MEETING
BEFORE THE
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 127
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 21, 1996
1:00 P.M.

Nadine J. Parks
Shorthand Reporter

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

Kathleen Connell, Ph.D., State Controller, Chairwoman

Gray Davis, Lieutenant Governor

Theresa Parker, Chief Deputy Director of Finance,
for Craig L. Brown, Director of Finance

Staff:

Robert Hight, Esq.
Executive Officer

Jack Rump, Esq.
Chief Counsel

Bill Morrison
Assistant Executive Officer

Jan Stevens, Esq.
Deputy Attorney General

Paul Thayer
Legislative Liaison

Rick Ludlow, Esq.
Senior Staff Attorney

Jane Sekelsky
Chief, Land Management Division

Sharon Shaw
Administrative Assistant II

Lynda Smallwood
Calendar Coordinator
INDEX

AGENDA ITEMS:

I Call to Order 1

II Confirmation of Minutes for Meeting of May 9, 1996 1

III Consent Calendar

Motion by Commissioner Davis to Approve calendar, with the exception of Items C01, 23, 80, and 82 2, 3

IV Regular Calendar

Item 90 Agreement Between Nine Public Agencies and the Commission re Potential Acquisition and Restoration of Bolsa Chica Wetlands

Robert Hight
Executive Officer 3

Rick Ludlow
Senior Staff Attorney

Questions/Comments 9

PUBLIC COMMENTS:

Bill McDonald, Esq.
Assistant Regional Solicitor
United States Department of the Interior 15

Questions/Comments 17

Terry Dolan
Amigos de Bolsa Chica 19

Motion by Davis to Adopt Proposal 27

Commission Action 27
INDEX, continued. . .  PAGE

AGENDA ITEMS:

Item 91 Approval of Boundary Line Agreement concerning approximately 30 acres of land in the City of Port Hueneme, Ventura County; authorization for Public Agency Use

Robert Hight Executive Officer 27

Questions/Comments 28

Motion by Davis to Approve Staff's Recommendation 29

Commission Action 29

Item 92 Consideration of Approval of Exchange of State School Land for Federal Surplus Land

Robert Hight Executive Officer 29

PUBLIC COMMENT:

Edward Cortez Mayor City of Pomona 30

Questions/Comments 32

Motion by Davis to Approve Staff's Recommendation 32

Commission Action 32

Item 93 Consider Application for 10-year general lease - Horseshoe Bend

Jane Sekelsky Chief Land Management Division 33

Questions/Comments 39
INDEX, continued. . .

AGENDA ITEMS:

Item 93  PUBLIC COMMENTS:

Bruce Larsen
Camino 43

Questions/Comments 45

Sue de Witt
Rio Vista 51

Questions/Comments 56

Josie Mark
Project Architect 59

Questions/Comments 61

Motion by Davis to grant lease for
one and a half years 74

Commission Action 74, 75

Adjournment 75

Certificate of Reporter 76
CHAIRWOMAN CONNELL: I call this meeting to order. All three representatives of the Commission are present, I believe.

The first item of business will be the adoption of the minutes from our last meeting.

May I have a motion to approve the minutes?

COMMISSIONER PARKER: I move approval of the minutes.

COMMISSIONER DAVIS: Second.

CHAIRWOMAN CONNELL: All in favor? Obviously "aye."

(Ayes.)

CHAIRWOMAN CONNELL: Unanimously.

Moving on. The next order of business will be adoption of the consent calendar.

Mr. Hight, could you tell the members of the Commission which items have been removed?

MR. HIGHT: Yes, Madam Chair. Item No. C23, C80, C82, and C01 have been -- will not be heard today and will be heard at a later time.

CHAIRWOMAN CONNELL: Can you repeat those? Some members of the audience didn't hear.

MR. HIGHT: 23, 80, 82, and 1.
And, by the way, our microphones -- the P.A. system isn't working. So, we're just going to have to --

CHAIRWOMAN CONNELL: Did everyone hear that? Because I noticed some people were straining.
Okay. Thank you. I guess that would take us to the regular calendar.

MR. HIGHT: Yes.

CHAIRWOMAN CONNELL: And we would go to Item No. 90.

For the members of the audience who do not have the material in front of them, Item No. 90 is an agreement between the Commission and nine public agencies that outline the procedures for the potential acquisition and restoration of Bolsa Chica wetlands.

And, Mr. Hight, could you brief the Commission on the item?

COMMISSIONER PARKER: Madam Chair? Are we going to move the consent calendar?

COMMISSIONER DAVIS: Yes, we haven't.

CHAIRWOMAN CONNELL: Oh, I'm sorry.

COMMISSIONER DAVIS: I so move the consent calendar.

CHAIRWOMAN CONNELL: Okay. Thank you.

I'm going too quickly here.

COMMISSIONER PARKER: Second.
CHAIRWOMAN CONNELL: It's been voted on.

Now we'll move to Item No. 90.

MR. HIGHT: Item No. 90, Members, in your little blue folder, you will find letters of support from the Port of Long Beach and the Port of Los Angeles.

In addition, we have today to speak some people from --

CHAIRWOMAN CONNELL: Actually, I have only one request for speaking in support of Item 90, Bill McDonald.

MR. HIGHT: Yes, and we also have Mr. Terry Dolan of the Amigos de Bolsa Chica.

CHAIRWOMAN CONNELL: I don't have that one. Thank you. Would you like to make a presentation first, Mr. Hight, and then we'll take --

MR. HIGHT: Yes.

CHAIRWOMAN CONNELL: -- members of the audience?

MR. HIGHT: Let me capsulize it and then Rick Ludlow, Senior Staff Attorney, to go into a little more detail.

The concept that the Commission is being asked to approve today is a memorandum of understanding between a number of State and Federal agencies. And I have to say, at this point, that this has been a long process. But this is a process that has worked and proved that governmental agencies can work together. And this has been -- I can't
emphasize how large a project this is. The blue area behind you would basically be acquired by the Commission with monies from the Port of L. A. and Long Beach.

And I'll let Rick Ludlow go into a little more detail on this.

MR. LUDLOW: Okay.

MR. HIGHT: After I've already explained the project.

(Laughter.)

MR. LUDLOW: Want me to start now, Bob?

(Laughter.)

MR. LUDLOW: He's finished the project.

Madam Chair, Commissioners, my name is Rick Ludlow. I'm Senior Counsel for the Commission, and I've been working with Bob on the Bolsa Chica project.

Basically --

(Thereupon, the reporter requested Mr. Ludlow to speak up because of noise in the audience.)

COMMISSIONER DAVIS: Could we keep down, please?

MR. LUDLOW: As Bob said, what we have before you today is a proposal, a blueprint of how we would go forward if we would acquire this property in Bolsa Chica. And this agreement, proposed agreement, lays out the responsibilities about who does what, and has a few decision points in it.
But if it is brought to fruition, two things basically have to happen.

When we acquire the property, the Ports of Long Beach and Los Angeles will receive mitigation credits that they can then use to expand their harbor facilities in order to remain competitive into the 21st Century.

On the public side, the State Lands Commission would acquire the property you see in blue, the Bolsa Chica Lowlands in addition to this other acreage here, about 25 acres, on this side, combined with the present acreage that we own of 306 acres, which will give us almost two square miles of what is the largest remaining restorable wetlands in Southern California.

The agreement is set up so that the Ports of Long Beach and Los Angeles will each contribute a total of almost $67 million, with other billion dollars from the Coastal Conservancy. A portion of that money then will be used to purchase from Koll the 880 acres you see in blue here.

The 25 acres would be donated by the Metropolitan Water district, for a total of 905 acres.

If we do accept title to this property, it would be a Kapiloff Land Bank transaction. At that same point in time, the mitigation credits for the Ports would be vested in them.

The remaining funds then would be deposited in the
Kapiloff Land Bank and would be used first -- 5 million of it would be set aside to fund the management of the restored wetlands, the income from that.

The remaining funds would then be used to restore this area. The plan is to initially create about 384 acre full tidal basin in here, with a tidal inlet that would intersect the Pacific Coast Highway under it (indicating on map), and then the property this way (indicating), and with some mitigation done up here.

This, then, would be a first -- the very first step in the restoration.

Our role in this is the acquiring agency. The Coastal Conservancy will be preparing the plan, the restoration plan, for the lowland.

We, then, will take that restoration plan, along with the Army Corps of Engineers and the U.S. Fish & Wildlife Service, and serve as co-leads for the environmental documents, CEQA and NEPA.

We'll take it through the environmental process. And during that process, the public and local government will have a tremendous input into what this restoration will look like in its final form.

The results of the CEQA/NEPA process then will be taken by the Coastal Conservancy; the formal plans and details will be drawn up to reflect the results of that
process.

We will then get our final permits. And the Fish and Wildlife Service then will take the lead and actually do the construction.

Now, through all this process, you, as Kapiloff Land Bankers (sic) will be the bank. You'll have the money, and the Kapiloff account will having to make periodic accountings on how the money is spent, and we'll have a tremendous amount of control over the process and, ultimately, probably have the final say on what this restoration is going to look like.

After restoration is completed, probably either the U.S. fish and Wildlife Service or the California Department of Fish & Game would be offered control, management control of his property, managed as a wildlife refuge.

And we would serve as the bank in allocation of the income from the funds that have been set aside for that purpose.

If they decline to do that, we can, of course, manage it ourselves. That would abe an option, or seek someone else to manage it.

