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TRANSCRIPT OF  
MEETING  
STATE LANDS COMMISSION  
SACRAMENTO, CALIFORNIA - APRIL 14, 1958

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PARTICIPANTS

(THROUGHOUT BOTH MORNING AND AFTERNOON SESSIONS)

THE COMMISSION:

Messrs. John M. Peirce, Chairman  
Harold J. Powers  
Robert C. Kirkwood

STATE LANDS DIVISION:

Messrs. F. J. Hortig, Executive Officer  
Kenneth C. Smith, Supervising Land Title  
Abstractor  
Mrs. Julia T. Stahl, Secretary

ATTORNEY GENERAL'S OFFICE:

Jay Shavelson, Esq.

CONSULTANTS:

Messrs. H. H. Kaveler  
J. M. Wanenmacher

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Assemblyman Bruce F. Allen	18
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Martin Erck, Monterey Oil Company	40
Paul A. Lower, Superior Oil Company	41

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HEARING REPORTER:

Louise H. Lilloco  
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MR. PEIRCE: The meeting will come to order.

I want to give recognition to the presence of our two consultants, Doctor Kaveler and Mr. Wancnmacher, and I believe Assemblyman Hanna is present and Senator Richards. We are glad to have both of you members from the Legislature here -- and feel free to participate in our discussion. I believe, Mr. Hortig, we are now ready to proceed with the agenda. Will you take over, please?

MR. HORTIG: Mr. Chairman, the first page of the agenda following the cover sheet, entitled PROPOSED OIL AND GAS LEASES --

On February 11, 1958 the Commission directed that the staff review the bases for issuance of oil and gas leases with members of the Assembly Judiciary Subcommittee on Tidelands and with representatives of industry and to present final analyses as to recommended oil and gas leasing procedure to the Commission. A complete review of proposed oil and gas lease terms and conditions was held February 26 and 27, attended by four members of the Assembly Judiciary Subcommittee, thirty-six industry representatives, and State Controller Kirkwood.

As you gentlemen know, a copy of this transcript was transmitted to you previously. The transcript was also submitted to the office of the Attorney General, together with proposed form of oil and gas lease, as a basis for the form of the lease and requisite conformance with the

1 provisions of Division 6 of the Public Resources Code.  
 2 Additionally, an informal opinion was requested on four  
 3 proposed lease terms developed in the staff review. Copy  
 4 of this is attached as Exhibit A and the pertinent portions  
 5 of the opinion are reflected in terms and conditions of  
 6 the proposed lease form as it is being considered by you  
 7 gentlemen this morning. A proposed form of oil and gas  
 8 lease which has been approved by the office of the Attorney  
 9 General in conformance with Division 6 of the Public Re-  
 10 sources Code is attached as Exhibit B.

11 Substantive differences with the recommendations by  
 12 the Commission's special board of consultants are outlined  
 13 in Exhibit C attached -- and I might comment at that point  
 14 that there are no differences in the lease form from the  
 15 consultants' recommendations except as to two items on  
 16 which it was not clear there was a legal basis for the  
 17 Commission to include them, therefore they were the only  
 18 ones eliminated out of the entire scope of recommendation  
 19 by the staff.

20 Similarly, the scope of industry recommendations --  
 21 differences with industry recommendations -- are in  
 22 Exhibit D attached. These differences are with reference  
 23 to a form of lease form presented by the Western Oil and  
 24 Gas Association, which was the frame of the discussion  
 25 February 26 and 27. At the moment these are still of  
 26 historical interest as to the transitions the form of lease

1 has taken. They do not directly include all the remain-  
 2 ing differences here, if any, with reference to the form  
 3 of lease discussed this morning because there has been  
 4 informal discussion since that tabulation has been pre-  
 5 pared.

6 Therefore, it is recommended that the Commission  
 7 approve the form of lease attached as Exhibit B as the  
 8 basic lease form to be issued on oil and gas leases pur-  
 9 suant to Section 6 of the Public Resources Code.

