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MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

ORIGINAL

THURSDAY, DECEMBER 16, 1982
10:45 A.M.

Eileen Jennings, C.S.R.
License No. 5122

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COMMISSION MEMBERS

- Kenneth Cory, Chairperson
- Susanne Morgan, representing Mary Ann Graves,
Director of Finance
- David Ackerman, representing Mike Curb,
Lieutenant Governor

STAFF

- Claire T. Dedrick, Executive Officer
- James F. Trout, Assistant Executive Officer
- Robert C. Hight, Chief Counsel
- Jane Smith, Secretary
- W. M. (Moose) Thompson
- Jack Rump
- Dwight Sanders

ALSO PRESENT

- N. Gregory Taylor, Assistant Attorney General
- Rick Frank, Deputy Attorney General

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PROCEEDINGS

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CHAIRPERSON CORY: We'll call the meeting to order.

Any corrections on the Minutes of November 29th?

COMMISSIONER MORGAN: No.

COMMISSIONER ACKERMAN: None.

CHAIRPERSON CORY: Without objection, these will be confirmed as presented.

No report from the Executive Officer; is that correct?

EXECUTIVE OFFICER DEDRICK: That is correct. And no Coastal Commission.

CHAIRPERSON CORY: The next item on the agenda is the Consent Calendar. Those are the items prefixed with the letter C. They are C1 through C12; minus Item 6, which is taken off calendar.

EXECUTIVE OFFICER DEDRICK: Correct.

CHAIRPERSON CORY: These will be taken up in one motion unless someone in the audience has an objection to the proposed staff recommendation of these items.

Is there any concern about any of these items?

Without objection, the Consent Calendar will be approved as presented.

The regular calendar, we will -- 16 is off calendar?

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1 EXECUTIVE OFFICER DEDRICK: Correct.

2 CHAIRPERSON CORY: And 29 and 30 are off calendar.
3 And we'll try to accommodate some scheduling problems. We'd
4 like to take up Item 31 first.

5 Claire, Bob, will you fill me in on this?

6 EXECUTIVE OFFICER DEDRICK: This is a certification
7 of an Environmental Impact Report for a pipeline between
8 Platform Edith in the OCS and Platform Eva, which is in the
9 stateland. Edith is a project jointly of Chevron and Union.
10 Eva is Union.

11 The item is certification of the EIR, which is
12 pretty important to them today. And if you'd like details,
13 Dwight is here who carried out the EIR.

14 In addition to that, we would normally be issuing
15 a lease to them. If you certify the EIR for a pipeline,
16 a waterline, and an electrical connection, we have not yet
17 negotiated the terms of that lease.

18 If you choose, you could give me the authority to
19 negotiate it under our regulations and Commission policy.

20 CHAIRPERSON CORY: Let's deal with the EIR first.
21 Is there anybody in the audience who has any
22 comments on the EIR?

23 Questions from Commissioners?

24 What about the question of authorizing the staff
25 to go ahead with the negotiations on the pipeline agreement?

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1 COMMISSIONER ACKERMAN: I'd like to hear the
2 position of the Applicant on that.

3 EXECUTIVE OFFICER DEDRICK: Chevron is here today.

4 CHAIRPERSON CORY: Susan Callister?

5 MS. CALLISTER: Yes, sir. My name is Susan
6 Callister. I'm with Chevron. And we concur that
7 Mrs. Dedrick could come and negotiate whatever terms of the
8 lease would be necessary in order to have it issued today.

9 CHAIRPERSON CORY: Okay, without objection --

10 COMMISSIONER ACKERMAN: If the Applicant is not
11 satisfied with that, do they then have the right to come back
12 before the Commission?

13 CHAIRPERSON CORY: Yes.

14 EXECUTIVE OFFICER DEDRICK: Yes.

15 COMMISSIONER MORGAN: Okay, that's fine. I think
16 you should ratify it.

17 CHAIRPERSON CORY: Without objection, Item 31
18 will be granted as on the calendar certifying the EIR and
19 authorizing the Executive Officer to negotiate the contracts
20

Item 32 --

21 MR. HIGHT: No.

22 CHAIRPERSON CORY: We're back on the numerical
23 sequence.

24 The first item is the acceptance of a quitclaim
25 deed for a mineral prospecting permit from U.S. Borax.

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Is there anybody in the audience on this item?
Questions from Commissioners?

COMMISSIONER ACKERMAN: None.

CHAIRPERSON CORY: Without objection, quitclaim is accepted.

Item 14, application for a permit to dredge 30,000 cubic yards by Mare Island Ferry Company.

Is there anybody in the audience on this item?
Questions from Commissioners?

Without objection, Item 14 is approved as presented.

Item 15, Department of Public Utilities, City of Alameda, Bureau of Electricity wants to dredge 30,000 yards, dispose near Alcatraz. This is for a placement of underground cables.

Anybody in the audience on this item? Questions from Commissioners?

Without objection, Item 15 is approved as presented.

16 is off calendar.

Item 17, approval of an amendment to change the size of a lease, as I recall, in the riverbed in the Sacramento River near Princeton in Glenn and Colusa Counties.

Anybody in the audience on this item? Questions from Commissioners?

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1 Without objection, Item 17 is approved as presented.
2 Item 18 is the award of a Royalty Oil Sales
3 Contract, South Elwood Field, Santa Barbara, the 69-cent
4 bid on this.

5 Are there any questions from Commissioners?
6 Anybody in the audience on this item?

7 Without objection, the award will be made to the
8 high bidder, which was U.S. Oil and Refining Company.

9 Item 19 is the award of Royalty Oil Sales
10 Contract, Elwood, the next increment. The high bidder was
11 Fletcher.

12 Anybody in the audience on this item?

13 COMMISSIONER MORGAN: Question: There were only
14 two bids; is that correct?

15 EXECUTIVE OFFICER DEDRICK: That's correct.

16 COMMISSIONER MORGAN: Why?

17 EXECUTIVE OFFICER DEDRICK: That's a pretty high
18 bid.

19 COMMISSIONER MORGAN: It's a good bid? Were there
20 any other companies that expressed interest?

21 EXECUTIVE OFFICER DEDRICK: Moose, could you
22 respond to that question, please?

23 COMMISSIONER MORGAN: Did we put a minimum on these?

24 EXECUTIVE OFFICER DEDRICK: We did.

25 MR. THOMPSON: Thirty-five cents.

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1 EXECUTIVE OFFICER DEDRICK: They were 35-cent
2 bids and they were put out sequentially; isn't that correct?

3 MR. THOMPSON: Yes.

4 CHAIRPERSON CORY: This is 99.6?

5 EXECUTIVE OFFICER DEDRICK: Correct.

6 CHAIRPERSON CORY: The Deputy Director of
7 Finance gives us the Woody Allen response -- take the money
8 and run.

9 Anybody in the audience on this?

10 Without objection, the award will be given to
11 Fletcher.

12 Item 20. This is an informational. You're going
13 to tell us about the operational audit from Haskins.

14 EXECUTIVE OFFICER DEDRICK: Would you like
15 Mr. Thompson to present this item?

16 CHAIRPERSON CORY: Do Commissioners have any
17 questions that they want answered?

18 COMMISSIONER MORGAN: This is follow-up to the
19 audit that was done last year. And I'll make sure that our
20 auditors review it and get back to you if they have any
21 questions.

22 COMMISSIONER ACKERMAN: That's fine with me.

23 CHAIRPERSON CORY: Anybody in the audience on this
24 item?

25 Without objection, we will have receipt of that

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1 report.

2 Item 21, Shell Oil Company is proposing well
3 abandonments on PRC 2920, Molino Offshore Area, Santa Barbara.

4 Is there anybody in the audience on this item?

5 Questions from Commissioners?

6 COMMISSIONER ACKERMAN: Are these just gas wells?

7 EXECUTIVE OFFICER DEDRICK: Yes.

8 CHAIRPERSON CORY: Without objection, Item 21 is
9 approved.

10 Item 22 is the Fifth Modification of the project
11 for East Wilmington. The Fifth Mod is the data processing?

12 MR. THOMPSON: Yes, or part of it. This year's
13 funds.

14 CHAIRPERSON CORY: This year's fund is just
15 internal transfer to accommodate the data processing phase.

16 MR. THOMPSON: And adding to the planned concept
17 of this data base and the whole system. Recommendation to
18 the audit.

19 CHAIRPERSON CORY: Anybody in the audience on this?
20 Questions from Commissioners?

21 Without objection, Item 22 is approved as
22 presented.

23 Item 23, the Eighth Modification. And this is the
24 economic projections are being revised. And that is
25 in conformity with the memo that came out last week.

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1 EXECUTIVE OFFICER DEDRICK: Correct.

2 Moose, do you want to comment on this?

3 CHAIRPERSON CORY: As I understand it, it's basically
4 oil prices probably going down a buck and an adjustment in
5 the inflationary factor on our expenses.