At this point in time, this agreement does not bind the Commission to purchase this property. There's a lot of work that's being done before anyone could come to
you with a recommendation on that.

We are presently engaged in appraisal. We’re working out the terms of a purchase and sale agreement. There’s an environmental assessment being conducted that’s underway now. It’s costing $450,000. It’s, in essence, a toxic assessment, because this has been an operating oil field for well over 50 years.

CHAIRWOMAN CONNELL: Who held it?

MR. LUDLOW: Well, the predecessor to Phillips Petroleum, actually, that was here (indicating on map), and Chevron on up in this area. This is called the Edward’s Thumb.

Right now, the majority of the oil operation is located in this area of the property. But over the years, this was all oil, including this upland area, which we call the Balsa Chica Mesa.

So, we’re doing an environmental assessment -- boring, sampling, tissue sampling, an enormous amount of analysis. And that probably won’t be completed until mid-October. And there’ll have to be an analysis and review of that.

We’ve been very fortunate in this process to have been able to obtain the services of O’Melvin and Myers, a Los Angeles law firm. And they have special expertise, which we don’t have on staff, concerning the evaluation of
Because this is toxic liability, especially in this area. Because this is all the City of Huntington Beach surrounding this line, and this is unincorporated in Orange County.

And this all was oil field at one time. And O'Melvin, the attorneys we're working with, have worked on toxic evaluations, and have worked out the agreements to protect people.

CHAIRWOMAN CONNELL: When will you complete your evaluation so that we know whether there's any risk from liability to the State because of pollutants on the land, the toxic waste?

MR. LUDLOW: We expect to have a report sometime in October from the contractor that's preparing it.

U.S. Fish and Wildlife Service is going to do an analysis. And this will all be brought back. And the Fish and Wildlife Service will then do an analysis on it. And we'll see what that analysis says, and that will give us a very, very good indication about what's there.

And we're working with the present oil company, which is Cal Resources -- that's a subsidiary of Shell -- and with their predecessor, Phillips, and with the landowner, Koll, for a remediation agreement; in other words, a clean-up agreement.

CHAIRWOMAN CONNELL: Isn't there a point of law that says that the present owner, as well as past owners,
can be liable --

MR. LUDLOW: Yes.

CHAIRWOMAN CONNELL: -- when toxic waste occurs? Is there any way to shield the State of California from that -- that threat of liability?

MR. LUDLOW: That's what we're working on -- through mediation agreements and also through insurance. In other words, you can buy insurance policies that can protect the State against what we don't know about.

In other words, we'll find out what's there; we'll get an agreement from the companies that clean that up. If there are things there that we don't know about, the idea would be to purchase insurance to cover that.

I was surprised that you could purchase such insurance. That insurance is on the market and has been used successfully in other situations. We're looking at that. We'll be preparing an analysis of the situation and you'll have that review so you can evaluate the entire process.

COMMISSIONER DAVIS: Is any portion of the amount of money that's being allocated by the two ports earmarked for the risk the State will be assuming, or has the risk been qualified by anybody?

MR. LUDLOW: No, we haven't quantified that. We won't be able to do anything like that until we get the
study completed to see what's actually out there.

A lot of the potential problem comes when you start disturbing the land. We're going to be digging, in essence, a 384 acre hole in the ground and filling it full of water.

And so, that's the focus there to see what that does.

The goal would be to put this Commission in a situation where the risk here is the same as any other ocean property you might have here. That has a different meaning. Somebody could drown on a piece of property, but we're not going to be sitting here spending millions and millions of dollars cleaning it up, hopefully.

That is also one of the issues. The regulatory agencies are looking at this to see if they can give the ports their mitigation, for instance, to see if there's enough money, $67 million of the purchase price out here, and to set aside $5 million for management. Is there enough money in the budget to do the restoration and whatever cleanup that would need to be done if the present property owner and the oil companies don't do it all. That's an impact there.

But once -- the idea is that once the ports put up their money, as far as they're concerned, they don't want to be involved in this anymore.
CHAIRWOMAN CONNELL: I have a question. If you structured it not as a purchase of the land but as a long-term lease, is there any way that would shield us to a greater extent from liability if we later found that there were environmental wastes on the land?

If we don’t own the land, would we be protecting ourselves from the obligation?

MR. LUDLOW: I can look into that further. But just standing here today, without having researched that, I would say we still potentially have liability even though it was a long-term lease.

CHAIRWOMAN CONNELL: Even as the present user --

MR. LUDLOW: Yes.

CHAIRWOMAN CONNELL: -- but not an owner?

MR. LUDLOW: Yes.

CHAIRWOMAN CONNELL: Could you look into that?

MR. LUDLOW: Sure.

COMMISSIONER DAVIS: Will the oil companies that, I guess, are currently operating on at least a portion of this, will they continue to function, or will they cease functioning once they --

MR. LUDLOW: (Interjecting) No. They will continue to function in the areas where they’re primarily functioning, which is this area (indicating on map). And they will stay there as long as it’s an economic operation.
But the plan is that, as they withdraw and clean up the property, then the restoration moves in. And hopefully more monies will be available from other sources, because the money we have now is just sufficient to do this initial restoration.

COMMISSIONER DAVIS: When they withdraw, are they still -- do they still have some legal culpability for anything that might be found --

MR. LUDLOW: Yes.

COMMISSIONER DAVIS: --- on the property?

MR. LUDLOW: Yes. Yes, they do.

CHAIRWOMAN CONNELL: But the question is, Gray, how we split that liability in the longer term.

COMMISSIONER DAVIS: And I gather there have been no negotiations as far as --

MR. HIGHT: We’re negotiating now and --

MR. LUDLOW: We’re in the process of negotiating.

MR. HIGHT: Our goal, naturally, is to insulate us a hundred percent. That’s our ultimate goal.

COMMISSIONER PARKER: What’s the track record of either of these companies -- if they have had other fields which they have abandoned -- cleaning up or mitigating whatever problems where they essentially leave and there is a transfer of land? Has there been long litigation in other areas where they have abandoned and transferred land to
another seller?

    MR. LUDLOW: I don’t know of other State experience. But in the State of California, we’ve had considerable experience with Cal Resources and its predecessor Shell. We’ve also had considerable experience with Phillips, as well as other State agencies. They’ve both been good operators. We’ve had excellent cooperation with Cal Resources and Shell. And Phillips, of course, has pretty much pulled out of the State as a producer.

    We have litigated with Shell, but not over restoration problems, over trust problems. And they’ve been extremely cooperative, extremely cooperative -- the Shell people have.

    But the Phillips people, they’re down in Bartlesville, Oklahoma, and I’ve got a letter from them. And it said, "Thank you for letting us know what’s going on, but we don’t think we’re involved."

    And we’re written back to them and said, "We’re going to keep you informed," the attorney for Koll did, "because we think you’re in the loop." We think that Phillips is still very much in the loop and is responsible out there. And we are negotiating with them, also.

    But that’s basically where we are now.

    MR. HIGHT: Okay.

    MR. LUDLOW: And we don’t -- this agreement does
not require the Commission, when all the information is
before you, to take the next step and go forward with this.

MR. HIGHT: Okay.

CHAIRWOMAN CONNELL: Shall I take comments from
the audience at this point?

MR. HIGHT: Yes. I think probably Bill McDonald
from the Department of Interior. He’s Assistant Regional
Solicitor. And Bill has done absolutely a yeoman’s job
preparing the legal documents to get us this far, and has
spent many, many hours on this.

CHAIRWOMAN CONNELL: We appreciate that. Mr.
McDonald, would you like to identify yourself for the record
and make any remarks?

MR. MCDONALD: Yes, ma’am. Thank you very much.

For the record, my name is Bill McDonald. I am
the Assistant Regional Solicitor in the Regional Solicitor’s
Office here in Sacramento, United States Department of the
Interior, who has been representing the Department and its
agencies in this matter for the last year or so.

First of all, let me simply thank you for the
opportunity to say a few words. In sum, I’m here to urge
your support and authorization for your Executive Officer to
execute the Bolsa Chica interagency agreement.

After 18 months of hard labor, which I understand
has been preceded by 20 or 25 years of various efforts by
numerous parties to bring this particular property into public ownership and achieve restoration of the last major remnant of coastal wetlands in the Southern California bite.

I could go on for an hour about the tremendous interagency we've had. But just let me say, it's one of the stellar examples that I've been acquainted with in my 25 year government career in both State Government and Federal Government, and a major success story.

There are certainly a number of contingencies and issues to be addressed that Rick has alluded. And, essentially, the agreement in front of you provides the mechanism by which, in the next four months, we work our way through those issues. And each of the State and Federal agencies, if not satisfied in their unfettered, sole discretion, can step out of the agreement.

At that point in time, on the other hand, if we reach that go/no go decision, as I characterize it, in late December, then the balance of the agreement says what the structure is to go forward on into the future in this very major restoration opportunity.

I think the last thing I'd merely comment on is the ten agencies that are parties are in the process of executing it. And I can report to you today that, at this point in time, it has been approved and executed by the two ports, acting through their Board of Harbor Commissioners.
It has been signed by the Regional Administrator of the Environmental Protection Agency and by the Regional Director of the U.S. Fish and Wildlife Service.

It has been signed by Secretary Wheeler of the Resources Agency for the State of California, and action is pending, obviously, in front of you and also the Coastal Conservancy tomorrow.

So, we're moving along quite nicely. And we expect, subject to the balance of those approvals, to have this wrapped up and on its way by the end of the month.

