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BEFORE THE
STATE LANDS COMMISSION
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, APRIL 24, 1986
10:00 A.M.

ORIGINAL

Nadine J. Parks
Shorthand Reporter

A P P E A R A N C E S

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Kenneth Cory, State Controller, Chairman
Leo T. McCarthy, Lieutenant Governor, Commissioner,
and Jock O'Connell, Office of the Lieutenant
Governor
Nancy Ordway, for Jesse R. Huff, Director of Finance,
Commissioner

STAFF PRESENT:

Claire Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Counsel
N. Gregory Taylor, Counsel
Jane Smith, Secretary

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P R O C E E D I N G S

--c0o--

1 CHAIRMAN CORY: We'll call the meeting to order.
2 We have some housekeeping items here. First, representing
3 the Lt. Governor this morning is Jock O'Connell. And for
4 all of you out there who can read, you should not read the sign
5 because it's incorrect. Jack, he's probably off at the
6 annual tribute in Washington, D.C. for some of our other
7 public officials. Had I muted the outside speakers before
8 I said that?
9

10 (Laughter.)

11 CHAIRMAN CORY: Is the mute on or off? Can you
12 hear?
13

14 EXECUTIVE OFFICER DEDRICK: They can hear.

15 CHAIRMAN CORY: Fine. Now that we've got that
16 established, we can proceed.

17 We are going to, first, confirm the minutes for
18 the regular meeting of the 27th of March and the special
19 meeting of the 31st, and the special meeting of the 14th.

20 Any corrections or additions? Without objection,
21 we will confirm the minutes as presented.

22 We have the report of the Executive Officer.

23 EXECUTIVE OFFICER DEDRICK: No report this
24 morning, sir.

25 CHAIRMAN CORY: Good work.

1 EXECUTIVE OFFICER DEDRICK: You're welcome. Thank
2 you.

3 CHAIRMAN CORY: The next item is the consent
4 calendar. For the people in the audience, these are the
5 calendar items prefixed by the letter C. They will be
6 taken up in one vote and all of them approved at once,
7 unless someone in the audience has an objection to the
8 proposed action by the staff.

9 If you have any such objection, please let us
10 know now before we take the motion, and we will remove them
11 and debate those items individually. While people are trying
12 to make sure they don't have any objections, I would like
13 to comment that on C-13 -- I believe it's Bolinas
14 Community Public Utilities District and Bolinas Beach and
15 Cliff Association -- Assemblyman Filante has given us a
16 letter in support of that item as the staff proposes be
17 disposed of.

18 The other item is that Item C-12, the Wilcoxson
19 matter, is removed from the calendar. So, without
20 objection, the consent calendar, Item C-1 through 23,
21 excluding C-12, will be approved. That shall be the order.

22 The first item of our agenda is Item 24, the
23 status of the Department of Parks and Rec. for transfer of
24 950 acres of State school land located in Santa Cruz County
25 to the Department of Parks and Recreation.

1 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.
2 Senator Sam Farr has indicated an interest in this subject
3 and it is on the calendar for that reason.

4 CHAIRMAN CORY: Why don't we put this on hold and
5 we will take it up when Mr. Farr is able to be here.

6 EXECUTIVE OFFICER DEDRICK: Thank you, Mr. Chairman.

7 CHAIRMAN CORY: Okay. Next item is Item 25, Kings
8 County Title Company, as trustee, is the applicant. And the
9 staff is recommending that we deny without prejudice
10 application for State-owned property set forth in Chapter
11 1200.

12 As I understand it, this is to allow negotiations
13 to continue and not a time deadline to run.

14 EXECUTIVE OFFICER DEDRICK: That is correct.

15 CHAIRMAN CORY: And Kings County Title is aware of
16 this action?

17 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.

18 CHAIRMAN CORY: Okay. Without objection, Item 25
19 is approved as recommended. Or denied -- the application is
20 denied without prejudice.

21 Item 26, consideration of expenditure of tidelands
22 revenues to pay for 50 percent of the \$375,000 on city
23 tidelands, which the city tidelands will receive benefit of.

24 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, there's an
25 error in the summary. The number is twice 375,000.

1 CHAIRMAN CORY: So that 375 is the one-half.

2 EXECUTIVE OFFICER DEDRICK: That's correct. It
3 should read 750. 50 percent of 750 or 50 percent up to
4 \$375,000.

5 CHAIRMAN CORY: You slipped that one in at the
6 last minute.

7 EXECUTIVE OFFICER DEDRICK: Sorry about that.

8 CHAIRMAN CORY: And on this item, is this the one
9 where we have been urging them to do some consolidation?

10 MR. TROUT: This is correct.

11 EXECUTIVE OFFICER DEDRICK: Excuse me. Mr. Trout,
12 he really does want to talk about it.

13 MR. TROUT: This project would not actually acquire
14 any land. It's to acquire equipment and things like that.
15 Because of the layout, we have been urging them to
16 consolidate their holdings. And we'd like the Commission
17 to kind of support us in that. It will be good for the
18 Trust.

19 CHAIRMAN CORY: Any questions from the Commissioners?
20 Any questions from anyone in the audience?

21 Without objection, Item 26 will be approved as
22 presented.

23 Item 27, approval of a nonexclusive geophysical
24 survey permit on tide and submerged lands, Grizzly Bays,
25 Contra Costa County. Anybody in the audience on this item?

1 Any questions from the Commissioners?

2 Without objection, Item 27 will be approved as
3 presented.

4 Item 28, approval of specifications for invitation
5 for bids on crude oil, Tidelands Tract 20, Long Beach Unit.
6 Is there anyone in the audience on this item? Any questions
7 from the Commissioners? Without objection, Item 28 will be
8 approved as presented.

