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**TRANSCRIPT OF  
MEETING  
OF  
STATE LANDS COMMISSION**

**LOS ANGELES, CALIFORNIA**

**September 25, 1967**

1 MEETING OF  
2 STATE LANDS COMMISSION

3 LOS ANGELES, CALIFORNIA  
4 September 25, 1967

5 PARTICIPANTS:

6 THE STATE LANDS COMMISSION:

7 The Hon. Houston I. Flournoy, Controller, Chairman  
8 The Hon. Robert H. Finch, Lieutenant Governor  
9 The Hon. Gordon P. Smith, Director of Finance

10 F. J. Hortig, Executive Officer

11 OFFICE OF THE ATTORNEY GENERAL:

12 Jay L. Shavelson, Assistant Attorney General

13 APPEARANCES:

14 (In the order of their appearance)

15 Calendar Summary Item 5(a) - Noyo Harbor District

16 E. A. Curtis, Chief of the Development Branch,  
17 Department of Harbors and Water Craft

18 Calendar Summary Item 8(b) - San Luis Harbor District

19 Gerald Weaver, Attorney, of the firm of  
20 Crossman and Weaver, representing  
Robert Marre

21 Herbert Grundell, Attorney for the  
22 San Luis Harbor District

23 Calendar Summary Item 8(a) - Exchange of land in  
24 Upper Newport Bay between The Irvine Company and  
25 the County of Orange

26 Adrian Kuyper, County Counsel, County of Orange

Lewis A. Follansbee, Professor of Marine Science,  
Orange Coast College

continued

**APPEARANCES:****Calendar Summary Item 8(a) continued**

Andrew J. Hinshaw, Assessor, Orange County

Warren Crow, Corona del Mar

Frank Robinson, representing County  
Tidelands Association

Janet Boer, Santa Ana, Research Analyst

Mrs. Corinna Babb, Marina Park Association  
Newport Beach, et al

John Tyler, Vice President, Southern  
California Chapter of The Nature  
Conservancy

Assemblyman Robert E. Badham  
71st Assembly District

Assemblyman Kenneth Cory  
69th Assembly District

Grover C. Stephens, Professor of Biology,  
Chairman of Organismic Biology  
University of California at Irvine

Craig Harlan, Vice President, Associated  
Students, University of California  
at Irvine

Don Barton, President, Marina Park, Inc.,  
home owners' group, Upper Newport Bay

James W. Harrison, Director, Southern  
California Marine Dealers Association

Evelyn Gayman, Conservation Chairman,  
Desomount Club; also speaking for:  
Barbara Horton, Pasadena Audubon Society

Paul Colburn, National Audubon Society,  
National Wild Life, National Parks  
Association, Orange County Advisory  
Committee

continued

**1** APPEARANCES:**2** Calendar Summary Item 8(a) continued**3** Robert Vile, President, Ocean Fish  
**4** Protective Association**5** Richard H. Ball, Sierra Club  
Angeles Chapter**6** Rimmon C. Fay, Commercial Fisherman**7** Fern Zimmerman, Santa Ana**8** Karl Hufbauer, Costa Mesa**9** James Schneider, representing  
**10** Conservationist Group of Sierra  
Club, Orange County Group, part  
**11** of Los Angeles Chapter**12** L. H. Cloyd, Regional Manager, Region 5,  
Los Angeles, Department of Fish  
and Game**13** David James, Chairman of Executive  
**14** Committee, Orange County Chamber  
of Commerce**15** Ellen Stern Harris**16** Selim Franklin, President, Orange  
**17** County Coast Association**18** Conrad Epley, Field Representative to  
Congressman James B. Utt**19** John Macnab, President, Newport Harbor  
**20** Chamber of Commerce**21** Gus Patzer, Costa Mesa**22** H. A. Stuckey, Newport Beach; repre-  
**23** senting Bay Area Citizens Council**24** George Friedl, Jr., Corona del Mar**25** \*\*\*\*\*  
**26**

I N D E X  
(In accordance with Calendar Summary)

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ITEM CLASSIFICATION                      ITEM ON    PAGE OF    PAGE OF  
CALENDAR    CALENDAR    TRANSCRIPT

1	Call to order			
2	Confirmation of minutes of meetings 8/14/67 and 8/21/67			1
3	<b>PERMITS, EASEMENTS, AND RIGHTS-OF-WAY, NO FEE:</b>			
8	(a) General Telephone Company	47	1	1
9	(b) City of Port Hueneke	30	2	1
9	(c) San Diego Unif. Port Dist.	45	4	1
10	(d) Sonoma County Flood Control & Water Conserv. District	24	6	1
11	(e) Department of Fish & Game	5	8	1
12	(f) Union Oil Co. of Calif.	56	10	1
4	<b>PERMITS, EASEMENTS, LEASES AND RIGHTS-OF-WAY, FEE:</b>			
14	(a) Robert W. McCune & Wayne Wither, dba Bridge Marina Yacht Harbor	6	12	1
15	(b) Mira Monte Marina, Inc.	11	15	1
16	(c) Mira Monte Marina, Inc.	12	17	1
17	(d) Arbutus Youth Ass'n, Inc.	14	19	1
18	(e) William J. Basanez	13	21	1
18	(f) Erickson Investment Co.	9	23	1
19	(g) Blaine R. Gorman	7	24	1
19	(h) Mrs. Elizabeth F. Miller	57	25	1
20	(i) H.F. and Ruth M. Westphal	26	26	1
20	(j) Atlantic Richfield Company	2	27	1
21	(k) Pacific Gas & Electric Co.	1	28	1
21	(l) Standard Oil Co. of Calif.	4	29	1
22	(m) Masonite Corporation	15	30	1
22	(n) E. R. Sudden	17	32	1
23	(o) Joe M. & Lena Cesa	46	34	1
23	(p) James A. Lloyd & Kenneth Hilt	3	35	1
24	(q) R. D. Thompson	8	36	1
24	(r) Pacific Gas & Electric Co.	16	37	1-Deferred
25	(s) Alfred A. Mikalow	18	39	1

continued

I N D E X

(In accordance with Calendar Summary)

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF TRANSCRIPT</u>
<b>5 OIL-AND-GAS &amp; MINERAL LEASES AND PERMITS:</b>			
(a) Noyo Harbor District	48	40	2-Deferred
(b) Standard Oil Co. of Calif. Western Operations Inc.	10	42	3
(c) Pauley Petroleum Inc.	21	43	3
(d) Lyman E. Davis	28	44	3
(e) M. J. Ruddy and Son	27	46	3
(f) R. G. Flood, et al: (1)	40	47	3
(2)	41	52	3
(3)	42	54	3
(4)	43	57	3
(5)	44	60	2
(g) Seaside Sand & Gravel Co.	30	63	3
(h) Beloil Corp., Ltd.	36	64	3
(i) Standard Oil Co. of Calif. Western Operations Inc.	29	65	3
(j) City of Los Angeles	38	66	3
(k) County of L.A. Dept of R.E.	37	69	3
(l) Standard Oil Co. of Calif.	20	71	3
(m) Atlantic Richfield Co., et al	33	72	3
(n) Great Basins Petroleum Co.	34	73	3
(o) Mobil Oil Corporation	32	74	3
(p) Phillips Petroleum Co. and Pauley Petroleum Inc.	31	75	3
(q) Standard Oil Co. of Calif. and Humble Oil & Ref. Co.	35	76	3
<b>6 CITY OF LONG BEACH:</b>			
(a) First Amendment to Coop. Agreement for Water Injec- tion Operations, L.B. Unit	39	77	3
(b) Expenditures incl. subsidence remedial work, Pico Av. & Ontario Ave. Town Lot Area	22	78	3
(c) Expenditures inc. subsidence remedial work Back Area Piers A to D	23	81	3
(d) Approval of documents in relation to interest of Pauley Petroleum Inc. and Allied Chemical Corp.	53	84	3

continued

I N D E X  
(In accordance with Calendar Summary)

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF TRANSCRIPT</u>
7 PROPOSED ANNEXATIONS:			
(a) Notification to City Council Santa Barbara re value of State-owned T & S lands under designation "Tidelands Annexation"	19	86	3
(b) Commission protest to proposed annexation, Santa Barbara	54	86a	3-Deferred
8 ADMINISTRATION:			
(a) Exchange of lands Upper Newport Bay-Irvine Company and County of Orange	49	87	14
(b) Port San Luis Harbor	25	91	4
(c) Agreement to correct technical errors in exchange with Leslie Salt Co.	26	93	4
(d) Proposed budget, State Lands Division	55	94	4
9 INFORMATIVE:			
(a) Legislative report	51	102	
(b) Litigation	52	105	
10 NEXT MEETING			120

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(In accordance with item numbers)

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4	29	1	44	60	3
5	8	1	45	4	1
6	12	1	46	34	1
7	24	1	47	1	1
8	36	1	48	40 (Def.)	2
9	23	1	49	87	14
10	42	3	50	2	1
11	15	1	51	102	Info.
12	17	1	52	105	Info.
13	21	1	53	84	3
14	19	1	54	86a (Def.)	3
15	30	1	55	94	4
16	37 (Def.)	1	56	10	1
17	32	1	57	25	1
18	39	1	58	26	1
19	86	3			
20	71	3			
21	43	3			
22	78	3			
23	81	3			
24	6	1			
25	91	4	NEXT MEETING		120
26	93	4			
27	46	3			
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29	65	3			
30	63	3			
31	75	3			
32	74	3			
33	72	3			
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35	76	3			
36	64	3			
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39	77	3			
40	47	3			

1 LC5 ANGELES, CALIFORNIA, MONDAY, SEPTEMBER 25, 1967--10:05 A.M.

2  
3 MR. FLOURNOY: The meeting of the State Lands  
4 Commission will come to order.

5 There are, to the knowledge of the members and the  
6 staff, only two items on the agenda that people have indicated  
7 a desire to speak to. These items are those regarding the  
8 San Luis Harbor District and the proposed exchange of land  
9 between The Irvine Company and the County of Orange. Unless  
10 I am incorrect in that, we will proceed with the rest of the  
11 agenda.

12 Item number 2 -- The minutes of the meetings of  
13 August 14 and August 21, 1967 will be confirmed.

14 Item 3 -- Permits, easements and rights-of-way, some  
15 six items on the agenda: If there is no discussion or objec-  
16 tion, those items will be approved and confirmed as indicated.

17 Item number 4 -- Permits, easements, leases and  
18 rights-of-way issued pursuant to statute and established  
19 rental policies of the Commission: If there is no discussion  
20 on any of those items, or objection, they will be approved and  
21 the action is confirmed as indicated.

22 MR. HORTIG: Mr. Chairman, on item 4(r) on calendar  
23 summary page IV -- Pacific Gas and Electric Company's applica-  
24 tion for right-of-way easement -- at the request of the appli-  
25 cant and the San Francisco Bay Conservation and Development  
26 Commission it is recommended that the consideration of this

1 item be deferred.

2 MR. FLOURNOY: It will be so deferred unless there  
3 is objection, and others in item 4 will be approved and the  
4 proposed action authorized.

5 Item number 5 -- Oil-and-gas and mineral leases and  
6 permits issued pursuant to statutes and established policies  
7 of the Commission.

8 MR. HORTIG: Mr. Chairman, on item 5(a) I have just  
9 been informed that the Department of Small Crafts and Harbors  
10 wishes to speak to this item -- Mr. Curtis.

11 MR. CURTIS: Mr. Chairman, I am E. A. Curtis, Chief  
12 of the Development Branch of the Department of Harbors and  
13 Water Craft.

14 We have an item here on this dredging permit that  
15 we feel involves a policy issue, which may be quite far-  
16 reaching. This dredging is being done, as stated in the sum-  
17 mary, to construct a mooring basin. In fact, it is being done  
18 to provide a navigation area in the river bed itself; and  
19 while the three cents per cubic yard, since we are only talking  
20 about 10,000 yards here, is not a back-breaking item -- it is  
21 for navigational purposes. The soil is to be used on the Noyo  
22 Harbor District land and so, as far as we know, from the stand-  
23 point of both issues -- from the standpoint of navigation and  
24 from the standpoint of the use of the soil -- we don't feel  
25 this three cents per cubic yard should be imposed.

26 GOV. FINCH: Why don't we put this over another

1 month? Is there any objection staffwise?

2 MR. HORTIG: No objection.

3 GOV. FINCH: With the other problems we have, I'd  
4 like to have you submit written argument on this, if you will.

5 MR. CURTIS: Okay.

6 MR. FLOURNOY: We will then defer action on item  
7 5(a). Is there any discussion or objection to the approval  
8 of the other items under item number 5? Hearing none, this  
9 item will be approved and action taken as indicated.

10 Item number 6 -- City of Long Beach, four items  
11 there: Is there any discussion or objection to those items?  
12 (No response) Without objection they will be approved and  
13 action authorized as indicated.

14 Item number 7 -- Proposed annexations, two of them.  
15 If there is no discussion ...

16 MR. HORTIG: Yes, Mr. Chairman. With respect to  
17 item 7(b), which was calendared because of an anticipated hear-  
18 ing by the City of Santa Barbara prior to the next meeting of  
19 the State Lands Commission, the office of the city attorney of  
20 Santa Barbara has now stated that this matter will be continued  
21 until October 31, 1967, in order that the Lands Commission and  
22 staff can consider all the problems at the October meeting of  
23 the Commission. So this matter should also be deferred at  
24 this time.

25 MR. FLOURNOY: Without objection, 7(b) will be  
26 deferred; and unless there is further discussion or objection

1 7(a) will be authorized.

2 We will for the moment pass consideration of 8(a)  
3 and 8(b) and deal with items 8(c) and (d). If there is no  
4 discussion or objection to approval of action on those items,  
5 they will be so authorized; and that leaves us with items  
6 8(a) and 8(b).

7 Since the major problem, as I understand it, before  
8 this Commission today will revolve around item 8(a), we will  
9 take up item 8(b) -- a finding that the Port of San Luis  
10 Harbor District has complied with the substantial improvement  
11 requirement contained in section 1(b), chapter 302 of the  
12 laws of 1957.

13 MR. HORTIG: Mr. Chairman, with respect to the item  
14 the Commission has this morning received the following tele-  
15 gram:

"Arroyo Grande Sportsman Club urges that  
an early decision be made in the matter of  
Port San Luis Harbor now before you. The  
majority of people here are well pleased  
with progress made by Harbor Commission  
despite many obstacles. Arroyo Grande  
Sportman opposed to interruptions or delay  
in harbor development.

Board of Directors  
By David W. Hook, President"

22 Also, we have received from H. C. Grundell, attorney  
23 for the Port San Luis Harbor District, a final report on some  
24 of the factual material as it appears in your agenda, page 91.

25 In the third paragraph of the first page of the  
26 agenda item, it is stated that "Several upland parcels

1 adjacent to the granted lands have been condemned." The use  
 2 of the word "condemned" is erroneous, as the lands were ac-  
 3 quired by negotiation. So the sentence should read that these  
 4 lands were purchased, and the details are that they were ac-  
 5 quired by negotiation rather than condemnation.

6 In the fourth paragraph it is determined that: "The  
 7 total cost to the District of the pier refurbishing and the  
 8 boat-launching facilities is approximately \$160,000." This  
 9 should be \$100,000; and the cost of the land fill is \$262,000  
 10 instead of \$160,000, as it appears in the item on page 91.

11 The staff recommendation still is that pursuant to  
 12 the requirement of the granting statute to the Port San Luis  
 13 Harbor District that there be a consideration by the Lands  
 14 Commission as to whether or not there has been compliance  
 15 with the terms of the granting statute with respect to the  
 16 development of the harbor. The staff report indicating that  
 17 this is the case, it is still recommended that the Lands Com-  
 18 mission approve the only item that is really before the Lands  
 19 Commission for consideration - which is that this report of  
 20 compliance be submitted to the Legislature.

21 However, as the Commission is aware, requests have  
 22 been received for presenting views to the Lands Commission on  
 23 behalf of adjoining property owners.

24 GOV. FINCH: Are we addressing ourselves, though, to  
 25 the merits of the report, Mr. Hortig, or are we leaving that  
 26 to the Legislature's discretion?

1 MR. HORTIG: I would recommend that if there are  
2 questions on the merits of the report these should be brought  
3 up this morning. In other words, if there are any contentions  
4 that the report is erroneous and is not factual, that's all  
5 the Lands Commission has under consideration.

6 MR. FLOURNOY: That is, if they have substantially  
7 complied with the provisions of the law.

8 MR. HORTIG: That is correct.

9 MR. FLOURNOY: Who is the party who wishes to speak?

10 MR. WEAVER: My name is Gerald Weaver, with the firm  
11 of Crossman and Weaver. I am representing Mr. Robert Marre.

12 GOV. FINCH: I'd appreciate it if you would at the  
13 outset briefly indicate what the nature of your objection to  
14 the report is and to the action by the Commission that the  
15 Harbor District has complied with the substantial improvement  
16 required by law.

17 MR. WEAVER: Well, Mr. Chairman, members of the  
18 Commission, we sent a telegram, I believe on September 8th,  
19 to Mr. Hortig as chairman of the State Lands Division, request-  
20 ing that the Commission continue its determination until its  
21 October meeting at least. I also followed this with a formal  
22 request, explaining the reasons why we asked that the Commis-  
23 sion continue its determination as to whether or not the Port  
24 San Luis Harbor District has substantially complied with the  
25 provisions of its grant. I do not know whether the Commis-  
26 sion is aware of the request or the reasons behind it.

1 MR. FLOURNOY: I know we know you have asked to  
 2 have the action postponed. I think the record may also show  
 3 that I have received a letter from Senator Grunsky in the  
 4 same vein, although it did not indicate a specific reason why  
 5 the decision should be postponed.

6 MR. WEAVER: The request is on behalf of Luigi  
 7 Marre Land and Cattle Company, owners of San Miguelito Park  
 8 Company, basically an offspring of the Luigi Marre Land and  
 9 Cattle Company. This property surrounds the San Luis Harbor  
 10 District. This is the property upon which P.G. and E. proposes  
 11 to build its reactive plant when it gains the necessary per-  
 12 mission, on the upland portion of it up the coast about seven  
 13 miles.

14 The reason for the request is that there is an  
 15 action by Luigi Marre Land and Cattle Company, San Miguelito  
 16 Park Company, against Port San Luis Harbor District to deter-  
 17 mine the validity of the Port's claim to certain tidelands.  
 18 We feel there is a real dispute as to who has title to these  
 19 lands because some of these lands are part of the original  
 20 Spanish land grant. These matters are ...

21 MR. FLOURNOY: That is not part of the report.

22 MR. WEAVER: As part of this litigation we began  
 23 making an investigation into the records of the Port and as  
 24 a result of this investigation, which we have not had a chance  
 25 to complete and will not have a chance to complete -- or,  
 26 rather, we would be able to complete it before the Commission's

1 next meeting, I am sure, which I understand is October 21st --  
2 but because of what we have found so far, we feel the report  
3 is erroneous; that it is not complete. Because the facts are  
4 not at the present time before the Commission, the Commission  
5 cannot make a real determination as to whether the terms of  
6 the grant have been complied with -- that is, to substantially  
7 improve the property -- and this is the reason we are asking  
8 for a continuance.

9 GOV. FINCH: Give me one instance where the report  
10 is incomplete or erroneous.

11 MR. WEAVER: Well, for example, in the provision in  
12 the report -- it is not numbered by page -- the pier which  
13 they speak of as 1,750 feet. This is a small example. They  
14 state that sixty percent of this pier has been refurbished and  
15 rehabilitated. By their own figures only forty percent of the  
16 pier has been refurbished and rehabilitated.

17 GOV. FINCH: What do you mean "by their own figures"?

18 MR. WEAVER: Well, they say 700 feet of the 1,750  
19 feet, and this isn't sixty percent unless they do not con-  
20 plate finishing it. This is only one example.

21 The other is they haven't even completed Phase I of  
22 their four- or five-phase plan, which we contend should have  
23 been completed years ago.

24 GOV. FINCH: But they don't say they have completed  
25 Phase I. My point is they have been asked to provide a report  
26 back to us. We have to forward this to the Legislature. It

1 has already been delayed; it should have been in earlier.  
2 The litigation with which you are concerned doesn't have any-  
3 thing to do with this report.

4 MR. WEAVER: That's right.

5 GOV. FINCH: I can't see any reason for delaying  
6 this matter and sending this report to the Legislature. The  
7 court isn't bound by any findings in this report.