CHAIRWOMAN CONNELL: Thank you, Mr. McDonald.

MR. MC DONALD: With that, Madam Chair, I'd respond to questions if you have any.

CHAIRWOMAN CONNELL: Certainly. Are there any questions from the Commissioners?

COMMISSIONER DAVIS: Just that you noted that you anticipated that all these contingencies would be resolved by the end of the year.

MR. MC DONALD: Right.

COMMISSIONER DAVIS: Are we under some legal -- not that I want to delay the project any longer. Are we under some legal obligation to complete it by a time certain?

MR. MC DONALD: What the interagency agreement provides is a series of deadlines which, if not met,
automatically terminate the agreement.

So, in that sense, it creates a legal set of
deadlines that have to be met by the ten parties.

COMMISSIONER DAVIS: Including final action at
some point in December?

MR. MC DONALD: Yes, by your Commission.

COMMISSIONER PARKER: Following the Lieutenant
Governor's comment, since you are reliant on the
environmental assessment and also the property appraisal to
be accomplished in that time frame, to the extent that there
are delays in that, how will that -- will there, in that
sense, need to be a reratification by all of these entities
to expand the time frame?

MR. MC DONALD: Well, essentially, what the
interagency agreement provides for, Ms. Parker, is we've got
to meet some deadlines. And if that stuff is not done, the
interagency agreement will automatically terminate, and
nobody will have any obligations.

Obviously, if we run into some snag unforeseen --
and I certainly don't think we are -- then, we'd all have
the opportunity to amend the agreement, which, in part,
would be contingent on the Koll Real Estate Group still
being willing too sell it with an extended time line. And
they may or may not be. That's entirely up to them.

COMMISSIONER PARKER: But I'm just saying that, to
the extent that there was -- for example, in the property appraisal -- some unforeseen situation that happened that may or may not be highly significant on the quality of the product, but that would require every entity to come back? There is no ability in the agreement to the MOU to essentially have any flexibility on those time lines if they were --

MR. MC DONALD: We've essentially set the interagency agreement up with three key dates. It assumes that we put matters before the California Coastal Commission that are subject to their regulatory jurisdiction in October, with an automatic possibility to extend it to the Commission's November meeting if Koll is still a willing seller based on that extension.

It, secondly, sets up December 19th, as I recall, as the go/no go decision at which the three State agencies and the four Federal agencies, each acting in their sole discretion, we're ready to proceed or we're not.

It provides one safety valve, again contingent on Koll being a willing seller, that would allow the Coastal Commission action in January of '97, with closing pushed out until March.

But if we got beyond that, the deal automatically terminates by its own terms. And it would require an amendment to extent it further.
COMMISSIONER PARKER: Thank you.

CHAIRWOMAN CONNELL: If there are no other questions, thank you again.

MR. MC DONALD: Thank you, Madam Chair.

CHAIRWOMAN CONNELL: I believe our next speaker is Terry Dalton. Mr. Dalton, would you please join us and identify yourself for the record.

MR. DALTON: My name is Terry Dalton. I'm past president of the Amigos de Bolsa Chica, and represent Amigos de Bolsa Chica thanking the Chair and the Commission for the opportunity to speak on a subject which we have been dealing with for quite some time.

Amigos de Bolsa Chica has been involved in this issue for 20 years, trying to go from the time the land exchange contract was signed to today, to try and see that the maximum restoration of wetlands and public acquisition of those properties occurs.

We have done many things during that time, but one of them, of course, was to go through Prop. 70 to qualify a million and a half dollars for the Bolsa Chica area, either to be used in the linear park or to be used in the lowlands.

Approximately 200,000 was spent putting in a temporary interpretive center at Warner and Pacific Coast Highway; another several hundred thousand was part of the money to do the oil study. And we stand ready with the
other million to give permission to the Coastal Conservancy
to proceed with the acquisition of additional properties
that would not come under the jurisdiction of those that the
ports need to deal with that.

   We’ve conducted workshops, tours, cleanups,
whatever you might wish in regards to this property to keep
it in as pristine a state as it can be, with public
involvement, working both with State and Federal agencies.

   Knowing that many of the State agencies do not
have the manpower, we have found citizens who are willing to
come into the area to monitor activities and cleaning up
things that just are beyond the capability of some of the
agencies.

   As you understand -- and you’ve got a beautiful
photograph up here of Bolsa Chica in the wintertime. You
can see the extent of water in this particular area. It
does become quite wet when there is rain.

   It does represent the largest restorable wetlands
in Southern California, and one that is situated in a highly
populated urban area, which is sort of unusual that it still
remains.

   Probably the reason that it still remains is the
one issue that you’re dealing with most aggressively, and
that’s the oil. If the oil had not been there, that
probably would have even been a marina or another kind of
development at this point in time.

This particular project represents a unique opportunity to actually increase the amount of State wetlands. I think EPA originally was about 914 acres of wetlands (sic). We put over a thousand acres. At this time, I think they have subsequently reduced their number of wetland acres for this area. So, it would be one of the few times we'd have an increase in wetland acres in the State of California, with the idea that we lost 90 percent of the wetlands, particularly coastal wetlands. So, it would be nice to reverse the trend.

We're still hoping that actually 1996 will be a historical year for Bolsa Chica. Whether you're aware of it or not, the Orange County plan that went before the Orange County Board of Supervisors and then on to the Coastal Commission did contain a restoration plan for the Bolsa Chica, and that was approved by both of those bodies this year.

It does contain an extensive restoration element, which started with the work of Michael Jocelyn back in the late 1980s.

We just recently -- yesterday -- met with a group of homeowners and the County of Orange with regards to what's called the Area Linear Park which is on Huntington Beach, which is immediately adjacent to this property, and
basically forming the upland on the south side.

We seem to finally have agreement and consensus on that area as well, which is 106 acres of potential park development, basically in a native plant community, probably primarily coastal shrub.

We've also worked with the local fishing people to put out a white sea bass project in Huntington Harbor to restore that particular species to this coast. And this agreement would mark another great milestone in 1996.

So, we've been waiting 20 years. We hope that the time line that you have will work in that particular way.

We're appreciative of the fact that this program looks for flexibility in those credits. We realize that the ports are dealing with deep water habitat. But the loss here and throughout the State of California is the wetlands habitat. And we urge everyone to keep that in mind, and the fact is that we're looking at the maximum habitat value for the State, and I think some flexibility on how those credits are given on what kinds of projects qualify certainly requires some due consideration.

The timing -- I've never seen a time schedule in the Bolsa Chica that's ever held. It has probably been the most untimely project --

CHAIRWOMAN CONNELL: I hope it will be better than the 20 years you've worked on it.
MR. DOLAN: Right. We certainly would hope so.

But with regards to the Linear Park, if that proceeds, they're looking at planting, which would occur in the fall of 1998, just before -- a year before activity would begin on this portion, which would be ideal.

We look at this as a very biodiverse area. You're looking at the fact that you have various different kinds of plant, bird, and fish species that would be in this area. Because of subsidence and other things, you'll have an area that ranges from seasonal ponds, to deep water, to upland habitat and the like. And we think that that is important.

You'll see a tidal inlet -- and I appreciate the fact that this proposal refers to that as historical. Prior to man's intervention at the turn of the century, this particular area did have tidal influence. That tidal influence was closed so that the county floods (sic) could better control that particular land.

We feel that that is absolutely critical to the restoration of this particular area. Water now takes a residence time of about 28 days to make it in and out of the tidal area.

The proposals or the things with regards to the new tidal entrance would reduce that to four days.

So, the water quality in that area is extremely
important for biodiversity in terms of how many different
species we have there as well as how well they develop and
grow in their numbers.

We look for minimal coastal contact. I know
there's some concerns from some of the agencies. But we
have a similar opening down the coast at Talbert Marsh,
where the actual jetties do not extend to the tidal zone.
And, therefore, water and sand are able to pass by. That is
a good example of a similar outlet that we're looking or
inlet that we're looking to for this particular project.

One thing that is in here as an option, and I'd
like to stress, is on the Wintersberg Channel -- that's a
flood control channel that comes down through this area.
And, as you'll see in the County of Orange program, that is
scheduled to come through this particular piece of project
and be changed in its location.

One of the primary reasons for that is that
they're looking at the fact that that would have to be
upgraded to meet the hundred-year storm, which means that
you dredge out of Bolsa, which is the most pristine and the
mudflat area for this particular area, extensive rip-
rapping. So, in a sense, to avoid a conflict between safety
and environmental issues, we have suggested that that
particular flood control be rerouted through this area.

It would also provide for quicker mixing of any
pollutants that are in that surface water and discharge to
the open ocean.

If they go through now, they just basically go
through Huntington Harbor, and take five miles to get out to
the open ocean.

There are a lot of things that we would like to see, but we're very pleased that this plan is before you.
One of the things that we'd like to also recommend that you consider is -- and that's citizen involvement. Our group has been here. We know that there are others who've been extensively involved politically.

If you ever see a campaign in the City of Huntington Beach, everybody stands in front of the Bolsa Chica sign and says, "I support it."

So, politically and otherwise, it is a very significant issue and has a lot of public support for acquisitioning as much acreage as we can and restoration for the maximum amount of acreage.

We do recommend that you approve this. It'll at least give us an opportunity to review this and get us into the front door of acquisition, which many of us have been looking for for 20 or more years.