10 As you gentlemen are aware, representatives of the  
 11 industry are here numerously this morning and are prepared  
 12 to comment; and I see Mr. Home, who was the chairman of  
 13 the special subcommittee of the Western Oil and Gas Asso-  
 14 ciation, which group have certainly labored long and dili-  
 15 gently with the staff of the State Lands Commission in  
 16 attempting to arrive at an equitable, workable, practical  
 17 lease form, which are the criteria we believe are incor-  
 18 porated in the draft before you this morning.

19 MR. PEIRCE: Mr. Hortig, may I ask, before we call  
 20 on representatives of the industry, whether in your judg-  
 21 ment it would be in order to ask for comments from our  
 22 consultants with regard to the lease form as it now stands?

23 MR. HORTIG: I believe it would be very much in  
 24 order. We would appreciate their concurrence.

25 MR. PEIRCE: Now, for the information of all concerned,  
 26 we have retained two nationally recognized consul'tants in

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1 the field of petroleum engineering and petroleum geology  
2 and they have met with us several times, and they have  
3 advised us with respect to the steps we should take with  
4 regard to carrying out the law regarding tideland oil  
5 development; and again these two gentlemen, representing  
6 their respective firms, are with us, and before we get  
7 into a discussion of the lease form which is now before us  
8 and which if adopted by the Commission will serve as the  
9 guide in carrying out our future leasing program, I would  
10 like to invite them to make any comments that they may  
11 desire to make before we proceed further. Dr. Kaveler,  
12 would you like to say something in regard to the lease  
13 form as it now stands?

14 DR. KAVELER: Mr. Chairman and gentlemen of the  
15 Commission, I haven't read this final draft through but  
16 it is my understanding that Exhibit C reflects the three  
17 points involved in the consultants' recommendations which  
18 could not be adopted for legal reasons, and with that  
19 understanding it is my opinion that the lease form as  
20 drafted by the staff and recommended to you is to the best  
21 interests of the State and I would join them in recommend-  
22 ing to the Commission that it be adopted.

23 MR. PEIRCE: Senator Richards.

24 SENATOR RICHARDS: Mr. Chairman, may I be heard very  
25 briefly at this time for one reason? I think perhaps be-  
26 fore the rest of the testimony from your consultants or

1 the rest of the industry, pro and con, there is one small  
 2 problem that may have been met in your mind, but if it  
 3 isn't should be brought to your attention. I apologize  
 4 to Mr. Hortig for not taking the opportunity of discussing  
 5 this before coming to you. On the other hand, I didn't  
 6 have that opportunity because only now did the lease form  
 7 come to my attention.

8 I note the Attorney General's opinion on which your  
 9 action is predicated is dated March 28th. As you know,  
 10 the Legislature is now in session and, therefore, through  
 11 no fault of anyone here, there might be something that  
 12 might affect your lease form.

13 I call your attention to Assembly Bill 5 by  
 14 Assemblyman Grant, representing the City of Long Beach;  
 15 and Long Beach, as you know, is my territory and I carry  
 16 it in the Senate. Assembly Bill 5 has been passed and  
 17 is now out of the Senate. A. B. 5 has to do with the  
 18 matter of subsidence to the extent that subsidence has to  
 19 do with oil extraction. There may be some quick answers  
 20 to this, but I do think it should come to your attention.

21 In your present lease form, on page 1 thereof, you  
 22 have first the matter of referring to the two contracting  
 23 parties, the lessee to be designated in the future and  
 24 the lessor "acting by and through the State Lands Commission,  
 25 sometimes hereinafter called the State..." Throughout  
 26 the entire document we assume, of course, that the Land

6  
1 Commission is the agency acting on behalf of the State as  
2 a contracting party, which would be normal. On the other  
3 hand, there is potential conflict, which is pointed out  
4 more clearly when you get over to page 21.

