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MEETING
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 2117
SACRAMENTO, CALIFORNIA

ORIGINAL

THURSDAY, FEBRUARY 24, 1977
10:00 A.M.

C.S.R. License No. 3067

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PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

MEMBERS PRESENT

1
2 Hon. Kenneth Cory, State Controller, Chairman
3 Hon. Merlyn M. Dymally, Lt. Governor, Commissioner,
4 represented by Ms. Betty Jo Smith
5 Hon. Roy M. Bell, Director of Finance, Commissioner,
6 represented by Mr. Sid McCausland
7

MEMBERS ABSENT

8
9 NONE
10

STAFF PRESENT

11
12 Mr. William F. Northrop, Executive Officer
13 Mr. Richard S. Golden, Assistant Executive Officer
14 Mr. Robert C. Hight, Staff Counsel
15 Mr. James F. Trout, Manager, Land Operations
16 Mr. W. M. Thompson, Manager, Long Beach Operations
17 Mr. Al Willard
18 Ms. Kathy Stone
19 Mr. Steve Mills
20 Ms. Diane Jones
21

ALSO PRESENT

22
23 Mr. N. Gregory Taylor, Assistant Attorney General
24 Mr. Jan Stevens, Deputy Attorney General
25

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PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95824
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P R O C E E D I N G S

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3 CHAIRMAN CORY: Call the meeting to order. We
4 acknowledge presence of all three members of the Commission.

5 The first item of business before us is the
6 confirmation of the minutes of the meeting of January 26.

7 Are there any corrections or additions?

8 MR. McCAUSLAND: No.

9 MS. SMITH: No.

10 CHAIRMAN CORY: Without objection, the minutes will
11 be approved as presented.

12 The first item is the Report of the Executive
13 Officer.

14 EXECUTIVE OFFICER NORTHROP: Thank you very kindly,
15 Mr. Chairman, Members.

16 On February 10, 1977, Senator Warren Magnuson
17 introduced in Congress a bill to amend the Ports and Waterways
18 Safety Act of 1972.

19 Staff has been reviewing the bill and finds that
20 many of the provisions of the bill are worthy of support from
21 the Commission.

22 Briefly, the bill creates a new 200-mile "maritime
23 safety zone"; establishes minimum tanker requirements including
24 dual radar, collision avoidance systems, latest navigation
25 systems, retrofitting of segregated ballast, gas inerting

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1 systems, double bottoms or hulls for new tankers, back-up
2 boiler, and so forth; it also establishes a program to
3 prevent substandard vessels from entering or leaving U.S.
4 ports; it provides for improved inspection and enforcement,
5 and a cargo preference feature.

6 The bill will undoubtedly be subject to substantial
7 revision. The staff recommends that the Commission support
8 the bill in principle, and inform Senator Magnuson that the
9 Commission's staff would be available to provide assistance.

10 MR. McCAUSLAND: I think that's a good idea.

11 CHAIRMAN CORY: Anybody from the audience on this
12 item?

13 Without objection, such will be the order.

14 EXECUTIVE OFFICER NORTHROP: On February 4, 1977,
15 the staff accepted an invitation from the Division of Mines
16 and Geology to participate in an investigation of the Rose
17 Canyon Fault Zone in the offshore area near San Diego. The
18 primary purpose of the study is to gain a better understanding
19 of the location and age of individual fault traces within the
20 Rose Canyon Fault Zone. A seismic refraction program is
21 planned as a major part of this investigation, and staff will
22 have one of its geologists participate in the study.

23 At its January meeting, the Commission resolved
24 that the Executive Officer shall notice and conduct hearings
25 on the application for prior approval of subsidence remedial

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2 was scheduled to be heard during the first week in March.
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4 calendar until a master plan for the Port of Long Beach has
5 been accepted by the Coastal Commission.

6 The City has indicated it will keep the State Lands
7 Division advised of its progress in the preparation of its
8 Master Plan for the Port and seek appropriate comments from
9 the Commission.

10 Mr. James McJunkin, the new General Manager of the
11 Port of Long Beach, has indicated that the Port's position is
12 that it is entitled to approximately \$100 million from
13 tideland revenues as subsidence costs under Chapter 138 to
14 fill the land area in the Harbor District to a uniform
15 elevation. The reason for calling this potential \$100
16 million expenditure to the Commission's attention is that if
17 the Port is correct in this position, there would be a
18 substantial decrease in State tideland oil revenues from
19 Long Beach. The tentative staff position is that while each
20 application must be individually reviewed to determine
21 whether propr subsidence costs are claimed, the cost of
22 filling all the land in the Harbor District to a uniform
23 elevation does not appear to be justified as a subsidence
24 expense, in light of Chapter 138.

25 Individually, if as Mr. McJunkin has indicated

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MEETING
STATE LANDS COMMISSION

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ROOM 2117
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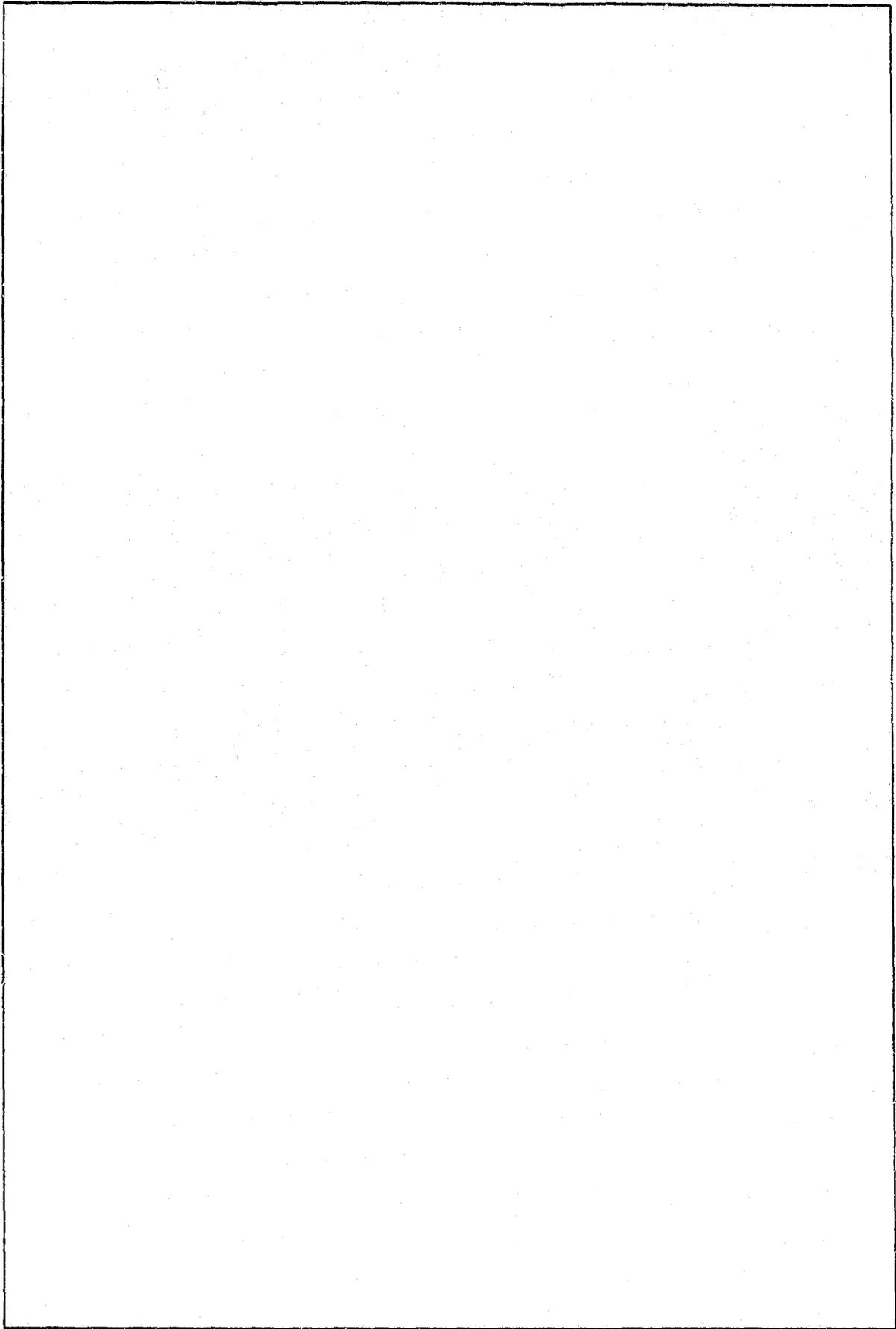
THURSDAY, FEBRUARY 24, 1977
10:00 A.M.

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PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95834
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PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 393-3401

MEMBERS PRESENT

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3 Hon. Mervyn M. Dymally, Lt. Governor, Commissioner,
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P R O C E E D I N G S

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Briefly, the bill creates a new 200-mile "maritime safety zone"; establishes minimum tanker requirements including dual radar, collision avoidance systems, latest navigation systems, retrofitting of segregated ballast, gas inerting

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7 revision. The staff recommends that the Commission support
8 the bill in principle, and inform Senator Magnuson that the
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TELEPHONE (916) 383-3601

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1 \$100 million, staff feels a price may well be doubled that.

2 CHAIRMAN CORY: To follow up on that, for the
3 other Commissioners and the audience, the question of
4 subsidence difference between our staff's views and the
5 City staff's views were brought up by a Long Beach legislator.
6 And I requested the staff to take the time to go and talk to
7 each Long Beach legislator individually, so that they knew
8 what the facts were. And as I recall, where this first came
9 to light was in a question of a site, which on a subsidence
10 correction we had overfilled, or it was higher than they
11 decided they wanted it. So, they came back and they wanted
12 us to pay to lower it, after we had raised it. And I felt
13 that the legislators should be aware of what the real issues
14 were and what the significance of the revenues to the State
15 was and the long-range implications to Long Beach in their
16 long-range self-interests, as opposed to the short-range
17 self-interests.

18 But, \$100 million is a lot of decreased revenue.

19 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we have
20 had conversations with Senator Deukmejian and Assemblyman
21 Chel and Assemblyman Cullen on this issue.

22 CHAIRMAN CORY: Okay. Any questions from Members?

23 MS. SMITH: No.

24 MR. McCAUSLAND: No.

25 EXECUTIVE OFFICER NORTHROP: The Assistant Executive

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1 Officer has some comments that he would like to make.

2 MR. GOLDEN: For about five years, now, I have
3 represented this Commission as a voting delegate on the
4 San Francisco Bay Conservation Development Commission. And
5 with the enactment of the Coastal Act of 1976, I currently
6 sit as a nonvoting member of the State Coastal Commission as
7 an alternate to the Chairperson of the State Lands Commission.