And it's nice to see everybody lined on the same side. But that has not always been the case, and we certainly appreciate that opportunity.
CHAIRWOMAN CONNELL: Thank you very much. Are there any questions by members of the Commission?

I don't have any other requests to speak. Is there anyone else in the audience that didn't indicate and they desire to speak? No?

Okay. Then it's appropriate to take a motion, I believe?

MR. HIGHT: Yes.

COMMISSIONER DAVIS: I move we adopt the proposal.

COMMISSIONER PARKER: I second that.

CHAIRWOMAN CONNELL: Unanimous vote.

Then, I believe, Mr. Hight, we move to Item No. 91?

MR. HIGHT: Yes.

CHAIRWOMAN CONNELL: It's a boundary line agreement with the United States Navy for the resolution of titles, which will allow for the base reuse of the former naval civil engineering laboratory at Port Hueneme.

Would you give us the details, please.

MR. HIGHT: Yes. This item is the first base closure issue that the staff has completed. There are 14 bases closing in California that contain some sort of sovereign lands. And in order for the local base reuse agencies or the city, whichever the case may be, to proceed with the redevelopment of the base, we have to come to an
agreement with the Federal Government as to where the boundary is.

And this is the first one. This area will be used for port jobs, and the city anticipates that as many as 400 new jobs will be created by this agreement. And there's a letter of support from the city as an attachment to your material.

This is here just to highlight that we're continuing to press forward on all of the base closure issues, and that it is a tremendous problem, and that working with the Navy sometimes is not the most pleasant thing to do.

CHAIRWOMAN CONNELL: Are there any members of the public who wish to address this item?

COMMISSIONER PARKER: Madam Chair, may I ask a question?

CHAIRWOMAN CONNELL: Sure.

COMMISSIONER PARKER: Mr. Hight, does this resolution serve as kind of the model that we will be using with the Federal Government in other base --

MR. HIGHT: It is certainly our hope that we can, having once broken through, we can say we did it here and let's do it the same way again. That's our goal.

COMMISSIONER PARKER: I would certainly hope so, because my understanding is that this is a very long
process. And in that sense, these communities need to move on.

MR. HIGHT: Yes.

CHAIRWOMAN CONNELL: Any other questions of our staff?

Then, may I have a motion from the Commission?

COMMISSIONER DAVIS: So move.

COMMISSIONER PARKER: Second.

CHAIRWOMAN CONNELL: Unanimous vote.

We will now move to Item 92. And Item 92 is an exchange of lands under the California Desert Protection Act with the City of Pomona.

And again, Mr. Hight, would you give us the information in your presentation?

MR. HIGHT: Yes, Madam Chair and Commissioners.

This is the second item that the staff has brought to the Commission to further the -- to implement the California Desert Protection Act.

It trades 55,000 acres of desert land for 100 acres of a former Navy installation in the City of Pomona, and sells that installation to the City of Pomona. And the city will basically use it for two purposes: one, a waste disposal facility; and, then, two, they're hoping to get a furniture manufacturing plant.

The mayor of the City of Pomona is here, Mr.
Cortez. And, also, in your material we have numerous letters of support -- one from Senator Boxer, one from Assemblyman Bob Margett, Senator Ruben Ayala, and Assemblyman Fred Aguiar.

I think now would be an appropriate time to hear the Mayor.

CHAIRWOMAN CONNELL: Mayor Cortez, if you would join us, please. Welcome.

Please identify yourself here for the record, if you may.

MAYOR CORTEZ: Thank you, Madam Chair, and good afternoon, Commission. My name is Edward Cortez. I'm Mayor of the City of Pomona.

And at this time, moving back a few years ago, when General Dynamics was in its heydays, we were employing approximately anywheres from a minimum of 10,000 employees, upwards to as high as 14,000.

Now, fast forward, we've come to the downsizing of the defense industry. And, all of a sudden, we have a vacant facility there. Needless to say, we have an opportunity now to provide some positive benefits for the City of Pomona.

With this new project, we could possibly come up with anywheres from 2,000 to 5,000 jobs, ranging from low-level entry clear up to professional.
We have the opportunity to provide about 300 temporary construction jobs. Of course, with that, we do have the opportunity then to improve the blighted area; notwithstanding, when you do that, you certainly improve the image of the city.

Not only talking about jobs and the esthetics of the project, but moving on to the revenue side of it, we have an opportunity to have $100 million project combined with private investments, too.

We have the opportunity to put the property back on the tax rolls, which would bring about some increment there for us.

We have the opportunity, also, for the spin-off effect of the -- for the rest of the local businesses. And, of course, we're asking for your approval on this item, taking staff's recommendation. And I'm asking for your approval on this item.

The staff members I have with me here today to answer any questions are our City Administrator, Sivera Escovil, and our Economic Development Director, Daryl George. If you have any questions, we'll try to answer on any or all questions.

CHAIRWOMAN CONNELL: Are there questions from the Commissioners?

This is so unusual for us. You should know that
this is a positive sign.

(Laughter.)

COMMISSIONER PARKER: I would say, though, as both a member of the Lands Commission and also of STRS, that represents retired teachers, I have again an opportunity for a transaction of the School Lands -- which, in this case, obviously benefits the City of Pomona and benefits the retired teachers. And I think that's just -- it's nice to get a two-fer, you know, the best of all worlds.

MR. CORTEZ: Yes, it is.

COMMISSIONER PARKER: I'm certainly in support of the project before us.

MR. CORTEZ: And this certainly shows that people working together can accomplish much.

CHAIRWOMAN CONNELL: Thank you. May I have a motion from our Commission?

COMMISSIONER DAVIS: So moved.

COMMISSIONER PARKER: Second.

CHAIRWOMAN CONNELL: It's unanimous. Thank you.

MR. CORTEZ: Thank you very much.

CHAIRWOMAN CONNELL: We are going to move now, if we may, to Item 93. Item 93, for members of the audience, is an application for an existing pier and the construction of a gangway and boat dock.

Mr. Hight, will you brief the Commission on this?
And I do believe we have some members of the audience who
wish to speak as well.

MR. HIGHT: Yes. I'd like to have Jane Sekelsky,
Manager of the Commission's Land Management Division, to
present this item.

CHAIRWOMAN CONNELL: Fine. Would you introduce
yourself, please, for the record?

MS. SEKELSKY: Yes. Madam Chair, Commissioners,
and for the record, my name is Jane Sekelsky. I'm Chief of
the Land Management Division.

You have before you, in Item 93, an application
from the Delta Windsurf Company to maintain for their
personal use an existing pier, and to install a gangplank,
or gangway, and dock associated with that pier.

As shown on Exhibit A, this pier is located on
Horseshoe Bend, which is a waterway that leaves the
Sacramento River down this way (indicating on photograph).

If you're coming from Sacramento, you're going to
be coming down Route 160 right here, moving down, down this
way. You would come off 160 on the East Sherman Island
levee road. And the facility we're concerned with is right
in here.

See, the upland business is there, and there is a
little dock that runs out from there.

The boats and barges that you see at the end of
the dock are no longer there. This photo was taken in 1992, and those vessels have been removed.

However, the middle barge over here remains in the water at that location.

The applicant operates a windsurf business on the privately held upland that adjoins the parcel that you're being asked to lease to them.

By letter and by execution of our lease, they have agreed that they will not use the leased premises for commercial facilities or commercial operations.

Now, by prohibiting commercial use of the leased premises in the lease, we have precluded them from using those facilities in conjunction with the upland business. In other words, they'll not be able to demonstrate their equipment or launch the windsurf equipment from the dock or the pier.

They have told us that they want to use the dock for their own personal business. They will occasionally come to work with their own boat and dock at the dock. So, it is for their private purposes that they intend to construct this facility.

The aerial photo shows the vicinity of the proposed lease. It's on Sherman Island. And it is, as I said, off of Highway 160 on lower Sherman Island Road.

The barge that you see that remains is in the
water approximately 50 to 100 feet away from the proposed
leased premises.

    We have contacted the Corps of Engineers and
    contacted the Coast Guard, and made other efforts to try to
    identify who the barge belongs to and who is responsible for
    it, but have been unsuccessful to date.

    We'll continue our efforts in that regard. But
    there is no evidence whatsoever that this applicant is
    responsible in any way for that barge being there.

    Five individuals have submitted letters to you
    objecting to this project, and asking that you deny the
    application. Those letters, as well as copies of the
    applicant's letter saying they will use the facilities only
    for personal use, and the lease prohibiting commercial use
    is in your supplemental materials.

    The objecting parties have raised four main issues
    here. The issue that seems to be of greatest concern is a
    traffic safety issue. It has to do with vehicles coming
    down the levee road in front of the windsurf business.

    As you can see, both from the aerial and from
    these ground photos, the building that houses the windsurf
    business is very close to the road. In fact, it --
    basically, the front door of the building comes right out on
    the edge of the road.

    And there is also, as you can see, a curve when
you come past the building going in a -- it's easterly or
westerly -- but it's going in this direction (indicating).
You'll see that there's a curve in the road, which has a
blinding effect on traffic coming through there.

As indicated in the calendar item, the county has
studied traffic in the area and has made a decision and
determination that this business will not contribute a
significant increment to traffic in the area.

But in response to concerns raised by several
parties before the county, the county required the applicant
to agree to do a road realignment and to put in 12 parking
spaces on the waterward side of the levee road.

So, their hope is that will reduce the amount of
pedestrian traffic going back and forth across the road to
access the windsurf shop.

