MEETING OF THE STATE LANDS COMMISSION

2 P.M.

MARCH 11, 1957

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ROOM 5100

STATE CAPITOL BUILDING

SACRAMENTO, CALIFORNIA

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COMMISSION MEMBERS PRESENT:

JOHN M. PEIRCE, Chairman

HAROLD J. POWERS, Member

ROBERT C. KIRKWOOD, Member

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STAFF MEMBERS, STATE LANDS DIVISION, PRESENT:

F. J. HORTIG, Assistant Executive Officer

RUFUS W. PUTNAM, Executive Officer

KENNETH C. SMITH, SUPERVISING LAND TITLE ABSTRACTOR

JULIA T. STAHL, SECRETARY

F. W. PORTER

E. WERNER

ROBERT La VELL

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PAUL JOSEPH, DEPUTY ATTORNEY GENERAL

J. SHABESON, DEPUTY ATTORNEY GENERAL

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David N. Dale, Reporter

CHAIRMAN PEIRCE: All right, folks. Let the meeting come to order. Now the first order of business is the confirmation of the minutes of the meeting that took place on January 28th and February 7th. Copies have been mailed to members of the Commission. Any corrections; any questions?

MR. PUTNAM: We have no corrections.

CHAIRMAN PEIRCE: Mr. Kirkwood, okeh?

MR. KIRKWOOD: Okeh.

CHAIRMAN PEIRCE: The minutes will stand as approved and written.

Colonel Putnam?

MR. PUTNAM:: We'll start right in with Item No. 1, sir.

CHAIRMAN PEIRCE: All right. Item No. 1 on the agenda. Page 1.

MR. HORTIG: On January 10th the Commission deferred action on the specification of a surety bond to be maintained under Oil and Gas Lease P.R.C. 1466 in the Rincon Oil Field as held by Richfield Oil Corporation. The specific lease provides that a surety bond may be required not to exceed 50% of the cost of the filled lands and auxiliary structures to guarantee the faithful performance by the Lessee of the placement and maintenace of the filled lands and the removal thereof at the request of the State upon termination of this lease.

Cost estimates under a construction contract which has been awarded for the erection of a drillsite island under the subject lease at an estimated cost of $2,680,000, current estimates of the cost of removal of the offshore island, and estimates of the cost of island maintenance and ultimate removal of surface equipment and of the island have been reviewed by the staff. In conformance with the policy of the Commission for specification of lease performance bonds in a reasonable amount to assure future compliance with all lease terms and conditions, it appears from the aforesaid review that a performance bond in the amount of

of $500,000 should be required.

It is the recommendation that the Commission authorize the Executive Officer to inform the lessee Richfield Oil Corporation that a bond in the amount of $500,000 shall be filed and maintained to guarantee the faithful performance by the lessee of the specific lease requirements under Oil and Gas Lease P.R.C. 1466.

A representative of Richfield Oil Corporation is here today if the Commission has any questions to ask him.

(Harold J. Powers, member, arrived at this point)

CHAIRMAN PEIRCE: Do I recall that at one time we contemplated requiring a larger bond than this?

MR. HORTIG: $1,250,000 was the original staff recommendation.

CHAIRMAN PEIRCE: Now you believe that $500,000 will protect the State adequately?

MR. HORTIG: Adequate and in conformance with Commission policy as it has been conducted in all other leases. This is in excess of the amount that the lessee proposed should be filed.

Mr. Cook of the Richfield Company is here and perhaps would like to make some comment.

CHAIRMAN PEIRCE: Has the lessee contested this?

MR. COOK(Richfield Oil Corporation): We still feel this bond is in an amount that is more than is necessary. However we will agree to the recommendation of the Staff.

CHAIRMAN PEIRCE: All right. Is there any further discussion? The recommendation of the Staff is before us.

MR. KIRKWOOD: Move its approval.

MR. POWERS: Second it.

CHAIRMAN PEIRCE: It's been moved and seconded that the recommendation be approved and so be the order.

Next Item?

MR. PUTNAM: Mr. Chairman, we have quite a few appearances and I would like to take them up out of order here if we can?

CHAIRMAN PEIRCE: All right. What is next in order?

MR. PUTNAM: Pages 46 to 47.

CHAIRMAN PEIRCE: All right.

MR. HORTIG: An application has been received from Mr. Harry J. Stevens of Cayucos, California, for a permit to prospect for all minerals other than oil and gas in Lots 1, 7, and 15 in the North one half of Section 33, Township 29 South, Range 12 East, in San Luis Obispo County, containing approximately 65 acres.

Field reconnaissance and record review by the staff have shown that the area for which application has been made cannot be classified at this time as known to contain commercially valuable deposits of minerals. The subject [illegible] was acquired by the State, has been administered by the office [illegible] the Adjutant General, and the surface is included in a lease to the United States Army as part of Camp San Luis Obispo. The office of the Adjutant General reported nonobjection to the issuance of a prospecting permit for the subject area, subject to compliance with two conditions to be approved by the installation commander, and written approval with these conditions has been received from the Commanding Officer of the Camp San Luis Obispo.

Therefore it is recommended that the Commission find that Lots 1, 7, and 15 in the North half of Section 33, Township 29 south, Range 12 east, San Luis Obispo County, are not known to contain commercially valuable deposits of minerals and authorize the Executive Officer to execute and issue a two-year prospecting permit to Mr. Harry J. Stevens in accordance with the Public Resources Code for the subject lands with the royalty payable any preferential lease upon discovery of commerically valuable deposits of minerals to be in accordance with the established schedule established by the Commission heretofore for minerals other than oil and gas.

Mr. Peirce who is a mine operator on an adjoing p_iece of private

1 property adjoining the State lands is here today to protest the
2 issuance of this permit.
3 CHAIRMAN PEIRCE: : Did you say Peirce?
4 MR. HORTIG: Peirce; yes, sir.
5 CHAIRMAN PEIRCE: Where are you, Mr. Peirce?
6 MR. PEIRCE: Here, sir.
7 CHAIRMAN PEIRCE: All right. You have the same name as I
8 and I want to make it clear that you and I are not related.
9 All right. Now you would like to protest this recommendation with
10 respect to this lease being given to this man and so will you tell
11 us why you are against it?
12 MR. PEIRCE: There was a State Engineer came up to look at
13 the property, that, approximately two weeks ago, I guess, and it
14 was raining so hard he didn't get a chance to really look the thing
15 over. It was, everything was a sea of mud up there and it was
16 a hard, stormy rain and there's things that we haven't brought up,
17 didn't get a chance really to bring up such as the operation on
18 Lot 7 couldn't be carried on economically in our estimation because
19 there's too much dirt to move as well as too far to move it and it
20 would block a road that's been there for years and years and this
21 road is an access road to the Trinidad mine which we have leased.
22 And the only economical way in our estimation that could be
23 mined would be to carry dirt out through the present pit which
24 adjoins this Lot 7 and there's ore showing in the base of the pit.
25 The pit slope is cut on a three-quarter to one slope; three
26 quarters out as you drop one, and there's ore showing, a large
27 volume of ore showing right in the face of our pit and this ore
28 has been running there for approximately between 6- and 700 feet.
29 It's been a continuous body of ore with little breaks in it but
30 the pit is there to show where it has been mined and I wish to
31 contend this engineer who was there, Mr. Blossy, didn't have a
32 chance to really see the situation and I would like to have it,

1 this postponed until a further date until the State could send
2 another engineer if they wished to to examine the property under
3 better conditions.
4 CHAIRMAN PEIRCE: Mr. Hortig?
5 MR. HORTIG: Yes, sir. The examination referred to by
6 Mr. Peirce is actually the second one made by our office in con-
7 nection with this property. This application for permit has been
8 pending for approximately two years, with the delays which are no
9 fault of the applicant. The Camp Commandant of Camp San Luis
10 Obispo and the State Watter Pollution Board were concerned whether
11 additional mining operations in the area might be detrimental to
12 the Chorro River water shed which is the water supply source for
13 Camp San Luis Obispo.
14 These problems were finally resolved by those other agencies
15 where we again had no control but to await their findings. And
16 it was determined by these agencies that additional operations
17 on this area for which Mr. Stevens has made application would not
18 be detrimental to the water shed; therefore no objections.
19 So we are faced with the problem that under the law if the
20 lands are not known to contain commercially valuable deposits of
21 minerals, that particular land, then the prospecting permit may be
22 issued. The ore discoveries on the adjoining land to which
23 Mr. Peirce has referred were not known to exist at the time of the
24 application by Mr. Stevens. These ore discoveries on the adjoining
25 land have been made during the interim period while all these other
26 delays were ensuing and the other activities relative to the
27 water pollution and so forth were under consideration.
28 Additionally I believe from conferences we have had in our
29 office with Mr. Peirce I believe Mr. Peirce agreed that surface
30 inspection of the State lands shows nothing and knowing only of
31 a surface inspection of the State lands it could not be contended
32 that the State lands contained commercially valuable deposits of

minerals. Mr. Peirce's opinion with respect to this mineral content on the State lands is based on his estimate of what there may be under the State lands by reason of his having developed similar ore on the adjoing lands, but as to which are privately owned.

But as to the State lands there has been no prospecting, no developement and there's no surface evidence on the State lands from which it can be independently contended that those lands are at this time known to contain commercially valuable mineral deposits. The Commission will recall we had a similar situation with respect to uranium deposits in Imperial County and the Court since held that the Commission was to be guided by the criteria which were in existence for the specific State lands, and on that basis the Staff has recommended that in this case the permit be issued.

CHAIRMAN PEIRCE: Now Mr. Peirce stated if I understood him correctly that the granting of this permit might interfere with a road which connects the main highway with his property; is that correct?

MR. PEIRCE: That's correct.

CHAIRMAN PEIRCE: What about that, Mr. Hortig?

MR. HORTIG: This, of course, would depend on the actual nature of the operation. It is possible, for example, since we are in the realm of theory, under the worst circumstances it could happen that ore permittee, if we have one, would proceed with core drilling the State lands and discover that there are actually no commercially valuable deposits of minerals in the land in which event there would never be any large scale earth removal.

If there were, such as might hamper road operations, I think very reasonably alternative road provisions would have to be provided if it has been a normal access road, and certainly this would be required by the camp commandant of Camp San Luis Obispo who up to now has not indicated any concern over the road situation because we have not actually been in to an operation which might involve

the roads. In that connection the camp commandant has still retained some measure of surface jurisdiction on the operation in that there is a specific requirement relative to other operations being conducted by our applicant, Mr. Stevens, on private land, that if the mining operations should become profitable and such an operation would require the installation of a mill that the permission for installing a mill and other road and other additional facilities will have to be the matter of separate approval of the camp commandant at the time that an actual physical condition is known to exist.

MR. KIRKWOOD: Is this a road on State land that is presently being used?

MR. PEIRCE: Yes, it is.

MR. HORTIG: Well, partially. It wanders through the camp area and out of the total camp area we only have 64 acres of land. There are three groups of land.