9 Item 29. This is a reduction in the amount of
10 letter of credit for royalty oil sales, the South Elwood
11 Field. This is due to declining oil prices. Anybody in
12 the audience on this item? Any questions of the
13 Commissioners?

14 Without objection, Item 29 will be approved as
15 presented.

16 Item 30, Continental Maritime of San Diego, Inc.,
17 a dredging permit for 6,000 cubic yards of material in
18 San Diego Bay and disposal at an approved offshore site.
19 Is there anybody in the audience on this item? Any questions
20 of the Commissioners?

21 Without objection, Item 30 will be approved as
22 presented.

23 Item 31, monitoring of subsidence and seismic
24 hazards in the Long Beach Unit. Moose?

25 MR. THOMPSON: On the map directly behind you shows

1 the results of a six-month survey that was run between
2 November of '84 -- this is a full year. I'm sorry. November
3 of '85, November 84-85. It shows a small drop in elevation
4 in this particular area. But the real key is this map over
5 here, which shows the results of twenty and a half years
6 of elevation. You can see that whole area actually has been
7 rebounded here. So, what happens, this land surface has
8 been raised and it tends to go up and down slightly.

9 These are the magnitude here (indicating), coming
10 up maybe three or four-tenths of a foot. Small changes
11 there (indicating) between zero and five-hundredths of a
12 foot.

13 CHAIRMAN CORY: What is that red line?

14 MR. THOMPSON: That red line shows that there are
15 subsidence, bench elevations there going down more than
16 500 foot in this area, between zero and 0 there.

17 COMMISSIONER ORDWAY: And the other side of the
18 green?

19 MR. THOMPSON: Green is all positive up to plus
20 three-tenths here. And then the twenty-and-a-half-year
21 trend in that same area, you can see it actually has come
22 up a tenth of a foot.

23 So, that that spot right there and this spot
24 right here (pointing). So that actually it has -- the
25 elevation is higher than it was 20 years ago, even though

1 in a year period it's gone down.

2 CHAIRMAN CORY: Any questions of Commissioners?
3 Any questions from anyone in the audience? And do we need
4 a specific approval on this, or is this information?

5 MR. THOMPSON: Informational.

6 CHAIRMAN CORY: Okay. Item 32, fifth modification
7 of the budget. Fifth and sixth are routine?

8 MR. THOMPSON: Routine.

9 CHAIRMAN CORY: Okay. Seventh you want to take up
10 with the budget.

11 MR. THOMPSON: Please.

12 CHAIRMAN CORY: Okay. Anybody in the audience
13 on the fifth modification and the sixth modification in
14 Items 32 and 33?

15 Without objection, those two items will be
16 approved as presented.

17 Moose, you're up for the -- you'll take up the
18 seventh modification of the budget and the plan for
19 development for the 86-87 fiscal year.

20 MR. THOMPSON: There's a statutory requirement
21 that the City of Long Beach has to approve a plan and budget
22 and send it to the Commission for their approval.

23 The statutory requirements also force the City of
24 Long Beach to start consideration of this budget in
25 December and January of the previous year. They did that.

1 They started in December of '85 and worked on it in January
2 of '86.

3 And the only thing that went wrong along the way
4 is that crude oil prices went to pieces.

5 They were preparing a budget at this point in time
6 right here (indicating) when crude oil prices were \$22.

7 The budget was being typed up at this particular time.

8 We're now --

9 (Laughter.)

10 MR. THOMPSON: The city recognized this fact when
11 they were going through this cover letter that talks about
12 the budget being prepared under \$16 and modification is
13 required.

14 What we're asking you to do here is follow up with
15 the statutory requirements, approve the plan and budget,
16 subject to modification in June.

17 The City of Long Beach is in the audience and we
18 have worked together to bring back to you a modification
19 that is more realistic than this oil price (indicating).

20 CHAIRMAN CORY: So the modification, you want to
21 wait until June so you'll have the latest data before
22 fiscal year starts upon which --

23 MR. THOMPSON: And we hope it doesn't get any worse
24 than it is now.

25 CHAIRMAN CORY: To wait rather than to put

1 something together now --

2 MR. THOMPSON: Yes. The opposite of this is to
3 have a public hearing. And I don't think the City of
4 Long Beach or ourselves want that. It's much better to
5 handle it, much more orderly to come in with the first
6 modification.

7 You take the seventh modification of this
8 year's plan and budget, we are tailoring our expenditures,
9 reducing the rig activity. They show the direction that
10 that first modification of next year's plan and budget will
11 be headed towards.

12 CHAIRMAN CORY: Why don't you go through the
13 seventh modification just in a nutshell so we can get that
14 approved.

15 MR. THOMPSON: The seventh modification, then, is
16 an approval to do these various reductions in expenditures.
17 The major one is to change the rig activity down to only
18 using two drilling rigs.

19 There are a bunch of other specific actions that
20 are being -- taking place. And this is to change the plan
21 with respect to following those reductions.

22 CHAIRMAN CORY: And the operating contractor is --
23 these are his plans for living within the changing oil
24 prices?

25 MR. THOMPSON: This was a mutual thing. This was

1 proposed in a letter from the general manager and agreed
2 to by the City of Long Beach. And I think the State Lands
3 is also going along with it. We think it's a very logical
4 way to approach this.

5 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, James
6 Hemphill, who is the Director of the Division of Oil
7 Properties, is present in the audience from the City of
8 Long Beach if you'd like to talk to him.