8 By provision of the Coastal Act of 1976, BCDC and
9 the Coastal Commission must jointly determine how they will
10 interrelate and present recommendations to the Legislature
11 by July 1 of '78.

12 Since both of these agencies have regulatory
13 jurisdiction over lands managed by the State Lands Commission
14 there are areas where policy conflicts may arise between the
15 various Commissions. I want to quickly summarize some of the
16 major areas in which our operations are being impacted by
17 policies at these other Commissions.

18 One of the principal areas where there is potential
19 for conflict is in determination of a project's consistency
20 with the public's trust and the exercise of that trust.
21 Various spokesmen for the Attorney General, each
22 representing a different agency, have been advising their
23 clients at each of the agencies that are responsible for this
24 function. Obviously, some resolution of this matter by the
25 Attorney General is essential if this State is to avoid

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1 conflicting findings.

2 BCDC has recently begun making public trust
3 findings on projects in our area. There's no discussion
4 offered to members of BCDC as to how these findings are to be
5 substantiated. I questioned the procedure and requested that
6 if they insisted on making these findings they should, at
7 least, coordinate with this Commission so that divergent
8 interpretations could be avoided.

9 With respect to BCDC, Mr. Taylor has advised me
10 that he will seek a resolution of this matter in their
11 office at an early date, and he has indicated to me that,
12 in fact, this meeting has already taken place, and that it
13 looks like now we may have a resolution of that.

14 The meeting has been set for March 4th with the
15 Coastal Commission staff, and our staff, and representatives
16 of the Attorney General's staff to attempt to arrive at a
17 mutual acceptable procedure relative to public trust
18 determination in that particular area.

19 Another matter which is being considered currently
20 by all three Commissions is the matter of tanker safety.
21 Largely through the instigation of Supervisor Quentin Kopp
22 of San Francisco, BCDC is being projected into considering
23 proposed legislation to give themselves power to restrict
24 tankers in the Bay by issuing permits to each tanker. In
25 the alternative, Supervisor Kopp is seeking to have BCDC

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1 institute a legal mandamus action and compel the Coast Guard
2 to force Federal tanker regulations.

3 Since the problem is statewide, it would seem
4 inappropriate to designate an agency such as BCDC, which has
5 a limited jurisdiction. The State Coastal Commission has
6 been monitoring the actions of other agencies, but at this
7 point has no recommendations to make. Staff of the Coastal
8 Commission recently reviewed this Commission's proposed
9 Coastal Management Regulations -- which we have on the
10 calendar today for your adoption, hopefully, on Item 20 --
11 which included several sections dealing with tanker
12 technology and terminal operation within the Coastal Zone.
13 These regulations specified that this Commission would take
14 a much more aggressive position in terms of controlling this
15 hazardous activity.

16 The Coastal Commission staff indicated they
17 supported our adoption of these regulations, which would
18 complement the Coastal Commission's responsibilities.

19 Since the new Coastal Commission took office on
20 January 1 of '77, I have attended three out of the four
21 meetings held. Most of the time consumed at these meetings --
22 which last from ten to 12 hours over a two-day period twice
23 a month -- is related to hearing permit appeals from the
24 regional commissions. These appeals are largely involving
25 residence units and lot splits. Less than a handful have

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1 had a direct or indirect connection with lands under our
2 jurisdiction, although under the Coastal Act all of our
3 lands along the Coast are encompassed by the Coastal
4 Commission land-use regulations.

5 The primary benefit so far to our attendance at
6 these meetings is that it gives our staff advanced
7 notification of problems which should be resolved in both of
8 our jurisdictions before inconsistent actions take place.
9 This working relationship will be especially important when
10 we get into reviewing local coastal plans and current port
11 master plans.

12 CHAIRMAN CORY: Questions?

13 MR. McCAUSLAND: Do you have any recommendations
14 as to how we should proceed in encouraging these other
15 organizations to respect our responsibilities in terms of
16 a finding of the public trust?

17 MR. GOLDEN: At this particular point, it appears
18 that we have a resolution with the BCDC, and it worked out
19 an arrangement whereby they will coordinate with us. In the
20 case of the Coastal Commission, I feel fairly certain they
21 are willing to work with us as well. So, I think we can
22 head this possibility on the public trust thing from getting
23 too far out of hand.

24 Where we may have some problems is relative to
25 Section 30416, which states our responsibilities under the

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1 Coastal Act, under the new Coastal Act. And at the present
2 time the Coastal Commission people have been rather put upon
3 for time, I think, more than anything, and they haven't got
4 us read into their regulations at all. I'm fighting right
5 now to get us in there so that the local coastal people who
6 are putting together these plans know that we do have, in fact
7 a responsibility in this area.

8 MR. McCAUSLAND: Mr. Chairman.

9 CHAIRMAN CORY: Mr. McCausland.

10 MR. McCAUSLAND: It may be desirable to have the
11 staff continue to evaluate the situation. If they feel it
12 would be appropriate for the Commission to address a
13 resolution to those two agencies expressing our interest in
14 working with them and protecting our primary role in the
15 definition of public trust, they could bring such a
16 resolution back to us at a later date.

17 MS. SMITH: I'd like to know what kind of agreement
18 we did reach with BCDC.

19 MR. TAYLOR: I think that the main problem, right
20 now, concerning a lack of coordination of how this was being
21 handled in their permit procedures just recently appeared,
22 and I had been unaware of that as well as Mr. Golder.

23 Basically, we have worked fairly well with BCDC
24 on all of our projects. Normally, we always get them
25 involved at the beginning of the time. And on those things

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1 where we have worked together we haven't had any problems.
2 And I think, for the first time, as a result of Mr. Golden's
3 comments the staff has contacted him with regard to the
4 statement with regard to what is consistent with the public
5 trust in at least one permit application since that time.

6 So, I think we have been trying to go to them and
7 say, this is what we are doing, and what is your reaction,
8 and we are trying to make sure it is a two-way street.
9 But, the basic question which you have raised is what is the
10 respective relationship between the public trust and the two
11 agencies.

12 With regard to BCDC, they have both a police power
13 jurisdiction, and where the State retains the public trust
14 over lands which were formerly or are still tidelands or
15 submerged lands, they have an additional basis -- in addition
16 to the police power they have the basis of the public trust
17 for purposes of land-use regulation. But, that's defined
18 in the Government Code.

19 All other uses and the proprietary ownership of the
20 public trust, in terms of putting physical improvements or
21 exercising it in a manner, such as this Commission did in
22 Hayward. That is still within the Commission. So, I think
23 that each Commission has a veto power over the other, and
24 that both Commissions have to agree to a public trust use for
25 it to be fully effective.

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1 There is a considerable gray area between an
2 ownership interest, which the Commission has, and a
3 regulatory interest; which BCDC has. And I think the only
4 way we are going to work in that gray area is by mutual
5 trust and cooperation. And I think everyone has gotten
6 everyone's attention, and we will continue to work that way
7 now.

8 That is about all I can say at this moment.

9 CHAIRMAN CORY: Within the Attorney General shop,
10 are your counterparts at the other thing -- you are talking
11 to them?

12 MR. TAYLOR: Yes, all the time. As a matter of
13 fact, we have had a very good relationship. Clem Shute and
14 I came to the office about the same time, and in all matters
15 with BCDC, except this one, we have had a pretty good
16 understanding. I don't have any disagreement with him to
17 our respective roles. The problem arose over this new
18 wrinkle they put into their permits, and that is the problem
19 we are going to have to work out a little bit. But, I think
20 we are okay, and I think the exercise has had a good benefit
21 in that it has increased dialogue between the two agencies
22 and between the attorneys that represent them.

23 CHAIRMAN CORY: All right. Are there any further
24 items?

25 MR. GOLDEN: No. Thank you, very much.

1 CHAIRMAN CORY: The next item we have is the
2 Consent Calendar. Those of you that have Agendas, we are
3 talking about numbers C1 through C17, inclusive.

4 Is there anyone in the audience who has any
5 problems with our proposed approval of any of those items,
6 C1 through 17?

7 Without objection, then, the Consent Calendar
8 will be adopted as presented. Items C1 through C17 will be
9 approved.

10 The next item on the Agenda is Item 18, which is
11 a review of the status of negotiations concerning the L.A.
12 Harbor Revenue Fund.

13 As I understand it, at the last meeting this item
14 was placed on -- we asked the staff to negotiate with the
15 City and report back at our March meeting.

16 It is my understanding from the Executive Officer
17 that on Friday, negotiations with the City apparently came to
18 an impasse, where there was an agreement on both sides that
19 there was nothing further to discuss. So, that is the reason
20 why this was placed on the Agenda to bring it back before us.

21 Mr. Thomas, I see, is here, who has a great
22 interest in this subject, I will presume. Is there anyone
23 here from the City of Los Angeles on this matter? Do you
24 wish to address the Commission?

25 MR. HOFFMAN: I think so, but I prefer to hear from

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1 the Assemblyman and the comments from the Commission first.

2 CHAIRMAN RORY: Well, you've got our comments.
3 I don't think Mr. Thomas needs to say anything. It's your
4 shot. If the facts are where the Executive Officer presented
5 them to us, that there is an impasse with the negotiations,
6 then we would like confirmation of that. If not, I think we
7 want to know how we can get the negotiations proceeding with
8 some alacrity.

9 Would you identify yourself for the record.

10 MR. HOFFMAN: I am Larry Hoffman. I am the Chief
11 Assistant City Attorney for the City of Los Angeles. I am
12 representing the City of Los Angeles today.

13 Also present in the audience is Mr. Ken Spiker,
14 who is the City's Chief Legislative Representative.

15 I think it is a fair statement to say that the
16 second round of negotiations, which occurred last Friday,
17 did reach a point of impasse. I think we are all in
18 occurrence that at that point in time, as to the issues that
19 have been discussed to that point in time -- it was a feeling
20 mutually shared that there would be very little benefit in
21 proceeding with those negotiations. At this stage of the
22 game, I think the Commission has a recommendation before it
23 from the staff.

24 As I understand the recommendation, it is to do
25 essentially two things: One, to designate a hearing officer

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1 for the purpose of conducting the administrative hearing for
2 a hearing into the matter; and secondly, as I understand it,
3 to authorize the Attorney General under provisions of the
4 law that control the Los Angeles City Tidelands Grant, to
5 initiate appropriate litigation.

6 It's generally our view at this point in time that
7 while the matter may ultimately need to be resolved in the
8 Courts, and certainly if we can't, through the process of
9 negotiations or some other vehicle, find a way of resolving
10 it -- but it will probably ultimately end up in the Courts
11 if we can't find a way -- that we haven't exhausted every
12 possibility of trying to avoid litigation. Litigation is
13 costly, it is expensive. It is burdensome for both sides,
14 and if it can be avoided, I think it is in everybody's
15 interest to try and avoid it.

