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MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

CITY COUNCIL CHAMBERS
570 PACIFIC STREET
MONTEREY, CALIFORNIA

WEDNESDAY, JULY 19, 1978
10:00 A.M.

Reported by:

NANCY L. ROLLER, C.S.R.
C.S.R. License No. 3882

I N D E X

	<u>Page</u>
1	
2	
3	Members Present iv
4	Proceedings 1
5	Executive Officer's Report 1
6	Acceptance of Consent Calendar 2
7	Calendar Item 9 2
8	Calendar Item 10 14
9	Calendar Item 11 15
10	Calendar Item 12 15
11	Calendar Item 13 16
12	Calendar Item 14 16
13	Calendar Item 15 17
14	Calendar Item 16 18
15	Calendar Item 17 18
16	Calendar Item 18 19
17	Calendar Item 19 21
18	Calendar Item 20 22
19	Calendar Item 21 51
20	Calendar Item 23 55
21	Calendar Item 24 56
22	Calendar Item 25 62
23	Calendar Item 26 65
24	Calendar Item 27 67
25	Calendar Item 28 67

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I N D E X (Continued)

1		
2		<u>Page</u>
3	Calendar Item 29	67
4	Calendar Item 30	68
5	Calendar Item 31	70
6	Status of Major Litigation	72
7	Adjournment	76
8	Reporter's Certificate	77

9
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MEMBERS PRESENT

1
2 Mr. Kenneth Cory, State Controller, Chairman
3 Mr. Sid McCausland, representing Mr. Roy M. Bell
4 Ms. Betty Jo Smith, representing Mr. Mervyn M. Dymally
5

STAFF PRESENT

6
7 Mr. William F. Northrop, Executive Officer
8 Mr. James F. Trout
9 Mr. Robert C. Hight
10 Mr. W. M. Thompson
11 Mr. Donald J. Everitts
12 Mr. Dwight Sanders
13 Ms. Diane Jones, Commission Secretary
14

ALSO PRESENT

15
16 Mr. Jan Stevens, Attorney General's Office
17 Mr. Alan Hager
18 Ms. Suzanne Wylie
19 Ms. Elizabeth Rasmussen
20 Dr. Kent Dedrick
21 Rear Admiral Frank Higbee
22

23 --oOo--
24
25

P R O C E E D I N G S

--oOo--

1 CHAIRPERSON CORY: We call the meeting to order.

2
3 First item on the agenda is the confirmation of
4 the minutes of the June 22nd meeting. Are there any
5 corrections or changes in that?
6

7 Without objection they will be confirmed as
8 presented.

9 Next item is a report of the Executive Officer,
10 Mr. Northrop.

11 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, in light
12 of the Jojoba beans there will be no Executive Officer's
13 report, other than Items No. 20 and 22 will be pulled from
14 the calendar; there may be some comment from the public on
15 Item 20. That completes my report.

16 Mr. Golden is not here. He was attending a Coastal
17 Commission meeting so he will not be giving a report.

18 CHAIRPERSON CORY: The next item on our agenda is
19 the Consent Calendar. The Consent Calendar items, for those
20 of you who have agendas, are preceded by the letter C1
21 through C8. The agenda calendar summary indicates the
22 proposed action that the staff recommends. If there is any-
23 one in the audience that has any questions about any of
24 those Items C1 through C8, if they would please let us know
25 now because lacking any objections, we will approve those in

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1 one motion and not take them up individually.

2 Is there anybody who would like to address them-
3 selves to any of those items?

4 MR. MCCAUSLAND: No objections.

5 MS. SMITH: No objections.

6 CHAIRPERSON CORY: Without objection, the Consent
7 Calendar will be adopted as presented.

8 The next item is Item 9.

9 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 9
10 is a report on the Moss Landing Harbor District's management
11 practices. In the staff of the State Lands Commission
12 Elizabeth Rasmussen has been handling that, and I believe
13 Miss Rasmussen and Mr. Trout will make a preliminary report.
14 I believe there are members of th Moss Landing Harbor
15 District here who may care to respond.

16 MR. TROUT: On introduction, Mr. Chairman and
17 Members, the auditors in the staff of the State Lands
18 Division have asked us to emphasize that a financial audit
19 has not been made. We have reviewed from an analytical
20 standpoint with our professional staff the on-going activities
21 of the Harbor District; and this report is basically a
22 summary of those activities.

23 Libby is at the board there, and I'd like her to
24 just point out--the Moss Landing Harbor District has been
25 granted tide and submerged lands that she is emphasizing

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1 there off shore in north and south harbor and up Elkhorn
2 Slough.

3 The areas shown on the map in red are a series of
4 boundary agreements entered into between the Harbor District
5 and upland owners and, in most cases, ratified by earlier
6 land commissioners.

7 The yellow lines, which are a little difficult to
8 see, are unresolved boundary lines which are at present
9 being surveyed pursuant to the grant statute. We must admit
10 that the survey is considerably behind schedule. The grant
11 requires a survey to be done within two years. It took us
12 about five years to get an agreement on the repayment of
13 the Division's costs for the survey; and following that we
14 have had our own difficulties. So, part of the problem is
15 not completion of the survey. I mean, it's a fact that the
16 survey is not complete.

17 As a result of the management audit, we focused
18 on two basic things. There have been a number of inconsis-
19 tencies between the terms of the granting statute and the
20 common law trust in the past and the actual activities within
21 the Harbor District. However, our management audit has
22 developed the fact that most of these deficiencies have been
23 corrected. In recent years the Harbor District has hired
24 a new general manager and there has been some more modern
25 direction coming from the Harbor District itself.

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1 In summary, then, the management audit report has
2 shown that there has been an agreement in north harbor
3 which just recently expired, an agreement between the
4 Harbor District and the Moss Landing Yacht Club that, in
5 effect, made the yacht club the manager of the tide lands
6 in the north harbor. The District has been working very
7 hard to correct that situation, and they are now in negotia-
8 tions with the yacht club.

9 CHAIRPERSON CORY: There is an agreement that's
10 expired?

11 MR. TROUT: It expired approximately one year
12 ago.

13 CHAIRPERSON CORY: What is there to negotiate? I
14 mean, it seems to me it's very clear that the District has
15 a responsibility where they should have it all the time.
16 Why are people negotiating?

17 MR. TROUT: They are attempting to--the yacht club
18 wishes to continue to now lease a piece of property for their
19 yacht club.

20 I think representatives of the Harbor District
21 would like to explain the status of their negotiations. It
22 would put the yacht club in a typical lessee situation, such
23 as the Commission itself enters into. with the yacht club.
24 I think from preliminary conversations with the District,
25 with one of the directors and Mr. Northrop, we think they are

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1 moving in a very good direction.

2 In the south harbor we have some more difficult
3 problems. There are a number of wharves and piers in that
4 area which in the past the District sold for very small
5 amounts of money. There are a number of wharves and piers
6 which are paying little, if any, rent. And the actual
7 resolution of that problem is going to require completion
8 of the Division's survey, which we hope to do by the first
9 of the calendar year.

10 The calendar item, then, recommends two or three
11 things. It recommends that the Moss Landing Harbor District
12 be informed of the contents of the audit, and they have seen
13 a preliminary copy of it. That among other solutions the
14 Commission suggests that there are at least two. There
15 might be more solutions to the problem of the Elkhorn
16 Yacht Club. That the District working with the staff of
17 the Commission report back not less than one year on progress
18 in solving some of these problems. And that the Executive
19 Officer be authorized to take the steps necessary, including
20 public hearings, towards the end of this period, and if
21 there is no satisfactory resolution of this problem that the
22 appropriate corrective measures be authorized by the Attorney
23 General and the staff counsel.

24 MS. SMITH: Question. The 1952 agreement with
25 the Elkhorn Yacht Club, is that the agreement you're

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1 referring to that has expired?

2 MR. TROUT: Yes, Miss Smith. That's correct.

3 MS. SMITH: So they will be renegotiating another
4 agreement?

5 MR. TROUT: Those negotiations are now in progress,
6 according to the Harbor District. The Harbor District
7 intended to be here this morning and, I think, would like
8 to address the Commission briefly on the status of their
9 activities.

10 MS. SMITH: Would that agreement be coming before
11 us for approval?

12 MR. TROUT: Yes. It would require approval--no,
13 I'd better not answer that question, and let somebody who
14 knows more about it.

15 Sue, or Libby, would a lease from the Harbor
16 District to the yacht club require Commission approval?

17 MS. WYLIE: No.

18 MR. TROUT: I don't think it would, but we would
19 review for consistency.

20 MS. SMITH: Would it require that a clause be
21 inserted in the lease that the yacht club would not engage
22 in any discriminatory practices?

23 MS. RASMUSSEN: Yes.

24 MS. SMITH: And there was no such clause inserted
25 in the 1952 agreement?

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1 MS. RASMUSSEN: Right.

2 MS. SMITH: But you think there would be in any
3 future agreement?

4 MS. RASMUSSEN: I would hope so. We don't have
5 any specific requirements, but that is something we would
6 look for and would like to have in the agreement.

7 MR. TROUT: We might point out for the benefit of
8 the Commission that all other grantees where a lease has been
9 issued to the yacht clubs, the bylaws or constitutions of the
10 clubs have been amended to require that there be no discrimi-
11 nation in the operation of the yacht club for any reasons:
12 residency, race, religion, or any other kind of discrimina-
13 tion. They are to keep a totally nondiscriminatory policy
14 as to membership and use of the facilities.

15 MS. RASMUSSEN: Mr. Trout, there is one correction.
16 That is, the agreement has not expired, so they are still
17 operating under the terms of that original agreement, the
18 1952 agreement.

19 CHAIRPERSON CORY: What was the term of the
20 original?

21 MS. RASMUSSEN: The terms of the agreement--

22 CHAIRPERSON CORY: No, the length of time.

23 MS. RASMUSSEN: The length of time, it will expire
24 on termination of the bonds or October 1, 1981, whichever
25 should happen first.

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1 CHAIRPERSON CORY: Are the representatives here
2 from the Moss Landing Harbor District? Do you wish to
3 comment, sir, from the audience?

4 MR. MCCLELLAN: Sir, I'd like to have a member of
5 the Commission speak first; and I'd like to have the harbor
6 manager speak.

7 CHAIRPERSON CORY: Would you please come forward
8 and identify yourself for the record.

9 MR. PERKINS: The individual who invited me to
10 speak is Ward McClellan, president of the Harbor Board of
11 Commissioners. Mr. name is Granville Perkins. I am also a
12 harbor commissioner and I am chairman of the property
13 committee of the Moss Landing Harbor Commission.

14 I appreciate that it has been clarified that we
15 believe we are operating under an agreement. It's our
16 opinion that the agreement is valid, although there seems
17 to be some question on the part of the State Lands Commission
18 regarding that. The termination of the 1952 agreement is,
19 as Libby said, October 1, 1981, or until the bonds are
20 retired. It's my understanding that there are relatively
21 few bonds left outstanding.