6 MR. THOMPSON: Yes.

7 EXECUTIVE OFFICER DEDRICK: In addition to that --

8 MR. THOMPSON: But the expense will not offset
9 the crude oil price anticipated cuts.

10 EXECUTIVE OFFICER DEDRICK: The Technical
11 Corrections Act on windfall profits tax has gone through
12 both Houses of the Congress and is in the President's hands.
13 That is the adjustment of 60 to 80 million in this fiscal
14 year.

15 MR. THOMPSON: The revenue protection had two
16 alternatives. One, if we had any technical corrections on
17 the windfall profits tax. And now it looks like that is
18 ready for signature. So, there will be more money than the
19 original forecast.

20 COMMISSIONER ACKERMAN: Probably about 60 to 80
21 million.

22 MR. TAYLOR: Most of that is ready to come in
23 immediately. The companies are prepared to pay us.

24 CHAIRPERSON CORY: I thought it was funded someway.
25 It isn't.

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1 EXECUTIVE OFFICER DEDRICK: It's 66 million in
2 retroactive, of which we probably could collect 90 percent
3 within how long, Jim?

4 MR. TROUT: Sixty days.

5 EXECUTIVE OFFICER DEDRICK: Sixty days.

6 In addition to that, there's a projection of
7 savings in taxes for the rest of this fiscal year of 20 to
8 30 million.

9 MR. THOMPSON: And that same savings will take
10 place next year and the year after.

11 COMMISSIONER MORGAN: Some of that we'll be able
12 to collect easily and some of it we won't?

13 EXECUTIVE OFFICER DEDRICK: About 90 percent of it
14 is easy to collect. There's one company that's a complex
15 ownership -- Petro-Lewis. And that's got to be handled.

16 CHAIRPERSON CORY: We should never have done that.

17 MR. TAYLOR: \$8 million.

18 CHAIRPERSON CORY: Okay.

19 COMMISSIONER MORGAN: Thanks.

20 CHAIRPERSON CORY: All right, approval of the
21 Eighth Modification without objection.

22 Item 24. This is authorization to the staff
23 and/or the A.G. to take all necessary steps to deal with the
24 breach of the lease, PRC 4049.1 in Seven Mile Slough,
25 Sacramento County.

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1 Is there anybody in the audience on this item?

2 Questions from Commissioners?

3 Without objection, Item 24 is approved as
4 presented.

5 Item 25 is approval of Cession of Jurisdiction at
6 Lava Beds National Monument, Whiskeytown Unit, Shasta/Trinity
7 National Recreational Area, Point Reyes National Seashore,
8 and Pinnacles National Monument.

9 . Anybody in the audience on this item? Questions
10 from Commissioners?

11 Without objection, Item 25 is approved as
12 presented.

13 Item 26 is approval of a boundary line agreement
14 exchange among Noyo Harbor District, Wharf, in Mendocino
15 County.

16 Anybody in the audience on this item? Questions
17 from Commissioners?

18 Without objection, Item 26 is approved as
19 presented.

20 Item 27 is approval of Land Exchange in Compromise
21 and Settlement of Litigation involving tide and submerged
22 lands in the City of Stockton with Darrah.

23 Is there anybody in the audience on this item?
24 Questions from Commissioners?

25 Without objection, Item 27 is approved as

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1 presented.

2 Item 28, consideration of bids --

3 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, should
4 we dispose of the Union question at this point before we --

5 CHAIRPERSON CORY: Probably wouldn't --

6 EXECUTIVE OFFICER DEDRICK: In addition to that,
7 maybe we ought to take a couple of minutes. I think people
8 have some presentations they want to put together. So when
9 we finish with Union, maybe we could take a couple-minute
10 break, if that meets your approval.

11 CHAIRPERSON CORY: I'm not so sure.

12 EXECUTIVE OFFICER DEDRICK: Okay.

13 CHAIRPERSON CORY: Item 32 is a resolution of a
14 royalty dispute with Union Oil Company. This is a
15 negotiated settlement that Union and staff has agreed to.

16 MR. HIGHT: Correct.

17 CHAIRPERSON CORY: Is there anybody in the
18 audience on this item? Questions from Commissioners?

19 COMMISSIONER ACKERMAN: No.

20 CHAIRPERSON CORY: Without objection, we'll
21 authorize the staff to go ahead and resolve the dispute.
22 Item 32 is taken care of.

23 You do have something else you want to take up?

24 EXECUTIVE OFFICER DEDRICK: Well, the Catalina
25 item seems to be before you today.

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1 CHAIRPERSON CORY: Do you have something else you
2 want to take up?

3 EXECUTIVE OFFICER DEDRICK: No.

4 CHAIRPERSON CORY: I thought you said there was
5 something else.

6 EXECUTIVE OFFICER DEDRICK: No, I apologize. If
7 you're going to receive testimony from witnesses on the
8 Catalina item, they had wanted to set up screens and so
9 forth. If you're going to do that, I thought we ought to
10 take a couple-minute break. But if you're not, it's not
11 necessary.

12 COMMISSIONER ACKERMAN: See how things proceed.

13 CHAIRPERSON CORY: I have no great desire to
14 have a dog-and-pony show. I think we're down to the point
15 where it's time to get on with the decision process myself.
16 I don't know what the other Commissioners desire.

17 But, I mean, we've had umpty skump hours of
18 data and testimony. And I'm mindful that the mind cannot
19 cure what the seat cannot endure. And I think we ought to
20 get this issue resolved.

21 COMMISSIONER MORGAN: Why don't we go ahead and
22 see how it goes.

23 CHAIRPERSON CORY: All right.

24 MR. RUMP: The first order of business is to note
25 that in front of you are copies of all the letters that we

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1 have received. I'll just go down them briefly.

2 First of all is a letter received from
3 Senator Robert Beverly. Secondly is a letter from Charles
4 Greenberg. We also have a letter to the Commission from
5 Gilbert Saldana, Mayor of the City of Avalon; a letter from
6 Joseph Steele, a representative of B.O.A.T.; telegrams to
7 all the Commissioners from Reinhold, John S. Reinhold. We
8 have a telegram to the Executive Officer as well.

9 We got telegrams, mailgram, from Bob Gayman;
10 and a letter from John and Bobbie Love. And I believe
11 you've seen most of these before, but that's a complete
12 package in front of you.

13 CHAIRPERSON CORY: Okay.

14 MR. RUMP: Perhaps the first step would be to
15 briefly explain what is in the staff report before you.

16 CHAIRPERSON CORY: Okay.

17 MR. RUMP: There is an introductory section, which
18 I think you're all familiar with the background. Then we
19 address what is before us today, the present bid solicitation.
20 On pages 2 and 3 are what we will be focusing on now and are
21 the considerations for the award of the bid.

22 CHAIRPERSON CORY: Have the people who have bid,
23 are they in receipt of this document?

24 MR. RUMP: I believe they are.

25 Is there any bidder who has not received a copy

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of the staff report?

CHAIRPERSON CORY: All of the bidders are here, are represented? We have three bidders.

MR. RUMP: Yes, I see all three bidder representatives.

CHAIRPERSON CORY: Mr. Radcliffe is --

MR. RUMP: Is in the back of the room.

CHAIRPERSON CORY: And Mr. Greenberg.

MR. RUMP: And Mr. Hertzberg.

CHAIRPERSON CORY: And you've got --

MR. GREENBERG: Yes, we received it a few minutes ago.

CHAIRPERSON CORY: And, Rosemary?

MS. WOODLOCK: Yes.

MR. RUMP: Turning then to pages 2 and 3, these are the focal points of your consideration today.

For the award of the bid, we'll focus on, one, the type and quality of services to be provided to the existing operation; secondly, the financial responsibility of the bidders to perform the provisions of the lease; third, the rental factor submitted; fourth is the categorical exemption of the proposal from CEQA.

The weight to be given each of those foregoing elements shall be at your sole discretion. And you reserve the right to reject any and all bids.

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1 Section III is a summary, brief summary, of the
2 bids that we received.

3 The Island Company/Conservancy bid \$706,500 as
4 annual rental. There is also a description of the
5 Preliminary Environmental Assessment which was submitted
6 with it. And our evaluation is that it's based upon a
7 hypothetical situation and does not fit necessarily the bids
8 which have been submitted to you today.

9 CATMAR's bid is summarized as annual rental of
10 \$252,000 annually. They propose to manage the lease from
11 vessels located as existing moorings on lease premises. We
12 have further description of some of the facilities there.

13 Additionally with their bid they have submitted a
14 Certificate of Opinion by Antonio Rossman, attorney and
15 Professor of Law at Hastings College. CATMAR's bid is
16 categorically exempt from CEQA.

17 Third bid from Island Navigation Company and
18 Seaway Company bid \$276,000 as the annual rental. Roughly
19 that proposes to divide the lease premises into two
20 components -- the East and West Tidelands Areas. Housing
21 of the employees will be in Avalon. They have done a brief
22 description of the services that they're planning to provide,
23 which is on page 6.

24 Section IV gets into more depth the type of
25 quality services aspect of the bid. In there is referenced

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1 as an attachment to the back of the report Exhibit A. What
2 that is is a list of equipment which has been filled out
3 on the forms which were provided in the bid package at
4 page 14. For each of the bidders it designates also the
5 service categories that the equipment will be used in.