MR. KIRKWOOD: Is there a right to use that road? If we put something in the permit that would require the road to be kept open would that be admitting a right that otherwise isn't established?

MR. HORTIG: That could be.

MR. PEIRCE: This road is an old road. The mine was patented in 1882 and this road is mentioned in the field notes which makes it a road that has been there, and the hill is situated so that there could not be another road made without a very steep grade to get to that mine and out, you know, to and on our way out.

CHAIRMAN PEIRCE: Do you wish to be heard in connection with this?

MR. STEVENS:(Harry J. Stevens) Yes.

CHAIRMAN PEIRCE: You are the applicant?

MR. STEVENS: Yes. And the road dead-ends about another two or three hundred feet from this lot 7 he's referring to, and I certainly wouldn't try to do anything that wasn't in compliance

or good relations in as far as the mining operation.

CHAIRMAN PEIRCE: You do not contemplate changing the route of the road or surface?

MR. STEVENS: Not at all to cause any hardships or anything of that nature.

CHAIRMAN PEIRCE: Are you satisfied with that promise, Mr. Peirce?

MR. PEIRCE: Our contention is that in a mining operation, a stripping operation, there wouldn't be sufficient room to dump the dirt below the road. Therefore, any large scale operation would have to cover this road because this lot 7 is a rectangular piece of ground.

MR. STEVENS: Who knows whether we need any dirt room?

MR. PEIRCE: I don't know if anybody does or not.

. . . in so far as the known minerals, I contend that where there's chrome ore been followed for approximately six hundred feet, a body of ore with various little breaks in it, that, and it's just as large in the face of our cut now as it ever was, and where you can see the top of the ore in the face of the cut is approximately forty feet from the State line and there's ore also in a vertical of fifty feet which would make it, will make it impossible to just take the dirt out any other way besides this pit to get that lower out. If there was a mining operation carried on there the State wouldn't get the benefit of the full amount of ore in that area.

MR. STEVENS: What about yourself? If we would have to work out an agreement between us.

MR. PEIRCE: There will be no agreement, sir. Anything based on where it has to be worked on, an agreement with someone else I don't thin, well, I just don't think it's an operation in its own.

CHAIRMAN PEIRCE: Well, now, Senator Earhart, this is in your

county. Have you any knowledge with respect to this situation that might be helpful to us?

SENATOR EARHART: No, I only have the information the Staff has given to me and I have been interested in the case because it has hung fire nearly two years. I know we have had difficulty with the Army and Guard and those things have been overcome, and I think things should come to a head. This man has an application in and he's trying to pperate a project. He will explore it and two years from now we'll know whether there is ore or not and if he then applies for, when this permit expires at the end of two years we'll know where we stand. I am interested that this thing be brought to a head, whether it be Mr. Peirce or Mr. Stevens.

Of course Mr. Stevens was the first applicant. Therefore, he has a preference.

CHAIRMAN PEIRCE: You don't think the granting of this permit would be contrary to the public interest in San Luis County?

SENATOR EARHEART: No; no; no.

CHAIRMAN PEIRCE: Now, gentlemen, we of the Commission have to rely on the advice of our technical staff and their recommendation to us is that this permit be granted. It's good for two years and without seeing the ground or knowing any of the details I would assum that Mr. Stevens will carry on his prospecting operations there without comitting any nuisances and I infer from what he said that the road which passes through the property would not be closed nor would you be deprived of use of that road.

I don't know of any other reason why we should deny this permit. Your statement with respect to the fact that the engineering, that the report may not have been adequate, I now hear that there were two such visitations, Mr. Hortig?

MR. HORTIG: Yes, sir. On behalf of the State Lands Division there have been other engineering appraisals by independent

1 appraisers and some also retained by Mr. Stevens and it is clear
2 that we have ore on Mr. Peirce's property, but we do not know
3 independently that we have the ore on the State land from explora-
4 tion of the State lands. There is a definite probability and
5 possibility as Mr. Peirce has outlined that it's there. It could
6 also stop right at his line. It has happened before. This is
7 why a prospecting permit should be issued.
8 CHAIRMAN PEIRCE: Yes. Now, Mr. Peirce, have you anything
9 else to say?
10 MR. PEIRCE: I should think that it should be of interest
11 to the State whether an operation can be carried on successfully
12 or not, if there's room to carry this operation on, and I don't
13 think that there's been any engineer look at it with that in view.
14 MR. HORTIG: We have looked at it, Mr. Peirce. The problem
15 before the Commission is that it has an application on lands that
16 qualify for issuance of a prospecting permit from a qualified
17 applicant and has had only one application and that one of
18 Mr. Stevens. You are, of course, the operator on private lands
19 alongside. If we had all of the area under State jurisdiction we
20 would certainly probably recommend a different type of engineering
21 program or approach for developement of the State lands if we
22 could do it concurrently with your property, for example, but
23 this we do not have. We have simply the 64 acres under our juris-
24 diction to be developed, the best way possible under the existing
25 State law for issuance of a prospecting permit.
26 MR. PEIRCE: What we would like to see and I think it would
27 be to the interest of the people and State and all would be have a
28 mineral extraction lease and go to the highest bidder such as the
29 State would receive more money out of the thing and so far as
30 guarantee of ore why we would be willing to put up a bond that if
31 we should happen to be the highest bidder that there would be a
32 given tonnage there.

CHAIRMAN PEIRCE: Are you interested in the same property? Would you bid if it were put up for bidding?

MR. PEIRCE: Yes, I would.

MR. KIRKWOOD: Actually do we have any discretion in this matter?

MR. PUTNAM: Not if there's no demonstration made as a result of an engineering examination that there are commercially valuable deposits on this land. It must go to prospecting. If there is a further demonstration then we can as Mr. Peirce has asked put this up for competitive bidding. We got nothing to offer yet.

MR. PEIRCE: Well, you wouldn't have to worry about the bidding.

CHAIRMAN PEIRCE: Well, gentlemen, what is your pleasure? Yes, Mr. Stevens?

MR. STEVENS: I have had this application in for long before Mr. Peirce was out there mining the mine that he so speaks of was, has laid there for about ten years, that hardly anything was taken out of it and he leased the adjoining property about a year and a hald ago; something like that. He's been mining this pit about little over a year, that he speaks of and the mine --

MR. PEIRCE: That is a known deposit of ore. It was mined back in the 1880's so it's nothing new that just came up. It was a patented claim in 1882.

CHAIRMAN PEIRCE: What happens if the prospect turns up some valuable minerals?

MR. HORTIG: Then the permittee is entitled to a preferential lease.

MR. KIRKWOOD: On which he does not have to bid?

MR. HORTIG: That is correct, at the royalty rates as specified in the permit as set out in the recommendation which are identical with all our ore chrome permits and chrome leases that the Commission has leased.

CHAIRMAN PEIRCE: When does competition enter, then?

MR. HORTIG: Only in two circumstances. One, if the lands at the time of an application are known to contain comercially valuable deposits of minerals in which event they are offered for competitive public bidding or in the event of a prospecting permit containing more than 160 acres. Then in case of discovery the permittee may retain any 160 acres of the area and if the balance has been demonstrated to be commercially vaulable that balance is then offered for competitive public bidding.

CHAIRMAN PEIRCE: That is the law?

MR. HORTIG: Yes, sir.

MR. KIRKWOOD: You mentioned a case earlier in which there had been a finding and ore discovery on adjoining property didn't necessarily prove up, or a similar case to this, or what was that?

MR. HORTIG: Yes, Robbins vs. the State where a mining claimant contended that the lands commission had improperly classified a piece of State lands as being valuable for prospecting permit in that that mining claimant had actually removed ore from the State land and sold it in an attempt to establish its commercially valuable deposits even though they in this instance tried to do it on the surface, not simply next door, but actually on the State lands. The Court held that the State's classification was dependent upon the State's examination of the lands at the time of the application and that there was no basis for demonstrating that the State lands themselves contained, were known to contain commercially valuable deposits of minerals and therefore a prospecting permit was properly issued.

CHAIRMAN PEIRCE: Any further discussion?

MR. PEIRCE: I would like to, if we could get a stay, a grant of time, amonth before this was closed, for to give us a chance to get actual figures and engineers, you know, to go over the property.

CHAIRMAN PEIRCE: Well, this thing has lagged now, or been before us for what, two years?

MR. HORTIG: Two years.

MR. PEIRCE: Well, two years. And one month more would not be much.

CHAIRMAN PEIRCE: Well, the only thing is that it can't go on indefinitely. Again I want to say we have had two engineering examinations of the property according to Mr. Hortig, and I am reluctant to suggest that there be any further delay. Senator Earhart has pointed out that we have had this in the hopper for two years and he urges us to act without further delay.

MR. HORTIG: Three years; may I make that one correction.

CHAIRMAN PEIRCE: All right; three years.

MR. KIRKWOOD: As to the law. I am curious. Do you know, have you checked on that case?

MR. SHABESON: No, sir, we weren't consulted in this matter. I do know there are some decisions by the Department of Interior that indicate a rather broad interpretation of the phrase, "Known mineral land". Now I think, I wouldn't want to say anything until I have had a chance to do some book work on this particular problem, but they have interpreted the phrase fairly broadly.

MR. PEIRCE: It would be my contention that the ore showing in this pit face right adjoining would indicate, or in some way show that there is ore on this State land. Now ourselves, we have drilled right next to the State land. I can't bring that as evidence because you can't go there and see it but I know it's there, but no one else besides our driller knows it's there. We drilled right up to the line and along the line before we made our present cut and we know the ore is there. But to bring it out visually no one else knows because they haven't seen it besides our driller and two of my brothers.

CHAIRMAN PEIRCE: Well, gentlemen, what do you think?

MR. KIRKWOOD: "Known to contain," is a finding at the time of the filing?

MR. HORTIG: At the time of issuance of the permit, actually.

MR. KIRKWOOD: We are making a finding as of tdday?

MR. HORTIG: "No permit shall be issued for any lands which have been classified by the commission prior to such application as containing commercially valuable mineral deposits. Upon receipt of an application for a permit, the commission shall determine whether the lands described therein are known mineral lands. If it determines that the lands are known mineral lands, it shall thereupon so classify them and shall reject the application for a prospecting permit."

And then, "The commission shall issue a prospecting permit under such rules and regulations as it may prescribe for lands which are not known mineral lands to any qualified applicant upon the payment of the prescribed fee."

CHAIRMAN PEIRCE: You want to vote now, or postpone it? What do you think, Butch?

MR. POWERS: Well, that depends on whether there's known mineral on this land.

MR. PEIRCE: Well, it's not visually -- you can't see it. We know it's there but we can't show it to anyone unless they would grant us permission to drill a hole right on the line.

MR. POWERS: I am reluctant to go against the Staff's findings.

MR. HORTIG: Well, Governor, it reduces to this. What Mr. Peirce says is undoubtedly a good gamble but it will not be known until it is either actually excavated or drilled into.