And the county has right now before them the plans
to do that work. It is our understanding, based on
conversations with county staff just this morning, that the
only thing holding that up is receipt from the contractor of
the bond and the signed contract.

So, it's our understanding that the county has
approved those plans conceptually, and the final approval
pends on the receipt of the materials from the contractor.

The objecting parties have also complained about the
septic system at the facility being inadequate to handle
the facility’s business.

The county did inspect that system; did require corrections, which we understand have been made, and have put in the condition in their use permit that should upland use change, they will be required to replace the system. But for now, we understand the system is adequate.

The objecting parties have also indicated that the applicant operated the business for some time without obtaining a county use permit. That was true. The applicants did go to the county, after operating for approximately two years without a permit, and did obtain a use permit in March of 1995.

The objecting parties have questioned the consistency of the upland business with the local zoning there. Obviously, the use permit was issued finding that the business is consistent with the local zoning in this area.

The objecting parties believe that, if the pier and the dock are not part of the commercial operation, that this business will not qualify for the Delta waterway zoning, which is a commercial zoning, water-related commercial zoning.

We have asked the county staff about that, and the county staff has indicated to us that, in fact, as long as the business is water-related, it does not have to have
waterside facilities to qualify.

So, with or without the pier and the dock, this business would qualify for the zoning in this area.

They have also raised an issue about the presence of the barge in the waterway. And we agree that that is a concern. It is on the State's land. It is like many other abandoned vessels in our waterways that are of great concern to us, and we continue to make efforts to remove that.

However, as I said, so far as we can tell, this applicant has nothing to do with that barge being there and it is not responsible in any way for its removal.

I'd like to comment that the objecting parties are obviously very sincere in their concerns about the safety in this area. We sympathize with them. We have tried to investigate the situation to assure ourselves that what you are being asked to approve here is not contributing in any way to those problems on the upland.

I think that we have come to a very strong conclusion that that is the case. There is no contribution to the traffic problems they have raised as a result of a dock and pier being here for the owners' and operators' private use.

Unfortunately, without that kind of connection, this Commission really is without jurisdiction to effect changes to the roadways or the upland amenities or utilities.
that are available to you in this area. And the county has, in fact, acted and approved this whole facility, not just the project on our land, but the business operating on the roadway.

Therefore, we recommend to you that you do approve the lease as presented.

CHAIRWOMAN CONNELL: Thank you very much.

I believe three speakers in opposition.

COMMISSIONER DAVIS: I'd like to ask a couple of questions.

CHAIRWOMAN CONNELL: Sure.

COMMISSIONER DAVIS: Could you explain to me the nature of the concern about traffic safety? Is that pedestrians crossing the street, or is that parking, access for parking of people who frequent the business? What's the traffic safety concern?

MS. SEKELSKY: There are people who will explain it in more detail to you. But my understanding is that it includes all of those things; that there is, on occasion -- particularly when the windsurfing is very active in this area -- you come down the road this way (indicating) and come out to the end of -- a point where there is a tremendous amount of windsurfing in good weather.

They are concerned about the blind curve precluding vision as you're coming around. They're
concerned about pedestrians walking back and forth across
the road to the business. Often, those pedestrians would be
carrying equipment -- windsurf equipment itself, which is
very bulky and awkward to carry.

The parking, as well, has been a concern to them.
What was expressed to us is that, right now, people park on
either side of the road and make the road even narrower than
it normally is. And the road here is between 20 and 30 feet
wide in places.

One of the thing that the county is requiring is
that the road be widened to 32 feet, and that the parking be
landward of that, so that it would be off the 32 feet
right-of-way. But all of those things come into account.
The fact that there's people driving through there, lots of
people sometimes --

COMMISSIONER DAVIS: Let me just interrupt you.
This business is currently operating?

MS. SEKELSKY: Yes, it is.

COMMISSIONER DAVIS: So, presumably, the concerns
about pedestrians and parking are applicable whether or not
we approve --

MS. SEKELSKY: That's correct.

COMMISSIONER DAVIS: -- the use of the pier?

MS. SEKELSKY: Yes, that's correct.

COMMISSIONER DAVIS: Thank you.
COMMISSIONER PARKER: One question. Is it our understanding -- and I would ask you, but I guess I would ask the people who'll testify. Is it our understanding that when the county gave the permit, that these traffic issues were discussed? Because it seems to me they relate to the business. Obviously, we'd want to try to find out how it relates to the pier, which is our purview, but I presume that these traffic issues were dealt with by the county?

CHAIRWOMAN CONNELL: Should have been in the use permit.

COMMISSIONER PARKER: So, these were issues that were dealt with; is that --

MS. SEKELSKY: Yes. The county did address the issues, although I think that some of the speakers question how they dealt with them. They did deal with them. In fact, the project, as defined in the use permit, includes the road realignment and establishment of these 12 additional formalized parking spaces.

COMMISSIONER PARKER: I just wanted to clarify that for the record.

MR. STEVENS: Ms. Parker, if I could interpose. I think you hit the nail on the head. The staff consulted our office with respect to the compliance with CEQA and environmental laws. Christine Sproul has looked at it, and she's here today.
And, basically, these issues were addressed within the county use permit, which produced a negative declaration, which was accepted -- or recommended for acceptance by the Commission here today -- the mitigations in the county use permit project treatment, so was consideration of all these impacts.

And, basically, the Commission has before it a project which only involves the dock and the use of that dock, and is restricted to noncommercial uses.

MS. SPROUL: Christine Sproul from the Attorney General's Office. I just wanted to make it clear that the responsibilities of the responsible agencies, as contrasted to those of the lead agency, are more limited.

When a responsible agency considers part of the project already approved by the lead agency, its authority with regard to mitigation and alternatives relates to those parts of the project which it is approving, not the other part which the lead agency has already taken into consideration and approved.

And, in fact, the responsible agency relies in part on the fact that lead agencies are bound by law to require enforcement of mitigation; that you can rely on those mitigations to be implemented.

COMMISSIONER PARKER: Christine, what's the time frame for the owners of the business to essentially complete
the mitigation requirements that were part of the permit approval process?

MS. SPROUL: That is specified by the county.

COMMISSIONER PARKER: But it is in the document? There are time lines in it?

MS. SPROUL: They are compelled to comply with the mitigation monitoring report. I don’t know all the details of that, but the county did adopt one, and the county has indicated that the operator of the business is required to provide parking and to fund road improvements.

So, the Commission at this point really has information that the county has required mitigation. We don’t know the exact time frame, but CEQA does indicate that they’re required to complete the mitigation measures within the project life and usually before the project commences.

In this case, you have an existing business with some alteration, so the time line has probably more flexibility, unlike if it were a beginning project.

CHAIRWOMAN CONNELL: Okay. We have Bruce Larsen. Would you like to address the Commission? And if would you identify yourself, please.

MR. LARSEN: My name is Bruce Larsen. I’d like to thank the Chair and the Commission for giving me an opportunity to speak.

I am a recreational user of the Delta area. And,
as a professional --

(Thereupon, the reporter was unable to
hear the witness and asked him to speak up.)

MR. LARSEN: I'm sorry. As I was saying, I'm a
recreational user of the Delta area, do fishing and
windsurfing in that area.

As a professional level way, I support myself as
an emergency room nurse. Excuse me. I'm nervous.

CHAIRWOMAN CONNELL: We are friends. I think you
probably are more at east in front of us than we would be in
front of you in the emergency room.

(Laughter.)

MR. LARSEN: I'm sure. Thank you again.

My concern -- and I've also written to the
Commission, even though I don't see it as an addition to the
calendar.

COMMISSIONER PARKER: We do have the document,
sir.

MR. LARSEN: Oh, I see. Thank you. -- is for the
safety issue to the pedestrians with the increase in
traffic. I find the whole package to be unacceptable. And
frankly, it astonishes me that something like this could be
even considered as a viable business location.

As you can see, the business is so close to that
road that it astonishes me. And I understand that your
jurisdiction basically covers the pier.

But I, frankly, believe that there will be a substantial increase in traffic; and even with the mitigation of the increased parking, may further increase the risk of traffic and pedestrians using that area.

The other concern I have is that I don’t understand why, you know, a commercial pier is needed for this business. And based on the owners’ previous noncompliant nature, I’m skeptical that they will actually use that as a commercial or personal (sic) business and things will go on and do business as usual.

CHAIRWOMAN CONNELL: What were your conversations with the county when they went through the review for the use permit and zoning? Did you have a chance to participate in that decision?

MR. LARSEN: No. I believe I came in on this at a later date. But I see certain situations that, you know, based on my profession, it’s unbelievable. And with the extended travel times and response times of emergency personnel to this area, you know, I just think that there’s a substantial risk of personal injury and potential liability to the county and also the State if you allow a project like this to go onward.

I’m not sure what the exact response and travel times to an emergency facility are, but I know that this
area is noted for substantial and horrific accidents. And
I'd just hate to see a fatality or any kind of injury happen
as a result of allowing some kind of insufficient business
like this to continue.

COMMISSIONER DAVIS: Why weren't these concerns
best addressed to the county? We can't decide whether or
not this business should exist.

MR. LARSEN: Yes, I understand. But you have to
speak up wherever you can. I've made the commitment, based
on what I do as a living. If I can prevent any injury, for
whatever reason, I'll do that.

And it's based on my use of the area. This just
happened to be something I saw that I wanted to express a
concern about.