16 At this stage of the game I'm not sure that we have
17 any magic answers to tell you how to avoid it or to suggest
18 how to avoid it. I did want to suggest to the Commission
19 one proposal that may be a vehicle for at least moving ahead
20 at this stage of the game, and that suggestion is that the
21 Commission not take any action today, rather recalendar this
22 matter, the same item again, for your calendar at your next
23 meeting, which I understand would be in late March. And
24 during that period of time, I can represent to you that the
25 City of Los Angeles from its standpoint will thoroughly

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1 evaluate its posture and position in this matter. The City,
2 as you know, has a number of agencies that are involved.
3 The agencies are its Harbor Commission, its City Council,
4 and the Mayor. So, it is not an easy matter to fully discuss
5 it internally in City Government. And we will attempt to
6 present to the Commission at its next meeting, if it is
7 possible to do so, a definitive proposal covering all the
8 issues in dispute; that the City would be hopeful, if it can
9 put together such a proposal, the Commission would find
10 would resolve the differences between the City and the State.

11 I would hasten to add that I can't give any
12 assurance to the Commission that, in fact, we will be able
13 to put together such a proposal. I do think, though, that
14 within, say, a 30-day period of time we can certainly assure
15 you one way or another whether it is possible to put together
16 such a proposal. The way the negotiations have proceeded so
17 far, we have dealt issue by issue to get to that proposal.
18 Maybe the better way now is to jump ahead and look at the
19 end result, and come up with one overall proposal for all of
20 the items. Frankly, from our standpoint, it will take us a
21 little time to get into the position to even tell you whether
22 such a proposal is even possible. I would anticipate that
23 if the Commission were to agree to this approach, that during
24 that interim period, as we sort of shake out the details of
25 that proposal, we would have informal conversations with your

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1 staff and with the representatives of the Attorney General's
2 office to see if we have got something that would be
3 acceptable for them.

4 In other words, the burden would basically be on us
5 to try to put together such a proposal that we thought would
6 meet our needs as well as the Commission's needs. If we are
7 unable to do that at the next Commission's meeting, I would
8 suggest you place the same item you have before you back on
9 the Agenda. At that stage of the game, we could, again,
10 comment on the need for administrative hearings or litigation
11 at that stage of the game.

12 CHAIRMAN CORY: What has intervened since Friday
13 to lead you to this change of position?

14 MR. HOFFMAN: I'm not sure it is really a change
15 of position. I think what we found was in the negotiations,
16 the process of negotiations it is very difficult just because
17 of the time pressures and the way negotiations were being
18 conducted -- really come to grips with all of the issues and
19 reach agreements on all of the issues.

20 And as you recall, when the Commission first
21 encountered this matter, they purposely put the parties under
22 a rather tight time line, and we simply didn't have the
23 ability to put together a definitive proposal in that period
24 of time. We had to concentrate on various issues.

25 CHAIRMAN CORY: Who is your principal, Burt Pines,

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1 City Attorney?

2 MR. HOFFMAN: There are a series of principals,
3 here. City Council is one set of principals, the Harbor
4 Commission is another set of principals, and the Mayor --
5 I am representing all of them.

6 CHAIRMAN CORY: You don't find a conflict of
7 interest in that?

8 MR. HOFFMAN: I don't believe so. The City is
9 attempting, at this stage of the game, to try to develop a
10 unified proposal. As you know, just as the Attorney General
11 has problems with various clients, we have the same problems.
12 It's difficult to get all of the clients to deal with the
13 issue and come to grips with a proposal we can all agree on.
14 But, we are attempting to do that, and I am representing to
15 you that I think over a period of 30 days we can tell you
16 whether it is possible or not. If it is possible, we'll have
17 a definitive proposal before you. If we don't, we've lost
18 30 days in the process.

19 CHAIRMAN CORY: Thus far in the negotiations, have
20 you been instructed by your principals of what you can and
21 cannot negotiate?

22 MR. HOFFMAN: The answer is yes.

23 CHAIRMAN CORY: Can you disclose what that is?
24 Have there been any changes in those principals from the City's
25 position? If the City's position is, in essence, for us to

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1 "stick it in our ear," that it's your money and you can use
2 it as you see fit, not complying with the trust -- I'm not
3 sure we should blow the 30 days. If that's cold turkey where
4 the issue is, why waste the 30 days? It seems to be a waste
5 of taxpayers' funds on both sides.

6 MR. HOFFMAN: Well, certainly, that is your
7 description of the posture --

8 CHAIRMAN CORY: It's a question.

9 MR. HOFFMAN: It's not the City's view. The City's
10 view has been from the outset that there are three or four
11 very complex, very difficult issues that don't lend
12 themselves to simple generalizations. And the issues deal
13 with three series of bond issues that amount to roughly
14 \$29 million that are in dispute.

15 CHAIRMAN CORY: Let's take the issues that I
16 understand.

17 There is some interest money --

18 MR. HOFFMAN: Let me just --

19 CHAIRMAN CORY: No. Let's take my issues, sir,
20 because this is my meeting. Let's take the question of that
21 interest money.

22 Does the City agree that they owe the interest
23 money for trust purposes, or do they not?

24 MR. HOFFMAN: At this point in time the City is
25 not in a position to agree that it does. Let me tell you a

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1 little bit about the issues, so you can get a feeling for it.
2 It's not as simple as it initially sounded.

3 Initially, the issue was proposed that during the
4 period of time, from 1925 to 1959, Harbor Revenue Funds
5 were maintained by the City Treasurer, and the interest
6 on those funds was placed into the City's General Fund rather
7 back then, into the Harbor Revenue Fund. And initially,
8 nobody could understand it. We didn't know why that occurred
9 It's just been an accounting fact that it occurred. And when
10 that fact first surfaced, I think there was widespread
11 consensus in the City -- the interest should have been
12 applied to the Harbor Revenue Fund.

13 After we got into it and looked at it, we
14 determined that there was a Charter provision -- it was in
15 the Charter -- that can be construed from our standpoint as
16 the authority to put the money into the General Fund. In
17 1929 a proposition was put before the voters to change that,
18 to require that the monies be put into the Revenue Fund.
19 And for three years they were put into the Harbor Revenue
20 Fund. In 1931, the Charter was changed to go back to the
21 first provision. The thinking was, apparently, of those
22 people that were responsible for those Charter amendments,
23 that the City was entitled to some compensation for the
24 function of keeping the funds and investing the funds.

25 Now, that was the history. That history came out

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1 during the course of our review of the issue, and in looking
2 at the issue. What I am saying is that there is an
3 explanation of why those funds were not placed in the Harbor
4 Revenue Fund.

5 Now, the next problem is, is that inconsistent
6 with the trust? Does the trust oversee that? Does it
7 supersede that?

8 Well, at this stage of the game that's a question
9 we are trying to evaluate and the City is trying to evaluate,
10 because those were Charter provisions approved by the State
11 Legislature, which were binding laws. And to the extent that
12 those were laws on the books at the time, and still are on
13 the books at the time, the question is to what extent did
14 they control the trustee in the performance of his duties.
15 So, it is not an easy issue. It is not all that clear. It's
16 not something that is black and white.

17 CHAIRMAN CORY: It's relatively clear to me, in
18 terms of the various case law that I have seen, that Charter
19 provisions cannot override a statewide interest.

20 MR. HOFFMAN: Well, keep in mind that the Charter
21 provisions come to the Legislature, are approved, are treated
22 as statutes, and those statutes are controlling on the people
23 that keep the City's funds unless the trust principals over-
24 come that.

25 I think at this point in time the Attorney General

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1 believes that the trust principals are controlling. We are
2 simply uncertain at this point in time, and we want to take
3 a further look at that. It's not unlikely at all that, as
4 part of the proposal we put back before the Commission, would
5 be a recommendation that the Harbor be reimbursed for those
6 interests. But, we just can't tell you that at this point in
7 time.

8 CHAIRMAN CORY: I would like to suggest to my
9 fellow Commissioners a solution, because I don't think we
10 should spend a lot of time getting into the detail of this.

11 MR. McCAUSLAND: I was just going to say that we
12 are becoming an open negotiating session. I would like them
13 to go back and negotiate some more.

14 CHAIRMAN CORY: I would think that we should
15 remand the negotiations to the staff, make it clear that
16 we expect the staff to continue negotiations in good faith.
17 But, if in the staff's view, they come to the conclusion that
18 the City of Los Angeles is being dilatory and not wishing to
19 negotiate, and progress is not being made, that then they
20 immediately initiate an administrative hearing process to
21 ascertain a record from which the facts can be determined,
22 so that by the next meeting in March we will have a record
23 which will delineate facts from fiction, and opinion from
24 fact. So, when we get here we can, at least, have the issues
25 laid before us rather than just waste all the various times.

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1 Now, I think Mr. Thomas wants to make some comments.
2 ASSEMBLYMAN THOMAS: I hope you don't approve the
3 mistake. I want to speak to you just in plain, ordinary
4 language.

5 They have been doing this delaying for 30 years
6 this matter has been pending. The City of Los Angeles has
7 violated that trust every year. They take trust money and
8 put it into the General Fund. It's a similar case to Mallon
9 versus the City of Long Beach.

10 And here's what the newspaper said last night in
11 my District, the headlines:

12 "One City official attending the meeting
13 blamed the stalemate on the presence at both
14 sessions of Assemblyman Vincent Thomas."

15 Okay? Now, August 15th you set a meeting. They
16 said, "We need a little time." You've postponed the meeting
17 of January 26, only one person showed up, wanted a 120-day
18 extension. You gave me the privilege of presenting my case.

19 Now, you'll never negotiate with the City of Los
20 Angeles because they have no evidence.

21 And here is a letter that was dated February 14th --
22 mailed to you and each Member of the Commission. Our meeting
23 was on the 18th. They said:

24 "We had understood that the negotiations
25 were to be with the representatives of your

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1 Commission and the Attorney General's office,"
2 which eliminated me from being present, because I have the
3 evidence.

4 I made a statement in negotiations of both meetings,
5 whatever the City claims, whatever any party claims in monies
6 or anything, they should have evidence, either by minutes of
7 the City Council or minutes of the Harbor Commission, or
8 documents of any kind, legislative counsel's opinion, Attorney
9 General's opinions and case law. I claimed there's \$36
10 million taken illegally. So, I have evidence to that that
11 I would like to present.

12 I started to present it, but he stopped me every
13 time. He was the one that spoke for the Harbor Department,
14 the Mayor, the City Council, and the CAO officer. They had
15 this letter in their pocket on the 18th.

16 Can you imagine what bad faith -- they are accusing
17 me of bad faith -- they had this letter that was mailed to
18 you on the 14th. We were all sitting and negotiating, and
19 they had it in their pocket.