9 CHAIRMAN CORY: Mr. Hemphill, do you have anything
10 you wish to add to this or --

11 MR. HEMPHILL: No, I think Mr. Thompson covered it
12 very well. We have been working closely with him.

13 CHAIRMAN CORY: Would you speak up, we can't hear
14 you.

15 MR. HEMPHILL: We've been working closely with
16 Mr. Thompson --

17 EXECUTIVE OFFICER DEDRICK: I'm sorry, Jim, the
18 acoustics in this room are a little --

19 MR. HEMPHILL: We've been working very closely
20 with Mr. Thompson and the State Lands Commission staff, and
21 with our contractor in reducing the expenditures in the
22 Long Beach Unit and the whole tidelands operations. We
23 concur with everything that he's --

24 MR. THOMPSON: Our major problem is that this has happened
25 so fast, that we are in constant catchup. Also, there's a very,

1 very strong possibility that the City and State will receive
2 \$7.75 for a portion of the oil that's produced in the Long
3 Beach Unit for the month of May. This gives you an idea
4 of the urgency of our situation in reducing costs.

5 CHAIRMAN CORY: Okay. Any questions from the
6 Commissioners?

7 Without objection, then, we will approve the
8 seventh modification, Item 34 on our agenda. That will be
9 the order. And 35 is -- we will then -- the next item
10 before us is approving the budget plan with the clear
11 understanding that in June, you will be bringing to us a
12 revised one to reflect sudden changes in the world market.

13 MR. THOMPSON: And the City of Long Beach concurs
14 with our action.

15 MR. HEMPHILL: That's absolutely correct.

16 COMMISSIONER ORDWAY: Is there any sense of what
17 the difference is, what we're looking at today and what
18 we'll look at in June, what the magnitude of change will
19 be?

20 MR. THOMPSON: I think if you look at the 7.75
21 oil price that we're going to have -- the present budget
22 proposal is \$187 million approximately. I think we're going
23 to have to cut at least another approximately \$30 million
24 out of it to bring it to an even position.

25 MR. HEMPHILL: That's the range we've been looking

1 at, too.

2 COMMISSIONER ORDWAY: Thank you.

3 MR. THOMPSON: We've been really working hard on
4 this and we're running fast trying to get caught up.

5 CHAIRMAN CORY: Okay. No further questions?
6 Without objection, the plan for development operations and
7 budget will be approved as presented, with the understand-
8 ing you'll be back to us.

9 Thank you very much.

10 Item 36, cessation of concurrent criminal
11 jurisdiction in San Bernardino County, National Training
12 Center and Fort Irwin.

13 Anybody in the audience on this item? Is this
14 a standard cessation?

15 MR. HIGHT: Correct, Mr. Chairman.

16 CHAIRMAN CORY: Without objection, Item 36 will be
17 approved as presented.

18 Item 37 is the approval of a compromise title
19 settlement agreement between Lands Commission and Walter
20 F. And Anne H. Kieckhefer, real property on the Petaluma
21 River in the City of Petaluma, Sonoma County.

22 Anybody in the audience on this item?

23 Any questions from the Commissioners on this
24 proposal?

25 MR. HIGHT: Mr. Chairman, on this action, you will

1 be acting as Land Bank Commissioners in addition, because
2 we will be accepting \$11,000.

3 CHAIRMAN CORY: Into the Land Bank.

4 MR. HIGHT: Yes.

5 CHAIRMAN CORY: And we can do it in one action --

6 MR. HIGHT: Yes.

7 CHAIRMAN CORY: -- acting as both.

8 MR. HIGHT: Yes.

9 CHAIRMAN CORY: No further questions? Without
10 objection, Item 37 will be approved as presented.

11 Item 38, City of Chula Vista has an annexation
12 proposal. Pardon me while I get my "love notes" squared
13 away here.

14 This is Palomar/Bay Boulevard reorganization,
15 annexation to the City of Chula Vista.

16 Anybody in the audience on this item? Any
17 questions from the Commissioners? Without objection,
18 Item 38 will be approved as presented.

19 I have a note here that Mr. Farr is out of town,
20 and the purpose of that Item 24 on the agenda was to get some
21 input from him; is that correct?

22 EXECUTIVE OFFICER DEDRICK: Yes. It was on the
23 calendar at his request.

24 CHAIRMAN CORY: Can we put that over until the next
25 meeting?

1 EXECUTIVE OFFICER DEDRICK: I would think so.

2 CHAIRMAN CORY: Without objection, we'll put Item
3 24 over. And we now come up to Item 39, Riverbank Holding
4 Company, a request by Riverbank Holding Company for
5 exemption of the Commission's Marina River Moratorium,
6 Sacramento County.

7 And we have a request here from Mr. Kip Skidmore,
8 managing partner, to talk to us on this item.

9 Mr. Skidmore?

10 MR. SKIDMORE: Chairman and Mr. -- Commissioners,
11 I represent Riverbank Holding Company as the co-managing
12 general partner.

13 I'd like to kind of make an --

14 COMMISSIONER ORDWAY: If you could get a little
15 bit closer to the mike just a bit?

16 MR. SKIDMORE: Okay. Is that better?

17 COMMISSIONER ORDWAY: That's better.

18 MR. SKIDMORE: My name is Kip Skidmore. I'm
19 co-managing general partner of Riverbank Holding Company.

20 And I'd like -- my opening comments would be that
21 when we came here two years ago for our original lease, the
22 moratorium was implemented that same day after ours was
23 approved. We, as a river property owner, support that
24 concept -- that the river needs to be looked at, that
25 stretch of the river that now has a moratorium on it. I

1 want to make that clear.