CHAIRWOMAN CONNELL: Do you feel that the risk is
related to people crossing the traffic, or is that mitigated
at all by putting the parking spaces that were discussed
adjacent to the building?

MR. LARSEN: Obviously, I think that will help
somewhat. But, as you can see, that is located not only
along a road but also right in front of another
intersection.

If you've ever traveled in the Delta, and you know
how people drive, I just think there's some serious risk
involved.
This road that travels westward is a dead-end road, so traffic must come in and out of the same exit (sic). I’ve heard of several episodes of near accidents. In fact, one of the episodes had to do with a school bus and a delivery truck or something. So, frankly, I think it’s just a matter of time before something does occur at that intersection.

COMMISSIONER PARKER: Madam Chair?
CHAIRWOMAN CONNELL: Yes.
COMMISSIONER PARKER: Mr. Larsen, I guess it sounds -- I mean, these are things, the concerns that you have are with respect to the business that exists currently.
MR. LARSEN: Yes.
COMMISSIONER PARKER: I guess, from my perspective, it’s a matter of -- to the extent that we grant the owners the ability to use the dock for noncommercial aspects, but for personal use, I’m trying to relate that to your traffic concerns.
MR. LARSEN: I believe that will also help increase the traffic to that area by granting that kind of use permit.
COMMISSIONER PARKER: And how do you see that occurring?
MR. LARSEN: Well, I mean, if people are stopping along there and if they think they can launch or get
supplies off of the river (sic) and come in to that area, I
can see this being somewhat of a hub of activity. And that
doesn’t even address the water concerns.

I have to believe that the waterway, that would be
safe and correctly posted as far as speed limits, and
markings, and that type of thing.

COMMISSIONER PARKER: Are you suggesting a
commercial activity or a personal activity?

MR. LARSEN: I’m concerned that by granting them
even a personal permit, that eventually that use -- based on
their noncompliant nature as previously mentioned -- that
eventually they will just use it for whatever purpose they
demed that they want to do, and that that will increase
some of the risks to the intersection and to personal safety
in that area.

CHAIRWOMAN CONNELL: Lieutenant Governor, do you
have any questions?

COMMISSIONER DAVIS: Maybe we could write in --
what happens when people breach conditions that we apply to
use of piers or other facilities that we lease?

MR. HIGHT: We do not --

COMMISSIONER DAVIS: Assuming there are
complaints, then what happens?

MR. HIGHT: Then we investigate it. And if it’s
deemed appropriate, the Commission revoke the permit. And
that would be the process that I would suggest that we follow in this case. You know, we have a letter from the applicant. The lease says that it can only be used for private purposes. If we find that that's not the case, then we can deal with it.

COMMISSIONER DAVIS: Well, let me ask this question. Let's say somebody rolls up in their boat and docks at the pier, and then goes in and makes some purchases at the store.

Now, is that considered a commercial use of the pier or a personal use of the pier?

MR. HIGHT: That would be a commercial use, and they do not envision that as a use that they would allow for this pier.

COMMISSIONER DAVIS: So, this is just so their families can use it?

MR. HIGHT: Right.

COMMISSIONER DAVIS: Dock their own personal boats.

COMMISSIONER PARKER: That lease would not allow them to do that.

MR. HIGHT: Correct.

CHAIRWOMAN CONNELL: And if they violate our lease, what is our --

MR. HIGHT: We can revoke the lease and require
them to remove the facility.

COMMISSIONER PARKER: The facility's there now.

MR. HIGHT: Yes.

COMMISSIONER DAVIS: So, it's being used now?

MR. HIGHT: It was a -- the facility has been there for a long time, and they are applying for a permit for it.

COMMISSIONER DAVIS: It looks like it's in some state of disrepair. Could a boat dock there? Is it sufficiently --

MS. SEKELSKY: The pier facility, I believe, is too high above the water to make it convenient to dock there. And that is why they want to put the gangway down to a dock (sic) that is lower, so they can dock their boats there.

COMMISSIONER DAVIS: So, it's effectively not being used now or rarely used.

MS. SEKELSKY: It's just --

COMMISSIONER PARKER: Not usable?

MS. SEKELSKY: No, I think it's usable. You could walk out on it, sit on it, watch the water. But it's not used for boats that I'm aware of.

COMMISSIONER PARKER: So, to the extent that they had activity that was not permitted under this lease, by free use of this gangway, then by having us terminate them,
they would be required to remove that. So, they would not, in that sense, have the access from the water to the dock?

MR. HIGHT: That’s correct.

MS. SEKELSKY: We could have them remove both the dock, the gangway, and the pier, because it is on our land. The pier was originally constructed for use in conjunction with shipping agricultural products off the island.

CHAIRWOMAN CONNELL: Any other questions from members of the Commission of Mr. Larsen?

I hope your experience was not too painful?

MR. LARSEN: No. Thank you.

COMMISSIONER DAVIS: Thank you for coming up.

CHAIRWOMAN CONNELL: I do believe we have another individual who wishes to speak with the Commission. Sue de Witt, would you please join us? Thank you.

MS. DE WITT: Thank you, Madam Chair, members of the Commission. I, too, am a little bit nervous, and I just want to add to the responses to questions that I believe you asked Mr. Larsen.

And one is why, perhaps, it’s been difficult to be involved in the county’s public process. One of those issues that the county only requires that the applicant notify the neighboring property owners. And in this area, you can see that there aren’t many neighbors. In fact,
there's probably one or two, if at all.

And that makes it very hard to participate in the public process in that area, just because it is so rural. Once you find out about the project, it's usually too late. And, in fact, I was not aware of the Planning Commission's hearing of this project until about four o'clock in the afternoon when I was headed out of town on the day it occurred.

I was told two hours before the hearing, you know, "Hey, did you know this was coming up?"

And I was just not able to change my plans and get down there for this hearing. What happened, once that was approved that evening -- which, of course, was inevitable, because I did not have the opportunity to express my concerns about it -- once that was approved, then the process is an appeal process.

But in order to appeal, you have to come up with a 2,000-something dollar fee for the County of Sacramento in order to get your appeal heard. As a private citizen, that's an extremely difficult burden to put on me, as a private citizen, to ask me to pay to appeal a safety issue that I thought that the county had not adequately addressed.

So, with that, I'd like to turn to my testimony, which I wrote down, because I was nervous.

My name is Sue de Witt, and I'm a resident of Rio
Vista and a frequent user of West Sherman Island Road, where this applicant is located.

I have served on the Board of Directors of the Rio Vista Windsurfing Association, served for the City of Rio Vista on various windsurfing committees to develop safe and clean windsurfing launch areas collaboratively with public agencies, and private individuals, and companies.

I have contributed substantial time and substantial resources to community activities to ensure safety in the California Delta, while encouraging access to its beauty.

I'm here to ask you to deny this request for a lease, and I will briefly give you a number of reasons that I think you'll agree are serious problems with this application.

First of which, there are inaccuracies in the staff report that I think convey a wrong impression to this Commission. For example, on page 3 of the staff report, it implies the county staff concluded the applicants' parking plan is conceptually adequate to address safety concerns.

I have a copy of the county's July 10th, 1996, inspection report showing that compliance with the parking is waiting for drawings. That would indicate, for the record, that County Engineering has not yet signed off on the road construction plans as required by the permit.
In fact, their compliance report also shows the applicant has not yet complied with any of the conditions specified in the use permit issued on February 27th, 1995. I think it is easy to understand why these safety issues are so important.

Your staff found a Monday traffic tally showing 400 to 500 vehicles passing each other on a road not wider than a two-car garage. The building itself is showing signs of collisions and does not need much illustration to imagine the effect such a collision would have on a pedestrian.

And I can show you on this map that pedestrians need to walk beside the building in order to enter the building. So, that is part of the problem with pedestrians on the roadway.

Also, on page 3, staff asserts that the proposed pier and dock are for the applicants' personal use. The use permit issued by the county added a condition that requires a use permit -- and I quote -- to legalize an existing commercial pier, end quote.

Throughout the county's review of this project, this pier was clearly and several times called a commercial pier. However, this application before the Lands Commission's requesting a private recreational pier lease.

It would seem that the requirements for a commercial pier, as explained to me by your staff, would
require that you consider the serious public health and
safety issues. Therefore, it also seems expedient to call
it a private pier.

Finally, even if your Commission would like to
consider this lease, staff has not assessed in their report
the impact of the proposed dock on the navigable channel of
Horseshoe Bend. With the addition of the proposed dock and
boats tied to it, it will be positioned diagonally from a
sunken barge near the site.

Boaters are using this barge as a tie-up, which
should concern someone, because the county has already
identified environmental hazards located on the barge.

This is anecdotal, but I do -- I have heard that
this barge was actually rented to a divorced gentleman that
lived on this barge, and that rental was with the Upland
Company. But I don't know more about that. That's totally
anecdotal.

With the proximity of these two obstacles to each
other, the navigable channel will be reduced by one-third,
causing considerable hardship to boaters. While I
understood from the staff that this is something within your
jurisdiction, I can't explain why staff did not point this
out to you.

Your staff and I spoke just prior to this hearing,
and suggested that your Commission lacks jurisdiction over
public health and safety. Since constitutionally sworn
officers, I thought, have a duty to protect public health
and welfare, I thought you would indeed have jurisdiction
over this matter.

I will conclude my statement by saying that there
are numerous inconsistencies among the permit applications
filed by this company. This permit is simply in no
condition to be approved. I have been asking that this not
be considered today until these issues were addressed.