20 So, Mr. Hoffman started presenting one case about
21 so many acreage of land that was transferred to the Harbor
22 Department, and he claims that the Harbor Department should
23 pay back to the City somewhere around three and a quarter
24 million dollars. After he explained this case, I said,
25 "Mr. Hoffman, here is what Mr. Spiker said in his report,

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1 CAO's report: This land was purchased by the City for
2 \$93,000, and it was transferred by an ordinance to the
3 Harbor Department with no intent of making repayment."

4 Right after that, he knew he didn't have a case.
5 So, he said, "Let's adjourn for a moment and have a recess."
6 They came back with this letter, after mailing it to you on
7 the 14th -- and they are talking about good faith and
8 negotiations? They gave us this letter and said, "We cannot
9 negotiate any further."

10 I have and I have presented to the Attorney
11 General and your staff all the legislative counsel's opinions
12 one holding that the City is not entitled in any way for
13 repayment of the general obligation bonds of 1911. Those
14 were commitments made to develop that harbor.

15 I also presented to you a legislative council
16 opinion that the Harbor Department is not responsible for the
17 fire and police protection. I presented to you Attorney
18 General's opinion substantially based on intent, what did the
19 parties intend? I gave you the whole case on January 26.

20 They are stalling, they are delaying. They are
21 afraid to admit that they're liable of taking trust monies.
22 We're not talking about convenience of what the City does,
23 it's a question of law. You can't have parties negotiating
24 on questions of law, you can't negotiate the law. It's
25 specific.

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1 I have evidence. A document was presented to the
2 Harbor Commission. I'm not going to mention names because a
3 document was immediately taken off calendar. In that
4 document, the Harbor Commission Manager admits, at least, that
5 the City owes the Harbor Department 15 million, 800 and some
6 thousand, plus the interest. In trust law, you can't take
7 interest money from the trust and commingle it with the
8 City's fund. It's a violation. You can't take \$750,000
9 every year from a trust fund for City purposes. That's a
10 trust violation.

11 And even Mr. Wells, the counsel for the Harbor
12 Department, admitted in a letter that they should not make
13 payment because there wasn't further evidence that they were
14 entitled to it.

15 I have a letter from the Accountant of the Harbor
16 Department setting forth the investment of the interests.
17 Compounded, they owe seven and a half million.

18 So, this delay of 30 days -- they can't find any-
19 thing. It's not a question of whether you are going to
20 review the Charter now, after 30 years? Twenty-five years
21 I have put into filing a brief with you. I have every case.
22 I have every legislative counsel's opinion -- all of the
23 documents. And I'll give them -- as I did, I gave them to
24 you. If you want me to outline some more of their violations,
25 I'll do so.

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1 1935, I was Chairman of the committee to establish
2 a fishing dock in San Pedro. Up until 1935 our fishing boats
3 had to bore at the outer bay. They violated the trust, so
4 I called the meeting. I was the Chairman. Mayor Shaw came
5 in, and I wanted to file a lawsuit in violation of trust.
6 Immediately, they gave Southern Pacific four times the value
7 of the Southern Pacific slip, so that Southern Pacific could
8 take title and transfer to the Harbor Department.
9 Continuous violations.

10 There's only one way to settle this, to adopt your
11 resolution right here, especially Number 3 -- and by the way,
12 this is in the grant -- that the Attorney General can take
13 any action. 1970 amendment we gave the Attorney General
14 in the Los Angeles grant the right to file any action for
15 violation, and it said it "shall," not "may."

16 So, gentlemen, you are making a big mistake.
17 You're not going to get -- no matter how long you give them --

18 CHAIRMAN CORY: Listen to me carefully on what I
19 am suggesting we do.

20 That we tell the staff to resume negotiations if
21 the City wants to negotiate, but they have the same
22 authorization that's included in the calendar item, to
23 proceed with an administrative hearing to ascertain the
24 facts based upon our original time schedule, so that we will
25 be in a position at our March meeting to dispose of this

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1 issue once and for all.

2 ASSEMBLYMAN THOMAS: I talked to Lieutenant
3 Governor Dymally yesterday, and I explained the whole case.
4 And he agreed with me -- the young lady was there. There was
5 no opposition from him, as I understand it, was there?

6 MS. SMITH: He understood your position.

7 ASSEMBLYMAN THOMAS: Surely.

8 CHAIRMAN CORY: The point, Vince, that I am saying
9 here, is that the City is saying there may be some way to
10 resolve it. They may decide that we are right. And if that
11 option is available, I think we should keep that line of
12 negotiations, instead of spending the money on litigation;
13 but at the same time, to proceed so that the City is very
14 clear in their mind that their alternatives are to come to
15 grips with what we believe the law would be, and if they
16 don't accept our position then we are going to have to
17 litigate. But, as I understand from the Attorney General,
18 one of the steps to preparing that case, would be an
19 administrative hearing so that the facts can be ascertained
20 to expedite that litigation.

21 So, what I am proposing that we do -- this calendar
22 item from our last meeting, which was the January meeting,
23 we have suggested that it would be before us in March. It
24 will be back before us in March with the further stipulation
25 that if City staff and the Commission staff can come up with

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1 a definitive proposal on how to solve this and go on, fine;
2 but if not, at the March meeting one additional step that we
3 will have already have behind us would be the administrative
4 hearing, where we can delineate the facts, rather than take
5 Commission time to determine the facts.

6 ASSEMBLYMAN THOMAS: Let me tell you something.
7 The meeting was scheduled for the 15th of December. Then,
8 they said they wanted more time to look at the facts. Then,
9 the 26th of January -- they wanted to look at the facts.
10 We made it the 7th. "We want to look more at the facts."
11 On the 18th, they had no evidence.

12 I'll present to you the case. If you have a
13 special meeting this coming week to make that decision, fine.
14 They don't need a month.

15 MR. McCAUSLAND: Mr. Chairman.

16 CHAIRMAN CORY: Mr. McCausland.

17 MR. McCAUSLAND: I appreciate the Assemblyman's
18 long-standing interest in this matter, and I am personally,
19 firmly, convinced that you will not let a single member of
20 this Commission rest until justice has been done.

21 But, I am inclined to move the Chairman's
22 recommendation with the stipulation that the Executive
23 Officer use a great deal of discretion in his determination
24 that negotiations have ceased. I believe that this is going
25 to be an acrimonious series of negotiations, and I don't

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1 think we should use the power which we are vesting in the
2 Executive Officer today in an abusive fashion. I would hope
3 that negotiations could continue successfully.

4 It doesn't matter to me whether the negotiations
5 are concluded in one month or not if they are productive.

6 But, I would like to move your motion,
7 Mr. Chairman, with the stipulation that Mr. Thomas will
8 continue to oversee our operations until such time as this
9 matter has been concluded.

10 ASSEMBLYMAN THOMAS: Can I ask a question before
11 you vote?

12 CHAIRMAN CORY: We have a motion --

13 MS. SMITH: Second.

14 CHAIRMAN CORY: -- and a second.

15 Vince.

16 ASSEMBLYMAN THOMAS: Can I attend these
17 negotiations?

18 MS. SMITH: That's part of the stipulation.

19 ASSEMBLYMAN THOMAS: Ask him why is it they don't
20 want me to attend. Why can't I attend?

21 MR. McGAUSLAND: Why don't I speak to that,
22 Mr. Chairman.

23 You clearly can attend as a member of the
24 Legislature, Mr. Thomas, and there's not a single individual
25 on this Commission who would want to suggest otherwise.

1 But, I believe that one of the difficulties of a
2 negotiating session is that they are acrimonious enough to
3 start with. And if there is any way to reach a satisfactory
4 conclusion here, I would hope we could, and I would hope
5 your attendance at these sessions does not foreclose the
6 opportunity of reaching such a satisfactory conclusion at
7 some point in time.

8 You are clearly welcome to attend any of those
9 sessions -- if that's your stipulation.

10 ASSEMBLYMAN THOMAS: Not according to this letter.
11 This letter -- they will not negotiate in my presence.

12 MR. McCAUSLAND: Well, then it suggests maybe we
13 would like to find a way to negotiate.

14 CHAIRMAN CORY: That's a letter from the City.

15 MR. TAYLOR: Mr. Chairman.

16 CHAIRMAN CORY: The question that I am really
17 puzzled about, and the thing that makes it very difficult
18 for me to accept the City of Los Angeles is moving in good
19 faith, one of the things -- putting it right out there --
20 that I keep hearing somehow Mr. Thomas's presence precludes
21 the ability to resolve this issue, yet the staff tells me
22 that there was a meeting, a private meeting between the
23 Executive Officer --

24 EXECUTIVE OFFICER NORTHROP: Between staff, sir.

25 CHAIRMAN CORY: -- and the City on Friday, at one

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1 point. And there was an agreement that the issues -- that
2 there were too many issues and they were too far apart and
3 it served no purpose, and Mr. Thomas wasn't in that session.

4 Can you help me with what Mr. Thomas's personality
5 -- I've been in the Legislature with him. I have worked for
6 him for a while when I was on the staff. I have served with
7 him, and at times I disagreed with Vince, but I have never
8 found him to be impossible to get along with. He's always
9 been courteous, polite.

10 How could his physical presence preclude a
11 settlement of this difficulty which, I presume, we are
12 deciding upon merit and issues and not on personalities?

13 MR. HOFFMAN: Is that addressed to me?

14 CHAIRMAN CORY: That's a question.

15 MR. HOFFMAN: If it is addressed to me, I can make
16 some observations. Obviously, I think the Assemblyman
17 understands that certainly there is no criticism of his
18 personality or his demeanor, and we have simply no concern
19 in that regard. And I hope that any comments I make aren't
20 viewed as dealing with questions of personality or technique
21 or approach.

22 The difficulty is that there are really two sets
23 of representatives at the table representing the State's
24 views, with, to some extent, different views and perspective
25 of the problem. And that's been difficult for us to deal

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1 with.

2 CHAIRMAN CORY: Let me make that very clear to you.
3 With all respect to Mr. Thomas, I think he clearly
4 understands that he is a legislator who is in a position to
5 kibitz, to second-guess, but the decision will be made by
6 the Commission. I don't think Vince is denying that. The
7 negotiators for the State are the Lands Commission. He just
8 wants to make sure that we do it right.

9 (Laughter.)

10 CHAIRMAN CORY: So, you are negotiating with us,
11 and if we take a different viewpoint, both sides, I think,
12 should listen to what Vince has to say. I've usually always
13 been able to learn something from Vince's comments. But, you
14 are negotiating with the Lands Commission, not Mr. Thomas.
15 He does not represent the State, he represents his
16 constituents. And he does a very able job, I might add, on
17 that.

18 So, I get the impression that that's the excuse.

19 MR. HOFFMAN: Well, let me simply say that it is
20 not. There have been two problems in the negotiations that
21 made it difficult for the City to proceed. One is the
22 problem of having sort of two voices at the table, two
23 different views of the subject. The other problem is the
24 time frame.

