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MEETING
STATE LANDS COMMISSION

STATE CAPITOL
Room 2170
Sacramento, California

THURSDAY, JULY 24, 1975
10:00 A.M.

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MEMBERS PRESENT

1
2 Hon. Kenneth Cory, Chairman
3 Hon. Mervyn M. Dymally, Commissioner, represented by
4 Mr. Walter O. McGuire
5 Hon. Roy M. Bell, Commissioner
6

MEMBERS ABSENT

7
8 NONE
9

STAFF PRESENT

10
11 Mr. William F. Northrop, Executive Officer
12 Mr. Robert C. Hight, Staff Counsel
13 Mr. Jay L. Shavelson, Assistant Attorney General
14 Mr. N. Gregory Taylor, Deputy Attorney General
15 Ms. Diane Jones, Secretary
16 Mr. Steven Lindfeldt, Staff Counsel
17

ALSO PRESENT

18
19 Hon. Mervyn M. Dymally, Lieutenant Governor
20 Mr. John Lamont, Legal Advisor
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P R O C E E D I N G S

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CHAIRMAN CORY: Call the meeting to order.

I would first acknowledge the presence of Director of Finance Bell and myself, Controller, constituting a quorum.

Now, we will accept a letter from the Lieutenant Governor, Governor Dymally, appointing Walter McGuire to serve as his Deputy on the Commission. Without objection, we will accept that. And now we will acknowledge the presence of Mr. Walter McGuire sitting in for the Lieutenant Governor pursuant to new legislation that has been signed into law.

We have representatives from all three Members of the Commission here.

Mr. Bell wants to know who signed the letter.

[Laughter.]

CHAIRMAN CORY: Walter McGuire, of course.

[Laughter.]

MR. NORTHROP: The Attorney General is going to protest right away.

[Laughter.]

CHAIRMAN CORY: The first item will be the confirmation of minutes of the regular meeting of June 23rd, and the special meetings of June 26th and 27th, and the

1 Executive Session of July 8th. Are there any questions
2 about them?

3 COMMISSIONER BELL: I have no problem.

4 MR. McGUIRE: No problem.

5 CHAIRMAN CORY: Without objection, we will confirm
6 those minutes.

7 Mr. Northrop, your report.

8 MR. NORTHROP: Mr. Chairman, Members, Chairman
9 Cory inspected the Geysers geothermal operation late last
10 month and visited Union Oil Company's Well "GDC" 65-28,
11 which while it was on private land had blown out on March
12 31st. The well was apparently damaged by a landslide, but
13 the casing remained intact. The blowout could have been
14 prevented had the casing been set at the depth of 1500 feet
15 in serpentinite rock, rather than at 750 feet.

16 It is also felt the problems which led to the
17 blowout could have been detected at an earlier date if the
18 well had been inspected on a routine basis.

19 It is the staff's opinion this type of blowout
20 could not occur on State leases because State wells are
21 cased through serpentinite to a depth of at least 2900 feet.

22 Because the Union Oil Company blowout did occur at
23 the Geysers, the State Lands Division has stepped up its
24 well inspection program. All State wells are being inspected.

25 During each inspection, a review of the geologic

1 features in the vicinity of each well will be made. Partic-
2 ular attention will be paid to such features as creep phenomena,
3 tension cracks, alteration zones, slide scars, colluvial soils,
4 springs and seeps, ponded water and vegetation. The condition
5 of the drill pad will also be determined, along with inspection
6 of each well head itself.

7 Mr. Chairman, Members, last year the State Lands
8 Division committed, subject to budget restraints, a sum of
9 \$2,000 for a period of three years as its share for a library
10 for storing oil well cores and other samples. I would like the
11 Commission to ratify that commitment. Additionally, funds have
12 been committed by the U. S. Geological Survey for \$12,000 per
13 year for three years, the California Division of Oil and Gas,
14 \$5,000 per year for three years, the California Division of
15 Mines and Geology, \$2,000 for three years. And I think it's
16 significant here the Western Oil and Gas Association has
17 committed funds for the erection of a building in which to house
18 these records. The oil industry is presently disposing of much
19 of its inventory, such as samples and material that could be
20 lost forever. California is the only major oil producing
21 State without a commercial or a government sponsored well
22 sample facility.

23 An advisory committee composed of representatives
24 from industry, professional societies, college faculty, college
25 administration, private education, the Division of Oil and Gas,

1 the Division of Mines and Geology and the State Lands Division
2 is to be formed to frame bylaws for the operations. The
3 library will be available to all interested parties and bona
4 fide student will be given free access.

5 Proposed equipment would include microscopes, ultra-
6 violet lamps, rock saws and other tools. The site for the
7 library has been chosen at the California State College in
8 Bakersfield for the reasons of availability of land and central
9 location to the oil fields in the State. The facility will con-
10 sist of a prefabricated steel storage building 60 feet by 100
11 feet, erected on a concrete slab with electrical outlets and
12 fresh water. The facility will be the property of the college.

13 CHAIRMAN CORY: Are they going to air condition it or
14 not?

15 MR. NORTHROP: I sure hope so.

16 CHAIRMAN CORY: The rocks will melt if you don't.

17 MR. NORTHROP: This is where core samples will be
18 kept as well, so it will be immediate access to all core samples
19 and it will be an educational facility, and I think it's worthwhile.

20 CHAIRMAN CORY: It's a tin building?

21 MR. NORTHROP: Tin building in Bakersfield. Well,
22 we'll just have a tin building. I'm sure we'd do what we can
23 with it. So if you concur with the previous Commission
24 action, we'll --

25 CHAIRMAN CORY: Any problems?

1 COMMISSIONER BELL: I have no problems. I concur.

2 MR. McGUIRE: No.

3 MR. NORTHROP: Next item in my report,

4 Mr. Chairman, Members, in response to many public inquiries
5 on what the State Lands Commission is, the staff has
6 prepared a small brochure to respond to this operation. It's
7 an inexpensive thing and we will take the necessary steps to
8 apprise your offices.

9 CHAIRMAN CORY: Did you make sure each of us get
10 at least one copy?

11 MR. NORTHROP: Yes, we'll see that that happens.

12 CHAIRMAN CORY: We'll acknowledge the presence
13 of Governor Dymally.

14 MR. NORTHROP: Before I finish my report,
15 Mr. Chairman, I believe the Governor has a presentation on
16 blocking of State-owned lands, and I think perhaps at this
17 time he'd like to make his presentation.

18 CHAIRMAN CORY: Governor Dymally.

19 LIEUTENANT GOVERNOR DYMALLY: Thank you very much.

20 If you don't mind, I'd like to substitute the word
21 "block" for "land" because it reminds me of blockbusting.

22 [Laughter.]

23 LIEUTENANT GOVERNOR DYMALLY: With the help of the
24 State Lands Commission and its staff, and hopefully with the
25 aid of the California Congressional delegation, I am today

1 beginning an effort that I hope can resolve a hundred-year-
2 old problem that has held up development and use of over
3 700,000 acres of State land.

4 This land was given to California by the Federal
5 Government in 1853. It consists of 640-acre parcels
6 scattered that were supposed to be sold or used by the State
7 to raise revenue for schools. The Commission presently has
8 jurisdiction of over approximately 600,000 acres of their
9 school lands and has an entitlement to an additional 100,000
10 acres which have never been turned over to the State.

11 Unfortunately, much of this land is virtually
12 unusable due to its location or quality. The parcels are
13 located throughout the State in a checkerboard fashion,
14 making it almost impossible to use the land for any valuable
15 purpose. However, we can consolidate these parcels into
16 usable land by making trades with the Federal Government.

17 There are many uses for such land once the State
18 could obtain it. Instead of possessing virtually unusable
19 land, we could obtain land that could be utilized for
20 recreation, timber harvesting, camping, open space, wildlife
21 protection, and natural areas -- at little or no cost.

22 Perhaps more importantly we would be utilizing
23 much of this land for the development of alternative sources
24 of energy. For example, I have been pursuing with great
25 interest the need for expanding the State's efforts to

1 develop geothermal energy. The State of California is one of
2 the few states in the country with natural deposits suitable
3 for the development of geothermal energy. Thanks to our
4 present Chairman of the Commission we have done a great deal
5 of fine work in this area. Not only could California lead
6 the way in easing our dependence upon fossil fuels, we could
7 also begin to obtain some revenue from the land owned by the
8 State. That revenue would then go for the purpose the Federal
9 Government gave this State the land in the first place -- to
10 provide money for education.

11 The State of California cannot now benefit from the
12 hundreds of parcels of land scattered around the State as
13 they are. However, if we can consolidate our holdings by
14 trading with the Federal Government much greater use could be
15 made of the land. This is not a new problem and the Federal
16 Government will need some prodding and some gentle persuasion.
17 Previous efforts at consolidation through trade with the
18 Bureau of Land Management have been hampered by budgetary
19 restrictions and complicated by Federal statutes and the
20 bureaucracy.

21 The first step is for California to complete a final
22 inventory of all lands under State possession, and to
23 formulate suggestions for what land should be exchanged. And
24 I understand the Commission will be prepared to do so
25 shortly. The task is currently being performed by the

1 Commission staff and I am confident that their report will
2 be completed by the 1st of September. The next step will
3 be to secure the approval of the Legislature here in
4 California and the Congressional delegation in Washington.
5 I am confident that if all the elected representatives of
6 California work together, we will be able to accomplish a
7 great benefit for this State.

8 Since becoming a Member of the Commission, I have
9 been troubled by our inability to make the best use of
10 literally millions of acres of State-owned land. This is
11 one step in that direction.

12 I am pleased that the staff and the Commission
13 are moving in that direction.

14 Thank you, Mr. Chairman.

15 MR. NORTHROP: Thank you. Mr. Chairman, Governor,
16 we will discuss this further in item 14 of the staff report.

17 The final item on my report, Mr. Chairman, Members,
18 is gravity differential.

19 Mr. John Lamont, who is a partner of Lobel, Nobins
20 and Lamont, and is the Commission's legal consultant in
21 Washington, D. C., is with us today and is prepared to
22 discuss with you the status of the pending Federal Energy
23 Administration proceedings for a revision of the gravity
24 price penalty that is currently imposed on California crude
25 oil to the detriment of the State, probably in excess of a

1 hundred thousand dollars a day.

2 Mr. Lamont.

3 [Thereupon Lieutenant Governor Dymally left
4 the meeting.]

5 MR. LAMONT: The current activity is the pending
6 hearing which F.E.A. has set. On the State's request, the
7 State Lands Commission petitioned for a rule-making
8 proceeding that was filed in February. On July 8th, they
9 published a notice saying that the hearing would be held
10 August 5th, comments would be solicited. Arrangements are
11 being made for the presentation of the Chairman of the State
12 Lands Commission, Mr. Cory, and myself at that hearing.

13 Essentially what we will ask is that which was
14 asked in the original petition asking these rule-making
15 proceedings to be instituted. It is quite simply that the
16 market be permitted to adjust the historic penalties,
17 discriminatory penalty, that's been visited on the heavier
18 oils in California, in which in the technological development
19 of the industry have become an anachronism to the point
20 whereas Mr. Northrop said it cost the State as a producer
21 of crude oil a rather substantial amount of money. What it
22 means in substance is that when the debate in Washington
23 of crude oil price levels talks about a \$5.25 average price for
24 national crude oil, it is talking really in California about a
25 price which is a dollar lower.

1 CHAIRMAN CORY: Pardon me, Mr. Lamont, but are not,
2 through all the price freezes, are not the gas producing
3 refining companies allowed to use that national five twenty-
4 five figure to arrive at their refined product price?

5 MR. LAMONT: Yes.

6 CHAIRMAN CORY: So we get to pay for gasoline as
7 if they were paying the five twenty-five, yet when you go to
8 sell the gas that we own, the crude oil that we own, we are
9 only getting --

10 MR. LAMONT: We are getting the four twenty-one
11 price.

12 CHAIRMAN CORY: I think that's fairly important to
13 realize that as far as the consumers, they're paying the
14 five twenty-five price, but when we sell oil, we're only
15 getting four twenty-one.

