the Board of Trustees of the Catholic Youth Organization and recommend a settlement. Because one way of looking at it is we're giving up the so-called exchange parcel; we're giving up a substantial piece of property there that was bought and paid for by the parishioners of the Archdiocese over a period of years from the State.
There has been no offer on the part of the State to refund the money that was accepted in return for these lands. We’re giving up 66 acres in the public trust parcel, or we’re giving a public trust easement, which the United States Supreme Court ten years ago defined as a very pervasive easement, perhaps tantamount to the fee. And we’re giving up contiguity to the bay.

And you can see I’ve got fiduciaries that I’m advising. They are fiduciaries of this property on behalf of the parishioners of the Archdiocese. And they’re saying, "Should we give all of this to the State?"

And, as I say, I have advised them that there are some great difficulties with that, and each has to wrestle with his own conscience. And in conjunction with the Archdiocese’ general counsel, and on balance, we have recommended this settlement. I think it was Justice Holmes who made a remark about needing to do things on occasion in acceptance of the shortness of life. And that’s what we’re doing.

We don’t like it. It’s just one exaction of a long series of exactions before any development, which will be very minor -- this is Marin County again. But we ask that you approve it today so that we can get on with all of those other problems. Because any income derived from development of this is dedicated to the welfare of the
children who are benefited by the Catholic Youth
Organization.

We don’t want any further delay.

COMMISSIONER McCARTHY: Are there any other
questions? Well, I’m sorry.

CHAIRMAN DAVIS: It comes naturally. It’s okay.

(Laughter.)

CHAIRMAN DAVIS: Any comments or questions from --

COMMISSIONER PARKER: I don’t have any questions

or comments of Mr. Briscoe.

CHAIRMAN DAVIS: Thank you, Mr. Briscoe.

Is the staff ready with its recommendation?

EXECUTIVE OFFICER HIGHT: Yes, Mr. Chairman. The

staff recommends the settlement as before you. We don’t

believe that any of the information that has been presented
today affects our prior judgment on this issue, and we

believe that this settlement is in the best interest of the

State, and the Attorney General’s Office supports the

recommendation.

COMMISSIONER McCARTHY: May I ask a question?

CHAIRMAN DAVIS: Sure.

COMMISSIONER McCARTHY: I want to offer this

inquiry as an answer to Mrs. Salzman’s larger objection to

the issue. But I want to ask you, why do we not refer

specifically to wildlife, fisheries and wildlife? Why don’t
we start incorporating that in our resolutions? Are we limited to the language of the State Constitution?

EXECUTIVE OFFICER HIGHT: No. We just compared it back to the language of the statute. So, we can certainly expand that on future settlements.

MR. BRISCOE: Mr. Chairman?

CHAIRMAN DAVIS: Yes.

MR. BRISCOE: If I could, in discussions last evening, Bob, I don't know if you were on the phone at that particular moment with the representative -- I could have mentioned this earlier.

In discussions last evening with Dennis Egan of the Attorney General's Office, who has reviewed this on behalf of the Commission -- and, Bob, you may have been distracted at this particular point -- he asked that the interest of wildlife be specifically enumerated when the public trust purposes are called out in the full text of the agreement.

So, the formulation that will be found there is the public trust for commerce, navigation, fisheries, and wildlife -- something -- and public recreational opportunities. So, there will be the five public trust purposes enumerated and not just the three.

COMMISSIONER McCARTHY: Is there any reason why we can't include those enumerations in this resolution?
EXECUTIVE OFFICER HIGHT: No.

COMMISSIONER McCarthy: If the Commission should decide to act today.

CHAIRMAN DAVIS: Who represents the Attorney General?

MR. SIEGEL: I do. Dan Siegel.

CHAIRMAN DAVIS: You're in support of this agreement?

MR. SIEGEL: We feel that this is -- from a legal point of view, it's very sound. We have not been directly involved in negotiations; though, we have been monitoring them.

There was a tentative agreement reached about three or four years ago in which -- which we felt was acceptable. Since that time, the agreement has been improved substantially, so that there's now this exchange parcel, which the State will also be acquiring interest in. We feel it's a much better agreement than the prior one, which we also had found acceptable.

And, obviously, in the agreement -- any settlement agreement over a complex issue like this is preferable to expensive, costly, long-term litigation.

(Thereupon, a previous witness, Mr. Nelson, stood up to be recognized.)

CHAIRMAN DAVIS: Well, we've already recognized
you.

MR. NELSON: Since Mr. Briscoe got two opportunities, May I have a short opportunity?