6 Behind that is another series of charts which
7 state each service category and then give an analysis as to
8 the location of the services, the frequency, the vessel,
9 auxiliary equipment, other comments, facilities, and
10 personnel assigned. So, that follows roughly that first
11 listing. So, you can look at that to see what the comparison
12 is for the type of quality services that are being rendered.

13 On page 7 is the list of service categories --
14 garbage pick-up, harbor patrol, health and safety, towing,
15 mechanical services, mooring services, water reprovisioning,
16 and water transportation.

17 I don't know how much detail you wish at this
18 time; but beginning at page 7 we go through the analysis of
19 the various methods of garbage pick-up. Perhaps I don't
20 dwell on that at the present time.

21 CHAIRPERSON CORY: Are there specific questions
22 from Commissioners?

23 COMMISSIONER ACKERMAN: No.

24 CHAIRPERSON CORY: Go ahead.

25 MR. RUMP: I believe you all had receipt of the

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1 bids shortly after they were received by staff. This is
2 taking that material and proposing it -- that you haven't
3 seen.

4 Section B is the financial responsibility. And
5 that section of the bid package was to remain confidential.

6 So, it's a brief summary here of what the information is and
7 how it's been evaluated.

8 The important elements are the ranking system. It
9 roughly is the Island Company and Conservancy, followed by
10 Island Navigation and Seaway Company, and Transpacific for
11 CATMAR.

12 The bottom line is that the staff in their
13 evaluation of both their ability to perform services and the
14 financial statements does not find that any of these bidders
15 are disqualified from participating in the bid process.

16 C. on page 15 runs down the annual rental which
17 has been received or bid.

18 Section D, the categorical exemption from CEQA,
19 is a lengthy section, but I think it's one that is important.
20 It speaks of each of the service categories after an
21 introduction of what is reported today.

22 Essentially, for the categorical exemption, you
23 must find that there is not a reasonable possibility of a
24 significant environmental effect.

25 The section which follows that discusses each of

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1 the service categories and some general categories to
2 evaluate whether or not that has been complied with.

3 Staff has done considerable work in this area.
4 We have been in contact with a number of state agencies.
5 We've been in touch with each of the bidders for further
6 clarification of services and have a section at the back of
7 this report of conditions which I think are consistent with
8 the categorical exemption analysis. And I'll turn to that
9 in just a minute. But, as you can see as you go through it,
10 we have an analysis of each one of the categories.

11 Finally, the Commission alternatives are discussed
12 on pages 30 and 31. And just to repeat again, you have
13 considerable latitude in giving weight to the categories
14 once the initial qualification is found.

15 Now, turning to the back part of the package,
16 we have first behind the charts, we have some recommended
17 findings. And these would vary depending on what ultimate
18 decision you make today. So, there are some alternate
19 clauses in there. But we feel that these represent the
20 areas of the categories that you might wish to have findings
21 based upon evidence that you hear today and what you know
22 as we've gone through this process plus what's contained in
23 the staff report.

24 Do you have a question?

25 CHAIRPERSON CORY: Would it be appropriate at this

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1 time to deal with the conditions to ascertain from the
2 three bidders that they will accept the conditions? Because
3 it seems to me from this report and your presentation that
4 the conditions are necessary to be accepted for all bidders
5 to be deemed qualified and in compliance.

6 MR. RUMP: That is correct. As long as we're on
7 that, I would like to turn to the conditions section. There
8 are a couple typographic errors in there.

9 In terms of Island Navigation, I don't believe
10 there are any changes.

11 On the second page of the CATMAR conditions, in
12 my attempt to make language consistent, it has Island
13 Navigation/Seaway instead of CATMAR. So, with that
14 correction, I believe --

15 CHAIRPERSON CORY: Condition 5.

16 MR. RUMP: Condition 5.

17 CHAIRPERSON CORY: It should be "CATMAR shall
18 provide documentation . . ." rather than Island Navigation.

19 MR. RUMP: That's correct.

20 Additionally, in terms of overall fairness to
21 all bidders, we would also recommend a similar paragraph
22 applicable as a third item under the Island Company/
23 Conservancy. We have two proposed. So, that would be that
24 the Island Company/Conservancy shall provide documentation
25 satisfactory to the Executive Officer that it has secured

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1 all necessary leases, governmental permits, and other
2 approvals incident to its operation under this lease prior
3 to the giving of notice necessary to take possession of the
4 lease premises. So, essentially then all three bidders
5 would have that same requirement.

6 So, those are the modifications to the conditions.
7 And you are correct, Mr. Cory, that in order to proceed
8 with this in terms of our evaluation, we would like to know
9 whether or not the bidders would accept these conditions.

10 CHAIRPERSON CORY: Can we hear from the bidders?
11 The first to speak is Mr. Radclife, if I can discern in
12 the shadows correctly.

13 EXECUTIVE OFFICER DEDRICK: Mr. Radclife, could
14 you come forward, please.

15 MR. RADCLIFE: Jim Radclife, representing Island
16 Navigation Company and Seaway Company, joint bidders.

17 I'm authorized to represent to the Commission that
18 the joint bidders do accept the conditions set forth, being
19 seven in number, as an addendum to the staff report.

20 CHAIRPERSON CORY: And they also understand that
21 you do not have veto power over CATMAR.

22 (Laughter.)

23 CHAIRPERSON CORY: In their conditions, that you
24 do not -- staff did have it that you had to apply for the
25 permits. That has been eliminated.

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1 MR. RADCLIFE: I understand, yes. That's
2 correct.

3 CHAIRPERSON CORY: All right. Thank you, sir.
4 Who's representing CATMAR? Rosemary?

5 MS. WOODLOCK: I'm Rosemary Woodlock, representing
6 CATMAR.

7 I have one comment to make before we accept the
8 conditions. And that's with respect to the liquid wastes
9 under Condition No. 1.

10 In our proposal we do plan to dispose of our own
11 liquid wastes. Under the state requirements, in that
12 situation we do not need a permit according to the state
13 representative. If we accept third-party wastes, then you
14 are subject to permit inspection requirements and, I believe,
15 some insurance and other aspects of it.

16 As I understand the reason this is in here is that
17 liquid wastes have not been a part of the bid. However, it
18 was -- Island Company has raised the comment about their
19 service in accepting chemical toilet wastes on land. And I
20 gather the implication is that they would no longer do so.

21 In my discussions with the Solid Waste Management
22 Board and the Hazardous Waste Section of the State
23 Department of Health, the current disposal system has a
24 reasonable possibility of being an illegal disposal system,
25 because neither of the dumps on Catalina Island are

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1 authorized to accept hazardous waste at this time.

2 With that explanation, I would like to state that
3 Catalina Marine Services will accept these conditions.

4 MR. RUMP: Do you want me to comment on that?

5 CHAIRPERSON CORY: Yes. Obviously, the Applicant
6 has more knowledge in this particular area than at least
7 this Commissioner does. So, if you would.

8 MR. RUMP: It would seem to me important for this
9 condition to be here regardless of the proposed mechanism
10 for the disposal.

11 I guess as we understand the explanation, this is
12 something that had not been presented to us until last week
13 about the transport of porta-potty waste on shore. And I
14 guess maybe the best source to find out whether or not this
15 is something new which has developed only this year would be
16 the Island Company. But it is new and it has only been
17 raised --

18 CHAIRPERSON CORY: The question that comes to my
19 mind first is did the bid proposal require the prospective
20 bidders to deal with liquid waste?

21 MR. RUMP: Liquid waste was not specified. If
22 you recall, the waste provision which we had was talking
23 about the picking up of waste by the garbage boat. So,
24 apparently, that disposal method is -- you know, none of the
25 liquid wastes were transported to that disposal boat. They

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1 are actually taken ashore.

2 So, it's possible that if you desire, we could
3 separate the liquid waste requirement; although it is being
4 produced on supposedly lease premises.

5 Greg, do you have any --

6 MR. TAYLOR: I believe the contemplation was
7 trash.

8 CHAIRPERSON CORY: That was my understanding that
9 we were talking about trash and garbage, not sewage waste.

10 MR. RUMP: Uh-huh.

11 MR. TAYLOR: I think it's important to
12 distinguish between things on the uplands, which I presume
13 will continue to take place on the uplands; things that
14 occur on the piers, which are a separate matter for this
15 Commission; and things that occur on the lease premises.
16 And it's important to separate those out.

17 Whether they continue to receive liquid wastes
18 on the mainland or on the island, that's a question between
19 the business judgment of whoever is running that facility.

20 CHAIRPERSON CORY: You are not implying that we
21 need to concern ourselves with the creation of liquid waste
22 on board the vessels of the lease premises?

23 MR. TAYLOR: No.

24 CHAIRPERSON CORY: And that the lease, in terms
25 of what we had put in the lease bid package, contemplated

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1 dealing with what I would call conventional trash.

2 MR. TAYLOR: That is correct.

3 CHAIRPERSON CORY: That was my understanding. I
4 don't know what the other Commissioners --

5 So that Ms. Woodlock's comments about liquid waste
6 are consistent with the bid package.

7 MR. TAYLOR: Yes.

8 MR. RUMP: Appear to be.

9 MR. TAYLOR: Yes.

10 CHAIRPERSON CORY: If the lawyers are happy --
11 So, with that explanation and understanding,
12 CATMAR has accepted the conditions.