2 We, at that time, were told that that study would
3 take approximately three to four months to complete. It's
4 now going on two years. And I understand that it will
5 probably be another three or four or five months before
6 it's completed.

7 This particular expansion that we're asking for,
8 we are asking for in the spirit of that moratorium. That is,
9 in our opinion, we are giving up as much dockage as we are
10 asking to add; albeit in a different configuration and
11 different location within the property that we own.

12 However, again, it is our opinion that we are
13 acting within the spirit of this moratorium. And the
14 staff has provided you with drawings that we have put up
15 on here. And what I'd like to do is kind of -- you all
16 have the correspondence, I assume, that we have sent you.

17 But, basically, what we're trying to do is we're
18 taking dockage of our Virgin Sturgeon -- excuse me, not our
19 Virgin Sturgeon -- but Virgin Sturgeon that we are subleasing
20 from Lori Patching, a couple hundred feet there (indicating),
21 450 feet of our Village Marina -- a property that we own that
22 is immediately adjacent to our property downriver, and
23 about 19 berths that we could not put in because of low
24 water.

25 We use the staff's 30 feet per lineal foot boat to

1 convert from lineal footage to berths. And we come up with
2 approximately 65 or 66 berths in exchange.

3 Maybe I'll just here point these out.

4 This is the Village -- we own property from here
5 to here, approximately ten acres.

6 This is the Village Marina as it currently is
7 today. I guess these pictures are a couple months old.

8 This is our existing marina. It sits here (indicating).

9 The Village Marina --

10 CHAIRMAN CORY: I have trouble with that statement.

11 Would you go over what your existing marina is.

12 MR. SKIDMORE: Our existing marina is 158 berths
13 actually constructed from here to here (indicating). Okay?

14 CHAIRMAN CORY: Would you like to explain why it is
15 you have existing marina on property you don't have under
16 lease?

17 MR. SKIDMORE: We, in building -- somewhat on the
18 background on this -- we had this lease approved -- I guess
19 it was 6427 here, it was in compliance with the green line.
20 The Corps of Engineers subsequent required us to push this
21 marina in towards shore to get it out of the middle of the
22 river -- their contention was -- push it to shore and extend
23 it downward.

24 CHAIRMAN CORY: Wait a minute. The Corps of
25 Engineers required you to extend it downward?

1 MR. SKIDMORE: No. The Corps of Engineers --

2 CHAIRMAN CORY: Extended it downwards.

3 MR. SKIDMORE: Yes. The Corps of Engineers gave us
4 their permit based on that reconfiguration of that marina
5 to extend it upriver. Okay.

6 We negotiated with Lori Patching. And I have an
7 agreement from Lori Patching right here to sublease that
8 portion, that hundred and some feet of her marina -- of her
9 lease for a thousand dollars per month, and we've paid her
10 \$18,000 up to this date. Okay? We have that agreement.

11 As I understand from staff, that -- that agreement
12 needed the -- the approval of this Commission. Miss
13 Patching needed to bring that to this Commission. As I
14 understand it, it's not been done yet.

15 Okay. But we do have an agreement. We --

16 CHAIRMAN CORY: That's the part in there that Lori
17 doesn't have under lease.

18 MR. SKIDMORE: This segment here, yes. I suppose
19 we are in violation --

20 CHAIRMAN CORY: No, you are in violation.

21 MR. SKIDMORE: In trespass.

22 CHAIRMAN CORY: And as far as I'm concerned, at the
23 conclusion of this meeting I think you're going to be asked
24 to remove your property from our property.

25 MR. SKIDMORE: Well, I certainly -- at this

1 particular point in time, I agree with you. We have
2 property over there. We were thinking it's something we
3 couldn't resolve (sic) with the Commission. It's unfortunate
4 that we got ourselves in that position.

5 CHAIRMAN CORY: On your lease, doesn't it have a
6 statement in it that you can't sublease your property
7 without approval of the Commission?

8 I mean, the concept that you thought that you
9 could lease Lori's without coming back to this Commission,
10 I find somewhat difficult to --

11 MR. SKIDMORE: I think Miss Patching would come
12 to this Commission with that request for a sublease. I didn't
13 know it was within ours, unless I'm incorrect. I assumed
14 that Miss Patching was supposed to come to you -- to this
15 Commission to do that.

16 CHAIRMAN CORY: Go ahead. I just wanted to
17 establish where yours was --

18 MR. SKIDMORE: Yes.

19 CHAIRMAN CORY: -- in reality and what you have
20 under lease, because there seems to be a substantive
21 dispute.

22 MR. SKIDMORE: Yes. We are currently on this
23 particular portion, on land that is -- belongs to the
24 State which we do not have under the lease. Okay?

25 That is also true of the Village Marina property,

1 which we bought last May, which we have -- we have told the
2 Commission staff that there was a suit involved in that,
3 a dispute as to who owned the water rights under there from
4 the previous owner. We have indicated to staff that we
5 acknowledge that the State owns that in spite of the
6 current property lines and will put that under a lease
7 pending the outcome of our marina extension request.

8 But we, again, going to our position on trading
9 boats for boats -- I'm looking at the spirit of the
10 moratorium -- we don't want any more boats on the Sacramento
11 River until this particular study is completed.

12 I'm here today to show you that the number of boats
13 that we're adding is not significantly different from the
14 number of boats coming out using again the 30-foot per boat
15 to convert lineal footage.