Thank you.

What I want to clarify, Mr. Chairman, since you weren't here at the beginning, so that it's crystal clear, what we're requesting is merely a 30-day continuance to look into the complex issues surrounding this settlement.

We're not here technically opposing this settlement. We're illustrating our reasons for requesting a continuance.

And lastly, I want to state for the record and before the Commission that I am very offended by Mr. Briscoe's little story about his conversation with an environmentalist who pulled out a red book, which symbolizes communism and environmentalists, who ridiculed that -- from that perspective. And my impression was it was an effort to demean our point of view. The folks that come here to speak in the public interest, we do it for free. We don't get paid. We do it because we love this land, and we want to see that the land is protected in the public interest.

So, again, lastly, all we're requesting is a 30-day continuance to study the very complex issues surrounding the reaching of the settlement.

Thank you, Mr. Chairman.
COMMISSIONER McCARTHY: Let me make a comment if I may. My history before this Commission has been that I’ve responded to as much possible consideration and discussion on as wide a level as I could.

This will be a new Commission at the next meeting. I will be gone. This Commission membership has been hearing this issue now for some time. So, that’s one point. Maybe a new Commissioner can look into the background over several years and learn the issue, but there’s an element of fairness here, I think. And that would not stand up, in my mind, if there was some outrageous omission of public participation in this matter.

Secondly, what strikes me is that the staff we have in matters like this does not look for opportunities to develop land, but rather takes quite seriously the public trust issue. And, at least under this membership of the Commission, around the State, we very actively lean on the side of the public trust and public participation in such matters, and I think to the irritation of a number of parties that did want to proceed expeditiously with various kinds of development of lands.

We’ve had a number of very hot Commission meetings on a range of subjects around the State. One piece of wisdom that I’ve gathered, after spending three decades in this line of work, is that, at some point, you have to make
a decision. And if you try to make the process reasonably
democratic, and rational, and intelligent, and there are
still opportunities -- as in this case, because so much of
this is open to decision by local government in Marin
County, where other public forums will be involved and
objections can be raised -- at some point, we have to make a
decision -- never in haste, hopefully not for the wrong
reasons. But I think we must bring some of these things to
a close.

And I think it's time to do that today. I'm
disposed to act on this. If there's some way I could
incorporate amendments into this to address some of the
issues of, I thought, two articulate and reasoned witnesses,
Mr. Nelson and Ms. Salzman.

If there are other things I could suggest the
Commission incorporate to address some of the things you're
talking about into the language that is before us -- I don't
know how my two colleagues on the Commission would react to
that -- I would be quite willing to do so.

It seemed to me that the concerns, the points that
you raised -- and I tried to go over that issue by issue --
was responded to satisfactorily for me by the Commission
staff here, both by the Executive Officer and by the
gentleman who's been assigned as the lead from our staff on
this issue.
Finally, I want to mention that I’m not sure -- Mr. Briscoe and I have had -- I won’t use the word "unpleasant," -- but some differences over a period of time on this issue. And I don’t know that Mr. Briscoe is all that enthusiastic about resolving this thing, because I think he’s got a feeling he’s got a case before the Supreme Court that he can win that was referred to in the testimony.

And we’re not all together certain that he’s wrong. So, this is not one of those nice, neat, little -- we’re-on-the-right-side, we’ve-got-the-law-on-our-side, we-can-uphold-a-very-critical-set-of-principles. This is one we can lose. So, we have to incorporate that.

We don’t know. We could put up the best fight we could with people who share a lot of the perspective the neighbors down there share, but we have to make some judgment calls.

And my judgment call is to take what we’ve got and settle this piece of it,, and move on to the next steps.

I’m going to vote yes on this issue.

CHAIRMAN DAVIS: I’m going to construe that the Lieutenant Governor’s comments is a motion in favor of the staff recommendation, incorporating --

EXECUTIVE OFFICER HIGHT: The additional language on wildlife.

CHAIRMAN DAVIS: Would you like to offer any
thoughts?

COMMISSIONER PARKER: Yes, Mr. Chairman. I can follow along the line the Lieutenant Governor was suggesting, and adding -- seeing if there was any additional language that we might be able to add in this action that would be addressing the comments of the individuals who spoke, and particularly in the area of the location or the positioning of the creek, where we might be able to add some language in there that talks about -- I recognize this is a future issue. But from the standpoint of the location of our land that we would have in our public trust, from the standpoint of dealing with local government in positioning that creek, that there would be an effort on our part to look at the restoration of that following some natural flow. And from the standpoint of again addressing the issue that has been raised of some concern.