5 Page 21, paragraph 10 points out that the State --  
6 and it has already been indicated that the "State" means  
7 the Land Commission -- reserves and retains the right when  
8 it receives any evidence of subsidence of the surface of  
9 either the leased or adjacent lands to determine that any  
10 or all operations of this lease would or might cause sub-  
11 sidence. In other words, the subsidence question is left  
12 to the State by and through the State Lands Commission.

13 This is again emphasized on the next page, top of  
14 page 22, in subsection (1) -- that "such determination may  
15 be made by the State Lands Commission ..." and what I  
16 wish to point out: When AB 5 becomes law, the question  
17 becomes, the question of subsidence becomes the responsi-  
18 bility of the Supervisor.

19 MR. PEIRCE: May I ask Mr. Hortig to explain the  
20 changes in Section 10 that might be affected? Are you  
21 reading from Section 10?

22 SENATOR RICHARDS: Yes.

23 MR. PEIRCE: You are referring to March 28th?

24 SENATOR RICHARDS: March 28th was the date of the  
25 opinion. This action follows the opinion. And the approval  
26 of this lease form, unless I am incorrect in regard to the

1 conflict, should not be made until such time as Mr. Hortig  
 2 and the staff and the experts and, certainly, the Commis-  
 3 sion itself is satisfied that a conflict does not exist  
 4 and no vitiating would occur in your contracts. Unless I  
 5 am mistaken, I think there is a clear, statutory conflict.  
 6 I don't think it would be any problem to correct, but I  
 7 don't think you should give approval until you are satis-  
 8 fied there is no conflict, because I am familiar with AB 5,  
 9 the way in which it was passed.

10 MR. PEIRCE: Thank you, Senator Richards. Mr. Hortig,  
 11 would you like to comment on Senator Richards' comments  
 12 before we proceed?

13 MR. HORTIG: Yes, Mr. Chairman. My comments will  
 14 not go to the legal complications potential, on which the  
 15 Senator is certainly more qualified to speak. Certainly  
 16 I speak without specific advice from counsel. However,  
 17 the practical problems of the situation were considered  
 18 by the staff, by the industry representatives who worked  
 19 with the staff, and by the office of the Attorney General,  
 20 and the criteria that led to the conclusion of adopting or  
 21 recommending the particular lease form which is before you  
 22 in the face of the existence of AB 5 were as follows:

23 One: As of today, Assembly Bill 5 has not been  
 24 signed by the Governor. We do not have a statute before  
 25 us with certainty that could be considered as to its  
 26 application.

1 Second: AB 5, at least in its fundamental presenta-  
 2 tion to the Legislature, was presented on the basis that  
 3 it was necessary to aid the City of Long Beach in connec-  
 4 tion with solving an actual, existent subsidence problem.  
 5 There are no other coastal fields within the State of  
 6 California within the scope of AB 5, to which AB 5 would  
 7 apply today, therefore would not apply to any new leases  
 8 being considered currently. That is, as of today it would  
 9 not apply to any new lease being considered currently,  
 10 nor does it have any application, in fact, to the other  
 11 leases which the State Lands Commission has heretofore  
 12 adopted.

13 Therefore, our leases being considered this morning  
 14 are no different than a number of leases already in  
 15 existence, to which the problem of AB 5, which it should  
 16 become law, must be resolved. In the light we see it,  
 17 in both the physical and legal circumstances as they arise  
 18 at some future date, and they may never arise, to that  
 19 extent we feel our new lease form is no different as to  
 20 whether AB 5 may have to be studied in the future; although  
 21 the probabilities are rather remote, in view of the now  
 22 thirty-odd years of tideland oil fields in which the  
 23 Commission by inheritance has had no subsidence problems,  
 24 on lands to be offered under this particular lease form.