16 Most of what we're doing is we're taking out
17 lineal footage as opposed to berths. So, we're taking out
18 approximately 450 feet of the Village Marina, which is a
19 dilapidated marina that's a real hazard. That marina at
20 one time -- as you people who are aware of the river --
21 extended 500 feet down the river.

22 CHAIRMAN CORY: What you're taking out is that
23 which there is no lease for and no approval for.

24 MR. SKIDMORE: Yes, you are correct. The previous
25 owner, since 1975, has been in a dispute with State Lands

1 as to the ownership of the underwater portions of that.

2 When we purchased that property, we made a
3 commitment to State Lands that we would drop that till we'd
4 know how it would come out ultimately; that the State owns
5 the water rights and pending the outcome of that -- this has
6 been going on since December -- we would put that under
7 lease. We have no dispute whatsoever that that particular
8 marina is in trespass at this point in time.

9 However, that's something since 1975 when that suit
10 was instituted.

11 So, we feel that we are on a correct course in
12 doing what we're doing if we don't -- you know, if you
13 don't grant the extension request today, we'll have to put
14 that under lease. We fully realize that.

15 450 lineal footage, the 200 that we took from the
16 Virgin Sturgeon, and the number of boats that we were
17 unable to build in this area because of the low water
18 configuration, the same number of boats that were on the
19 river now will be on the river when we complete this.

20 If I'm incorrect that that's not within the
21 spirit of the moratorium, then, again, that's your judgment.

22 CHAIRMAN CORY: Anything else you want to add?

23 MR. SKIDMORE: Well, in dealing with the
24 environmental aspects of the project, we were told a week
25 ago Monday that we need'd an environmental impact report

1 on this particular addition. It was something we weren't
2 aware of for the previous five months. But we have --
3 you have -- well, staff has before them a letter stating
4 our position on that. And when the 1982 environmental
5 impact report that was done by the City of Sacramento,
6 it was a comprehensive one, in which they looked at -- in
7 addition to the 175-berth marina -- two 300-foot fingers
8 that were for a variety of houseboats and dockage for
9 condominiums that were going to be built on this
10 portion of the land.

11 Again, This is the city's opinion and the city
12 is represented here, I believe, today. The impact of this
13 thing is negligible and they are going to recommend a
14 negative declaration on it.

15 Again, through the permit process, the Corps of
16 Engineers in issuing our Corps permit for this particular
17 project, they, in their own assessment, sent notices to the
18 State agencies and city agencies and federal agencies. We
19 have a letter from both the State Clearinghouse -- excuse me --
20 Resources, Dr. Snow, saying the State has no objections
21 to it in light of this except -- with exception of this
22 moratorium (sic).

23 So, we feel that the State has looked at the thing.
24 The federal has looked at it. The city has looked at it
25 and they're going to -- to -- the city is known as the lead

1 agency, is looking at a negative declaration on this.

2 Again, if you wish to address the city staff, I
3 believe they're here.

4 That is the second issue that was brought before us
5 a week ago, that we couldn't -- just couldn't be on the
6 agenda because we didn't have an EIR. Our position, again,
7 is that they have adequate information for an EIR, and this
8 Commission could find, if they chose to, find that EIR
9 adequate.

10 I guess that's a secondary issue to the moratorium
11 issue. The city will not process that until they get some
12 guidance from this Commission on the moratorium.

13 But, again, I would like to sum it up. I think
14 we are supportive of the study on the river because we are
15 substantial property owners on the river. But the study
16 has gone on for two and a half -- concluded in two and a
17 half years (sic). And we think we are in the spirit of the
18 moratorium by trading the same number of boats. And
19 that's essentially it, our request to you.

20 CHAIRMAN CORY: Okay. Staff?

21 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, Mr.
22 Skidmore's comments are very confusing to me.

23 It is a violation of the law, of course, for the
24 city to determine in advance of an application as to whether
25 or not a negative declaration would be granted. And, of

1 course, they wouldn't do that.

2 COMMISSIONER ORDWAY: Could we hear from the city?

3 CHAIRMAN CORY: Could we have the city?

4 COMMISSIONER ORDWAY: I'm a bit confused.

5 EXECUTIVE OFFICER DEDRICK: You may.

6 COMMISSIONER ORDWAY: I'm not clear. Could the
7 city please come up if they're here. It's my understanding
8 that what we have to have before us in dealing with a
9 request for a lease is the environmental document -- either
10 an environmental impact report and/or a negative
11 declaration. And it must not be the promissory note. I'd
12 ask the fleet of lawyers that we have here today --

13 MR. HIGHT: That's very correct.

14 COMMISSIONER ORDWAY: -- my understanding.

15 MR. HIGHT: That's correct.

16 COMMISSIONER ORDWAY: I know it's my understanding.
17 But isn't that what the law says?

18 MR. HIGHT: That's what the law says.

19 CHAIRMAN CORY: Bob Hight has said that. And do
20 you agree with that?

21 MR. TAYLOR: Yes. That's pretty clear.

22 COMMISSIONER ORDWAY: Okay. What I'm not clear on
23 is where the city is, because -- again, I'm not a lawyer,
24 but it doesn't seem terribly typical that the city sort of
25 gives a theory on what they're going to do. If you're

1 going to give a negative dec., let's do it and let's get
2 it here, and let's act on it.

3 You know, when can we expect that if that's what
4 you're going to do?

5 MR. SKIDMORE: Excuse me. We haven't applied for
6 that yet. The city cannot process it until we have
7 actually applied for it. We weren't aware that we needed
8 it until last Monday.