22 The harbor commissioner does not receive the
23 results of this audit as some brand new problem thrust upon
24 it. A representative of the State Lands Commission,
25 Tiffany Boussaloub presented this matter to the harbor

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1 commissioners at a regular meeting at a time that a proposed
2 lease was being discussed with the Elkhorn Yacht Club.
3 Miss Boussaloub called to our attention that if we entered
4 upon the proposed agreement being proposed by the Elkhorn
5 Yacht Club, we would be in violation of our grant with the
6 State Lands Commission; and if this did take place, the
7 State Lands Commission would have an obligation to revoke
8 the grant. So we have been operating under this under-
9 standing for approximately one year. We feel that although
10 we do not have an agreement in hand to consider with the
11 Elkhorn Yacht Club at the moment, between ourselves and the
12 Elkhorn Yacht Club we have given the matter a considerable
13 amount of study.

14 The north harbor is a property under the govern-
15 ance of the Moss Landing Harbor District, and any future
16 lease agreement developed with the Elkhorn Yacht Club will
17 stipulate that quite clearly. I don't think that there is
18 any doubt in our minds at the present time what is expected
19 of the Moss Landing Harbor District relative to its manage-
20 ment of the north harbor.

21 We are not burdened with any defensive posture
22 regarding this audit. We find some minor errors. We believe
23 in the audit based on ownership of certain pieces of
24 property that are probably on state property within the
25 district. Those properties are in the south harbor on the

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1 westerly side. They are commercial operations who have
2 their piers in the waters of the state of California. Short
3 of entering into individual litigations with, perhaps, more
4 than one dozen owners who have wharves or fixtures in the
5 waters of the state of California, we find no immediate
6 resolution of the problem--or until we receive the results
7 of the survey from the State Lands Commission.

8 We have been promised by the staff of the
9 Commission that those portions of the survey that are
10 pertinent to these ownership problems will be submitted to
11 us shortly. We think that would be a less expensive
12 expedient than entering into a litigation with all
13 of these owners. We feel quite confident that we will
14 overcome any problems that might presently exist between
15 the District and the Elkhorn Yacht Club; and the Elkhorn
16 Yacht Club also understands that if we do not resolve these
17 problems by the date identified in the audit, we will simply
18 take over the operation of the north harbor.

19 CHAIRPERSON CORY: Questions?

20 MS. SMITH: No, my question is just whether or not
21 you would be willing, or the parties would be willing, to
22 insert a provision in the agreement that would prevent
23 discrimination?

24 MR. PERKINS: We plan to do that. It's definitely
25 in our minds to include that provision.

1 MS. SMITH: I'm satisfied with that.

2 CHAIRPERSON CORY: On the staff recommendation to
3 us, I note in 2a and b there seems to be use of the words,
4 "the District shall include." I would prefer when we adopt
5 that that that be changed to "District may include" having
6 those provisions, because I don't think we want to go on
7 record as thinking that you need to conclude any agreement
8 if, in your wisdom--if you cannot negotiate a satisfactory
9 agreement, as you suggest, your ultimate lever at the
10 negotiating table is that you don't need that yacht club or
11 any yacht club. You have a responsibility to the people and
12 you can discharge it yourselves without the intermediary.
13 It seems to imply in the draftsmanship that "they shall
14 conclude" that we're forcing you to conclude a deal. And
15 if you can't cut a deal that you think is in the public
16 interest, don't do it.

17 MR. PERKINS: Mr. Cory, you are precisely correct.
18 That is our position. It may seem remote that we would not
19 conclude a lease, and it's certainly our intention to do so.
20 But we do have a present understanding with the members of
21 the Elkhorn Yacht Club that the lease will either be to our
22 satisfaction or not at all.

23 CHAIRPERSON CORY: Do the attorneys have--

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we will
25 make a note on that.

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1 MR. TROUT: Fine.

2 MS. SMITH: Has a financial audit already been
3 started on Moss Landing Harbor District?

4 MR. TROUT: Miss Smith, in the opinion of the
5 staff at this point a financial audit is not justified. We
6 think that once the new arrangement with the yacht club and
7 some of the other problems are cleared up, then it would be
8 appropriate. But at this point we think there is higher
9 priority for granted lands financial audits in other areas.

10 CHAIRPERSON CORY: Is there someone else who wishes
11 to speak? Would you come forward and identify yourself for
12 the record.

13 MR. WIMMER: Thank you. My name is Bill Wimmer.
14 I'm the harbor manager of Moss Landing Harbor District.

15 At the time I received this management practices
16 audit, reading it over and finding out all the bad things
17 that were done, I am pleased to say at the time that this
18 agreement was reached I was enjoying life as a soldier of
19 the Occupation Army of Japan.

20 (Laughter.)

21 MR. WIMMER: I think it was better there than it
22 was here at this time, according to this. I notice reading
23 page 2 of the agreement, which I received for the first time
24 yesterday, it states: "The district and the club recognize
25 that it is impractical to try to draft this long-term

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1 agreement relating to the foregoing subject matter in the
2 manner which would cover all questions of fact or interpreta-
3 tions which may arise during the life of the agreement."

4 It took about 20-some years for this to come forth.
5 I'm surprised that this wasn't picked up quite some time
6 ago, many years ago--all of the inequities that I see.

7 I notice that since I've got here I've heard the
8 word "discrimination" a couple of times. In the Harbor
9 District itself we quite frown on any type of discrimination
10 regarding vessels and/or people. Moss Landing Harbor
11 District in our south harbor prides ourselves in the ability
12 to put fishermen and recreation people together; and they
13 get along fine. As a matter of fact, some of the recreation
14 people, you can't kick them out. They won't leave, because
15 they really do enjoy the way the harbor itself is being run.

16 I didn't know of any discrimination regarding the
17 Elkhorn Yacht Club until some time ago. When I first took
18 over the job I found out that in order to get a berth,
19 somebody told me, you had to join the club. Well, I went
20 over and had a talk to the then manager and put a stop to
21 that.

22 Regarding the financial audit, right now we are
23 undergoing our yearly financial audit, and the State Lands
24 Commission will get a copy of it just as soon as it is
25 through. We get audited every year by Haskins and Sells,

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1 and they are right now in the second day of the audit. It
2 should be completed possibly by the end of the week, and
3 Mr. Northrop's office will be receiving a copy of that, if
4 you wish to see it.

5 I'm open to any questions.

6 CHAIRPERSON CORY: Questions?

7 MS. SMITH: No.

8 MR. MCCAUSLAND: No.

9 CHAIRPERSON CORY: Thank you very much, sir.

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Mr.
11 Trout has something.

12 MR. TROUT: We want to point out that much of the
13 change that we saw as a result of the management audit is
14 due to bouquets on both the part of the District in choosing
15 Mr. Wimmer and Mr. Wimmer's own aggressive management.
16 That's really boiled it down to just the two areas that we
17 have identified.

18 MR. WIMMER: Thank you very much.

19 CHAIRPERSON CORY: Without objection, then, the
20 recommendation with the amendments made by the Chair is
21 adopted.

22 Next item is Item 10 on the agenda, a PG&E lease
23 detailing the disposition of volumetric rental accruing at
24 the Moss Landing terminal in Monterey County.

25 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is

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1 consistent, the Attorney General tells me, with our stipula-
2 tion in the lawsuit on volumetric rental that it will be put
3 in a special fund waiting the outcome of that lawsuit.

4 CHAIRPERSON CORY: Any questions?

5 MS. SMITH: And it's very clear that we're not
6 excusing any rental payments? We are not changing the term
7 of the date of the lease?

8 EXECUTIVE OFFICER NORTHROP: That's correct. We
9 had discussed this at a previous meeting and the term was
10 to be changed. Now the term remains consistent.

11 CHAIRPERSON CORY: Without objection, Item 10 as
12 amended is approved.

13 Item 11, West Sacramento Port Center, Sacramento
14 Yacht Club, title settlement on a boundary.

15 EXECUTIVE OFFICER NORTHROP: The staff feels that
16 when you consider the expense of litigations, this is
17 probably a much better way to go.

18 CHAIRPERSON CORY: Anybody in the audience want
19 to comment on Item 11? Any objections from the Commissioners?

20 MR. MCCAUSLAND: No.

21 MS. SMITH: No.

22 CHAIRPERSON CORY: Without objection, Item 11 is
23 approved as presented.

24 Item 12, Sacramento Yacht Club.

25 EXECUTIVE OFFICER NORTHROP: Mr. Chairman and

1 Members, this is a lease--a general permit for recreation
2 use by the yacht club with appropriate consideration.

3 CHAIRPERSON CORY: Any problems? Anybody in the
4 audience on Item 12?

5 Without objection, Item 12 will be approved as
6 presented.

7 Item 13.

8 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
9 a compromise, again, in lieu of litigation in the area of
10 Milpitas.

11 CHAIRPERSON CORY: Anybody in the audience on
12 Item 13 on the agenda?

13 Questions from the Commissioners?

14 MR. MCCAUSLAND: No.

15 MS. SMITH: No.

16 CHAIRPERSON CORY: Without objection, Item 13 will
17 be approved as presented.

18 Item 14, Shell Beta.

19 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, in the
20 federal offshore off of Huntington Beach, the federal
21 government has leased some of the oil-bearing--some of the
22 sea bed to Shell Oil Company for the development of an oil
23 field. The City of Long Beach and the State Lands
24 Commission are joint co-lead agencies on an EIR. This
25 allows the Executive Officer to negotiate that agreement.

1 CHAIRPERSON CORY: Questions?

2 MR. MCCAUSLAND: No.

3 MS. SMITH: No.

4 CHAIRPERSON CORY: Anybody in the audience on
5 Item 14? Without objection, Item 14 will be approved as
6 presented.

7 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Mr.
8 Trout will address Item 15.

9 MR. TROUT: As the Commission will recall, in the
10 last few months we've adopted a number of actions relating
11 to recreational piers. We are asking the Commission in
12 calendar Item 15 to adopt and approve an operating procedure
13 for the issuance of pier permits. Together with that we are
14 also asking your authority for the Executive Officer to make
15 minimum modifications and clarifications as we have some
16 experience with that procedure. Basically it defines how
17 many buoys would be considered consistent with the need for
18 recreational piers, and this is consistent with the regula-
19 tions that you've adopted, I believe, at the May meeting.

20 CHAIRPERSON CORY: Any questions?

21 MS. SMITH: No questions.

22 MR. MCCAUSLAND: No.

23 CHAIRPERSON CORY: Anybody in the audience on
24 Item 15?

25 MS. SMITH: This is just an operating procedure?

1 It's not being adopted in the form of a regulation that
2 would be filed in the Administrative Code?

3 MR. TROUT: That's correct.

4 MS. SMITH: But will this operating procedure
5 manual be placed in the Administrative Code, anyway?

6 MR. TROUT: It's not our intention to place it
7 in the Administrative Code. It would be in the operating
8 procedures, the procedures manual, for the staff in guiding
9 them in putting together recreational pier leases.