MR. KIRKWOOD: When do you ever classify as known?

MR. HORTIG: We have had at least two circumstances where because of trespass other people have uncovered ore bodies on state lands.

MR. KIRKWOOD: Is a finding ever made short of a trespass then?

MR. HORTIG: Short of an exposure, no, sir.

MR. POWERS: Does our Staff have the facilities to go in there and determine if there is ore or not?

MR. HORTIG: Yes, sir, such an examination was made and as a matter of fact such an examination of the State land was actually made by Mr. Peirce on the surface and from his own examination on the surface of the State land he cannot state that the State lands are known to contain commercially valuable deposits of minerals, but from the probability of the developement on the adjoining land, his own land, he feels that it is probably a better than average gamble.

MR. PEIRCE: This ore body is a hundred feet wide, approximately a hundred feet wide and quartering into the State land and it's right up to the line. We found where our drill holes is right to the line and a hundred feet ore body don't just break off. It's possible, yes, but I have had a lot of experience in mining chrome and anyone else that has mined it will tell you that.

MR. POWERS: The Senator seems to think that it should be settled and he probably is right. Three years is a long time to carry it on.

MR. HORTIG: As a matter of equity I think I should point out to the Commission the fact that for the first year and a half of the pendency of this application by Mr. Stevens in which the delays as I stated were through no fault of his own nothing was known of the minerals on the adjoining property which Mr. Peirce now reports. In other words, these developments came starting a year and a half after the application, but for the conflict andthe other administrative problems in the normal processing this prospecting permit would have come and gone by now and probably come and gone before Mr. Peirce's operations actually started next door. This is what makes the thing additionally complex because now it may not be basic law. There seems to be equity, some matter of

1 equity consideration in Mr. Stevens' application also.

2 MR. PEIRCE: Wasn't there, though, this ground was not

3 open for prospecting permit or mineral lease or anything else

4 until just recently. Wasn't it until the Adjutant General opened

5 it here a couple of weeks ago?

6 MR. HORTIG: No, sir, it has been eligible for application for

7 prospecting permit as long as it has been owned by the State of

8 California. The State Lands Division has never received an

9 application for a prospecting permit on these lands from anyone

10 other than Mr. Stevens.

11 CHAIRMAN PEIRCE: What's your pleasure, gentlemen?

12 MR. POWERS: I am reluctant to delay it any longer. I think

13 we might as well get started on it.

14 MR. KIRKWOOD: I would say that if the finding is as of the

15 date of the application or if by reason of the equities involved

16 that is the time we should make the finding, I don't think there

17 is any question from the evidence before us that as to the

18 classification. That is the basis. Now I don't know whether I --

19 I would be a little inclined to make that subject to a check with

20 the Attorney General's office or a clearance that that's the

21 finding we make.

22 MR. HORTIG: I believe if the Staff recommendation was predi-

23 cated even on making the finding as of conditions today that we

24 cannot state independently that the State lands are known mineral

25 lands.

26 MR. SHABESON: I might say if the classification, first of all

27 the Act refers to the lands being known mineral lands at the time

28 of the application, indicating that that is the test date, but if

29 the test were being made today I believe that under the practice of

30 the Department of Interior these could be classified as known

31 mineral lands even though they haven't been specifically explored.

32 Now I haven't done any particular research on this problem but in

1 connection with other matters I have, and I just want to say that
2 that's my recollection of the law in this area for what it's worth.
3 MR. HORTIG: I hasten to point out to the Commission, cer-
4 tainly not in debate on the legal issues involved, but the Depart-
5 ment of Interior practices under the Federal Mineral Leasing Act,
6 and they are distinct from the practices that have been carried on
7 under State law because the self same minerals are not classified
8 equally as minerals and known minerals under Federal and State
9 law. Consequently there are numerous distinctions and lack of
10 applicability of Federal practice to State practice.
11 MR SHABESON: That's quite possible.
12 MR. KIRKWOOD: Your advice is regardless of the time of
13 classification, whether it's today or time of application, that
14 you could not classify this land as known; is that right?
15 MR. HORTIG: Independently from any review which can be made
16 in the field today restricted to the State land.
17 MR. KIRKWOOD: What if there was a bluff there and it was
18 exposed?
19 MR. HORTIG: And you could see into the State land proper?
20 This, of course, would be a different picture than we have. We
21 can only see into Mr. Peirces land. We cannot see into the State
22 land and Mr. Peirce himself will agree that from standing on the
23 State land and looking at the State land alone if he didn't know
24 about his land he would know nothing of the mineral value of the
25 State land. Is that not correct?
26 MR. PEIRCE: That's correct, but it's like this, as this
27 gentleman says, it is just as a bluff now, this pit that we have in
28 there. It's just as though you were standing down a bluff looking
29 horizontally at the State line you can see this ore there and
30 it's,although it's not actually on State land, all indications in
31 the world are, and any mining engineer I think you will find will
32 agree that that is carried on there. I don't know whether any of

them will or not.

MR. KIRKWOOD: You would not reclassify by reason of any delay beyond today?

MR. HORTIG: No, sir.

MR. KIRKWOOD: Okeh, Butch, I will second the motion.

CHAIRMAN PEIRCE: The motion has been made and seconded that the recommendation of the Staff with regard to granting this mineral exploration lease to Mr. Harry J. Stevens will be approved and so is the order.

MR. PUTNAM: Page 48, ti ..., gentlemen.

MR. HORTIG: Mr. Peirce, I believe you stated mineral exploration lease. Could we have that modified to mineral prospecting permit?

CHAIRMAN PEIRCE: All right. It will be corrected.

MR. PUTNAM: Page 48. Ken Smith, will you take over on this one?

MR. SMITH: The application of Mr. Ernest M. McKee to purchase 440 acres of land in Lake County was referred to the State Lands Commission for consideration at its meeting held in Sacramento on February 7, 1957. The Commission deferred further action on the same pending discussion with the Attorney General's office as to appropriate action to be recommended at the next Commission meeting. Said recommendation was to be made at the next meeting of the Commission that was not earlier than 30 days beyond the date of the current meeting. The time in which Mr. McKee could make payment of the additional application deposit was to be extended concurrently. During that meeting, it was agreed that the attorneys for Mr. McKee would furnish a brief within 20 days. The brief was received by the Attorney General's office who was likewise to submit an answering brief. That has been accomplished, and the recommendation is that the applicant be granted an additional 10 days from March 11, 1957, within which to submit the

required amount of $97,900.00 to meet the appraised value of the land and in the event Mr. McKee does not make this deposit within the time specified, the Executive Officer is authorized to cancel Mr. McKee's application and to return the land to the vacant state school land list to be available for new applications and for acquisition under the public bidding procedure.

MR. PUTNAM: Mr. McKee is here, sir, and also his lawyer.

CHAIRMAN PEIRCE: Mr. Tocher?

MR. TOCHER: (G. N. Tocher) Yes. Mr. Chairman, evidently we didn't convince the Attorney General's office of our position. Actually we had three purposes of being here today. I would like to state them very briefly.

One, we didn't want to be in a position of abandoning. We want to pursue all of our remedies with the commission and didn't want to be in the position of abandoning our position before it goes into a superior court.

The next, as Mr. Joseph stated last time, it will have to be probably determined with court action. Now we would like -- as we understand the problem the file is a public record and we know there is an indemnity script certificate in the file and also Mr. McKee's original application. I can see no objection why we should not be entitled to certified copies of those documents and if we are going to have to go through court procedure on this I believe we should be entitled to those.

CHAIRMAN PEIRCE: Colonel Putnam?

MR. PUTNAM: I think that would be up to the Attorney General's office to advise us whether or not those should be supplied.

MR. JOSEPH: Well, if you are asking me, I think there's a a part of the file and I think there's no question it was in the file and it won't do any harm unless there's something confidential about the file. It's a fact that something is in there that they call a script certificate and if they want to convince the court

that it is I suppose a true copy of whatever is there will have to be furnished to them.

MR. PUTNAM: No objection to it at all then, Paul?

MR. JOSEPH: No. It's never been delivered to the applicant but that fact has nothing to do with what the certificate is.

MR. TOCHER: We merely wanted certified copies. We would not want the original document, of course.

MR. PUTNAM: Well, I think then, with what Mr. Joseph has just said if you will furnish us a formal request of just what you want I am pretty sure we'll be glad to go just as far as the Attorney General will let us go.

MR. JOSEPH: It's a fact and nothing to be concealed in any way.

MR. TOCHER: The last point I would like to bring up is we filed a brief and an answer was filed by the Attorney General's office. I would like to make it clear that we heartifly disagree with most of the contents of that answer. We mentioned the law involved and stated on Mr. McKee's application. We cited the Code sections and that's our brief. And as far as the law goes and we are informed that those code sections had absolutely no application in this particular circumstance. For instance, the went ahead and cited their own law that this timber land was a provision in the code that the timer land should be sold for cash only. The State has the right to sell for cash only. Well, for instance, I am just citing one example, Mr. McKee did not buy this land from the State of California. He bought it with script from the Federal Government. They had a chance to look at the land and make their own appraisals. In fact they did turn down the application and Mr. McKee appealed it from the Federal government. For instance, they mentioned a document that we in our file, that we say is script. They say it's merely an inner-office memo. Now these are all going to be questions of fact that I believe will

have to be determined in court.

The main reason that I believe it is bothering the Attorney General's office and the Staff which is pointed out in their conclusion is that there's $100,000 worth of land here that's trying to be purchased for Mr. McKee for a considerable value less. Now at the time which was many years ago that this application was submitted that was not an unreasonable price for the land. All I am saying is that the answer to our brief I don't believe covered many of our points.

Now the reason I am pointing this out, I would like to make a suggestion that under Public Resources Code section 7921 the Commission, if it doesn't want to make a decision on it, can refer it to the court where the land is situated which would be Lake County so rather than have it brought in with a writ of mandate on a court battle the decision as to whether or not this script was issued and is full purchase price for the land, that could be determined by the superior court in Lake County. The Commission does have power to refer it to the superior court.

CHAIRMAN PEIRCE: Will it not automatically go before the superior court if you take the action that I infer you plan on taking?

MR. TOCHER: Yes, Mr. Chairman, it will go before the superior court. This is just a method which will alleviate a lot of cost to both sides and will be a much quicker method. By being referred to the superior court by the Commission the court will merely determine the question of laws and fact as we have presented them and as I believe under the code section and from the cases it will be binding.

CHAIRMAN PEIRCE: May I ask Mr. Joseph if the State Lands Commission adopts the recommendation at the foot of page 48 that's recommended by the Staff, will that preclude Mr. McKee taking this matter to the Superior Court of Lake County?