13 MS. WOODLOCK: Yes. However, we would like to
14 state that the uncovering of the liquid waste handling by
15 Bombard right now shows that there's an existing
16 possible adverse effect which the Commission should mitigate
17 by prohibiting handling it at all; whether transporting
18 across the lease premises or not, or going along with the
19 previously discussed conditions.

20 COMMISSIONER MORGAN: Can I ask a question about
21 the hovercraft?

22 MR. TAYLOR: We should just rule that the liquid
23 waste disposal occurring on the uplands is not part of the
24 lease premises and is not part of this --

25 CHAIRPERSON CORY: Not one of the conditions. And

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1 the thing I think we get -- we start trying to deal with
2 that question, then there's a question which the existing
3 operation has not dealt with in the existing lease as to
4 whether people have porta-potties, don't have porta-potties,
5 whatever else they're doing. I'm not sure that we should,
6 as a matter of lease record, try to start policing that
7 function.

8 MR. TAYLOR: The disposal of liquid waste takes
9 place off of the lease premises and, therefore, has not
10 been considered a part of this operation.

11 CHAIRPERSON CORY: That is a nice statement. I'm
12 not so sure that the facts will support it. I'm sure that
13 there is a variety of ways that vacationers take care of
14 liquid waste. And I'd just as soon we not get into that
15 question.

16 MR. TAYLOR: As far as the kinds we've been
17 discussing -- well, even that.

18 CHAIRPERSON CORY: It is not a function of this
19 lease to deal with that problem.

20 MR. TAYLOR: That's correct.

21 CHAIRPERSON CORY: I think that's the best way
22 to leave it.

23 COMMISSIONER MORGAN: Have you disposed of that?

24 CHAIRPERSON CORY: Yes.

25 COMMISSIONER MORGAN: You're agreeing to the

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1 substitution in accepting the hovercraft that were
2 previously --

3 MS. WOODLOCK: Yes, we do. We feel that we could
4 make a case that the hovercraft is environmentally
5 acceptable, but I don't believe this is the place to get
6 into that argument. And we would be more than willing to
7 accept regular conventional shore boats. In fact, we would
8 substitute, I believe, the technical description of our
9 Harbor Patrol Craft No. 1 and the substitution also of
10 Harbor Patrol Craft, 16 feet 7 inches for the two
11 hovercraft.

12 I might add that this will save a substantial
13 capital investment also. We do agree to that.

14 COMMISSIONER MORGAN: They have similar capacity,
15 carrying power?

16 MS. WOODLOCK: Yes, they do.

17 COMMISSIONER MORGAN: Thank you.

18 CHAIRPERSON CORY: Okay, thank you.

19 The Island Company.

20 MR. GREENBERG: Charles Greenberg, representing
21 your present lessees.

22 We will accept the conditions as drafted.

23 I would state for the record that I do not believe
24 that ignoring the environmental problem such as liquid
25 wastes are allowable under CEQA. And I believe it would be

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1 in error for this Commission to award a lease without
2 considering the environmental effects of what it is doing,
3 whether or not those effects occur on or off the lease
4 premises. I'm just stating that for the record.

5 CHAIRPERSON CORY: Would you like to state for the
6 record that you are policing liquid waste on all the vessels
7 in the harbor?

8 MR. GREENBERG: No, we have a method -- over the
9 years we've worked out with the boaters, who are normally
10 responsible people if given a reasonable alternative, a
11 reasonable way of handling liquid waste.

12 COMMISSIONER ACKERMAN: What do you do?

13 MR. GREENBERG: What we do is when they come
14 ashore, they bring -- normally on Saturday night or Sunday,
15 because these are involved with small boats. When they're
16 out of capacity, they bring aboard their porta-potty. They
17 put it into an underground container system that we maintain.
18 And then because the liquid wastes have chemical agents in
19 them which destroy the bacteria and are sterile by
20 themselves, they cannot be put into our liquid waste disposal
21 facility.

22 So, we then take those wastes and we put them into
23 our solid waste disposal facility. And as far as we know,
24 it's absolutely legal. And I see no environmental reason
25 why it shouldn't be done. But that's what we do.

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1 COMMISSIONER ACKERMAN: Do you charge for that
2 service?

3 MR. GREENBERG: No, we do not.

4 COMMISSIONER ACKERMAN: Is there any reason for
5 us to suspect that service would be discontinued if other
6 than yourselves are the master lessee?

7 MR. GREENBERG: The other two lessees have not
8 indicated whether they would or if they would, how they
9 would provide a similar service. I can't answer for them.
10 I would suspect that there would be a big problem in doing
11 it.

12 MR. TAYLOR: I think there has to be a clarification.
13 Mr. Bombard, who is the operator for the Conservancy and
14 Island Company, has a number of facilities. I believe he
15 has a restaurant, there's a store, and there are other
16 things that are at the Isthmus. And it's important to keep
17 his various operations separated. What we're talking about
18 is the disposal that occurs on the uplands. And that has
19 not been treated in any of the discussions prior to the
20 communication we had from the Island Company in reacting to
21 these proposals as being part of the lease premises; any more
22 than the purchase of groceries, liquor, or restaurant
23 supplies at the Isthmus is a part of the lease premises.
24 It's a part of another lease. And I presume that those
25 operations are going to continue. But whether they continue

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1 or don't continue is really immaterial to these proceedings.

2 COMMISSIONER ACKERMAN: I disagree.

3 MR. GREENBERG: We have -- and would like to state
4 to the Commission -- in doing our environmental analysis,
5 we have assumed that which would occur if we did not continue
6 our existing operations on land.

7 I wish we could tell you which of those operations
8 would or would not be continued. If we do not have the
9 revenues from moorings, we then have to make an economic
10 judgment as to whether or not those operations are --
11 whether or not we can continue to carry on those operations.
12 I assume our restaurants and stores will certainly continue.
13 Free disposal of porta-potty waste I suppose depends on
14 whether if our bay gets into bad shape, whether or not we're
15 willing to take the cost and expense of maintaining that to
16 keep our bay clean.

17 And I can't tell you in advance what's going to
18 happen with that particular service. And there's a lot of
19 services in that category such as the showers and the
20 restrooms and so forth which we can't respond to you. I
21 wish we could. I wish we could tell you. But they're going
22 to have to now -- if we don't have the bid, they'll have to
23 justify themselves on another basis.

24 Those services are used by the people who utilize
25 the lease premises and, therefore, have environmental effects.

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1 CHAIRPERSON CORY: I don't know what the other
2 Commissioners think, but I frankly think this whole issue
3 is sheer sophistry in that the question of those kinds of
4 wastes are not contemplated in the existing lease, is not
5 a requirement of the existing lease to deal with them. And
6 to raise -- and I go along with Greg's reasoning that that
7 is something that occurs on the uplands for those boaters
8 who choose to bring the waste ashore.

9 I don't know of any evidence which indicates
10 whether that is 100 percent of the boaters, 10 percent, or
11 one-tenth of 1 percent. But there are a lot of options that
12 people have.

13 I will presume that everybody is behaving legally
14 and properly. And I think we should presume that they will
15 continue to behave legally and properly. And if we try
16 through this lease to manage the body elimination process
17 of anybody who wanders across the surface of the lease,
18 you're undertaking something that is beyond the scope of the
19 lease. And there have to be some limits to what we can do.
20 And I just think we're talking about how many angels are
21 dancing on the head of a pin.

22 COMMISSIONER ACKERMAN: Go ahead.

23 COMMISSIONER MORGAN: On the other hand, it seems
24 to me that what we're talking about is just another example
25 of how impractical it is to consider leasing this operation

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1 to anyone other than the upland owner. It's the question
2 of whether we can put together a package that tells an
3 operator how to do a good job, be a good neighbor, serve the
4 public, and spell out all the details.

5 I think that what we see before us is an effort
6 to try and take something that is a service to the public
7 and brings in a little money for the state and turn it
8 into something that you can package and shape and whittle
9 down to specification similar to bidding on a chair. And
10 I think this is nonsense.

11 It's my feeling that the findings, for example,
12 which the staff are proposing that we make are not acceptable
13 to me, with the exception of only -- are acceptable only if
14 we insert the current operator of the lease.

15 I don't see how we can make certain of these
16 findings otherwise. And I'd be willing to make a motion
17 that we award -- accept the bid of the current operator and
18 award the lease to them.

19 CHAIRPERSON CORY: There's a motion. Is there a
20 second?

21 Motion dies for lack of a second.

22 COMMISSIONER ACKERMAN: What I'd like to do is
23 hear from the -- at least comment from each of the bidders.
24 They've only commented just on the section --

25 CHAIRPERSON CORY: If we dealt with this issue --

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1 COMMISSIONER ACKERMAN: We're kind of going through
2 this. I'd like to complete this process before we
3 consider any motions or anything like that. I'm not prepared --

4 COMMISSIONER MORGAN: I'll table my motion.

5 CHAIRPERSON CORY: The Chair yields to that issue.
6 There was a motion and no second.

7 COMMISSIONER MORGAN: There was a proposal for a
8 motion.

9 CHAIRPERSON CORY: Okay. We now have the three
10 bidders have accepted the conditions.

11 MR. RUMP: The conditions.

12 I guess also in the preliminary stages, there have
13 been minor technicalities in the form of the bids. And the
14 first finding in the recommendations to you are that you
15 find that the bids are in substantial compliance with the
16 procedural requirements of the solicitation.