25 As the Commission will recall, the original

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1 recommendation of the Commission was a period of approximately
2 four months. You felt it was too long and cut it down to
3 two months. We went to, basically, biweekly meetings. We've
4 had two of those. In the first session, which lasted from
5 about two to three hours, we identified the issues, reached
6 agreement on a number of lesser issues, although Mr. Thomas
7 I don't think was in complete agreement on some of those
8 lesser issues -- we identified four issues to put on the
9 Agenda for this last meeting, which was just this last
10 Friday.

11 And in that interim, those are meaty issues, they
12 involve lots of dollars. The City, as you know, is a large
13 organization, it has to meet, too, internally. And the time
14 pressures have really been intense. It's very, very
15 difficult for the City to fully analyze those issues, to come
16 to grips within City Government of those issues, and the
17 dollars involved, and try to reach agreement.

18 For instance, one of the issues involved is -- one
19 of the provisions of your Agenda is to authorize the
20 Executive Officer to direct the Board of Harbor Commissioners
21 and the City -- this is your Commission -- to direct the
22 Board of Harbor Commissioners and the City to determine the
23 maximum sum that may be transferred from the Harbor Revenue
24 Fund to the City General Fund pursuant to City Charter 145(4).
25 To make that determination of whether there will be any

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1 transfer, and then what amount of money, is a very complex
2 issue. And the City hasn't done that yet.

3 It's not like the City has decided to transfer
4 \$15 million from the Revenue Fund to the City's funds. It
5 hasn't done that yet at all. There are three bond issues
6 involved, there's different histories involved, there are
7 different opinions between the attorneys on those issues.
8 There are different views in the City Council and different
9 views in the Harbor Commission on exactly what transfer
10 should be made, if any, or for what period of time. And you
11 just can't do these things overnight. It takes some time
12 to work them out.

13 So, our problem is we can't go to the negotiating
14 table and say, here is what we are prepared to transfer,
15 because we haven't even reached that decision yet.

16 ASSEMBLYMAN THOMAS: I'm going to close because I
17 have another meeting with the Metropolitan Water District
18 upstairs.

19 The Harbor Department completed its entire
20 investigation and report. They gave it to the Commission.
21 The CAO officer completed his report. Burt Pines, City
22 Attorney, had issued his ruling and legal opinion on this
23 issue -- the whole issue. Jesbow, 1933, issued his statement
24 of legal opinion for the City. Then, we have Arnebergh's
25 opinions -- they are all there. The decisions have already

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1 been made by the Harbor Department, because the Manager came
2 to see me personally in my office and told me what his
3 findings were. And he went to the meeting, and he was denied
4 the right to talk. Mr. Hoffman came out -- I don't see why
5 the Harbor Department can't speak for itself. They have
6 supported me on this issue for 25 years, and now all of a
7 sudden feels that -- in the letter here, it intimates that
8 they don't want me present.

9 I want the public to hear this. I have no
10 objection if the press would be allowed to sit in on these
11 meetings -- I'll stay away. You cannot deny the press their
12 right to hear the true story.

13 CHAIRMAN CORY: We will not be a part of denying
14 information to the public.

15 ASSEMBLYMAN THOMAS: Will they be admitted to the
16 meetings?

17 CHAIRMAN CORY: At some point, they are going to
18 have to know what's going on. It's going to be done in an
19 open meeting. I'm not going to obligate the staff to notify
20 the press for each and every individual session, but it will
21 not be a private covenant arrived at secretly.

22 ASSEMBLYMAN THOMAS: In closing this, if the
23 Attorney General representatives will make a statement as to
24 what their feelings are, I will stick with him. I just want
25 to hear what the Attorney General's office has to say.

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1 Gentlemen, this is 30 years of an issue.

2 MR. McCAUSLAND: If I might, Mr. Chairman, before
3 the Attorney General's office speaks, it seems to me that
4 the Legislature is still grappling with the question of the
5 openness of matters relating to negotiations precedent to
6 litigation. I'm not quite convinced that we should use such
7 a difficult and complex set of negotiations, where the fact-
8 finding process is, as you say, not all that clear as a test
9 case to guide the Legislature in its deliberations on that
10 entire question.

11 Litigation is a very complicated discovery process,
12 and I'm not certain that the State Lands Commission has to be
13 the forerunner in trying to decide for the Legislature how
14 we should handle these negotiations. I'll defer to the
15 Attorney General on that.

16 ASSEMBLYMAN THOMAS: I'm not interfering with the
17 State Lands Commission authority. But, I just want you to
18 read the Charter Amendment that was amended in 1970. I'm
19 not saying that you haven't been diligent, I would be making
20 a mistake. But, the Legislature said in 1970 right in the
21 Charter -- in the grant, that the Lands Commission should
22 report to the Legislature on the funds of L.A. grant its
23 revenues, expenditures, every December of each year. That
24 hasn't been done.

25 The law says violation in the same grant, that the

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1 Attorney General "shall" take immediate action. So, I am
2 willing to forego the interpretations. But, I'd like to hear
3 what they have to say because this thing is, as I told you,
4 unless someone settles this issue it's going to be a tax-
5 payers' lawsuit, and I don't want to be the plaintiff.

6 CHAIRMAN CORY: We will be here forever.

7 Kathy or Greg, who is up on this one?

8 MR. TAYLOR: Mr. Chairman, our position of the
9 matter as it now stands is set forth in an opinion which we
10 issued to Mr. Thomas, which the Commission has copies of,
11 where we have concluded that based upon the evidence we have
12 seen to date, the City is in violation.

13 That's subject to receiving additional evidence,
14 or for whatever further consideration or argument that the
15 City wishes to make on it. We had some additional information
16 supplied to the Attorney General directly by Mr. Piper. I
17 can't recall whether it was Mr. Piper's signature or over
18 Mayor Bradley's signature, but I think it was over
19 Dr. Piper's signature. Response went to him reaffirming our
20 position set forth in the opinion to Mr. Thomas.

21 We have indicated -- I think the view is also shared
22 by your staff, to the extent that we have reviewed it. I
23 think, I guess, there are two problems at this time: One is,
24 is there really any give in the City's position, and we really
25 haven't had any feeling for that at all at the present time.

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1 And what we are trying to explore in these meetings is
2 whether there is that. I think the feeling of everyone is,
3 the bottom line of the City is, as previously stated, that
4 they want the money for the General Fund.

5 That may be incorrect, but we haven't seen any
6 evidence to the contrary.

7 Anyway, that's where we are at the present time.
8 We are certainly willing to consider additional evidence on
9 that subject.

10 Mr. Chairman, in light of your request for a
11 motion, I think that the motion that would be appropriate
12 to express your feeling is that Item Number 1, where the
13 "shall" is in the first line, should be changed to "is
14 authorized to."

15 MR. McCAUSLAND: Is that on page 3 of the calendar
16 item?

17 MR. TAYLOR: Yes.

18 EXECUTIVE OFFICER NORTHROP: Page 3.

19 MR. TAYLOR: Yes. 46a, page 3 of the calendar item.
20 It is resolved: "That the Executive Officer is authorized
21 to."

22 And the last line there, "by Public Resources
23 Code Section 6110," strike the period there and insert, "and
24 Section 13, Chapter 1046 Statutes of 1970."

25 Item Number 2 would stand as written. Item Number 3,

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1 the word "shall" shall be changed to "may," with the
2 understanding there that no lawsuit would be commenced
3 without informally checking with the Commission before such
4 an action was started.

5 Item 4 would be out, it would be eliminated.

6 CHAIRMAN CORY: Yes.

7 MR. TAYLOR: Item 5 would remain and become the
8 new Item 4.

9 This resolution would be with the understanding
10 that the Executive Officer would have discretion as to when
11 he evoked the authority that's being conferred, and that the
12 Attorney General's office in consultation with the Executive
13 Officer and his staff, and with the Commission, would have
14 discretion as to when to bring a lawsuit.

15 I believe that would embody your suggestion,
16 Mr. Chairman.

17 MR. McCAUSLAND: I so move, Mr. Chairman.

18 CHAIRMAN CORY: We have a motion --

19 MS. SMITH: Second.

20 CHAIRMAN CORY: -- and a second.

21 All those in favor signify by saying aye.

22 (Ayes.)

23 CHAIRMAN CORY: Motion is carried.

24 ASSEMBLYMAN THOMAS: What's the next meeting?

25 MR. HIGHT: March 31st.

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1 MS. SMITH: 31st.

2 ASSEMBLYMAN THOMAS: In other words, they have to
3 come back by March 31st and give you some concrete evidence?

4 CHAIRMAN CORY: Or, if things break down in the
5 meantime and they are irretrievably broken down, they can go
6 ahead and proceed.

7 ASSEMBLYMAN THOMAS: Suppose they aren't broken
8 down, but coasting along, will it go on?

9 CHAIRMAN CORY: No, it will not.

10 Mr. Thomas, I am getting very tired of this issue.
11 I think the other Commissioners are getting very tired of
12 this issue. And what we are trying to say to the City, we
13 appreciate your concerns with your time pressures, but if it
14 has to be resolved in litigation, that litigation is likely
15 to commence rather quickly.

16 If there is some reason to hold out and not
17 litigate it, the burden is on the City of Los Angeles to
18 prove to us that that's not the way, and that's to be
19 pounding on the table and arguing back and forth in
20 realistic arguments about what the issues are in trying to
21 proceed to resolve this. I think that's what the real
22 purpose is on this, and there seems to be some question as
23 to what the facts are and what the intent is, and that the
24 administrative hearing mechanism is authorized, if necessary,
25 so that that record can be created before the next hearing

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1 so that we can have, not opinions of people, but their views
2 under oath.

3 MR. HOFFMAN: Just as a point of clarification,
4 was it the Commission's intent on passing the motion to
5 require the Executive Officer to report back to you at your
6 next meeting as to the result of any negotiations or any
7 hearings they conduct -- in other words, are we on a 30-day
8 time line now to report back by the next meeting?

9 CHAIRMAN CORY: And it may be quicker than that.

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman.

11 CHAIRMAN CORY: You better have a negotiated
12 settlement in 30 days or --

13 EXECUTIVE OFFICER NORTHROP: Or administrative
14 hearings.

15 MR. HOFFMAN: Realistically, it is unrealistic
16 to do all three at once. We can't do all three at once.

17 CHAIRMAN CORY: I think the City has been
18 extremely unrealistic in resolving this issue for the last
19 30 years, and we are saying we are tired of waiting. And I
20 think that's what we said previously, and I think the City
21 has not appeared to proceed in total good faith. And I am
22 getting sick and tired of having calls from high level
23 friends of mine who are not being told, apparently, the truth
24 of the position. I've got better things to do with my time,
25 and I think the other Commissioners have better things to do

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1 with their time. And I think that's really where we are at.