1 MR. JOSEPH: Not as I understand it. I don't know what the
2 procedure under this code section is but apparently it's some
3 referring a legal question to the court, but as I understand it
4 this Commission turns down the application, or rather if it
5 extends the time for payment and there's no pay ment made there
6 will be an opportunity for Court review of some kind.
7 MR. KIRKWOOD: Your recommendation would be that we adopt
8 the printed recommendation?
9 MR. JOSEPH: Yes. I think on the law, there's law providing
10 for the sale of this land for cash, in my opinion. On the facts,
11 as I see it, while there may be some question that there was a
12 fraudulent application made. However, leaving that aside I
13 believe that the application was made on a deposit of $5 and the
14 balance of the purchase price was going to be determined by an
15 appraisal of the land after the UNited States patented the land
16 to the State, and now because there's a document in the file that
17 says script certificate, there's an attempt being made to obtain
18 the land for a $5 deposit, and this $5 was never anything but a
19 deposit as far as I can see from a review of the file, and in my
20 opinion this recommendation is very equitable giving them an
21 extension of time to pay the price agreed upon.
22 CHAIRMAN PEIRCE: After the ten days Mr. McKee still has
23 access to the superior court?
24 MR. TOCHER: The only point I was trying to make, we realize
25 it probably will be in superior court. This was just an alterna-
26 tive method rather than us bringing a writ of mandate and having
27 a law suit arise out of it. It would be merely a proceeding in
28 the superior court without a sut being filed. It's merely
29 referred and the court in Lake County would make its decision.
30 MR. PUTNAM: Mr. Chairman, wouldn't that be a matter for the
31 Attorney General and the attorneys for Mr. McKee to decide after
32 ten days have elapsed. It's a matter of procedure. I couldn't

1 recommend to the Commission the form of procedure to take. I
2 think that's a matter for the Attorney General.
3 MR. JOSEPH: Mr. Peirce, in answer to your question I cannot
4 say that the applicant's position will be as good in a court after
5 the lapse of ten days as it will be before that time. I can't
6 say that. But if there's going to be a court proceeding they can
7 have it within the ten day time if that's the thing that they should
8 do. If not they can wait until after the ten day time. But I
9 certainly think this was a sale for cash and there's a balance of
10 $97,900 due and unless they pay that the application should
11 lapse or some such thing should be done with it because they simply
12 haven't paid the appraised value of the land.
13 MR. KIRKWOOD: You don't wish to proceed under the alterna-
14 tive suggestion? You want us to proceed under this one?
15 MR. JOSEPH: Frankly I am not acquainted with the alternative
16 procedure that's been mentioned. But I see no reason for doing
17 it. It seems clear to me as a routine matter merely the balance of
18 the purchase priced hasn't been paid.
19 CHAIRMAN PEIRCE: Any further discussion?
20 MR. TOCHER: Well, I believe if the Attorney General is not
21 acquainted with that provision then we do have ten days and we will
22 just take the standard method of filing suit in the superior court.
23 MR. KIRKWOOD: Move the approval of the recommendation.
24 MR. POWERS: Okeh.
25 MR. McKEE: I have been working on this five years now and
26 I have been to a lot of expense. I have been before your Commis-
27 sion and the Attorney General has not made any direct answer to
28 the code that existed on my application, has not made any direct
29 denial that there was script issued and I have the word and
30 evidence of Mr. Ireland that I was getting script on a deposit that
31 would be settled upon the approval of the Interior Department.
32 That was done last June and there is some nine months elapsed

since and you gentlemen have heard the code, seen the script , seen the application, and of course I have nothing to say to influence your decision. But apparently it's up to you to decide on the validity of this application and distribution of this land. I have spent five and a half years on it now. All I want is fair action. And of course my position is that I bought an paid for the land. I was so advised before and after in the State Lands office. I have proceeded accordingly. I tried to get along with your Staff. Offered compromises and offered everything possible. Even went so far as to pay extra fees to have them investigate all the angles, of the application which they had a right to see whether it was agricultural land or not which I think they decided it wasn't.

It was the only matter of controversy whether it was agricultural or wasn't agricultural in my application so all I can say is make your decision, and if your decision is advers of course our only recourse is superior court.

As Mr. Tocher said you initiate it and to save some more of my time and troubles. I have spent a lot now. Thank you very much.

CHAIRMAN PEIRCE: Thank you, Mr. McKee.

Now we are following the advice of our staff, our technical staff and the office of the State Attorney General. Mr. Kirkwood has moved and Governor Powers has seconded the motion that the recommendation as set forth on page 48 and as submitted by the Staff be approved and so is the order.

MR. PUTNAM: While Mr. Joseph is here he's in another one of our important cases here and that's page 18.

This has dragged on since September of '49 where a quiet title action was filed by Mr. and Mrs. Perry against the State in connection with the occupancy and use of an island. This has been through court, and got to the superior court.

MR. JOSEPH: And it was appealed to the District Court of

Appeals. The State won in the superior court and it was reversed on appeal on the facts.

MR. PUTNAM: And referred back for further evidence, further testimony to be taken, and we have explored the matter and can obtain some experts, spend a lot of State money and so on. But I have always felt that even if the State came out with a favorable decision in the case there are a lot of factors involved and for that reason I have recommended to the Attorney General and Paul Joseph handling the case has recommended to the attorneys for the other side that we settle this thing on the basis that the recommendation here that the State accept payment in the amount of $1,400 for releasing its claim to the island and further arrange for a lease for the water area in the channel between the island and the mainland, occupied by finger piers, at the Commission's established minimum rate of $100 per year.

I believe you concur in that, don't you Paul?

MR. JOSEPH: Yes. There has been talk of settling this case for years ever since it was remanded to the superior court. The people have gone in there and improved an offshore island there and the controversy is whether it was originally a part of the swamp and overflow survey and there's considerable difficulty and it involves establishing the river bank in 1851 when the State came into the Union and we produced in court some evidence and the other side did and the Judge concluded that we were right in our contention. Then the District Court of Appeal said that the evidence didn't amount to very much and it should go back for certain testimony which will involve a goodly sum to get these experts.

In the meantime these pepple have put all the money they have into improving this little offshore island. I think it's fifteen, twenty acres, and they have improved it as a fishing resort down at the junction of the Mokelumne and San Joaquin Rivers and their life savings are going if they loose this law suit, and at the same

time it's important for the State to establish a precedent and principle. However, this does not seem to be a case to do it in and no one will know after we get all through with the law suit just what the facts were and it will be very expensive to prove the facts.

There's probably a week's trial involved and it seems to not be a case to be retried, although we did win the case once.

CHAIRMAN PEIRCE: What do you think the value of this property might be? Does this represent a fair value?

MR. PUTNAM: It would be a compromise because if we got into this case originally when they started to improve the island I dontt believe the island would have been worth two- three hundred dollars, but they have put in substantial levees all around the island and raised the elevation of the land inside and put on substantial improvements. Now our fault lies in years ago not catching on to what they were doing and advising them that they were getting into dangerous territory so I am perfectly willing to make this recommendation here.

CHAIRMAN PEIRCE: You are satisfied with respect to this recommendation?

MR. JOSEPH: Yes. This is practically the offer made by the people there and the compromise came rather mutually from each side. It isn't a suggestion that we are making. It's a mutual suggestion and I am satisfied with it.

CHAIRMAN PEIRCE: Mr. Kirkwood has moved.

MR. POWERS: All right.

CHAIRMAN PEIRCE: Governor Powers has seconded the motion. The recommendation is approved and so will be the order.

Next, Colonel?

MR. PUTNAM: Now we have an item on page 45; Leon Studios. Here's that San Francisco bay out here, the heavy line over there.

MR. KIRKWOOD: Is there objections to this deferment?

1 MMR. PUTNAM: Y es, it's quite disputed. Otherwise I would
2 have taken care of it myself. Here's the line with the green,
3 the big heavy line (indicating on diagram), and there's some land
4 over here which has not been granted due to the City of Sausalito
5 but under Assemby Bill 323 which is now pending it is proposed
6 that all the rest of the land of the City of Sausalito be granted
7 to the City. Now back in here there's one syreet that's within
8 the grant to the City, and that's Richardson Street. These in
9 green are Main Streets and Bridgeway are outside the grant.
10 Now it is proposed by these interests that they build an apartment
11 house in the area I have got my liner on and to get access to
12 it they want to build some suspended slabs in here by way of
13 street access.
14 CHAIRMAN PEIRCE: Is this under water?
15 MR. PUTNAM: Yes. And that describes practically everthing
16 here except that.
17 CHAIRMAN PEIRCE: The pink part is owned by the State?
18 MR. PUTNAM: Owned by the State. The green is owned by the
19 State.
20 CHAIRMAN PEIRCE: That's it; the green by the State.
21 MR. PUTNAM: And the City has granted a building permit just
22 within the last few days for the building and for the encroachment
23 on the pink street. But after that came to our attention we
24 learned about Assembly Bill323 which was going to grant all this
25 area to the City and so I have made the recommendation that this
26 application for the work in the green area be deferred pending the
27 outcome of Assembly Bill 323, or of any other bills which effect
28 the boundaries of the legislative grant to that city feeling that
29 we may be moving into legislative grounds or prerogatives if we
30 issue that permit. The amount of the money is nominal.
31 CHAIRMAN PEIRCE: Is Assemblyman Mc Collister the author?
32 MR. PUTNAM: Yes.

MR. KIRKWOOD: This is within the city limits of Sausalito but is not owned by them and the city of Sausalito has no objection to our granting this permit?

MR. PUTNAM: No, I have got a letter to the effect that if this grant was made, just got it, to the City the City Manager states that he would recommend approval of this work in here. It's a matter of legaslative policy that/didn't feel right about.

CHAIRMAN PEIRCE:: All right. First of all is there anyone here who desires to speak in opposition to this recommendation of the Staff? Now the recommendation of the Staff is that action on the application be deferred.

MR. GIDEON(David B.): I am an attorney from San Francisco and I represent the applicant owner and I would like to speak in opposition to the recommendation that action be deferred.

CHAIRMAN PEIRCE: If you will proceed, please.

MR. GIDEON: The initial word that we had from the City of Sausalito was that all of the streets were under the jurisdiction of the City of Sausalito and so we originally addressed our application to the City of Sausalito for permission to use the streets which abut upon my client's property. Subsequently it was discovered that as to two of the streets they were under the jurisdiction of the State and had not been granted to the City of Sausalito so we had to split our application and address a part of it to the City of Sausalito pertaining to the Street that had been granted to Sausalito and as to the other two streets which is before the Lands Commission we are still under your jurisdiction.