25 It is our understanding that the normal bill report  
 26 to the Governor, which the Attorney General makes, has not

9

1 yet been completed nor submitted to the Governor by the  
2 office of the Attorney General. Therefore, the staff did  
3 not feel that we could properly consider the area of  
4 application and what factors of AB 5 might be applicable  
5 to this lease, so these leases are perhaps entirely  
6 independent of the framework of AB 5, to be operated in  
7 whatever manner the law might provide in the future.

8 If AB 5 does provide amendments that have to be applied  
9 to these leases and other State leases in the future, this  
10 we won't know until we have subsidence in fact -- which is  
11 a condition precedent in qualifying an area under AB 5.

12 MR. PEIRCE: Would it be premature for the Commission  
13 to proceed with the adoption of this lease form without  
14 knowing whether AB 5 will become law?

15 MR. HORTIG: I was going to suggest that I would  
16 appreciate a statement of opinion from Mr. Shavelson, and  
17 also from possibly the Western Oil and Gas Association Sub-  
18 committee. At the present time, from the operational stand-  
19 point that in view of the fact that AB 5 covers general  
20 authorities, does not specifically relate to State lands  
21 as such, and from our prior operating experience its  
22 application will probably be a minimum in the future, we  
23 would be in an extremely difficult position at this time  
24 to attempt to forecast just what AB 5 is going to do with  
25 respect to any oil and gas leasing operations; because,  
26 again, the particular factors related to a subsidence

1 factor in the future are elements which will be reviewed  
 2 under AB 5, and determining the applicability of AB 5,  
 3 having no conditions under which to evaluate the conditions  
 4 of AB 5 until we do have subsidence, it appears to be  
 5 extremely difficult -- at least it appears to me to be  
 6 extremely difficult -- to determine what language would  
 7 cover the same type of lands which are already under opera-  
 8 tion and already under lease and have been for thirty  
 9 years.

10 MR. PEIRCE: Mr. Shavelson, you have heard Senator  
 11 Richards' statement and you have heard Mr. Hortig's  
 12 response and appraisal in regard to the status of Assembly  
 13 Bill Number 5, which is now awaiting the Governor's con-  
 14 sideration. What are your comments in this regard?

15 MR. SHAVELSON: We, of course, knew of the status  
 16 of Assembly Bill 5 when we worked on this lease. It's  
 17 my personal feeling that it is proper for the State Lands  
 18 Commission to reserve some degree of control. This Section  
 19 10 vests in the Commission the power to suspend production  
 20 immediately on proper notice, to take very prompt action to  
 21 stop production in those situations where there is liable  
 22 to be damage onshore and there is possible pecuniary damage  
 23 to the State. I have read AB 5, but it is an extremely  
 24 complicated thing and I don't want to represent that all  
 25 of the ramifications are embodied in any statement I make;  
 26 but, generally, I think that the Division of Oil and Gas

1 has responsibility to protect the public against subsidence,  
2 whereas the State Lands Commission has an obligation to  
3 protect the State against any possible pecuniary liability  
4 that may result out of a lease of tidelands, and I think  
5 the responsibilities are not exactly the same; and for  
6 that reason I think that this provision is proper, even  
7 if Assembly Bill 5 does become law. And, of course, as  
8 Mr. Hortig pointed out, we have many, many preceding leases  
9 and to the extent that they are going to be affected by  
10 Assembly Bill 5 they are going to be affected anyway; and  
11 for those reasons I think this provision is proper at  
12 this stage.

13 MR. KIRKWOOD: In other words, since March 28th,  
14 the date of the A.G.'s opinion, this has been reviewed by  
15 the staff of the A. G.'s office, having in mind the opera-  
16 tion or possible operation of AB 5, and this seems a  
17 proper lease form. Is that ....

18 MR. SHAVELSON: Yes, except that I would have to  
19 point out that we were under a very stringent deadline  
20 in approving this lease and we did a tremendous amount of  
21 work on the lease itself and the thorough study of Assembly  
22 Bill 5 was not possible in this time. I have read it,  
23 but haven't made a thorough study of it.