17 For instance, what technicalities are before you
18 in our evaluation is that they're substantial. We have
19 found no technicalities regarding the Island Company/
20 Conservancy.

21 CHAIRPERSON CORY: The question of findings --
22 well, do you want to go through those findings, or do you want
23 to hear from people before we go into the findings question?
24 That's the question. Do you have a suggestion, Jack?

25 MR. RUMP: We can hold that in a minute. I'm

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1 merely addressing merely the technicality of compliance
2 for that.

3 For instance, there is only one outstanding item
4 which I have not received. And that is a corporate
5 acknowledgement for the execution of Transpacific of
6 bidder's acceptance. And it was going to be telecopied to
7 me this morning. And I've asked staff to check. I haven't
8 gotten it yet. Maybe we can ask CATMAR to check that out.
9 That is one point I'll bring up later. I haven't received
10 the corporate --

11 MS. WOODLOCK: It's being arranged to be sent from
12 the Attorney General's Office in Los Angeles to the Lands
13 Commission Office.

14 MR. RUMP: Okay.

15 CHAIRPERSON CORY: What you're asking for is a
16 corporate resolution --

17 MR. RUMP: That's correct.

18 CHAIRPERSON CORY: -- that Transpacific is
19 standing behind CATMAR.

20 MR. RUMP: That's correct.

21 CHAIRPERSON CORY: And that is a resolution from
22 the board of directors of the corporation.

23 MS. WOODLOCK: If I may clarify the purpose of
24 this. Over the past year, Pioneer Take-Out Corporation
25 changed its name to Transpacific Industries Corporation and

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1 created a wholly new subsidiary called Pioneer Take-Out
2 Corporation, which runs the restaurant operations. So that
3 all this is is a technicality.

4 We have provided the corporate documentation with
5 respect to the name change. And this is merely a
6 technicality of changing -- a resolution that's already been
7 filed, but under a different name.

8 MR. RUMP: We can address that later on if you'd
9 like to take the testimony. I just bring it up since I
10 haven't gotten that form.

11 CHAIRPERSON CORY: What's the wish of the
12 Commissioners?

13 COMMISSIONER ACKERMAN: I think I'd just like to
14 stipulate that we have three bids before us that are all
15 technically sufficient to be considered against one another.
16 And if they all meet the criteria that we established, we
17 will weigh the technical problems are sufficient and I'm
18 satisfied.

19 CHAIRPERSON CORY: With the conditions that they
20 have accepted.

21 COMMISSIONER ACKERMAN: With the conditions. And,
22 basically, we have three bids before us. And at this point
23 we are not rejecting -- or at least I'm not going to
24 propose to reject any bid on technical grounds that they
25 failed to meet the conditions we set forth in the

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1 solicitation of the bid.

2 CHAIRPERSON CORY: Okay.

3 Who shipped this over? What am I supposed to do
4 with it?

5 MR. TAYLOR: I think it's one more communication.
6 I'm sorry, I passed it.

7 CHAIRPERSON CORY: Is this to be made part of the
8 record or it is part of the record?

9 MR. RUMP: It has not been yet.

10 MR. HIGHT: We just received it, Mr. Chairman.
11 I think you should just indicate you've received the
12 telegram and it should be made part of the record.

13 CHAIRPERSON CORY: From the Blue Water Cruising
14 Club.

15 COMMISSIONER MORGAN: You did that with such
16 aplomb.

17 CHAIRPERSON CORY: So you would prefer hearing
18 from --

19 COMMISSIONER ACKERMAN: No, I'm just saying if
20 there's no objection, we can stipulate that we have the
21 bids before us, they're technically sufficient to warrant
22 consideration, and none of them are rejected on technical
23 grounds of failing to comply.

24 CHAIRPERSON CORY: I'm willing to accept that.

25 COMMISSIONER MORGAN: Is that what the staff is --

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1 MR. TAYLOR: Subject to the receipt of the
2 resolution from CATMAR and their acceptance of the other
3 conditions.

4 CHAIRPERSON CORY: And they have accepted the
5 conditions.

6 MR. TAYLOR: That's correct.

7 CHAIRPERSON CORY: So, it's not subject to that.
8 They have accepted; is that not correct?

9 MR. RUMP: That's correct.

10 CHAIRPERSON CORY: Now what's before us? What is
11 the wish of the Commissioners?

12 COMMISSIONER ACKERMAN: I guess we've gone through
13 this a great deal, obviously. I think I'd prefer at this
14 point just to hear final brief summary statements from each
15 of the bidders, if that's appropriate.

16 CHAIRPERSON CORY: What about other people?

17 COMMISSIONER ACKERMAN: Let's go through the
18 bidders and let's see how many are left that wish to
19 address the Commission.

20 CHAIRPERSON CORY: Okay.

21 COMMISSIONER MORGAN: How about a time limit?

22 CHAIRPERSON CORY: What kind of a time limit would
23 you like?

24 COMMISSIONER ACKERMAN: Five minutes per.

25 CHAIRPERSON CORY: Okay, we've got five minutes a

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1 bidder.

2 And I guess for no other reason than the fact that
3 they happen to be put in the thing under the condition list,
4 shall we have the Island Navigation Company?

5 MR. RADCLIFE: Mr. Chairman, members of the
6 Commission, members of the staff, and Ms. Dedrick, my name
7 is Jim Radcliffe, again. And I represent the high bidder
8 in this process, Island Navigation Company and Seaway
9 Company of Catalina as joint bidders.

10 I think probably in order of priority I will
11 address the porta-potty situation.

12 At the outset we accepted the terms and conditions
13 recommended by the staff.

14 CHAIRPERSON CORY: Pardon me, Mr. Radcliffe, does
15 that mean that's your highest priority or your lowest
16 priority?

17 MR. RADCLIFE: Somewhere in between, Mr. Chairman.
18 But, in any event, we accepted the terms and
19 conditions added today at the recommendation of the staff,
20 which included obtaining all appropriate licenses, permits,
21 and complying with all appropriate standards for the
22 disposal of solid and liquid wastes and we will stick by
23 that regardless of the decision of the Commission. If they
24 want us to dispose of the liquid waste on lease premises,
25 we'll do it.

1 I would comment only that we've been involved in
2 this process for a year and a half. And I find it difficult
3 to believe that this subject just arose 48 hours ago when
4 I received notice of it -- or less than 48 hours.

5 In any event, Island Navigation Company and
6 Seaway Company of Catalina from the outset have attempted at
7 least to participate in the processes of this Commission
8 with some kind of dignity, with some kind of honor, and to
9 reply to the inquiries of the staff and of the Commission
10 with the candidness that will get the answers for the
11 Commission that they desire.

12 So far as I know, we have done that. At no time
13 have I or any member of the joint bidders' staffs or the
14 joint bidders, so far as I know, participated in any
15 dialogue of innuendo, of rumor, and the like, and we don't
16 intend to start today.

17 I made a statement to a representative of the
18 South Bay Daily News two weeks ago which was reported that I
19 feel all three bidders are qualified financially, all three
20 bidders are qualified by virtue of the equipment, all three
21 bidders are qualified by virtue of talent to perform the
22 service that the State Lands Commission and the people of
23 the State of California have a right to expect.

24 But we're dealing here with the administration of
25 tidelands premises. We're not dealing with the

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1 administration of Catalina Island.

2 I would invite the Commission's attention to the
3 fact that these joint bidders whom I represent have
4 committed themselves to a \$276,000 annual rent payable in
5 advance, to a \$125,000 required services bond, to a
6 \$500,000 performance bond; a total of \$900,000 up front that
7 these bidders have committed themselves to.

8 Now, I suggest to the Commission if any
9 Commissioner seriously feels that we can't handle 30 gallons
10 a day of porta-potty refuse, then there's something wrong
11 with my computation.

12 We have covenanted in the course of these
13 proceedings and in the course of our bid to provide services
14 above the current rate that is being provided as indicated
15 by the current services provided to us from this Commission
16 staff.

17 We have covenanted and agreed to comply with all
18 the ~~terms~~ and conditions of the bid package, the solicitation
19 to bid, the lease, and our bid proposal.

20 We have covenanted and agreed to obtain all
21 licenses and permits, to comply with all standards of any
22 agency applicable.

23 We have covenanted and agreed to conduct our
24 operation so as to be categorically exempt of any California
25 Environmental Quality Act requirements.

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1 The Chairman stated at a September meeting of
2 this Commission that what the Commission really wanted was
3 the bidders to belly up to the bar to commit their
4 financial --

5 COMMISSIONER MORGAN: Sounds like you.

6 MR. RADCLIFE: -- assets. And that's what we
7 have done.

8 And I would suggest to the Commission that
9 \$900,000 worth of security ought to be enough to assure the
10 Commission that they can expect compliance from these joint
11 bidders.