9 COMMISSIONER ORDWAY: When do you plan on filing
10 for it?

11 MR. SKIDMORE: Immediately upon this Commission --
12 if this Commission approves that exemption from the
13 moratorium, then we will apply for it immediately. The
14 city doesn't want to undertake the necessary work to do
15 that negative declaration if the city -- this moratorium
16 is to be continued in place.

17 Again, we were not aware of this until a week ago
18 Monday that we needed to have an EIR.

19 CHAIRMAN CORY: Okay. Is the city's position --
20 would you identify yourself from the city?

21 MR. DEE: My name is Steve Dee. I'm with the
22 City of Sacramento Planning Division.

23 CHAIRMAN CORY: And can you -- what's the city's
24 position in this matter?

25 MR. DEE: The city needs to clarify with the State

1 Lands Commission, who would be the lead agency in processing
2 the environmental documentation first of all.

3 Secondly, we also need to know whether or not
4 this particular proposal would be subject to the
5 moratorium. It appears as though it would be according
6 to staff's recommendation on the part of State Lands.

7 Moreover, we have to receive an application from
8 the project proponent to determine whether or not a
9 negative declaration or a supplemental EIR would be
10 appropriate. We have not received an application to date.
11 Therefore, it's premature to determine whether or not a
12 negative declaration would be appropriate.

13 However, the city has obtained from the project
14 proponent a request to review the expansion idea and conducted
15 a preliminary review and come up with what we feel would be
16 an appropriate environmental determination. Based on that
17 sketchy information and that preliminary review process,
18 we feel that a negative declaration may be appropriate.

19 However, part of that process involves early
20 consultation with responsible agencies, including the State
21 Lands Commission. Input that we receive during that
22 process would assist staff in making a final determination.

23 In other words, if we find that there is substantial
24 concern associated with dock expansion, we may just require
25 a supplemental EIR be prepared. That's assuming that we're

1 the lead agency, of course.

2 So, I believe that Mr. Skidmore meant to say that;
3 however, he is not working with the CEQA process on a
4 day-to-day basis like we are. So, I'm taking the liberty
5 of clarifying some of his statements.

6 COMMISSIONER ORDWAY: Is there any reason why
7 the city wouldn't be the lead agency? I'm asking both you
8 and, I guess, the lawyers.

9 MR. DEE: I think the moratorium has clouded that
10 issue. So, we're looking for guidance from the State on
11 that.

12 MR. HIGHT: Typically the local entity is the
13 lead agency. That does not prevent the Lands Commission
14 from being the lead agency. It's typical that the local
15 entity is the lead agency.

16 EXECUTIVE OFFICER DEDRICK: One of the reasons for
17 that is because the impacts are substantial. It impacts
18 traffic, air pollution. Primarily traffic. The local
19 governments usually want to be the lead agency on these
20 projects.

21 COMMISSIONER ORDWAY: One question to staff. I
22 know I was not at the meeting when the moratorium was
23 voted on. Can you tell me exactly when that meeting was?
24 I'm getting conflicting dates.

25 MR. SKIDMORE: Say June 12th, 1984.

1 EXECUTIVE OFFICER DEDRICK: It was. June 12th,
2 1984.

3 COMMISSIONER ORDWAY: So, it will be two years in
4 two months.

5 EXECUTIVE OFFICER DEDRICK: Wait a minute. I
6 don't believe that's -- that's the date your lease was
7 terminated. No, it was in the summer. I think it was
8 August.

9 MS. SMITH: May 31st, 1983?

10 EXECUTIVE OFFICER DEDRICK: No, it was in the
11 summer. I think it was August. Lance Kiley?

12 MR. KILEY: I'm looking.

13 MR. SKIDMORE: June 12th, 1984.

14 EXECUTIVE OFFICER DEDRICK: June 12th, 1984.
15 That's when your lease was terminated.

16 MR. SKIDMORE: That was the same day. It was the
17 same day.

18 EXECUTIVE OFFICER DEDRICK: That's right. That's
19 right. We did terminate the lease, grant their lease, and
20 impose a moratorium that day, and asked us to report back
21 to you with the method of implementation of the moratorium,
22 which we did in July or August of that summer.

23 COMMISSIONER ORDWAY: When's the report going to be
24 done?

25 EXECUTIVE OFFICER DEDRICK: We will be in in the

1 next calendar in May with a preliminary -- with a report
2 on the status of the studies and so forth.

3 The original contract will be completed and
4 fulfilled with our consultant, our contractor consultant
5 at that time.

6 And we'll either -- the staff -- some staff would
7 like to continue the study through the summer to cover the
8 peak period. That's a matter of discretion. I'd like not
9 to try to commit us up front. That's because the report
10 is in preparation now, but will be presented to the
11 Commission in May.

12 COMMISSIONER ORDWAY: So, really, one month from
13 now we'll have enough information to deal with the whole
14 issue of the moratorium in a larger picture then?

15 EXECUTIVE OFFICER DEDRICK: You will have
16 substantially more information. I would not like to
17 commit myself to say you'll have absolutely enough. But
18 I just can't do that right at the moment, Commissioners.
19 I think so, but I can't guarantee it.

20 We did not -- in the process of getting funding
21 for this study, the reason for the delay was the question
22 of funding. The Commission directed us to try to enlist
23 the support and assistance of the local governments and
24 to try to see if the local governments would help
25 contribute to the financial support of the program.

1 We went out, met with the local governments, held
2 a substantial number of meetings with them. They all
3 expressed -- all of the agencies, including the Corps of
4 Engineers -- extremely strong support for the Commission's
5 going forward both with the moratorium and with the study.
6 The local governments agreed that on an informal basis
7 they would not process applications under the moratorium,
8 but they can't say they won't do that under the law. They
9 had to deal with it on a case-by-case basis.