2 Now, if my staff is screwing around, they clearly
3 understand that they're going to be dealt with. I have no
4 control over the City of Los Angeles' staff. But, I have
5 better things to do with my time, and I think the other
6 Commissioners do. And I have told them very privately, and
7 I'll tell them publicly, that they are to negotiate with good
8 faith, they are not to give away the store. They have the
9 trust responsibility. If the issue can be resolved, I expect
10 them to proceed in that. But, if not, so be it. Let the
11 issue be resolved in Court.

12 I hope that's not the case. But, if there are
13 impediments to negotiations, fine. But, arguments over what
14 the facts are or personalities -- life is just too short.
15 It's been going on for 30 years, it's time to put an end to
16 it.

17 MR. TAYLOR: Mr. Chairman, just for clarity of the
18 record, I believe that the resolution which was passed gives
19 a discretion to the Chairman to take any appropriate action
20 within the confines of that item, subject only to informal
21 notification to the Commissioners as to whether there's a
22 problem with that, or whether the Commission would want it
23 brought back to a public meeting before we proceeded.

24 MR. TROUT: You mean the Executive Officer.

25 MR. TAYLOR: The Executive Officer, excuse me, has

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1 the authority to proceed and indicate all parties mentioned
2 in the calendar item -- have authority to proceed only going
3 back informally to the Commission to check as to whether or
4 not the Commission wants this matter brought up for further
5 hearing before the Executive Officer would take that
6 authority.

7 The second item relates to whether or not the
8 press would be present at negotiations. Our position on that
9 has been that the Brown Act does not cover the situation, and
10 for certain amounts of negotiations, it would be inappropriate
11 for the press to be present. That does not mean, however, if
12 there is an agreement or if there is something which has
13 appropriately come before the Commission for action, that the
14 press would be included in that. So, not only would they
15 be included in that part of that, they would be included in
16 any public hearing included under the authority of this, but
17 certainly notice would be given and that would be a public
18 meeting. But, for negotiating sessions, the Brown Act does
19 not include that. And it's been our position that in order
20 to keep an area of exchange of information, that the press
21 would not be invited to informal meetings, trying to exchange
22 information and conduct negotiations.

23 I just want that clear in case there is any --
24 because I know members of the press are here. That has been
25 our position and that remains our position.

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1 ASSEMBLYMAN THOMAS: Can I have my position clear
2 on where do I stand? Can I get my position?

3 CHAIRMAN CORY: Mr. Thomas, you are always welcome.
4 The City seems to think that you are welcome, too.

5 ASSEMBLYMAN THOMAS: Am I going to participate or --

6 CHAIRMAN CORY: Vince, the negotiations, I think,
7 you clearly understand, has to take place between the Lands
8 Commission staff and the City. And to the extent -- I'm not
9 offended by your sitting in the room. I think your presence
10 has a great therapeutic effect on all of us to do our best.
11 If you are interfering with the process -- which I am not
12 suggesting that's the case -- but for Los Angeles' viewpoint
13 if they want to use that as the stumbling block, I am going
14 to say that if Vince is sitting quietly in the corner we're
15 not going to throw him out.

16 ASSEMBLYMAN THOMAS: I've been representing the
17 Harbor Department for 30 years now. The issue between the
18 Harbor Department and the City -- now, I'm the spokesman for
19 many years. I don't know about this Commission, but all the
20 way back since 1933, I have been speaking for the Harbor
21 Department in my District. Now, does that eliminate me from
22 participating?

23 MR. McCAUSLAND: If I might, Mr. Chairman.

24 CHAIRMAN CORY: Sid.

25 MR. McCAUSLAND: As I understand the law -- and I am

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1 glad the Attorney General is here to correct my ignorance --
2 as I understand the law the State Lands Commission is
3 responsible for administering the public's interest in its
4 granted tidelands. And the State Lands Commission cannot
5 delegate or give up the responsibilities associated with that
6 authority.

7 Now, as I understand the requirements which you
8 brought to us originally, it's the job of the State Lands
9 Commission to look out for the public interest and conduct
10 the State's side of these negotiations. Now, if you are
11 officially there as a spokesman for the Harbor Department
12 or any other body --

13 ASSEMBLYMAN THOMAS: No, no, no.

14 MR. McCAUSLAND: -- I'm certainly not going to
15 suggest that you can't do that.

16 ASSEMBLYMAN THOMAS: They haven't voted anything
17 that I would be their spokesman because they have an attorney,
18 and they have a Manager, and they have a Commission. Here's
19 one gentleman that represents the Mayor, City Council, Harbor
20 Commission, the CAO office. I've never seen such a setup in
21 the City like that. And I think I'll get an opinion on
22 whether or not that's a violation of the law. You can't
23 have two hats representing the two different principals.

24 MR. McCAUSLAND: But that's exactly the words I
25 was going to use.

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1 (Laughter.)

2 ASSEMBLYMAN THOMAS: Well, I have no quarrel. But,
3 I just want to make this statement. I will turn over all
4 evidence I have to the Attorney General of the Lands
5 Commission for their use and their documents. And I want
6 the document to be scrutinized, to be part of the proceedings,
7 because as I said, unless you've got evidence there's no use
8 of negotiating. I think the law is clear on the violations,
9 and take all of the legislative council's opinions, all of
10 the opinions of the City Attorneys -- they should be reviewed
11 and let's look at the law. That's all I ask. Regardless of
12 what your decision is, as long as the final decision -- when
13 you say this is the law it's been violated, or whatever it is,
14 I am satisfied, so I can go back to the people in my
15 District whom I've represented for 36 years, and I can tell
16 them that that's your decision.

17 MR. McCAUSLAND: We know you are going to make us
18 do a good job on that.

19 MR. HOFFMAN: Thank you.

20 CHAIRMAN CORY: We have a clear understanding?

21 EXECUTIVE OFFICER NORTHROP: Yes, sir.

22 CHAIRMAN CORY: The item has been disposed of on
23 our Agenda.

24 The next item is Item 19, proposed authorization of
25 a 15-year industrial lease of the Holly Corporation for a

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1 fuel loading facility, Contra Costa County.

2 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I think
3 Mr. Trout wants to give some detail on this.

4 MR. TROUT: Mr. Chairman and Members, this item
5 is primarily on the Commission's Agenda at this time because
6 of a request of an attorney representing Holly Corporation
7 who, in effect, indicated that he felt he could not any
8 longer negotiate with the staff and wanted this matter
9 brought before the Commission.

10 Mr. William Bode was supposed to be here today.
11 Mr. Northrop received a telephone call from Washington, D.C.,
12 so we assume he is not here. There may be another
13 representative.

14 CHAIRMAN CORY: Is there a representative of the
15 Holly Corporation in the audience?

16 (No response.)

17 CHAIRMAN CORY: We've got nothing to talk about,
18 then.

19 MR. TROUT: If not, Mr. Chairman, we recommend that
20 the Commission make findings that are on page 50.

21 CHAIRMAN CORY: What was the phone call?

22 EXECUTIVE OFFICER NORTHROP: He called after I left
23 to come to the Commission meeting and asked me to return the
24 call after the meeting. He apparently wanted to know what
25 the decision was going to be. He did not ask to be called

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1 prior to the meeting.

2 MR. TROUT: Primarily, the issue resolved some of
3 the things that we have already gone over before the
4 Commission. They involve the application of throughput
5 rental rates. They are quite upset that the rental rate
6 may run from the existing \$1300 a year to something many times
7 that, which we think is well justified.

8 And therefore, we do recommend the findings. They
9 have filed a formal protest with the staff and asked for this
10 hearing. It's all discussed in the calendar item, but we
11 would recommend to you that their protest and contentions
12 have no merit, that the volumetric rental rates are
13 applicable, and very reasonable and appropriate in this
14 case --

15 CHAIRMAN CORY: We find the defendant guilty as
16 charged in his absence, then, and proceed, is that what you
17 have in mind?

18 (Laughter.)

19 MR. McCAUSLAND: I have one question, Mr. Chairman.
20 In passing yesterday, you mentioned that in our search of
21 the files you came across an additional letter related to
22 this matter. You don't happen to have that letter here for
23 me to look at?

24 MR. TROUT: Yes, we do, sir. Would you like for
25 me to read it, or I can bring it up for you to take a look

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1 at it.

2 MR. McCAUSLAND: I don't think it's necessary to
3 read it into the record.

4 It just sounded like it was further collaboration
5 of my view.

6 Do you think it is necessary to read it into the
7 record, Counsel?

8 MR. TAYLOR: No, just identify it.

9 MR. McCAUSLAND: Maybe it should be read into the
10 record. This is a letter from William H. Bode, Attorney,
11 to Leslie H. Grimes, Assistant Manager, Land Operations,
12 State Lands Commission; dated September 2, 1976:

13 "Dear Mr. Grimes, On behalf of the Holly
14 Corporation, I'd like to thank you and your
15 staff for your attentive consideration of the
16 corporation's response to the proposed lease
17 terms at the Ozol Terminal facility.

18 "We are looking forward to working with
19 you on this matter and are optimistic that an
20 agreement can be reached which the Holly
21 Corporation can meet and which serves the
22 interests of the State of California.

23 "Pursuant to your request, please find
24 enclosed a copy of the contract between the
25 Defense Fuel Supply Center and the Holly

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1 Corporation which provides a fixed fee for
2 receiving and storing Government-owned aviation
3 fuels.

4 "Very truly yours, Bill Bode."

5 I'd suggest, Mr. Chairman, that this letter
6 suggests that the counsel was aware at the time of writing
7 of this letter that he did not yet have an agreement with the
8 State of California, and consequently that the staff
9 conclusions are founded.

10 And I'd like to move adoption of the staff
11 recommendations.

12 CHAIRMAN CORY: Motion.

13 MS. SMITH: No second.

14 CHAIRMAN CORY: Just for discussion, I'll second
15 it.

16 You've got some hesitancy.

17 MS. SMITH: I don't know why counsel isn't here,
18 but I prefer to hear from counsel before moving on the item.

19 CHAIRMAN CORY: Okay. What are our options?

20 Normally, these things are negotiated with the
21 staff, and then a completed lease is presented to the
22 Commission for ratification.

23 MR. TROUT: That's generally the way the Commission
24 has directed the staff to work. We've tried not to unilaterally
25 impose rental rates on any lessee, but to consider each case

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1 individually, the property individually, the environmental
2 effects individually, and present -- after some level of
3 discussion present a negotiated agreement to the Commission
4 for approval.