12 I would invite the Commission's attention to the
13 fact that one year ago -- 1981 -- the people of the State of
14 California were receiving \$19,267.81 for the lease of the
15 premises under consideration here. Within the period of
16 one year, that rental has gone from roughly \$20,000 to
17 our high bid of \$276,000.

18 I would suggest to the Commission that that fact
19 in and of itself represents a responsibility and a service
20 of this Commission to the people of the State of California.

21 I am not normally inclined to advance, I guess I
22 should say, the representation of any bidder or particularly
23 of our own. But I would invite the Commission's attention
24 that had it not been for Mr. Jack Fennie approximately 13
25 months ago or more who perceived that there was something

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1 amiss with the kind of monies that the people of the State
2 of California were having returned for this valuable
3 property, that we would not be here today.

4 We have submitted our bid and we submitted it
5 before some of these issues arose. But I would suggest to
6 the Commission that we in the State of California, all of us
7 are in a financial situation today that it behooves all of
8 us to inquire who is paying for what and who's enjoying what
9 services without paying.

10 Two or three days after the election, I heard on
11 the radio a quote of an official of the State of California.
12 And I don't remember the exact quote. But paraphrasing it,
13 it went something like that this official was going to use
14 all his cunning and expertise to ferret out sources of
15 additional revenue to the State of California.

16 When we compare the difference between the high
17 bid and the low bid in this case, we're talking about
18 roughly \$70,000 a year. During the course of the lease term,
19 if there is no more changes or if there are no more changes
20 in the rental rates, we're talking about approximately
21 \$1 million -- \$910,000 to be exact. And even though some
22 may say a little money here or a little money there, I'm
23 a country boy and that's a lot of money as far as I'm
24 concerned.

25 I read in the paper just this morning where the

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1 state deficit may approach 2.4 billion and I've heard
2 rumors that it may go to 4 billion. And I would suggest
3 that all of us -- the bidders, the yachtsmen, the State
4 Lands Commission, and all of us involved in this process --
5 must certainly concern ourselves with the return on the bid
6 to the State of California.

7 It would appear that my five minutes are
8 approximately up. And with that, I would say that Island
9 Navigation Company and Seaway Company of Catalina are
10 prepared to submit the bid as submitted and to accept the
11 terms and conditions, including the porta-potty as I have
12 represented it. Thank you very much.

13 CHAIRPERSON CORY: Any questions from
14 Commissioners?

15 I will try to remember to ask this of each of the
16 bidders. But you seem to go over the one question that I
17 have is that you fully understand that you're in the chute
18 for a lot of bucks and you've got to perform or we're going
19 to take your money and take your lease from you?

20 MR. RADCLIFFE: There's no question about it,
21 Mr. Chairman.

22 CHAIRPERSON CORY: Okay.

23 CATMAR.

24 MS. WOODLOCK: I'd like to split our presentation
25 into two parts and have Antonio Rossman make a brief

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1 discussion on the environmental issues.

2 MR. ROSSMAN: It pains me to be here, members of
3 the Commission, as much as I enjoy seeing familiar faces,
4 that at least it looks as though the environmental law is
5 becoming the tail wagging the dog. And I've been asked to
6 look at that issue and want to give you further assurance
7 that I think your staff are a set of clients that I would
8 like to have any time. They have done a commendable job
9 of leading you through the thicket of the Environmental
10 Quality Act to leave you in a position where you do have
11 discretion, in my opinion, to approve any of the bids that
12 are before you today.

13 By the same token, because of this recent
14 development that you were just discussing on the porta-potties,
15 as I believe they are known, there is a risk in not accepting
16 any bid. And I will explain that in just a moment.

17 But, simply because there has been presented to
18 the Commission a lot of paper to try to show that the
19 Environmental Quality Act only authorizes the acceptance of
20 one bid, I would like to reiterate that the courts have made
21 clear recently in a decision that your staff has cited in
22 the staff report to you that the categorical exemption does
23 not depend upon the size of the project and it does not
24 depend upon a precise correlation between what is being
25 replaced and that which will replace it.

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Rather, the language of the courts is that as long as there is a substantial similarity, then the categorical exemption is within your discretion to examine.

Your staff's conditions very wisely and conservatively, in my view, have eliminated all of the possible environmental objections that have been raised in the communications you have received. And, therefore, you also cross the bridge of having a categorical exemption that will be valid in substance as well as form. Because if the conditions that are set forth by the staff are adopted, you will then have eliminated all possible adverse effects that have been identified to you by members of the public including the competing bidders.

So, I think your staff deserves high marks on that respect. I would make a recommendation that the findings at page 4 have a technical correction. I think there's a miscitation to the Administrative Code in subfinding (j). It should read 14 California Administrative Code Section 15101.

There is a subsequent reference to a California Administrative Code Section 2905 (a) (2), with which I'm not familiar, but it should probably have a title number in front of it. I presume that is the Commission's own regulations dealing with CEQA.

MR. FRANK: That's correct.

CHAIRPERSON CORY: What about the first correction?

MR. FRANK: Mr. Rossman is also correct on that one. That is a typographical error. It should read 15101.

CHAIRPERSON CORY: Okay.

MR. ROSSMAN: Now, at the risk of taking all of the five minutes, which I don't want to do because that's really not what we should be here to discuss; the porta-potty issue does create a risk to the legality of a Commission decision if it does not do what your Condition 2 presently proposes to do. So, we are advocating that Condition 2 that you have imposed upon us be imposed.

It appears, based upon investigations that took place last week and consultations with both the State Solids Waste Management Board and the Department of Health, that the existing lease operation results in the dumping of liquid wastes generated on the lease premises into a solid waste facility ashore that is only a Class II dump. Whereas in order to legally dump liquid wastes, that would have to be a Class I dump.

The risk then is continuing the present operation would possibly or probably have an adverse effect on the environment. You eliminate that problem by approving one of the leases with Condition 2 in it and thereby requiring whoever gets the bid to correct that existing deficiency in

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1 the operation.

2 CHAIRPERSON CORY: When you say Condition 2, you
3 are referring to Condition 2 in the conditions section,
4 proposed conditions of Island Navigation Company?

5 MR. ROSSMAN: Excuse me, it's Condition No. 1
6 for CATMAR and Condition No. 2 for the Island Company/
7 Conservancy.

8 EXECUTIVE OFFICER DEDRECK: That's the compliance
9 with applicable law.

10 MR. ROSSMAN: And the same would be with respect
11 to Condition 2 for the Island Navigation Company.

12 CHAIRPERSON CORY: So, they are similar conditions
13 substantively --

14 MR. ROSSMAN: Yes.

15 CHAIRPERSON CORY: -- they're just numbered
16 differently.

17 MR. ROSSMAN: That's correct, Mr. Chairman.
18 My recommendation is that they be imposed to
19 correct the existing situation which, frankly, would not
20 qualify for a categorical exemption, the existing lease.

21 CHAIRPERSON CORY: Rosemary.

22 MR. ROSSMAN: Thank you very much.

23 MS. WOODLOCK: Just briefly I would like to stress
24 that we feel that we've demonstrated in our bid that we can
25 administer the lease premises from offshore. And in doing

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1 so, we have provided a balance between environmental
2 sensitivity and a good return to the state for the use of
3 its land.

4 We've attempted to provide for mitigation
5 measures and to mitigate some of the environmental damage
6 that's being inflicted on the island at this time.

7 We also are the only bidders who are committed in
8 our proposal to expand the use of this island to people who
9 have been discouraged from it.

10 In one of the comments they refer to the fact
11 that we plan to encourage small boats to sort of paddle their
12 way across the channel. When we refer to trailer boats,
13 there are approximately 20,000 trailer boats in Los Angeles
14 and Orange Counties that range from 18 feet to 26 feet.
15 But this is not a group that's really been encouraged to come
16 across and use this.

17 Furthermore, and I think possibly the strongest
18 reason for accepting our bid, is that the heated discussions
19 that have surrounded this entire proceeding indicate that
20 the best possible choice by the Commission would really be to
21 take -- to give the lease to Catalina Marine Services. We
22 have no conflict of interest in either future development
23 or monetary return from existing land lessees.

24 And I also feel that by giving the lease to
25 another entity than the one who holds it now, you will have

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1 a much better policing mechanism; not only on the state lands
2 which are in the water, but also on public access, which
3 is in the record before the Coastal Commission as also
4 being discouraged through some of the privately leased
5 coves and harbors.

6 So, again, I respectfully request that you accept
7 the fact that we can administer this land from the water and
8 that we do have a project that fits within the categorical
9 exemption. Thank you.

10 CHAIRPERSON CORY: Questions from Commissioners?

11 As I asked the previous bidder, you understand
12 that we are, from our side of the table, going to take your
13 money and make you perform and if you don't, we're going
14 to throw you out?

15 MS. WOODLOCK: Yes, we understand that entirely.
16 I can assure you it's been the subject of many discussions
17 within our offices.