16 MR. LAMONT: The adjustment that we seek, the new
17 limit that we ask, could be arrived at without costing the
18 consumer any appreciable additional amount. At the same time
19 it would permit the recovery of a very substantial amount of
20 additional oil in California.

21 CHAIRMAN CORY: Let me back up. When you say "an
22 appreciable amount," if those existing refineries were willing
23 to get by with something less than the 300 percent increase
24 that they got last year in their profits, they could get by with
25 no increase, couldn't they?

1 MR. LAMONT: No increase whatever.

2 CHAIRMAN CORY: Okay. Go ahead.

3 MR. LAMONT: The problem of presenting it is fairly
4 straightforward. It's a matter of not so much a policy
5 decision, parameters of policy have already been set by the
6 Commission in its request for the rule-making hearing.
7 We will have a considerable amount of consultation with
8 independent producers in California in making certain that
9 we are at least within the same general framework in present-
10 ing the case though there is no attempt either to impress the
11 State's position on the independent producers, or vice-versa.

12 CHAIRMAN CORY: What prognosis in terms of --

13 MR. LAMONT: The Federal Energy Agency when it
14 issued its call for ruling, was surprisingly sympathetic at
15 least in tone to the idea of the adjustment. Precisely what
16 they will do with it afterwards is a matter which is difficult
17 to predict.

18 I would think that there is an exceedingly good
19 possibility that we get the adjustment assuming, of course,
20 that there is an F.E.A. in August.

21 CHAIRMAN CORY: Okay. On that subject --

22 COMMISSIONER BELL: Mr. Lamont, when might they
23 make such a ruling? It won't come immediately after the
24 hearing?

25 MR. LAMONT: No, it will not come immediately after.

1 COMMISSIONER BELL: Mr. Zaarb doesn't make the
2 decision?

3 MR. LAMONT: That's right. But there is the fact
4 that they took so long between our February request and the
5 July 8th publication to make that publication meant that
6 they had ground out a good deal of the questions at least
7 internally. It is probably one of the least profitable
8 things in the world to try to predict when F.E.A. will do
9 something, but I think they will. I think it will be
10 reasonably prompt.

11 COMMISSIONER BELL: Thank you.

12 CHAIRMAN CORY: Now, before we go on, would you
13 give us a brief report on the Federal Government's, as I under-
14 stand, there's talk about, at the executive level in Washington,
15 the United States entering into some kind of an arrangement
16 with other foreign countries in terms of controlling oil
17 supplies. This is something I think as oil producers has
18 a great deal of impact on us and as consumers can have even
19 a greater effect upon us.

20 MR. LAMONT: There has been a considerable amount
21 of newspaper discussion, general publicity, with respect to
22 the development of a common consumer nation plan to combat
23 the essentially monopoly power of the OPEC countries.

24 The international energy plan which was developed
25 by executive agreement last Spring is intended to set the

1 framework for an international secretariat which will both
2 develop plans for maintaining strategic storage reserves and
3 provide a basis for allocating available crude supplies
4 among the world's consumers if there should be an embargo.

5 It's a little bit difficult for me to explain it
6 without getting a little bit impassioned. But essentially
7 to try to keep it as objective as possible, this
8 international program will involve the planning and carrying
9 out of the shortage plans by a group of the multi-national
10 petroleum companies acting as a governmental agency with
11 total immunity from the anti-trust laws.

12 There has been a great deal of publicity about the
13 existence of the agency. There has been very little
14 percipient discussion of what it really entails. Since the
15 planning function will necessarily involve a considerable
16 amount of rationalization of existing flows by those who
17 are carrying out the crude oil flows, in essence, what it
18 means is that at a time when they are debating strongly
19 whether or not to abandon national allocation schemes, that
20 they are installing an international allocation scheme which
21 will be completely removed, almost completely removed from
22 any real control by the consumers of the United States.

23 What makes it of special importance is that as
24 you look at the totality of the world's supply, the United
25 States' production is the largest single block of production

1 outside of the OPEC countries. And consequently, becomes the
2 basic resource from which shortages will be met in the event
3 there is OPEC embargo. It's a remote, recondite, esoteric,
4 difficult thing to explain. We have succeeded in getting
5 some Congressional interest.

6 CHAIRMAN CORY: If John could use smaller words,
7 probably we could understand.

8 [Laughter.]

9 MR. NORTHROP: We're struggling.

10 MR. LAMONT: I'm sorry. I told you I would get
11 wound up.

12 CHAIRMAN CORY: High-priced Washington lawyers.
13 Go ahead.

14 MR. LAMONT: Within the past month and a half, two
15 months, we have gotten a considerable amount of Congressional
16 interest in this matter. With some luck and a large
17 teaspoon, it may be that we can pry out the full parameters
18 of just exactly what is planned, how it is planned, and
19 maybe steer it into a more national interest oriented
20 operation.

21 CHAIRMAN CORY: The reason I wanted to take the
22 Commission's time for that, it seems to me that the
23 mechanisms by which private corporate operations can cloak
24 themselves with the cloak of government to make decisions to
25 enhance their corporate position as opposed to making a

1 governmental decision for public policy purposes is the kind
2 of problem we have here. And it is far enough removed from
3 the general public that I haven't seen much written in the
4 papers about it. It's something that I think all of us ought
5 to start worrying about because allocation of shortages is
6 something that our Government should be dealing with in terms
7 of a public policy function, but to allow a conflict in interest
8 to those people who are making money out of that resource to
9 participate in that decision-making process is, I think, the
10 height of folly in terms of good public policy. So that's
11 the reason I wanted you to lay that out so that when that
12 word comes up, people will start to understand that we do
13 have an interest in what's going on.

14 MR. LAMONT: In the name of the Founding Fathers
15 and their disciple John Sherman and his disciples including
16 myself, amen.

17 [Laughter.]

18 CHAIRMAN CORY: Okay.

19 MR. NORTHROP: Mr. Chairman, that concludes my
20 report.

21 CHAIRMAN CORY: Okay. The next item on the Agenda
22 is staff recommendations on policies for transportation and
23 dehydration deductions on offshore State oil and gas leases.

24 Do I understand that we did not have an overall
25 policy for these and it was left to the discretion of the

1 individual lessee as to what deductions for dehydration and
2 transportation?

3 MR. NORTHROP: We've now adopted here a uniform
4 policy which treats everyone fairly.

5 CHAIRMAN CORY: Did you hold hearings?

6 MR. NORTHROP: No, we didn't hold hearings,
7 Mr. Chairman. We did meet with professional organizations
8 and societies and with members of the industry to get the
9 industry's practice. So we are now attempting with these
10 regulations to bring our policy in line with accepted
11 industry policies and procedures.

12 CHAIRMAN CORY: Is there anyone in the audience
13 who wishes to address the Commission on item 4(A), proposed
14 regulations on transportation and dehydration?

15 Hearing none, we will entertain a motion to adopt
16 these policies.

17 MR. McGUIRE: So moved.

18 COMMISSIONER BELL: Second.

19 CHAIRMAN CORY: Mr. McGuire moves, Mr. Bell seconds.
20 Without objection, such will be the order.

21 Item 5(A).

22 MR. NORTHROP: Mr. Chairman --

23 CHAIRMAN CORY: Greg, did you have something you
24 wanted to comment on?

25 MR. NORTHROP: Greg?

1 MR. TAYLOR: No.

2 CHAIRMAN CORY: Go ahead.

3 MR. NORTHROP: Mr. Chairman, the condition of item
4 5 on the calendar has been somewhat fluid, so Mr. Steve
5 Lindfeldt from the legal staff of the Division would like
6 to address the Commission on this ceding of concurrent
7 jurisdiction.

8 MR. LINDFELDT: I have received this morning an
9 official request from the National Parks Service, the body
10 requesting cession of concurrent jurisdiction, a request from
11 them to withdraw from your consideration the areas of Death
12 Valley National Monument and Joshua Tree National Monument
13 pending their negotiations for agreements to be worked out
14 with the counties involved.

15 They do wish that the Commission proceed with the
16 request for the other four areas.

17 The ceding of concurrent jurisdiction in this
18 matter is basically giving to the Federal Government a
19 police and legislative power over the areas that they own,
20 this National Parks and National Monuments, and has the effect
21 of making the park rangers law enforcement officers and gives
22 them the power to enforce the State's Penal Code just as the
23 County Sheriffs do in these areas in the terms of the Federal
24 Assimilative Crimes Act. And the request is that they be
25 granted this status to allow the park rangers the opportunity

1 to protect the visitors in the parks and enforce the State's
2 Penal Code there.

3 CHAIRMAN CORY: Is there any other discrepancy or
4 argument about these areas?

5 MR. NORTHROP: Mr. Chairman, there has been some
6 indication that a representative of the State Sheriffs
7 Association was going to appear. He has not indicated he
8 would like to speak, but he may well be in the audience.

9 CHAIRMAN CORY: Is there anyone who wishes to speak
10 on item 5(A)?

11 MR. VICTOR: Yes, sir, I would like to, if I may.

12 CHAIRMAN CORY: Come up and identify yourself.

13 MR. VICTOR: I'm Rex Victor. I'm the Assistant
14 District Attorney of San Bernardino County.

15 The gentleman here has stole my thunder a bit in
16 that the two parks that have been withdrawn fall within our
17 County. I believe though that the matters I wish to discuss
18 transcend which might be considered our parochial interest
19 in the County and are a matter of really statewide concern.

20 And I speak both as a prosecutor and as a citizen
21 in this regard in the concern for our State.

22 And I submit the test before the Commission is the
23 State's best interest and not the best interest of the
24 Federal Government. And the Government has the burden of
25 proof to show --

1 CHAIRMAN CORY: Federal Government?

2 MR. VICTOR: Federal Government, yes.

3 -- to show that the State's best interest is being
4 served by this surrender of a certain amount of sovereignty.
5 And I think we have to then look to see about what State
6 interest is being advanced by this procedure. Is our
7 State's sovereignty increased? I'd say the answer has to be
8 no. Are local officials in the criminal justice system who
9 are answerable to the people they serve responsible for the
10 enforcement of State laws? And the answer is no.

11 CHAIRMAN CORY: Pardon me, would you explain that
12 to me for just a moment that somehow by doing this that the
13 local officials are no longer --

14 MR. VICTOR: What's really happening here is by
15 accession of the law enforcement of the State laws to the
16 park rangers. There is a concurrent jurisdiction. But as
17 a practical matter, the citizens of this County and this
18 State arrested by a park ranger for violation of the State
19 criminal law goes to a different judicial system. In
20 San Bernardino County, they would be transported approximately
21 200 miles to Los Angeles County before a Federal Magistrate
22 who is not answerable, or a Federal Judge, who is not
23 answerable to anyone within this State about how our State
24 laws are enforced.

25 The Attorney General, for example, has supervisory

1 powers throughout the whole State for the performance of the
2 offices of all the District Attorneys and law enforcement
3 officials. Is he going to supervise the application and
4 enforcement of our laws when the Federal people are making
5 an arrest and pursuing these matters? And has there been an
6 outpouring from officials within the State or the citizens
7 within the State that, you know, their best interests would
8 be served if our State laws were enforced by the Federal
9 Government?

10 And I would submit that is not the case. I
11 suggest, gentlemen, that history demonstrates that matters
12 of State concern are better handled by the State and not by
13 the Federal Government.

14 There's certain philosophical considerations
15 concerning this, and I'm talking to some extent State rights
16 and State sovereignty. And I think it's important that the
17 Federal system is just not responsive or responsible to our
18 citizens. They aren't elected. The District Attorney is
19 elected. The Sheriff is elected. The Attorney General is
20 elected. And they have to stand up for their acts.

21 Another concern, and I'm talking about just the
22 remoteness of this County from the center where Federal
23 prosecutions would take place, applying State law. I think
24 as a prosecutor that the uniform application of our law and
25 the enforcement of our law is absolutely necessary to our

1 citizens. And can that uniform application and enforcement
2 better be served by the local and State officials or by the
3 Federal Government?