Therefore, since it’s on today’s agenda, I’d be
pleased to provide further information, still continue to
want to participate in the public process, but ask that you
please deny the application.

Thank you.

CHAIRWOMAN CONNELL: Thank you. I’d like to get
some response, if we could, from our staff regarding a
couple of the comments that were made by Ms. de Witt.

What is the status of these conditions that were
imposed by the county in February of ’95?

MS. SEKELSKY: Well, Sue has brought some
information that I have not seen. Again, as I indicated
earlier, we talked to county staff this morning. And with
regard to the road realignment and the provision of the
parking spaces, it is our understanding that the county
staff has found that those plans are conceptually adequate;
that they are waiting for the contractor to submit bonds and a contract that provides the details of the construction.

So, pending that, they are not finally approved.

CHAIRWOMAN CONNELL: Now, let's see. That would be a year and a half since February of '95. Is this normal, this kind of delay in meeting the conditions of the county?

MS. SEKELSKY: I honestly can't tell you if that's a normal delay with the county.

CHAIRWOMAN CONNELL: But they have had continual use of the facility? I'm assuming they have.

MS. SEKELSKY: They have been operating their business on the upland --

CHAIRWOMAN CONNELL: They are in operation now, correct?

MS. SEKELSKY: Yes.

CHAIRWOMAN CONNELL: So, they have been operating this business, but not yet in compliance with the conditions that were set forth?

MS. SEKELSKY: That is my understanding, yes, with regard to the road realignment and the parking. They have corrected the septic system problem and they have, in fact, obtained the use permit. But they have not met all the conditions in the use permit.

COMMISSIONER DAVIS: Although we don't know what time constraints there were on meeting these conditions that
were set forth, do we?

(Thereupon, Ms. DeWitt’s comment in answer to the Commissioner was not heard by the reporter.)

MS. DE WITT: I’m sorry. They have three years. It’s mentioned in the conditional use permit.

COMMISSIONER DAVIS: So they have another year and a half to be in compliance.

MS. DE WITT: Essentially. I think that that’s been one of the problems with this company, is that they continue to wait until the very end of any term in order to show compliance with anything.

In fact, it was at least two and a half years before they even applied for their conditional use permit.

CHAIRWOMAN CONNELL: So, they have another year and a half running on their agreement with the county.

MS. DE WITT: And then that will expire.

COMMISSIONER PARKER: And I guess that goes back to the question about how long it would take something like that to occur. And when the document was drafted, if the people viewed three years as a reasonable amount of time for compliance, the activities to date may or may not be the normal course of events leading up to the accomplishment of what would have to occur to meet essentially the conditions of the permit. I don’t have a feel for the planning process.
to know whether -- I know things move --

MR. STEVENS: Slowly.

COMMISSIONER PARKER: -- slowly.

MS. DE WITT: They were asked to apply for this permit within six months, actually receive it within six months. And, as far as I can tell, they didn't even apply for it until after the six months had lapsed.

COMMISSIONER PARKER: I think that's a question--

CHAIRWOMAN CONNELL: Go ahead.

COMMISSIONER PARKER: Are the applicants here today? When they speak, I have a couple of questions.

CHAIRWOMAN CONNELL: Does the applicant wish to address this Commission?

MS. MARK: (From the audience) Yeah. I'm Josie Mark.

CHAIRWOMAN CONNELL: Could you join us? Where could she join us? Why don't you join us here so you can engage in a conversation with this Commission, if you will, please.

And could you also, for purposes of the record, identify yourself? Thank you.

MS. MARK: I'm Josie Mark. I'm the project architect for Delta Windsurf. I've been representing them both for the use permit, as well as all the other State and Federal permits.
I'm not a hundred percent sure exactly what happened in the past as far as a use permit before I came in. At the time I came in, they needed help on getting use permit and other permits together.

They have been acting faithfully every step. And I appreciate Sue's concerns. Sue was aware of the project through other use permit process. And, unfortunately, she was not able to make it to the actual hearing.

All concern that has been raised on this project, as far as road realignment and public safety, those has been carefully addressed through the public consultation. Both Public Works and Sacramento County Transportation Department, they both have reviewed it, and we did have the conceptual drawing revised before the use permit for that purpose.

And the road realignment is putting the road away from the business building. So, I believe it's roughly -- off the top of my head, I think it's ten foot away from the building. So, the real road realignment will actually take care of both the parking as well as pedestrians walking in front of the building.

And, as far as in our progress right now, we are ready to go back for, you know, the county and take care of all the paper work, because we're aware that we have a window period of when we can do the road realignment,
because we have to deal with the levee and, you know.

There's more than just one permit that we have to deal with when we build something on the levee. We have both local reclamation, State Reclamation. We have County Transportation. We have -- you know, we have a list of agencies that high (gesticulating) to deal with for a dinky, little road realignment. And perhaps it's the smallest of all that you've discussed today.

But we have permits stacked that high. And for that reason, it did take us more time, you know, of what most people are aware of.

But, as you all know, in this business, when we're dealing with different agencies, we are at the mercy of every agency. And every agency, they have certain time limit and we try -- actually would like to do the road realignment before the next flood season.

So, we are actually talking to start construction soon.

COMMISSIONER PARKER: Madam Chair, if I could ask two questions. And I wasn't clear on whether or not you could address them or not. But since you're representing the applicant, I'll just, for the record, ask them.

I guess the concern by the people who have come here in opposition is sort of the credibility of your clients, of the applicants. And so, I guess the two
questions I have -- why was it two years before the
applicants essentially pursued the permit requirements? Why
two years?

And then, secondly, if there was this requirement
of coming before the Lands Commission within six months --
and it appears that that time frame was not met -- could you
give us some sense about why that was not complied with?

MS. MARK: We have submitted in for the State
Lands permit quite a while back. The project's been
postponing back.

COMMISSIONER PARKER: Was the application within
the six months?

MR. HIGHT: The application was submitted February
27th, '95. And it's taken that long because, as the --

COMMISSIONER PARKER: So, the permit was approved
by the county in February of '95?

MS. SEKELSKY: March.

MR. HIGHT: March.

MS. SEKELSKY: March of '95.

MS. MARK: We submitted it before.

COMMISSIONER PARKER: Okay. So, they --

MR. HIGHT: Yes.

COMMISSIONER PARKER: All right.

MS. MARK: So, it was not us causing --

COMMISSIONER PARKER: That's fine. Can you speak
to the -- why is it two years before the applicant --

MS. MARK: I really cannot answer you that, because I did not work for them before, you know, they started on the use permit process. So, I really cannot answer that.

All I knew is that ever since I have been on the job, they have been actively pursuing and paying a lot of money going through the process. And when you consider this is a very small windsurf shop, and they have spent a lot of money in trying to get this process through, the road realignment.

This is actually, you know, really more burden than a windsurf shop --

COMMISSIONER DAVIS: How many employees are employed at this store or shop?

MS. MARK: You know, I cannot answer you that. Everytime --

COMMISSIONER DAVIS: Is it less than 10?

MS. MARK: -- we went there, there are two to three guys there at most.

COMMISSIONER DAVIS: So, this is a very small business.

MS. MARK: It’s a very small business.

MS. DE WITT: It’s a very small business owned by a multimillion dollar farming concern in this area.
COMMISSIONER DAVIS: It doesn't matter who owns it. It's a business.

MS. DE WITT: When she pleads the fact this is a small business, I wanted you to know that this was a fairly well-funded operation.

COMMISSIONER DAVIS: It still has to sustain itself as a business. If it can't make money, it can't stay in business.

MS. MARK: The farming operation is not owned by the owner. The father and his brother owns it. Yes, it's a very wealthy family. But the individual, as a private business owner, no, they are not a wealthy business owner. And the burden that the county has placed it in those projects is actually very heavy on the burden. And they have been acting faithfully ever since I've been involved.

COMMISSIONER DAVIS: What are the estimated costs of making the road repairs or the road realignment, plus the parking, the 12 parking spots?

MS. MARK: Right now it's at 30,000.

COMMISSIONER DAVIS: That's the road?

MS. MARK: Yeah. Just this morning, I got the revised bid, and it's coming in at 30,000. Just realign the road.

COMMISSIONER DAVIS: And then, what about parking?
MS. MARK: And the parking. They're all part of it.

CHAIRWOMAN CONNELL: Is there a feeling on the part of the staff that you need to confer beyond your current staff information? You said you received new information as a result of the presentation?

MS. SEKELSKY: I have reviewed what she gave us. It does, in fact, indicate that certain conditions in the use permit are still pending or have not been complied with. But I believe that each of those things has been explained. We can go through them, if you'd like, but I don't think that we're going to glean any more information from trying to meet any additional --

COMMISSIONER DAVIS: Well, I have a suggestion, Madam Chair.

We could do one or two things. We could just approve the permit; we could deny the permit. And we could approve the permit subject to the completion of the conditions to obtain the conditional permit -- the road repair and the parking lot.

We can approve the permit and say it expires if the conditions to obtain the conditional use permit are not achieved in year and a half. There's a lot of ways we can do this.

But, in fact, if they're just using it for their
personal use, there's probably (a) not any great sense of urgency, and (b) -- although, I think they should get it. I see no reason why they shouldn't get it. But whatever the Commission's pleasure is.

CHAIRWOMAN CONNELL: Well, what would you like to try? Is there a specific motion you would like to test and see if you got any support of the other Commissioners?

(Laughter.)