24 MR. PEIRCE: Mr. Hortig.

25 MR. HORTIG: If I may add on that point -- and this  
26 Mr. Shavelson is thoroughly familiar with -- and I think

1 it has not been stated -- In the course of considering  
2 appropriate language for this specific Section 10 of  
3 Exhibit A of the lease, there was a period in the develop-  
4 ment where there were actual references to Assembly Bill  
5 5 in the proposed language, but because of the uncertain-  
6 ties of what actually may be gained by Assembly Bill 5 and  
7 uncertainties prior to the time that the Attorney General's  
8 Bill Report has been made, and the limited probability  
9 that in any event Assembly Bill 5 will actually be applic-  
10 able to any of the State's lands, the provisions here were  
11 re-cast to give the protection for the features which, as  
12 Mr. Shavelson has already pointed out, are probably pecu-  
13 liarly the responsibility of the State Lands Commission  
14 and in such form is intended to not conflict with whatever  
15 application of AB 5 may ultimately become necessary as a  
16 matter of the actual statutory nature of AB 5.

17 MR. PEIRCE: Senator Richards, you have heard this  
18 discussion. Now, in the light of it, what are your comments?

19 SENATOR RICHARDS: Might I say, gentlemen, in the  
20 first place, I agree with substantially all of what both  
21 Mr. Hortig and Mr. Shavelson have said to you. I, however,  
22 feel that in view of their same statements, there should  
23 have been -- and that was my sole motive in coming here --  
24 presented to this Commission the potentiality of this very  
25 conflict. I call to your attention, since both houses  
26 have passed AB 5 it is more than simply an idea in being,

1 it is more than a potential statute; and if the Governor  
2 should sign AB 5 this week and in ninety days it becomes  
3 statute -- and this is approximately the time your leasing  
4 forms are an actuality -- you then have before you that  
5 existing conflict. I would, therefore, present a legal  
6 idea of necessity of review of that potential conflict,  
7 in view of the clear fact that AB 5 does subject the deter-  
8 mination of whether or not subsidence exists, coupled with  
9 three alternatives if they do so determine, coupled with  
10 the potential of unitization. The prospect that any one  
11 of these companies and the State would reconcile themselves  
12 to what appears to be a conflict in the lease form proposed  
13 by the Attorney General, I think there is no great difficulty  
14 in meeting; but I think it should be looked at, and if in  
15 your sound judgment ....

16 There certainly was no motive in AB 5 to cause delay  
17 in lease forms. It simply happened because, as Mr. Shavelson  
18 pointed out, it is a complex statute and does not cover  
19 just Long Beach, but the entire State of California, that  
20 I think there is this legal problem that has to be faced.  
21 I think Mr. Hortig is quite correct that in terms of  
22 practicality, there would probably be little or no applica-  
23 tion beyond Long Beach, but it is there and the law clearly  
24 subscribes the authority to the Supervisor and this lease  
25 form subscribes it to the Lands Commission. I would be  
26 just as willing to give it to the Lands Commission as the

1 Supervisor, but you can't leave it to both. I think you  
2 have to have an interpretation. Until it is solved, there  
3 is a practical conflict that hasn't been surmounted and  
4 that is all I want to bring to your attention, to decide  
5 as you think best.

6 MR. PEIRCE: Thank you, Senator, and I will say  
7 before we conclude this meeting consideration is going to  
8 be given to the points you have raised and any other  
9 points raised, because I don't want to make any mistake  
10 on any action taken this morning. Mr. Hanna -- Assemblyman  
11 Hanna.

12 ASSEMBLYMAN HANNA: I simply want to clarify some-  
13 thing Mr. Shavelson said. Did I interpret out of one of  
14 your remarks, Mr. Shavelson, that you thought perhaps the  
15 situation Senator Richards might describe -- we might have  
16 within the lease form and within AB 5 dual jurisdiction  
17 predicated on two different types of responsibility insofar  
18 as subsidence is concerned?