10 This is the only application I know of that has
11 been submitted that's come to our attention, or that is in
12 the process of being submitted that was not discussed with
13 State Lands first.

14 The local governments then, over a period of six or
15 eight months, made it clear that they were not going to
16 contribute money. They came back to the Commission. The
17 Department of Finance then provided money and that became
18 available in the '85 fiscal year.

19 So, the study began at the end of the summer in
20 '85 rather than '84 as we had hoped to be able to do it.
21 We lost the peak season as a result of that.

22 So, the staff request is if you want us to pursue
23 this through the peak season -- we have a lot of data. We
24 do not have current peak season data -- then we will need
25 to go on through August of this year with the study and have

1 an augmentation to the contract in order to do that.

2 So, that's -- that is --

3 CHAIRMAN CORY: That's next month's agenda item.

4 EXECUTIVE OFFICER DEDRICK: That's next month's
5 agenda item. I've just given you a brief rundown on it.

6 COMMISSIONER ORDWAY: I just wanted to get a sense
7 of when you were going to start to come to some closure, or
8 at least start to acquire enough information to be able to
9 make logical decisions as Commissioners on this issue.

10 EXECUTIVE OFFICER DEDRICK: Yes. Commissioners,
11 I think it's clear from the chart which --

12 CHAIRMAN CORY: Let me -- before we get into
13 that, something was said that tends to refresh my memory.
14 The lease for Riverbank Holding was approved at the same time as
15 the moratorium. That sort of jogs my memory to something.

16 As I recall, construction was underway on this
17 marina, wasn't it?

18 MR. SKIDMORE: Absolutely not.

19 EXECUTIVE OFFICER DEDRICK: No.

20 CHAIRMAN CORY: I'm confusing it with the one
21 upriver? Okay. That's what I wanted to double check.
22 Okay. Go ahead.

23 EXECUTIVE OFFICER DEDRICK: I was just going to
24 say that staff is recommending very strongly that you do not
25 exempt this project from the moratorium. We believe it

1 will -- that it will, in fact, will increase the number of
2 boats on the river. We have had, for the period of the 18
3 months that the moratorium has been in effect, several other
4 applications to come in, ask for exemptions to the moratorium.
5 Only two exemptions have been granted. And I will tell you
6 exactly what those were.

7 The first one was very shortly after the moratorium
8 was imposed. We found that an applicant was almost all the
9 way through the process. I came to the Commissioners. I
10 told him that I thought this was something the Commissioners
11 would consider exempt from the moratorium.

12 The Commissioners indicated that was the case. We
13 therefore submitted it to you for an exemption.

14 The other issue was a marina in Freeport, which
15 was on the extreme edge of the study area. The applicant
16 was requesting a reduction in the number of boats in his
17 marina, and the Commission granted that reduction as an
18 exemption from the moratorium.

19 No other exemptions have been granted by the
20 Commission. I think if you look at the pictures as they
21 stand before you, you can see that regardless of the
22 discussion, the number of berths proposed exceeds the
23 number of boats that are in that picture now where boats
24 could tie up.

25 The question as to whether or not it's appropriate--

1 that is to say, Mr. Skidmore's claim that he's entitled to
2 the number of berths that are on the shallow water side of
3 his marina -- I think is without merit. The Corps of
4 Engineers -- the original proposed marina would have
5 extended much further into the river. The Corps of
6 Engineers judged that to be an impedence with navigation.

7 The size of the marina was reduced for that reason.
8 The Commission concurred in that reduction, and gave a
9 lease for the approved area that would not impede navigation.

10 The application was for a large number -- for many
11 more berths than the lease actually granted. The berths --
12 the tie-ups and berths are now in excess of --

13 COMMISSIONER ORDWAY: Excuse me. I really don't
14 need to hear about the project. Okay? The project is not
15 the issue today. The issue today, as I understand it, is
16 whether or not we exempt them from the moratorium in order
17 to consider them for lease.

18 Given that we are one month away from having
19 information, my personal preference would be to put this
20 item over until we have a calendar that will deal with the
21 moratorium, and then we can deal with this. That is my
22 personal choice.

23 I would like to hear from the applicant.

24 MR. SKIDMORE: That is fine with us. We were
25 told, and we have been -- and, Claire, correct me if I'm

1 wrong -- that the peak use study is a very critical part
2 of this thing. It will take through the months of July
3 and August, at which time the report will have to be
4 written. We don't really expect to see any kind of
5 report -- I don't think the staff does really -- until the
6 fall.

7 That does have tremendous financial impact on us.
8 You're going to simply put this item over to the May
9 calendar to review the data that you have to that point in
10 time without that peak use study, we would certainly agree
11 with that. We support that. We've attended meetings that
12 your staff has held on this moratorium and one month will
13 not make that difference to us financially. Five months
14 will. But I don't hear the staff --

15 CHAIRMAN CORY: Even though the intention is to
16 put it over for one month, unless there's some drastic
17 changes in my understanding of the facts -- I'm going to do
18 everything I can to make sure you don't get it. Because I
19 think you're not entitled to it for a whole lot of reasons.
20 I think you've been a bad tenant. I think you have not paid
21 timely.

22 You have trespassed on adjoining land. I have some
23 serious reservations whether you're the kind of tenant the
24 State of California wants to do business with.

25 MR. SKIDMORE: Well, you're certainly entitled to

1 your opinion, Mr. Cory.