8 MR. WEAVER: And we are not asking the board to  
9 delay this to assist us in the litigation in any manner what-  
10 soever. The question of who owns the tidelands in that area  
11 must be determined by the courts or compromise settlement; but  
12 I say, as a result of the investigation we made, we feel there  
13 is a real question as to whether or not the Port San Luis  
14 Harbor District has substantially complied with the terms of  
15 its grant, which is to substantially improve the property  
16 within the ten-year period, which ends November 21st.

17 We feel if this report is incorrect, we feel we can  
18 present sufficient evidence to the Commission that they have  
19 not complied with their grant. I don't like to make allega-  
20 tions now unless I have had an opportunity to fully and  
21 thoroughly complete the investigation necessary. Some of the  
22 records are not available. The attorney for the Port left  
23 the first of September and advised me at the time that he  
24 would not be back until the 24th of September, so I was effec-  
25 tively stopped from proceeding with my investigation. As a  
26 result of this I could not continue the investigation on

1 behalf of my client. I feel that by the October meeting there  
2 would be no reason why this investigation can't be completed.  
3 We don't feel the report as it stands is complete. I do not  
4 know what the Commission will base its determination on. I  
5 would assume it would be what they have done, with what they  
6 had to work with.

7 GOV. FINCH: That's exactly right.

8 MR. WEAVER: And they have had plenty to work with  
9 and haven't done very much with it.

10 MR. FLOURNOY: Mr. Hortig, do you have a comment  
11 on that?

12 MR. HORTIG: I would think, Mr. Chairman, that it  
13 would be appropriate to have Mr. Grundell, attorney for the  
14 Port District, respond -- since the problem is really between  
15 Mr. Grundell and Mr. Weaver's client.

16 MR. GRUNDELL: Mr. Chairman and members of the  
17 Commission, my name is Herbert Grundell. I am attorney for  
18 the Port San Luis Harbor District. At one time I was general  
19 manager of the Pacific Coast Railway Company and I had a lot  
20 to do with this grant.

21 I think that the matter before this board, as has  
22 been stated, is that you have one point here to determine --  
23 whether or not Port San Luis Harbor District has substantially  
24 completed improvements or engaged in improvements that are now  
25 in progress at Port San Luis. We think very strongly that we  
26 have.

1           Let's talk about specifics. After the formation of  
2 the harbor department and the effective date of the two legis-  
3 lative grants, the Port San Luis Harbor District had absolutely  
4 no property of any kind other than the tide and submerged lands  
5 in San Luis Bay and San Luis Creek. The uplands were owned  
6 and possessed by property owners including necessary ways to  
7 the tidelands -- Union Oil Company franchise and a lease of  
8 the San Luis Transportation Company from the State Lands Com-  
9 mission.

10           Nevertheless, the District proceeded to cause a  
11 survey to be made of the trust lands. In fact, there were two  
12 surveys made. One of them cost the Harbor District \$9,000;  
13 the other survey, \$5,475. There was an initial master plan  
14 made at that time. The Corps of Army Engineers issued their  
15 report for navigation in 1961.

16           In order to get access to the Port, an action in  
17 eminent domain was commenced by the Harbor District to secure  
18 the necessary uplands to Port San Luis. This resulted in a  
19 verdict in favor of the Harbor District but the amount of  
20 money was in excess of the amount of money that the District  
21 could pay at that time and necessarily the matter was aban-  
22 doned. The District paid in excess of \$160,000 in costs of  
23 suit.

24           There were discouragements after discouragements,  
25 but finally negotiations were successful with Port San Luis  
26 Transportation Company and the District acquired twenty-two

1 acres of the necessary uplands, plus the Port San Luis Wharf--  
2 which, gentlemen, was in a very sad state of disrepair and was  
3 dangerous to people using it. The District paid \$500,000.  
4 We didn't have the money; we borrowed the \$500,000 from the  
5 State of California, repayable on a long-term basis.

6 Now, in addition to that, after we had bought the  
7 land and paid the \$500,000, we borrowed \$200,000 from the man  
8 from whom we purchased the land and that was to be used for  
9 rehabilitation, and was used for rehabilitation. This  
10 \$200,000 was repayable over a five-year period.

11 I think we ought to talk specifically about some  
12 things that the Harbor District has done: We have repaired  
13 and reinforced a former railroad bridge at a cost of \$20,000.  
14 We have filled four and a third acres of tidelands, on which  
15 are presently public parking for a hundred cars, and access  
16 to a boat-launching and fuel dock facility and to the pier.  
17 This cost the District \$262,000. We have rebuilt the Port  
18 San Luis wharf. Counsel said forty percent, fifty percent.  
19 The figure in the report, I believe, is sixty percent; and the  
20 basis of that was the safety to the public. There are fish  
21 markets on the wharf, wholesale fish markets. The fishing  
22 fleet are now making use of that area and the engineers tell  
23 us when we are totally through with the wharf that the value  
24 will be in excess of \$400,000.

25 The right-of-way for construction of a public road  
26 from Avila to Port San Luis was granted by the Harbor District

1 to the County of San Luis Obispo. The County of San Luis  
2 Obispo, along this same line, constructed a new bridge over  
3 San Luis Creek, estimated cost \$250,000.

4 There are future improvements that are contemplated.  
5 California Polytechnic College and ~~Coasta~~ Junior College have  
6 made application to us for a marine biology laboratory there  
7 and Wild Life is contemplating an investment of \$40,000 for  
8 fishing platforms.

9 District ownership of land which was formerly pri-  
10 vate land nobody could get on -- the public has access to 200  
11 feet now. A new breakwater is contemplated by the Corps of  
12 Engineers and we think that capital outlay will be put up by  
13 private persons for capital concessions. A launching and  
14 fuel station is already in. The concessionaire has invested  
15 \$50,000.

16 We have rendered services to the public, and par-  
17 ticularly the marine public, that have not been available  
18 before. We now have a harbor master. Moorings have been  
19 assigned at proper locations. We have arranged for aid and  
20 comfort in providing for emergencies; storm warning service;  
21 pumps are available for boats in a sinking condition. We have  
22 a harbor-to-vessel service, and we have a rescue and fire boat  
23 which is now on call.

24 GOV. FINCH: Mr. Chairman, I move we approve the  
25 contents of the report, as recommended by the staff.

26 MR. SMITH: I second.

1 MR. FLOURNOY: Without objection -- all those in  
2 favor of approving the report say "aye."

3 (Unanimous "aye.")

4 MR. FLOURNOY: Opposed? (No response) The report  
5 is approved.

6 We will move to item 8(a) on the agenda, the only  
7 remaining item before us.

8 MR. HORTIG: Mr. Chairman, I believe possibly the  
9 best summary could be provided of this matter by a reading of  
10 the agenda item which is before the Commission with respect to  
11 the application for approval of exchange of land in Upper New-  
12 port Bay, Orange County, between the Irvine Company and the  
13 County of Orange.

14 In 1957 the California Legislature enacted Chapter  
15 2044, providing for an exchange of land between the County of  
16 Orange and private owners in Upper Newport Bay for the purpose  
17 of developing the bay to serve a statewide interest. It  
18 provides in part as follows:

19 "Sec. 3 That any and all of said portions of  
20 said lands hereinbefore referred to, which  
21 have been or which shall hereafter be improved,  
22 filled, and reclaimed, as hereinbefore provided,  
23 if and when so improved, filled, and reclaimed,  
24 may be irrevocably alienated and conveyed free  
25 of the public uses and trusts in said acts,  
26 by the said County of Orange, with the approval  
and concurrence of the State Lands Commission,  
to the owner or respective owners of the up-  
lands lying contiguous thereto in exchange for  
lands of such owner or owners necessary or  
desirable for the improvement, development  
and conduct of said harbor upon a finding by  
the State Lands Commission that the lands

1 "located in the area commonly known as  
2 Upper Newport Bay which are to be exchanged  
3 are no longer useful for navigation, com-  
4 merce, and fishing, and that the lands to  
5 be received in exchange are at least of  
6 equal value thereto. The lands received  
7 by the county in exchange shall be used by  
8 the county only for purposes of statewide  
9 interest. Upon any conveyance as herein  
10 provided all right, title, and interest of  
11 the State and said County of Orange in the  
12 land exchanged shall vest in the grantee or  
13 grantees thereof."

14 Pursuant to the said statute, the County of Orange  
15 developed a plan of exchange and development that was con-  
16 sidered by the State Lands Commission at its meeting on  
17 August 25, 1966, and again at its meeting on December 14, 1966.  
18 Final approval was withheld pending studies of alternative  
19 plans and the receipt of further legal opinions.

20 The County of Orange has requested that the proposal  
21 for exchange approval be considered by the Commission.

22 Both the Legislative Counsel and the State Attorney  
23 General's Office have determined that the Commission may  
24 authorize the exchange by finding that (1) the lands in the  
25 bay that are to be filled and conveyed to The Irvine Company  
26 are no longer useful for navigation, commerce, and fishing,  
and (2) the lands to be received in exchange by Orange County  
are at least of equal value to the lands transferred by the  
County. Both counsel concluded that an express finding by  
the Commission that the exchange is in the statewide interest  
is not required in order to authorize the exchange. However,  
the statute does require that the lands received by Orange

1 County ultimately be used for purposes of statewide interest.

2 The Commission employed the planning firm of  
3 Livingston and Blaney as its consultants, and received their  
4 report on December 14, 1966. This report suggested that  
5 alternative methods of development of Upper Newport Bay be  
6 explored, which has been done. The further investigations  
7 indicated that large public acquisitional and developmental  
8 costs would be required by alternative plans, and that there  
9 is insufficient money available from any sources to make such  
10 alternative plans of development practical in the near future.

11 Subsequent to consideration of the matter by the  
12 State Lands Commission on August 25, 1966, the Office of the  
13 Attorney General advised that the controlling law to be con-  
14 sidered by the Commission in making its determination is as  
15 follows:

16 1. Chapter 2044, Statutes of 1957, is not unconsti-  
17 tutional on its face, and a legal exchange may be accomplish-  
18 ed pursuant thereto.

19 2. Chapter 2044, Statutes of 1957, vests in the  
20 Commission discretionary authority to examine the proposed  
21 transaction as a whole to determine whether the proposed con-  
22 veyance of granted lands free of the public trust is in the  
23 best interests of the State.

24 3. The Commission should make the following deter-  
25 minations:

26 (a) Whether it should give or withhold its

1 approval of and concurrence in the proposed  
2 conveyance;

3 (b) Whether the lands to be conveyed are no  
4 longer useful for navigation, commerce, and  
5 fishing; and

6 (c) Whether the lands to be received in the  
7 exchange are of at least equal value to those  
8 conveyed.

9 In connection with the determination under 3(b)  
10 just read, the Office of the Attorney General advised that the  
11 legislative finding in the statute does not relieve the Commis-  
12 sion of the responsibility for making an independent examina-  
13 tion of pertinent facts and the application of the established  
14 criteria, and that the Commission's finding should be based  
15 upon physical conditions existing on the date of actual con-  
16 veyance.

17 Data developed indicates that the project is large  
18 enough to be of statewide interest, and that the following  
19 advantages would accrue from the development of the proposed  
20 project:

21 1. The area under public jurisdiction is increased  
22 from about 400 to 745 acres, an increase of 345 acres or over  
23 eighty-six percent.

24 2. The area available for public park and beach  
25 areas is increased from 70 to 261 acres, an increase of 191  
26 acres or two hundred seventy-three percent.

1           3. The waterfront public access, including that in  
2 front of the park areas, is increased from about 6,090 to  
3 17,860 lineal feet, an increase of over one hundred ninety-  
4 three percent.

5           (These conditions are also indicated in the bar  
6 graph to the Commission's left: Upper Newport Bay Exchange  
7 Advantages to the County. The bar to the right, which is the  
8 fourth element, represents the estimate of the Orange County  
9 records' specialist on the potential for increase of recrea-  
10 tional user days in the greater Newport Harbor area if this  
11 exchange is approved.)

12           4. The development of the area in the interest of  
13 the people of the State of California would be made feasible by  
14 the approval of the exchange.

15           5. Approval of the exchange would make it feasible to  
16 have early development of aquatic facilities currently needed  
17 by the University of California at Irvine and other educational  
18 institutions, including a five-acre waterfront site and a  
19 2000-meter rowing course, or similar aquatic facilities.

20           6. Access is provided by several major county and  
21 city arterial roads, which connect to two existing and two  
22 future freeways within one mile of the public areas.

23           7. Approval of the exchange would make feasible  
24 development that would provide for an estimated increase of  
25 from 8 to 17.2 million user-days for greater Newport Harbor.  
26 This is reflected in the fourth bar to the right of the chart.

1           8. The parties are contractually bound by the  
 2 dredging agreement to complete the preliminary dredging within  
 3 two years and to complete dredging of the navigable channels  
 4 within five years, thus assuring the public of the use of the  
 5 waterways at a much earlier date than any alternative plan  
 6 studied.

7           An independent appraisal report shows the value of  
 8 the land to be received by the County is greater than that to  
 9 be transferred to The Irvine Company, as follows:

10	Total value of parcels to be	
11	received by Orange County .....	\$19,466,000
12	Total value of parcels to be	
13	received by The Irvine Company .....	\$11,453,500
14	with an indicated dollar advantage to County .....	\$ 8,012,500

15           A staff appraisal shows the land received by the  
 16 County to be at least of equal value to the land to be  
 17 transferred to The Irvine Company, thereby meeting the  
 18 statutory criteria.

19           The Resources Agency reported the desirability of  
 20 providing for preservation and improvement of the marine  
 21 ecology in any development program for the subject area.  
 22 The County of Orange has agreed to cooperate in the implemen-  
 23 tation of such a marine development program, subject to the  
 24 approval of the Resources Agency.

25           A supplementary agreement has been entered into be-  
 26 tween The Irvine Company and Orange County specifying the  
 27 leases that may be administered by The Irvine Company. The

1 entire value of the land covered by the retained leases may be  
2 excluded from the appraised value of the lands to be received  
3 by the County without substantially affecting the preponderance  
4 of value in favor of the County, and without affecting compli-  
5 ance with the statutory requirement of at least equal value.

6 Therefore, it is recommended that the Commission,  
7 in accordance with Chapter 2044, Statutes of 1957:

8 1. Give its approval of, and concurrence in, the  
9 proposed conveyance to The Irvine Company by the County of  
10 Orange of land in Upper Newport Bay, in exchange for the lands  
11 to be received by the County of Orange.

12 2. Find that the lands that are to be filled and  
13 conveyed to The Irvine Company by the County of Orange, pursu-  
14 ant to the exchange and in accordance with the application  
15 filed with the State Lands Commission, at the time of said  
16 conveyance, will be no longer useful for navigation, commerce,  
17 and fishing.

18 3. Find that the lands to be received by Orange  
19 County in the exchange with The Irvine Company are at least  
20 of equal value to the lands to be transferred to The Irvine  
21 Company.

22 4. Authorize the notification of the County of  
23 Orange of the above approval and findings.

24 Mr. Chairman, up to this morning, for the record,  
25 the State Lands Commission had received letters on the proposed  
26 exchange transaction under consideration as follows:



1 September 19 -- The Honorable William D. Martin,  
2 Mayor, City of Laguna Beach

3 September 20 -- Mr. Robert Guggenheim, Newport Beach

4 September 20 -- Honorable Paul C. Gruber, Mayor,  
5 City of Newport Beach

6 September 21 -- Orange Coast Civic Association, Inc.,  
7 Newport Beach

8 September 22 -- Mr. R. P. Hughes, President, Pacific  
9 Hawaiian Products Company.

10 Now, Mr. Chairman, if you will bear with me, I have  
11 had handed to me by people in attendance this morning the fol-  
12 lowing sheaf of papers, which should be entered into the  
13 record:

14 Mr. Craig Harlan, Vice President of Associated  
15 Students, University of California, Irvine,  
16 wishes to be heard on Upper Newport Bay.

17 Mr. Paul W. Colburn of Carmel wishes to speak.

18 Mr. Conrad Epley, Field Representative to  
19 Congressman James B. Utt, requests to be  
20 heard.

21 Barbara Horton, Conservation Chairman, Pasadena  
22 Audubon, wishes to be heard on Upper Newport Bay.

23 Another letter from Mrs. Corinna M. Babb, who has  
24 already been noted as officially requesting an  
25 opportunity to be heard.

26 A series of petitions proposed to be read by  
Mr. Hufbauer.

Mr. John Macnab, President, Newport Harbor  
Chamber of Commerce, wishes to be heard.

Mayor Paul Gruber, City of Newport Beach, who  
has already transmitted a letter to the Com-  
mission, wishes to be heard.

Mr. Richard H. Ball, Conservation Chairman,  
Angeles Chapter Sierra Club, wishes to be  
heard.

1 Mrs. Esther P. Johnson, Tustin; and Miss Fern  
2 Zimmerman, in their individual capacities.

3 Mr. Selim Franklin, President, Orange County  
4 Coast Association.

5 Mr. Fenton Jones, Orange County Chamber of  
6 Commerce only wishes to state approval of  
7 the conveyance to The Irvine Company.

8 Mrs. Dora Hill, former Mayor, City of Newport  
9 Beach, is in attendance.

10 GOV. FINCH: I can't tell whether that is a secret  
11 ballot or public ballot you are taking there.

12 MR. HORTIG: The one I laid aside, Governor Finch,  
13 was with reference to another item on the Commission's agenda  
14 and not pertinent to Newport Beach. To continue:

15 Katherine Hall, member of the Sea and Sage  
16 Club, National Audubon Society, wishes  
17 to speak.

18 They are still coming in:

19 L. H. Cloyd, Regional Manager, Region 5,  
20 Department of Fish and Game, wishes to  
21 make a presentation on behalf of the  
22 Department of Fish and Game and the  
23 Resources Agency.

24 The others I am laying aside, Governor, indicate  
25 attendance, but do not indicate that there is any desire to  
26 make a presentation to the Commission; I am only reading the  
latter:

Dr. Lewis A. Follansbee, Professor of Marine  
Science, Orange Coast College.

Mr. Coulson Tough, Campus Architect, University  
of California, Irvine, wishes the University's  
letter to be read into the record, which I  
will do immediately following this.

1 Letter from Jack Garnaus, President, Bay Area  
2 Citizens Council of Orange County, who wish  
their name added to the agenda.

3 Letter from Paul Howard, Assistant Western  
4 Representative, National Audubon Society,  
5 indicating there must be in depth study of  
each proposal prior to any decisions or  
6 action.

6 Letter from Assemblyman the Honorable Edwin  
7 L. Z'berg, enclosing letter from Mr. Gus  
8 C. Patzer, indicating personal opposition  
to the transaction.

9 Letter from Mrs. Howard Allen, requesting in  
her statement that the Commission give  
10 favorable consideration to the adoption of  
11 park reserve area as advocated by members  
of the staff at U. C. Irvine.

12 Evelyn Gayman, Conservation Chairman, Desomount  
Club, wishes to speak opposing the exchange.

13 Mr. Rimmon C. Fay, individual commercial fisher-  
14 man, opposes the transfer; would like to  
make a statement.

15 Mr. John Tyler, Vice Chairman, Southern Cali-  
16 fornia Chapter, The Nature Conservancy,  
wishes to speak.

17 Jan Boer, research analyst, wishes to speak.

18 Monterey Park Rod and Gun Club supports wildlife  
19 conservation measures.

20 An expansion of a letter previously filed on  
behalf of Orange Coast Civic Association,  
21 in favor of the exchange.

22 Mr. Robert Vile, President, Ocean Fish Protective  
23 Association, wishes to speak.

24 We have attendance slips that indicate both support  
and opposition to the exchange, but no indication of a desire  
25 to speak on the subject, from many people here in attendance.

26 In accordance with the request that the University

1 of California at Irvine's letter be read into the record, it  
2 is dated September 22nd, addressed to the State Lands  
3 Commission:

4 "Re: Development of Upper Newport Bay  
5 Orange County

6 Gentlemen:

7 With respect to the development of  
8 the Upper Newport Bay, the University has  
9 no official position other than its interest in the property described in the agreement between The Irvine Company and the University of California. As part of the agreement, The Irvine Company shall deed a parcel of land of five acres located at the easterly end of Upper Newport Bay, together with a corridor one hundred feet in width connecting such parcel to the campus. The description of this parcel of land and its purposes are contained in the Second Phase Report prepared by William L. Pereira and Associates for the Irvine Campus and included as a part of this agreement.