EXECUTIVE OFFICER HIGHT: I think that you can direct staff to -- in the event or when the creek is realigned -- to work with the county and the local agencies to see that the State’s interest and the creek coincide, and if there are any difficulties between the two points.

COMMISSIONER PARKER: I would add that if that is acceptable to the maker of the motion.

I would also have an interest in settling this particular item. Shortly after I started sitting on State
Lands a year ago, this item came to my attention. And I had an opportunity to hear about the long time that there have been discussions and negotiations.

I also share the feeling that I don't think the staff would be in a position of negotiating away an opportunity on our part that would not be the most advantageous to the State.

I have visited this facility in the past. And they do wonderful work for the young children and boys there. But irrespective of that, in the interest of the public trust, I would think a settlement would be a positive way to be able to move forward on our part and the State's interest. So, I would concur with our moving forward.

CHAIRMAN DAVIS: I'm going to make it unanimous, and I want to again salute the two people who came and spoke on behalf of the environmental community.

As you can tell, the pains with which all the members are expressing their support for this shows you where our natural instincts lie. And believe me, our staff is at least as sympathetic and maybe more so to the environment than we are on virtually every matter that comes before us.

So, when I was talking to Mr. Hight earlier today about just personal views on this issue -- I'm sure you wouldn't mind me sharing this remark -- he said, "We got a
better deal than we expected we would get." And this is a
good settlement for the State, and clearly achieves our
public trust responsibilities.

We'll treat the motion as amended, hearing no
objection --

COMMISSIONER McCarthy: That includes both --

CHAIRMAN DAVIS: Includes the wilderness language
and the direction to the staff to work with all parties
relating to any alteration in the flow of the creek.

COMMISSIONER McCarthy: Mr. Chairman, I don't know
who's in the audience regarding the CYO or the home in Marin
County, because other than seeing Mr. Briscoe at these
Commission meetings, I don't recognize anybody. But I want
to thank you for five or six years of patience on the issue.

CHAIRMAN DAVIS: I was going to say that that
makes the motion unanimously approved.

I thank the staff and the Attorney General for the
work you have done. I thank all of you on both sides of the
issue for taking the time to be here.

Is there any other items?

EXECUTIVE OFFICER HIGHT: No other official
business before the Commission.

CHAIRMAN DAVIS: I would like to take the
privilege of the Chair first to signal my respect and
affection for our departing colleague.
COMMISSIONER McCarthy: Mr. Chairman, we don't know if there are people in the audience who may not share that point of view. They may want to leave.

(Laughter.)

(Thereupon, Ms. Salzman and Mr. Nelson exited the hearing room.)

CHAIRMAN Davis: Obviously not a universal feeling. I have known him for 20 years. We used to have leadership meetings in Jerry Brown's office when he was Governor, talked about the state of the universe, metaphysics --

(Laughter.)

CHAIRMAN Davis: -- space satellites, and maybe what was happening to a bill in Ways or Means, maybe not. And Jim Mills would be reading some treatise. The Governor would be expounding on --

COMMISSIONER McCarthy: You want all this recorded for posterity?

(Laughter.)

CHAIRMAN Davis: Suffice it to say, it was a very challenging time for the Speaker of the Assembly, now our Lieutenant Governor, whose principal charge was to move legislation through his House that the Administration supported.

And I gained a great deal of admiration for his
patience, his persistence, and his fundamental decency.

Bob Hight just prepared a brief list of things that have happened since we've shared eight years together on the Lands Commission. And this is not a complete list.

Early in '87, we had hearings on whether or not ARCO should be able to build three new rigs, some 224 wells off UC Santa Barbara campus. We decided two to one that it shouldn't.

That precipitated lots of lawsuits, but led to a very favorable resolution, in which land was deeded to the--or the leases were deeded back to the State. And I think an innovative settlement occurred in Long Beach just recently that the Department of Energy wanted to come out and review. So, that was a very solid piece of work.

We declared a marine sanctuary in Fort Bragg in order to get the high school band to parade in our honor.

(Laughter.)

CHAIRMAN DAVIS: We had hearings on the use of high-energy air guns, and we learned more than we wanted about potential impacts on fish larvae.

We had hearings on plastic pollution and medical waste, hearings on dredging and disposal impacts on State waters, a series of hearings on the Valdez-type oil spill and after the American Trader/Huntington Beach accident, this Commission co-sponsored -- actually sponsored the Oil
Spill Prevention Act, which was a major piece of legislation, the most significant environmental piece, at a minimum most significant coastal protection act of that year.