10 MS. SMITH: Okay.

11 CHAIRPERSON CORY: Without objection, then, Item
12 15 is approved as presented.

13 Item 16, Michael Phillips dba as Ski Run Marina,
14 a 15-year general lease in South Lake Tahoe.

15 Is there anybody in the audience on Item 16? Any
16 questions from Commissioners?

17 MR. MCCAUSLAND: No.

18 MS. SMITH: No.

19 CHAIRPERSON CORY: Without objections, Item 16
20 will be approved as presented.

21 Item 17, Anza Shareholders' Liquidating Trust,
22 wanting to assign their lease, or sublease to Victoria
23 Station.

24 EXECUTIVE OFFICER NORTHROP: That's correct, Mr.
25 Chairman.

1 CHAIRPERSON CORY: Is there anybody in the audience
2 on this item?

3 MS. SMITH: I understand from talking to Bob that
4 there is no nondiscrimination clause in this, either, at
5 this time.

6 MR. HIGHT: Staff will insist that a nondiscrimina-
7 tion clause be inserted in the sublease to Victoria Station.

8 CHAIRPERSON CORY: Anybody else? Any questions on
9 Item 17?

10 Without objection, then, Item 17, with the under-
11 standing of the staff, will be approved as presented.

12 Item 18, the Department of the Navy--ours or
13 theirs?

14 EXECUTIVE OFFICER NORTHROP: It's theirs, I guess.
15 They have a gunnery range at Chocolate Mountain which they
16 have leased before. I don't know if we could ever take it
17 back, there is so much unexploded ordnance on it. They want
18 another lease for another year.

19 MS. SMITH: I am curious about this one. If there
20 was a judgment and stipulation for \$6,000--wasn't that
21 right--why are they not--

22 MR. HIGHT: Miss Smith, the \$6,000 judgment was
23 a prior judgment, and this is a negotiated judgment for the
24 next five years.

25 CHAIRPERSON CORY: Inflation.

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1 MR. HIGHT: Right.

2 CHAIRPERSON CORY: Any questions?

3 MR. MCCAUSLAND: What type of control is exercised
4 over trespass on this land, and what kind of exposure does
5 the State have in the event of a group of backpackers
6 moving into the area and detonating devices unknowingly?

7 MR. TROUT: I think we can, from practical
8 experience, advise the Commission that the control is very,
9 very good. We have a few isolated sections. The bulk of
10 the property is owned by the United States. We had an
11 experience with one of our appraisers being on the property,
12 and he hadn't been on the property but a very short period
13 of time when the Navy had a helicopter out asking what he
14 was doing there. The proper procedure is to contact the
15 Navy. I've forgotten just where, but there was a procedure
16 for contacting the Navy and advising them that you're going
17 to be on the property.

18 MR. MCCAUSLAND: I was more interested in keeping
19 people off that weren't aware of the problems.

20 MR. TROUT: If their experience is similar to ours,
21 they won't get very far without being advised.

22 CHAIRPERSON CORY: Have you ever seen the Chocolate
23 Mountains?

24 MR. MCCAUSLAND: Nobody wants to hike in them? Is
25 that it?

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1 CHAIRPERSON CORY: No. That is a great misnomer,
2 if it implies anything pleasant.

3 (Laughter.)

4 MR. MCCAUSLAND: It sounds like the Big Rock Candy
5 Mountain.

6 (Laughter.)

7 CHAIRPERSON CORY: Yes.

8 Without objection, we will approve Item 18.

9 Item 19, City of Los Angeles, 49-year general
10 permit, two parcels of land in the Owens River, Inyo County,
11 for flumes measuring water flow. The public benefit is the
12 consideration.

13 Is there anybody in the audience on Item 19?
14 Could the staff tell me--my recollection is that the on-going
15 feud, which I first became aware of in Chinatown, continues.
16 Are there not some recent cries of anguish from the Owens
17 Valley over--

18 EXECUTIVE OFFICER NORTHROP: Yes. I'd like to
19 have Don Everitts kind of give a rundown to the Commission
20 on where we are getting--

21 CHAIRPERSON CORY: Are we getting into the middle
22 of another battle if we approve this?

23 MR. EVERITTS: Our current problem on the mineral
24 part of it is that they are letting water into Owens Lake,
25 and it is gradually flooding out our mineral lessee. They

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1 have attempted casually to divert water, but they have not
2 completely responded to it, at least in a satisfactory
3 manner.

4 CHAIRPERSON CORY: You mean we are having a
5 problem?

6 MR. EVERITTS: We are having a problem with them
7 at this point.

8 CHAIRPERSON CORY: That I was unaware of. I was
9 more concerned that there was some animosity of the people
10 living in the Owens Valley over a water rights dispute.
11 Are you familiar with that or not?

12 MR. TROUT: I don't think any of us are, Mr.
13 Chairman. But I can't think that there is any problem with
14 putting this over and allowing the staff to give you a
15 complete report of this whole thing next month.

16 MR. MCCAUSLAND: I would like to put it over
17 because I recall at a meeting in the winter or spring the
18 lessee of our mineral rights was at that point experiencing
19 some preliminary flooding. And I think we should make sure
20 that all parties are talking before we let the only control
21 that we have in this area out of our hands.

22 CHAIRPERSON CORY: Without objection, Item 19 will
23 be put over.

24 Item 20 is off calendar, but we understand that
25 there may be someone in the audience who wishes to address

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1 the Commission on Item 20.

2 MR. TROUT: Mr. Chairman, this is Mrs. Lucille
3 Peck. While she is coming to the podium, I'd like to hand
4 the Commission some pictures that might help the Commission
5 at least interpret what I think she is going to talk about.

6 CHAIRPERSON CORY: Would you identify yourself for
7 the record, please.

8 MRS. PECK: Yes. I am Lucille Peck, owner of
9 Steamboat Acres in Sacramento County. I own property along
10 Steamboat Slough, and we have asked permission to put
11 moorings down in the water.

12 We have a problem right now where the levees are
13 in really bad need of repair. We want to get in there and
14 start utilizing some means of control. I've just learned
15 this morning that there is some doubt that maybe I am not
16 the owner of the property on the upward side of the levee
17 from the slough.

18 I'm in a state of shock. That land has been owned
19 by the same family before the 1850's, so I guess for a
20 hundred and forty years everybody assumed they owned
21 property, but in reality did not. But that is not true.
22 My late husband and his father certainly, then, must have
23 spent themselves wrongly in trying to preserve and protect
24 that area.

25 Right now it's a very, very crucial situation

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1 where boaters have abused and used that property so much
2 that I'm afraid if it goes on any further it's going to
3 really--well, right now there is a big problem, that is for
4 sure. I don't know how it's going to be solved, because the
5 access on that land has been so abused, it's unreal--moorings
6 tied up to the trees and so on.

7 Mr. Trout, I gave you some land descriptions. Is
8 that how you based your findings, or what? I know I own
9 about 300 acres there and 276, approximately that many acres,
10 are tillable and farmable. The rest is all in levees.

11 MR. TROUT: The regulations and the statutes under
12 which the Commission operates basically require us to
13 recommend leases to the upland owner immediately adjacent
14 to the State lands, or to someone having the upland owner's
15 consent. Our review of the records earlier this week showed
16 that the immediately adjoining property appears to be in
17 the ownership of the reclamation district rather than Mrs.
18 Peck. We realize Mrs. Peck's concern, and we recommend that
19 the item be put over to give us a chance to get into the
20 details and see what we can find out. We are not talking
21 about the property in back of the levee and the levee road.
22 We are talking about the property that shows in those
23 pictures and is immediately adjacent to Steamboat Slough.
24 Just yesterday morning the record search revealed that the
25 apparent title is in the reclamation district, and we think

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1 that needs to be resolved before we can now recommend the
2 lease.

3 CHAIRPERSON CORY: The reclamation district is
4 composed of landowners or citizens?

5 MR. TROUT: Mrs. Peck, do you know whether that's
6 the local reclamation district or the Sacramento-San Joaquin
7 reclamation district?

8 MRS. PECK: It's a local reclamation district.

9 MR. TROUT: The record title that we found shows
10 that it is in the reclamation district. It may be that
11 that's an easement, but that's the way the record shows. It
12 seems that that's a problem, to comply with the regulations,
13 that we have to resolve.

14 CHAIRPERSON CORY: I understand the problem you've
15 discovered, but the trouble I'm having is, if there were
16 any grounds before you discovered that for an emergency
17 letter permit, that seems to suggest some immediacy of the
18 problem. If we were doing something on an emergency basis,
19 are we now going to ignore the immediacy of the problem?

20 MR. TROUT: No, three things have happened: one,
21 the title problem. Two, since we put the calendar together
22 there has been evidence, including an article in the
23 Sacramento Bee, where the people who normally do the tying
24 up and such, as they are shown in those pictures, have
25 indicated that they are no longer tying up to the upland and

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1 the vegetation. I'm sure Mrs. Peck is more on the scene on
2 that than I. Thirdly, the Attorney General's office has
3 some concerns over the length of time that this land has
4 been used, and the resulting prescriptive or implied rights
5 that they have developed. At this point our staff is not
6 alleging that, but there is apparent evidence that that
7 might also be a problem.

8 So these three things have all occurred since the
9 calendar was prepared.

10 CHAIRPERSON CORY: What is likely to happen between
11 now and our next meeting?

12 MR. TROUT: Between now and our next meeting we
13 should be able to resolve the title problems and also be
14 able to do a preliminary implied dedication investigation
15 to determine whether these are problems in fact, or whether
16 they are something that we can put aside.

17 MR. STEVENS: That analyzes it very well, Mr.
18 Chairman. The two problems are the really great uncertainty
19 as to the ownership of the uplands, and there is uncertainty
20 as to the public rights that exist as to the use of the bank
21 which may have accrued. It seems that within a month we
22 could probably do some fairly definitive work in both of
23 these areas and define these rights and, perhaps, at the
24 same time notice Commission action on this subject so that
25 other persons who are interested would have an opportunity

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1 to be heard.

2 MR. MCCAUSLAND: I've driven that area many times,
3 and I think the number of boats that use that slough is
4 extremely significant. I would hope, regardless of what
5 transpires in the next month, that we do everything we can
6 to provide adequate mooring for those boats, because I don't
7 believe the newspaper articles can begin to reflect how
8 each individual boat owner is going to act when he goes
9 into that slough. I don't think that those levees are
10 going to withstand many more years the kind of abuse they
11 have taken. Prescriptive rights or not prescriptive rights,
12 it is incumbent upon the reclamation district and, probably,
13 upon this Commission to do everything we can to protect the
14 structural integrity of those levees.

15 I don't mind putting it over a month, although I
16 hope you work with Mrs. Peck so that she understands what
17 the issues you're raising mean to her title.

18 MRS. PECK: May I ask something?

19 MR. MCCAUSLAND: I certainly would like somebody
20 to put some mooring buoys or some protective devices in
21 that area fairly soon. That's probably one of the most
22 heavily used sloughs for mooring purposes in the delta.
23 Maybe there are others, but in terms of unsupervised
24 moorings, there is a tremendous amount of use.

25 MRS. PECK: May I add something, please. I'm very

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1 disturbed about these connotations. Maybe it all stemmed
2 from that article Monday. I was very upset about that
3 because in the past there have been stories written about
4 the activity on Steamboat Slough. The writer simply had not
5 gone in depth to find out some real facts. I called Mr.
6 Walt Riley from the Sacramento Bee, and he apologized
7 because he had not looked into it in depth. I am really
8 appalled--I am at a disadvantage because my husband was
9 killed three years ago. But he worked so hard to try and
10 preserve that slough for everyone, and was concerned about
11 what was happening there. I've been down there by boat
12 several times this year. I cannot believe what I'm seeing.
13 These people are so irresponsible.