10  
11  
12  
13  
14  
15  
16 Very truly yours,

17 Daniel G. Aldrich, Jr."

18 And in the letter of the Orange Coast Civic  
19 Association of September 21st, there is a concluding statement:

20 "I call these needs to your attention and  
21 request time at your hearing to urge further study before the commission on public lands makes a decision.

22 (signed)

23 Edward P. Allen, President"

24 Also, letters have been received by the  
25 Commissioners as follows:  
26

1 From Miriam H. Smith, Corresponding Secretary  
2 pro tem for the Nature Study Group of  
3 Laguna Beach, received by Commissioner  
4 Smith, suggesting implementation of the  
5 maximum of conservation.

6 Also received by Director of Finance Smith, a  
7 letter from Mrs. Robert J. Howison of  
8 Laguna Beach, recommending a proposed  
9 park reserve for Upper Newport Beach.

10 Another letter to Mr. Smith, expression of  
11 concern from Mrs. Patricia Stephenson  
12 of Fullerton, California, with respect  
13 to preservation of the natural areas.

14 Also received by Mr. Smith a letter from  
15 Dr. Gale A. Granger, expressing concern  
16 and a desire for a natural bay in  
17 Southern California; and

18 Letter from Southern California Marine Asso-  
19 ciation, Mr. E. P. Nichols, Executive  
20 Director; and, as indicated from pre-  
21 vious telephone calls, a representative  
22 of that association has also indicated  
23 a desire to speak in opposition to  
24 certain phases of the matter.

25 It might help, Mr. Chairman, if I stressed for the  
26 benefit of the people here concerned, as stated in the agenda  
item, that the Commission has a letter from the Chairman of  
the Board of Supervisors of Orange County, specifically out-  
lining the degree of agreement and willingness on the part of  
the County of Orange to work on all effective programs for the  
preservation of ecological values in any development of Upper  
Newport Bay if the land exchange is consummated, and that  
such programs are to be subject to the approval of the State  
Resources Agency:

Therefore, this is an element of concern as

1 expressed in the majority of the letters that the Commission  
2 has received, but that is not an element or condition for con-  
3 sideration for approval of the basic real estate transaction --  
4 the land exchange of granted tide and submerged lands from the  
5 County of Orange to The Irvine Company, and the return from  
6 The Irvine Company of privately owned land -- then to be  
7 studied for development in the statewide interest, as required  
8 by Chapter 2044 of the Statutes of 1957.

9 GOV. FINCH: Let me ask this: If the County comes  
10 back with detailed proposals as to how they will use their  
11 land, would we have the benefit then of the Resource Agency's  
12 approval as a condition precedent before we would then be  
13 asked to approve that development?

14 MR. HORTIG: Only if the County also submitted the  
15 total plan or plans as they might exist at that time to the  
16 State Lands Commission for consideration. There is no require-  
17 ment in the statute that this be done. However, there is the  
18 obligation of responsibility on the part of the State Lands  
19 Commission, together with the Office of the Attorney General,  
20 to evaluate any future plans by Orange County for such develop-  
21 ment, whether submitted for review to the Lands Commission or  
22 not, in order to determine that the full conditions of the  
23 original tideland trust, as well as the requirement for devel-  
24 opment in the statewide interest under Chapter 2044, is being  
25 met, in fact.

26 GOV. FINCH: Just a minute, Mr. Hortig. You went

1 completely around a circle on that one.

2 MR. HORTIG: I am trying to give you a specific  
3 answer, Governor. I think this question as to the proposal  
4 as to how Orange County contemplates carrying out this program  
5 and whether they intend to submit development plans for review  
6 by the State Lands Commission before they go forward, in addition  
7 to their working out their plans on the ecological aspect  
8 with the Resources Agency, could be directed by the Chairman  
9 as a question to the representatives of Orange County who are  
10 here.

11 MR. FLOURNOY: I think that what Mr. Hortig is trying  
12 to say -- Under the law there is no requirement, although  
13 there is a continuing requirement that the lands be developed  
14 in the statewide interest; and, of course, we could assert  
15 they were not if they were not. Although they are not re-  
16 quired to submit them, I presume we would have access to the  
17 plans.

18 GOV. FINCH: But specifically they are required to  
19 work with the Resources Agency with regard to the ecological?

20 MR. HORTIG: Not as a matter of statute, but simply  
21 as a matter of agreement. The Resources Agency raised the  
22 question and they have agreed to that.

23 GOV. FINCH: If we can agree on that, we can cut  
24 down a number of people to be heard from.

25 MR. SMITH: Mr. Chairman, before we begin -- On the  
26 last page, Mr. Hortig, on this particular issue, there were

1 four actions that should be taken and I'd like to suggest,  
2 unless there are other suggestions, that items 2 and 3 be  
3 considered as items 1 and 2, and item 1 be considered as 3.  
4 In other words, we first make the determination, if we do at  
5 all, that the lands will be no longer useful for navigation,  
6 commerce and fishing; and, number 2, that the lands that will  
7 be received by Orange County in the exchange are at least of  
8 equal value to the lands being provided to The Irvine Company;  
9 and then we make the determination as to whether or not we  
10 approve the conveyance. In other words, it seems to me we  
11 should make a determination on 2 and 3 before we make a deci-  
12 sion on item 1.

13 MR. FLOURNOY: We can, I think, preferably at least  
14 direct our attention as to whether or not there is a specific  
15 objection to 2 and 3, in the sense of the valuation of the land  
16 or the utilization of the land; then these findings would fol-  
17 low. If we don't approve them, we don't need to make those  
18 findings. We only need to make those findings if we approve  
19 it. I believe, along with your comment, that we could deter-  
20 mine whether or not there are people who wish to speak speci-  
21 fically to those questions and perhaps at this point in time  
22 we could just get an indication by a showing of hands if there  
23 are people who wish to speak specifically and directly to  
24 those two items on the agenda -- one, to contest that the lands  
25 to be exchanged are not at least of equal value; and, two,  
26 with regard to the value of the lands for commerce, navigation

1 fishing at the time of the conveyance, which would be under  
2 the agreement if such action would be taken. Let us get this  
3 matter cleared up if we can.

4 MR. KUYPER: Mr. Chairman, my name is Adrian Kuyper.  
5 I am County Counsel, County of Orange.

6 There has been a wealth of material submitted to the  
7 staff over past years, before and subsequent to the last hear-  
8 ing, and I won't burden the record with what would be largely  
9 repetition. We concur with the staff report and its recom-  
10 mendation, and we respectfully urge your approval.

11 As Mr. Hortig reported, we are in agreement that we  
12 will submit plans to the Resources Agency for its approval on  
13 this phase of development of Upper Newport Bay.

14 If there are any questions on details or rebuttal  
15 necessary, we would be happy to answer them.

16 MR. FLOURNOY: In that connection, is your agreement  
17 with the Department of Resources such that it is not statutory  
18 that they approve but this would be a factor in proceeding --  
19 as to whether or not the Resources Agency approved the plan?

20 MR. KUYPER: There is no specific contract. There  
21 was a letter that was introduced at the last hearing; and what  
22 we represent to the Commission, as we have to the staff -- and  
23 this is in the body of the report -- is that we will work with  
24 the Resources Agency and we are sure we can arrive at some  
25 mutually satisfactory development in the Upper Bay.

26 GOV. FINCH: Is that an agreement on the ecological

1 factors?

2 MR. KUYPER: I might say we doubt whether we can  
3 approve the diagram that we have seen in the last week, where  
4 we just hack off the top of the bay. We are going to dredge  
5 in a particular fashion outlined in the dredging agreement,  
6 but we can retain areas in the Upper Bay. It will not be the  
7 primary use of the Upper Bay. It will be one of the recrea-  
8 tional facilities. This retains that factor, but it will not  
9 be the predominant use of the bay, but will be incorporated as  
10 best we can.

11 Thank you, gentlemen.

12 MR. FLOURNOY: If there are no questions on that, I  
13 think we should proceed and I would suggest we proceed along  
14 the basis of those people who are in opposition to various  
15 features of this program. Let me say we have a rather lengthy  
16 list of people who wish to address themselves to this subject.  
17 We would hope, certainly, that a minimum of repetition would  
18 be engaged in by those who wish to speak to the Commission.  
19 If the point has already been made, it seems to me you can  
20 indicate your position briefly, and we would look favorably  
21 upon whatever curtailment of extensive testimony can be  
22 effected.

23 Let us, then, proceed.

24 MR. HORTIG: Mr. Chairman, may I interrupt? It is  
25 very essential for the record, and I apologize for not having  
26 noted previously, that we also have requests for statements to

1 be made by the Honorable Robert Badham, the Assemblyman in  
2 whose district Upper Newport Bay is located, as well as by  
3 Mr. Charles Baldwin on his behalf, and Assemblyman Cory on  
4 behalf or at least in association with the Joint Legislative  
5 Committee on Public Domain.

6 MR. FLOURNOY: Let us then proceed to try and dispose  
7 of any contentions with regards to 2 and 3 first. Then we  
8 will get on the subject of those who are opposed to it.

9 Let's start with the item with regard to the value  
10 of the land. Will those people who wish to address themselves  
11 to that specifically limit themselves specifically to this  
12 point. We would appreciate it.

13 PROFESSOR FOLLANSBEE: Gentlemen of the Commission,  
14 Lewis A. Follansbee, Professor of Marine Science, Orange Coast  
15 College, and I speak to, item one, the independent appraisal.

16 Now, I have seen various figures in the years.  
17 This figure has appreciated from one and one-half million up  
18 to something like eight million dollars. I am unaware of  
19 actual figures from the County Assessor's office. The County  
20 Assessor would be in a position, I believe, to give us figures  
21 which relate to this particular problem, and my particular  
22 question is: If these, indeed, are the figures -- then why  
23 are not presently these lands being assessed at those particu-  
24 lar values? I understand that the Assessor of Orange County  
25 is in the audience this morning and I would ask your permis-  
26 sion to require or request this answer from him.

1 MR. FLOURNOY: I don't think the question of what  
2 the lands are appraised for is relevant as to whether the  
3 lands to be exchanged are not at least equal in value.

4 PROF. FOLLANSBEE: I think this would establish  
5 whether this is equal.

6 MR. FLOURNOY: You are challenging the staff  
7 appraisal that these lands are at least equal?

8 PROF. FOLLANSBEE: I say I wish for clarification.  
9 I am not convinced they are.

10 MR. FLOURNOY: On what ground?

11 PROF. FOLLANSBEE: On the basis of the fact that I  
12 think assessed valuations are not as indicated on the basis  
13 of these figures.

14 MR. FLOURNOY: I am not going to introduce assessed  
15 valuation figures as against the values of our own staff be-  
16 cause that is not a matter pertinent to what they really may  
17 be worth, and not pertinent to our findings that they are of  
18 at least equal value, unless the other members of the Commis-  
19 sion feel differently. (Short sotto voce discussion between  
20 Commissioners.)

21 That is the feeling of the other members of the  
22 Commission. I don't believe the assessed value is relevant to  
23 the real value necessarily and I don't want to get into assess-  
24 ing practices here if I can help it.

25 PROF. FOLLANSBEE: I defer to your opinion. Would it  
26 be possible to ask the Assessor to give his opinion whether or

1 not these figures establish whether or not ....

2 MR. FLOURNOY: I think if the Assessor ~~is~~ here and  
3 if he wishes to make any comment with regard to the value of  
4 these specific lands or has them available -- and I don't know  
5 he does, since he did not indicate he wanted to testify --  
6 then certainly he has the right to do so. If he wishes not  
7 to comment, he has that right as well.

8 GOV. FINCH: Mr. Hinshaw, your public is calling.

9 MR. HINSHAW: For the record, my name is  
10 Andrew Hinshaw. I am the Assessor of Orange County.

11 I am called upon to answer this particular question  
12 many times, particularly during the times when there are  
13 some newspaper articles about the trade in the Upper Bay.

14 We, of course, must establish a valuation of the  
15 lands which are being proposed for assessment purposes and,  
16 of course, the Commission must be aware that we operate under  
17 the same type of constitutional and professional appraisal  
18 practices that are employed by your own appraiser and the  
19 private appraiser, Mr. Evans, who made the appraisal for the  
20 Commission, as I remember.

21 I received a copy of the appraisal made for the  
22 State Lands Commission and went over it in great detail, and  
23 there are a number of passages in the appraisal that would  
24 lead another appraiser to believe that maybe the conclusions  
25 are not supported by the facts. I could refer to the state-  
26 ment by the appraiser himself that he has not analyzed all of

1 the parcels in the proposed trade. On Page 42, the value  
2 estimates -- quoting from the appraisal by Mr. Evans -- "No  
3 attempts were made to analyze each of the parcels appraised  
4 by the subdivision residual method. It is believed the  
5 examples heretofore given adequately illustrate the question."

6       If I were asked for my opinion of value on the  
7 Irvine parcel as a part of the entire Irvine Upper Bay owner-  
8 ship -- that is, if the entire ownership were to be sold to  
9 one buyer -- the contributory value of each of the parcels  
10 would be substantially lower than the values given. However,  
11 this general principle would be applicable to the County  
12 values. That is as an appraiser and speaking only as an  
13 appraiser, because I have no official position on whether or  
14 not the trade as proposed is desirable or undesirable. I have  
15 no official position on that whatsoever, but I would say that  
16 the trade that is presently contemplated and before this  
17 Commission would indicate that if the trade is consummated  
18 there cannot be a net benefit to the County simply because  
19 the islands which will be dredged out largely then will have  
20 that value transferred to the perimeter land which will be  
21 held both by The Irvine Company and the County. Those islands  
22 which are the bulk of the great benefit supposedly accruing  
23 to the County will not accrue to the County; they will largely  
24 accrue to the larger perimeter of the owners of the other  
25 lands. The values which will be inherent in some of the  
26 physical properties they hold largely would be enhanced to a

1 great magnitude by the decision of not only this Lands Commis-  
2 sion but by the Corps of Engineers, who have to be involved in  
3 the development of the navigable portions of the property.

4 I would say as an appraiser that there can be no  
5 showing at this point in time that the County will receive a  
6 benefit. Indeed, I would say that the benefit would be the  
7 other way around. It would largely be to the owners of the  
8 perimeter lands, which would be partly the County and partly  
9 the Irvine Company.

10 GOV. FINCH: But you are talking about the future.  
11 Right now, are you saying the appraisal is eight million off?

12 MR. HINSHAW: I would say he is more than eight  
13 million off.

14 GOV. FINCH: As of the future or now?

15 MR. HINSHAW: As of right now. If I could use an  
16 example, at the present time there are apparently two owner-  
17 ships in that area -- The Irvine Company and the County hold-  
18 ing lands in trust; but there are some other governmental  
19 agencies which become involved: the Lands Commission, for  
20 example, the Corps of Engineers possibly. Let's just expand  
21 for a moment that type of interlocking interest and control.  
22 Say we had fifteen or twenty governmental agencies and two or  
23 three hundred private interests involved. You may have a  
24 situation that would be chaos and the valuation would be  
25 largely dependent at any point in time on the decisions to  
26 clean up and make clear the rights that are presently involved.

1 In the appraisal report of Mr. Evans, he assumes  
2 that there should be some bridges built to the islands and  
3 that is not borne out on the report before us. I would hazard  
4 a strong guess without a great deal of cooperation and permis-  
5 sion The Irvine Company could not develop these islands if  
6 this trade would be postponed or disapproved. I would say  
7 there is question of whether there is much of any value other  
8 than nominal to those islands. This is why we do not think  
9 that the market value that we should place on those properties  
10 is anywhere close to the Evans appraisal.

11 GOV. FINCH: Did you make these observations to  
12 your Board of Supervisors?

13 MR. HINSHAW: Yes. We have not particularly done  
14 so. I have spoken to one of the Supervisors when he called  
15 me on the telephone to suggest that perhaps we should keep  
16 the valuations low because there were some complications to  
17 the trade, and I pointed out that we didn't think the parcels  
18 in the Evans appraisal were market value anyway and he should  
19 not be concerned. I have not called it to their attention  
20 officially because it seems to me I shouldn't voluntarily  
21 inject myself into a controversy which is not my official  
22 business.

23 GOV. FINCH: They made a recommendation and appar-  
24 ently they did not have the benefit of your counsel; and now  
25 you have been asked here and I just wanted to know whether  
26 they had the benefit of your thinking before they gave their

1 approval.

2 MR. HINSHAW: No, they have not.

3 MR. SMITH: Mr. Hinshaw, have you made a study of  
4 this and do you have a report on your views?

5 MR. HINSHAW: Not a specific parcel by parcel  
6 review.

7 MR. SMITH: Do you have it in writing?

8 MR. HINSHAW: No, sir. I could furnish you some-  
9 thing in writing.

10 MR. SMITH: Do you have it in writing now? We are  
11 coming to grips with this issue today.

12 MR. HINSHAW: I didn't plan to testify here today.  
13 I was here as an interested observer.

14 MR. FLOURNOY: He just happened to have a copy of  
15 the appraisal report.

16 MR. HINSHAW: Well, I have a lot of papers.

17 MR. SMITH: As the County Assessor, I would think  
18 you would have something in writing.

19 MR. HINSHAW: Not with me today; no, sir.

20 MR. FLOURNOY: Thank you very much, Mr. Hinshaw.

21 Is there any further testimony on this  
22 particular point?

23 MR. CROW: My name is Warren Crow and I have sent  
24 letters to this Commission on the specific subject on why I  
25 objected to the trade; and to get to the specifics of what  
26 Mr. Hinshaw has been talking about in generalities, the upper

1 island in the trade has been appraised by Mr. Evans at  
2 \$100,000. "Current fair market value" are the words used in  
3 his report. At the present for the year 1966 those islands  
4 are assessed at fifteen hundred per acre, which is 1.5 percent.

5 If it is true that the law requires the Assessor to  
6 appraise at 20 to 25 percent of market value to the year 1971  
7 and then in 1971 it becomes necessary to appraise at 25 percent,  
8 and in the interim he must state publicly what he assessing  
9 these islands to, he has stated it is 25 percent. If it is  
10 25 percent, it is \$6,000 per acre.

11 In the year before, those islands were appraised and  
12 assessed at \$100 per acre, which would indicate a market value  
13 of \$400 per acre; in the year before that, they were appraised  
14 at \$15 an acre, which would be \$60 market value.

15 I, as a citizen of Orange County, object with all  
16 the ability I have to accepting this trade on the basis of  
17 \$100,000 per acre when this same company has helped contribute  
18 to our total tax load on the basis of \$60 an acre, \$400 an  
19 acre, and \$6,000 an acre. If this does not indicate that  
20 there is some tremendous difference of opinion in the market  
21 value which will most certainly affect where the balance lay,  
22 whether to the advantage of the County or not, then I don't  
23 know what other competent evidence could be presented that  
24 this valuation certainly needs further inquiry. It is just  
25 too far apart. There is no possible way to rationalize the  
26 term "value" and come up from \$60 to \$6,000 an acre -- which,

1 by the way, was approved by the County Board of Equalization,  
2 and yet a few months later they come along and tell us we  
3 would be doing well to acquire these lands at \$100,000 per  
4 acre. There is just absolutely no sense, rhyme or reason to  
5 combine those two statements. It cannot be done.

6 MR. FLOURNOY: Any further comment on this particu-  
7 lar point?

8 MR. ROBINSON: Mr. Flournoy, I wrote a letter but  
9 I didn't know the sequence you were going to set. So I have  
10 one page I would like to read ...

11 MR. FLOURNOY: I would rather we stick with the  
12 value.

13 MR. ROBINSON: Frank Robinson, County Tidelands  
14 Association. I am an engineer, so I became considerably  
15 interested in this about four or five years ago; and there  
16 is a number of discrepancies in this general approach that  
17 bother me.

18 Now, I am following all this with authority. I  
19 would like to just make one point that makes me question the  
20 whole valuation on this trade. I believe you gentlemen have  
21 seen this map put out by the Harbor Department; you are all  
22 quite familiar with it. The question that comes to my mind  
23 in the evaluation of the \$8 million advantage to the County --  
24 and using the criteria at the time of the exchange, which is  
25 at close of escrow, conceivably say two years from now, assum-  
26 ing everything went smoothly -- at close of escrow we will

1 have generated a new channel. The area up here, as you are  
2 aware, is the County portion and with the exception of Big  
3 Canyon the rest of the channel will be given to The Irvine  
4 Company.