I was advised just a short time ago that there is this bill 323 pending which would consolidate, you might say, the granting of all this land to the City of Sausalito. I learned of that just a few days ago and in view of the fact that the City had granted us a permit to use the street under its jurisdiction I went to the Mayor and City Manager and asked them whether this bill does

1 go through if they would object to action on the part of the
2 State granting us a comparable easement and they said, and we are
3 willing to reduce it to writing, the letter is a part of the file,
4 that indeed they having just granted us such an easement would see
5 nothing inconsistent on the part of the State in granting such an
6 easement. If the bill goes through, in other words, the City says
7 we'll grant the easement, so they take the position that there
8 is certainly nothing inconsistent in obtaining the easement now
9 and the point is a question of timing. If we feel that we have to
10 await the enactment of the bill it will be well into September,
11 and the building permit issued to my client stated it was to take
12 effect upon the granting of this encroachment permit.
13 On the basis of my first discussion with the State Lands
14 Commission in Los Angeles I assume there would be no technical or
15 other objection to the granting of the permit and it was only
16 when I found that Mr. Mc Collister's bill was in that we ran into
17 this delay. I spoke to Mr. Mc Collister this morning and he says
18 as far as he is concerned he's not in a position to take any
19 stand on it. His bill is aimed at giving to the City of Sausalito
20 the remainder of the land which was not given to them in 1951
21 and if the City of Sausalito says they are willing to give us
22 access to our property as they have, both in the original ease-
23 ment granted last week and in this letter you gentlemen have
24 before you he certainly can't object to that and if the State
25 should give the easement now he wouldn't object to that.
26 You have jurisdiction now and the, if the bill goes through
27 the City is willing and between the two of you there is assurance
28 on both sides that we should have the easement so we ask respect-
29 fully that we not be asked to wait until September but the easement
30 given now.
31 CHAIRMAN PEIRCE: Colonel, is there opposition?
32 MR. PUTNAM: There is opposition. I think there will be some

discussion here.

CHAIRMAN PEIRCE: Do you have anything further to state?

MR. GIDEON: There was opposition before the City Council last week and the Council voted four to one to give us the permit and the encroachment permit over the opposition.

MR. KIRKWOOD: Why is it only an easement? Why can they build the building without a permit?

MR. PUTNAM: The building is on land which they own. What they want is an overhand road approach from the building to get in from here on Richardson Street and to come back here on Main Street.

MR. GIDEON: We are in the position of owning a block of land having complied with all of the zoning requirements and building requirements. We are not asking for an exception to use or any type of variance permit. It's admitted on all sides that it complies with zoning and construction requirements. The only question is we can't get to our building unless we get from the State an easement over this road which is under water which we were originally under the impression belonged to the City of Sausalito.

CHAIRMAN PEIRCE: Who represents the opposition? Anybody here who wants to speak in opposition to the State granting an easement to the property owners through property owned by the State or over such property? (no reply from audience) Colonel, what are the names of some of the people?

MR. PUTNAM: I have a couple of written letters, one by Lenore and James Smith. The objections lie largely towards perhaps the obstruction of the view because this will be off the Coast from the highland there and the second was from a Mrs. Loren. There's still another, from a Mrs. George C. Cummings, and one from a Mrs. Robert E. Ross. They are all, I take it, in the upland up here.

CHAIRMAN PEIRCE: In other words, the opposition comes from

1 people who own property above this property who feel that the con-
2 struction of this apartment building will obstruct their view ?
3 MR. PUTNAM: That's correct.
4 MR. HORTIG: And create traffic hazards, it is alleged.
5 MR. GIDEON: Mr. Chairman, I might point out that those were
6 the bases of their questions before the City Council and the
7 question of whether it constiuted an impediment in the City of
8 Sausalito was discussed and threshed out at four meetings of the
9 City Planning Commission and they were defeated as I say by a
10 four to one vote. So their objection goes really not the the
11 State's jurisdiction over this land but to the fact that the
12 apartment is being built and we feel that the owner of the proper-
13 ty having complied with all applicable laws shouldn't be subjected
14 to additional obstruction on the part of the persons who have had
15 their day in Court.
16 CHAIRMAN PEIRCE: If the Mc Collister Bill is enacted into
17 law and if the City maintains its present attitude in this matter
18 this permit will be granted as of the middle of next September?
19 MR. GIDEON: The letter from the City Manager states that
20 they intend, if the Bill goes into law, to give us the encroachment
21 permit whether the Bill is effective or not.
22 CHAIRMAN PEIRCE: So your recommendation is that we defer
23 action with respect to this permit until say September 15th?
24 MR. KIRKWOOD: Do these letters ask for deferment or oppose
25 the project?
26 MR. PUTNAM: They oppose the project.
27 MR. KIRKWOOD: If the Bill doesn't go through then it's back
28 in our laps again?
29 MR. PUTNAM: That's correct.
30 MR. KIRKWOOD? Then what would be your recommendation?
31 MR. PUTNAM: My recommendation would be in favor of it, of
32 their application.

MR. KIRKWOOD: Wouldn't it have to be?

MR. PUTNAM: Yes. I could see no reason why to recommend otherwise.

MR. KIRKWOOD: It seems to me to me this morning that we are gyping the State out of $58.50, if the applicant is willing to put up the money, aren't we ahead?

MR. PUTNAM: The suggestion has been made, and this may be the answer, to change my recommendation to the effect that this permit be granted subject to transfer to the City of Sausalito if, as and when the lands are ever granted. Then we get the $58.00.

CHAIRMAN PEIRCE: But the building project is postponed for six months.

MR. PUTNAM: No, I didn't make myself clear, I guess. I say, that the Commission grant a permit which will be good only so long as the State still has control over the lands.

MR. KIRKWOOD: Gee, that would put them in an impossible situation of going ahead.

MR. GIDEON: It wouldn't put us in as bad a situation as if it were denied. I feel having discussed this with the City that they would pick this up immediately on the transfer of jurisdiction. If you give us the permit now and when the Bill goes through they will pick the permit up and we will have a continuity of the permit. I have discussed this with the City Manager and they would take this, you might say, subject to you might say any encumbrance that the State might make on it. They have said they would interpose no objection, I believe, Colonel.

MR. PUTNAM: Mr. Shabeson has reviewed this matter with me, very recently after this was written and I believe you are in accord with some such interim arrangement?

MR. SHABESON: I didn't see any reason if the city of Sausalito didn't object to this, I think this is certainly within the power of the Commission at the present time and I didn't see any

reason for not issuing the permit. Of course if the City objected to it then perhaps there would be a reason for waiting but I couldn't see any reason for waiting under the present circumstances.

MR. KIRKWOOD: Mr. Chairman, I move that we go ahead. I don't know the technical language that it should go in but I assume that could be worked out, and get the fifty-eight fifty, and if the Bill goes through and there should be an adjustment and some of that go to the City make the adjustment at that time.

MR. PUTNAM: We have to do that on lots of these grants.

MR. KIRKWOOD: I can't see that anything is to be gained really as long as the Assembly man doesn't seem to have an interest and as long as the City has gone along.

MR. POWERS: I would second Bob's motion.

CHAIRMAN PEIRCE: The motion has been made and seconded that the permit to the Leon Studio be approved. Any further discussion? If not, it will be the order.

Next Item?

MR. HORTIG: Page 20. The Commission on February 7th approved the costs proposed to be expended by the City of Long Beach, including subsidence remedial work, during February, 1957 and estimated expenditures in the first portion of March, 1957 for payrolls and similar items.

These same elements of subsidence costs expenditures which are to be paid during March and the first portion of April, 1957 for payroll force account and voucher payment other than construction must again be considered by the Commission for approval if the City is to have the authority to make these expenditures and receive proper credit under Chapter 29 of the Statutes of 1956.

The Subsidence portion of the amount of $40,000 estimated to be expended during the month of April, 1957 for payroll has been estimated by the Harbor Department 89% which is in approximate conformance with previous estimates.

It is recommended that the Commission approve the costs proposed to be expended as indicated on attached tabulation exhibitA for the month of March, 1957, to include subsidence costs and the amount of $40,000 to be expended during the first portion of April, 1957 to cover force accounts and vouchers ofther than construction subject to the standard conditions that the amounts ultimately to be allowed as subsidence costs deductible under the statutes will be determined by the Commission upon an engineering review and final audit subsequent to the the time when the work under any of these items is completed, and that the Executive Officer or the Assistant Executive Officer or the mineral resources engineer be authorized to execute appropriate written instruments reflecting the Commission's conditional approval.

CHAIRMAN PEIRCE: Did this meet with the City's approval?

MR. LINGLE(Harold A., Deputy City Attorney, Long Beach): It's all right with us.

MR. KIRKWOOD: Could I ask, just as a matter of curiosity, why we can't inform the City on these routine matters that we will approve them; is there need for the City to be represented each month?

MR. PUTNAM: They are cleared with the City before we submit them.

MR. KIRKWOOD: It does seem to me, unless they have reason to send a representative up here, as long as we are acting along a pattern, that there's no reason why they should not be --

s MR. PUTNAM: I think you're a hundred per cent right, and when we get to the final engineering review and audit that would be the time for them to appear in case we can't agree and discuss the matter before the Commission. This month it's really routine, I agree with you. If we can iron it out down south?

MR. KIRKWOOD: I don't want to tell the City how to do its business, but they may not be aware of the fact that we have gotten

COUNTY OF SACRAMENTO
ROOM 306
COURT HOUSE
SACRAMENTO 14, CALIFORNIA

to that point.

CHAIRMAN PEIRCE: Anyone else?

MR. WHEELER) I am Mr. Wheeler of the Harbor Department, and we know that these have been checked with us, but in one case we did come up with a correction in one of them that we feel it would pay us to come up each time on this.

CHAIRMAN PEIRCE: You both agree with respect to that? We are merely trying to simplify things for you.

MR. LINCLE: Yes. Thank you.

MR. KIRKWOOD: I move the approval of this.

MR. POWERS: I second it.

CHAIRMAN PEIRCE: Moved and seconded that the recommendation be approved and so will be the order.

Next Item?

MR. PUTNAM: I think we have appearances on the item on Pages 3, 4 and 5. Mr. Smith, will you take this one?

MR. SMITH: This is in regard to an application to purchase 320 acres of school land in San Bernardino County. The original application was submitted by Mr. Eugene G. Pettengill of Long Beach to purchase the 320 acres at $30, the minimum value established by a prior appraisal..

An inspection and appraisal by a member of the Commission's Staff on September 26, 1956 established the value of the subject land at $30 per acre, and also indicated the land was not suitable for cultivation without artificial irrigation. The land was advertised for sale with a stipulation that no offer of less than $9,000 would be accepted.

And pursuant to this advertising, a Mrs. Florence Steiner and a Joseph H. Longeval of Rio Vista submitted a bid of $11,200. Pursuant to the Commission's Rules and Regulations the first applicant, after Mrs. Steiner and Mr. Longeval had submitted a bid of $11,200, was allowed 20 days from date of his original bid within which to submit the additional amount to meet the highest

bid received. The first applicant, Eugene G. Pettengill, met the high bid within the period specified above.

By letter dated February 27, 1957, Attorney Robert Krause of Long Beach reported that Mrs. Steiner would appear before the Commission for the purpose of protesting the sale of the land to the first applicant. The letter also stated that Mrs. Steiner believes she is the original bidder and should have the opportunity to raise her bid if necessary to become the successful purchaser of the land.