2 CHAIRMAN CORY: And, you know, that is my concern.
3 I spent 12 years trying to build up the State Lands
4 Commission where we don't have people coming in taking
5 State property and not paying for it. And I find it
6 disconcerting when somebody enters into a lease and then
7 doesn't pay timely, and when the inquiries seem to imply
8 that the reason they didn't pay it was they had better use
9 for the money. Well, the State could have used that money
10 in a timely manner.

11 MR. SKIDMORE: I will agree with you that the rent
12 was not paid in a timely manner. But I think that's the
13 only issue in terms of the tenancy that were, you know --

14 CHAIRMAN CORY: You trespassed on our property.

15 MR. SKIDMORE: Yes. We're -- 20 feet of your
16 property. I suppose we need to resolve that issue.

17 CHAIRMAN CORY: I think the resolution is removing
18 your facilities from our property is the resolution I'm going
19 to fight for. I want you to clearly understand that.

20 MR. SKIDMORE: That's fine.

21 CHAIRMAN CORY: You want to start dealing with
22 your subtenants, if you have any, as to how you're going to
23 deal with them.

24 MR. SKIDMORE: We came here simply asking the
25 question of the number of boats. We ask that question. If

1 you're going to broaden it, that certainly is one of your
2 prerogatives as Chairman.

3 We simply came in here with 65 boats we're going to
4 take out and we're going to put 65 more boats back in the
5 water --

6 CHAIRMAN CORY: 65 boats you're taking out, part
7 of which are not under lease and nothing exists of them.

8 MR. SKIDMORE: Technically you're correct. The
9 marina's been there since 1940 with -- in excess of 1,000
10 lineal feet of dockage, the Village Marina. So --

11 CHAIRMAN CORY: There haven't been 65 boats there.

12 MR. SKIDMORE: No, but it's continually washed out;
13 there's less than 450 feet of --

14 CHAIRMAN CORY: You're giving us nothing and putting
15 in 66 --

16 MR. SKIDMORE: That's absolutely incorrect. We
17 are giving you 66 boats or thereabouts, depending on how the
18 staff measures the dockage, and we are adding 66. I want to
19 make that very clear. That is what we are doing. That is
20 simply what we are doing.

21 COMMISSIONER ORDWAY: Excuse me, Mr. Chairman.

22 CHAIRMAN CORY: Go ahead.

23 COMMISSIONER ORDWAY: This is all very interesting,
24 but I think it's not quite germane to the point as I see
25 calendar Item 39.

1 CHAIRMAN CORY: I'm willing to put it over and
2 I'm willing to kill the application.

3 COMMISSIONER ORDWAY: I'm comfortable putting it
4 over because I'd like -- like I said, I was not here the
5 day the moratorium was enacted. I would like to see at
6 least what we have for information before I would feel
7 comfortable in making a decision.

8 I also have one other question of the city. Is
9 there anything keeping you from -- should the applicant
10 start the paperwork -- you doing whatever environmental
11 work needs to be done?

12 MR. DEE: If the State feels the city is the
13 appropriate lead agency, then there's nothing preventing
14 us from conducting the environmental process as the lead
15 agency.

16 CHAIRMAN CORY: That's something that takes place
17 in the normal course of events. It doesn't require
18 Commission action.

19 MR. DEE: Just wanted to afford the State an
20 opportunity to participate as the lead agency if they saw
21 fit.

22 COMMISSIONER ORDWAY: Well, we would be the
23 responsible agency in any event. But, typically, the local
24 government is the lead agency. So, if the applicant were
25 to start the necessary paperwork, you could proceed. And we

1 could put this over -- we could put our portion over for a
2 month to see what's going on.

3 MR. DEE: That's correct.

4 COMMISSIONER ORDWAY: And should it ever come to a
5 point of an issuance of a lease, the appropriate documents,
6 what we would have to deal with, would be before us.
7 Because in the absence of environmental documents to deal
8 with, I am not going to vote on any lease. The law is very
9 clear as to what I have to have in front of me before I can
10 vote.

11 But I would move that we put the item over for a
12 month.

13 CHAIRMAN CORY: We have a motion that is before the
14 Commission. The only question I want Mr. Skidmore to
15 clearly understand is that, you know, that is not clear
16 sailing on the substantive issue when it gets before us. And
17 I do not want him to spend any more money on something that
18 may not come to pass.

19 MR. SKIDMORE: That's understood.

20 CHAIRMAN CORY: Do that in fairness to you. And
21 I think one of the things you need to start spending money
22 on is the cost of removing what you have under trespass
23 circumstances.

24 Without objection, we'll put the item over. Is
25 there any other items to come before --

1 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, before
2 you leave this item, there's one thing I would like to
3 clarify. And that is that the Commission has not at this
4 point made the decision one way or the other as to whether
5 or not to go forward --

6 COMMISSIONER ORDWAY: My motion is to simply put
7 Item 39 intact without prejudice over.

8 CHAIRMAN CORY: That's the only thing --

9 EXECUTIVE OFFICER DEDRICK: I understand that.
10 I wanted to be sure that Mr. Skidmore didn't think that it
11 also meant --

12 COMMISSIONER ORDWAY: Let's make sure the record is
13 very clear on that. It's simply that Item 39 will appear in
14 May. Thank you very much.

15 CHAIRMAN CORY: The only item that we've approved.
16 Is there any other item to come before the Commission?

17 EXECUTIVE OFFICER DEDRICK: No, Mr. Chairman.

18 CHAIRMAN CORY: Without objection, we stand
19 adjourned.

20 (Thereupon the hearing was adjourned.)

21 --oOo--
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