5 Now, recently Linda Island has been developed and,  
6 prior to this, Dover Shores has been developed. In the June  
7 issue of The House and Home there is an article describing the  
8 development of Dover Shores. At this time it gave the cost  
9 and sales price of Dover Shores and this has been confirmed  
10 by The Irvine Company in their brochure on Linda Island.  
11 These lots came out at an average of approximately \$2,200 a  
12 front foot. Now, applying that criteria to the frontage ac-  
13 quired by The Irvine Company, it is roughly 35,000 feet on the  
14 bay. Now, Dover Shores fingers three-to-one. If you assume a  
15 two-to-one frontage fingering, you have 35,000 times two, which  
16 is 70,000 lineal feet; and 70,000 times \$2,000 is \$140 million  
17 value. I wouldn't have been upset by the figure so much until  
18 I read the article and the cost to front the Dover Shores  
19 development is \$100 a foot, which is rather a nominal figure.

20 So what I am puzzled about, if it is a fair deal --  
21 someone cuts the pie and the other guy takes the choice of the  
22 pie; and if there is any truth in the \$8 million advantage  
23 to the County, I would gladly give The Irvine Company the  
24 County share and take the Irvine 70,000 lineal feet. I think  
25 this would be a pretty good deal. Since by law it has to come  
26 out to the County's advantage, I can't reconcile these figures.

1 We talk of \$9 million, \$20 million, and all of a  
2 sudden here is something worth \$150 million. That is too  
3 different. There should not be that great a proportion of  
4 difference. If I was off two or three times, I would question  
5 my ability to make this statement but I am using the present  
6 market value and I suspect in two years, ~~if anything~~, it may  
7 go up slightly.

8 MR. FLOURNOY: Those figures are for front footage  
9 for Dover Island?

10 MR. ROBINSON: Just the front footage, the bare  
11 empty lots as the Irvine Company prepares to lease them. Take  
12 a specific case: Dover Shores is shown in this area. It has  
13 approximately one-third mile on the channel. By fingering  
14 this has been increased three-to-one. Using the same price  
15 structure -- I believe it is fairly close or reasonably close  
16 to Linda Island -- there is actually one mile gained in here;  
17 and on the present market value, as is determined by the bro-  
18 chures on Linda Island, this is somewhere in the vicinity of  
19 \$10 million.

20 Now, right next to it is another parcel of approxi-  
21 mately equal size. What it says is that this parcel similarly  
22 developed will be worth another \$10 million, and that is using  
23 a three-to-one ratio. I say let's take it at two-to-ones. In  
24 this area it is quite deep and can be fingered quite success-  
25 fully. In the gross picture at the time of the escrow closure  
26 this represents what the thing is worth, and I am talking in

1 terms of a couple years, not far in the future.

2           There is one other subtlety here which I missed.  
3 You will notice the bulkhead line which is the basis of the  
4 exchange, a very fine line, like in insurance policies. There  
5 is a pierhead line. This pierhead line extends practically  
6 the entire length. So just for fun, you multiply the enclo-  
7 sure between the pierhead line and bulkhead line. It comes  
8 out to be 35 acres, which will be totally, exclusively, one  
9 hundred percent used by the adjacent landowners. You couldn't  
10 navigate through a pier; it causes all kinds of trouble. So  
11 this is almost as if we were giving them this additional 35  
12 acres. In the trade, the three islands are valued at roughly  
13 \$100,000 an acre. That could conceivably, by that figure,  
14 amount to \$3½ million in the appraisal.

15           I bring this point out to show that there is a lot  
16 of unanswered questions in our minds as to what is the true  
17 value. I would make one suggestion -- that the only true  
18 value could be arrived at is throwing the whole ball of wax  
19 into an escrow situation and put it up for bid; otherwise we  
20 don't know what the true market value is.

21           GOV. FINCH: We don't have the power to do this.

22           MR. ROBINSON: I know this. I mention the best way  
23 to find market value is in an open market.

24           MR. HORTIG: May I refer to the Commission's atten-  
25 tion agenda page 89. It is stated specifically that the  
26 reported advantage to the County is based on an independent

1 report, but that a staff appraisal by the State Lands Division  
2 shows the lands to be received by the County to be at least  
3 of equal value to the lands transferred to The Irvine Company,  
4 because some of the discussions in the evaluation that we have  
5 heard here today were evaluated and included in the State  
6 Lands Division report and hence we did not indicate a specific  
7 advantage to the County, but the fact that the statutory re-  
8 quirement that an equal value could be justified.

9 MR. ROBINSON: May I comment on that? Since the  
10 inception of this plan as presented in 1963, it started out  
11 as being that; but with substantially not much change in the  
12 plan, the advantage seemed to rise 1.2, 1.6 million, 3.2 mil-  
13 lion. All this seemed to go along with all the hell we were  
14 raising. Now it is up to \$8 million. What is the value?

15 GOV. FINCH: I am sure if we procrastinate another  
16 48 years it will be a multiple of that.

17 MR. ROBINSON: May I comment on that?

18 Mr. Flournoy, we wrote a letter and this  
19 answered the questions you raised. We had written you pre-  
20 viously concerning our belief that the 1957 enabling legisla-  
21 tion to permit the exchange of the tidelands in Upper Newport  
22 Bay is unconstitutional. We have been advised by counsel that  
23 there is indeed serious doubt as to the validity of the  
24 enabling legislation. Until and unless the report of the  
25 Attorney General is released and made available for our study,  
26 our counsel says he has no reason to believe that this trade

1 would be held legal in the courts. You have stated in corre-  
2 spondence to us that ten years which have elapsed since the  
3 enabling act is sufficient to pass. May we say that although  
4 ten years have passed, very little visibility has been given  
5 to this trade until recently. The first Irvine appraisal was  
6 not made until 1963, six years after the enabling act, and the  
7 agreement between the County of Orange was not signed until  
8 1965. Opinions were not sought from the taxpayers as to what  
9 they might want for the Upper Bay. They were offered this  
10 plan and none other; and we were kept uninformed from 1957 to  
11 1963 that a trade of such consequence, with miles of public  
12 lands, was being contemplated.

13         Meanwhile, since 1957 we have had an enormous growth  
14 of population in Orange County -- only a hint of what is to  
15 come. We have seen the construction of a new campus at the  
16 University of California. We have realized we have a new  
17 citizen in our midst. He is alert; he raises questions; he  
18 goes to meetings. He safeguards the public interests as well  
19 as the interests of large landowners. The Assessor, Andrew  
20 Hinshaw, is evidence of the informed citizen.

21         We are convinced that this citizen would not con-  
22 sider the voiding of a public trust in order to deed public  
23 lands to a large corporation. Presently, this corporation  
24 owns all the waterfront property on the ocean between Cameo  
25 Shores and Laguna Beach, thereby controlling access to these  
26 ocean shores. Approval of this tidelands exchange will add

1 several miles to the expanded waterfront control by this  
2 corporation and will remove this newly created waterfront from  
3 the public use forever. The transfer of public tidelands into  
4 private domain seems to us inappropriate when all reports of  
5 projected population growth indicate that there will be an  
6 enormous shortage of recreational area for the public in a  
7 very relatively short time.

8 Our nonpartisan committee humbly requests that your  
9 Commission deny this proposed trade. We urge that the recom-  
10 mendation be made that the Orange County Supervisors allocate  
11 funds for the private study of Upper Newport Bay with the  
12 intent of preserving the tidelands trust. The Harbor Depart-  
13 ment will be required to spend approximately \$2 million follow-  
14 ing approval of this proposed trade to dredge and fill the  
15 tidelands in accordance with The Irvine Company-Orange County  
16 agreement. The Harbor Department undoubtedly has set aside  
17 a large portion of this \$2 million. They were able to accumu-  
18 late almost \$5 million for the Dana Harbor. Surely, some of  
19 this \$2 million may be set aside.

20 GOV. FINCH: Let me ask a couple questions. You  
21 criticized the Lands Commission for inaction from 1957 to '63.

22 MR. ROBINSON: I did not criticize the Lands Commis-  
23 sion -- the County.

24 GOV. FINCH: Secondly, you raise the legality of the  
25 act of 1957. Isn't it true that there is no way to get into  
26 the courts to test that unless we take action?

1 MR. ROBINSON: Correct; I hope you will.

2 GOV. FINCH: Thirdly, what kind of assurance -- Do  
3 you have any reasonable assurance that the County, because we  
4 can't force them to do it, would conduct the study you ask for?

5 MR. ROBINSON: None whatsoever, except the veto power  
6 you have over agencies that perhaps will not fulfill the  
7 requirements of the trust. You have a tremendous veto power  
8 until somebody does something, to give us time in the County  
9 as individuals and citizens to generate the necessary help  
10 to do this thing.

11 GOV. FINCH: What has been happening during this  
12 last year when you had this same situation?

13 MR. ROBINSON: For three years - - Well, one of our  
14 problems, specifically, is that we do not have the fund that  
15 the Harbor Department has spent over the twenty-odd years  
16 developing the Irvine plan. This is talked of as "The Irvine  
17 Plan" -- not "The County Plan." What we have is an example of  
18 public funds being used to develop plans for a private company.  
19 I only wish we had that. It is going to be a difficult prob-  
20 lem; I recognize that.

21 GOV. FINCH: So the only alternative you have really  
22 given us is to say that you would like the County Supervisors  
23 to come up with some money for a new plan.

24 MR. ROBINSON: Yes.

25 GOV. FINCH: And we have, on the other hand, the  
26 Supervisors telling us they would like us to approve the

1 transaction. So the hope you nurse in your breast is not  
2 exactly viable.

3 MR. ROBINSON: Yes, but the power you have is...

4 GOV. FINCH: You have been sitting on this thing for  
5 years and years and years and nothing has happened.

6 MR. ROBINSON: Four years.

7 GOV. FINCH: Four years. I don't see any reasonable  
8 suggestion that anything can be changed.

9 MR. ROBINSON: It may not.

10 GOV. FINCH: This is where we have to make a judgment.

11 MR. ROBINSON: If nothing is changed, the County  
12 will hardly lose any further ground.

13 MR. FLOURNOY: One point: You say we have a veto  
14 power to see that nothing happens. Since we have no capacity  
15 to prevent The Irvine Company from using the lands they have...

16 MR. ROBINSON: That would be excellent.

17 MR. FLOURNOY: We do not have that.

18 MR. ROBINSON: But you do have. From Mr. Hortig's  
19 statement you have the broad authorization to check these sug-  
20 gestions, to determine if they are in the public interest.

21 MR. FLOURNOY: Not with regard to land that The  
22 Irvine Company now owns.

23 MR. ROBINSON: Of course not.

24 MR. FLOURNOY: So there is nothing we can do to  
25 prevent The Irvine Company from using the land they now have.

26 MR. ROBINSON: That is correct.

1 MR. FLOURNOY: We really don't have control over the  
2 ultimate disposition of this just by saying "no."

3 MR. ROBINSON: No, they can go ahead; and I think it  
4 might be a good idea to let them do this.

5 GOV. FINCH: But then you concede the public usage  
6 would be less than under this plan?

7 MR. ROBINSON: Hardly, because we have the right to  
8 use the channels as they now exist. We own frontage on this  
9 new channel.

10 GOV. FINCH: Do you have any reason to think that  
11 the County has the capability of doing that?

12 MR. ROBINSON: Well, they have the capability of  
13 generating a \$10 million harbors and parks program which they  
14 are committed to for the next ten years. Mr. Sampson has  
15 applied for State, local and Federal funds. I assume he knows  
16 what he is doing. He is a competent man.

17 MR. SMITH: I'd like to ask Mr. Hortig, since there  
18 seems to be a difference in the value of the land between the  
19 appraisal and what Mr. Hinshaw says and Mr. Robinson says --  
20 Mr. Hortig, has the organization who made this appraisal made  
21 other appraisals in the area insofar as the State Lands Divi-  
22 sion is concerned, and in other appraisals you have made down  
23 in this area what has been the reliability of these appraisals?

24 MR. HORTIG: My recollection is as to the complete  
25 reliability of the work of Mr. Evans. This appraisal was con-  
26 tracted for as an independent appraisal by the County of

1 Orange and I believe they have used Mr. Evans in this connec-  
2 tion previously; and probably the appraisal and reliability  
3 thereof should be presented to the representatives of the  
4 County of Orange.

5 MISS BOER: My name is Janet Boer, 912 North Lowell,  
6 Santa Ana.

7 At the instigation of the Mayor of Santa Ana in  
8 early 1966, I investigated the entire harbor district and I  
9 intend to speak later to many other points; but right now I  
10 want to call your attention to one very vital fact. The  
11 Harbor and Navigation Code, Division 8, Section 2, under which  
12 Orange County operates, is not a harbor district. It is a  
13 harbor improvement district. It is very unique in California  
14 because we are the only harbor improvement district in Cali-  
15 fornia. This is a special privilege act put into the law to  
16 benefit no one but Orange County.

17 Whenever we want this law changed -- you know,  
18 Mr. Finch, being an attorney, how it is done -- the Assembly-  
19 man or Senator carries the bill; and in this case it has been  
20 amended since '49 to make it possible for other harbors besides  
21 the one for which it was passed originally and in 1953 it was  
22 passed for other harbors.

23 In 1949 when this law was passed by the Legislature,  
24 the Norman Chandler Corporation, which owns the Times ....

25 MR. FLOURNOY: Is this on the matter of the valuation  
26 of the exchange?

1 MISS BOER: Yes, just a moment. They gave \$15,000  
2 to the County of Orange, and I quote (it is in the County  
3 Auditor's office): "to begin the acquisition of Dana Point."

4 The same thing happened in 1957. The Senator who  
5 carried the bill, which was written by the County Counsel,  
6 has openly stated in the newspaper it was supported by the  
7 Board of Supervisors of Orange County -- the bill that made  
8 possible the filling of Upper Newport Bay. That bill was  
9 carried to the Legislature in Sacramento by a Senator who is  
10 now a director of The Irvine Company.

11 MR. FLOURNOY: What is the relation of that to the  
12 value of the lands and whether or not they are of equal value?  
13 This is the point at the moment and I would appreciate it if  
14 you would confine your remarks to that.

15 MISS BOER: Yes; you said 2 or 4. That's the filled  
16 land. The lands could not be filled unless the County of  
17 Orange dredged sand out of the bottom of the bay and placed  
18 the sand at the bottom of the bay. We are creating land with  
19 County money, Harbor District money, and then we intend to give  
20 it away.

21 MR. FLOURNOY: In exchange for other lands.

22 MISS BOER: In exchange for other lands.

23 MR. FLOURNOY: According to the independent appraisal  
24 of our staff it is of equal value. Whether it is of equal  
25 value has been raised by a couple of immediately preceding  
26 witnesses and this is the point we are trying to retain our

1           MISS BOER: That's correct. I would call to your  
2 attention that the land that is now to be exchanged -- part  
3 of it, not all of it -- has been created by Orange County  
4 taxpayers' money. The land was placed in very strategic  
5 spots, where it would be needed in the future. We have render-  
6 ed waters unnavigable which were once navigable. And now we  
7 have a law passed at the instigation of Orange County; no one  
8 opposed it, so the Legislature did it. But our taxpayers  
9 have to pay the expense of all this.

10           MR. FLOURNOY: This, I have no doubt is true; but,  
11 at the same time, if that be the case and your quarrel is with  
12 some of this legislation, it would appear to me it is a matter  
13 that the Lands Commission cannot deal with but one that can  
14 only be dealt with between the citizens of Orange County and  
15 the Legislature, with subsequent reversal of the legislation  
16 if that is available. But there is nothing we can accomplish  
17 here, I am afraid.

18           MISS BOER: I realize that. I just wanted you to be  
19 aware of the fact that this special legislation was passed for  
20 one particular purpose -- to make possible one particular  
21 trade.

22           MR. FLOURNOY: I can only say in my experience in  
23 the Legislature Orange County is not unique in that regard,  
24 although it still may not justify the action taken. I am not  
25 passing judgment on that.

26           MRS. BABB: Could I raise a question about appraisal

1 and still read the letter I am presenting?

2 MR. FLOURNOY: Let me say this -- at a great sacri-  
3 fice to the Commission we will not halt this meeting before  
4 lunch. We will proceed right on through.

5 MRS. BABB: I am Mrs. Babb. You asked the question  
6 of whether we are talking of present or future valuation, and  
7 I suggest this is a situation where we cannot make a distinc-  
8 tion between present and future valuation. Our present valua-  
9 tion must include future valuation.

10 If I understand correctly, there is a general use  
11 map, according to which the shoreline itself is to be devel-  
12 oped. This plan allows The Irvine Company the land facing  
13 the lagoon. The County seems not similarly privileged in the  
14 same way; the shoreline is barricaded. I would like someone  
15 to point out to us what the shoreline is going to be.

16 GOV. FINCH: So far as I am advised by staff, we do  
17 not have a proposal of that kind before us.

18 MR. FLOURNOY: No, this is not before us. The  
19 development to protect the statewide interest is a matter  
20 that would be a continuing thing and not a matter to be taken  
21 up at this time.

22 MRS. BABB: In other words, the general use map is  
23 not necessarily ...

24 MR. FLOURNOY: ... is not on the matter of valuation.

25 MR. TYLER: My name is John Tyler. I am the Vice  
26 Chairman of the Southern California Chapter of The Nature

1 Conservancy. I live in Santa Monica.

2 In 1934 I was on leave from Cal Tech for my health  
3 and I explored that entire bay; and this is a matter that is  
4 being completely ignored in this planned exchange. We are  
5 talking strictly about whether the land is valued at X number  
6 of dollars, mainly to put buildings on it, and no considera-  
7 tion given to the millions of dollars which will be lost if we  
8 disturb and destroy the land for its present use for wildlife.

9 Many of you people cannot understand that. I will  
10 give you an analogy, if I may. Most of you, I think, will  
11 value emeralds. Very quickly -- a colleague of mine in Cal  
12 Tech is the one man in the world who makes emeralds which sell  
13 for thousands of dollars. He makes them out of material which  
14 is twenty-six cents a pound and sells them for \$100 a carat.  
15 I don't think much of jewelry; the rest of the world does.  
16 The only way you can tell the difference in the gems he repro-  
17 duces is to put the gem in a Bunson burner. If it explodes,  
18 it is a real emerald; if it doesn't, it is made by my friend.

19 Later on, if we find our bird life has disappeared,  
20 we are going to have to make an artificial area, which would  
21 be very expensive.

22 I have a plan to throw out to solve the problem as  
23 to relative values today and after the exchange. You are try-  
24 ing to establish a value that is equal.

25 MR. FLOURNOY: This is what the Attorney General has  
26 advised us to do.

1 MR. TYLER: This is not a law, and I would suggest  
2 it would be a law. Namely, any land which is changed in usage,  
3 as this land would be, should have one appraisal at this time  
4 and later on, when it is rezoned and in effect with what you  
5 are doing to it, have another appraisal. The difference  
6 would be a tax on that land, payable to a State agency for  
7 purchase of lands of a like nature. There will be no bene-  
8 ficial accrual by rezoning.

9 This is what our problem is here -- what makes it  
10 advantageous to The Irvine Company is the increase in the  
11 value the land will get.

12 MR. FLOURNOY: With all due regard, I suggest that  
13 is a matter you better take up with your Legislature.

14 MR. TYLER: I feel at this time if we make this  
15 land exchange we are losing considerably in the wildlife of  
16 the State of California; and as a public Lands Commission you  
17 should be well aware of the rapidity with which this is dimin-  
18 ishing and this should be pertinent to this issue.

19 MR. FLOURNOY: We are talking now only about the  
20 monetary value, and the monetary value is what we have been  
21 directed by the Attorney General is the issue. Let us  
22 proceed.

23 I think with regard to item 3 there may have been  
24 one who wished to speak with regard to the land use or the  
25 conveyance with regard to navigation. Yes - - back to item  
26 2, is there anyone who specifically wishes to make a remark

1 about item 2?

2 VOICE: I just want to be sure you will continue  
3 that to discuss the ecology, because I think that is pertinent.

4 ANOTHER VOICE: This question of ecology -- does  
5 this come into navigation? It really should be under this.

6 MR. FLOURNOY: I think if that be the case, that the  
7 ecology is the only matter, I think we would probably do bet-  
8 ter to get to the approval of the Commission and go into that  
9 later, subject only to the limitations indicated by the County  
10 and supported by them that there is an agreement that they  
11 will submit plans to the Resources Agency.

12 Perhaps I ought to at this point ask for testimony  
13 from those legislators that are here. I think we have two  
14 from Orange County, and one who is the Chairman of the Public  
15 Lands Committee and their consultant.