18 CHAIRPERSON CORY: I don't want anybody to go in
19 thinking that those are conditions that they do not have to
20 live with; that somehow people, as soon as this bid is
21 awarded, people are going to look the other way and people
22 are not going to have to perform. Whoever the successful
23 bidder is is going to have to perform. And that is the
24 reason for the advance payment, the \$125,000 liquidity fund,
25 if you will, for transgressions and the \$500,000 performance

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1 bond. Oka, good.

2 All right, Mr. Greenberg.

3 MR. GREENBERG: Thank you, Mr. Chairman.

4 When we were at the bid opening and when we first
5 ascertained what all the bidders had bid, we left in a
6 state of shock and dismay. We simply could not understand
7 how the other bidders could bid substantially more money
8 than we could; particularly since we do own the adjoining
9 lands, we do know what it takes to operate the lease
10 premises, and we should be able to do it more efficiently
11 and less expensively than anyone else.

12 Some days later we received their bid packages.
13 And when we received their bid packages, we began to
14 understand how these bidders can offer more money to the
15 State of California and what the cost of that money would be
16 in terms of inferior services, environmental damage, and
17 other kinds of public policy objectives that we believe
18 this Commission should not be in favor of.

19 I wish you would have seen our longer slide show.
20 It's not R rated. But it would have illustrated these
21 points with a lot more getting down to earth of what's
22 happening in Catalina.

23 But just in very summary fashion, the high bidder
24 proposes to do the work of our 13 patrol boats with 7 patrol
25 boats in Avalon some 14 miles or a half hour or 40

1 minutes away from our site. We don't believe that can be
2 properly done.

3 In fact, the high bidder, instead of our 31
4 work boats, to employ 21 work boats. CATMAR proposes to
5 employ 23 working boats when you take out the barges and
6 live-aboards and stuff like that.

7 If you think they can perform, then we've been
8 dopes all these years and we have unnecessary equipment
9 and are undergoing unnecessary cost and expense to administer
10 the lease premises properly; then I suppose award it to them.

11 If you look at the other side of the coin and you
12 say to yourself, what could the Island Company/Conservancy
13 have bid if it -- for instance, in shore boats -- had had
14 six less shore boats and nine less patrolmen to pay for than
15 Island Navigation?

16 I can assure you that for a summer season, it's
17 about \$10,000 a patrolman, the cost. The cost of buying
18 the boat and maintaining the boat and all that sort of
19 thing on top of that, you begin to reach an explanation of
20 why there was the difference in bids between the parties.

21 With CATMAR with its 23 boats -- I won't go through
22 all the boats. But you know what CATMAR proposes to use
23 for shore boat service? H₂O water taxis built from 30 to 40
24 years ago to take people from fixed point to fixed point.
25 You might remember the fixed point. It was from a fixed

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1 point ashore to the gambling ship locks -- two of these
2 three boats -- back in the late 1940's. Large, 46 feet,
3 completely inappropriate boats for that kind of purpose.

4 If we had time, we could go through -- I'm not
5 exaggerating. And I hope to be able to do it -- 30 to 40
6 illustrations of that type to show you the differences
7 between the two bids.

8 Much has been made of the fact that we paid the
9 state very little money until recently when Mr. Fennie raised
10 the problem.

11 The opposite side of that coin is that we are
12 not paying that money to the state, the boaters who use our
13 premises are paying money to the state. We had to raise
14 our fees by one-third to those boaters to obtain the money
15 to pay the state. So, if there's any implication -- so,
16 you've got to remember that if that's great social policy,
17 I'll leave that to your judgment. You administered that
18 kind of policy. But it doesn't mean that the state has gotten
19 a tremendous deal and ignored things in the past.

20 As far as the California Environmental Quality
21 Act is concerned and compliance of this matter with the
22 California Environmental Quality Act, I'm not going to
23 argue technically. I think the Chairman put it best the
24 last meeting when he asked, let me get this straight -- and
25 he asked it three times -- do the other bids mirror the

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1 present operation? And I think in a lay sense that's about
2 as good a term as you can use to analyze when a categorical
3 exemption is available.

4 These bids do not mirror those operations. These
5 bids do something else -- the other bids. They tear apart
6 an integrated community. They take out 60 people with
7 skills from a rather primitive isolated community of 200
8 who serve that whole end of Catalina Island. They have an
9 effect on campers and camps and hikers and natural resources.
10 And I do not believe that the California Environmental
11 Quality Act will allow you to restrict the scope of your
12 inquiry to exactly what occurs on the lease premises or to
13 restrict the scope of your inquiry to the environmental
14 effects that occur on the lease premises.

15 Now, I think that if I was on this Commission,
16 I wouldn't know what to do with the Environmental Quality
17 Act arguments. That's a lawyer's argument. And I tried to
18 phrase it in a common sensical kind of way.

19 But what is really true is that to evaluate what
20 bid should be adopted -- if I was sitting on your Commission,
21 I would be looking at the total value, what was the most
22 totally valuable bid to the people of California and to the
23 resource and to the boaters and to how these premises are
24 administered in this rather primitive, isolated, but very,
25 very important asset for the people of California.

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1 And I submit as we look over these bids, there's
2 no question about it. Unless we are absolute fools, unless
3 we provide services to the boaters that have no meaning that
4 you know won't be provided by the new bidders -- they weren't
5 even required to provide them -- such as the toilets and
6 the showers and the porta-potty. And if there's a problem --
7 I can't believe there's a problem with the way we handle
8 porta-potty waste. If there is, we'll handle them a
9 different way. But we've got the land to do it with.

10 When you look at the total value to everyone
11 involved in the administration of these premises and when
12 you say to yourself, what if we had skinned down our
13 services, what if we had reduced our people by the amounts
14 of money, the amounts of personnel, the amounts of
15 equipment that both of these bidders have done? We could
16 have too raised our bid substantially more than these
17 bidders are bidding to you.

18 We chose not to do that. We thought you wanted
19 the quality of this operation to stay the way it is. We
20 don't want to alter that operation except to improve it
21 organically over a period of time. And we ask you to look
22 at the total value to California of the assets you're
23 managing and the people who are going to use it and ask
24 yourself whether or not it isn't in better, safer hands to
25 leave it where it's stayed for the last 30 years and to

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1 leave it as part of a larger whole where the lease premises
2 are administered with all of the other public uses at that
3 end of the island. And more, together they all organically
4 make sense and mesh together. Thank you very much.

5 CHAIRPERSON CORY: Questions?

6 COMMISSIONER ACKERMAN: Unless you want to ask
7 your same question. It's relevant.

8 CHAIRPERSON CORY: Mr. Greenberg, you understand
9 that the conditions -- as I asked the other bidders -- we
10 plan on having them lived up to.

11 MR. GREENBERG: Surely.

12 CHAIRPERSON CORY: Okay, you clearly understand
13 that?

14 MR. GREENBERG: Yes.

15 CHAIRPERSON CORY: Is there anyone else in the
16 audience who wishes to address the Commission?

17 Mr. Steele, I presume.

18 MR. STEELE: Yes, I'm Joe Steele, President of the
19 Boat Owners Associated Together.

20 Commissioners, it's our contention that there are
21 two or three items in both Island Navigation and CATMAR's
22 bid which will in fact require an EIR. We believe that an
23 EIR is required if you are going to store garbage for
24 several days, whether you store it on garbage scows at the
25 Isthmus, on Float 5 in the middle of Avalon Harbor, or

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1 ashore at Pebbly Beach.

2 Another issue which we believe requires an
3 EIR is the operation of dormitory vessels wherever. And
4 CATMAR does propose to operate vessels which, I think, could
5 best be described as dormitories.

6 So, we think that if you give the bid to either
7 of these bidders, an EIR will in fact be required. And
8 that was the condition that it not be required in order to
9 bid.

10 One other matter that I'd like to call to your
11 attention --

12 COMMISSIONER MORGAN: Could I interrupt a minute.
13 Mr. Steele, I don't know if it's fair to accept testimony
14 from individuals who have been here before who obviously
15 support one or the other of the bidders. It seems we're
16 simply granting an extension of time to one party. And
17 your thoughts have been expressed time after time after time
18 to us.

19 MR. STEELE: Well, I'd like to point out though
20 that some of these things have only come to light with the
21 bids.

22 COMMISSIONER MORGAN: Okay.

23 MR. STEELE: I think I'll only take another minute
24 or two.

25 COMMISSIONER ACKERMAN: Another minute or two

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1 would be --

2 CHAIRPERSON CORY: Okay.

3 MR. STEELE: We do not believe the shore boat
4 situation mirrors the current situation at all.

5 I'd like to read to you from the Franchise
6 Agreement of Island Navigation with the City of Avalon.

7 "The company shall own or have under
8 contract and available to it for operations
9 under this agreement a minimum of five
10 vessels and at least equivalent to those
11 vessels described in Exhibit A attached
12 hereto throughout the term of this
13 agreement, except during the periods from
14 December 1 to December 29. Company shall
15 maintain and operate hereunder a minimum
16 of two vessels during the winter season
17 and a minimum of four vessels during the
18 summer season."