19 MR. SHAVELSON: Yes, that was what I stated -- the  
20 two agencies I felt had slightly different responsibilities  
21 in regard to land leased by the State.

22 ASSEMBLYMAN HANNA: If this were in fact the case,  
23 there would be possibly no conflict, but simply we would  
24 have sometimes State and Federal rule overlapping in juris-  
25 diction of these problems?

26 MR. SHAVELSON: Yes, and to the extent any conflict

1 would develop, I think certainly the statute would govern  
2 the lease provision.

3 MR. NORTIG: Mr. Chairman, if I may, so that we keep  
4 these things in context on a particular point -- if I  
5 understood Senator Richards' primary basis correctly, this  
6 factor of possibility of conflict was always recognized and  
7 was considered and the provisions of Section 10 were drafted  
8 in the hopeful attempt to meet the question without in any  
9 way restricting the activities of the State Lands Commission  
10 or the lessee, but directing them to the point where they  
11 ultimately might be governed by the provisions of AB 5 if  
12 AB 5 did become a law and was actually applicable. As you  
13 recognize, Senator, from your very intimate knowledge of  
14 AB 5, there must be a very considerable period of time  
15 elapsed before the condition of initial qualification for an  
16 area under AB 5 took place. It is in that period and pre-  
17 ceding that period, before the things happen that can put  
18 AB 5 in effect, that the Commission could determine to  
19 suspend operations if it were not in the State's interests  
20 to continue operations, following which resumption of the  
21 operations under this law would then take place only under  
22 proviso 3, as agreed to by the State and lessee, and which  
23 could very well be a program designated as satisfactory by  
24 a State Supervisor -- thereby integrating the provisions of  
25 the lease with whatever criteria might be necessary to be  
26 stated under AB 5.

1 AS a practical matter -- this may not be good  
2 legalistically -- but as a matter practical, I don't see  
3 we have any substantial potential future operating conflict.

4 MR. PEIRCE: At this time I want to recognize the  
5 presence of Assemblyman Bruce Allen and Assemblyman Francis  
6 Lindsay, who are very interested in the discussion. They  
7 both came in after we started the discussion. We are happy  
8 to have you with us and will be glad to have you partici-  
9 pate in the discussion. Thank you, Senator Richards.

10 SENATOR RICHARDS: Thank you.

11 MR. PEIRCE: Mr. Wanenmacher, do you have any further  
12 comments in addition to what Dr. Kaveler stated in connec-  
13 tion with this lease form?

14 MR. WANENMACHER: I'd like to say we are very pleased  
15 our recommendations were followed as fully as they were  
16 and wish to apologize that we bumped into some legal ob-  
17 stacles which we did not foresee. I'd like to say that in  
18 all other states a well which is dually completed is con-  
19 sidered as two wells. That is one point of difference.  
20 That prevails in every producing state. In other words,  
21 if a well is completed in two different zones, it is con-  
22 sidered as a substitute for two different wells, as if  
23 two wells were drilled. I am not criticizing the present  
24 legal interpretation, but merely trying to explain why we  
25 went astray.

26 MR. PEIRCE: There is plenty opportunity to go astray

1 in a subject as complicated as this.

2 MR. WANENMACHER: Thank you.

3 MR. PEIRCE: Thank you, Mr. Wanenmacher. Now, Mr.  
4 Hortig, do you have anything further to say before we call  
5 on representatives of the industry?

6 MR. HORTIG: Not at this time.

7 MR. KIRKWOOD: Could I ask one question of the con-  
8 sultants -- and this is on a phase of it that I have  
9 wondered about a little bit -- and that is on Section 18,  
10 just as to your impression as to the desirability from the  
11 State's point of view as to Section 18, as to how it fits  
12 into our future program. You are familiar with what I am  
13 talking about without taking a few minutes? Are the con-  
14 sultants satisfied with these provisions?