16 Mr. Badham, would you care to speak to the Commis-  
17 sion or would you defer to Mr. Cory?

18 ASSEMBLYMAN BADHAM: Mr. Chairman and gentlemen of  
19 the State Lands Commission, I am Assemblyman Robert E. Badham.  
20 I represent the 71st Assembly District, in which lies in its  
21 entirety the Newport Bay, both Upper and Lower.

22 I am here just to make very brief remarks --  
23 basically, that I am in full support of and in concurrence  
24 with the staff calendar item number 49, recommending approval  
25 of this Upper Bay tidelands exchange. I say this with all  
26 sincerity because I have studied this from every possible

1 aspect with which I am familiar and I therefore would urge  
2 your approval of this.

3 Just a couple of comments, if I might, on the re-  
4 marks that have just been made by the previous speakers in  
5 opposition to the proposed, supposed, or appraised assessed  
6 value. I would like to state, as a property owner in the  
7 area as well as an elected representative of the area, that  
8 if this tideland exchange does not go through it will neces-  
9 sarily be developed sooner or later by the owner of the upland  
10 property.

11 I would call your attention to this map on the wall,  
12 this aerial photograph which shows the entire Upper Bay area.  
13 I would state to you, gentlemen, that every inch of shoreline  
14 with the exception of that cut in the extreme southeast cor-  
15 ner, which is Newport Dunes, is owned by The Irvine Company.  
16 The islands are owned by The Irvine Company.

17 County property, of course -- be it upland, tideland,  
18 or patent land -- is not assessed by the Assessor. So I think  
19 that is really beside the point. But if such is the case, and  
20 it is, that the uplands are entirely owned by The Irvine Com-  
21 pany and the water area, not totally but in part, is owned by  
22 the County -- that the opponents may make the statement that  
23 the tidelands are owned by the County, and sufficient of them  
24 are. If they want to stand there knee deep in mud, they can  
25 look around and say, "Yes, it is all ours"; but, on the other  
26 hand, they have no access to that channel except through the

1 lower level.

2 Therefore, the uplands are entirely unrestrictively  
3 developable by The Irvine Company, and The Irvine Company has  
4 agreed with the County to exchange lands giving shoreline to  
5 the County which may be used for recreational purposes.

6 As I say again in closing, I have been through this  
7 thing from A to Z. I think it is to the advantage, not only  
8 of the people of the State, but of the County and my people in  
9 my district, the overwhelming majority, and I would again urge  
10 your approval.

11 MR. FLOURNOY: Thank you very much.

12 Mr. Cory has retired. We would be delighted to  
13 hear from him at this point, representing part of Orange  
14 County and the Public Lands Committee of the Assembly.

15 ASSEMBLYMAN CORY: First of all, Mr. Chairman, the  
16 Public Domain Committee has not taken any position, so I do  
17 not wish to stand here and say I am representing the committee.

18 I believe Mr. Badham indicated that at the present  
19 time the County of Orange does not have any of the trust lands  
20 which has land access to the bay.

21 Is that one of your points, Bob?

22 I think there is one parcel, parcel 13<sup>1/2</sup>, if my  
23 memory serves me correctly, which has been partially filled,  
24 which is immediately to the north of Dover Shores but is trust  
25 tidelands. It has been filled and is now accessible to the  
26 public, if the public would wish to use it that way. It is a

1 minor point, but I am sure I could retire on that minor point  
2 if anyone would care to give it to me. There is a small part  
3 that has been filled and is now uplands and is, in fact, there.

4 I point that out to make sure the members have the  
5 correct facts in front of them.

6 As a legislator, I did not plan on making any state-  
7 ment. I planned on observing. There is one point in my  
8 discussion with Mr. Mason of the County that I brought up last  
9 week that has thus far not been brought out, which is some-  
10 thing not resolved which you might consider. They said no one  
11 had considered the value of the mineral rights in these two  
12 valuations on what the County has in trust and The Irvine  
13 Company has. Mr. Mason indicated that they would be trans-  
14 ferring other land, including the mineral rights. It is my  
15 information -- and I could stand corrected on this -- that  
16 the State of California in its grant to the County did not  
17 mention mineral rights and, therefore, there is a question  
18 whether it is granted.

19 GOV. FINCH: What is the status of that?

20 MR. SHAVELSON: Governor Finch, there is a case  
21 directly in point -- City of Long Beach versus Mar... '1 --  
22 holding that a legislative grant of this type includes  
23 minerals, although, of course, subject to the trust.

24 ASSEMBLYMAN CORY: We wanted to realize what was  
25 being done on that because we thought it had not been con-  
26 sidered. Other than that, I commiserate with you because I

1 think the Legislature gave you the right to decide, correctly  
2 or incorrectly.

3 GOV. FINCH: We appreciate your commiseration, but  
4 only wish our predecessors had handled this problem themselves.

5 MR. FLOURNOY: Mr. Hortig, I wonder if it would be  
6 desirable, toward expediting this, if I could have the names  
7 of people who wish to speak, so I can have some reasonable  
8 audit -- because I do not have a full resume' of the people  
9 who wish to appear.

10 Once again let me ask that repetition be not in-  
11 dulged in.

12 Let me ask if Professor Grover C. Stephens is  
13 present and would speak at this point briefly.

14 PROF. STEPHENS: Yes. I'll try to be brief.

15 MR. FLOURNOY: Thank you.

16 PROF. STEPHENS: I have the original copy, signed  
17 by the three men who composed it, of a proposal for develop-  
18 ment of Upper Newport Bay. I have some additional copies if  
19 any of you care to examine it. I don't intend to allude to  
20 it in very much detail.

21 As a gentleman from Orange County said earlier, essen-  
22 tially this is a proposal to set aside a portion of Upper New-  
23 port Bay as a wildlife reserve area, with a park on the bluffs  
24 that overlook it.

25 Now, the area that is under our consideration is  
26 essentially all of the Upper Bay north of approximately 23rd

1 Street, and that is about the northerly-most quarter of the  
2 Upper Bay. In trying to defend why I should make a proposal  
3 of this sort, I think the first point I would like to make,  
4 and I would like to emphasize very strongly, is that Upper  
5 Newport Bay is now a unique area in Southern California. In  
6 general, it is unique in estuaries, which are rare; and, in  
7 fact, about sixty percent of California land has already been  
8 lost, has already been developed; but, in fact, in Southern  
9 California, estuaries are even more rare. There were origi-  
10 nally six deep bays with estuarine marshes of this kind and  
11 now Upper Newport Bay is the only significant one that is  
12 left, so the three people I spoke of presented this proposal.

13 I am Professor of Biology, Chairman of Organismic  
14 Biology, University of California at Irvine. Another proposer  
15 of this plan is Arthur S. Boughey, Professor and Chairman of  
16 Department of Population and Environmental Biology; and there  
17 is a third man -- Professor of Biological Sciences, also in  
18 the same department, Robert H. Whittaker.

19 We would like to say this is a valuable area to the  
20 people of the State of California as it now stands. It pro-  
21 vides resources for wildlife feeding grounds for wild birds,  
22 breeding grounds for game fishes, and it is important to pre-  
23 serve it for uses of that kind which are of genuine value. In  
24 addition -- being preserved as a green area in the midst of  
25 urban development seems to us very desirable.

26 I said I would be brief and will not go into all the

1 details and make an emotional appeal for either the green  
2 area or wildlife. However, what I would like to do, since  
3 this point was raised this morning, is to make some attempt  
4 to preserve the normal ecology of the bay under the terms of  
5 the land exchange and the tentative land use program, which  
6 is the only thing we have to go on.

7           The land use program proposed as a portion of the  
8 proposal of the Orange County Harbor District in 1964 simply  
9 doesn't make any allocation of land for preservation of marsh  
10 land. Subsequent to that there have been some proposals of  
11 some small islands, but let me give an idea of the sort of  
12 thing that has been suggested.

13           For example, there is a marine stadium at the ex-  
14 treme head of the bay, which is essentially where water skiing  
15 will go on. It is proposed that a long, narrow island be left  
16 in the middle of that water-skiing course -- where, of course,  
17 the waves would wash over it and it would be constantly dis-  
18 turbed; and that is the largest of three islands proposed to  
19 be left.

20           Another area of a couple acres -- three, three and  
21 one-half, something like that -- would be placed in the middle  
22 of Newport Dunes, which would be a probable swimming beach and  
23 would be visited by public swimmers.

24           So I think it is a question of what we mean by  
25 normal preservation of ecology. It can't be preserved by be-  
26 ing put in the middle of a ski channel. We make this proposal

1 because we think it is extremely important to preserve this  
2 for the State of California. I have already suggested they be  
3 in part recreational. There are many people who simply enjoy  
4 looking at green areas, birds; in part, they are fishing  
5 areas.

6 Another use is an educational use. This is the last  
7 area of its kind which provides an opportunity for high school  
8 students, junior college students, and university students to  
9 look at these animals in their normal habitat and there simply  
10 is no substitute for this kind of access to animals and the  
11 training or interesting of people in biological science.

12 There are a number of reasons why I think this would  
13 be a wise use of that extreme head of the Upper Bay, which are  
14 based essentially on what I think to be the unlikely character  
15 of the present proposed uses.

16 As you gentlemen may or may not be aware, there is  
17 always an onshore wind in the daytime that sweeps up Newport  
18 Bay; and the present proposed land use scheme, which again is  
19 all we can refer to, proposes that there be a major beach at  
20 the extreme head of the bay. I think the probability that  
21 the bay can be kept clean enough to make that an attractive  
22 area for public swimming is essentially zero.

23 It is proposed, after this is developed, that we  
24 will have a very large frontage developed as residential  
25 property. There will be three thousand boats and the trash  
26 will be swept to the extreme head of the bay.

1 This proposal we have made provides an area where  
2 trash of that sort can be naturally oxidized. You see, the  
3 normal rise and fall of the tide permits the handling of waste  
4 of this sort by natural processes. The proposal, in the terms  
5 it has been described by the County of Orange Harbor District,  
6 does not provide for this.

7 So, not to use any more of your time, let me simply  
8 summarize: This is a unique area. A major portion needs to  
9 be preserved if we are to talk seriously of the ecology of the  
10 area; and it does have general utility for the people of the  
11 State.

12 GOV. FINCH: May I ask a question here? Across the  
13 whole spectrum of ecological concern, what is the impact of  
14 removal of those islands under the proposed plan?

15 PROF. STEPHENS: Well, that's a very difficult ques-  
16 tion to answer precisely, Governor, because we have never had  
17 a study made on the removal of those islands or the tidal flow.  
18 A guess would be if only the islands would be removed in that  
19 portion of the bay and the top quarter of it were left as a  
20 flat marshland, then there would be no significant further  
21 disturbance of the area.

22 I should point out that at the present time the  
23 extreme head of the bay, you can see, is cut off by a dam  
24 running across it. That is already, of course, a disturbed  
25 area -- because it has been dammed off and the extreme head  
26 of the bay has been leased to a salt works, so the vegetation

1 in that area has been killed off. But there is reason to  
2 think if that dam were removed, together with the lease to  
3 the salt works, then you would get a release of a normal salt  
4 marsh in the upper head of the bay.

5 MR. SMITH: If the present lands of The Irvine  
6 Company were developed and there would be no exchange and  
7 these lands were fully developed, what effect would that  
8 development have on the ecology?

9 PROF. STEPHENS: I don't think I should pretend to  
10 understand the legal aspects. My problem in answering the  
11 question -- I am aware The Irvine Company has title to the  
12 marsh islands. I don't think their development would have  
13 any impact on the extreme head of the land. What I am not  
14 clear about is the patent lands, which essentially comprise  
15 most of the lands in this area.

16 MR. HORTIG: The Irvine Company is a successor in  
17 interest to a State tidelands patent in the upper head of the  
18 bay, swamp and overflowed land patent, comprising essentially  
19 the majority of the area which has been discussed. In other  
20 words, this is in private ownership. Under discussion, recom-  
21 mended for a public ecological reserve, are privately owned  
22 lands.

23 MR. FLOURNOY: Which they could develop?

24 MR. HORTIG: Which they could develop.

25 MR. SMITH: This is my point, Mr. Chairman. I am  
26 wondering whether or not this issue of the ecology of the area

1 and wildlife management -- although I have an appreciation of  
2 that -- is really germane, because this really goes beyond the  
3 exchange of the land. The Irvine Company already has title to  
4 the lands in the area and if they were developed without an  
5 exchange, from what I can observe there would be a definite  
6 impact on ecology and wildlife. So I think this goes defin-  
7 itely beyond the area of the exchange.

8 GOV. FINCH: Except if it is built in this exchange  
9 at least there is an agreement that the Resources Agency has  
10 to be consulted. There would be an agreement with Resources.  
11 We do get some ecological concern. If you reject it and  
12 Irvine goes forward, you don't have any of that.

13 MR. SMITH: That is the point.

14 MR. FLOURNOY: I think the point Mr. Smith is making  
15 is that the proposal the Professor is making is something en-  
16 tirely different from the proposal of the current ownership,  
17 the creation of which is beyond the power of this Commission;  
18 and, secondly, would involve action and expenditure of money  
19 by someone empowered to do that.

20 PROF. STEPHENS: May I comment I think I understood  
21 that. I think that the problem is that unless we simply on  
22 moral grounds -- I am speaking of the three men who wrote this  
23 thing -- unless we simply come before this Commission and  
24 point out that this is an alternate plan which at least is  
25 capable of consideration and if the present land exchange goes  
26 forward it presumably goes forward on the basis of, at least

1 in general terms, a use map which is the only information  
2 which we have -- now if it is approved, it seems to me it be-  
3 comes very much more difficult for us to look at the public  
4 interest in these tidelands now held in trust.

5 We ask the question: What is the most effective  
6 way to develop these for public use? We are aware of the fact  
7 that our proposal was drawn without being privy to the details  
8 of the land use maps or at least without being sophisticated  
9 enough to take them into account; but I think what we are  
10 really suggesting -- the reason we bring it before you -- is  
11 that there is no alternate proposal here, and we would suggest  
12 that time be given to allow us to draw together an alternate  
13 proposal to explore the sources of funding and to indeed come  
14 forward with some alternative which is, in fact, not based on  
15 the details of the land exchange as now presented. We don't  
16 feel we have had a significant opportunity to do that.

17 MR. SMITH: The only problem is there is always a  
18 difficult question when we are talking about public users:  
19 Do we have more bird watchers and wild life watchers than  
20 those interested in swimming or sailing. It is a very diffi-  
21 cult question when you say "public use." One has to make a  
22 decision as to what is maximum public use.

23 PROF. STEPHENS: If I may respond to that, I would  
24 certainly agree with everything you have said and I would  
25 simply then feel that perhaps there has not been a careful  
26 survey of public interest in the kinds of public use which

1 could develop, given the County and State's current holdings  
2 in tidelands. Public use might very well turn out more appro-  
3 priately in terms of boating and swimming and fishing; but I  
4 suggest when we go into an exchange of the lands here, we have  
5 no coherent plan at all of the use.

6 MR. SMITH: That is not my understanding.

7 MR. FLOURNOY: Let me say I think the Professor has  
8 made the point of the extreme importance of the ecology in the  
9 area and what he views as an optimum development of the area  
10 for the consideration of the Commission. I appreciate that.

11 Thank you very much.

12 PROF. STEPHENS: I suppose I should say that we made  
13 no effort to collect signatures specifically for this proposal  
14 but simply distributed it for information purposes.

15 MR. FLOURNOY: I appreciate that very much.

16 MR. HARLAN: My name is Craig Harlan. I am Vice  
17 President, Associated Students, UCI.

18 First of all, I am required to make a disclaimer in  
19 that the University is not yet in session and therefore I can-  
20 not speak for the student body as a whole. However, I have a  
21 mandate to speak for the executive branch of the student  
22 government.

23 We are concerned with the natural ecology, the fish  
24 and wildlife, and the educational factors, and natural beauty,  
25 all of which I think were supported by Professor Stephens.  
26 We feel we must support Professor Stephens' proposal.

1 I'd like to point out that the Associated Students  
2 by taking this position stand to lose the boathouse, but we  
3 feel that due to the benefit of the above stated factors we have  
4 to take this position.

5 MR. BARTON: Mr. Chairman and members, Don Barton.  
6 I am President of Marina Park Incorporated, a home-owners  
7 group of the Upper Newport Bay. I have a letter I would like  
8 to read into the record, but for brevity I will put the letter  
9 in and make some comments.

10 First, we urge as strongly as we can that this  
11 Commission disapprove this proposed trade. We, as owners,  
12 believe that the trade would be contrary to the best interests  
13 of the citizens of the State of California. We believe the  
14 equity or basis of the trade is not fair and feel it stronger  
15 after being in attendance here this morning.

16 As a natural resource, Grover Stephens has just  
17 brought out the pricelessness of the area, its uniqueness as a  
18 recreational area. This has been well established.

19 The point is, I think, well stated in a report in  
20 about 1963 of the City of Newport Beach Parks, Beaches and  
21 Recreation Commission. To quote very briefly from their re-  
22 port: "Only one plan for Back Bay development has been pre-  
23 sented to the public." That was in '63 and in '67 this same  
24 fact is still true. We are locked up with one plan from The  
25 Irvine Company. Everybody is afraid to do anything for fear  
26 The Irvine Company is going to go ahead and develop this bay

1 on their own.

2 We plead to you in your wisdom to stop this trade  
3 and let us, as responsible citizens of Newport Beach, of  
4 Orange County and of Southern California, work again with our  
5 public officials and generate a new plan for this Upper Bay.  
6 It can be done, but it can only be done when the obligations  
7 of the present trade have been broken.

8 Mr. Badham says that we can develop the bay our-  
9 selves and go out and stand in the water; but if we can dredge  
10 the bay and make lands for The Irvine Company, we can dredge  
11 the bay and make lands for ourselves. The Engineering Corps  
12 isn't going to permit development of this channel so no boats  
13 can go through.

14 I am not saying ~~that we as a county are not going to~~  
15 cooperate with The Irvine Company. Certainly we are. They  
16 have provided many benefits for the County. But let us come  
17 up with an equitable agreement. If there is no access to the  
18 bay, we can work with The Irvine Company. We can trade them  
19 foot for foot. That seems fair, regardless of the value, to  
20 gain access of the people to the beaches and water.

21 We ask once more that this Commission hear our plea  
22 and disapprove this proposed plan.

23 GOV. FINCH: Let me just ask this: Year after year  
24 and again last year our predecessors said, "We won't take any  
25 action. Try to work something out." The staff has been work-  
26 ing. We have to assume that our staff is competent and I do

1 think they are extremely competent. Negotiations were con-  
2 ducted over the bulk of that period of time.

3 I would joyfully leap at some straw that would give  
4 us some indication that somebody would develop a plan. Just  
5 give us some evidence, other than a vague hope, that some-  
6 thing will be done. We have the responsibility to take some  
7 action. We have a specific proposal before us. For years  
8 people have been stalling and this thing is deadlocked.  
9 Sure, we can delay it again; but it isn't serving Southern  
10 California when we avoid our responsibility.

11 MR. BARTON: I am not asking that you come up with  
12 a plan. I am asking you to put it back to the Supervisors to  
13 generate a new plan.

14 GOV. FINCH: Those officials have approved of it.

15 MR. BARTON: We have tried to get alterations to  
16 this plan, but this plan is committed. Until there is a  
17 decision one way or the other, nothing is going to be done to  
18 support the other good advantages that could come through  
19 this development.

20 GOV. FINCH: That is the point. We must come to a  
21 decision.

22 MR. SMITH: Governor Finch, I think you have a  
23 good point. It seems to me that the tidelands were granted  
24 in trust to the County. The County is comprised of elected  
25 officials representing the County and in this particular area  
26 a decision has been made by the County to enter into an

1 agreement if it would be approved by this Commission. It is  
2 my understanding that the elected officials of the County have  
3 taken into consideration the views and opinions of all groups  
4 and have arrived at this conclusion.

5 Did you make your case known to the County Board of  
6 Supervisors at the time that they made their decision?

7 MR. BARTON: There was a public hearing at the time.

8 MR. SMITH: All sides were heard?

9 MR. BARTON: Yes, I presume both sides were heard.

10 MR. SMITH: And they are the ones that are holding  
11 it in trust?

12 MR. BARTON: Yes.

13 MR. FLOURNOY: Thank you very much for your  
14 presentation.

15 Mr. Frank Robinson of the Orange County Tidelands  
16 Association, do you have further comments you care to make at  
17 this time?