14 I know that the yacht clubs carry a lot of clout,
15 and I am standing alone here. But I am very upset and very
16 concerned. Through the years--my God, how much of our own
17 private funds have been spent trying to preserve that place,
18 putting up no trespassing signs. Right now we have elaborate
19 signs that say "levee protecting area," crying out to these
20 people, "Look what you're doing to this area."

21 They're into my lumber pile; they build their own
22 stairways. We provided parking for these people to get them
23 off the road because it was so dangerous. You take care of
24 their garbage; you take care that they're given free water.
25 Everything is for free there, and that's why--they don't

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1 probably like some things but it's in a terrible state of
2 affairs right now. We have had a dredger come in there,
3 paid our own money to save some trees from falling because
4 of the cave-ins, sand up on the levees.

5 It just doesn't do any good because when they come
6 down here it's like stretching out your arms and saying,
7 "Here we are, you lucky people." Well, I'm not sure we are
8 so lucky. It's unfair. I know that that property belongs
9 to me, and I hope it's not going to become a political
10 football. I'm outraged here this morning. It's just taken
11 so much time and so much of our lives in trying to keep it
12 in its natural state. Doggone it, do I have to stand here
13 alone and say--hey, you guys, how can you stand here now
14 and say I don't own that property? I'm paying taxes on this
15 land, and trying to take care of it. And then somebody is
16 coming down there and utilizing it. I'm not. I work myself
17 to death out there and always have. But I know how concerned
18 we all are. It's time that maybe these people realize that
19 they are sitting on private property, that they have to have
20 some measure of respect. My God, I don't--when I go on
21 vacation I have to pay. When I go I know what it's going
22 to cost, too.

23 My liability insurance is an outrageous amount.
24 I pay district levee maintenance tax; I pay property taxes;
25 so where are my rights? I think that this should be

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1 approved here today. If there is a discrepancy on that,
2 okay, hinge it on that. But I am telling you, if nothing
3 is done this year--it's so bad out there I have already had
4 the threat that they are going to set those levees back. I
5 don't know what I should do, but I'm going to be standing
6 here screaming and hollering; I guess that's the only thing
7 I can do. But I'm angry and hurt and upset and shocked.

8 So, that's all I have to say.

9 MR. MCCAUSLAND: What are the terms of the permit,
10 the emergency letter that we were going to grant? What is
11 there in that that is jeopardized by the title search and
12 the discussions and the opportunity for subsequent public
13 hearings in the matter?

14 MR. TROUT: I guess I'm going to have to ask Mr.
15 Stevens to answer some of those questions. The permit
16 itself authorizes her to install temporary mooring facilities
17 on the state land in Steasboat Slough adjoining the upland
18 in that area. Now, when we put it together--and I can
19 understand Mrs. Peck's unhappiness--we understood that she
20 owned to the edge of the water. The records that we
21 researched in putting this together do not exactly agree
22 with that, and we had that need to be clarified.

23 CHAIRPERSON CORY: But let me try to clarify the
24 fact situation.

25 Mrs. Peck, are you in some kind of commercial

1 enterprise at Steamboat Slough?

2 MRS. PECK: I own the little landing at the
3 corner. But I have done so much soul searching about this
4 because, first of all, we have spent ourselves saving the
5 slough. My husband went through a court battle to save
6 that. Nobody is enjoying it but the vacationers; right?
7 Whose expense has it been? Ours. Who's concerned? Who's
8 down there patrolling all the time trying to keep it intact?
9 Now it's so bad that it just bothers me so much I can hardly
10 sleep nights. I mean, that is true.

11 It just cannot stand any more abuse. I know
12 what's already happened there 300 yards from the corner to
13 my house. It's just--they have paddle markers on the road.
14 The bus has to go way in the other lane to even pass. And
15 that's simply because of that abuse down there.

16 I don't know what to say here this morning. I am
17 really shocked about this, but something has got to be done.
18 I say pass this thing and we'll get on with that. I think
19 they're all wrong here. They have to be wrong. You mean to
20 tell me that 140 years have gone by and people don't know
21 what they had? My husband's family was the first ones
22 there. Then everybody on that delta is totally in error.

23 CHAIRPERSON CORY: That is possible in terms of
24 fact. What I'm concerned about, and the question I was
25 trying to ask, is the emergency of having buoys there to

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1 stop the weakening of the levees; is that it? That is the
2 immediate problem why we were going to do something on an
3 emergency basis. Am I misreading that or misunderstanding
4 that?

5 MR. TROUT: That's basically what the calendar
6 item is.

7 CHAIRPERSON CORY: What would preclude--if Mrs.
8 Feck is doing this with full knowledge that there is this
9 question as to who owns what, it would seem to me that
10 preserving the levee, rather than waiting for 30 more days
11 of additional deterioration at sort of the height of the
12 season--if she is willing to stipulate that these questions
13 are unresolved, and when we get the fact situation, you
14 know, she may not have the buoys there; it may be the
15 reclamation district that has to have the buoys there. But
16 it seems like the buoys need to be there.

17 Am I missing something, some legal point or
18 practice?

19 MR. TROUT: We have two attorneys here to talk to
20 the legal points.

21 MR. STEVENS: I'd like to hear some more about the
22 transaction itself, because I just became aware on Monday
23 that there were problems of the upland ownership and, also,
24 problems with the public grants.

25 CHAIRPERSON CORY: What I'm wondering about is,

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1 the reason we were on an emergency basis going to do some-
2 thing was to preserve levees, as I understand it. Everybody
3 is beating up the levees. Shouldn't we take steps to solve
4 that problem, regardless of who owns the property? I'm
5 sorry Mrs. Peck, I can't hold your brief in arguing whether
6 you own the property or not. I just don't know. But the
7 levees should be preserved for whoever has the property.

8 MRS. PECK: May I add?

9 CHAIRPERSON CORY: Yes.

10 MRS. PECK: Why did I just learn of this so
11 suddenly? Monday when that article came out in the paper--
12 and I read it in the second page; it took a whole page of
13 the Bee. In the middle column, that's what upset me right
14 there. When I called Walt Riley about it he admitted that
15 he hadn't checked to see if these boaters are moored and
16 indeed tied up on my property. I walked that entire property
17 that very morning and they were all tied up there, as they
18 usually are.

19 Now, I don't know if he looked to see, or if
20 somebody just gave him that word. There may be two people
21 there in that whole slough that are just anchored out, if
22 they are. No way. I can ask anybody in this room to come
23 out and look any time and they are tied up there.

24 I know how they make their accesses. You have to
25 be a Tarzan and Jane, honest to God, to get up where they do,

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1 because they are too lazy to get in a dinghy and go to a
2 dock.

3 MS. SMITH: How did the staff make a determination
4 that the emergency existed?

5 MR. TROUT: There was a field inspection and, also,
6 you can see from the pictures the situation that's existing
7 there now. In some cases the people climbing the levee have
8 sloughed it away to the point it's right at the edge of the
9 highway. And you can see in the pictures some very large
10 vessels. I think one of them is in excess of 50 feet long,
11 just tied up to a relatively small tree.

12 What the emergency permit would do would be to
13 allow Mrs. Peck to install moorings in Steamboat Slough.
14 In effect, what it would do is compel the boaters using that
15 area to see Mrs. Peck to pay her for her costs related to
16 those buoys and tie up to those buoys and not to the upland.
17 That's what's contemplated in the permit.

18 MR. MCCAUSLAND: It reads in the background section
19 of the calendar item, "Applicant proposes to install floating
20 docks, mooring buoys, and access stairways at selected
21 locations along applicant's upland and provide waste
22 removal."

23 Is your current facility on the river side or the
24 slough side of the drawbridge?

25 MRS. PECK: On both.

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1 MR. MCCAUSLAND: Both sides of the property?

2 MRS. PECK: Yes. Now, if this is true--I also
3 have a beach there, and two years ago I spent \$43,000 putting
4 a new retainer wall in there and docking. Am I now to
5 understand that I don't own that, either? Or the area where
6 the landing is? I don't understand what's going on here.

7 MS. SMITH: Are the facilities that are going to
8 be installed temporary or permanent facilities?

9 MR. MCCAUSLAND: They float.

10 MS. SMITH: They are easily taken out?

11 MR. TROUT: As to the state lands, they would be
12 relatively easily removed. They would be a floating structure
13 and some buoys which would just be fastened to the bottom
14 of the slough.

15 The background, of course, indicates that Mrs.
16 Peck is planning to do some things to the levee, which is
17 not under the Commission's jurisdiction.

18 MS. SMITH: And you've indicated that Mrs. Peck
19 is going to be charging people for the use of these
20 facilities that will be installed?

21 MR. TROUT: Yes, but she is also going to be paying
22 the Commission for the use of this at the same time. But
23 she will have incurred some costs in putting those floats
24 and buoys in there.

25 MR. MCCAUSLAND: What are the legal ramifications

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1 of us having a stipulation in the permit that allows her to
2 recover her costs? It's hard to--well, with that number of
3 boats, maybe we should pay for the full cost of the instal-
4 lation; I don't know. And yet, if in fact there was a
5 question as to the legitimacy of our putting mooring
6 facilities on this land, that any excess funds collected
7 would accrue to the reclamation district for levee mainte-
8 nance in that area. And if it turned out that the title
9 to the land was hers, the money would be hers.

10 MRS. PECK: May I add, I was going through a lot
11 of soul searching because just to look down that slough is
12 something to see. There aren't many areas left like that.
13 It's taken a lot of struggle and a lot of money on my
14 family's part to keep it that way, and, I mean, spent their
15 lives doing it. That's why I'm very emotional about that,
16 maybe. But so be it.

17 Why I finally came to the conclusion that the
18 dockage was the only way is because you cannot get these
19 people to cooperate. They are in my lumber pile, and all
20 the stairs, they have a free vacation down there. I don't
21 understand. Right is right and wrong is wrong. Common
22 sense does not allow me to feel that these people should be
23 allowed that privilege all the time. And besides, they are
24 in your produce; they are in your fields; they get free
25 water; sneak the garbage on you; walk the dogs; and this

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1 goes on and on.

2 The only way--the only way to protect the area
3 that is so bad is to dock it, because it will make them keep
4 off and keep them confined in an area without just going
5 hog wild. I have had problems with some of them; so, what
6 do they do? They go across the road where there are new
7 owners. We have spent years and years there. We are
8 working on great-grandchildren. But we have a lot of new
9 people. They'll say, "Hey, gee, we didn't know this place
10 was for free. Isn't it neat?" I've had them tell me that.
11 I wish I had one.

12 MR. MCCAUSLAND: Even before I knew that there was
13 a Lucille Peck, I have been somewhat appalled at the
14 mooring practices that I've seen when I drive along that
15 road. I happen to like to drive that road; I don't have
16 a boat that would go down it. I agree that you have a very
17 serious problem; and today we're trying to find out if there
18 is some ground that we could pursue as a Commission that
19 would protect us from our legal exposure, because our staff
20 has advised us that whatever we allow you today may be
21 subject to successful legal challenge by other parties.
22 Whatever we allow you to do should cover as many of the
23 bets as possible.