19 The company owns five, which meets this condition.
20 They use one in Queensway Bay. We don't believe they even
21 meet the Franchise Agreement by using that one.

22 These are the five that they list as their
23 primary shore boats under your lease. If they use these
24 shore boats under your lease, they will have to forfeit the
25 lease in Avalon and leave 300 moorings there without shore

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1 boats.

2 They're also proposing to build four shore boats,
3 20-footers, to be used as both harbor patrols and shore
4 boats. You simply cannot operate a taxi service and a
5 police department with the same boat at the same time.

6 So, we don't believe that they're going to provide
7 adequate service.

8 As far as CATMAR is concerned, they're offering to
9 use 40-foot boats or so. And we think these will be a
10 hazard around -- close to the motorboats.

11 And, lastly, since CATMAR brought up the issue of
12 trailer boats paddling across -- I think it had to do with
13 my letter to the Commission. I'd like to point out that I
14 was a Coast Guard officer for 36 years and retired as a
15 Commander of the 11th District. And I certainly know what
16 a trailer boat is. And my statement was that encouraging
17 trailer boats to operate in the ocean, increasing the hazard,
18 is still true; although it probably has little to do with
19 this lease. Thank you very much.

20 CHAIRPERSON CORY: That last statement can go for
21 a lot of things that have gone on.

22 (Laughter..)

23 CHAIRPERSON CORY: Any questions from
24 Commissioners?

25 Yes, sir.

1 MR. JOHNSON: My name is Bob Johnson. And I'm
2 a boater. I have been going to Catalina since way back in
3 the '40's, all kinds of weather.

4 I think one thing we've overlooked -- and I'm
5 going to be on the receiving end of however you make a
6 decision. In a storm -- and I've been caught in a lot of
7 them -- I think it's going to be very hard for anybody to
8 service the Isthmus out of Avalon. I've spent as long as
9 five hours from Long Point getting into the Isthmus with
10 a 32-foot sailboat it was so stormy.

11 Also, I don't know how in the world one can
12 anchor a 110-foot barge that I read about in this report
13 so that in these storms that we've had over there --
14 especially just recently -- it doesn't end up on the beach
15 and take everything going in there with it.

16 I wish you'd give that some consideration, because
17 a lot of us have been caught through the years over there
18 in storms and fortunately very few of us have been killed
19 so far. Thank you.

20 CHAIRPERSON CORY: Thank you.

21 Questions from Commissioners?

22 Thank you, Mr. Johnson.

23 Is there anybody else?

24 Does staff have any comments that they would like
25 to make at this point?

1 MR. RUMP: Maybe just a few from the points that
2 have been raised.

3 (As usual, we've heard a lot of testimony. Not
4 a great deal is new to us. There are a couple of points
5 I would like to make in that at least my evaluation of
6 reading the present lease terms, that any of the bids
7 proposed could be operated underneath this. In fact, the
8 lease that you're considering in this bid proposal is far
9 more specific and more stringent, with quite a few
10 protections, I think, for the services being rendered,
11 including financial ones.

12 We're talking here -- and I think there's so
13 many aspects of it, it's sometimes confusing and you can
14 get lost in what the purpose for the lease is. The lease
15 purpose is for the operation and maintenance of the 720
16 revenue moorings. And you can digress into various layers
17 of the cake. But, primarily, that's what we're focusing on.
18 And the evaluation of this should be whether or not that is
19 matched.

20 The Commission through its action over the last
21 year or more has taken stringent steps. And I'm personally
22 aware of all the contractual provisions which you have built
23 into your lease to see that that happens. You have fixed
24 fees, you have had the bonding and insurance.

25 One other observation which I find curious in that

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1 it is different from anything I've seen before is normally
2 when there are environmental controversies, there are
3 appearances made by environmental groups. Essentially,
4 what we've seen throughout the course of this are
5 essentially either the vested or potential economic parties
6 to the bid and the patrons, but we haven't had any testimony
7 of environmental groups and whatever.

8 Obviously, this matter has been in the newspapers
9 and television and radio. And I just find that unusual in
10 light of we're examining the CEQA problems here.

11 A couple other points. For instance, on the
12 storage of garbage, that's primarily why staff has
13 suggested the conditions to be added. Obviously if they
14 comply with --

15 CHAIRPERSON CORY: Jack, should we sneak in the
16 amendment now to put in an oil platform there?

17 (Laughter.)

18 CHAIRPERSON CORY: That's a joke, folks. All of
19 you listening out there, that was a joke.

20 MR. RUMP: Anyway, staff took the time to sit
21 down with the people over at Solid Waste Management and
22 discussed the garbage disposal method. I feel that we've
23 complied with their concerns and standards in there. We
24 also affirmatively required that that be carried out.

25 As to other things such as storm response and the

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1 like, that's why we've suggested the emergency response
2 plan.

3 Other concerns about dormitory vessels and these
4 sorts of options I think are covered under your Standard
5 Lease Provisions, Section 46, which says that lessor and
6 lessee shall comply with and be bound by all presently
7 existing or subsequently enacted rules, regulations,
8 statutes, or ordinances with the State Lands Commission or
9 any other government agencies or entity having lawful
10 authority and jurisdiction.

11 That's about all we can do for you. I mean, if
12 they don't comply with that -- I mean, you certainly have
13 a lot of options under the lease to prosecute them,
14 including declaring a breach of the lease.

15 So, I think we've tried to meet all the issues
16 that have been before you. That's all the comments I have.

17 COMMISSIONER MORGAN: What about the rent review?

18 It's my understanding that the proposed list includes a
19 rent review at some point.

20 EXECUTIVE OFFICER DEDRICK: Five years.

21 COMMISSIONER MORGAN: Five years out; is that
22 right?

23 MR. RUMP: Yes, the rent review is our standard
24 rent review, five year anniversary.

25 CHAIRPERSON CORY: It's five years from the

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1 commencement of the lease, which was a year ago.

2 MR. RUMP: That's correct, January 1st of this
3 year.

4 COMMISSIONER MORGAN: So, in four years all rents
5 would be equal basically.

6 MR. RUMP: It would go through the rent review
7 process, that's correct.

8 COMMISSIONER ACKERMAN: It wouldn't have the
9 impact of making all the rents equal, but it would have the
10 impact of equalizing them; but not making them ~~exactly~~
11 equal.

12 COMMISSIONER MORGAN: Right.

13 CHAIRPERSON CORY: Okay, it's now our turn.

14 COMMISSIONER MORGAN: Does anybody want me to make
15 a motion? Does anybody else want to make a motion?

16 CHAIRPERSON CORY: You know, the floor is open.

17 COMMISSIONER ACKERMAN: Why don't you go ahead.

18 COMMISSIONER MORGAN: Okay. I'll move that we
19 accept the bid from the current lessee and award the new
20 lease to them.

21 CHAIRPERSON CORY: We have a motion.

22 COMMISSIONER ACKERMAN: I'll second it.

23 CHAIRPERSON CORY: Motion is seconded.

24 Ready for the question?

25 All those in favor, signify by saying aye.

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1 COMMISSIONER MORGAN: Aye.

2 COMMISSIONER ACKERMAN: Aye.

3 CHAIRPERSON CORY: Motion passed.

4 MR. RUMP: Okay, I would suggest then that we
5 address the findings.

6 MR. TAYLOR: Mr. Chairman, I believe we have the
7 authorization to make the appropriate adjustment to the
8 findings.

9 CHAIRPERSON CORY: Now, in terms of the findings,
10 do the Commissioners wish to go through --

11 MR. TAYLOR: I think we can just adjust the --
12 we'll strike the parts that would be inapplicable to --

13 CHAIRPERSON CORY: Are there any particular things
14 the Commissioners wanted in those findings?

15 COMMISSIONER MORGAN: I think they covered
16 everything.

17 MR. TAYLOR: With your permission, we will adjust
18 the inapplicable parts and we'll bring it back to you for
19 your approval in the Minutes of the next meeting.

20 CHAIRPERSON CORY: Okay.

21 COMMISSIONER MORGAN: Thank you.

22 CHAIRPERSON CORY: Anything, Claire?

23 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman, one
24 thing.

25 Carolyn Sutter, the General Manager of Long Beach

1 Tidelands Agency and two of her staff are here. And I
2 thought perhaps you'd like to be introduced to them. They're
3 hiding out in the back of the room I'm told.

4 CHAIRPERSON CORY: They probably went to lunch.

5 EXECUTIVE OFFICER DEDRICK: Carolyn, why don't
6 you and Zen and Jim come up and get acquainted with the
7 Commission.

8 CHAIRPERSON CORY: Any other items to come before
9 us? If not, we stand adjourned.

10 (Thereupon the meeting before the State
11 Lands Commission adjourned at 12:10 p.m.)

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1
2
3 I, EILEEN JENNINGS, a Certified Shorthand Reporter
4 of the State of California, do hereby certify:

5 That I am a disinterested person herein; that
6 the foregoing State Lands Commission meeting was reported
7 in shorthand by me, Eileen Jennings, and thereafter
8 transcribed into typewriting.

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

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 11th day of January, 1983.

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