The records of the State Lands Division shows the following information relative to applications by Mrs. Steiner for the subject land. On August 10, 1948 there was received and filed an application from Florence Longeval--now Florence Steiner-- to purchase the land accompanied by the required minimum deposit of $2 per acre, plus an expense deposit and filing fee, pending appraisal. The land was appraised at $6 per acre. At its meeting held December 10, 1948 the Commission by unanimous resolution authorized the sale of the subject land to Florence Longeval at a cash price of $1,920. She refused to meet the price of $6 per acre and accordingly at her written request the application was canceled and all funds returned to her less the expenses incurred.

On March 26th she also filed a new application and an offer of $6 per acre. That application was returned for the reason that the land for which she intended to apply was not properly described or identified in the application, and further more the application did not contain an offer of $30 per acre consistent with the rules and regulations of the Commission requiring that if the land had heretofore been appraised, that appraised value must constitute the initial offer. It appears therefore, in view of the record, that all rights of Mrs. Steingr were forfeited under her 1948 application at her own written request, that the lands

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were vacant and subject to the filing of an application by her at any time until the close of the bid period above-mentioned, and that all requirements of law have been complied with.

It is therefore recommended that the Commision find that said land is not suitable for cultivation and authorize the sale of the subject land containing 320 acres to the first applicant, Eugene G. Pettengill who has met the high bid at a cash price of $11,200, subject to all statutory reservations, including minerals.

Mrs. Steiner is here, I believe.

CHAIRMAN PEIRCE: Mrs. Steiner, you have heard Mr. Smith outline the history of this application and the various applications applicable to this land. Now we would like to hear from you with respect to the recommendation we have received from the Staff. Mrs. Steiner?

MRS. STEINER(Borence): My attorney was not able to be here today but I will try to explain to you to the best of my ability. When I made the first bid, August the 10th in 1948 it was pretty much of a rabbit hutch and $2 an acre was my bid. The State accepted that $2 bid. They gave me an application number and then after that they wrote to me and told me I should raise it another $320. I sent them the check. I have the canceled check here. The bid was advertised in the newspaper at $960 just as Mr. Petengill, who is the last bidder on this today, advertised it at $9,600.

Now I feel that they have, the State has been unjust because I was actually in competition with the State by their open letter they tell me that the State didn't have a bidder on that $960 after it had been advertised for thirty days. What made them determine that I shouldn't have that property unless I paid $6 an acre? That's been in my mind for a long time, about the State after this had all taken place they requested that I pay another $960 which I did not feel was just and not only that at that time

1 I was a little pressed for it. The time went on and the records
2 that the State issued showing lands that are available, that had
3 always been crossed out and my husband and I have worked on the
4 property adjoining it. We own it and I have known about this
5 property for a long time. Now I -- we spent a lot of money
6 and work and time developing our property and in tern developing
7 the State's property although we didn't have a legal title to
8 it but today I feel that we actually did and we should have had
9 that property at $960.
10 Now as the time went on I decided to take the correspondence
11 that I had from the State telling me when they raised it to
12 $6 an acre that was the application that I should fill in at
13 $6 an acre. Now I sent the application in. It had the letter
14 attached. The State had originally written to me. Mr. Ireland
15 who was at that time taking Mr. Smith's place or he was there
16 previous to Mr. Smith. This application had a check attached to
17 it for the amount that they had requested. The letter that I
18 got back, what I want to point out is that on my first bid in '48
19 the State took my $2 bid. They gave me a number but they didn't
20 do that with this second bid of $2,000. They sent back the appli-
21 cation, the application and everything and in the meantime
22 Mr. Pettengill got in there. Now we are working on a road,
23 working on a subdivision and we developed a well in there and
24 that's when he got into the bidding. The fact that the letter
25 was sent back with my check and I didn't have the opportunity to
26 increase the bid to $30, I wasn't aware of the fact that that
27 property was $30. That would have given me the chance to be the
28 first bidder.
29 Now the 30 days they advertised it for $9,600, for in fact
30 I called to find out and they -- then I had learned that someone
31 else had bid in there over me. I knew then that I wasn't the first
32 bidder again, but I decided to raise his bid, and he in turn met

my bid. Now I feel that the State hasn't been just with me all through this affair. Number one in the first place I think I should have had the property at $960, and in the second place this second bidding, the State should have kept my application. It has the description on it. It has the description attached if you want to see exactly the way it was sent to the State and it was stamped in the back by the State and it also has, although it isn't a true, it says 3626, -- "And in support of my application represent as follows: Then I had the description 3626."

Well, I didn't go into a lengthy description about it because I had been corresponding with the State sometime on this property and I also had this letter attached giving a thonough description. And not only that but I had the previous application number that they had given me in 1948. So that's why I feel that I was not justly and fairly treated by the State.

MR. KIRKWOOD: May I ask the Staff a couple of questions?

CHAIRMAN PEIRCE: Mr. Kirkwood?

MR. KIRKWOOD: Why was the, rather when was the Pettengill application filed?

MR. SMITH: That was received on March 30th and offially filed on April 2, 1956.

MR. KIRKWOOD: Just four days after the second application from -- What was the reason for the 1955 reappraisal of the land?

MR. SMITH: On the basis of an application filed in 1955 which subsequent to the appraisal was canceled out. In other words, that $30 per acre value was established in 1955 under an appraisal prior to this one which is the subject of this calendar item.

MRS. STEINER: The point I want to bring out is that I was not aware of the State having reappraised that and all I had in the State office was my application which should have been kept just like it was originally when I made the first application for $2. The State sent me then -- he has correspondence there to show that the State sent me back a number, application number and requested

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that I should give them another $320 which I did. Then why did the State not in turn, unless that's the State procedure, that if a person advertises that the State decides they don't want to let you have it. They say, "No, you have got to put so much more on it." If the State's interested in making more money, then I figure under the circumstances let them make more money on this case too.

CHAIRMAN PEIRCE: Mr Smith?

MR. SMITH: I think that point is covered in the last paragraph of page one of the calendar item where she submitted $2 per acre for the land which was the minimum amount required by law at that time pending appraisal. The appraisal was made at $6 per acre but it's pointed out here in the calendar item she was inadvertently advised that the minimum value was set at $3.

MR. PUTNAM: That was a mistake on our part.

MR. SMITH: Subsequent to that, however, on the basis of $3 per acre or $960 as indicated in the calendar item submitted to the Commission she refused to pay more than that and we proceeded with publication. Following the submission of the matter to the Commission the recommendation was made that it be sold to her for not less than the appraised value of $1920 or $6 per acre, so she was entitled to purchase it at the current day fair market value, established at that time.

MRS. STEINER: May I ask a question? How did the State determine -- Now I paid a filing fee and expense fee originally to send a man down there to tell me how much the ground was worth. That's why I decided the ground was worth $3 an acre instead of $2 an acre because I had paid that fee to cover that. Yet the State comes back and tell me later on after the bid had been advertised and no one was bidding against it that they don't want to let me have it except for again as much as I originally bid.

MR. SMITH: The law provides that the Commission may set the value on these lands. It was set at $1920 and she was entitled to

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buy it at that.

MR. KIRKWOOD: Mr. Chairman, I can't see that Mrs. Steiner has any right under the original filing. That doesn't concern me. It seems to me that was closed in 1948, but, and at that point it was an entirely different Commission. I don't see how we can hold it open from 1949 on. I am curious as to what our usual procedure is on receipt of a letter. Does the application have to be in exact form before you give it a number and before it has precedence?

MR. SMITH: That is correct, sir, and complete in all respects.

MR. KIRKWOOD: If you get an offer and it's complete in all respects except that there is an unknown appraisal you would return it and inform of that appraisal and say before this is again recognized as a filing you would have to meet this appraisal?

MR. SMITH: That is correct. The rules require that when an application is received and does not contain an offer comensurate with the previously appraised value it is not acceptable.

MRS. STEINER: How is it if I may ask that the laws although there may be a different Commission today than there was at that time, the laws must be the same, why could they have accepted my paper then if it wasn't correct and in the right amount? They had to go out and appraise it too.

MR. SMITH: It was correct and consistent with the law requiring a minimum of $2 per acre offer which was the case at that time. There had been no prior appraisal made of that land in 1948.

MRS. STEINER: How did they determine that it was $3? They advertised it at $3. Why didn't they tell me it was $6?

MR. SMITH: On the basis of the appraisal and as pointed out you were inadvertently advised.

MRS. STEINER: At the time I made the application it was August 10th. It was almost four months later that the State decided to tell me it was worth $3 an acre.

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MR. KIRKWOOD: I think had the application here that was filed for $30 an acre, if afterward we had gone out and appraised it at $50 that applicant would have received a similar letter saying you have to come up fifty. And I can't see any rights under the early or rather earlier application. It seems to me in '49 the Commission turned you down and you received back the money that you had deposited and I would think that made that one deader than a doornail. But the question I tried to ask was whether you were the prior applicant under this letter that you wrote to us on March 26th?

MR. SMITH: It was not a bona fide application.

MRS. STEINER: I have it here. I would like to have you see it.

MR. KIRKWOOD: Well, had there been this other appraisal, and as I understand it from the staff there was, of $30 an acre, why clearly if that is the rule I don't think we can question it.

MR. PUTNAM: The rules were changed, oh, perhaps two years ago.

MR. WERNER(E. from Staff): In 1951.

MR. PUTNAM: No, in '55 the rules were changed so that the bona fide application would have to meet the most recent appraisal that had been made as a minimum deposit.

MR. POWERS: How's that again? I didn't get that.

MR. PUTNAM: Well --

MR. POWERS: Someone makes a bid on a piece of land and then before you give it to him there's another bid come in higher, the first applicant has the right to meet that?

MR.PUTNAM: That's true, but before we start the bidding process we must have an application, and the application to qualify as such must meet a certain minimum price or the minimum most recent appraisal value an acre. You gentlemen adopted it about two years ago, and that's where this thing comes in now.

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MR. POWERS: How many times do you bid on that? You can only raise it once; is that right?

MR. SMITH: Pursuant to advertising it can be increased as many times as the applicant wishes.

MR. POWERS: Supposing one applicant makes a bid on a piece of property and someone raises that bid, then the first applicant has the right to meet the later applican't bid?

MR. SMITH: That's right, at the close of the publication.

MR. POWERS: But the second one doesn't have the right to bid again? In other words, you have just one bid open?

CHAIRMAN PEIRCE: Mrs. Steiner, the record before us indicates that on January 3, 1949, which is eight years ago, you had advised the State Lands Commission that you were not desirous of increasing your bid from $3 to $6 an acre, the latter figure being established by appraisal and this says that the refund of your $960 was made and I would therefore infer from that that you waived all interest in the particular land by taking that action.

MRS. STEINER: Well, I am not familiar enough with the laws to know just exactly where I stand but I do feel that it was injust on the part of the State. Now Mr. Pettengill who is bidding, the State had the right to reject his offer, do they not, in the interests of the State?

CHAIRMAN PEIRCE: Colonel Putnam, does the State have the right to reject Mr. Pettengill's bid at this hour? At this time?