24 MRS. PECK: I appreciate that.

25 MS. SMITH: Does the staff honestly believe that

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1 they can research and resolve all the legal issues involved
2 in this matter before next month's meeting? Or is this
3 something that's going to take you two or three months to
4 take care of and Mrs. Peck is going to have to wait around
5 with all her nightmares and worries and everything?
6 Because my preference is--and I understand the position
7 you're in, Mrs. Peck--but I don't want to further complicate
8 your life by making a decision today to vote to approve
9 this. I would prefer to postpone this for a month with the
10 understanding that the staff come back in with all the
11 title issues resolved, having researched the matter
12 thoroughly.

13 MR. TROUT: Miss Smith, I think I can--

14 MS. SMITH: If that's not possible, then perhaps
15 I'm prepared to make a different decision.

16 MR. TROUT: I think I can assure you that the
17 title situation can be resolved within the month. The other
18 problem that both Mr. Stevens and I mentioned regarding
19 implied dedication, I hesitate to make any kind of commit-
20 ment on. But as to the title of the immediate abutting
21 area, the area underlying the levee, I can assure you that
22 problem can be resolved.

23 MS. SMITH: But what about the second problem?

24 MR. STEVENS: I think a preliminary investigation
25 could be made by then which would pretty much indicate

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1 whether there are rights or there are not. I know we could
2 give it a priority and provide assistance immediately in
3 this next week to the Commission staff for that purpose.
4 It should receive priority.

5 MS. SMITH: How long would it take to install the
6 facilities?

7 MRS. PECK: It depends on what we're allowed to
8 do. I know that it's crucial to have some stairways there,
9 garbage pads--that has to come first on that criteria. And
10 somehow there has to be a method--and we have gone through
11 many, many different ideas--we think if there is some sort
12 of floating line out in the water to keep them from getting
13 access to that shore. I'm telling you, it is bad; it is
14 very bad.

15 MS. SMITH: If we had approved your request today,
16 when would the facilities have been installed?

17 MRS. PECK: We would have started almost
18 immediately.

19 MS. SMITH: You have already found a contractor?

20 MRS. PECK: That's right.

21 CHAIRPERSON CORY: What does "almost immediately"
22 mean?

23 MRS. PECK: The plans are drawn. All the plans
24 for stairways; that has to come first. We have to have time
25 to get everything in order; that has to come first before

1 we can do anything else. And then we were going to work
2 the dockage in stages. It's going to cost a lot of money,
3 let's face it. I'm not happy about it; but to me that is
4 the only solution down there now. There simply isn't
5 another way.

6 CHAIRPERSON CORY: But the time frame of providing
7 those temporary mooring facilities, would they be in place
8 within two weeks or--

9 MRS. PECK: We were going to work that out with
10 the State Lands, so I don't think we came to a total
11 conclusion there.

12 MR. TROUT: I think there are two things that
13 need to be clarified.

14 One is that the upland facilities do not require
15 the consent of the Commission. And the installation of the
16 buoys and the floats in the water will require a permit
17 from the Corps of Engineers. I don't know whether Mrs. Peck
18 or her agent have applied for that permit or not.

19 MS. SMITH: Has it been granted? Has your
20 application been approved by the Corps of Engineers?

21 MRS. PECK: I think they were contemplating the
22 results of this meeting today.

23 EXECUTIVE OFFICER NORTHROP: You have filed an
24 application with the Corps?

25 MRS. PECK: Yes.

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1 MR. MCCAUSLAND: I'd like to note for the record
2 that the next tentative scheduled meeting of this
3 Commission is the day before Labor Day weekend, which would
4 not quite, but come close, to representing the close of the
5 summer season on the slough. There will be a lot of people
6 out there later than that. I don't think we would see any
7 mooring facilities this season.

8 CHAIRPERSON CORY: What would be the cost of the
9 temporary mooring facilities?

10 MRS. PECK: I think we're talking of probably
11 each unit, a hundred-foot unit--or was it 40 feet? I guess
12 it was a 40-foot unit. It would cost at least \$3500 to
13 \$4200 each. So, we're talking about a lot of money. That
14 could be done in increments, and given a period of several
15 years to get that in order--it takes time; you just don't
16 go out there without thought and, you know--but we know
17 about where they should be placed, and it would be a
18 tremendous thing down there. I hate to see it, but--

19 CHAIRPERSON CORY: I'm having trouble putting--
20 our calendar item was for a six-month emergency letter permit.
21 And that implies to me that we are doing something on a
22 temporary basis to provide adequate mooring as opposed to
23 people tying up to trees and destroying the levee. And your
24 response to me seems to imply a rather phased development of
25 a marina.

1 MRS. PECK: That's true. I was surprised to see
2 the six-month business in the letter I had gotten, too.
3 Because I wondered then just what the thought was behind it,
4 or if somebody had made a mistake. That's not what I had
5 in the back of my mind or thought was understood.

6 MR. TROUT: Mrs. Peck's long-term plans would
7 require the preparation of an environmental impact report
8 and a full analysis. The thrust of the staff's presentation
9 and proposal here was to--because Mrs. Peck is interested in
10 doing things to protect and preserve the environment, the
11 staff felt that the need was immediate. If that vegetation
12 and the levee is to be protected during the heavy summer
13 season, it needs to be done now. A long-term marina
14 development with an EIR is something that would require six
15 to nine months to put all the way through. So that is a
16 long-range thing. What we've been looking at is simply the
17 short-term protection of the environment as shown in those
18 pictures.

19 MR. MCCAUSLAND: There was no mention in the
20 calendar item that there would be any fees associated with
21 the use of these mooring facilities. But, Mr. Trout, you
22 mentioned earlier in your oral presentation that there would
23 be these fees. Is that in fact the case?

24 MR. TROUT: The contemplation in the emergency
25 permit that the staff was recommending is that Mrs. Peck be

1 allowed to charge sufficient fees to recover her costs. We
2 at this point did not envision that this would be a profit-
3 making thing; but she should be allowed to recover her costs.

4 MS. SMITH: What did you anticipate as your
5 projected income from the charges and the fees that you
6 would charge?

7 MRS. PECK: We have no way of knowing at this
8 point. That's what we'd discussed with everybody at State
9 Lands.

10 MS. SMITH: One other question: That is, had you
11 applied for a county building permit?

12 MRS. PECK: No.

13 MS. SMITH: Would you need one?

14 MRS. PECK: I don't see why. There won't be any
15 buildings or anything. The only building per se would be--
16 I don't think you need one for that because all we're doing
17 is providing stairways down there, which are costly, too.
18 We are talking about \$1100 or \$1200 for each access; and
19 then the cost of the moorings themselves and the piling
20 that has to be driven down there.

21 MS. SMITH: I might be under some misunderstanding,
22 but it's my understanding that you would probably need one
23 and it would take a couple of weeks for you to get that. If
24 the use of this area is only going to be heavily used for
25 the next month or so, by the time you got your county building

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1 permit the heavy-use season would be almost over.

2 MRS. PECK: I don't see any need for that with
3 this project.

4 MS. SMITH: Is there counsel here who knows?

5 MR. STEVENS: I think you might check with the
6 building department or the county counsel. I can't speak
7 for them; but it's my general understanding that anything,
8 including a strengthening system, requires a building permit
9 in that county.

10 MRS. PECK: Okay then, why aren't the boaters
11 required to get one when they come down and build their own
12 accesses on that levee, and have for years?

13 MR. STEVENS: Upland trespasses are illegal, and
14 presently the sheriff's department should have jurisdiction
15 for those things and should be able to protect you. The
16 Commission can't really protect against what the people do
17 on the upland above the river. That's a crime that should
18 be covered by the existing laws.

19 CHAIRPERSON CORY: I don't see how we can solve
20 your problem. The temporary solution which I was thinking
21 of and I think Mr. McCausland was thinking of would subject
22 you to serious financial exposure that I don't think you
23 could endure, or you shouldn't be willing to. The 30-day
24 delay is apparently essential, because I think the only
25 thing we could do is say, "Yeah, if you want to proceed at

1 your own risk." But if we find out you don't own it, the
2 true upland owner is--

3 MRS. PECK: Well, if I don't own that, how will I
4 recoup my tax money and all that over all these years?

5 MS. SMITH: Get a good lawyer.

6 CHAIRPERSON CORY: Good luck.

7 MRS. PECK: Then everybody on that delta doesn't
8 own a thing out there.

9 CHAIRPERSON CORY: No, there are serious questions
10 as to what anyone owns in the delta. That is a serious
11 problem and, unfortunately, it is due to years of a lack of
12 full vigor being extended both in terms of budget process
13 and others to the State Land Commission to protect the
14 public interests. The courts have from time to time held
15 that if the State doesn't pursue its rights that you can't
16 by that device give up public title. But in this particular
17 case it appears to be title exists in a title document of
18 some sort that should be in the title search of your
19 property that there is some instrument has been recorded
20 giving some title to the reclamation district. That has to
21 be ascertained. It's a question of fact, and at least at
22 that portion of it we're dealing with some sort of a
23 recorded document.

24 I guess that's what you found in the files, Jim;
25 is that correct?

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1 MR. TROUT: Yes.

2 MRS. PECK: Was it my data that I had given you,
3 Jim, or did someone go down to the County Recorder's and
4 check out the record?

5 MR. TROUT: We used both sources of material.

6 MRS. PECK: Well, I'm really, really surprised.

7 MR. TROUT: I'd like to have it clear. We are
8 not stating that the owner is the reclamation district. We
9 have found a document which would appear to indicate that
10 the reclamation district is the record owner of the land
11 under the levee. If that is true, then Mrs. Peck is not
12 the littoral or abutting owner and, therefore, there are
13 other conditions relating to permits. From that standpoint
14 that's something that needs to be clarified.

15 MRS. PECK: Do you have that document with you
16 today? I'd like to see it.

17 MR. TROUT: No, I don't.

18 CHAIRPERSON CORY: Somebody will get a copy of
19 that document to you. What they are talking about is the
20 land under the levee itself.

21 MRS. PECK: Right from what? From the county
22 road down to the water's edge? Is that whay you're talking
23 about, Jim?

24 CHAIRPERSON CORY: Maybe the full levee.

25 MR. TROUT: The entire levee, right. The levee

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1 from waterward to landward ho.

2 MRS. PECK: I can't believe this.

3 MR. MCCAUSLAND: Mr. Trout, are you familiar with
4 the document, or did someone on our staff look at the
5 document?

6 MR. TROUT: The staff has looked at it. I have
7 not actually seen the document myself.

8 MR. MCCAUSLAND: So, do you know what kind of
9 document it is? Is it a conveyance to the reclamation
10 district, or is it--

11 MR. TROUT: My understanding is--and the material
12 is available in Sacramento. The staff would be fully ready
13 to sit down with Mrs. Peck tomorrow and go over the document
14 with her. But my understanding is that in that stretch the
15 upland owner conveyed the underlying fee to the reclamation
16 district. That's what was reported to me relating to this
17 calendar item.