18 MR. ROBINSON: One comment. The question keeps com-  
19 ing up in regards to the ability to do something about this  
20 trade or ability to build a harbor. The County has had this  
21 since 1919 and has done nothing with it, so I can sympathize  
22 with pressure to act on this; but since I have been in Newport  
23 Beach the population has increased forty percent. To para-  
24 phrase that, I think what was good for The Irvine Company and  
25 the County has changed. I think we would like to ourselves.  
26 It will take time; I realize this. It is a difficult problem,

1 but nothing can ever be considered until this plan is killed.

2 The County and The Irvine Company were directed to  
3 go back and work out more equitable terms. I take exception  
4 to this graph because it implies there has been a change.  
5 There has been no change since a year ago. Nothing can be  
6 done until this plan is squelched and I think if that is done  
7 of necessity a new plan would be set.

8 GOV. FINCH: I think that is a major point and I  
9 would like Mr. Hortig to respond to that, as to what the staff  
10 has or has not done in the intervening year.

11 MR. HORTIG: Yes, Governor. The staff reviewed all  
12 proposals that were submitted at the previous hearing of the  
13 Lands Commission and alternative studies suggested by  
14 Livingston and Blayney, consultants of the State Lands Commis-  
15 sion. The State Lands Division, pursuant to the directive of  
16 the State Lands Commission, evaluated and discussed with all  
17 interested parties -- with the County of Orange, with the  
18 Harbor Commission for the County of Orange, and with the pre-  
19 vious members of the State Lands Commission -- all alternative  
20 plans that had been suggested for study as possibly being avail-  
21 able for improvement of public participation or further public  
22 interest development in the Upper Newport Bay.

23 As to all of the proposals for public financing, if  
24 I may summarize again: The further investigations indicated  
25 that large public acquisitional and developmental costs would  
26 be required by alternative plans and that there is insufficient

1 money available from any source to make such alternative plans  
2 and development practical in the near future.

3 This analysis is also supported in a letter to the  
4 Lands Commission from Honorable Alton Allen, Chairman of the  
5 Board of Supervisors of Orange County.

6 Consequently, the final analysis was in comparing  
7 the advantages of "a" land exchange without any direct or  
8 inferred commitments against public interest in the develop-  
9 ment of a plan yet to be developed by Orange County, as the  
10 County Counsel said this morning.

11 So there is no discussion in the context today of  
12 being committed to a specific plan; and in the commitment by  
13 the County of Orange in the development of such a plan in con-  
14 formance with the requirements of the statute, it is completely  
15 understood that the lands received by the County in exchange  
16 shall be used by the County only for purposes of statewide  
17 interest. Included in these statewide interests are the pre-  
18 servation of the ecological values, under which the County is  
19 committed to plan subject to approval of the Resources Agency.

20 With respect to the other purposes of statewide  
21 interest, the County is committed to conduct such operations  
22 and develop such plans in conformance both with Chapter 2044  
23 of the Statutes of 1957 and, in addition thereto, of the  
24 original trust conditions which were included in the grant of  
25 tide and submerged lands to the County by the State -- which,  
26 as I replied to you earlier, Governor, would be subject if

1 not to advance review by the State Lands Commission, would be  
2 subject to and the responsibility of review in conjunction with  
3 the Office of the Attorney General that such plans do conform  
4 to the statutory requirement.

5 GOV. FINCH: Do you wish to respond to that?

6 MR. ROBINSON: To the first part -- The job that was  
7 given to the technical staff to go back and talk to Orange  
8 County and to The Irvine Company to come up with an alternate  
9 plan -- we could just as easily have saved a year.

10 MR. FLOURNOY: Except I think it is only fair to  
11 say that the staff explored independently all public oppor-  
12 tunities for funding this.

13 MR. ROBINSON: That is true -- the will to do this.  
14 The Dana Point project is proceeding to plan. It started out  
15 with roughly \$4½ million accumulation of a separate fund by  
16 the County on its own and it is proceeding to operate with  
17 State, County and Federal funds. There we created a harbor  
18 for nothing, so I can't accept the fact that it can't be done.  
19 They don't wish to do it.

20 GOV. FINCH: But you will concede it is up to the  
21 County to do it. We can't do it in this body.

22 MR. ROBINSON: Only to the extent that you have the  
23 overall responsibility.

24 GOV. FINCH: And to that extent we will assume the  
25 responsibility when it is time to assume it.

26 MR. ROBINSON: I gather from your conversation you

1 have accepted the plan.

2 GOV. FINCH: No.

3 MR. ROBINSON: May I ask one question? How could  
4 you support the staff recommendation this year and the staff  
5 recommendation last year?

6 GOV. FINCH: I wasn't on the Commission last year.

7 MR. ROBINSON: The same staff made a different  
8 recommendation.

9 MR. FLOURNOY: The same staff has done a lot of  
10 different work. I think your position has been adequately  
11 developed in terms of what we can or cannot do and I under-  
12 stand you would prefer that the proposal be turned down toward  
13 the objective of forcing The Irvine Company and the County to  
14 develop another plan.

15 MR. ROBINSON: Yes. You have two alternatives. At  
16 least there is no tragedy if it fails.

17 MR. FLOURNOY: James Harrison, Director of Southern  
18 California Marine Dealers Association, please; and we are  
19 interested in new considerations as against just repetition,  
20 if you will, sir.

21 MR. HARRISON: Yes. I think it has been stated here  
22 that there hadn't really been any alternate plans presented and  
23 I believe you should have in your possession some alternate  
24 engineering plans that we did present, in fact, at the recom-  
25 mendation of the Lands Commission last year. Although the  
26 County and The Irvine Company didn't see fit to come up with

1 any alternate plans, our association took it upon ourselves  
2 and hired an independent organization to come up with an  
3 alternate type of plan.

4 We are primarily concerned with boating and boating  
5 activities, aquatic sports in the area. The plan as it is now  
6 proposed, not to be too repetitious of what has been said be-  
7 fore, will support approximately twenty boats at any given  
8 time at five miles an hour at Newport Beach.

9 At the last hearing, we had something like 22,000  
10 boats in Orange County; the figure is now upgraded to 26,000  
11 boats.

12 We do, in fact, have a general plan. This plan we  
13 came up with was not for the entire bay. We were not against  
14 any beneficial exchange of lands, so far as the legalities and  
15 the property rights. We are more concerned with the water,  
16 rather than the land, as long as there is access to the water;  
17 and in our plans we did show some biological mud flats. We  
18 are not asking for the moon, but we think somewhere in the  
19 entire bay you should be able to run a boat over five miles an  
20 hour, and there is no provision made for that.

21 Again, the Board of Supervisors has not adopted that  
22 plan, as the Harbor Department has stated; but we have taken  
23 this plan and it has been proposed before the Board of Super-  
24 visors, who in turn had us go to the Department of Harbors  
25 and Parks, who in turn had us go to the Harbor Commission.  
26 Mr. Ballinger, the District Engineer in Orange County, did

1 some overlays and some work on our plan, and that's as far as  
2 it's gotten. Seemingly, we can't get any answer.

3 We felt at the last hearing a year ago the compari-  
4 son was being made with Mission Bay in San Diego, which is a  
5 poor comparison. We admit it is not that large. We feel we  
6 are in a minority of the boaters, when there is only 9,000  
7 boats in Newport Beach.

8 For example, by this plan of development with pri-  
9 vate houses and fingerling, they are going to increase the  
10 number of large boats in this area approximately 3,000 over  
11 the 9,000 boats now in Newport. Of course, they are not all  
12 in use at one time, though, goodness knows, at the moment on  
13 any given Sunday it is almost impossible to enter or leave the  
14 Newport jetty in a large boat without backing down two or  
15 three times. I do boat frequently; I have a large boat and I  
16 do have to back down. If you add another 3,000 boats, if you  
17 only use 500 on any given Sunday, I don't know how you are go-  
18 ing to get them in and out. In fact, the Harbor Department  
19 has expressed concern. There is a possibility that Newport  
20 would have another jetty established and this is a point recog-  
21 nized by the Harbor Department. So if we get this other 3,000  
22 boats, how are we going to get them out?

23 As far as launching ramps, they have shown some on  
24 the plans. Approximately, now, it takes forty-five minutes  
25 from each ramp to reach the ocean. You can add another half  
26 hour. We are not talking about aquatic sports, but just

1 access to the ocean. It is quicker to drive from Newport Beach  
2 and launch it in Oceanside than it would be to launch in  
3 Orange County at the points shown.

4 MR. FLOURNOY: I just want to ask one question with  
5 regard to the majority of the observations you have made. Is  
6 it not true they relate to the ultimate development and use of  
7 the harbor after such an exchange were made, that the use of  
8 the land after the exchange would not necessarily preclude?  
9 We are not talking about a specific plan now. We are talking  
10 about an exchange now.

11 MR. HARRISON: It has bearing from this standpoint  
12 only: If it is going to be put in like it is shown, bulkheads  
13 are going to be put in and piers, and you cannot operate over  
14 five miles an hour within 200 feet. Obviously, I am quite con-  
15 cerned, being a boat dealer, a small boat dealer. To demon-  
16 strate my boats now, because of the shallowness of the bay at  
17 the moment, we drive to Long Beach to demonstrate our boats.  
18 Yet we have more Long Beach boats than Orange County boats in  
19 our bay.

20 GOV. FINCH: Let me ask this: If this trade went  
21 through, wouldn't there be a quantum jump in the number of  
22 boats? Your business might jump up substantially.

23 MR. HARRISON: This is fine, but we are representing  
24 primarily the small boater and the small boat water skiing.  
25 You have to get there rather early in the morning and so far as  
26 the launching facilities that are proposed - - in other words,

1 as soon as that bulkhead line goes in, there is no speed over  
2 five miles an hour. Eighty percent -- I have all sorts of  
3 figures here from magazines -- eighty percent are small boaters.

4 One thing I have not heard -- like I say, we are not  
5 taking any stand on the valuation -- but I have a copy of the  
6 U. S. Coast Guard that reprinted a geological survey and it  
7 denotes the islands in Newport Beach. The islands that are  
8 discussed as being traded are discussed of as marshes. As a  
9 matter of fact, I have skied over these but the Coast Guard  
10 does note these islands as being marshes.

11 MR. FLOURNOY: Thank you very much.

12 I have here a number of people who have, at  
13 least either by the organization they represent or their own  
14 declaration, indicated they are primarily interested in the  
15 ecology of the area which has been discussed today; and I  
16 wonder in this regard whether these people have additional  
17 remarks to make on the ecology, other than to express their  
18 support of the Professor.

19 Mrs. Katherine Hall, Member Sea and Sage Club,  
20 National Audubon Society. (No response) She has apparently  
21 left.

22 Evelyn Gayman, Conservation Chairman, Desomount  
23 Club.

24 MISS GAYMAN: We are a club representative of nature  
25 projects of the University, teachers of similar interest. In  
26 view of the importance of science today, it seems we just can't

1 place a monetary value on these areas. Recently, at a meeting  
2 of the American Association for the Advancement of Science,  
3 it was stated that most of our scientists come from associa-  
4 tion with the land. The land is valued very highly among  
5 students to make field trips. Harvard has such an area;  
6 Stanford has Stanford Farms, which because it is privately  
7 supported, could be valued very highly yet they keep it for  
8 their science groups.

9 We urge you to preserve the value of these lands to  
10 science. They can't be termed in monetary value.

11 I would also like to emphasize the same thing for  
12 Miss Barbara Horton, who had to leave. She represents the  
13 Pasadena Audubon Society of 300 members.

14 MR. FLOURNAY: Mr. Paul Colburn of the National  
15 Audubon Society, National Wild Life, National Parks Associa-  
16 tion, Orange County Advisory Committee.

17 MR. COLBURN: Mr. Chairman and honorable gentlemen  
18 of the State of California, I am only one of many fine con-  
19 servationists who are here today, and I represent the commit-  
20 tee for the utilization of more natural areas in our county  
21 parks. Our fine County Parks Department in Orange County and  
22 our fine Board of Supervisors have recognized the need for in-  
23 creased natural areas in our parks, and a committee was organ-  
24 ized for the purpose of finding areas such as this and defining  
25 them and designating manners in which natural areas could be  
26 protected in our county parks.

1 Mr. John Johnson, a wonderful teacher, supervises  
2 our committee. I am simply a retired teacher and a member of  
3 this committee and very proud to be protecting our parks.

4 All of the natural areas have been put aside for  
5 the mass of people who come into the parks. The ~~most~~ of our  
6 parks have been overworked -- our County parks, State parks --  
7 so nature has been pushed into the background and completely  
8 lost sight of; and I would like to say in all due respect to  
9 the commercial interests, many of our commercial interests --  
10 motorboat people, and so forth -- have lost sight of natural  
11 areas in our parks.

12 We would like to say we would like to see the plan  
13 that Professor Grover Stephens rounded out put into effect  
14 and we would like to see this trade disapproved. We have  
15 faith in our Supervisors and faith in our people to develop  
16 these things.

17 MR. FLOURNOY: Mr. John Tyler, Vice Chairman,  
18 Southern California Chapter, The Nature Conservancy.

19 MR. TYLER: I spoke to you first about the value and  
20 you didn't want to put a monetary value on the natural areas,  
21 but I do feel from the conversation that has gone on that it  
22 is obvious to me that the interest has now been generated in  
23 getting an alternate working plan. No plan has apparently  
24 been shown to any of these people except to the staff. The  
25 staff hasn't apparently released it for consideration, so most  
26 of the people haven't seen anything but this plan of the

1 Irvine Company.

2 I think we have a situation here where we have a  
3 more powerful adversary against the County. The County owes  
4 a great deal to The Irvine Company and you just don't get  
5 rough with sugar daddy. So I think the situation we have  
6 got -- we should look at this overall picture, forgetting who  
7 owns what land and decide what is the best way to develop this  
8 and putting on this commission that is going to make this  
9 decision some representative people from the biology depart-  
10 ment of the University, so we have a full judgment on what we  
11 are deciding on.

12 Apparently we can't do this as long as this plan  
13 exists because Irvine can refuse to cooperate, because the  
14 County won't interfere. We have an impasse as long as you  
15 people have this on your agenda. So I would urge as a solu-  
16 tion that this plan be rejected and ask all adversaries to get  
17 around the table and come up with a plan; but, primarily, the  
18 public be gotten to the point where they have a real voice in  
19 it. I don't feel from what I have heard the public has had a  
20 voice. We have a plan that does not have public support and  
21 interest.

22 MR. FLOURNOY: Thank you very much.

23 Mr. W. Earl Calhoun. He wishes to add something  
24 on the ecological matter. (No response)

25 Mr. Robert Vile, President of the Ocean Fish  
26 Protective Association. Do you care to add some comments?

1 MR. VILE: Gentlemen, I would say a few words  
2 briefly on behalf of the ocean fishermen here in Southern  
3 California -- who I think perhaps have more to lose than many  
4 of you realize. In this problem here before you the interest  
5 of the entire State is at stake and I would like to explain  
6 briefly how the people we represent will be personally affect-  
7 ed by this.

8 Newport Harbor over the years has been kept free  
9 from pollution and has maintained a large fish population. We  
10 are not talking about marlin, barracuda. We are talking about  
11 sanddabs, mullet, bat stingrays and many smaller species that  
12 are primarily taken in small skiffs from the bay. These can  
13 be handled here and there is quite a fishery developed there.  
14 Most of it wouldn't be seen -- most of the people who do that  
15 do it at night. This seems like a fish that nobody would  
16 care to preserve and I might point out they weight from 80 to  
17 100 pounds.

18 Mainly, what we are talking about here is a source  
19 of food. I think we know all our animals and birds must have  
20 food to exist upon. Back in this back area, which has been  
21 referred to as a marsh or swampland, whatever you wish to call  
22 it, there are many things growing there. Now, the animals and  
23 the fish go back on the tide and feed upon them.

24 What you do in this back area affects not just the  
25 Back Bay, but everybody that fishes in the lower part of the  
26 bay, where a great part of the fishing activity takes place

1 and primarily on the force of the tide, when the fish move  
2 back and forth.

3 There is another thing -- these fish in the Back Bay  
4 are not permanent residents. Some are, yes, but many we are  
5 interested in are not permanent residents and they travel from  
6 harbors to back bays and harbors to back bays, wherever they  
7 can exist. Over the last few years these places have been  
8 disappearing so the food has been lost to dredging harbors.

9 One place I'd like to point out is Los Angeles  
10 Harbor, where dredging has been going on recently and the  
11 water problem is a continuing problem. This is something that  
12 doesn't exist at Newport Harbor, but it is going to happen.  
13 This is only one step further in destroying our fish life.

14 Mr. Smith is concerned about providing recreational  
15 life for everybody -- the people that swim, the people that  
16 fish -- and we are, too. However, if you want to develop new  
17 areas at the expense of destroying another one, I'd like to  
18 point out that maintaining a good water supply means a good  
19 supply of fish. This costs nothing. It is something that  
20 happens in an environment. Here we have a source that is sup-  
21 plying a great number of people recreation and at the same  
22 time it costs nothing to maintain.

23 Obviously, the people who wish to develop this wish  
24 to make money and I don't blame them a bit. They are finan-  
25 cially involved. However, they are not financially involved  
26 in something that is going to benefit all of the people of

1 this State, or even a small portion of the people of this  
2 State. You have to understand this: The homes they will  
3 build here will not even come in the category that perhaps the  
4 business executives can afford to live in. So, actually, what  
5 we are developing here is a business interest of the Irvine  
6 corporation, which I don't blame them for one bit; but it is  
7 going to develop homes and mooring sites for people whose in-  
8 come is far in excess of what we could say is the income of  
9 the general public.

10 So, in the interest of the general public, this  
11 program is not good. You are developing an area here of, pri-  
12 marily, investment for gain. Secondly, a thing that is built  
13 for a financial investment is not in the interest of the  
14 general public. It is in the interest of such a small segment  
15 of the general public it can hardly be called of statewide  
16 interest.

17 GOV. FINCH: You are assuming the status quo of the  
18 fish life. That is one thing that isn't going to happen. One  
19 of two things is going to happen: Either we are going to  
20 accept this or we are going to reject it. If we reject it,  
21 I think you can see if Irvine went full tilt with the homes  
22 you are talking about, I think the situation would be even  
23 worse.

24 MR. VILE: I have an alternate thing I would like to  
25 suggest: I don't think Irvine wants an alternate program or  
26 they would be here. Basically, if they are going to build

1 homes, let's build them on pilings and save the fish life. A  
2 lot of them can exist under pilings, providing they get sun-  
3 light. What they want to do is dredge all this and the possi-  
4 bility of bringing it back is very vague.

5 In your discussion of cooperation with the Resources  
6 Agency, what guarantee is there that we are going to have this?  
7 If I were a resident in Orange County, which I am not, I would  
8 ask which land is Irvine willing to exchange? Is Irvine going  
9 to give up some of their coastal land? Basically, your inter-  
10 est and concern here, being you don't apparently have complete  
11 control of the tidelands here, is the fact of the best inter-  
12 est of the public of this State; and obviously this program  
13 does not invest in the best interest of the public of this  
14 State.

15 Thank you very much.

16 MR. FLOURNOY: I have here a statement by Mr.  
17 Richard H. Ball, the Sierra Club, Angeles Chapter, which  
18 covers generally the same area, a bird life-marine life  
19 sanctuary, that we have received before.

20 MR. BALL: I'd like to enlarge upon that and make a  
21 few comments, if I may.

22 MR. FLOURNOY: Okay, if you will keep it brief,  
23 please.

24 MR. BALL: You have our statement that the Angeles  
25 Chapter of Sierra Club is on record opposing this land transfer  
26 because we think the wildlife is very important here. I'd

1 like to go on and make a few other suggestions here --  
2 specifically, comments about things that have been going on  
3 here.

4 First of all, we think this proposal by Professor  
5 Stephens is one that deserves special consideration. Other  
6 biologists think more should be done than Professor Stephens  
7 that some of these marsh islands should be included in your  
8 reservation. So Professor Stephens' suggestion is even a  
9 modest one, although I understand fully why he made it.

10 I'd like to comment on several things said here  
11 today. In particular, I think I am very disturbed by this  
12 comment that you will go ahead and make this land exchange  
13 and they have to consult with the Resources Agency on eco-  
14 logical values. I'd like to say this is sheer nonsense. I'd  
15 like to say if you make this exchange there is no ecological  
16 resource to save, so I think it is ridiculous to speak of this.  
17 You have got to preserve substantial portions, as Professor  
18 Stephens pointed out. You can't do things that are incom-  
19 patible.