15 DR. KAVELER: If I may speak for Mr. Wanenmacher and  
16 myself, Mr. Kirkwood, the consultants are satisfied with  
17 that position because we understand the length to which it  
18 goes is limited by statute here in the State. As you know,  
19 the consultants have previously voiced the opinion that  
20 certainly, in respect to State lands, all information gathered  
21 in the drilling, completion and operation of wells should  
22 become public. We understand there is a statutory limi-  
23 tation on the distribution of that information publicly,  
24 but to the extent that the lessee permits any employee of  
25 the State to have that information, I think it's an  
26 improvement over past statutes and we are satisfied with

1 it as the law stands today in this state.

2 MR. PEIRCE: Mr. Kirkwood, have you any further  
3 questions or points to raise before we call on representa-  
4 tives of the industry?

5 MR. KIRKWOOD: No. MR. PEIRCE: Governor Powers,  
any questions? GOVERNOR POWERS: No.

6 MR. PEIRCE: Mr. Allen.

7 ASSEMBLYMAN ALLEN: Mr. Chairman, members of the  
8 Commission, I am going to have to leave in a few minutes --  
9 just one comment I would like to make before I go. In  
10 looking over this proposed lease, figuring out the way the  
11 proposed royalty scale, sliding scale, would operate, I  
12 have the personal opinion that the proposed sliding scale  
13 is low. A production of a hundred barrels per well, the  
14 royalty rate would be 18%, for example, compared to some-  
15 thing like the Wilmington Oil field, which has a production  
16 of a hundred barrels per day; the State would get less than  
17 18% compared to a prospective royalty that the State  
18 profits -- 55% under one lease, 70% under another. I  
19 suppose there are industry representatives present who  
20 will tell the Commission the sliding scale is too high,  
21 but I do have the opinion of my own that this scale is  
22 rather low.

23 I realize this is a matter of judgment and it is  
24 very difficult to predict what is the proper scale when  
25 you are leasing land. With that in mind, I would urge the  
26 Commission, if you go ahead with this lease and this scale

1 propose', that you do so with caution and judge by experi-  
2 ence.

3 I would also urge that the Commission give some use  
4 to the alternative of royalty bidding, because while we  
5 are in the dark in talking about what royalty the State  
6 should get on leasing of new tidelands, the only way you  
7 can find out really what the land is worth in terms of  
8 royalty is by putting it up for a bidding and seeing what  
9 the highest bidder feels it is worth and what the property  
10 would pay.

11 With that in mind, and feeling that cash bonus bid  
12 does not give the adequate return that we could get with  
13 royalty bidding, I would urge the Lands Commission in pro-  
14 ceeding with this to give some use on these tidelands --  
15 including lands that aren't known to be part of producing  
16 fields -- that the Land Commission give some use to the  
17 royalty bidding, so we can see what kind of royalties the  
18 highest bidder would offer in his own judgment.

19 MR. PEIRCE: Thank you, Mr. Allen. Do you want to  
20 comment on Mr. Allen's statement, Mr. Hortig?

21 MR. HORTIG: Yes, I should, Mr. Chairman. With the  
22 exception of Mr. Allen's last proposal with respect to  
23 royalty bidding on wildcat parcels, which I should like to  
24 comment on separately, I can report that the staff has  
25 given consideration and even reviewed the other points which  
26 Mr. Allen made with Mr. Allen previously and prior to

1 preparing this particular recommendation to the Commission.  
2 With respect to the royalty bidding, previous consideration  
3 has been given both by the staff and by the consultants,  
4 with the conclusion that in general -- and this may be  
5 too much of an oversimplification -- but that in general  
6 probably the only advantageous procedure on the part of  
7 the State would be to apply that to known and proven lands.  
8 Admittedly, without knowing ----- the eighteen to one  
9 chance of never producing any oil isn't going to give the  
10 State any substantial return. With the probabilities of  
11 a particular parcel producing -- when it is wildcat and is  
12 unknown, as the areas which we hope to recommend for lease  
13 at this time are, when the opportunity for developing  
14 production is so low -- a royalty bid appears to be a rela-  
15 tively poor method of assuring adequate return to the  
16 State on the parcel. Hence the recommendation that these  
17 parcels which are at this time for consideration be limited  
18 to cash bidding.