18 MR. MCCAUSLAND: We'll take that as basically
19 hearsay at this point.

20 MRS. PECK: Is that common?

21 MR. TROUT: Yes. Sometimes they have reserved--in
22 many cases the property owners go together, formed a
23 reclamation district, and each of them deeded the necessary
24 property to the reclamation district, reserving access rights
25 to themselves to get to the water for pumps and various other

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1 kinds of things. It is my understanding that is the form
2 of document we are talking about. However, Mr. Grimes, Mr.
3 Scott--who you met with in the office--will be happy to
4 take you through the steps with our title and engineering
5 people tomorrow, if you wish, and we can attempt to work
6 that part of it out.

7 MRS. PECK: I'm afraid everybody on the delta is
8 in trouble, then. I just can't understand this. Because
9 suddenly we come up with this, and for over a hundred years,
10 almost 150 years, nobody has heard of it.

11 CHAIRPERSON CORY: It is possible that actions
12 that people took 100 or 150 years ago have implications
13 today that they didn't contemplate. Those reclamation
14 districts in many cases have been used as if they were
15 private ownership instead of the public agencies that they
16 are. And that can be the case.

17 MRS. PECK: Well, I may be wrong, but I feel that
18 there is something unusual going on. It's very funny that
19 since Monday, since that little paper made its little
20 appearance to the public, that suddenly this issue has come
21 up. Mr. Riley's coming out to my place and we're going to
22 go down there together. He's going to write another story.
23 But it is not factual.

24 I don't know what I'm going to do at this point,
25 but it sounds to me like I need an attorney. I will tell

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1 you something. The mess it's created down there is a shame.
2 It's an absolute shame. That has been going on like this
3 for so long and no help, and why, then, were we allowed to
4 fight so hard so many years, spend so many thousands of
5 dollars to preserve that, and now somebody is saying, "Hey,
6 you don't own that."

7 To me, I'm thinking right now there has to be some
8 pressure group; something's going on here and I want some
9 proven facts. But I hope we're not climbing into a hornet's
10 nest with everybody out in my area. Because if I'm in
11 trouble this way, who's going to reimburse me for all my
12 expense all these years, and my tax money? Am I allowed to
13 pay taxes on property now that I find out I don't own?

14 CHAIRPERSON CORY: That's possible.

15 MRS. PECK: Talk about--I can't believe it. You
16 can get a heart attack at what goes on out there, you try
17 so hard to preserve that fine, lovely area. It means so
18 much, and it always has, to my family.

19 MS. SMITH: Mrs. Peck, is this the first application
20 you've made to the Commission for a permit?

21 MRS. PECK: Yes.

22 MS. SMITH: And this problem has existed for how
23 many years?

24 MRS. PECK: The problem has existed--it's gotten
25 so bad when you find people who ignore just basic respect for

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1 somebody's property. I don't know if it's individually owned
2 or what. The people abusing it in this manner and enjoying
3 it for free--there is something wrong. Why are these people
4 allowed to come down and spend months down there having
5 such a good time on everybody else's expense? I have to
6 work hard. I work very, very hard, and I don't mean just
7 doing general things that normal women maybe do on the
8 average. I'm out there slugging it out, and I have a tough
9 row to hoe. If I have this problem now--I think it's a
10 shame, but somebody made a great big error here. I just
11 can't believe that this summer is going to go on one more
12 time with no help. When you know those problems existed,
13 you cry out for it; you spend your own money; and it's still
14 allowed to exist. They tie up there three, four, five
15 abreast in that slough. It makes no sense to me. Absolutely
16 no sense.

17 And just because they are yacht people or--I have
18 nothing personally against them. I am appalled at their
19 behavior, that's all. I live in the country, and maybe
20 I'm blessed in one way, because I wouldn't dare go to my
21 next door neighbor's field and take tomatoes or corn or
22 anything else. This is the mutual respect we all have.
23 But there is something wrong when some groups are allowed
24 to behave in that manner. It's irresponsible and it's
25 cruel.

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1 I have nothing more to say. Thank you for
2 listening to me.

3 CHAIRPERSON CORY: Thank you, Mrs. Peck.

4 The item will be on the calendar for next month.

5 MS. SMITH: We have postponed this matter until
6 then. Mr. Trout, I hope the staff will contact Mrs. Peck
7 and begin working with her on the problems here.

8 MR. TROUT: I would like to point out, Miss Smith,
9 that we attempted to contact Mrs. Peck yesterday morning
10 and see if we couldn't get her into the office yesterday
11 afternoon to resolve the problem. Unfortunately, we were
12 unable to get hold of her. To that extent the staff does
13 extend our apologies that she found out about it very late
14 last night and we haven't had a chance to go over it.

15 MR. MCCAUSLAND: Let me suggest to staff, if this
16 is going over a month--this discussion became fairly far
17 ranging. I think we may not be talking about a project
18 that's easily covered by an emergency permit. So, if you
19 are going to recommend to us next month that we grant an
20 emergency permit, you should have very good grounds for
21 doing so.

22 MS. SMITH: That's why I asked on what basis did
23 they find that an emergency existed.

24 CHAIRPERSON CORY: The next item on the agenda is
25 recognition of a couple of volunteers who were working in

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1 conjunction with the State Lands Commission staff: Dr. Kent
2 Dedrick and Admiral Frank Higbee.

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, if I
4 may, the work of the Commission has received a lot of
5 benefit from Dr. Dedrick. He has volunteered a great many
6 hours of his time and he's been putting in a full day at
7 the Commission office. He does have a small consultant
8 contract with the Attorney General's office, but it in no
9 way covers the time he has contributed to the Commission.
10 Dr. Dedrick brings in many years of practical experience
11 from the San Francisco Bay marsh, tide, and submerged areas
12 in which he is as concerned as our previous witness was
13 about the scenic areas of the San Francisco Bay.

14 His broad scientific and educational background
15 has been a great help to the staff. Dr. Dedrick has majored
16 in chemistry and physics in college and has advanced degrees
17 obtained in physical and theoretical sciences.

18 He has worked for Stanford and Stanford Research.

19 In a like manner, Admiral Frank Higbee, who is no
20 stranger to the Members of this panel, as he was a witness
21 in our tanker hearings over a year ago. He has extensive
22 expertise in marine terminal operations. He is a veteran
23 of 33 years of active sea duty. He was a port warden, and
24 a very effective one, for the City of Los Angeles, in which
25 we saw the oxygen content of some cannery areas support fish

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1 life because of his work.

2 He has been responsible for regulations concerning
3 the behavior of vessels and for fire prevention. Both were
4 published.

5 Admiral Higbee will be working tomorrow with the
6 tanker task force.

7 At this time the staff recommend that these
8 gentlemen be given volunteer status with the Commission.

9 CHAIRPERSON CORY: Government can formalize every-
10 thing to the point where we need a bureaucracy, can't we?

11 As I understand it, I am to administer an oath of
12 office for somebody to volunteer. That's amazing. If the
13 two people are willing to--

14 Kent, Admiral Higbee--these things are very
15 awkward. I've never understood how to do it when I've been
16 required to take them on occasion. I'm supposed to repeat
17 the words, and there is a blank where you're supposed to
18 put in your own name and I won't say anything. Just so you
19 know how it works. There is sometimes a real problem of
20 matching up how it fits together with your memory and mine,
21 because I have an advantage. I have it all written out, and
22 you don't. Can you remember which is which?

23 (Thereupon Mr. Kent Dedrick and Admiral
24 Frank David Higbee repeated the following
25 oath administered by the Chairman of the

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1 California State Lands Commission to
2 serve as volunteers for the Commission.)

3 "I, Kent Dedrick/Frank David Higbee
4 do solemnly swear that I will support and
5 defend the Constitution of the United States
6 and the State of California against all
7 enemies, foreign and domestic. I will bear
8 true faith and allegiance to the Constitu-
9 tion of the United States and the Constitu-
10 tion of the State of California. I take
11 this obligation freely and without any
12 mental reservation or purpose of evasion.
13 And I will well and faithfully discharge
14 the duties upon which I am about to enter."

15 CHAIRPERSON CORY: I thank you gentlemen very
16 much. May I present you your certificates, which are to
17 help you realize the psychic income you will receive.

18 (Laughter.)

19 CHAIRPERSON CORY: We are going to be printing
20 them up for some of the state employees to tide them over
21 in these times of strife.

22 (Laughter.)

23 MS. SMITH: Thank you.

24 MR. MCCAUSLAND: Thank you very much.

25 CHAIRPERSON CORY: Thank you both for all you've

1 done for the people of California. I mean that from the
2 bottom of my heart.

3 MR. DEDRICK: I certainly want to thank the
4 Commission for the vigorous and far-reaching work they have
5 done in the past few years. And the staff are wonderful
6 people. I think there is a tremendously important mission
7 that you have, protecting all the minerals and forests and
8 tide land trust resources. I think the public trust resource
9 is something that very few people in the state, perhaps,
10 understand as well as a lot of us in this room; and that the
11 responsibility of this Commission and this wonderful staff
12 is to uphold that, and I'm very happy with the work.

13 ADMIRAL HIGBEE: I can say I'm happy to go along
14 with that. There is much work to be done, and I'm heartened
15 by the fact that your Commission is resolute in its purpose
16 to try to get it done properly.

17 Thank you.

18 CHAIRPERSON CORY: Thank you very much.

19 MS. SMITH: Thank you.

20 MR. MCCAUSLAND: Thank you, gentlemen.

21 CHAIRPERSON CORY: Item 22 is off calendar.

22 Item 23 is maintenance of a dredging permit for
25 one year to remove 20,000 cubic yards from Belmont Slough
24 in the Foster City Lagoon System.

25 Does anybody in the audience want to comment on

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1 this item?

2 Without objection, Item 23 will be approved as
3 presented.

4 Item 24, mineral development.

5 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, the
6 Attorney General has some language to add to this item.

7 MR. STEVENS: Yes. Mr. Chairman and Members, we
8 would like to recommend that an additional condition be
9 imposed upon the calendar item which would, in effect, add
10 to Paragraph 2 the words, "provided appropriate steps are
11 taken to insure that no diminution in the value of the
12 State's interest shall be made as a result thereof."

13 And the reason we suggested that additional
14 language which would give the Executive Officer discretion
15 to insure the State's interests are protected, is that when
16 we give up the right of entry to minerals on a parcel of
17 this sort, it is conceivable that the owner of the fifteen-
18 sixteenths mineral interests remaining could take the
19 position that the State's interests to the minerals, should
20 minerals be discovered, was lapsed because of our lack of
21 an independent entry right. We could cover this either by
22 agreement with the owner of the remaining minerals or by
23 the retention of some kind of entry right in this agreement.

24 CHAIRPERSON CORY: Questions from Members?

25 MS. SMITH: What are we getting for quit claiming

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1 our interests or entry right?

2 MR. STEVENS: Essentially, we are giving up our
3 right to surface entry on this particular property.

4 CHAIRPERSON CORY: But what are we getting is the
5 question.

6 MS. SMITH: What are we getting in exchange?

7 CHAIRPERSON CORY: There has to be a finite answer
8 to that. It has to be either something or nothing.

9 EXECUTIVE OFFICER NORTHROP: Nothing is the answer.
10 Because we are doing some core holes to make sure that we
11 have no mineral interests in the first 500 feet.