MR. PUTNAM: Yes, it can reject any and all bids.

MRS. STEINER: If the State has the right to reject the offer of Mr. Pettengill in the interests, the Commissioner has the right to reject the bid in the interest of the State, I am here to tell you that the State will realize more money out of it because I am willing to raise that bid that he has.

MR. PUTNAM: I don't think it's good policy to reject bids.

MR. POWERS: Wait a minute, now. You appraised this property

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at some particular value. Mr. Pettengill has met that. On what grounds would you reject his bid? You would have to have some ground.

MR. PUTNAM: The only ground we could reject the bid is there might be some --

MR. POWERS: Unless there had been some development extraordinary between the time you appraised it and the present time you are practically morally bound to accept that bid, are you not?

MR. PUTNAM: I would say so.

MR. HORTIG: You have the right to reject, but without sufficient reason you wouldn't exercise the right.

MR. POWERS: Yes, but under ordinary circumstances you are morally obligated to accept that bid?

MRS. STEINER: Then why is it that the State did not accept my bid originally in 19 -- I want to go back to the same in 1948 as it is at this time. Why did the state not accept my bid which was in good form and which was what they required and it was advertised and no one was a successful bidder but myself, no one had come in to bid that; the State just decided to say to me, "Well, it's so much more and that's it." Now that doesn't --

MR. POWERS: The Staff will have to answer that because they are the ones that did that.

CHAIRMAN PEIRCE: The point is, and after you submitted your bid the property was then appraised and it was appraised at $6 an acre whereas your bid was originally $2 an acre and then raised four, to $3 an acre because of some misunderstanding in the meantime.

MRS. STEINER: They way I understand it when this bid of Mr. Pettengill started originally there was a period of I don't know how many months before the State decided what the price should be or when it came out for advertising. I beg your pardon; didn't you say someone had set it up at $30? Well, anyway, the State sets the price at $30. Now there is evidence that I can prove of

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the increase in value in that property today since the time of the bidding. In the last year we have put on a subdivision there and have sold half of the lots in there and I know exactly what the property will bring and there's a county road that we brought in there. We got all the access roads in there and brought a county road that goes clear into the Victorville road.

MR. SMITH: Our original appraisal was made in 1955 and reinspected again in September of 1956 under Mr. Pettengill's application.

MRS. STEINER: The State Real Estate Commissioner has our subdivision tract and has passed on it.

MR. KIRKWOOD: On January 25th of '57 you bid $35 an acre, didn't you?

MRS. STEINER: Yes.

MR. KIRKWOOD: Which at that time presumably you considered to be the proper value?

MRS. STEINER: No, I considered that it was more than his bid.

MR. POWERS: That's fair.

MRS. STEINER: It was $1600 more than he bid.

MR. POWERS: Fair enough.

MR. PUTNAM: I see no basis, Mr. Chairman, for recommending that the Commission reject.

MR. KIRKWOOD: Might I just ask, you say there was a rule change in '55. The $2 that had to be submitted up to that point per acre is set out in the law or set out in a rule at that point?

MR. PUTNAM: In the rules.

MR. KIRKWOOD: But it was a fixed amount in all cases?

MR. SMITH: Yes, sir. May I read this rule for the Commission? "To qualify as a bona fide applicant and obtain the rights enumerated under Section 2502(d), a person shall tender to the Sacramento office of the Commission his complete application on the form "

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"prescribed, accompanied by a filing fee and an expense deposit of $100 and the full amount of his offer. The minimum acceptable offer shall be $2 ...", provided however, and this is what was added in '55, "That -- provided however that should the lands applied for have been appraised by the State prior to the filing of the application at a value in excess of the amounts stated above, the minimum acceptable offer shall be such appraised value."

MRS. STEINER: May I say something again?

CHAIRMAN PEIRCE: Yes, Mrs. Steiner.

MRS. STEINER: I keep coming back to 1948 because I just can see how what pertained in 1948 even if there are some changes regarding the law, in case of fairness there was a price set of $2 an acre, the lowest acceptable bid, yet the State after an appraisal which apparently was an appraisal because they allowed it to be advertised for $3 an acre that was the price that came out in the newspaper. There was no other successful bidder. There was no one that even bid against that property. There was no one even interested in that property because it was nothing but a rabbit hatch then. Now today after all of the development I know what the value of the property is and I know that there is really no one that is quite so entitled to that property as myself.

CHAIRMAN PEIRCE: Why didn't you bid in this property in 1953 or '4 or '5?

MRS. STEINER: In 1955 we were drilling a well. It costs about $15,000 to drill a water well.

CHAIRMAN PEIRCE: You have waited until 1956 as I understand it when Mr. Pettegill bid the property in at the minimum appraised value of $30 an acre and under the law you are privileged to match his bid; is that it, Colonel?

MR. PUTNAM: That's right.

CHAIRMAN PEIRCE: To match his bid and you have done that.

MR. PUTNAM: It's the other way around.

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CHAIRMAN PEIRCE: Raised his bid and he had the right as the original bidder to meet your bid and he has done that and I don't see that we can do anything about it at this late date.

MRS. STEINER: I still think regardless of what you Honorable gentlemen say that I do have a legal right to it and I think that I will take it to court because it -- there must have been a reason that this, that the State felt that they could charge me another $6. Legally I had that at $960. The State has to have a good reason the way I understand it, for rejecting my bid originally.

CHAIRMAN PEIRCE: They didn't reject it. They merely had the property appraised, found out it was worth $1920 and you turned that down for reasons not known to us. You apparently waived your interest in the property at that time.

MRS. STEINER: I will tell you what happened. The State sent me, I have never seen a patent, I told it to Mr. Smith. I don't have it here with me, and I don't think that I have dreams but I do know that I was sent a piece of paper that said the application on that and gave me the number and it's perforated on one side and they also sent me another piece that said patent on it, and of course I felt I had a tie in on it. I could probably have recorded this. I have that. I will locate it and the day will come when I will bring it up in court. Now that may have been a mistake it may have been a mistake on the part of the State or what happened I don't know. But for a long time the State did not on that list where they say the grounds that are available for bid, that particular piece of acreage was crossed out and, and the reason I found out too that in the Los Angeles office when I went down there I was interested when we were drilling for water out there we had a little oil showing and I decided I would try to apply for the mineral rights and that's too when I learned that Florence Longeval, it was on record there that Florence Longeval was the owner of the property. My name is Steiner now but that was

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my maiden name.

MR. SMITH: Mrs. Steiner you have told me on several occasions that you had a patent on the land and if you would surrender whatever you had indicating your evidence of title we certainly would review it but there's been no mistake made by the State and no evidence of title ever been issued.

MRS. STEINER: Well, the State, it is possible for the State to make a mistake. The State here says that on this sale of vacant school lands, on the last paragraph, says, "Subsequently an appraisal under this application established the land value at $6 per acre. On October 21, 1948 the applicant was inadvertently advised that the minimum value of said land had been fixed at $3 per acre and was requested to submit the additional amount of $320."

MR. POWERS: That's the error of the State.

MRS. STEINER: Well, the error of the State, but nevertheless it put me in a spot.

MR. SMITH: The value was set by the Commission. However, as they have a right to do in 1948, and you were entitled to meet that value which you did not wish to do.

MRS. STEINER: Because I felt that I did own it. I felt that the State didn't have a right to raise it for no reason.

MR. KIRKWOOD: Mr. Chairman, I can't see at this point that we have any alternative as I read the regulation and look at this recitation of the facts but grant the, or follow the recommendation of the Staff. I am not happy with this 2301 as it stands now, I must say. I think it can run us into trouble and I have hopes the Staff will take another look at it as to whether it's the best rule for us to operate under. But it's on the books and we are bound by it and I don't see that we have any alternative.

MR. POWERS: The error we made is that $3 here.

MR. KIRKWOOD: I don't think that's timely, Butch, at this point.

MR. POWERS: But that's the only error I can see that the State made any place following the rules. I realize that it was canceled after that.

MRS. STEINER: May I say a word? I would like to have you gentlemen look at this application. Now Mr. Smith is the one that determines whether it was okeh or not.

MR. KIRKWOOD: The rule says that we had to have $30 and you didn't have $30 an acre, and that's why I was looking at the rule and I think we are bound by that rule, and you will admit yourself I believe that you didn't put up $30 an acre at that point.

MRS. STEINER: I will get his letter.

CHAIRMAN PEIRCE: The Colonel desires to --

MRS. STEINER: It says, "Said application and check were returned herewith for the reason that under Item 2 of the application you have not inserted the description of the land which you are applying for."

MR. KIRKWOOD: Is that all the letter says?

MRS. STEINER: "If you are applying to purchase land such and such contained in 320 acres please be advised that a minimum offer of $30 an acre is required to qualify an application for the purchase thereof." That was the same thing that happened in 1948. Two dollars an acre wasn't adequate at that time either.

MR. SMITH: It was adequate at that time. That was the minimum required pending appraisal. It's the minimum required to qualify an application at that time.

MRS. STEINER: To hold the application in your office, is that it?

MR. SMITH: To accept it and publish --

MRS. STEINER: When I had my engineer over there subdividing the property it was at that time that I was willing to go pretty high with the State to bid. You asked me about how I bid here. I will go into that. That may not interest you, but I had a check

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from a man that wanted to go in with me on this piece of property because he knew the value of it too, but during that period he told me you send in this thing for the land, State land at two thousand twenty-five. Now I don't know if Mr. Pettengill is associated with him or not but I think it's very strange that within four days that there was another bid in there that snapped this thing out from under my nose.

CHAIRMAN PEIRCE: Colonel Putnam, did you have something to say?

MR. PUTNAM: Yes. I am going to have to run and catch a plane very shortly and I do have one item I would like to dispose of immediately and then Frank Hortig and Ken Smith can carry on.

CHAIRMAN PEIRCE: All right.

MR. PUTNAM: Page 17.

CHAIRMAN PEIRCE: Do you want to take that up before you resolve this? Are you ready to make a decision?

MR. KIRKWOOD: I don't think we have any alternative with the rules and law as we stand.

CHAIRMAN PEIRCE: Mr. Kirkwood moves.

MR. KIRKWOOD: I move.

MR. POWERS: I will have to second.

CHAIRMAN PEIRCE: The motion has been made and seconded that the recommendation of the staff be approved which will grant this property to Mr. Eugene C. Pettengill who has met the highbid at a cash price of $11,200. If there's no further discussion that will be the order.

MR. PUTNAM: May I suggest we move to page 17?

Page 17 has to do with the appointment temporarily as the Assistant Executive Officer of Mr. Francis J. Hortig, and the appointment of his present assistant Mr. Adolph W. Pfeil to the position of Mineral Resources Engineer. These are to move these two men up to fill primarily the vacancy caused by the death of

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J. Stuart Watson.

CHAIRMAN PEIRCE: Any discussion? The appointment of Mr. Hortig meets with my full approval.