We subsequently settled a very long-standing lawsuit with the oil companies in the courts since the mid-seventies; received $320 million and various concessions, turning pipelines into common carriers, something that’s quite significant.

We acquired in that settlement 5,000 acres of Burton Mesa chaparral in Santa Barbara County.

We played a constructive role in the enactment of the Desert Bill, having to balance our obligations as a trustee for the State Teachers’ Retirement Fund with the environmental interests and the interests of Senator Feinstein and many other dissidents in Washington.

And the final item says 159 meetings. This is obviously the staff complaining.

(Laughter.)

CHAIRMAN DAVIS: 159 meetings totaling 200 hours. That can’t be right. That’s about 20 meetings.

EXECUTIVE OFFICER HIGHT: Well, we added them up.

CHAIRMAN DAVIS: It says here a total of 200 hours, equaling five full weeks. That’s all we did in eight years?
(Laughter.)

CHAIRMAN DAVIS: We have a resolution to present to you. I know Theresa wants to offer her comments. I know she doesn't want me to keep her boss waiting, so I'm going to at least show this.

Russ Gould, the Finance Director, signed this. I signed this. And we refrained from having you sign this.

(Laughter.)

CHAIRMAN DAVIS: But you have our affection and great support, and the knowledge that the people of California are indebted to you for the many years of service, not just on the Lands Commission, not just as Lieutenant Governor, but as Speaker of the Assembly, before that as a member of the Assembly, before that as a Supervisor in and for the County of San Francisco.

You were a wonderful public servant, and it's my pleasure to give you this.

(Applause.)

COMMISSIONER MCCARTHY: Thank you. Thank you. And I said a few words before you came, Mr. Chairman. And I would only close by saying thank you for this. I'll have it in an appropriate place where I can look at it, and have my memories, pleasant memories, about the meetings. Actually, average may not be bad. We had a few 20-minute meetings that I conducted.
EXECUTIVE OFFICER HIGHT: Yes. We had one one-minute meeting. We set an all-time record.

COMMISSIONER McCARTHY: But we had a few that lasted five or six hours.

EXECUTIVE OFFICER HIGHT: Yes. Correct.

COMMISSIONER McCARTHY: I think. We all remember those best.

(Laughter.)

COMMISSIONER McCARTHY: And I’ve enjoyed it, and I thank each of you for your professionalism and for your sense of public service.

As I’ve said often in recent months, there’s nothing better than being useful when you’re pursuing some public policy goals. And it’s been great.

Thank you very much.

(Applause.)

COMMISSIONER PARKER: Thank you. Lieutenant Governor, I just wanted to add a couple of comments. One of them is that this has been a high water mark for me this last year.

(Laughter.)

COMMISSIONER PARKER: Obviously, your years in public service have provided you with a perspective that for me, especially for me this last year, has been invaluable. Clearly, you have represented the public trust in the land.
of the State California. And I really appreciate having the
opportunity to sit with you.

I also would point out, in my representing
Finance, that during your career as both the Chair and
member of the Commission, that about $3 billion worth of
general fund revenue has been collected for the State during
your time. And we certainly have to look and see if we can
that benchmark up as you leave us. Because, clearly, giving
our fiscal situation, we'll need every dime we get.

COMMISSIONER McCARTHY: You're going to be our
spokesman. We have to recall that about 40 percent of the
State Lands budget has been cut.

(Laughter.)

COMMISSIONER McCARTHY: We're going to count on
this articulate Commissioner to give a little bit of it
back. We'll see.

(Laughter.)

EXECUTIVE OFFICER HIGHT: We have one final thing,
Mr. Chairman. On behalf of the staff, we have a small
plaque to give you to show our appreciation.

COMMISSIONER McCARTHY: Thank you very much, Bob.

Thank you. Thank you, folks.

(Applause.)

CHAIRMAN DAVIS: That's going to cut into that $3
billion.
(Laughter.)

COMMISSIONER McCARTHY: That's your contribution.

CHAIRMAN DAVIS: We stand adjourned.

(Thereupon, the meeting was adjourned at 3:30 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

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I, Nadine J. Parks, a shorthand reporter of the State of California, do hereby certify that I am a disinterested party herein; that the foregoing meeting was reported by me in shorthand writing, 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 hereunto set my hand this 20th day of January, 1995.

Nadine J. Parks
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION
3336 BRADSHAW ROAD, SUITE 240, SACRAMENTO, CA 95827 / (916) 362-2345