4 We have matters of some practical consideration
5 also. San Bernardino County is blessed with professional
6 well-trained law enforcement agencies. I notice in the
7 suggested summary that the Federal Park Rangers with the
8 accession would issue complaints. Well, in our County
9 complaints, for instance, are issued through the District
10 Attorney's Office after a thorough investigation documented
11 by reports because we are just as concerned that the
12 innocent person or the person that should not be prosecuted
13 is not, as we are as prosecuting the guilty.

14 And we want and we insist upon a thorough,
15 professional investigation.

16 Park rangers are not police officers. They've had,
17 I understand, some training, but that's not their function.
18 The thrust, the whole thrust of their duties is completely
19 foreign to law enforcement.

20 CHAIRMAN CORY: Are there substantial differences
21 in the Federal Court system and the State Court system in
22 terms of the mechanism by which, I mean, you talk about the
23 distance. That's one consideration. But is there a
24 difference in the rights and the purity of the system in
25 terms of either case law or precedent?

1 MR. VICTOR: There are a number of differences.
2 As I understand in the Assimilative Act that the Federal
3 Government would assume our statement of the law to enforce
4 that, but there's certainly different procedural aspects.

5 For instance, our California Supreme Court
6 interpretation of the State Constitution has in several
7 areas given the criminal defendant substantially higher
8 rights than the Federal Constitution requires as defined by
9 the U. S. Supreme Court. Our State laws as interpreted by
10 our Supreme Court would afford certainly more protection
11 in areas of search and seizure, for example.

12 I'm not a Federal practitioner. The procedural
13 steps are somewhat different, I'm informed. The sentencing
14 practices are different than we have here.

15 CHAIRMAN CORY: But as a prosecutor do you feel
16 that society is better served by having those higher
17 standards than trying these people in State Court? It seemed
18 to be what you were implying up to this point.

19 MR. VICTOR: Well, as a prosecutor, I have to
20 accept the law as it's given to us and we'll enforce it.
21 In terms of your philosophical view and the balancing of the
22 interest of society as against the interest of the individual,
23 our Supreme Court has made an election and made those
24 determinations and we follow them rigorously. And as long
25 as that's a law, I think we have to do that.

1 CHAIRMAN CORY: But if we're at a cross roads where
2 we have a choice of using the Federal system versus the
3 State system to deal with lawbreakers, you seem to be saying
4 that we're better off using the State system.

5 MR. VICTOR: Well, I don't want to sound arrogant,
6 but I think we do a better job.

7 CHAIRMAN CORY: Go ahead.

8 MR. VICTOR: There are other alternatives involved.
9 Now if there is a substantial problem on the national parks,
10 and I'm not personally aware nor have I been made aware of
11 any substantial, serious problems, but if there is, and the
12 simpler solution, I think, would be that the Federal
13 Government could contract with local law enforcement agencies
14 to provide both the park ranger services and law enforcement
15 functions on a contract basis. But I am concerned that all
16 of our citizens --

17 CHAIRMAN CORY: Wait a minute. You're making a
18 great argument right until then, and right then you said to
19 me, we want the Federal Government to give us some bread.

20 MR. VICTOR: No, I don't really.

21 CHAIRMAN CORY: That's how it would be with a
22 contract. Don't you have an obligation to enforce the law
23 every place in your County?

24 MR. VICTOR: Certainly.

25 CHAIRMAN CORY: If we exclude the areas in your

1 County, will your Sheriff be enforcing State laws in that
2 region?

3 MR. VICTOR: Without question.

4 CHAIRMAN CORY: Then why do you need a contract?

5 MR. VICTOR: We don't. And I'm just suggesting
6 this as an alternative of the Federal Government rather than
7 saying let's enlarge our jurisdiction within the State of
8 California and so we can do these law enforcement functions,
9 let's just turn over their park ranger functions to the State

10 CHAIRMAN CORY: So that the Federal purpose they
11 would pay for, but not the State purpose.

12 MR. VICTOR: Correct.

13 MR. NORTHROP: Mr. Chairman, in light of the
14 objections raised, the reason that Death Valley and Joshua
15 Tree had been stricken from the record this morning, but so
16 the record reflects correctly, the Commission has received
17 letters from Senator Ayala who enclosed letters from Sheriff
18 Frank Bland and James Cramer from San Bernardino County.
19 In addition, the staff has had a great deal of communication
20 with San Bernardino County. We also have a telegram from
21 an attorney for Johns-Manville Products, Tenneco Company, and
22 several other clients opposing that in the same area.

23 And we would like to note for the record, however,
24 I would like to read a telegram from the Marin County Board
25 of Supervisors.

1 "At its regular meeting, July 22nd, 1975, the
2 Marin County Board of Supervisors voted unanimously
3 to support ceding of concurrent jurisdiction from
4 the State of California to the United States with
5 respect to Point Reyes National Seashore."

6 Also, D. B. Cook, Assistant Sheriff of Monterey
7 County, has indicated to the National Parks Service that
8 they have no objection to ceding of jurisdiction in
9 Pinacles National Monument. So there is some local support
10 for those areas. Where there have been local objections,
11 we've stricken those. The rest of them are on the Agenda.

12 CHAIRMAN CORY: The question before us does not
13 include Joshua Tree and Death Valley?

14 MR. NORTHROP: That's right, which is the problem
15 faced by the --

16 CHAIRMAN CORY: We have a specific request for the
17 Board of Supervisors in Monterey County and Marin County for
18 Point Reyes National Seashore.

19 MR. NORTHROP: And Pinacles.

20 CHAIRMAN CORY: And in Monterey, which is in two
21 counties. And one of the two counties, the law enforcement,
22 the Sheriff said that he has no objection which is slightly
23 different than a request to do it.

24 MR. NORTHROP: And we also have a letter here that's
25 just been pointed out to me that County Counsel in the

1 Whiskeytown-Shasta-Trinity National Recreational area in
2 Shasta County has indicated they have no problems with this
3 item.

4 CHAIRMAN CORY: Is that that they have no problems
5 or that they want us to do it?

6 MR. NORTHROP: Let me read the concurrent
7 jurisdiction.

8 "County Counsel Robert Rehberg, advises he
9 has reviewed the Notice of Hearing regarding the
10 jurisdiction of the Whiskeytown-Shasta-Trinity
11 National Recreation area, received from the State
12 Lands Commission April 7th, and advises it is the
13 intent of the State to cede to the United States
14 jurisdiction to enforce laws in that area
15 concurrently with the State and County. Virgil
16 Lymer, U. S. Parks Service Representative,
17 explains the present authority of the U. S. Parks
18 Service in the Whiskeytown Recreation area is
19 limited to the enforcement of Federal regulations.

20 "By motion made and seconded and carried, the
21 Board of Supervisors endorses the concept that
22 concurrent jurisdiction within the Whiskeytown unit
23 . . ."

24 CHAIRMAN CORY: They're in favor of it.

25 MR. NORTHROP: They're in favor of it, to answer

1 your question.

2 CHAIRMAN CORY: Mr. McGuire, you're the only lawyer
3 here, what do you have to say?

4 COMMISSIONER BELL: How about lava beds, anything
5 on that?

6 MR. LINDFELDT: Pardon?

7 COMMISSIONER BELL: How about Modoc/Siskiyou Lava
8 Beds?

9 MR. LINDFELDT: Well, concerning the lava beds,
10 the Board of Supervisors of Modoc County also passed an
11 order supporting the transfer of jurisdiction, but I did not
12 receive a copy of that, but I have seen the order at the
13 Clerk's Office in Modoc County. But I was supposed to
14 receive a copy, but I have not received it yet.

15 CHAIRMAN CORY: The guys in our operation spend a
16 lot of time in Alturas.

17 [Laughter.]

18 CHAIRMAN CORY: Come forward and identify yourself.

19 MR. HUGHES: I'm Captain Hughes, San Bernardino
20 County Sheriff. I've been asked to represent Riverside
21 County, San Bernardino County, and Inyo County.

22 You have apparently stricken the two or will strike
23 the two; however, the State Sheriffs Association at our
24 last hearing went on record to oppose the whole concept
25 based on many of the things said by the District Attorney

1 today and the staff report that you have in front of you.
2 We would suggest that you reconsider or take more time and
3 effort on the part of your staff to consult those agencies
4 involved, rather than just take the one proponent or the one
5 side for it and then the opposition. I don't think there's
6 been enough study.

7 You have stricken the two, but if you grant the
8 ceding of jurisdictions in the other cases, then, of course,
9 you set a precedent and it's a matter of routine to include
10 our counties; Riverside, Inyo and San Bernardino, at a later
11 date.

12 We're also concerned about the Federal encroachment
13 in law enforcement. We don't feel they have the same
14 quality of law enforcement as indicated previously. But
15 secondarily, we're concerned in our County that has a vast
16 area that if the National Parks Service is granted enforcement
17 jurisdiction, then if the Bureau of Land Management is granted
18 similar jurisdiction, it's quite conceivable that 80 percent
19 of our County can come under Federal concurrent law
20 enforcement standards.

21 In other words, a Federal police force. So I think
22 it's much more complicated and complex than just the ceding
23 of this jurisdiction to the Park Service to facilitate their
24 administrative task.

25 I think it's not in the best interest of the State

1 and I think that the matter should be given some additional
2 consideration.

3 CHAIRMAN CORY: Question of our staff. Is the
4 ceding in perpetuity? Can it be limited by time?

5 MR. LINDFELDT: It's until the uses of the area
6 are abandoned by the Federal Government. If they were to
7 abandon the --

8 CHAIRMAN CORY: Once we commit this act, we can't
9 alter? We can't withdraw?

10 MR. LINDFELDT: Not to my knowledge, no, unless
11 they abandon the property.

12 MR. TAYLOR: There are procedures for abandonment
13 on the request of the Federal Government.

14 CHAIRMAN CORY: But not for us.

15 MR. TAYLOR: Not under the statutes that we have
16 at the present time, Mr. Chairman.

17 MR. McGUIRE: Are the rangers prohibited from
18 making an arrest on the basis --

19 MR. HUGHES: No, they have the Code of Federal
20 Regulations which are laws promulgated for the enforcement
21 of visitor and visitor protection which deals mostly with
22 petty offenses. However, in the petty offense category the
23 disturbance that results from discharge of firearms and so
24 forth, they have adequate laws presently. What this will do
25 in effect will give them enabling powers to adopt all of our

1 State criminal codes. So instead of investigating the petty
2 offenses, they can also investigate major felonies; murders,
3 robberies and things of that sort which they're without power
4 to do under the proprietary interests they have now.

5 Under concurrent jurisdiction really they become
6 a referral agency. They can investigate those crimes that
7 they want to investigate and the ones that they don't want to
8 investigate, they can refer to the Sheriff and we have --

9 CHAIRMAN CORY: Get more profit items.

10 MR. HUGHES: -- and we have to take them.

11 MR. TAYLOR: Mr. Chairman, the whole concept of
12 cession of jurisdiction goes back to the creation of this
13 State. The idea of concurrent exclusive jurisdiction for the
14 Federal Government, exclusive jurisdiction for the State,
15 have been applicable in many areas; for instance, military
16 reservations and military lands. The only thing that is
17 being added today is the Park Service is asking for the power
18 to make arrests.

19 At the present time, as I understand it, they only
20 have the power to make citizen's arrests which gives them
21 certain problems, and in the opinion of the Federal
22 authorities, gives them difficulty in false arrest suits and
23 other matters.

24 In other words, they don't have a complete peace
25 officer standard and they must turn them over to State

1 jurisdiction and are in the same position as any of the rest
2 of us that make arrests as citizens. But the precedence for
3 this kind of action is long standing. It is just that it
4 has not been applied in the case of National Monuments or
5 parks of the type that we're looking at here in the past.