5 So, we've been totally unsuccessful in negotiating
6 with the Holly Corporation.

7 CHAIRMAN CORY: And at this point they are still
8 using the facility?

9 MR. TROUT: Yes, sir.

10 CHAIRMAN CORY: And they asked to have the item put
11 on the Agenda, it was their request, not yours?

12 MR. TROUT: That's correct.

13 CHAIRMAN CORY: And did they receive notice?

14 MR. TROUT: Yes, they did. In fact, Mr. Bode
15 talked with the Executive Officer within the last couple of
16 weeks, including an exchange of correspondence regarding this
17 matter.

18 MR. HIGHT: Mr. Chairman, if I might clarify, the
19 staff recommendation just provides that throughput is an
20 applicable rental rate, and directs the staff to continue to
21 negotiate. It does not, I think, in any way, prejudice
22 Mr. Bode or his client.

23 CHAIRMAN CORY: We're not imposing this specifically
24 on him or seizing his assets in any way, shape, or form?
25 At this point we are just saying we are here, we were ready to

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1 talk, you didn't show up.

2 EXECUTIVE OFFICER NORTHROP: We wanted to make
3 sure --

4 MR. McCAUSLAND: Let me make a suggestion. The
5 staff recommendation is divided into three parts. The first
6 is to find that Holly's protest and contentions are without
7 merit. Let us delete that. I don't believe that that's
8 a finding of fact that is necessary to make.

9 Then, I think you might be able to live with the
10 second two, which find that volumetric rental rates are
11 applicable and are appropriate, and to direct the staff to
12 remain available for negotiations.

13 Is there any objection?

14 MR. TAYLOR: On this, one, find that Holly's
15 protest and contentions are not agreed -- are disputed by
16 the Commission?

17 MS. SMITH: Dispute.

18 CHAIRMAN CORY: Yes.

19 MR. McCAUSLAND: That's part of my motion,
20 Mr. Chairman.

21 MS. SMITH: Second.

22 CHAIRMAN CORY: Okay. We have a motion and a
23 second.

24 All those signify by saying aye.

25 (Ayes.)

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1 CHAIRMAN CORY: The motion is carried.

2 Okay. Item 20, adopt for approval Administrative
3 Code changes. This is trying to conform our regulations to
4 the intent and purposes of the Coastal Commission.

5 EXECUTIVE OFFICER NORTHROP: That's right.

6 CHAIRMAN CORY: And you have discussed this with
7 the Coastal Commission staff.

8 EXECUTIVE OFFICER NORTHROP: Yes. Mr. Joe
9 Bodovitz, the Executive Director of the Coastal Commission,
10 has sent a letter, and I quote in part, quote:

11 "We applaud your initiative and look forward
12 to working together with you on all matters of
13 mutual interest to our respective Commissions."

14 In addition to this, we have held four statewide
15 hearings from San Diego to San Francisco, and Los Angeles and
16 Long Beach area, and in Sacramento.

17 CHAIRMAN CORY: Betty raised the question, while
18 we were sitting here waiting to get things started, that
19 there is some involvement in tanker regulations there, and
20 we have conducted some hearings on.

21 EXECUTIVE OFFICER NORTHROP: There is an area for
22 tanker regulations that are not included in these regulations
23 However, there is an area which we will probably expand at
24 some later time for adoption by the Commission on tanker
25 regulation. We have not inserted tanker regulation at this

1 time, but there are provisions for it.

2 CHAIRMAN CORY: Okay.

3 MR. HIGHT: The regulations contain provisions
4 almost identical to the Coastal Act, regulations relating
5 to tanker. The regulations also provide that the Commission
6 will at a later time adopt tanker regulations.

7 CHAIRMAN CORY: I hear your words, and they've
8 got a subject and a predicate, but what do they mean?

9 MR. HIGHT: It means that at the present time there
10 is provisions for tanker regulation included within the
11 Coastal regulations, but the majority of the provisions will
12 not become effective until the Commission adopts tanker
13 regulations.

14 CHAIRMAN CORY: Is that in what, 2512, protection
15 against oil spills?

16 MR. MILLS: 2542.

17 EXECUTIVE OFFICER NORTHROP: It would be an
18 expansion of 2542. It includes "with specificity."

19 MS. SMITH: Do Sections 2512, 2541, 2542, 2543,
20 and 2544 repeat the language of the Coastal Act of 1976?

21 MR. MILLS: 2541 is, basically, an expression of
22 the policies in the Coastal Act. 2542 is not. 2543 is.
23 2512 is not. However, 2512 represents existing Commission
24 policy which has been in effect since about 1973.

25 Well, in 2512 there's referencing to several

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1 operating procedures which the Commission has approved in
2 the past that we have required of all our lessees.

3 MS. SMITH: And 2544?

4 MR. MILLS: 2544 is, basically, a restatement of
5 Coastal Act policy.

6 CHAIRMAN CORY: 2542 is entirely new?

7 MR. MILLS: It is entirely new.

8 CHAIRMAN CORY: And the genesis is not in the
9 Coastal Act?

10 MR. MILLS: No, it is not.

11 MS. SMITH: When you say the regulations as
12 proposed are a restatement of the Coastal Act, are they an
13 exact restatement or are they more restrictive, do they
14 require more than the Coastal Act?

15 MR. MILLS: In certain instances, they do require
16 a little bit more. These instances are instances in which
17 our policies in the past have required a little bit more.

18 In other words, before the Coastal Act we've had
19 policies and have required certain data, certain criteria be
20 met. These are really a restatement of our policy, the
21 Commission's policy.

22 MS. SMITH: Okay.

23 EXECUTIVE OFFICER NORTHROP: Incidentally,
24 Mr. Chairman, that is Steve Mills of our staff.

25 CHAIRMAN CORY: I thought he was from the press

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1 corps.

2 (Laughter.)

3 MR. McCAUSLAND: I probably should make a comment
4 for the record. At previous meetings, I have suggested that
5 we shouldn't adopt these until we have met with the Coastal
6 Zone Commission and did a number of other things.

7 I have discussed the rules and regulations with
8 the Coastal Zone Commission staff. I have read the entire --
9 I believe the entire correspondence file commenting on the
10 draft plans, and I've satisfied myself that we have done the
11 best job we can in meeting most of the concerns and
12 objections.

13 So, I support their adoption.

14 MS. SMITH: I second.

15 CHAIRMAN CORY: There is a motion and a second.
16 Without objection, they will be adopted.

17 MR. TAYLOR: I think this is the first agency to
18 adopt a regulation implementing coastal policies other than
19 the Coastal Commission.

20 CHAIRMAN CORY: Item 21 is a commercial lease with
21 Walter M. Harvey. For anybody in the audience, I want you
22 to know that that is not the Walter Harvey that works for
23 me.

24 This came before us and there was some tension
25 between the City and the proposed lessee previously. Those,

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1 I understand, have been resolved.

2 EXECUTIVE OFFICER NORTHROP: That's correct,
3 Mr. Chairman.

4 CHAIRMAN CORY: The City is now happy with
5 Mr. Harvey and Mr. Harvey is happy.

6 EXECUTIVE OFFICER NORTHROP: We have made
7 substantial changes in the design motiff and in the size
8 of Mr. Harvey's ship.

9 CHAIRMAN CORY: Bureaucracy prevails.

10 Any questions from Members of the Commission?
11 Anybody in the audience for Item 21?

12 Ready to approve it?

13 Without objection, it is approved as presented.

14 Item 22. This is authorization for the Attorney
15 General of the staff to proceed with a trespass against
16 Albert H. Balkwill from state-owned tide and submerged land
17 adjacent to Fig Island in Potato Slough, San Joaquin County.

18 Is there anybody in the audience on Item 22?

19 Comments from the Commissioners?

20 Prepared to move on this item?

21 MR. McCAUSLAND: Yes, sir.

22 CHAIRMAN CORY: We're going to stand up forthright
23 and protect Potato Slough.

24 Without objection, authorization is granted.

25 MR. McCAUSLAND: I was more interested in Fig

1 Island. You can have the Potato Slough.

2 (Laughter.)

3 CHAIRMAN CORY: Item 23, permit for Trinidad Island
4 Homeowners Association in Huntington Harbour, \$1412 per
5 annum, with a five-year anniversary date alteration. Are
6 there any questions from anybody in the audience? Anything
7 from Members of the Commission?

8 Without objection, Item 23 will be approved as
9 presented.

10 Item 24, Harbour-Pacific, Limited. Again, this is
11 a Huntington Harbour lease for a commercial marina.

12 Anybody on Item 24? Commissioners, ready?

13 Without objection, 24 will be approved as presented.

14 Item 25, authorize an interim extension of gas
15 storage lease. This is McDonald Island, which will extend
16 this from March 31st to August 31st, '77, for negotiations
17 to continue whatever the renewed terms will be effective,
18 March 1, '77. The lessee understands that and is agreeable?

19 EXECUTIVE OFFICER NORTHROP: Yes.

20 MR. HIGHT: Yes.

21 CHAIRMAN CORY: And this is one of our early
22 volumetric leases that has been imposed previously?

23 EXECUTIVE OFFICER NORTHROP: Up for renewal.

24 MR. McCAUSLAND: Why don't you make a little report
25 to the Commission on the history of this volumetric throughput

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1 lease, Mr. Northrop, so we can have it in the record.

2 MR. HIGHT: Mr. McCausland, this lease was
3 originally a gas-producing lease on all the gas being
4 removed from the field. Pacific Gas and Electric desired to
5 store gas in the area, and in 1959, the Commission entered
6 into a lease for storage of gas in that area for one cent
7 per cubic Mcf, and that lease now has expired. And we have
8 collected over \$400,000 since then for the storage.

9 EXECUTIVE OFFICER NORTHROP: The values involved
10 had nothing to do with the value of the land, but rather the
11 value of the product that flowed in.

12 CHAIRMAN CORY: Without objection, Item 26 will
13 be approved as presented.

14 Item 27.

15 Oops. I'm sorry. We approved Item 25. I
16 misspoke myself.

17 We now have Item 26, which is Long Beach Operations.
18 Moose, can you take us through those?

19 MR. THOMPSON: All right. In the annual plan and
20 budget for the Long Beach Unit, there is an economic
21 projection showing expenditures of anticipated revenues.
22 We revise this quarterly and report back to the Commission.

23 In time for the first quarter to report back, we
24 were in a stage where the FEA were revising their regulations,
25 so we had to bypass that particular modification. Now, we

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1 are coming into, in effect, a six-month modification. During
2 that time, the FEA has changed their property definition,
3 and we also have a gravity differential, potential for crude
4 oil pricing. The main gist of this is the reflection of the
5 extra \$17 million that will result from the increased crude
6 oil prices.

7 CHAIRMAN CORY: Any questions from Commissioners?
8 Glad to have the money.

9 Approval is granted as suggested on Item 26.
10 Item 27.

11 MR. THOMPSON: Because it's so good, in the Sixth
12 Modification, we'd like to ask you for a \$600,000
13 augmentation of the budget. We always give you the good,
14 and then get some back.