CHAIRWOMAN CONNELL: Well, I don't feel strongly about this. I'd be willing to move that we approve the permit subject to the completion of the requirements mandated by the conditional use permit.

CHAIRWOMAN CONNELL: In what time frame?

COMMISSIONER PARKER: Lt. Governor, that would mean to the extent that the use permit, the particular roadwork and the parking was not accomplished in a year and a half, which is a three-year time frame, then our lease or our permit would be cancelled?

COMMISSIONER DAVIS: Yes. You could do it that way, or you could say it's not effective until the -- you could do it either way.

COMMISSIONER PARKER: So, that seems a year and a half before they would have the ability to use this for recreational purposes?

MR. HIGHT: One of the reasons that it is before
you today is two reasons. One, under the Permit
Streamlining Act, the Commission needs to act one way or the
other; and, two, the addition -- the gangway they propose to
build, they have a Fish & Game construction window of
September. And so, that's one of the reasons.

COMMISSIONER DAVIS: When they get an instruction
window.

MR. HIGHT: Fish & Game says you can only build
during --

COMMISSIONER DAVIS: Construction window. Excuse
me.

MR. HIGHT: Construction, yes. And September is
their window for building.

MS. DE WITT: But they can do it next September.
I mean, if it's just for recreational purposes and it has
nothing to do with their business, then there's no
compelling urgency.

MS. MARK: Can I make a few comments? The thing I
would like to clarify in the county permit, as far as
parking, according to the county requirement, we are
required for nine parking stalls and then three overflow
parking. Okay?

And we basically put it in with the idea that,
hey, we would like to have the extra personal. Okay? The
required parking stalls by code is 9 parking stalls. The
three is overflow.

And, secondly, is that -- you know, first of all, they don't feel it urgent to put the dock in. But, however, I still feel that it's unfair that someone put in a condition that has no relationship between the dock versus the business. I mean it's for private use. It's not for commercial use.

I agree with the facts that for -- if they put the dock in commercial use, I believe the Commission should stick up -- you know, stand on their gun and say, get out or else.

But, as far as putting condition to say that, hey, you know, the roadway alignment is tied to the dock --

COMMISSIONER DAVIS: I've got an idea. Can we have a lease that runs for a year and a half?

MR. HIGHT: Certainly.

COMMISSIONER DAVIS: Want to do that?

COMMISSIONER PARKER: Was the applicant -- did you discuss with them appearing themselves at this meeting? And I presume that they knew that there was opposition?

MR. HIGHT: Yes.

COMMISSIONER PARKER: So, they were invited to come?

MR. HIGHT: Yes.

COMMISSIONER DAVIS: Moreover, this came up
before, didn't we ask --

      CHAIRWOMAN CONNELL: I thought we delayed this so that we could have them.

      COMMISSIONER PARKER: I'm just kind of wondering why they did not come themselves to essentially --

      MS. MARK: The applicant himself?

      COMMISSIONER PARKER: right.

      MS. MARK: Why didn't he come? At the time we received the notice, I called and he had other plans; that he's on convention. So, he's out of town.

      MS. SEKELSKY: Our leases have a standard provision that in order for the lease to be effective -- in order to comply with the terms of the lease, the lessee must comply and be in compliance with all other rules and regulations, laws, et cetera, of any other government agency.

      If, in fact, at the end of this next year and a half, they are not in compliance with their use permit, they haven't meet the county requirements, that would throw the lease into a status of being out of compliance, at which time we can go in and take affirmative action to do something with it if you choose.

      CHAIRWOMAN CONNELL: I like the idea of perhaps being more definitive up front. I like the idea of a time certain lease, which gives them a very direct notice that
the Commission is aware that they’re in the process of transitioning, hopefully, to compliance with the county agreement. But should they not achieve that within the time of our lease agreement, our lease will end. And before this Commission chooses to discuss a renewal of the lease, they will have to be in compliance.

I think it’s a very firm statement by the Commission as to the importance of being in compliance.

COMMISSIONER PARKER: I agree, Madam Chair. I guess my only concern is, to the extent that we were to do that, they would have -- under that, I would presume that they would have the ability this year immediately to construct the docking.

MR. HIGHT: Yes.

CHAIRWOMAN CONNELL: In September is what you’re saying.

MR. HIGHT: Yes.

COMMISSIONER PARKER: Right. In September. And to the extent that a year from now there was a noncompliance problem, we would have the situation of then having this dock in place and trying to remedy, if there was a problem, which would require them to essentially dismantle --

COMMISSIONER DAVIS: You don’t have to do that.

You just deny their use of it. Granted, it would be tough to enforce, but just say that the dock has to remain
vacated, if you will. You can’t pull up a point, or a barge, or anything else until you come into compliance with the county requirements, which apparently are incorporated, according to Jane, in the lease documents that will be signed as a matter of course.

So, it’s not an extraordinary requirement from what we normally have.

COMMISSIONER PARKER: My position coming in here was essentially to -- because of particular things the Attorney General’s pointed out, I hear the arguments, but I think our purview is really such that, you know, they have met the test.

I guess I’d feel more comfortable if I heard from the applicants themselves to come and address their intentions of compliance, not only with the permitting requirements but the limited use of the dock.

And it makes it more difficult for me to essentially have to have us take on faith what they’re going to do.

COMMISSIONER DAVIS: We’re not really taking anything on faith. We’re giving them a lease for a year and a half. They have to bear all the construction costs --

COMMISSIONER PARKER: Right. I know that.

COMMISSIONER DAVIS: -- doing that. And they may lose it entirely in a year and a half.
COMMISSIONER PARKER: But our enforcement abilities are somewhat limited because of, you know, having to go out there and check to see whether or not; if they did not comply, that they, in the future --

(Thereupon, the Commissioners spoke simultaneously.)

CHAIRWOMAN CONNELL: I have confidence, after listening to Mr. Larsen and Ms. de Witt, that you will keep the Commission informed.

(Laughter.)

CHAIRWOMAN CONNELL: I think we have some very committed global activists here that would hopefully help the Commission if we choose to move forward with some kind of an agreement on the lease. I would certainly hope that you've gotten the sense of the concern of this Commission.

MS. DE WITT: I appreciate that.

CHAIRWOMAN CONNELL: And that you would want to keep us advised and our staff advised if there is not a compliance with this. And should we have to get to an unfortunate situation where we revoke the lease if there is a continuing use of the facility, then we would have to take legal action.

I think that can be clarified and communicated by the project architect as well to her client.

COMMISSIONER DAVIS: Let me just make a point, if
I may.

If the lease is a year and a half, we don’t revoke anything. The lease ends. There’s no rents.

I want to make two points. I want small businesses to succeed. My wife ran a small four-person business. Kathleen Connell had a small business. It’s important that business succeeds.

On the other hand, we can’t -- and we can’t have endless requirements and endless permit stuff or we’d never get done. On the other hand, people have to operate in good faith.

CHAIRWOMAN CONNELL: And legally.

COMMISSIONER DAVIS: And there’s some sense that that may not be happening. This way, we don’t have to make a comment either way. We can say it’s a year and a half lease. We’ll review it after a year and a half.

MS. MARK: If that’s a choice, I’m going to just take it as a year and a half and you can revoke it if the conditions are not -- if the road is not --

COMMISSIONER DAVIS: We’re not going to revoke anything in a year and a half. That’s all you have is a year and a half. You have a year and a half lease, period.

COMMISSIONER PARKER: You have to come back in a year and a half.

COMMISSIONER DAVIS: You’ll have to have an
extension after that.

MS. SEKELSKY: If the year and a half passes, the date I think would be -- it would expire on March 6th, 1998, which be the third -- the end of the third year following issuance of the use permit, your lease would actually expire. And you would have to apply to us for a new lease.

MS. MARK: My question is that, if that's the choice, I'd rather have a ten-year lease and if the condition of the road realignment is not complete, you know, by whatever date, you guys have a choice to revoke the lease. This way, it saves the paper work for my client to go through the process again.

COMMISSIONER PARKER: But your client has the choice of no lease, a denial, by this Commission, or a year and a half. Which would you prefer?

MS. MARK: I think the year and a half.

(Laughter.)

CHAIRWOMAN CONNELL: I think that may be the option. I will entertain a motion by my fellow Commissioner.

COMMISSIONER DAVIS: I move that we grant the lease for a year and a half and, then, presumably there'll be an application for renewal and we can act on that.

CHAIRWOMAN CONNELL: Now, do I have a second to that?
COMMISSIONER PARKER: Yes.
CHAIRWOMAN CONNELL: It’s unanimous.
MS. SEKELSKY: May I ask for a point of clarification?

When you say a year and a half --
MS. SEKELSKY: Thank you.
MR. HIGHT: Thank you.
CHAIRWOMAN CONNELL: Thank you. I thank all the speakers.

Are there any other items to come before the Commission?

MR. HIGHT: Just the closed session, Madam Chair.
CHAIRWOMAN CONNELL: If not, we will close the open session. And before we adjourn to the closed session, I’m advised by our counsel that subsequent to the publication of the closed session agenda, an additional lawsuit, the State versus James O'Leary, Sr., has been filed. As this case has established court-ordered deadlines, it cannot be postponed, and the Commission will discuss this matter in our current closed session, and we will now adjourn into that closed session.

(Thereupon, the open session of the meeting was adjourned at 2:40 p.m.)

--000--
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 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 have hereunto set my hand this 19th day of September, 1996.

___________________________
Nadine J. Parks
Shorthand Reporter