6 I think we have representatives of the Federal
7 Government that can explain the reasons why they're asking
8 for it. If you're interested in hearing some explanations,
9 I have several representatives sitting in the audience.
10 But it is very common. As a matter of fact, we have a
11 property book in the State and we have Federal property books
12 and quite often you have to get out the book to find out;
13 for instance, in Twentynine Palms we have a criminal appeal
14 where the question was who had jurisdiction in the middle of
15 Twentynine Palms to prosecute a murder.

16 And we finally sustained the State jurisdiction,
17 but it was a question neither the Feds nor ourselves knew,
18 who had jurisdiction on this one section of property in the
19 middle of Twentynine Palms Marine Corps Base.

20 This would make, what's being proposed here, is
21 that State law would be applicable but it could be enforced
22 by either Federal or State representatives.

23 CHAIRMAN CORY: But the questions that come up in
24 terms of citizens' rights, you know if you have a particular
25 kind of case which would be sustainable under the Federal

1 rules, Court rules, and not sustainable under the State rules,
2 I'm frankly somewhat offended by having a dual set where
3 law enforcement has an option of playing games with the
4 citizens on rules of evidence and those kinds of things.
5 And they've raised some interesting arguments in terms of
6 if there is a State crime, suddenly a man finds himself in
7 Federal Court with a different set of standards. And the
8 question in my mind is what case law is going to be used
9 to interpret their adoption of those regulations.

10 And the fact that this is granted in perpetuity
11 where if we decide that they are abusing our citizens, that
12 we cannot alter our action. I was unaware of that when it
13 was on the Agenda and I just really think maybe the question
14 should be posed to those local agencies who are supporting
15 this, if they'd thought about those arguments, before we go
16 ahead and commit an irrevocable act. I don't know what the
17 other Commissioners feel, but if it is an irrevocable act,
18 I would look at it much differently than where two
19 Governments could come to a conclusion.

20 COMMISSIONER BELL: You have the same problem I do.
21 Normally I would support action of a County Supervisors as
22 being local autonomy and properly should be recognized by a
23 State Board of Commissions. I don't like the idea of doing
24 anything that we don't have any choice later on of changing.
25 I just don't like the idea, being irrevocably prevented

1 from --

2 CHAIRMAN CORY: What happens if we put this over to
3 the next meeting?

4 MR. NORTHROP: Why don't we put it over and allow
5 us to have hearings with the various Boards of Supervisors in
6 those various areas. So we'll attempt to put it on the Agenda
7 for next time, if we can accomplish that.

8 CHAIRMAN CORY: Okay. Well, just some of those
9 questions.

10 COMMISSIONER BELL: Number 5 is over.

11 MR. TAYLOR: We'll also look at it from our criminal
12 standpoint since we have by inference been asked for a
13 statement just to see if they wish to make any comment.

14 CHAIRMAN CORY: I just don't know what they're
15 talking about.

16 COMMISSIONER BELL: And I really don't think (B)
17 is something we really want to do.

18 MR. NORTHROP: I think (B) should have an
19 amendment in it that we check with the local Boards of
20 Supervisors as well.

21 MR. TAYLOR: Do you want to hear from the Federal
22 representatives?

23 MR. NORTHROP: We need the authorization to hold
24 the hearings and contact the Boards of Supervisors. So I
25 think it would be well --

1 CHAIRMAN CORY: The question is, do we want to take
2 the time to hear the Federal officials on their need at this
3 point or should we do it at the subsequent meeting?

4 COMMISSIONER BELL: I hate to have them come out of
5 the way to come to a meeting. Is it something that they
6 would testify on this way and be inconvenienced coming to the
7 next meeting?

8 CHAIRMAN CORY: Come up and identify yourself.
9 Mr. Bell's question is if you're planning on being at the
10 subsequent meeting anyway, we'll hear it then. If it's
11 inconvenient, we'll hear you now.

12 MR. MIHAN: All right. I plan to be in on the
13 next meeting, but I thought perhaps I'd like --

14 MR. NORTHROP: Identify yourself.

15 MR. MIHAN: My name is Ralph Mihan, and I'm the
16 attorney for the Department of Interior; in this case, the
17 National Parks Service.

18 I thought perhaps there was some things I might
19 explain to you, but if you want to put those over to the next
20 meeting --

21 COMMISSIONER BELL: I think we better.

22 CHAIRMAN CORY: If you can work it out with the
23 staff from the questions that I raised and what Mr. Bell
24 raised, you can see just what's in the back of our minds.
25 The main thing to me is the irrevocable act, that if the

1 next Board of Supervisors in Marin County decided they didn't
2 like your act, that we couldn't do anything about it.

3 MR. MIHAN: Well, we have existing situations now
4 where we have the situation; in Yosemite, Lassen, Sequoia-
5 Kings Canyon, where we by the Assimilative Crimes Act, adopt
6 a State law and enforce it before U. S. Magistrates in the
7 U. S. District Courts. And this has been going on for some
8 time and we've never had any difficulty, and these are
9 citizens of the State of California as well as elsewhere.

10 This is nothing new. The concurrent jurisdiction
11 doesn't give us exclusive jurisdiction. We have equal
12 jurisdiction with the State.

13 CHAIRMAN CORY: Does that mean a person can be
14 tried in State Court and then tried in Federal Court for the
15 same act?

16 MR. TAYLOR: No.

17 MR. MIHAN: No, because of double jeopardy. It
18 can only be tried in one, and the laws will be the same in
19 both cases.

20 CHAIRMAN CORY: Rules of evidence the same?

21 MR. McGUIRE: The procedure.

22 MR. MIHAN: They're very similar, but they're
23 not exactly the same.

24 CHAIRMAN CORY: If there was a violation in one
25 jurisdiction which would preclude the prosecution of the case,

1 could you then flop it over to the other one? I mean, if
2 you had a search and seizure rule adverse in one jurisdiction,
3 could you then run it over to the other jurisdiction and play
4 games?

5 MR. MIHAN: No, I don't think so. The Courts
6 would preclude that.

7 CHAIRMAN CORY: Those are the kinds of questions
8 that I'd like you to deal with because of the double
9 jeopardy concept. I just want to make sure what we're doing.
10 That's the questions that started going through my mind.
11 We'll look forward to seeing you at the next meeting.

12 MR. MIHAN: Okay. Thank you.

13 MR. NORTHROP: Mr. Chairman, I think the rule of 5(B)
14 authorizes us to negotiate on this same area, but only in
15 the hearing aspect before we bring it to you?

16 CHAIRMAN CORY: 6(A)?

17 MR. NORTHROP: 5(B).

18 COMMISSIONER BELL: He insists on action on 5(B).

19 CHAIRMAN CORY: You want 5(B)?

20 MR. NORTHROP: Yes, I'd like to have 5(B).

21 CHAIRMAN CORY: You want to hold a public hearing?

22 MR. NORTHROP: I was advised by counsel.

23 CHAIRMAN CORY: Any objection to staff holding
24 public hearings? You can hold a public hearing as long as
25 you don't commit us to anything.

1 MR. NORTH. : Okay.

2 COMMISSIONER BELL: As long as it also adds the
3 fact that you've checked with the Board of Supervisors.

4 MR. NORTHROP: Yes, the local jurisdiction.

5 Mr. Chairman, item 6(A) is the State Lands
6 Commission staff has submitted a proposal to perform
7 evaluation and assessment of the oil and gas resources on
8 the Outer Continental Shelf on proposed Lease Sale 35, to be
9 funded partly by F.E.A. grant monies. The State Lands
10 Commission's proposal was a part of a larger Proposal for
11 Research on OCS Issues to be performed by several State
12 agencies and coordinated by the Energy Commission.

13 The Energy Commission has been unable to come to
14 any decision as to whether or not they wish to coordinate
15 and be project manager on the overall proposal and have
16 postponed that decision in a meeting yesterday until
17 August the 6th.

18 The F.E.A. has indicated a great deal of interest
19 in State Lands Commission performing this resource
20 assessment.

21 The staff has estimated the cost of the resource
22 assessment to be approximately \$77,000. A more accurate
23 assessment will be made in the event proprietary data is
24 made available by the Federal Government for examination by
25 State Lands Commission staff. It has been estimated that a

1 study of proprietary data would cost an additional \$12,000
2 for a total of \$89,000. And the Energy Commission has
3 indicated an interest in the proprietary data on lease sales
4 that have already been leased, on the areas that have already
5 been leased, to find out what the relationship of these
6 leases are to the State of California.

7 And if we were to get that information, probably
8 would take another \$21,000 to assess it.

9 COMMISSIONER BELL: Twenty-one.

10 MR. NORTHROP: So if the Energy Commission or
11 successor commission or even State Lands decides we'd like to
12 have the authority to go ahead with the contract.

13 CHAIRMAN CORY: The only question I have is making
14 sure that we do not at Lands obligate ourselves to perform
15 work in excess of that which we're going to be remunerated
16 for.

17 MR. NORTHROP: It may well be that we will do
18 some, while we have the data, we'll do some additional work
19 for our own satisfaction.

20 CHAIRMAN CORY: Yes.

21 MR. NORTHROP: But --

22 CHAIRMAN CORY: As long as we're doing contracting
23 services for someone else, just make sure they're paying for
24 it and we don't end up having contracted and there's a
25 hundred and fifty thousand dollars that's going to have to be

1 spent because it's going to be your trip to Hawaii that comes
2 out.

3 [Laughter.]

4 MR. NORTHROP: Mr. Chairman, I must confess we may
5 well be in that position at the present time if the Energy
6 Commission doesn't act because we have done some --

7 CHAIRMAN CORY: You went ahead and started working
8 on it.

9 MR. NORTHROP: We started working on it. We well
10 may be in that position and I'll stay home.

11 [Laughter.]

12 MR. NORTHROP: But the information we have is
13 information --

14 CHAIRMAN CORY: I'm sure we'd save 77 grand if
15 you didn't go.

16 [Laughter.]

17 MR. NORTHROP: The information you have is
18 information we can well use in our own operation. So we
19 have not done anything that we wouldn't have done.

20 CHAIRMAN CORY: But it's within the confines of
21 the budget.

22 MR. NORTHROP: Right, within the confines of the
23 budget. It was not done out of order, but some of the things
24 we've done, we've already done and we need the information.
25 So I'm really asking for a post facto approval somewhere.

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CHAIRMAN CORY: Any objection?

COMMISSIONER BELL: No objection.

MR. McGUIRE: No objection.

CHAIRMAN CORY: Without objection, authorize the Executive Officer.

7(A).

MR. NORTHROP: Mr. Chairman, the Draft Environmental Impact Statement of the Santa Barbara Channel on Sale No. 75-35 is inadequate, and we have before you some of the criticism of that report and we ask that the Executive Officer present these findings at a public hearing to be held in Santa Barbara in August, the latter part of the month.

CHAIRMAN CORY: Any problems?

COMMISSIONER BELL: No problems.

MR. McGUIRE: No.

CHAIRMAN CORY: Such will be the order.

8(A). 8(A), Permit for General Telephone. And that's exempt pursuant to Public Code?

MR. NORTHROP: That's correct.

CHAIRMAN CORY: Any questions?

COMMISSIONER BELL: No, I have no problems.

MR. McGUIRE: No.

CHAIRMAN CORY: Without objection, 8(A) will be approved.

1 8(B), Flood Control District. Any questions?

2 COMMISSIONER BELL: No.

3 MR. MCGUIRE: No.

4 CHAIRMAN CORY: Without objection, it will be
5 approved.

6 9(A), Department of Food and Agriculture, two-year
7 lease. Consideration: \$274.50. Is this U. S. or State?

8 MR. HIGHT: State.

9 CHAIRMAN CORY: We're going to clip Roseberg for
10 \$274.50?

11 MR. NORTHROP As you have pointed out, Mr. Chairman,
12 if we do a contract we at least try to get back costs.

13 CHAIRMAN CORY: Okay. Roy.

14 COMMISSIONER BELL: I'm trying to figure out which
15 one this was.

16 CHAIRMAN CORY: This is, which Agricultural
17 Inspection Station is it, Indio, Blythe?

18 MR. TAYLOR: Needles.

19 CHAIRMAN CORY: Needles.

20 MR. NORTHROP: Needles.

21 MR. TAYLOR: It's inland of Needles.

22 COMMISSIONER BELL: That's one we share with
23 Arizona.

24 CHAIRMAN CORY: Have they thought of closing
25 that?

1 MR. TAYLOR: They have, that's one of the problems.

2 MR. NORTHROP: It's at the Bell junction,

3 Mr. Chairman.

4 CHAIRMAN CORY: Without objection, 9(A) will be
5 approved.

6 9(B), Permit for John and Violet McNaughton.