12 CHAIRPERSON CORY: Why do we want to do this?

13 MR. HIGHT: To allow the subdivider to subdivide.
14 It's the subdivider who is the surface owner. The Commission
15 has a one-sixteenth mineral interest.

16 EXECUTIVE OFFICER NORTHROP: We have a one-sixteenth
17 of a mineral interest. Fifteen-sixteenths are held by other
18 parties.

19 MS. SMITH: And you're retaining the one-sixteenth?

20 CHAIRPERSON CORY: We are retaining the mineral
21 rights, but giving up the surface entry?

22 MR. HIGHT: Yes.

23 MS. SMITH: Which is valuable?

24 MR. STEVENS: At present it's my understanding
25 we don't know if there is any value to the minerals that may

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1 be discovered later on. But there is an interest there.

2 MS. SMITH: But the entry right that we're
3 bargaining for here is of value to the person requesting that
4 we quit claim our interests. All I'm asking is, normally
5 do we just give this away or do we have some form of
6 consideration that we receive?

7 MR. STEVENS: I don't think the normal policy--I
8 think Mr. Everitts will speak to that, but I think the
9 additional language would insure that we get something in
10 exchange which would preserve any interests we found later
11 on.

12 MR. EVERITTS: This is only about the second one
13 we have done since the Commission has had the right or power
14 to do that. This is only a one-sixteenth, and it's our
15 considered opinion that there are no mineral values. The
16 one-sixteenth is of minimal value because we couldn't mine
17 the one-sixteenth without the other fifteen-sixteenths.

18 So, we concluded that we weren't giving up anything.
19 We are working on a couple of them that will have some value,
20 and we will have to have some consideration.

21 CHAIRPERSON CORY: How big?

22 MR. HIGHT: Seventy-two acres.

23 The applicant has paid all expenses of the
24 Commission's investigation.

25 CHAIRPERSON CORY: In terms of the Attorney

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1 General, if the finding of fact or the probability of mineral
2 deposits is sufficiently different, so we aren't going to
3 get blind-sighted on the future ones by saying, "Well, you
4 treated that citizen thusly by not charging for giving up
5 that right--"

6 MR. STEVENS: I think that's really why we're
7 suggesting this additional language. We wanted to make sure
8 that the State doesn't lose any interest. In effect, we
9 would be asking him to give up something in exchange for
10 the quit claim, to give up the right to claim that because
11 we've lost our surface entry right our remaining interest
12 in the minerals was worthless.

13 MS. SMITH: I can accept that part. I just don't
14 understand why we give up our surface entry rights for
15 nothing. Because they are not worth anything; right?

16 CHAIRPERSON CORY: Right.

17 EXECUTIVE OFFICER NORTHROP: And if they are worth
18 something after the core holes, we can take a different
19 tack. But right now we feel that they are worth nothing.

20 MR. MCCAUSLAND: With respect to the letter, how
21 much of the property--

22 MR. EVERITTS: We already made a mineral survey;
23 we have cored it; we have examined it. There is about a
24 maximum of three foot of dirt covering over metamorphic
25 rocks which just aren't going to produce anything. They are

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1 nonmineral.

2 MR. MCGAUSLAND: You don't look very excited about
3 it.

4 EXECUTIVE OFFICER NORTHROP: I think we are going
5 to have several of these coming up before the Commission
6 in months ahead.

7 CHAIRPERSON CORY: Actually, it's the Lost
8 Dutchman Mine you're overlooking, you realize that?

9 EXECUTIVE OFFICER NORTHROP: We have some coming
10 up in Nevada City which well could be areas of concern.

11 MS. SMITH: I would like them to repeat the
12 amendment.

13 MR. STEVENS: To paragraph 2 on page 156 would be
14 added the words "provided that appropriate steps are taken
15 to insure that no diminution in the value of the State's
16 interests shall be made as a result thereof."

17 CHAIRPERSON CORY: Didn't you use to work for
18 legislative counsel?

19 MR. STEVENS: No. I used to draft bills now and
20 then.

21 (Laughter.)

22 MS. SMITH: So we are retaining an interest, then,
23 a one-sixteenth?

24 MR. STEVENS: This would, in effect, give us some
25 bargaining scope, and we could cover it either by retaining

1 a limited right of reentry, or by simply getting an agreement
2 from the owner of the fifteen-sixteenths that in no event
3 would this be taken into consideration to reduce the value
4 of our interests.

5 MR. MCCAUSLAND: How big is this piece of property?

6 MS. SMITH: Seventy-two acres.

7 MR. MCCAUSLAND: And who owns the property
8 adjacent thereto? Is it in the public domain or is it
9 private?

10 MS. SMITH: Who is the subdivider? What are they
11 doing with the land?

12 MR. EVERITTS: The name is in there. They're
13 building single-family residences, 206. It's about halfway
14 between Redding and Shasta Lake, that type of area.

15 MR. MCCAUSLAND: Do you want a Commission home,
16 a retreat on the property?

17 MS. SMITH: It depends on where it will be. Of
18 course not.

19 CHAIRPERSON CORY: What's the wish of the Commis-
20 sion?

21 MS. SMITH: With that amendment, just so it's
22 specifically clear that we're not giving up our interests
23 for nothing.

24 CHAIRPERSON CORY: Without objection, with the
25 amendment, Item 24 will be approved.

1 Item 25, review of Long Beach operations and
2 current crude oil prices and their interrelationship with
3 fiscal year expenditures in the Long Beach unit.

4 MR. THOMPSON: Back in April when you approved the
5 '78-'79 plan budget for the Long Beach unit, we were a little
6 uncertain of the future oil prices, but we put together a
7 budget that assumed we would get crude oil price increases.
8 You asked us to review it in June, and at that time we were
9 still uncertain as to crude oil price increases. They have
10 now happened.

11 (Indicating on graphed charts.) This shows for
12 18 gravity crude in Wilmington what has happened. This is
13 actual prices paid at the lower tier. You see the price
14 increase here. This allows the same price increase by the
15 federal government. Same thing for upper tier. Came up
16 here, was price-controlled and rolled back. Rolled back
17 here; ceiling price increases were allowed here. Now we
18 have a price increase here.

19 For lower tier we have increased for this particu-
20 lar gravity 56 cents a barrel. We, for the month of June,
21 are at 16 cents below ceiling. For upper tier we have come
22 up 97 cents, and we are now 8 cents below ceiling. There
23 have been no additional postings for the month of July, even
24 though there are additional ceiling price increases of 7
25 cents a month through the next few months for upper tier

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1 and 3 cents for lower tier.

2 Now, there is a large potential for even increasing
3 the slope of this increase because it's allowable by--this
4 is a federally allowed law, a Congressional action, with
5 the composite price of all domestic crude which will follow
6 this trend. This is the actual trend where they are. Right
7 now we are about 90-some cents below what is allowed. And
8 this, again, is Secretary Schlesinger of the D.O.E. holding
9 back on granting this particular deal, trying to get the
10 rest of the package together.

11 CHAIRPERSON CORY: The recent comments by Carter
12 about either restricting in one form or another by
13 Presidential action the importation of crude oil, is that
14 interrelated to that in any way?

15 MR. THOMPSON: I really don't know, because he
16 talked about trying to get it to world price and to control
17 imports. And I believe Congress stripped his authority to
18 put import tax on. I don't know how the import, how he
19 could restrict the imports. I don't know whether he still
20 has that power or not. And to get to world prices I believe
21 this is part of his package of taking and adding some kind
22 of an equalization tax, which would be an increment above
23 to take it to world price, but would not come back to the
24 producer.

25 Now, in essence, what we have done since you

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1 approved additional increments to the budget back in 1977
2 and increased these expenditures here, we have been able to
3 reverse this trend of decline in the Long Beach unit. We
4 are now producing about seven or eight thousand barrels a
5 day more than following this line.

6 So, in essence, we have forecast \$60 million
7 revenue this year if we were to receive ceiling price. Now,
8 we are not quite there; but we have had another thing happen
9 that will still allow us to make \$60 million. Because of
10 Proposition 13 Initiative, the Jarvis-Gann, we will pay less
11 ad valorem taxes in the Long Beach unit this year.

12 CHAIRPERSON CORY: That's why all the State police
13 voted for it. They knew they were going to pick up that
14 money.

15 (Laughter.)

16 MR. THOMPSON: I prefer not to comment on that.

17 So, in essence, the staff would recommend that we
18 not reduce the budget at this point or change the plan.
19 Admittedly, we are not at the ceiling price, but we should
20 make a fair amount of revenue. We think if we take the
21 present amount of budget money and, again, concentrate as
22 much as possible on producing the maximum amount of upper
23 tier properties, for which we are getting over \$10.50,
24 compared to the five-dollar oil, and just make that particu-
25 lar emphasis and priority to maximize the revenue, that would

1 be our recommendation.

2 This doesn't require any action. It's just more
3 or less a policy indication of where we are going.

4 CHAIRPERSON CORY: Okay.

5 Item 26, you want approval of specification forms
6 inviting bids on a selloff of the 8 percent of which parcel?

7 EXECUTIVE OFFICER NORTHROP: Of the L.B.O.D.
8 parcel. Mr. Chairman, we feel that we have verbal indica-
9 tion from several companies and written indication from one
10 that they would be willing to bid this difference between
11 the black and green for that approximately--what, 1200
12 barrels a day?

13 MR. THOMPSON: Yes.

14 EXECUTIVE OFFICER NORTHROP: For that portion for
15 a one-year period.

16 MR. THOMPSON: We are now about 16 cents below
17 that on that particular amount of oil.

18 CHAIRPERSON CORY: Is there anybody in the audience
19 on this item? It seems to me we ought to get the highest
20 price we can for it.

21 MR. THOMPSON: What you're approving here is the
22 form of the contract and such. And we have put in a
23 September 1st date in here. If it were possible to get this,
24 it would probably require a special Lands Commission meeting
25 sometime in the first week of August.

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1 EXECUTIVE OFFICER NORTHROP: City of Long Beach
2 is here today and are going to move on it this afternoon,
3 if the Commission approves it.

4 MR. THOMPSON: This was on the city council's
5 agenda yesterday, and was approved by the city council
6 yesterday.

7 MS. SMITH: There is no prerequisite or anything
8 that we have an offer from a third party before we send out
9 an invitation for bids?

10 EXECUTIVE OFFICER NORTHROP: No, there is no
11 prerequisite.

12 MR. THOMPSON: We have an indication from one
13 party that has written to us that they would bid.

14 EXECUTIVE OFFICER NORTHROP: If we didn't have some
15 feeling that there would be a bid, we wouldn't push for a
16 bid; but we have a feeling that there is a bid.

17 The Department of Energy allows CORCO, the
18 Commonwealth Utility of Puerto Rico, to export up to 50,000
19 barrels a day of residual fuel oil; and the price of the
20 shipping is to be paid by a reduction entitlement. So, the
21 incentive there is to do Puerto Rico a favor as well.

22 MR. THOMPSON: They tried to sell us off in
23 September of last year and we had no offers at that time.
24 We tried again in May and this export consideration was just
25 coming up at that time. So at that time we held it over till

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1 now. What will happen here is, if we don't get further
2 crude oil price increases this spread is going to increase
3 month by month.