MR. POWERS: It meets with mine.

MR. KIRKWOOD: Yeah, this is fine.

MR. PUTNAM: I had to make this recommendation. Frank wrote it. He can handle the rest of this stuff.

MR. KIRKWOOD: This, I suppose was cleared?

CHAIRMAN PEIRCE: So Mr. Kirkwood has moved and Governor Powers has seconded the motion and so is the order.

MR. POWERS: Before we go, do we have these meetings in the morning? The Legislature meets in the afternoon and it takes me away from the Session and Senate. Could we do that during the session, Colonel?

MR: PUTNAM: Surely.

CHAIRMAN PEIRCE: Hereafter let's have them in the morning.

MR. POWERS: And on the last Friday of the month the Regents meet. Like this Friday it's impossible for me to be there. We have the Regents at 2:00 o'clock in the afternoon and the Legislature in the morning.

MR. PUTNAM: We'll try to set them in the morning and they must be before the fifteenth of each month to take care of Long Beach.

CHAIRMAN PEIRCE: All right, Colonel, you run along. Mr. Hortig, you are going to take over?

MR. HORTIG: Page 2, gentlemen. Monterey Oil Company operator lease, P.R.C. 1550 at Huntington Beach, have conducted extensive operations. During the period of the deferment the lessee has prosecuted an explorationprogram with mobile marine equipment at a cost reported in excess of one million dollars. The last exploration hole drilled under this program was completed February 23, 1957. In addition, a detailed seismic survey of the resurvey of the lease was also completed, and it's now felt that the remaining time in the deferment to April 16 is insufficient to

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1 to study, correlate and evaluate the subsurface information and
2 seismic data which have been obtained. Therefore the Monterey
3 Oil Company as operator for Lease P.R.C. 1550 has requested a
4 further extension of six months to October 16, 1957 within which
5 to commence operations under the terms of the lease, and the
6 staff recommends such deferment to October 16, 1957 be granted
7 subject to the express condition that the lessee will perform one
8 of the following actions during the period of the deferment:
9 1. Initiate operations on the lease; 2. quitclaim the entire
10 lease area, or three, present new adequate bases for consideration
11 as to any further deferment of the drilling and operating require-
12 ments under the lease.

13 CHAIRMAN PEIRCE: This is in the vicinity of Huntington
14 beach?

15 MR. HORTIG: Yes. As a matter of fact this area is the area
16 that produced the cash bonus bid of three million, three hundred
17 and thirty-three thousand dollars.

18 CHAIRMAN PEIRCE: Has this lease been drilled?

19 MR.HORTIG: THIS is part of the exploration drilling.
20 There has been no production on the lease, Mr. Peirce.

21 CHAIRMAN PEIRCE: And they want additional time.

22 MR. HORTIG: To study the results of their most recent explora-
23 tion which has cost them in the last six months in the neighborhood
24 of one million dollars.

25 CHAIRMAN PEIRCE: How many holes have they drilled?

26 MR.HORTIG: It's upwards of eighty.

27 CHAIRMAN PEIRCE: And they awere all dry?

28 MR. HORTIG: Yes, sir.

29 CHAIRMAN PEIRCE: How much did we receive in way of cash bonus,
30 three million three hundred and thirty-three thousand dollars.

31 MR. HORTIG: It's still a world's record. There's a representa-
32 tive of Monterey Oil Company here also, Mr. Peirce.

CHAIRMAN PEIRCE: There's no opposition to this recommendation?

MR. HORTIG: No, sir.

MR. POWERS: I move that we grant the recommendation.

MR. KIRKWOOD: Second.

CHAIRMAN PEIRCE: It's been moved and seconded that the recommendation be approved. So ordered.

MR. HORTIG: Page 17 -- 16, gentlemen. Shell Oil Company has made application for authorization to conduct submarine geophysical explorations on those tide and submerged lands under the jurisdiction of the State Lands Commission in Orange, Los Angeles, Ventura and Santa Barbara Counties, lying between a line drawn due west from the mouth of the Santa Ana River and a line drawn due west from Point Arguello. A permit has been requested for a 60-day period commencing March 15, 1957. The respective Counties and the City of Santa Barbara have been informed that this application is to be considered. Ventura County is the only one that has not replied as a result of the notification. The other counties and the City of Santa Barbara have reported none objection to the issuance of the permit and it is recommended that the permit be issued to Shell Oil Company for a sixty-day period commencing March 15, 1957, the permittee to reimburse for the inspection costs, and the permit is to be effective only as long as a concurrent permit by the Fish and Game Commission is in effect for the same operating area.

CHAIRMAN PEIRCE: No objection to it?

MR. HORTIG: No, sir.

MR. POWERS: I move it.

CHAIRMAN PEIRCE: Moved and seconded and so will be the order.

MR. HORTIG: Page 6.

MR. SMITH: Sale of vacant State school land. It is recommended that the Commission authorize the sale of vacant State School land for cash, at the highest offer, in accordance with the following

tabulation, such sales to be subject to all statutory reservations including minerals, and Items 4, 5, 8 and 9 and 10 are routine items. Number 13, there was a competitive bid received and 20 days after the close of the bid period the, one of the bidders, Mr. S. J. Nunn increased his bid by $3,350 for a total of $16,350. That additional bid was not submitted persuant to the specifications in the published notice and therefore not considered to be a bona fide bid.

MR. POWERS: This is all in order, isn't it?

MR. HORTIG: Yes, sir.

CHAIRMAN PEIRCE: Well, in other words, on page 13 the sale will be made then to this Mr. Ikenfuss?

MR. HORTIG: No, sir, the first applicant matched the bid of fourteen thousand submitted by Mr. Okenfuss, Mr. Nunn having submitted the thirteen thousand and at the close of the bidding attempted to increase it.

CHAIRMAN PEIRCE: The tabulation I don't see. Oh, it's down below. All right, the original applicant to match the highest bid.

MR. HORTIG: Yes, sir.

CHAIRMAN PEIRCE: Any further questions?

MR. KIRKWOOD: Move the approval of all those items.

MR. POWERS: That's okeh with me.

CHAIRMAN PEIRCE: Moved and seconded that these various things will be approved and so will be the order.

MR. HORTIG: We are on page 19. We can cover that. Survey has been made by the Staff to determine the present area of accreted State land, waterward of the Gallinas Canal line of 1871 and it is recommended that the Executive Officer be authorized to approve and have recorded a map of surveys so provided to serve as evidence of the State's boundary.

CHAIRMAN PEIRCE: Okeh, Patch?

MR. POWERS: Yes.

CHAIRMAN PEIRCE: Moved and seconded and so will be the order.

MR. SMITH: Page 14 involves the sale of 532 acres of land in Shasta County to Curtis M. Rocca. The land was appraised at $75,555.20 and he was advised to submit the appraised value. Following that instruction to him, however, we were advised of a protest filed to the State's application by the Scott Lumber Company and that protest is still pending and this calendar item is to confirm extensions granted by the Executive Officer to Mr. Rocca within which he may submit the additional amount to meet the appraised value in view of the pending appeal and protest by the lumber company.

MR. POWERS: I move.

MR. KIRKWOOD: Now what I can't make the dates jibe here. February 28, 1957. Has he come up with thirty-six thousand?

MR. WERNER: He made a payment as of that date and will make an additional payment May 30th.

MR. KIRKWOOD: There is no need for this to be deferred further?

MR. HORTIG: Not beyond the June 30th. What occurred was by Executive Officer's action he was given until February 28 to do this and he actually did it. As to that part we desire Commission confirmation and the balance to give the extension under the authority of the Commission.

MR. KIRKWOOD: Okeh.

CHAIRMAN PEIRCE: All right; the recommendation is approved.

MR. HORTIG: Page 22, gentlemen, lists the status of bills suggested for legislative consideration by the Staff in which the Commission has heretofore given conditional approval for Staff processing.

Page 23 lists the bills currently pending which could affect the administrative cognizance of the Commission. In the same

order as listed through page 31 you gentlemen have copies of the bills before you in case you wish some staff work on them, and it is recommended that the Commission authorize the Staff to discuss these measures with the authors and to attend the respective legislative committee hearings for the purpose of presentation of reports of facts and existing Commission administrative prodedure and regulations relative thereto.

CHAIRMAN PEIRCE: It's the same procedure we followed two years ago?

MR. HORTIG: Yes, sir.

MR. KIRKWOOD: Before we go on record as approving or disapproving it it would be brought back to us for further action?

MR. HORTIG: Yes, sir.

MR. POWERS: This just allows you to discuss them now.

CHAIRMAN PEIRCE: All right. So will be the order.

MR. HORTIG: Page 32 and following through 44 are transactions previously consumated by the Executive Offic_er on which Commission confirmation is desired. These are the routine general leases, routine renewals of permits, and routine issuances of permits for which there is delegation of authority to the Executive Officer.

MR. KIRKWOOD: Move the confirmation.

MR. POWERS: Yes; second.f

CHAIRMAN PEIRCE: Moved and seconded that the actions of the Executive Officer be confirmed and so will be the order.

MR. HORTIG: There is just the one question whether you gentlemen consider it will be appropriate within the scope of the Lands Commission as to a resolution relative to J. Stuart Watson passing on.

CHAIRMAN PEIRCE: I think it would be very approprate. I am glad that you mentioned it. How about you preparing a very suitable resolution for the signature of the members of the Commission?

MR. HORTIG: Very well. The Staff will proceed and route it

then for signature.

CHAIRMAN PEIRCE: Any other suggestions?

MR. POWERS: I move that we approve at this time that it should be on the minutes some place that we do that.

CHAIRMAN PEIRCE: All right.

MR. HORTIG: We'll include an item in the minutes.

MR. POWERS: Do you have a resolution that the Staff has --

MR. KIRKWOOD: Just incorporate it in the minutes.

MR. HORTIG: In the form in which you gentlemen finally decide?

CHAIRMAN PEIRCE: Yes.

MR. HORTIG: Then we'll proceed with the preparation of the resolution.

CHAIRMAN PEIRCE: And have it suitably engrossed and prepared for the widow and the members of the family.

MR. HORTIG. Yes, sir.

CHAIRMAN PEIRCE: All right; so will be the order.

MR. HORTIG: What about a date for the next meeting?

CHAIRMAN PEIRCE: Are you able to fix one now?

MR. HORTIG: We can have it April 8th through the 12th.

MR. KIRKWOOD: It has to be before the 15th.

MR. HORTIG: Yes, sir; otherwise we have payroll troubles.

CHAIRMAN PEIRCE: Try to work it out.

MR. HORTIG: We'll work it out with your secretary.

CHAIRMAN PEIRCE: Yes, about the first week in April.

MR. HORTIG: About the week of the 8th would actually be the second week.

CHAIRMAN PEIRCE: All right. The 8th is on Monday.

MR. HORTIG: Yes, sir.

CHAIRMAN PEIRCE: That sounds good.

All right. The meeting is adjourned.

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