7 MR. NORTHROP: It's an existing dock.

8 CHAIRMAN CORY: It's an existing dock at the
9 existing rate?

10 MR. NORTHROP: The existing rate is, it's at the
11 minimum rate, Mr. Chairman, because of the size of the dock.

12 CHAIRMAN CORY: Any question?

13 Without objection, 9(B) will be approved.

14 9(C), C and H Industrial Lease, an income of
15 \$24,000. Any questions? Anybody in the audience who
16 wishes to address themselves to 9(C)?

17 Without objection, 9(C) will be approved.

18 9(D). P.G. & E. has two separate leases?

19 MR. NORTHROP: Three leases on 9(D) and (E) and (F).
20 one of them is a power line. 9(D) deals with pipelines and
21 with a rate as indicated; however, the Commission knows we're
22 under negotiation to review this pipeline throughput concept
23 with the Public Utilities and we will adopt a new rate at the
24 time we adopt the new --

25 CHAIRMAN CORY: Are they accepting the charge on

1 this pipeline or are they not?

2 MR. NORTHROP: They have been very happy with the
3 throughput concept because of duplication, and we're at the
4 present time trying to work that duplication out.

5 CHAIRMAN CORY: My intuition is that we ought to
6 put it over and not give them anything until they agree to
7 the concept. Why do we buy a lawsuit?

8 MR. TAYLOR: The provision in this is if you
9 adopt a throughput, that becomes the rental rate on this
10 lease.

11 CHAIRMAN CORY: Okay. But if they then decide
12 they don't like it and take the throughput charge to Court
13 and argue it, we have in essence blessed the lease and if
14 they don't want to do that, they can figure out where they
15 put their pipeline. And I think it's probably in their ear.

16 [Laughter.]

17 MR. NORTHROP: Okay. That's the case, so we'll
18 put this over, Mr. Chairman.

19 Staff appreciates the expression of the Commission
20 in this case.

21 CHAIRMAN CORY: Otherwise if we lost that case,
22 then they would say that they would have it under the old
23 one and I think we'd be stuck, wouldn't we?

24 MR. TAYLOR: (D) and (E) are not for, wait a
25 minute. (D) and (E) -- It's (F) that's the electrical line.

1 No, wait a minute. The electrical line is (E).

2 MR. NORTHROP: That's right. And (F) is also --

3 MR. TAYLOR: (F) is also electrical cable. So
4 (E) and (F) are cables.

5 COMMISSIONER BELL: I thought the temporary work
6 areas under (D), second half --

7 [Thereupon there was a short discussion off
8 the record.]

9 CHAIRMAN CORY: Why should we have them start
10 building if we aren't going to let them have a pipeline?

11 COMMISSIONER BELL: I just figured if we get stuck
12 letting them build temporarily and not get the lease for the line.

13 CHAIRMAN CORY: As long as they're willing to,
14 I'm willing to go along with the temporary, if they're
15 willing to stipulate in writing that they understand they
16 may not get the lease and proceed at their own risk.

17 MR. TAYLOR: They can't build the pipeline without
18 the lease, so the temporary work areas would be immaterial
19 at this point.

20 CHAIRMAN CORY: If they want to go ahead at their
21 own risk, I have no qualms about that. That's fine. If you
22 can draft it that way to protect our interests.

23 Shall we leave them all out?

24 MR. NORTHROP: Mr. Trout.

25 MR. TROUT: Mr. Chairman, there's no need for the

1 two-year temporary lease if we do not issue the lease as a
2 whole.

3 CHAIRMAN CORY: We're just trying to suck them in,
4 you know.

5 [Laughter.]

6 CHAIRMAN CORY: Okay. We'll put 9(D) over without
7 objection.

8 COMMISSIONER BELL: I have no problem on either
9 (E) or (F).

10 CHAIRMAN CORY: Anybody in the audience have any
11 questions on (E) or (F)? Without objection, those two will
12 be approved.

13 (G), Woodbridge Golf and Country Club in San
14 Joaquin County, for pedestrian bridge.

15 MR. NORTHROP: Right.

16 CHAIRMAN CORY: \$100 a year. Anybody in the
17 audience who wishes to address themselves to Woodbridge?
18 Any objections?

19 COMMISSIONER BELL: No.

20 MR. McGUIRE: No.

21 CHAIRMAN CORY: Without objection, (G) will be
22 approved as presented.

23 (H), ABC Marine World, Amendment for Right-of-Way.

24 MR. NORTHROP: This is a replacement of a power
25 intake, a water intake line. It's just replacing a water

1 intake line.

2 COMMISSIONER BELL: Oh, okay.

3 CHAIRMAN CORY: Question. If the water intake
4 lines brings up the question of throughput?

5 [Laughter.]

6 MR. TROUT: That's a very interesting question
7 because we've got some 16-foot-diameter cold water intakes
8 and outlets for some of the major power plants. And that is
9 one of the concerns whether we would next apply throughput
10 to those kinds of situations.

11 CHAIRMAN CORY: 16-foot?

12 MR. TROUT: 16-foot, yes.

13 MR. HIGHT: A lot of water.

14 CHAIRMAN CORY: But what they're doing here is
15 bringing sea water in for their fish, I presume?

16 MR. TROUT: Yes. And the reason for this item is
17 that the water quality from where the intake is now is not
18 adequate. They're not getting enough oxygen to maintain the
19 fish. So they want to move it out a little farther and get
20 a little better quality of water.

21 COMMISSIONER BELL: Have to go across the ocean,
22 don't they?

23 CHAIRMAN CORY: I presume ABC Marine World charges
24 admission to see this?

25 MR. TROUT: Yes, they do.

1 CHAIRMAN CORY: So they're using the State resource
2 of oxygenated water, sea water, to enable them to make a
3 profit. And are we going to charge them a throughput charge
4 or aren't we, guys?

5 I think that's a tough question.

6 MR. NORTHROP: Mr. Chairman, in that case I suggest
7 we put it over to next month and we do a study on --

8 COMMISSIONER BELL: Isn't this intake out of the
9 bay and not out of the ocean?

10 MR. TROUT: Yes.

11 [Thereupon there was a short discussion off
12 the record.]

13 [Laughter.]

14 CHAIRMAN CORY: Do they have a liability or a
15 hold harmless in case the fish sue us for the quality of
16 the water that we've subjected them to?

17 [Laughter.]

18 MR. NORTHROP: What do you want to do, put it over
19 or take it up?

20 CHAIRMAN CORY: Greg, do you have any problem in
21 terms of the throughput concept in defense of it generally
22 if we apply it to some and not others?

23 MR. TAYLOR: Depends upon how the classifications
24 are set up and whatever regulations are ultimately adopted.
25 And at this point, we don't know too much. We would have to

1 take into consideration this problem providing the --

2 CHAIRMAN CORY: Suspect class.

3 MR. TAYLOR: If it was a separate class with a
4 reasonable basis for the class, there would be no problem
5 in treating it differently.

6 CHAIRMAN CORY: I'm willing to approve it. It's
7 not the world's biggest deal, but I don't want to jeop-
8 ardize the real fish we're frying as opposed to the points
9 that we're going to let people look at.

10 MR. TAYLOR: This is somewhat in a different
11 category than transportation pipelines in a sense. In others,
12 they are moving water through a limited area.

13 MR. NORTHROP: We're getting into an area with the
14 cities with sewage and that sort of thing and water
15 treatment plants crossing tidelands in some areas. I think
16 we want to be very careful where we go on this thing. It's
17 my feeling we probably should exempt water in this particular
18 case.

19 [Thereupon Commissioner Bell left the meeting.]

20 MR. TROUT: Mr. Chairman, to further complicate
21 things, your passage of items 9(E) and (F), if throughout is
22 a general concept, then what about electrical transmission,
23 is that not equally a source of energy?

24 CHAIRMAN CORY: I always had trouble with that in
25 my college physics class as to whether or not what electrical

1 energy really was. If the scientists have resolved that,
2 maybe we can deal with it. But that went through my mind
3 when we were doing it and I came to the conclusion that if
4 it, you know, a negative electrical --

5 MR. NORTHROP: I think we have ample precedent,
6 if I can practice law, we have ample precedent on throughput
7 for petroleum products, but I think personally it would be
8 hard to find for throughput on electrical power. But we can
9 certainly establish it here in California, Mr. Chairman.
10 I'm not afraid to be a pathfinder.

11 [Laughter.]

12 CHAIRMAN CORY: Okay. The Attorney General is
13 satisfied we are not boxing ourselves in if we go ahead
14 and approve (H)?

15 MR. TAYLOR: By passing this action you have to
16 make a reasonable, you have to have a classification for
17 this which would be separate from the other throughput
18 classification.

19 If you did that, you would not have a problem.
20 It would appear to be a reasonable basis to make the
21 distinction because it would have to take into consideration
22 your regulations that are adopted.

23 CHAIRMAN CORY: And the staff will duly note?

24 MR. NORTHROP: Yes, sir.

25 CHAIRMAN CORY: Okay. Without objection, (H) will

1 be approved as presented.

2 9(I).

3 MR. NORTHROP: Mr. Chairman, 9(I), Mr. Kenworthy
4 dba The Quest, is an expiration permit only and there is
5 nothing in this that allows The Quest program to take anything
6 that they find.

7 [Thereupon Commissioner Bell returned to
8 the meeting.]

9 MR. NORTHROP: If they find something, they must
10 come back and reapply but they do have first refusal.

11 CHAIRMAN CORY: Mr. Kenworthy understands that?

12 MR. NORTHROP: I am assured by staff.

13 CHAIRMAN CORY: He has acknowledged in writing that
14 he is not to take anything?

15 MR. TROUT: Yes, sir.

16 CHAIRMAN CORY: Without objection, 9(I) will be
17 approved as presented.

18 9(J).

19 MR. NORTHROP: This is a renewal of an existing
20 lease, Mr. Chairman.

21 CHAIRMAN CORY: Any questions about Perry's Boat
22 Harbor and Drydock? Anybody in the audience have any
23 comments?

24 Without objection, 9(J) will be approved as
25 presented.

1 (K).

2 MR. NORTHROP: This again, Mr. Chairman, is a
3 renewal amendment of an existing lease by Mr. Stults.

4 CHAIRMAN CORY: Anybody in the audience on 9(K)?
5 Without objection, approved as presented.

6 (L).

7 MR. NORTHROP: Mr. Chairman, 9(L), Mr. Hight, the
8 attorney for the staff, would like to make a presentation.

9 MR. HIGHT: This is a termination of a lease in
10 which the lessee has failed to comply with lease
11 requirements in that he has failed to build the boat docks
12 that he anticipated. We have given the lessee several
13 extensions in which to build the facility and he has not
14 done so to date.

15 There is opposition in the audience. The law
16 firm of Nossaman, Waters and Krueger is represented by
17 Winfield Wilson who wishes to speak against this item.

18 And I believe there's other people in the
19 audience.

20 CHAIRMAN CORY: Okay. Would they come forward.

21 MR. WILSON: Gentlemen, my name is Winfield
22 Wilson and I'm here on behalf of Decon Corporation.

23 Today, I don't believe it will be necessary to
24 speak in opposition to the proposal; however, I would
25 request that the matter be set over until the August 28th

1 meeting.