15 All we are going to do here is buy a small workover
16 rig for the unit. There's about a two and a half year payout
17 on this, so it is a question of our owning the equipment and
18 paying it off ourselves, and having it for use in the unit.
19 There would be continued use for it for the next 25 years.

20 CHAIRMAN CORY: All right. Any questions on that?
21 We're going to let you spend 600 grand for your new toy.

22 Item 27 is authorized as presented.

23 Item 28,

24 MR. THOMPSON: Item 28 is just additional review
25 on Parcel A which is another tideland property. The revenue

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1 will be about the same. We're still in litigation on some
2 potential additional revenues, as pointed out here, and this
3 is litigation that's tied up in other suits. And I imagine
4 the Attorney General will want to talk about that later on.
5 It's just an informative calendar item.

6 CHAIRMAN CORY: We accept your information.

7 Item 29, the Micellar-Polymer project.

8 MR. THOMPSON: This, again, is reporting back on
9 an enhanced recovery project we have with another contractor
10 in tidelands there. It's just a progress report. We are
11 running a little bit behind schedule because we are trying to
12 do some investigative work on actually using our own
13 Wilmington crude as part of the material we inject in the
14 ground. Since we have to inject about two million dollars
15 worth of material, we would like to be assured of some degree
16 of success in the project.

17 So, the delay, although it looks bad, is really a
18 meaningful thing.

19 CHAIRMAN CORY: This is where we are trying to use
20 indigenous crude oil instead of trying to import the product?

21 MR. THOMPSON: Right, because of the fact of trying
22 to inject a \$20 a barrel product to recover crude -- makes
23 it kind of iffy. If you can use your own crude, then the
24 economics are much better.

25 CHAIRMAN CORY: Any questions?

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1 MR. McCAUSLAND: No.

2 CHAIRMAN CORY: Thank you.

3 Item 30.

4 MR. THOMPSON: Item 30 is the City giving us an
5 intent to expend tideland oil revenue, the sum, \$89,000.
6 The total project is \$1,389,000 for a 117-slip marina in
7 Downtown Long Beach. They are going to obtain a \$1,300,000
8 loan from DNOD, and the payback of the loan is to be from
9 the revenues from the marina. So, we are not committing any
10 future tideland or revenue funds.

11 This, again, is nondiscretionary. The main thing
12 the Commission has to find is this is within the scope of
13 Chapter 138, and a small boat harbor is one of the provisions.

14 CHAIRMAN CORY: Any questions?

15 Approved as presented, without objection.

16 Item 31.

17 MR. THOMPSON: This is prior approval for
18 expenditure of monies for subsidence cost.

19 What's happened here is they have a sprinkler system,
20 and the underground portion of it has gotten down into the
21 groundwater, because the area subsided about ten feet.
22 So, there is corrosion in there, so really, they don't really
23 have an adequate fire protection system. They want to
24 replace it, and this is part of Chapter 138 -- subsidence
25 cost are to remedy the cost of subsidence.

1 The State gets a credit here of \$10,000 for the
2 value of existing systems that will be replaced.

3 CHAIRMAN CORY: Any questions?

4 MR. McCAUSLAND: No.

5 CHAIRMAN CORY: Item 31 will be approved as
6 presented.

7 Item 32, the Executive Officer wants to rip off
8 some of our power on our dredging permits.

9 EXECUTIVE OFFICER NORTHROP: OPR and Senator Marks
10 -- OPR has suggested and Senator Marks, I believe, carried
11 some legislation last year for the Executive Officer to be
12 delegated the authority to do dredging permits so it speeds
13 up dredging permit applications.

14 The calendar item calls for a limitation on the
15 Executive Officer to 10,000 cubic yards, and a further
16 communication caveat that he report back to the Commission
17 every month on those permits he issued.

18 MR. McCAUSLAND: My only question is do you have
19 any idea what percentage of the permits you process that
20 would come under that procedure?

21 EXECUTIVE OFFICER NORTHROP: Frankly, it would be
22 a guess of --

23 MR. WILLARD: About one-third.

24 EXECUTIVE OFFICER NORTHROP: One-third, okay.
25 That's better.

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1 MR. McCAUSLAND: I'd be inclined to go along with
2 this recommendation, Mr. Chairman. It could well be we
3 might want to also discuss criteria for a second level of
4 permits, where only the major dredging permits came to the
5 full Commission. If he does a good job with this one, we
6 could expand his powers a little more.

7 CHAIRMAN CORY: That's dangerous with a fascist
8 like him.

9 (Laughter.)

10 CHAIRMAN CORY: Okay. We can trust him with
11 10,000, but not 10,001.

12 MR. McCAUSLAND: I should say that practically
13 every comment we got from the State agency on the Coastal
14 Zone rules and regs had to do with our mismanagement of the
15 dredging operations, so I certainly hope we do a good job.

16 EXECUTIVE OFFICER NORTHROP: That's been OPR's --
17 well, I won't get into it. That's all they have been able
18 to find out what's wrong with us, is how we operate
19 dredging.

20 CHAIRMAN CORY: Who are the dredging contractors?

21 EXECUTIVE OFFICER NORTHROP: I don't know. I'm
22 going to find out, though.

23 Mr. Chairman, we have a piece of legislation on
24 this subject informative, that we think well may be the
25 answer, and that is to license dredgers for the State Lands

1 Commission, and have them operate with a dredging license
2 so they can report to us what they dredge. We really don't
3 want to get into the police business, but that way a dredger
4 -- we would know everything that is being dredged by dredging
5 reports, because of the miles and miles of rivers and bays and
6 areas that can be dredged. Right now, our application for
7 dredging permits -- the enforcement of it is just less than
8 what we would like to have to make it workable.

9 And we are working on legislation, and staff now
10 will recommend that the Commission support that with licensed
11 dredgers, so dredgers would report to us where they were
12 dredging and how much they were dredging.

13 CHAIRMAN CORY: Okay. You've got your permits.
14 Come back to us with the thing, and consider the criteria
15 at a second level at some point along with the progress
16 report of that as Sid has suggested.

17 Item 33, litigation.

18 MR. TAYLOR: Mr. Chairman, this is a settlement of
19 another one of the East Beach cases in Long Beach. These
20 matters are on appeal. We have reached agreement with the
21 private party similar to the ones that were listed there
22 before.

23 I think this is now the third or fourth that you
24 have approved, and it is identical to the others.

25 EXECUTIVE OFFICER NORTHROP: Two or three previously.

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1 MR. TAYLOR: Previously.

2 CHAIRMAN CORY: Questions.

3 Without objection, then, Item 33, authorization is
4 granted.

5 Item 34, this is the case on oil pricing which is
6 moot because the contract has expired, is that correct?

7 MR. HIGHT: The contract will expire on May 1st.

8 CHAIRMAN CORY: This will enable us -- Without
9 objection, ratification.

10 Okay. The next meeting is Thursday, March 31st,
11 '77, at 10:00 a.m. in Sacramento some place.

12 Are there any other items to come before us in the
13 public session?

14 MR. TAYLOR: Mr. Chairman, there are three or four
15 items I might point out while we are still in public session.

16 We have filed seven more Santa Monica lawsuits,
17 bringing the total -- six more -- bringing the total to
18 27. There are five remaining lawsuits which have not been
19 included in the litigation. Before filing those actions,
20 we are going to try to see if we can't settle them because
21 they are in the diminimus category if they agree with our
22 contention about the line.

23 The Morro Bay litigation, which was authorized
24 some time ago by the Commission, has now been filed as to
25 one-third of the mile of the waterfront of Morro Bay. A

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1 number of parties were named in that action.

2 We filed the brief in Exxon versus the State Lands
3 Commission, the Appellant's opening brief here in the
4 District Court of Appeals in Sacramento. The Exxon response
5 should be in in 30 days, unless they ask for an extension.

6 I'd like to bring up a matter with regard to that
7 in Executive Session, which I had forgotten.

8 I believe we had already mentioned that U.S.A.
9 versus Union Oil, the Federal geothermal case, came down,
10 and that was to the effect that -- or the footnotes were
11 to the effect that geothermal energy is a mineral. That's
12 in the Ninth Circuit.

13 A \$2.7 million claim has been filed against the
14 Commission in connection with San Elijo Lagoon, which was
15 one of the preliminary reports which was issued by the
16 Commission. Settlement negotiations with the staff are under
17 way, and we are assured that we believe we have a settlement.
18 The filing was necessary because the statute was running.
19 If negotiations aren't successful, that would be part of
20 their basis for a lawsuit against us.

21 I believe those were all of the items of litigations
22 that have occurred, except that Jan Stevens would like to
23 introduce a new member of the Land Law section in the
24 Sacramento office.

25 MR. STEVENS: Mr. Chairman, Members, Margaret Rodda

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1 has joined our staff in Sacramento representing the Lands
2 Commission. Margaret is a graduate of McGeorge this year,
3 and is already deeply immersed in the problems of interstate
4 boundaries of Lake Tahoe and Clearlake.

5 I think you have already met Allan Goodman, who
6 transferred from Los Angeles to our office up here, to have
7 the opportunity of working with the Commission as well.
8 Allan is dealing with the very complex problems of the Delta
9 and the Lake Tahoe boundaries between private and public lands.

10 MR. McCAUSLAND: What's Mr. Stevens doing now?
11 I thought he came back from legislative duties to do those
12 things.

13 MR. STEVEN: My role is as protocol.

14 (Laughter.)

15 CHAIRMAN CORY: Let me suggest that I could not
16 pass your introduction of the new Attorney Rodda who has
17 joined our staff without commenting on the brilliance of
18 that class from McGeorge.

19 (Laughter.)

20 CHAIRMAN CORY: The caliber of personnel that that
21 individual --

22 MR. McCAUSLAND: Why don't you save that for
23 Executive Session?

24 (Laughter.)

25 CHAIRMAN CORY: I want this on the record for my

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1 wife.

2 (Laughter.)

3 CHAIRMAN CORY: Okay. Are there any other items
4 to come before us?

5 If that is all, I think we will ask that the room
6 be cleared so that we can dispense with the executive items
7 right here and still get to lunch.

8 (Thereupon the meeting of the State Lands
9 Commission was adjourned at 11:40 a.m.)

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

3
4 I, DIANE LYNN WALTON, C.S.R., a Notary Public in
5 and for the County of Placer, State of California, duly
6 appointed and commissioned to administer oaths, do hereby
7 certify:

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

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

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 and affixed my seal of office this 23rd day of March, 1977.

18
19 *Diane Lynn Walton CSR*
20 DIANE LYNN WALTON, C.S.R.
21 Notary Public in and for the County
22 of Placer, State of California
23 C.S.R. License No. 3067



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