4 MS. SMITH: All right.

5 CHAIRPERSON CORY: Without objection, Item 26
6 approval is granted as requested.

7 Item 27, we want to file a disclaimer in the
8 United States of America versus 43.92 acres of land, more or
9 less, in the Central Court of California. Tell us about
10 this one.

11 MR. HIGHT: Mr. Chairman, this is a federal
12 condemnation for the Casitas Reservoir project, and the
13 Commission has no interest in the property that's being
14 condemned.

15 CHAIRPERSON CORY: Questions by Commissioners?
16 Without objection, it will be approved.

17 Item 28, authorization to file a disclaimer in
18 the City of Sacramento versus Artz & Cook, et al.

19 MR. HIGHT: The City of Sacramento is condemning
20 some land to realign the Garden Highway, and this is
21 sufficiently upland from any claim the Commission would have
22 on the Sacramento River.

23 CHAIRPERSON CORY: Any questions from Commissioners?
24 Without objection, Item 28 is approved.

25 Item 29, any questions on 29?

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1 Without objection, Item 29 is approved as
2 presented.

3 Item 30, authorization for litigation to protect
4 the interests in the Yuba River. The Yuba River Sand
5 Company?

6 MR. HIGHT: Yes, Mr. Chairman. The Yuba River
7 Sand Company is currently dredging from the Yuba River and
8 blocking public access for fishermen and recreational use
9 on the river. It is the desire of the staff to have the
10 authorization to sue them if necessary. Hopefully, we can
11 settle this through compromise.

12 CHAIRPERSON CORY: Compromise? No, we win, don't
13 we?

14 MR. HIGHT: Right. Without litigation. Compromise
15 without litigation.

16 CHAIRPERSON CORY: Well, we can settle it, but
17 there is nothing to compromise, is there?

18 MR. HIGHT: No.

19 CHAIRPERSON CORY: Okay. I just wanted to make
20 sure we understood that.

21 MS. SMITH: How much money are we losing?

22 MR. HIGHT: We don't have an exact figure of the
23 volume of sand they're taking; but we understand it's in
24 excess of 100,000 cubic yards a year. So, at 25 cents a
25 yard--

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1 CHAIRPERSON CORY: Five grand. Is there some way
2 that a person that does this gets to pay a little extra for
3 his free enterprise spirit? It seems to me that if you just
4 go in and get what they were going to have to pay anyway,
5 you are giving substantial encouragement to everybody to go
6 out and try to rip it off.

7 MR. HIGHT: We'll ask for punitive damages.

8 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I think
9 one of the criticisms that the Joint Committee on Public
10 Domain have of the State Lands Commission is the fact that
11 when these happen--Staff has been recently instructed in the
12 last several years to look for punitive damages in these
13 areas.

14 MR. HIGHT: Mr. Everitts has reminded me of a
15 section in the law which provides that the Commission can
16 receive a hundred percent in addition to the actual damages.

17 MR. MCCAUSLAND: I'm glad Mr. Everitts happened
18 to remind you of that.

19 CHAIRPERSON CORY: Don, be careful or the bar
20 association will file a complaint against you.

21 MR. HIGHT: I practice engineering, too.

22 CHAIRPERSON CORY: I would be willing to go to
23 court on what he said; but I wouldn't walk across your
24 bridge.

25 (Laughter.)

1 CHAIRPERSON CORY: Without objection, authoriza-
2 tion is granted.

3 Item 31.

4 MR. TROUT: Mr. Chairman, Item 31 is a through-put
5 lease for sand and gravel.

6 MS. SMITH: Why are you waiving the first year's
7 rent?

8 MR. MCCAUSLAND: They need to figure out how to
9 measure.

10 MS. SMITH: There has to be a reason.

11 MR. TROUT: Bob, do you have an answer? I don't
12 have the answer to that question.

13 MC. SMITH: Postpone the item until they can come
14 up with an answer.

15 MR. TROUT: Oh, I remember. They wanted a low-
16 level crossing. There was some objection because it would
17 block boaters. So they are going to have to go back to the
18 drawing boards and they can't actually use it. They are
19 going to a high bridge and we felt that the first year's
20 rental would be an incentive to them.

21 MS. SMITH: But they have to use a higher bridge,
22 anyway? They have no choice, or are they just installing a
23 high bridge for the public's benefit?

24 MR. TROUT: They are doing it for the public
25 benefit, but I think Fish and Game would make them do it.

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1 But by using the high bridge they are not going to be able
2 to make the crossing as originally intended. It's going to
3 take longer to do it.

4 MS. SMITH: But they would be required legally to
5 install the high bridge?

6 MR. HIGHT: I think the Commission could require
7 that as a condition of the permit.

8 CHAIRPERSON CORY: But you're saying that they
9 will not be able to utilize it or get any benefit out of
10 the first year? That's the reason they're waiving it?
11 They're saying, if I am interpreting what you're saying
12 correctly, "Go ahead. You got your license, but the payment
13 and the benefit will coincide."

14 MR. TROUT: That's correct. They didn't want to
15 get started on the design of the high bridge until they were
16 certain they had a lease.

17 EXECUTIVE OFFICER NORTHROP: This is really the
18 first time we have done this concept of through-put across
19 a bridge.

20 MS. SMITH: That's why you're waiving it.

21 MR. TROUT: We may have a through-put on a brussel
22 sprout ranch before we're through.

23 (Laughter.)

24 MR. MCCAUSLAND: Let's make sure we understand why
25 we want to extend this thing forever and ever. I mean, we

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1 once had discussions of applying through-put to wheeling-
2 type situations, but this is more of a wheeling than I had
3 in mind.

4 MR. TROUT: This is fairly common practice, both
5 in terms of areas where quarries are crossing private land
6 and in the removal of timber where timber is crossing private
7 land.

8 CHAIRPERSON CORY: Would you enunciate a little
9 clearer. Who is crossing private land?

10 MR. TROUT: It is common practice for private
11 parties in allowing a person from a quarry to cross private
12 land to charge them on the basis of the volume moved. It's
13 also very common practice in forestry where someone needs
14 to cross your land bringing logs out of the forest, to charge
15 on a board-foot basis.

16 MR. MCCAUSLAND: Now you know why people complain
17 about government all the time. We are it.

18 CHAIRPERSON CORY: It's the only way we can
19 finance 13, though.

20 MS. SMITH: I abstain.

21 CHAIRPERSON CORY: The record will show that
22 Item 31 was approved, two votes and one abstention.

23 The status of major litigation.

24 MR. STEVENS: The Murphy case I think the
25 Commission is familiar with. We have an opinion from the

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1 Court of Appeals to the effect that the public trust still
2 exists with respect to the submerged and tide lands on the
3 Berkeley waterfront, contrary to the opinion of the lower
4 court judge. It represents an impressive reaffirmation, I
5 think, of the public trust doctrine and a real step forward
6 in our resolution of the Berkeley waterfront litigation.

7 CHAIRPERSON CORY: That was what, the First?

8 MR. STEVENS: Yes, this was the first Judicial
9 District, a unanimous opinion, I believe. We don't know
10 whether a hearing will be requested of the State Supreme
11 Court as yet.

12 United States versus California, five to three the
13 U. S. Supreme Court ruled that the state owns the strip
14 around the Channel Islands National Monument, in accordance
15 with our contentions.

16 In Donner Lake, we are now litigating the
17 navigability of that lake, and expect to have a hearing
18 next month in the Superior Court in Nevada County on that
19 question. This, of course, will determine the future of
20 the mountain lake program, generally, because the lake is
21 fairly representative of the other lakes to which the state
22 claims sovereign ownership.

23 With respect to the high water issue generally--

24 CHAIRPERSON CORY: Did the Court conclude that
25 it's not navigable? Does that mean that people who are

1 running boats there have to stop?

2 MR. STEVENS: What the people, the upland owners,
3 could contend would be that they own to the center, much as
4 a pie is sliced.

5 CHAIRPERSON CORY: But the issue of navigability,
6 though, it seems to me that boats do navigate that lake.
7 What is there to litigate?

8 MR. STEVENS: Well, the contention of the land
9 owners' association up there is that it is not navigable
10 for title purposes; meaning, it was not commercially
11 navigable in 1850 when California was admitted to the Union.

12 CHAIRPERSON CORY: Were we admitted during the
13 winter when it was frozen, or what?

14 MR. STEVENS: There are enough cases going both
15 ways using this federal test of commercial navigability so
16 that at least there is a question that has to be litigated.

17 CHAIRPERSON CORY: What is that test? That's what
18 I'm searching for. Is it whether or not somebody actually
19 did in fact float commercial boats on it before?

20 MR. STEVENS: That's right. That is the line of
21 cases which are being asserted by the other side. We are
22 taking the position that it was susceptible to commercial
23 navigation at that time that title passed to California.
24 And there is another line of cases to that effect. But at
25 present the Nevada County Superior Court is still coping

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1 with that question.

2 The State of Nevada claims to high water at Lake
3 Tahoe, and it has been sued by a group of landowners in the
4 Incline Village area in the Nevada courts. So there are a
5 series of cases now affecting the high water issue at Lake
6 Tahoe.

7 We expect to argue the high water issue with
8 respect to Tahoe in the Court of Appeals this fall. The
9 final brief will be due next month in our appeal from the
10 preliminary injunction there.

11 In Lake County the same issue has been raised,
12 and the trial court there will set the matter for hearing
13 next month. So we expect to get some fairly expeditious
14 decisions which we hope will be at the appellate level in
15 the next month or so on this issue.

16 With respect to the Colorado River boundary, the
17 Supreme Court has put over until next term its decision on
18 whether or not to take our request that they adjudicate the
19 state's boundary on the Colorado.

20 In California versus Nevada, we are filing a
21 reply this week to Nevada's contention that they own a
22 substantial area of California on the southeastern boundary
23 below Lake Tahoe, as well as in the north. We are denying
24 that contention.

25 I believe that pretty much--oh, yes, there is one

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1 other. The Superior Court in El Dorado County has entered
2 a judgment validating the El Dorado County ordinance which
3 purports to prohibit rafting on the river on the grounds
4 that it's an environmental protection measure; and we'll be
5 taking an expedited appeal on that. In the meantime we
6 have agreed with the County there will be no enforcement of
7 that ordinance until the appellate court rules on the
8 question.

9 CHAIRPERSON CORY: Any other items to come before
10 the Commission?

11 MR. MCCAUSLAND: Do they moor their rafts on the
12 river, or do they pull them up on the banks?

13 MR. STEVENS: Many of these issues have arisen on
14 the South Fork of the American.

15 CHAIRPERSON CORY: Our next meeting is Thursday,
16 August 31, at 10:00 a.m. in Sacramento.

17 I'd like to thank Monterey for its usual hospital-
18 ity. This is a very pleasant community to visit. I'm glad
19 to be here. Thanks for the use of the hall. Thank you,
20 staff, for everything.

21 Meeting is adjourned.

22 (Thereupon the meeting of the State Lands
23 Commission was adjourned at 11:50 a.m.)

24 ---oOo---

25

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