2 Decon received its first notice that the lease
3 was to be terminated only ten days ago and it has not had
4 the chance to extensively discuss the matter with either
5 the State or with the present upland owner. I have had the
6 opportunity this morning to speak with Mr. Griswold who is --

7 CHAIRMAN CORY: Decon is not currently the upland
8 owner?

9 MR. WILSON: No, it is not. The uplands were
10 conveyed several years ago to Ford Foundation.

11 CHAIRMAN CORY: Is it not our policy that these
12 are associated with the upland owner?

13 MR. TAYLOR: Yes, Mr. Chairman, they are. The
14 problem here is that a foreclosure occurred, and in the
15 process of the foreclosure they didn't include the Decon
16 lease for some reason. So there's a split-up situation here.

17 CHAIRMAN CORY: But there is a violation of the
18 lease in terms and conditions not met by the lessee, is that
19 correct?

20 MR. HIGHT: Yes.

21 MR. TAYLOR: That's what the calendar, yes.

22 CHAIRMAN CORY: Is there any dispute over whether
23 or not those terms and conditions were or were not met?

24 MR. WILSON: Yes. Decon does dispute the matter;
25 however, as I was mentioning, I have had the opportunity to

1 speak with Mr. Griswold. He is not adverse to a continuation
2 of the matter until next month. And I believe --

3 CHAIRMAN CORY: Who's he?

4 MR. WILSON: Mr. Griswold is the attorney --

5 MR. GRISWOLD: I'm Mr. Griswold.

6 MR. WILSON: -- representing the Ford Foundation
7 which is the upland owner.

8 CHAIRMAN CORY: I'm not sure that's relevant.
9 The lease is with us, friend.

10 MR. WILSON: That is correct. I believe, however,
11 under the circumstances and there is no immediate, no
12 detrimental effect will occur in the course of the next
13 month if the matter's let over. And I believe that under
14 the circumstances that it is my understanding that the State
15 would be agreeable to an extension of this matter for a month
16 to further discuss the matter.

17 CHAIRMAN CORY: How is the rental paid, on an
18 annual basis?

19 MR. TAYLOR: Yes, in cash.

20 MR. WILSON: All the rentals have been paid to
21 date, sir.

22 CHAIRMAN CORY: Mr. Griswold.

23 MR. GRISWOLD: Well, I'm here to primarily determine
24 what the Commission would do. And I didn't understand when
25 I got here there was going to be anybody representing

1 Decon Corporation. I represent the Ford Foundation who is
2 the owner of the upland property and who is attempting to
3 make application for a lease of the same land. But we are
4 told that we can't make an application for land which is
5 already subject to a previous lease.

6 MR. NORTHROP: Mr. Chairman, I think the issue
7 here is not whether or not the rent is paid, but it's been
8 the policy of this Commission when projected projects which
9 are scheduled to be done, completed with certain time lines
10 on State lands, if they're not completed within those time
11 lines, the Commission has been quick to exercise rescission
12 of those contracts because the work has not been completed
13 in a timely fashion.

14 And I think that is the basis for this discussion
15 today is the fact there have been generous extensions by the
16 Commission and staff and we're to the point now where we
17 think they haven't done the job and we should take it back
18 and give it to somebody that will.

19 CHAIRMAN CORY: How many extensions have been
20 granted to perform the work?

21 MR. HIGHT: There have been three extensions
22 granted, and in total there's been five amendments to the
23 lease. The other two relating to other items.

24 MR. WILSON: Sir, I would like to comment that
25 apparently several objections are set forth in the Notice of

1 Termination. The first one appears to be predicated upon the
2 fact that Decon no longer is the owner of the upland. But
3 first of all there is nothing in either the lease or State
4 regulations which makes the continued vitality of the lease
5 conditional upon Decon being the upland owner. I acknowledge
6 that it is the policy of the State to only issue leases
7 in fact to upland owners. Decon was the upland owner at
8 the time. The fact that it has subsequently conveyed the
9 upland portions of the property I don't think goes to the
10 continued vitality of the contract.

11 The second objection appears to be the fact that
12 the improvements have not been constructed. I think that
13 an analysis of the situation reflects that, in fact, the
14 fact that the improvements have not been constructed does not
15 in any way harm the public in, and conversely that it is
16 actually the public benefit.

17 The improvements which were to be constructed
18 were boat dock facilities for private residential use on
19 adjacent condominiums. The property has been dredged and
20 bulkheaded by Decon. The property is located on Sunset
21 Channel which is a relatively narrow waterway which provides
22 the only ocean access to Huntington Harbor.

23 It's presently open to the public and open to
24 public use. The objection of the State Lands staff appears
25 to be that Decon has not gone ahead and put wharfs on the

1 property and excluded the public use. And it's our feeling
2 that this is not a material breach. The fact that Decon has
3 not improved the property benefits rather than harming the
4 public.

5 CHAIRMAN CORY: But we can continue that public
6 benefit by terminating the lease so you no longer have any
7 right to do that. And so pursuant to your argument, I think,
8 we should do it.

9 MR. WILSON: I would also state, however, that we
10 feel that if it is not a material breach of the lease which
11 doesn't justify, furthermore, the default, the last extension
12 was to January 1, '74, when it expired.

13 The last year Decon was billed and paid its rental.
14 It's interesting to note, which was six months after the
15 alleged default, it's interesting to note that prior to even
16 notice of the proposed termination this year, that they were
17 billed again for the leased premises. It's our belief that,
18 in fact, if the State has waived the forfeiture by terminating
19 the lease, it could well be in breach and liable to damages
20 to Decon.

21 What we are requesting is that unless a month's extension
22 be granted so that the parties can discuss the matter and
23 try to work out an amicable accord to avoid possible
24 litigation and to best serve everyone's interest. We just
25 hope that we'll have the extension to enable the parties to

1 get together.

2 CHAIRMAN CORY: Question to the staff. It has been
3 the policy of this Commission since we started sitting here
4 to adhere to a relatively tough line on conditions?

5 MR. NORTHROP: Yes, it has been. We have one
6 lawsuit pending now on this same concept.

7 Mr. Shavelson, would you care to inject yourself?

8 CHAIRMAN CORY: Any problem with our position of
9 termination?

10 MR. SHAVELSON: The only thing, whether there's
11 any question of waiver in this case might be something that
12 might be worthy of study in this special case as distinguished
13 from other pending matters. It might be well to examine the
14 contentions of the lessee before taking precipitant action.

15 CHAIRMAN CORY: But if we put it over a month and
16 they go ahead and build the stuff, we've had the course, friend.

17 MR. WILSON: I don't believe under the circumstances
18 the improvements could be constructed in a month.

19 MR. SHAVELSON: Well, perhaps we should have an
20 understanding on that.

21 CHAIRMAN CORY: If they enter into a contract
22 you've got detrimental with your reliance and all those
23 problems. It seems to me our minimal risk is to go ahead and
24 terminate and if you work something out, we're open to
25 offers at a future meeting to further the public's interest.

1 MR. GRISWOLD: May I inquire when the rent is due
2 again?

3 MR. WILSON: On the first.

4 MR. GRISWOLD: The rent is paid up through August 1st?

5 MR. WILSON: Yes.

6 CHAIRMAN CORY: And we're willing to talk to either
7 the upland owner or Decon or whomever commensurate with the
8 public interest, but it just seems to me that time might work
9 adversely to our interest given that there are two parties
10 here and whether or not each of them is to submit to their
11 principles as to holding it in abeyance and then our next meet-
12 ing will be after the next rental amount is due and you've
13 got the question of whether or not that should or shouldn't
14 be paid if we're planning on terminating.

15 MR. TAYLOR: Mr. Chairman, it would be possible to
16 revoke the lease in the event that they do not file with us
17 within a number of days of this meeting a stipulation that they
18 would not improve the property and that all rights of all
19 parties would be held in abeyance. That's the only way you
20 can do it. Otherwise, I think, you'd have the problem you've indicated.

21 MR. SHAVELSON: The rights of the parties would be
22 as they are right as of today and not affected by events
23 occurring between now and the next Commission meeting.

24 CHAIRMAN CORY: What about the rental?

25 MR. TAYLOR: Impound it.

1 MR. SHAVELSON: Mr. Wilson, would that be
2 acceptable to you just to --

3 MR. WILSON: Well, obviously, the position of our
4 client is that they do not feel that their failure to
5 construct the improvements has been to the public detriment
6 in any way. It has paid the rental in the sum of around
7 \$20,000 to dredge and bulkhead the property. It is willing
8 to continue paying the rent on the property, but obviously
9 it does hope to obtain some benefit from its past payments.

10 And we had hoped, well, the alternatives would be,
11 obviously one alternative would be in an agreement with the
12 present upland owner on an assignment of the lease. I'm
13 not sure if we say that we hold the rights in abeyance as
14 things are as of today, if we could get a commitment to
15 assign to Decon, excuse me, assign to Ford Foundation and
16 if they were to undertake the covenants of the lease.

17 MR. SHAVELSON: I think you're right, Mr. Chairman,
18 if there's any chance of subactions between now and the next
19 time the Commission can act prejudicing the existing legal
20 rights of the Commission, that that makes it very difficult
21 to put it over.

22 MR. GRISWOLD: I'd like to make the record clear
23 as far as the upland owner's position. And that is, that
24 I'm here to see if it's possible that the lease can be
25 terminated. We are in favor the lease being terminated and

1 at the request of Mr. Wilson I agreed that we could negotiate
2 if he wanted to do so and the Commission, whose Commission's
3 responsibility is involved here, not mine. I'm kind of an
4 outside here. I would like to come forth later on after the
5 lease is terminated and make application for a new lease on
6 behalf of the upland owner, and we cannot do that under the
7 pending circumstances.

8 CHAIRMAN CORY: I presume we should go ahead with
9 the proposed action.

10 COMMISSIONER BELL: On the advice of our counsel.

11 MR. TAYLOR: Yes. Unless you can give us, you
12 haven't given us any commitment, Mr. Wilson, that the rights
13 would be stayed. And if we have no commitment, I don't think
14 we have any choice.

15 MR. WILSON: May I ask for an elaboration that the
16 rights be stayed. In other words, even if we were to
17 commence with the improvement of the property within the next
18 month that it would still not affect our present situation?

19 MR. SHAVELSON: That's correct.

20 In other words, the point is, Mr. Wilson, is that,
21 if I may just speak on behalf of Greg and myself and not on
22 behalf of the Commission, we would welcome the opportunity
23 to study the situation as it is today in more detail and
24 discuss it with you; however, if any such delay would result
25 in any effect upon the substantive rights of the parties, then

1 we couldn't recommend any such action.

2 MR. WILSON: In that event, I think, I can agree
3 that we will stay the rights as of today and then further
4 discuss the matter regarding the waiver of the forfeiture
5 and such in the course --

6 CHAIRMAN CORY: In what event? There seems to be
7 a condition there that we better get very explicit.

8 MR. WILSON: I'm sorry. If I understand correctly
9 that the rights are as of today and the purpose of it --

10 MR. SHAVELSON: That nothing occurs, no action on
11 the part of the lessee or any other event that occurs
12 subsequent to today or subsequent to this moment will affect
13 the presently existing rights of both parties to the lease.

14 CHAIRMAN CORY: It seems to me you've got to also
15 say the guy can't go out there and build the wharfs.

16 MR. SHAVELSON: I think that's well taken --

17 MR. WILSON: I think that would be --

18 MR. SHAVELSON: -- that no further action shall be
19 taken even though it wouldn't affect legal rights, that
20 there'd be no change in the conditions.

21 MR. TAYLOR: Shouldn't the action be that unless
22 within five days, if this is what the Commission is thinking
23 about, unless we have an agreement signed to the satisfaction
24 of the staff and our office within five days, that the lease
25 is terminated. And that the conditions of that agreement

1 would be that there would be no development. That all rights
2 would be stayed without prejudice to either side. And that
3 the matter could then be heard and we'd stay everything until
4 the next Commission meeting.

5 CHAIRMAN CORY: Is this consistent or inconsistent
6 with our policies on other leases? Do you have any problems
7 there?