20 Another point to make here is that they are mention-  
21 ing the possibility of the Irvine people developing this with-  
22 out this trade being put through. I think it should be  
23 emphasized before there is any development that involves  
24 dredging, the Corps of Engineers will have to approve this.  
25 There is a recent bill going through Congress on the protec-  
26 tion of estuaries and resources, that the Corps of Engineers

1 will have to handle with the Interior Department, and the  
2 Interior Department will make reservations to protect these  
3 estuaries; and I think you may find the Corps of Engineers  
4 may not approve such a dredging proposal.

5           The second thing I'd like to point out -- the State  
6 of California has a great interest in these estuarine resources  
7 and the Legislature has recognized this by creating a new  
8 board, a California Advisory Commission on Marine and Coastal  
9 Resources. That board has not had a chance to look at this  
10 and if you approve this, you will never give this board a  
11 chance to look at this area. I submit that you should allow  
12 this new commission to look at this proposal in the context  
13 of our total coastal environment.

14           Mr. Smith pointed out that the tidelands are in  
15 trust to Orange County. This State Lands Commission has the  
16 obligation, as I understand it, to look out for the total  
17 statewide interest and I think we both realize that the County  
18 of Orange is not looking at this primarily from a statewide  
19 interest; and it would be abrogating your responsibility to  
20 leave it to Orange County to determine what is best for this  
21 bay. I think it is up to the State to make this determination  
22 and I think this new coastal commission would be the best  
23 people to make this determination. So I think you should delay  
24 to let them corroborate this.

25           You speak of having other recreational values here,  
26 but I want to re-emphasize again what Professor Stephens said

1 that this resource is probably unique in Southern California.  
2 If you wipe it out, you are adding a small increment to other  
3 resources, but you are wiping out one unique resource, this  
4 estuary.

5 MR. FLOURNOY: Thank you very much.

6 GOV. FINCH: I'd like Mr. Hortig's comments on that,  
7 if you would.

8 MR. HORTIG: First, I think it is essential to com-  
9 ment that the problem of determining the statewide interest  
10 and the manner of establishing a development program for Upper  
11 Newport Bay, if this is approved, is not charged to the State  
12 Lands Commission. This is the responsibility of the grantee  
13 in trust of the tide and submerged lands from the Legislature  
14 and that is the County of Orange.

15 What is required is that the Lands Commission see  
16 that the County of Orange does with it what it is required to  
17 do by the statute in its development plan; and that is, again  
18 reading: "The lands received by the County in exchange shall  
19 be used by the County only for purposes of statewide interest."

20 That distinction, I think, is very essential.

21 MR. BALL: I'd like to comment on that. If you  
22 approve the land trade that is going on today, it will be  
23 out of the hands partially, then, of the County. If you ap-  
24 prove the trade and the chance to look in detail at the state-  
25 wide interest, it is partially out of your hands; and secondly,  
26 I'd like to say if the trade is approved it is not only

1 partially out of your hands, but the State has no control.

2 MR. NORTIG: This, I am afraid, could be the subject  
3 of an extended debate; but I think what is overlooked again is  
4 that the preservation of the wildlife and the ecological values  
5 is a matter which would be under the authority of the County  
6 of Orange in the statewide interest, and the County of Orange  
7 has committed itself to the Resources Agency of the State of  
8 California to proceed with such development program subject  
9 to the approval of the Resources Agency of the State of  
10 California. I don't see how you can argue that it would be  
11 out of the hands of the State of California.

12 MR. BALL: With all due respect, I think that is  
13 hypocritical. This land exchange is being made for a definite  
14 purpose -- that is, for a real estate development; and I think  
15 if that exchange is made the ecological development is gone.  
16 After the exchange is over, it is lost.

17 MR. FLOURNOY: I think you made your point and I  
18 appreciate the testimony which you have presented here. I  
19 think, however, that all too frequently here a comment is made  
20 that it appears that the exchange proposed has nothing rele-  
21 vant to the statewide interest. It is not alone for real  
22 estate development. It is for a purpose which has great  
23 recreational potential for the public.

24 We have had now about two and one-half hours of  
25 testimony on this matter, which has been primarily from  
26 people opposed to the transfer or exchange. I still have a

1 few people here and unless there is some overwhelming, com-  
2 pelling point of new interest in opposition to the exchange,  
3 I would merely indicate their opposition and presence and  
4 proceed on to some other people who would ~~like~~ to speak on  
5 the other side of this matter. That includes Jan Boer,  
6 Rimmon C. Fay...

7 MR. FAY: Sir, may I bring out one additional point?

8 MR. FLOURNOY: All right.

9 MR. FAY: I am a commercial fisherman and extremely  
10 interested in the marine resources of Southern California.  
11 One point which has not been brought out with respect to the  
12 ecological values of Upper Newport Bay is that the extensive  
13 mud flats that exist there have considerable assimilative  
14 capacity for organic wastes. Once these mud flats are de-  
15 stroyed -- mud flats are alternately exposed on a tidal cycle.  
16 There is an enormous amount of biota. Once these are assimi-  
17 lated by development, these wastes will increase enormously;  
18 and, as brought out by Dr. Stephens in his comments about the  
19 drift of waste to the Upper Bay, reduction of this capacity  
20 with further development of the bay for housing would contri-  
21 bute to the deprivation of the water quality.

22 It has also been emphasized by the Audubon Society,  
23 and quite properly, that there are an enormous number of ~~birds~~  
24 there. Upper Newport Bay has a transition zone of elements of  
25 southern biota, especially salt marsh plants, and there are  
26 six species of these, five or six species of these, which are

1 unique in Southern California. Dredging would destroy this  
2 aspect and they would no longer be available. There are  
3 several invertebrates which are unique to Upper Newport Bay  
4 in their availability, and dredging would destroy their  
5 availability and they would be extinct.

6           The Audubon Society could comment on the bird  
7 problem.

8           And then, insofar as fishes are concerned, the Upper  
9 Bay not only is a source of feeding, but it is also a nursing  
10 ground and reproduction ground. Several species are criti-  
11 cally dependent on this area because it is a last unique area  
12 in Southern California. Their continued existence in the  
13 waters of this State could be menaced and, as has been pointed  
14 out, this is why the issue is of State importance. We need  
15 these organisms for sport and academic interests.

16           Therefore, I am opposed to the plan as proposed and  
17 would be most happy if you would vote against it.

18           MR. FLOURNOY: Thank you very much.

19           I want to assure you I am not shutting these  
20 people off; but unless they have something very urgent or  
21 different, I wish they could be indicated as in opposition.

22           Mrs. Esther P. Johnson; Miss Fern Zimmerman;  
23 Mrs. Franklin ...

24           MRS. FRANKLIN: I am in favor of it.

25           MISS ZIMMERMAN: Fern Zimmerman, Santa Ana.

26           Mr. Chairman and Commission, I hope it may be

1 helpful to the Commission in seeking the development in the  
 2 best interests of the people to mention this. I have talked  
 3 to individuals and asked what decision they would like to see  
 4 the Commission come up with. A few did not feel well informed  
 5 enough to say. I have here the names and addresses of ninety-  
 6 one people with a very definite opinion. This is somewhat of  
 7 a cross-section -- a man who does the yard work in my neighbor-  
 8 hood; an instructor in Fullerton State College, who lives in  
 9 Newport; engineers; people that work with the League of Women  
 10 Voters; people in my church.

11 A man in real estate told me the plan must be  
 12 approved; there is just no other way in which to get homes  
 13 built around the shores of the bay. I found no one else who  
 14 wanted homes around the shores of the bay.

15 If you are representing the people, I hardly know  
 16 how to describe the response. There was a feeling of dis-  
 17 couragement that Newport Bay was about to be destroyed and  
 18 they were helpless, that they had no voice.

19 MR. FLOURNOY: Miss Zimmerman, could you indicate  
 20 the reasons for your opposition. I will stipulate you have  
 21 obtained an exemplar.

22 MISS ZIMMERMAN: They said that the pressures --  
 23 they feel that the pressures come from those who would get  
 24 major use and get the major profit. I don't know where the  
 25 pressures come from. They feel it is not pertinent that it  
 26 be developed as one -- They have a feeling of hopelessness

1 that sixty-seven percent of the estuaries have been destroyed  
2 and that would reduce the population of ducks and geese by  
3 many hundreds of thousands.

4 Their prime objection is -- this is the property of  
5 the people and this should be saved for the people, for an  
6 ever increasing population; and they feel a new look should  
7 be taken at it; that until there is a genuine effort on the  
8 part of Orange County to find another alternate plan, that  
9 they have not been represented.

10 MR. FLOURNOY: Thank you very much.

11 MR. HUFBAUER: My name is Karl Hufbauer.

12 Reading there on the calendar, it says that the  
13 State Lands Commission can only determine that lands must be  
14 exchanged on the basis of their being no longer useful for  
15 navigation, commerce and fishing; and I would like to ask  
16 whether your staff has gone down and sat for a day by the  
17 harbor, watching if there are any people going down to fish,  
18 sitting in boats fishing.

19 MR. HORTIG: A specific answer to that question is:  
20 Yes, we have. The staff has and I have done so personally  
21 and inventoried the situation. I think the question arises  
22 and comes from the problem of not whether a particular parcel  
23 of land today is useful for commerce, navigation and fishing,  
24 but what its category is and what its status is after it has  
25 been filed in accordance with the proposed land exchange.  
26 Patently, a parcel of land that is filled to several feet

1 above mean high water line can no longer be useful for com-  
2 merce, navigation and fishing.

3 MR. HUFBAUER: So right now it might be useful for  
4 fishing, but it won't be after it is exchanged.

5 MR. HORTIG: This is correct; because in the ex-  
6 change and through the exchange the County of Orange would  
7 receive considerable areas which are not now useful for  
8 fishing and navigation -- sand bars and islands -- which would  
9 be dredged out and thereupon become useful for navigation and  
10 fishing to replace in a value at least equal to those lands  
11 which would be exchanged and would thereafter be no longer  
12 useful.

13 MR. HUFBAUER: It seems to me you are indeed assert-  
14 ing another interpretation.

15 MR. FLOURNOY: This is the interpretation of the  
16 Attorney General.

17 MR. HUFBAUER: That is a condition after the  
18 exchange -- rather than for an exchange for something useful,  
19 it would be something no longer useful.

20 MISS BOER: Some statements have been made here today  
21 that aren't correct. I would call to your general attention  
22 the fact that boats are income, and The Irvine Company since  
23 1951 has been making threats to the people of Orange that they  
24 were going to develop this land; but we have yet to see any  
25 action. The reason they have taken no action is very, very  
26 simple. They don't want to develop their land and they can;

1 they are free to do it. They don't want to develop it the  
2 way they can; they want to develop it as waterfront property  
3 with docks. Now, that waterfront property with a boat sitting  
4 at the front door is very valuable to the man who owns it;  
5 but that empty house, with the man perhaps going to Europe,  
6 is taking up a lot of empty space some family could use.

7 I would ask you: Who made this land unusable? Our  
8 own County of Orange. This decision to exchange this land is  
9 only the decision of five men. It has never been put to the  
10 vote of the people. There has never been any expression of  
11 the people that they wanted it. It is simply an agreement  
12 between The Irvine Company and five men.

13 I will call your attention to one thing I know will  
14 give you the true picture. When a man owns real property in  
15 the City of Tustin he is taxed on that property. When he  
16 owns a boat which is moored in any harbor, this man was taxed  
17 \$20.76 for his boat as personal property. \$10.57 of that  
18 20.76 went to education in the City of Newport Beach. The  
19 city got \$3.42, the County got 4.99, the County Harbor Dis-  
20 trict got 30c and other miscellaneous districts took up the  
21 rest. It is very lucrative to have boats in your city.

22 We are creating asphalt jungles in our tidelands;  
23 that's what it amounts to. Right now, I would say that the  
24 thing that should be done -- the Supreme Court recently, as  
25 you know, said now it is possible to get an expression of  
26 public opinion on the ballot; and I think my feelings are

1 shar/d by thousands of others because less than one percent of  
2 the people in Orange County own boats, but everyone in Orange  
3 County has to subsidize this yachting fraternity. We use  
4 34,000 feet for this purpose in this exchange.

5 I think the families should be considered -- the  
6 ninety-nine percent, not the one percent; and I urge you to  
7 urge the Board of Supervisors -- they have never allowed us  
8 to express our opinions in any way, whether we want a Dana  
9 Harbor, whether we want Upper Newport Bay; we have never been  
10 allowed to speak -- and I would urge you to please turn down  
11 this trade and urge the Supervisors to get an expression from  
12 the people, because I think you might be shocked. Last year  
13 five cities attempted to withdraw from the harbor. There is  
14 a great deal of dissatisfaction with the numerous harbors  
15 being built in Orange County.

16 MR. FLOURNOY: Thank you very much.

17 MR. SCHNEIDER: My name is James Schneider and I  
18 represent the Conservationist Group of the Sierra Club, the  
19 Orange County group which is a part of the Los Angeles Chapter.  
20 We are very much opposed to the effect that this would have on  
21 diminishing or completely eliminating the wildlife in the  
22 Upper Bay area.

23 MR. FLOURNOY: I think we have had a good deal of  
24 comment to that and unless you have a new point, we would  
25 appreciate it ...

26 MR. SCHNEIDER: I have no new point. I also have a

1 bill that has gone before the House of Representatives on  
2 this same general type of taking the bay areas from the  
3 Federal government. I'd like to have this put into the record.

4 MR. FLOURNOY: We are familiar, I think, with that  
5 bill.

6 MR. SCHNEIDER: I would like to express for Orange  
7 County Sierra Club, a part of the Los Angeles Chapter, that  
8 we are completely opposed to this measure.

9 MR. FLOURNOY: Thank you very much.

10 We will now hear from Mr. L. H. Cloyd, Department  
11 of Fish and Game, Resources Agency.

12 MR. CLOYD: Mr. Chairman, members of the State Lands  
13 Commission, I am representing the Department of Fish and Game.  
14 My name is Lawrence Cloyd, Regional Manager, Region 5, in  
15 Los Angeles.

16 The Department of Fish and Game has reviewed this  
17 subject land exchange, originally when it was heard before  
18 the State Lands Commission in August 1966 and as it is being  
19 heard here today. Also, the Resources Agency Administrator's  
20 Office has reviewed it and commented on it, in a letter dated  
21 August 23, 1966.

22 During this time several alternate plans have been  
23 presented for development of certain lands -- especially one  
24 proposed by Dr. Grover Stephens of the University of California  
25 at Irvine. We certainly agree with what Dr. Stephens is pro-  
26 posing insofar as perpetuation of the wildlife. We do hope

1 some of his ideas or suggestions can be incorporated into the  
2 park plan.

3           The Department is not opposing the exchange as pro-  
4 posed by The Irvine Company and the County of Orange. However,  
5 the parties concerned should be expected to comply at least  
6 with the minimum conditions specified by the Resources Agency  
7 in a letter to the State Lands Commission dated August 23, 1966.  
8 In this letter the Administrator pointed out certain things  
9 that would happen if the conditions were not met.

10           These conditions include a provision of public and  
11 vehicular boating access to the area and an order to retain  
12 as much as possible of the unique ecology in the area. We  
13 feel that the specific island locations and design may be  
14 modified so that as much of the marshy habitat be retained as  
15 possible. Our recommendation is that our letter of August 1966  
16 be retained and the plan be coordinated with the Resources  
17 Agency.

18           I'll just read an excerpt from the County, in which  
19 they represent to the State Lands Commission -- this was dated  
20 September 11, 1967 -- in which they indicated, and I quote:  
21 "A second point mentioned at the last hearing was a request of  
22 the State Resources Agency. We have studied the August 23,  
23 1966 letter" and they are talking about the Administrator's  
24 letter, "... and can say the County of Orange is in complete  
25 accord that areas be provided and maintained for the retention  
26 of unique ecological features of the Upper Bay. We will be

1 happy that the plans to do this be subject to the approval of  
2 the agency."

3 Of course, it doesn't say what happens if we can't  
4 gain approval, but I would expect we would work it out and  
5 come to some kind of agreement to maintain the ecological  
6 features.

7 MR. FLOURNOY: Now, Mr. Fenton E. Jones, Orange  
8 County Chamber of Commerce.

9 VOICE: Mr. Jones left the room, but our representa-  
10 tive, Mr. James, is up there.

11 MR. FLOURNOY: Mr. David James.

12 MR. JAMES: Mr. Chairman, Governor, Mr. Smith, my  
13 name is Dave James. I am appearing before you in my capacity  
14 as chairman of the executive committee of the Orange County  
15 Chamber of Commerce.

16 You have heard a good bit concerning the proposition  
17 and opposition of this exchange this morning and this afternoon.

18 I think you will find tremendous support for it.  
19 The Orange County Chamber is the vehicle through which approxi-  
20 mately five hundred of our major businesses, industries, banks,  
21 express themselves in matters of local government policy and  
22 on all aspects of environmental planning.

23 At its September 19th meeting, the board of direc-  
24 tors reaffirmed the following resolution:

25 "Now, therefore, be it resolved the Orange  
26 County Chamber of Commerce reaffirms its  
approval of the land transfer between the

1 "Irvine Company and the County of Orange  
2 and the expediting of the Upper Newport  
3 Bay development."

4 Now, gentlemen, the brevity of the resolution should  
5 not be construed to be indicative of the importance we attach  
6 to it. The Chamber first studied this in 1964 and recommended  
7 the exchange with some minor changes. During 1966 the Environ-  
8 mental Committee on Land Use studied a revised format in de-  
9 tail, and the Chamber recommended approval.

10 We have again reviewed, studied, and again recommend  
11 approval. Gentlemen, we think this thing has been studied to  
12 death. We ourselves have put several hundred man hours on the  
13 studying of this proposed exchange, men who are experienced in  
14 environmental management.

15 In 1966, on appearances before this Commission, no  
16 recognized civic organizations in the County opposed this ex-  
17 change. To the best of my knowledge none of them has reversed  
18 its stand today, and the Orange County Chamber of Commerce cer-  
19 tainly again urges the approval of the exchange.

20 Thank you.

21 MR. FLOURNOY: Thank you very much.

22 Now, Mr. Franklin ....

23 MRS. HARRIS: I just wanted to be sure the opposition  
24 hadn't completed.

25 MR. FLOURNOY: Well, I thought I had indicated all  
26 the people I had in opposition.

27 MRS. HARRIS: I gave my name to this lady. May I

1 have an opportunity?

2 MR. FLOURNOY: Yes, if you have something new to  
3 present.

4 MRS. HARRIS: My name is Ellen Stern Harris. I am  
5 thinking of the third generation and not somebody who lives in  
6 Orange County. We have all been given through the last legis-  
7 lative session a new awareness of the total ecological situa-  
8 tion. Although I live in Los Angeles County, my stepmother  
9 lives at Dover Shores, with that frontage that we all enjoy.  
10 My son ...

11 MR. FLOURNOY: Could you home in on the point?

12 MRS. HARRIS: I am going to. I believe Governor  
13 Finch asked for alternative possibilities. I want to give you  
14 a reason why you should consider alternatives. My son has  
15 been taking biological courses. He has been in the marshes,  
16 taking up specimens, examining them, finding a whole new regard  
17 for nature. He asked me to go out at three a.m. to the tide  
18 and I said, "If anyone sees a boy out at three a.m., you will  
19 be arrested." But they came back with specimens; I feel they  
20 were there.

21 The point is that I feel this is of real value. I  
22 mean I can speak to you, if you like, on the economic exchange  
23 value and whether a study has been made to determine the actual  
24 minerals underlying the area, but I feel you know more about  
25 that; but I feel we should appraise it in the light of new  
26 developments.

1 This October your State Parks Commission will meet  
2 in Santa Cruz to take into consideration conservation factors  
3 and scientific resources in the State Parks System. These  
4 might be two alternatives to save these last two estuaries  
5 between Morro Bay and Ensenada. It is fantastic that we have  
6 allowed this to degenerate. I cannot blame you people -- it  
7 came long before you were on this Commission. Governor Reagan  
8 will be speaking and surely have an opportunity to review this,  
9 how important are these estuaries.

10 All of this testifies to the importance of your  
11 turning down this proposal at this point because we have now  
12 new evidence to make it so important that you reconsider. In  
13 other words, everything you have done in Sacramento may be  
14 undone here.