8 MR. SHAVELSON: No. This does present a different
9 issue from the ones, allocations made by counsel.

10 CHAIRMAN CORY: Okay. Then we will --

11 COMMISSIONER BELL: Why don't we make it July 31st
12 instead of five days?

13 MR. TAYLOR: Okay. That will be fine. So the
14 finding would be then that it is terminated unless --

15 CHAIRMAN CORY: Terminated unless there is a
16 written contract entered into which is acceptable to the
17 Lands Commission staff and the Attorney General, or agreement
18 or stipulation or whatever, but I would want it rendered to
19 writing so that we don't have any problems with what each of
20 us understands. And there should be a statement that there
21 is a clear understanding that as of this point on Decon will
22 not take any steps to build any wharf and if they do, that
23 automatically terminates the lease.

24 This afternoon if somebody's out there putting up
25 a wharf, you've had it.

1 MR. WILSON: I hope they've told me everything.

2 CHAIRMAN CORY: Okay. Just so we clearly know.

3 MR. WILSON: Yes, I agree.

4 MR. TAYLOR: But the lease is terminated unless
5 that. And the term of the agreement would be until the next
6 Commission meeting?

7 COMMISSIONER BELL: Right.

8 CHAIRMAN CORY: And it would be on our calendar.

9 COMMISSIONER BELL: I would make such a motion.

10 MR. McGUIRE: Second.

11 CHAIRMAN CORY: Mr. Bell moves, Mr. McGuire
12 seconds, without objection, such will be the order. And
13 for the representative of the Ford Foundation, it seems to
14 me that there might be an attempt to involve us into some
15 negotiation between the two of you. You guys go out in the
16 hall and figure out where you are and what the best situation
17 is. I think you should be able to read our attitude and
18 where we are.

19 MR. GRISWOLD: The only question I have, is there
20 going to be a further Board action, Commission action?

21 CHAIRMAN CORY: Yes.

22 MR. TAYLOR: At the next meeting.

23 CHAIRMAN CORY: If it's required. If they enter
24 into some kind of an agreement, there would be some action.
25 And we'll look at the facts, but it is the general policy of

1 this Lands Commission that people who do not meet the terms
2 and conditions of leases will have the leases cancelled.

3 MR. TAYLOR: If there was an agreement between
4 Decon and the Ford Foundation, that would have to be a
5 matter which would be subject to Commission action and
6 approval.

7 MR. SHAVELSON: That's provided for anyway.

8 MR. TAYLOR: That's provided for in the lease.
9 In other words, there's going to have to be some further
10 action on this either way that we go.

11 COMMISSIONER BELL: No matter what happened.

12 CHAIRMAN CORY: If you people have some mutual
13 interest between you that is to your mutual benefit, that's
14 fine. If not, we'll be back next meeting.

15 MR. WILSON: Thank you.

16 CHAIRMAN CORY: We hope to see both of you bidding
17 on it.

18 9(M), Five-year recreational pier permits in
19 various and sundry places.

20 Any questions?

21 COMMISSIONER BELL: I have no problems.

22 MR. McGUIRE: No problems.

23 CHAIRMAN CORY: Without objection, they will be
24 approved as presented.

25 10(A).

1 MR. NORTHROP: Mr. Chairman, this is an extension
2 on a drilling permit by Dow Chemical. And they have a lease
3 which is a percentage lease which seems to be in line with
4 industry practices. They've been held up for one reason or
5 another and they've asked for an extension and staff
6 recommends it.

7 CHAIRMAN CORY: Anybody who'd like to speak on
8 item 10(A)?

9 Without objection --

10 COMMISSIONER BELL: Without objection.

11 CHAIRMAN CORY: -- 10(A) will be approved as
12 presented.

13 10(B).

14 MR. NORTHROP: Mr. Chairman, this is a dredging
15 for National Steel and Shipbuilding. The dredge materials
16 to be placed on the Federal spoils. They're paying us ten
17 cents per cubic yard royalty.

18 CHAIRMAN CORY: Anybody in the audience who wishes
19 to address themselves to the dredging application by National
20 Steel and Shipbuilding?

21 Without objection, it will be approved as presented.
22 11(A).

23 MR. NORTHROP: Mr. Chairman, I request that 11(A),
24 (B), (C), and (E), be taken as a unit. It's subsidence in the
25 Long Beach area. It's in line with estimates and it's work

1 that's required under Chapter 138.

2 CHAIRMAN CORY: Without objection?

3 COMMISSIONER BELL: No objection.

4 MR. McGUIRE: No objection.

5 CHAIRMAN CORY: Be approved as presented.

6 12(A).

7 MR. NORTHROP: Mr. Chairman, this is an attempt
8 to prepare as the Commission recommended an E.I.R. on
9 Standard Oil Company's drilling in the Santa Barbara area.
10 The first item directs the execution of the contract and the
11 second item authorizes a contract with Standard Oil and the
12 first with Woodward-Clyde.

13 CHAIRMAN CORY: Any questions or anyone in the
14 audience who wishes to address themselves to items 12(A) or
15 (B)?

16 Without objection, both items will be approved as
17 presented.

18 12(C).

19 MR. NORTHROP: Mr. Chairman, this is the final
20 Commission action on the emergency meeting of the State Lands
21 Commission.

22 COMMISSIONER BELL: The public meeting?

23 MR. NORTHROP: Yes. Delaying the seven-day notice.

24 CHAIRMAN CORY: Without objection, 12(C) will be
25 approved.

1 Is there anyone in the audience who wishes to
2 address themselves to item 12(C)?

3 Noting an inordinantly long pause, the Chairman
4 will announce that it will be approved as presented.

5 12(D).

6 MR. NORTHROP: In line with the Resource Agency and
7 the Administration's Protective Act, we would like to have
8 hearings to determine what areas under our jurisdiction are
9 environmentally significant.

10 COMMISSIONER BELL: Our own land use program. Is
11 this a requirement of the Resources Agency?

12 MR. NORTHROP: This is part of a unified program
13 with Resources pursuant to legislation.

14 CHAIRMAN CORY: Did I see the list of those lands
15 possessing insignificant environmental boundaries?

16 [Laughter.]

17 CHAIRMAN CORY: I'm not sure I have the time to go
18 through them.

19 Is there anyone in the audience who wishes to
20 address themselves to 12(D)? This is just to start to have
21 hearings on what it is we've got out there and to
22 differentiate how we should protect what is is we have.

23 MR. McGUIRE: I have one quick question. How does
24 this affect the consolidation program we're talking about, I
25 mean, assuming land, one of the school lands is considered
significant --

1 MR. NORTHROP: I think that's a part of it. We have
2 to look at the environmental significance of the land we're
3 trading for or the lands we have to trade. I think it's
4 important.

5 CHAIRMAN CORY: If that's the only remaining
6 habitat of the slimy newt, you may not be able to trade it.

7 [Laughter.]

8 MR. NORTHROP: I think it's important that we know
9 what the land we trade or what the environmental significance
10 of them are. They may well wind up on Mr. Cory's list.

11 MR. TAYLOR: These regulations that are proposed
12 give the Commission the authority to reconsider
13 classifications that are tentatively being set up in a report
14 that is required to be filed with the Legislature. And it
15 gives the Commission continuing jurisdiction over this
16 matter to reconsider each of these items.

17 In other words, to cover just the school lands, for
18 example, with a broad classification of A, B, or C, doesn't
19 say that you're taking into consideration every nick and
20 cranny of that property and maybe we want to raise the
21 classification or lower the classification depending upon
22 more detailed information that may become available. And
23 that's why we need these regulations to have continuing
24 jurisdiction over the classifications being set up in this
25 report.

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CHAIRMAN CORY: Okay. 12(D).

COMMISSIONER BELL: Yes, it's okay.

MR. McGUIRE: Fine.

CHAIRMAN CORY: Without objection, you have the authorization to proceed.

12(E).

MR. NORTHROP: 12(E) is a subvention list to be reported to the State Controller and it's --

CHAIRMAN CORY: Any objection? Without objection, 12(E) is approved.

13(A).

MR. NORTHROP: 13(A). Mr. Chairman, this is a cutting agreement with the United States Department of Agriculture, Forest Service, on a parcel of land in Shasta County, in which we tell them where our land is and they agree not to cut the timber unless it's by accident.

[Laughter.]

COMMISSIONER BELL: Is that the best deal we could get?

[Laughter.]

CHAIRMAN CORY: That's the best deal we could get.

MR. NORTHROP: That's about the only deal in town.

CHAIRMAN CORY: If they by accident --

MR. NORTHROP: If they by accident cut us, they pay us current market value for the timber.

1 COMMISSIONER BELL: Retail?

2 MR. NORTHROP: No, wholesale.

3 CHAIRMAN CORY: Okay. But does that mean I've
4 got a conflict of interest if I buy U. S. Plywood, Champion
5 International products because I've entered into this thing?

6 MR. TAYLOR: No.

7 MR. NORTHROP: I don't think so because they're
8 not supposed to cut the timber. If they do, they're doing
9 it in --

10 [Laughter.]

11 CHAIRMAN CORY: Do we have staff that goes up to
12 look whether or not they're cutting our trees?

13 MR. NORTHROP: Mr. Trout has a staff. He has two
14 competent timber estimators on his staff.

15 CHAIRMAN CORY: It's the incompetent one.

16 [Laughter.]

17 MR. TROUT: I'm the incompetent one. Actually
18 what this is is that the public land survey markers --

19 CHAIRMAN CORY: I understand that, but what are
20 you going to do to make sure they aren't cutting our trees?

21 MR. TROUT: We will go up and check the monuments
22 that have been set by the Forest Service.

23 CHAIRMAN CORY: Before or after?

24 MR. TROUT: We will have to do it after. We've
25 seen the monuments in place.

1 CHAIRMAN CORY: No, before or after they cut?

2 COMMISSIONER BELL: Before they cut.

3 MR. TROUT: The monuments are in place.

4 CHAIRMAN CORY: Okay. Now, will you go up and
5 check before they cut or after they cut?

6 MR. TROUT: Before they cut all we see are trees.

7 [Laughter.]

8 CHAIRMAN CORY: It's the old catch 22. Not being
9 able to see the forest for the trees.

10 MR. TROUT: After they cut we will go again,
11 survey the boundary and determine whether or not they have
12 cut any of our trees. We have verified that the monuments
13 are in place.

14 CHAIRMAN CORY: But you can't verify before they
15 cut that they're not?

16 MR. TAYLOR: Unless we leave somebody there.

17 MR. TROUT: Okay. The problem is that the public
18 survey monuments that normally would identify the State-owned
19 land are either absent or have been lost. The Forest
20 Service went in and reset new monuments to the best of their
21 ability, but they are not assured corners set by the Bureau
22 of Land Management. All that we're doing is saying that for
23 the purpose of harvesting this cut of timber, these monuments
24 mark the boundary between State lands and the land of
25 Southern Pacific and the United States Forest Service. That

1 if it's later determined that the real boundary is somewhere
2 else and as a result of determining the real boundary they
3 have cut some of our trees, we will receive what the Forest
4 Service receives for the trees plus our expenses of recovering
5 that.

6 CHAIRMAN CORY: What about Southern Pacific?

7 MR. TROUT: They're signatory to the agreement.

8 CHAIRMAN CORY: Do we get their share too?

9 MR. TROUT: Anybody who cuts trees ultimately
10 determined to have been on State lands will pay us plus our
11 expenses as a result of this agreement.

12 CHAIRMAN CORY: Is there any way we can get the
13 option of taking their uncut trees which presumably there's
14 a section there that's left?

15 MR. TROUT: That is certainly an option that would
16 be available to us is that we could get the rights of cutting
17 the equivalent amount of timber in lieu of cash.

18 CHAIRMAN CORY: Or leaving them standing for
19 environmental purposes?

20 MR. TROUT: We might have to enter into a land
21 exchange to do that if it turns out that these monuments are
22 in the wrong place.

23 CHAIRMAN CORY: Pursue that option for future ones
24 because it would seem to me that if it's moved over 20 feet,
25 then there's, you know, we might be better off keeping the

1 trees.

2 MR. McGUIRE: Wouldn't we have a legal right to
3 charge whoever cut the State's trees anyway? Don't you have
4 a legal right to sue them for the damage they've done?