15 MR. FLOURNOY: Thank you very much.

16 Mr. Selim Franklin, President of the Orange  
17 County Coast Association.

18 MR. FRANKLIN: Members of the Commission, I'd like  
19 to make this as brief as I can.

20 First of all, a little background on the Coast  
21 organization. The Orange County Coast Association was origi-  
22 nally organized to support the development of Lower Newport,  
23 was made up of people all up and down the Orange County coast-  
24 line and at that time included people in the Long Beach area.  
25 We have supported the Huntington Beach and Dana development.

26 We measure harbor improvements in decades, not in

1 years. It seems, in listening to these comments today, that  
2 most people feel this is something that sort of happened a  
3 few years ago. Actually, the earliest plans for the develop-  
4 ment of the Upper Bay started before 1940. Fat Patterson,  
5 City Engineer of Newport Beach, had a plan long before that.  
6 This plan is the culmination of the work of many people to  
7 devise a plan, the best plan. Many people have spent many  
8 hours to devise this plan. It is not an Irvine plan. It is  
9 a plan of many people involved and the County.

10 To talk about destruction of natural resources is  
11 fine; but, however, we have an area surrounded by a hundred  
12 thousand people -- which in the immediate future will be sur-  
13 rounded by 250,000 people in the immediate area of the Newport  
14 complex, plus untold people in Orange County. These people  
15 and the demands they put on the State require some develop-  
16 ment. The idea is to get the best possible one.

17 Obviously, whether it is planning the Governor's  
18 new mansion or planning any civic matter of any kind in the  
19 State, there will always be people who feel they have a better  
20 idea -- something which makes sense to their particular inter-  
21 est. We have heard people speaking today, all speaking of  
22 items of concern to them. They have spoken in favor of no  
23 change at all; they have spoken of more boats, less boats,  
24 faster boats, slower boats. Unfortunately, they have talked,  
25 I am afraid, as though they were opposed to The Irvine Company  
26 and if anything benefitted The Irvine Company they were against

1 it. I hope that was not their concept, but it comes out in  
2 the comments they make.

3 All this points to the fact someone has to make a  
4 decision on the plan. You can't have everybody in the com-  
5 munity put in their own idea. We have elected officials --  
6 elected officials and their staff who have worked long, hard  
7 hours and submitted the best possible plan at this time. I  
8 feel any further delay will not present any better plan. It  
9 has taken a long, long time to get thus far.

10 People question why The Irvine Company hasn't gone  
11 ahead with something. I think it is clear they are waiting to  
12 see what this will open up.

13 The Orange County Coast Association passed a recom-  
14 mendation the last time and again this time that this be  
15 approved. It is very important to development of Orange  
16 County.

17 MR. FLOURNOY: Thank you very much.

18 Mr. Conrad Epley, Field Representative to  
19 Congressman James B. Utt.

20 MR. EFLEY: Mr. Chairman, Governor Finch, Mr. Smith,  
21 Congressman Utt suffered a mild heart attack a few days ago  
22 and was unable to return to his district last week and, there-  
23 fore, could not appear this morning. He asked me to appear  
24 instead and reaffirm the acceptance or the approval of the  
25 report by your committee.

26 Two points that he asked me to make clear -- first,  
27 that he recognized this is one of the toughest areas of

1 public policy decisions to be made; and, secondly, that  
 2 although this is wholly a State matter, the Federal government  
 3 will undoubtedly come into play in terms of the Department of  
 4 Interior and Corps of Engineers for information at a later  
 5 date. He has already discussed this with agencies in Washing-  
 6 ton and the plan as outlined by the County has a net benefit  
 7 to the County.

8 MR. FLOURNOY: Thank you very much.

9 I'd like to hear from the County Counsel of  
 10 Orange County on one particular matter, if we may, and that  
 11 is the correspondence and exchange of views with the Resources  
 12 Agency concerning your intentions regarding ecological matters.

13 MR. KUYPER: As stated, we only had this one  
 14 correspondence, a letter at the time of the last hearing, and  
 15 we agreed to submit our plans to that department for their  
 16 approval, and we will do our best to maintain such islands as  
 17 they describe.

18 I think it must be recognized, first of all, we are  
 19 under a trust obligation. The main thing is to construct a  
 20 harbor. This is why the State gave us this land -- for com-  
 21 merce, navigation and fisheries -- and I submit if we put a  
 22 fence around approximately 400 acres, we would be violating  
 23 our trust.

24 We are certainly subject to a great deal of criti-  
 25 cism from people in the Lower Bay and Upper Bay. In other  
 26 words, we cannot completely guarantee maintaining the situation

1 as it is, and we will work insofar as it is part of the devel-  
2 opment of the Upper Bay with the Resources Agency.

3 I'd like to add one further observation. The  
4 patented lands can be dredged by The Irvine Company now and  
5 used for further development of the harbor.

6 MR. FLOURNOY: I merely wanted to get on the record  
7 essentially the extent the County would cooperate with the  
8 Resources Agency and the awareness of the Resources Agency  
9 with regard to this.

10 MR. HORTIG: Mr. Chairman, the quotation by Mr.  
11 Cloyd on behalf of the Resources Agency was from a letter to  
12 the State Lands Commission from the Honorable Alton Allen,  
13 Chairman, Board of Supervisors.

14 MR. FLOURNOY: The quotation?

15 MR. HORTIG: The quotation as to the agreement is  
16 in the letter to the State Lands Commission.

17 MR. FLOURNOY: Very good.

18 Do you have anything further you want to add at  
19 this time? (No response)

20 I think we have pretty well exhausted the list  
21 and the Commission and the audience.

22 MRS. BABB: I am afraid I have to talk to you once  
23 more. I have talked to representatives of eight groups and  
24 they want me to express to you the total confusion about this  
25 situation as it exists. There was a master plan. I am totally  
26 distressed to find that there is not even a general use plan.

1 You haven't a reasonable map of the Upper Bay.

2 I want to give you the names of those who have  
3 urged me to ask you to have one public hearing in Orange  
4 County, at a time when working men can attend such a meeting.  
5 You realize these working men have been very unfairly repre-  
6 sented at these State hearings. The groups who support this  
7 are:

8 Balboa Cove Community Association

9 Balboa Island Improvement Association

10 Beacon Bay Community Association -- and Mr.  
11 Allen Beacon wants his name used and asks  
specifically that the trade be held up.

12 Central Newport Beach Community Association

13 Four Fours Association, Vista Bahia

14 Mariners Association

15 Marina Park Association

16 Newport Upper Bay Association

17 Harbor Boat Hills Association

18 Totally, we are representing twelve hundred people in Newport  
19 Beach.

20 MR. MACNAB: Mr. Chairman, may I be heard in view of  
21 the number who were heard against this?

22 MR. FLOURNOY: Yes. What is your name?

23 MR. MACNAB: John Macnab. Mr. Chairman, Governor  
24 Finch, Mr. Smith, I have thrown away eight pages of text and  
25 out of mercy I have condensed this to a few notes.

26 I want to state, first of all, I want to make a

1 rebuttal to the last statement -- that the Beacon Bay Associa-  
2 tion opposes this. I am a resident of Beacon Bay for twelve  
3 years and I was a president of the association, and I must  
4 object this is not the truth.

5 MRS. BABB: Am I correct -- I understand, sir, your  
6 organization is at the moment in the process of reshuffling  
7 and Mr. Allen Beacon has been asked to become president of  
8 the association. I may have misrepresented him. He has asked  
9 to speak personally, simply as a person.

10 MR. MACNAB: Mr. Chairman, that was not my under-  
11 standing from the evidence given by this lady.

12 MR. FLOURNOY: We will stipulate that Mr. Beacon is  
13 opposed to this as an individual.

14 MR. MACNAB: All right; this is as an individual.

15 There is a considerable amount of contrast this  
16 morning. We have special groups speaking against this ex-  
17 change. I'd like briefly to relate for their information some  
18 of the benefits that will accrue.

19 The land exchange will make possible a larger, much  
20 needed recreational area. Recreational areas will increase  
21 from 800 to 1200 acres; the public parks and beach areas will  
22 increase from 300 to 500 acres; the annual user-days, 8 million  
23 to 17.2 million; and during the vacation season, the recrea-  
24 tional user rate will increase from 8,000 to 10,000 user-days  
25 per acre of property -- and I note that is acre of property  
26 and you multiply it by the number of acres. Thus, it will be

1 seen that the land to be received in the exchange will be used  
2 for public purposes.

3 I am President of the Newport Harbor Chamber of  
4 Commerce. For the last ten years we have had this development  
5 of the Upper Bay under study. Last year when this matter came  
6 up before your Commission, the Newport Harbor Chamber of Com-  
7 merce made a resolution giving its unanimous approval to the  
8 proposed conveyance. Last Monday at a meeting of the direc-  
9 tors of that association, this resolution was again reaffirmed  
10 unanimously and strongly.

11 I point out that our association represents approxi-  
12 mately one thousand private and business citizens in Newport  
13 Beach, of what I would say are the leading citizens of our  
14 area, and they are completely and utterly in favor of this  
15 proposed conveyance.

16 I am also a member of the executive committee of  
17 the Orange Coast YMCA. Our interest is in youth; our interest  
18 is in decreasing this alarming delinquency rate and our Council  
19 has reported our delinquency rate has decreased. We feel that  
20 this trade will help give outside areas, recreational areas,  
21 and our executive committee is unanimously in favor of this  
22 exchange.

23 I would like, further, to inject two other items.  
24 One of the speakers made very strong reflections on our County  
25 Supervisors. I personally at times have taken strong excep-  
26 tions to some of the actions of our County Supervisors; but,

1 believe me gentlemen, we probably have the most honorable  
2 body of men in the State of California. We have men of in-  
3 tegrity in the men who are our Supervisors, whether one agrees  
4 with them or disagrees with them, and I'd like this on the  
5 record. They have already been impugned by at least one and  
6 I think three speakers as to their integrity.

7 I hate to use the hackneyed cliché, but the old red  
8 herring of assessors' practices was brought up in the commence-  
9 ment of this hearing. Believe me, what the appraisal is of  
10 land as assessed by the State of California has no relation  
11 whatsoever to what some developer will pay for it; and, fur-  
12 thermore, most agricultural land has one value but when the  
13 time comes for development we all know that this value in-  
14 creases considerably when someone is willing and able to pay  
15 for it.

16 During the last ten years I have been party to the  
17 purchase and sale of 90,000 acres in Southern California. I  
18 believe I can testify as an expert; and I say without reserva-  
19 tion and without fear of contradiction that there is a con-  
20 siderable amount of money, running into millions of dollars,  
21 in favor of the County of Orange in this proposed conveyance.

22 I urge that you gentlemen look at this matter  
23 objectively. I am in favor of ecological research; I am in  
24 favor of everyone with a special interest; but over and beyond  
25 everything else, I am in favor of this bay for general use and  
26 I have given you the figures for the use of our people in our

1 City, in our County, and in our State.

2 MR. PATZER: I would like to speak in opposition.

3 MR. FLOURNOY: I think we have had an extensive  
4 array of testimony, preponderantly on the side of those  
5 opposed to this. I think we will have to ...

6 MR. PATZER: I was not here at the time you called  
7 my name.

8 MR. FLOURNOY: I don't really think we can go on  
9 with testimony for days and days. It is up to the Commission.

10 MR. PATZER: There are two items I'd like to express  
11 my opinion on.

12 MR. FLOURNOY: Are they new items?

13 MR. PATZER: They are items that have been brought  
14 up, so I'd like to express my opinions on them.

15 In view of the tremendous disparity shown between  
16 the assessed valuation and the figures that could be produced  
17 by Mr. Hinshaw, if you were to request him to come before you  
18 I believe they would distinctly show there is not a gain to  
19 Orange County, and he should be invited to present his figures  
20 to this Commission. He was not invited, as I understand it.

21 MR. FLOURNOY: He appeared here this morning and was  
22 invited to say anything he wanted to say.

23 MR. PATZER: He was not requested -- that is differ-  
24 ent. He is an elected official in Orange County, in addition  
25 to our Supervisors, and we need his help.

26 GOV. FINCH: I don't recall we put any inhibitions

1 on what he wanted to say.

2 MR. PATZER: Governor, I would appreciate it if in  
3 postponing this proposal you would make arrangements for him  
4 to present proper testimony.

5 MR. HORTIG: Mr. Chairman, Mayor Gruber of the City  
6 of Newport Beach has just submitted for the record the resolu-  
7 tion of the City of Newport Beach, the resolution in favor of  
8 the approval of the plan.

9 MR. PATZER: We will now take up this last paragraph  
10 on the trade. It says here the City Council of Costa Mesa to  
11 took action on this trade and will communicate this to the  
12 State Lands Commission.

13 I am Gus Patzer, Costa Mesa. There appeared before  
14 the Commission a Willard Jordan, saying he was Mayor of Costa  
15 Mesa and represented Costa Mesa as such, and was for the trade.  
16 I investigated; I went into their records as far as meetings,  
17 and I could find no record of ever having any public hearing.  
18 There was never any council meeting.

19 MR. FLOURNOY: The City of Costa Mesa has not come  
20 before this Commission today.

21 MR. PATZER: I will ask somebody to corroborate what  
22 I am going to say now.

23 GOV. FINCH: We can stipulate the City of Costa Mesa  
24 did not appear before us.

25 MR. PATZER: I am asked to appear.

26 MR. FLOURNOY: I am sorry if you have a quarrel with

1 the City of Costa Mesa. Whether they are for or opposed to  
2 this exchange, this is between you and the City of Costa Mesa.  
3 We will not hear your views.

4 MR. STUCKEY: H. A. Stuckey from Newport Beach.  
5 I have a letter here from the Bay Area Citizens Council,  
6 Orange County, and I'd like to read it.

7 MR. FLOURNOY: Does it raise a new point?

8 MR. STUCKEY: I'll take thirty seconds, if I may.  
9 It starts out:

10 "In your records of the previous hearing you  
11 have a letter from the Bay Area Citizens  
12 Council to which we would like to refer your  
13 attention. That letter stressed the impor-  
14 tance in any planning for development of  
15 Newport Upper Bay to recognize adequately  
16 the public interest in relation to use,  
17 parks, recreation, access, conservation,  
18 and so forth; offers suggestions and re-  
19 quests further studies.

20 "While there are divers sentiments, a num-  
21 ber of the associations feel there remain  
22 many questions, including legal, which have  
23 not been answered. They also have the  
24 definite feeling that more control for  
25 wider benefits would be served by local  
26 governmental administration, rather than  
27 an exchange and, therefore, are in opposi-  
28 tion to such exchange.

29 "In light of these things, as well as the  
30 lack of alternate planning, we consider  
31 that it would be premature to arrive at a  
32 final decision at this time. We wish to  
33 urge most strongly that this Commission  
34 undertake the initiative in following the  
35 recommendations set forth on page 9 in its  
36 report of November 1966 by Livingston and  
37 Blayney, City and Regional Planners, to  
38 attain a practical, well-rounded alterna-  
39 tive plan.

1 "The importance of this area, its growth,  
2 the unique and varied possibilities avail-  
3 able primarily only at Upper Newport Bay,  
4 all emphasize the great need for this  
5 Commission to eliminate any type of stale-  
6 mate and take an early and active part  
7 towards the best program of development  
8 for the Upper Bay. "

9 MR. FLOURNOY: What is the pleasure of the  
10 Commission?

11 MR. FRIEDL: I'd like to introduce something before  
12 you go into deliberation. My name is George Friedl, Jr.

13 VOICE: Mr. Chairman, he's on the negative side and  
14 I object to any more time being given.

15 MR. FLOURNOY: I think that is in accordance with  
16 the comments of the Chair, that the matter has been widely  
17 discussed and all points have been heard.

18 GOV. FINCH: Did you say you wanted to speak?

19 MR. FRIEDL: No, I didn't.

20 GOV. FINCH: We asked for some ground rules.

21 MR. FRIEDL: I just wanted to ask you gentlemen how  
22 can you pass on an exchange of land along harbor lines which  
23 must be approved by the U. S. Corps of Engineers.

24 Now, we have gone before the City Council, Board of  
25 Supervisors. We have been asked to present alternative plans.  
26 Such alternative plans have been presented before the Board of  
27 Supervisors as Project 50-50. They still show advantage in  
28 the trade which you folks could approve and yet no considera-  
29 tion has been given to them.

1 You can't approve plans around the harbor lines  
2 which must be approved by the Corps of Engineers. I ask you  
3 gentlemen: If you approve this today and if at the Army  
4 Engineer level the harbor would not be approved, what would  
5 the condition then be?

6 GOV. FINCH: More delay.

7 MR. FRIEDL: But if you will have passed it here  
8 the dredging with public money to create a 300-foot channel  
9 will have started.

10 GOV. FINCH: Well, we have the Corps of Engineers  
11 and a few others that still have to go through this.

12 MR. FRIEDL: So I commiserate with you and wonder  
13 how you can pass on it today. The schedule for the harbor  
14 goes back twenty years. We and you have not been the delay  
15 in this. It has been delayed by the people who want a particu-  
16 lar, if not a peculiar, plan and through legislation have  
17 abrogated the people's rights under the Constitution.

18 MR. FLOURNOY: I am not going to hear anything  
19 further.

20 MR. FRIEDL: I am merely asking -- if you don't  
21 get the approval of the Corps of Engineers, I think it is put  
22 in the wrong sequence; you are put on the spot.

23 MR. FLOURNOY: Thank you. I realize that full well.

24 Now, gentlemen, we have heard extensive testimony.  
25 We have a recommendation before us. What is the pleasure of  
26 the Commission?

1 MR. SMITH: Mr. Chairman, recognizing the  
2 sensitivities of the issues, I think the time has come for  
3 the State Lands Commission to be decisive. It has been before  
4 us too long.

5 We have a recommendation from our staff to find:  
6 Whether the State-granted lands under discussion to  
7 be filled and conveyed are no longer useful for navigation,  
8 commerce and fishing -- and it is my understanding that they  
9 will not be;

10 Whether the proposed exchange of lands between the  
11 County of Orange and The Irvine Company will result in lands  
12 in possession of the County at least of equal value to the  
13 lands being transferred to The Irvine Company -- and it is my  
14 understanding they will be at least equal in value.

15 We must also recognize that the Legislature has  
16 delegated to the County of Orange and its elected officials  
17 the responsibility that the general public interest will be  
18 served in the proposed exchange and they have acted in good  
19 faith. I do not believe it is the responsibility of the  
20 State Lands Commission to preempt the responsibility of the  
21 County of Orange, whose elected officials are acting in the  
22 interest of all the people. I think we must have as much  
23 trust in the elected officials of the County of Orange as  
24 the County of Orange has in the trust.

25 The Attorney General has given us an opinion that  
26 Chapter 2044 of 1957 is constitutional and that the exchange

1 is legal.

2 I recommend that the application for the exchange  
3 of the lands in Upper Newport Bay between the County of Orange  
4 and The Irvine Company be approved, and that the recommenda-  
5 tion of the staff, as contained in Calendar Item Number 49,  
6 also be approved.

7 MR. FLOURNOY: Is that a motion?

8 MR. SMITH: That's a motion.

9 MR. FLOURNOY: Is there a second?

10 GOV. FINCH: In seconding, I am going to point out  
11 the only way for us to do this is to take this action to raise  
12 the legality of the passage of the 1957 enabling act. We have  
13 gone, as I said earlier, year after year after year saying  
14 "Let's bring in further study." At some point somebody has to  
15 face up to this. Everybody has pointed out the population has  
16 exploded in this area. Irvine is going to go forward one way  
17 or another. I think the responsibility we have is to try to  
18 get the broadest public access to these areas, and on that  
19 basis and on the basis of not only Orange County but Southern  
20 California, I think, unhappy as it may be, that we have to  
21 come to a decision today. I am seconding the motion.

22 MR. FLOURNOY: Then a motion has been made and  
23 seconded that the calendar item and the findings indicated  
24 therein be approved. All those in favor say "aye."

25 (Unanimous "aye.")

26 MR. FLOURNOY: Those opposed? (No response)

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MR. FLOURNOY: It is approved.

The only remaining item is the reconfirmation of the date, time and place of the next Commission meeting, which will be Thursday, October 26th, ten o'clock, Sacramento.

ADJOURNED 2:00 P.M.

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REPORTER'S CERTIFICATE

I, Louise Lillico, reporter for the Office of Administrative Procedure, hereby certify that the foregoing pages one through one hundred twenty-one contain a full, true and accurate transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION of the State of California held at Los Angeles, California, on September 25, 1967.

Dated: Los Angeles, California, October 9, 1967.

/s/ Louise H. Lillico

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