5 CHAIRMAN CORY: Not if it's the U. S. Government
6 probably.

7 MR. TROUT: Well, the problem is that we would
8 first have to determine accurately where the State-owned
9 land is. And it's such a long ways from any known monuments
10 that for the purposes of this they have protracted monuments
11 into this area for the purpose of cutting timber. It has
12 worked out. The Commission has in prior times entered into
13 this.

14 CHAIRMAN CORY: And they don't just go through and
15 cut all the trees and just say, whoops? They don't really
16 do that?

17 MR. TROUT: That is certainly something that might
18 happen.

19 CHAIRMAN CORY: They haven't done that before?

20 MR. TROUT: No. They did cut our trees when they
21 laid out a plot wrong and we're still having difficulty
22 getting our money. They recognize they cut our trees,
23 everybody admits they cut our trees, but the United States
24 doesn't have any device for paying like our Claims Bill.
25 So we may have to sue them. That was on the calendar two,

1 three months ago.

2 The problem is, Mr. Chairman, that if we don't
3 enter into this agreement they might cut them anyway.

4 MR. McGUIRE: Are we cutting our damages on this?
5 If we make an agreement that we're going to pay wholesale
6 market value, in a lawsuit you can often sue for more than
7 that. You can sue for other value than just the wholesale
8 lumber.

9 MR. TROUT: That's right. We have evaluated that.
10 We feel that our costs of proving our ownership would exceed
11 the damages that we might receive.

12 CHAIRMAN CORY: That's the trade-off?

13 MR. TROUT: That's the trade-off. We think that
14 it's better to have a boundary than to just have the Forest
15 Service go up there and cut it anyway.

16 CHAIRMAN CORY: Anybody who wishes to address
17 themselves to item 13(A)? Where are the Friends of the
18 Earth when we need them. Well, without objection, 13(A)
19 will be approved.

20 [Thereupon Commissioner Bell left the meeting.]

21 CHAIRMAN CORY: 14(A).

22 MR. NORTHROP: Mr. Chairman, earlier this morning
23 the Lieutenant Governor discussed school land management
24 study and Mr. Trout will just briefly thumbnail it for a few
25 minutes and we'll go on.

1 MR. TROUT: Mr. Chairman, as Governor Dymally
2 said this morning, we have undertaken a program to identify
3 the State school lands and the values that they have.
4 We've also attempted to identify what this asset might be
5 used for for public benefit. Whether the land can be
6 consolidated and made to some public purposes.

7 I just want to call attention to the map up here.
8 The one with the red squares on it to your right, the blue-
9 print, just indicates, this is just the southeast quarter of
10 San Bernardino County and we have this in 42 of the 58
11 counties. This shows the present location of State school
12 lands, the red sections, and the rest of it is primarily
13 four sections per township owned by Southern Pacific Land
14 Company and the balance owned by the United States operating
15 through the Bureau of Land Management. And if you can
16 imagine those as being tile loose upon the map and you just
17 take and gather those tile together in your hand and
18 consolidate them in one place, that's what we're looking at.
19 As the Governor mentioned several alternatives, the property
20 could be used for geothermal development. Could be used for
21 habitat preservation. Could be used for recreation. Could
22 be used for natural study areas. Could be used for all
23 different kinds of activities.

24 And we will have for your consideration at the
25 September Commission Meeting a report outlining the various

1 uses and making some recommendations about the specific
2 areas of land the Commission might consider acquiring by
3 exchange with the United States and Southern Pacific.

4 CHAIRMAN CORY: Okay. Thank you.

5 15(A), Offshore Boundaries in Malibu.

6 MR. HIGHT: I'll say this --

7 CHAIRMAN CORY: Malibu's going to incorporate?

8 MR. HIGHT: Right.

9 The City of Malibu proposes to incorporate and at
10 this time they're seeking the Commission's approval of the
11 boundaries of their incorporation. And that's all we're
12 being asked at this time to approve is the boundaries.

13 CHAIRMAN CORY: Why do we have to approve the
14 boundaries?

15 MR. TAYLOR: The statute requires it so we can keep
16 track of where our property is located. We have to review
17 the legal description.

18 MR. NORTHROP: Particularly a large area that's in
19 tide and submerged lands.

20 CHAIRMAN CORY: But we still control it whether
21 it's City or County, don't we?

22 MR. TAYLOR: Yes. It doesn't make any difference.

23 CHAIRMAN CORY: It's so we know where to find it?

24 MR. TAYLOR: Well, it's also to keep track of
25 jurisdictional changes. I don't know exactly everything

1 that went into the history of the statute, but there was some
2 problems in the past and it was felt that getting the State
3 Lands Commission to identify the area would control the
4 matter. And you have a right to object to that which is
5 separate from this provision.

6 [Thereupon Commissioner Bell returned to the
7 meeting.]

8 MR. TAYLOR: This is without prejudice to that
9 right to object if you want to take a position on the
10 incorporation.

11 CHAIRMAN CORY: Did you want to get involved?

12 MR. SHAVELSON: No, the inclusion of tidelands
13 within the incorporation.

14 MR. NORTHROP: Mr. Chairman, before we get --

15 CHAIRMAN CORY: Does this have financial
16 significance if they find mineral deposits?

17 MR. TAYLOR: Yes. They're entitled to subvention
18 if we have a lease on it.

19 CHAIRMAN CORY: Only if it's a City or not if it's
20 a County or is it just entitlement as to who gets the lease
21 subvention?

22 MR. TAYLOR: Be who gets it.

23 MR. SHAVELSON: If they own the contiguous land, I
24 don't think the ownership of the inclusion is the title that's
25 relevant.

MR. NORTHROP: Contiguous.

1 MR. SHAVELSON: Contiguous upland is the
2 pertinent thing. In other words, if we had an offshore
3 lease.

4 CHAIRMAN CORY: Would be like the town lots in
5 Long Beach?

6 MR. SHAVELSON: No. More like Huntington Beach
7 situation where they're getting subvention.

8 CHAIRMAN CORY: But the act of incorporation does
9 not decrease the State's revenue in any way, does it?

10 COMMISSIONER BELL: Gross revenue, no.

11 CHAIRMAN CORY: The net. Are there then two
12 mouths and two hands that we have to sprinkle coins in or --?

13 MR. SHAVELSON: Only be subject to City ad valorem
14 taxes, for example. It would just in effect be an offset
15 between L. A. County and the City.

16 CHAIRMAN CORY: Subvention gross total would
17 remain the same, but it would be question of --

18 MR. NORTHROP: Who gets it. Who do we instruct
19 the Controller to send it to.

20 Mr. Chairman, under litigation, the next item --

21 CHAIRMAN CORY: We have to -- Without objection,
22 we will approve 15(A).

23 MR. NORTHROP: The attorneys had requested an
24 Executive Session immediately following this session to deal
25 with two litigated matters in addition to these.

1 COMMISSIONER BELL: In addition to these?

2 MR. NORTHROP: In addition to these, right.

3 CHAIRMAN CORY: Okay.

4 MR. NORTHROP: Mr. Shavelson, did you have anything
5 to say, Reilly versus State?

6 MR. TAYLOR: This one is a PI action where a claim
7 was filed against the State. It's been compromised by the
8 Tort Section of our office for \$999. This is requesting
9 authority to enter into the settlement. It's my understanding
10 there's a separate fund that will take care of the payment.

11 CHAIRMAN CORY: Well --

12 COMMISSIONER BELL: Is this a tort action?

13 CHAIRMAN CORY: Yes. Without objection, such will
14 be the order.

15 Has the staff addressed themselves as to how we
16 got ourselves into the predicament and how we can avoid it
17 in the future?

18 MR. NORTHROP: Yes, sir, we have.

19 CHAIRMAN CORY: Okay. Fine. Make sure you always
20 do that.

21 Okay. 16(B).

22 MR. TAYLOR: We've had very, very few of these
23 considering the amount of property that is under the
24 Commission's jurisdiction.

25 CHAIRMAN CORY: That's one of the advantages of

1 nobody knowing where our land is.

2 [Laughter.]

3 CHAIRMAN CORY: I don't know whether it is
4 relevant to the incident of injury.

5 MR. HIGHT: Mr. Chairman, 16(B) is an authorization
6 to remove a trespasser on the Sacramento River. And this is
7 a continuation of our trespasser ejection activities.

8 CHAIRMAN CORY: Any problems? Anybody here to
9 discuss 16(B)?

10 Without objection -- Mr. McGuire, Mr. Bell?

11 Without objection, authorization is granted.

12 MR. TAYLOR: We have the Pariani case which is a
13 geothermal case, whether geothermal energy is a water or a
14 mineral. It's set for trial at Thanksgiving time.

15 MR. NORTHROP: November 24th, I think it is.

16 MR. SHAVELSON: Today's the pretrial.

17 MR. TAYLOR: The pretrial is on Tuesday next.

18 MR. SHAVELSON: Another, just a half a second, we
19 are attempting to dismiss the case of the People versus Zarb.
20 That's the Burma Oil sold off to U.S.A. Petroleum and U.S.A.
21 is objecting to that dismissal. And that's going to be heard
22 on the 28th. I don't know if you gentlemen are apprised of
23 that situation, but I think you are.

24 CHAIRMAN CORY: I think so.

25 MR. NORTHROP: What Court is that in,

1 Mr. Shavelson?

2 MR. SHAVELSON: That's going to be in the U. S.
3 District Court in L. A.

4 MR. NORTHROP: Pariani is going to be heard where?

5 MR. TAYLOR: San Francisco.

6 MR. NORTHROP: Mr. Chairman, in line with the
7 trespassing -- Did you pass 16(B)?

8 CHAIRMAN CORY: Yes.

9 MR. NORTHROP: In line with 16(B) in the
10 augmentation of our budget this year which is approved, we
11 asked for some trespass position. And in line of the staff
12 report, Mr. Trout --

13 MR. TROUT: Mr. Chairman, I just wanted to take a
14 second to indicate to you in furtherance of our trespass
15 program and your desire to get additional funds, bring our
16 leasing up to date and so on, we are pleased to announce that
17 we have hired a supervising land agent from Cal Trans, named
18 Lynn Patton. He will be heading up our land transactions.
19 He's here in the audience.

20 Mr. Patton, would you stand up? We're just pleased
21 to have him. We think that he will get our program going
22 in full speed.

23 CHAIRMAN CORY: And we have a request for
24 Executive Session?

25 MR. NORTHROP: Right. And confirm the next

1 meeting is the 21st rather than the 28th.

2 CHAIRMAN CORY: We confirm the next meeting as
3 August 21st, 1975. Make sure the staff notifies the people
4 from Decon and the Ford Foundation and anyone else whose
5 items were put over since it is in writing on the 28th and
6 it was confirmed at a different date.

7 That being the case, can we have the room cleared
8 for Executive Session with the Attorney General.

9 [Thereupon the July 24th meeting of the
10 State Lands Commission was adjourned.]

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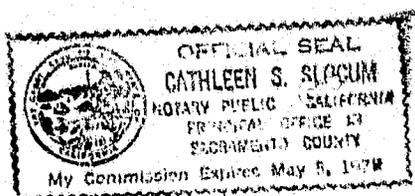
1 STATE OF CALIFORNIA)
 2 COUNTY OF SACRAMENTO) ss.

3 I, CATHLEEN SLOCUM, a Notary Public in and for
 4 the County of Sacramento, State of California, duly
 5 appointed and commissioned to administer oaths, do hereby
 6 certify:

7 That I am a disinterested person herein; that
 8 the foregoing State Lands Commission Meeting was reported
 9 in shorthand by me, Cathleen Slocum, a Certified Shorthand
 10 Reporter of the State of California, and thereafter
 11 transcribed into typewriting.

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

15 IN WITNESS WHEREOF, I have hereunto set my hand
 16 and affixed my seal of office this 4th day of August, 1975.



Cathleen Slocum
 CATHLEEN SLOCUM, C. S. R.
 Notary Public in and for the County
 of Sacramento, State of California
 C. S. R. License No. 2822

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