19 In the area of proceeding with caution, the  
20 staff will recommend to the Commission that only a limited  
21 number of parcels be considered at this time for lease, to  
22 which royalty bidding may well be applied in the future,  
23 but certainly not disposing of all the State lands wholesale  
24 under this procedure, in order that we may have that oppor-  
25 tunity for learning and experience as Mr. Allen has  
26 recommended.

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MR. PEIRCE: Would you like to comment on  
Assemblyman Allen's statement, Dr. Kaveler?

DR. KAVELER: Mr. Chairman, gentlemen of the Commission, Mr. Allen -- the consultants, believe it or not, share Mr. Allen's viewpoint substantially. We feel the State of California should get the highest possible bonus, whether it be dollars directly or dollars indirectly out of a higher royalty. As Mr. Allen made his statement, I was struck by this situation -- you are going through a very substantial transition period with respect to at least your minerals in this State of California. If I recall the date correctly, it was only in the year 1957 that permits were required for exploration ... Is that correct?

MR. HORTIG: For core drilling.

DR. KAVELER: Prior to that time it was open country, open range. Now, the thought you have in mind, in my opinion, is entirely proper; but until the State builds up a background or a catalog of information with respect to those lands, you are far, very far, away from that critical decision you suggest we should take. Two or three or four or five years from now, the State is going to be in an entirely different situation than it is today, because it is going to have geological information. The Legislature has been stepping in lately, whereby it has been setting up certain rules. That's one element you have to give weight to. The other element is this -- that high

1 royalties are not, per se, to the benefit of the State.  
2 I don't think that you could derive much satisfaction if  
3 on a lease with respect to lands not explored -- and these  
4 lands are not explored to the State's knowledge even geo-  
5 logically -- if someone came in with a lease of 90% royalty.  
6 You could not, as a result of that bid, feel that the State  
7 had fair treatment. Five years from now you may be pleased  
8 that the State took twenty million dollars for the leases  
9 that may be offered here because they may be dry as a bone.  
10 In spite of what one may wish or may read about, you only  
11 find oil by boring in the ground. I have a chap here  
12 (bringing out newspaper clipping) that will tell you where  
13 oil is but you have to spend your money to have him tell  
14 you. That's the situation the State is now in. This chap --  
15 (looking at clipping) 916 George Street -- he says "Oil  
16 hunters, why drill dry holes?" He's not getting any busi-  
17 ness. Now, the only way I know of proving consultation  
18 advice is to employ that fellow. I am not trying to be  
19 overly facetious, but we are in the dark, and it is only  
20 by having drilling on there that we can put in your ideas,  
21 Mr. Allen. I think in the second run, the State can put  
22 out leases on the royalty bid. I think the substantial  
23 change that has come about as a result of the Legislative  
24 action is to permit this business of two kinds of leases  
25 on State lands. I think that's substantial and I think your  
26 ideas will prevail later.

1 MR. PEIRCE: Thank you, Mr. Kaveler. Do you have  
2 any comment, Mr. Wanenmacher?

3 MR. WANENMACHER: Mr. Allen, we have recommended  
4 at first a lease for the high cash bonus and retain some  
5 of the lands, and later lease those on a high royalty basis  
6 after the oil is found.

7 ASSEMBLYMAN ALLEN: In other words, you are suggest-  
8 ing checkerboard leasing?

9 MR. WANENMACHER: Yes. Now, this meeting is not a  
10 discussion of the policy of this Commission in leasing,  
11 but a matter of lease form and I'd like to call attention  
12 if our recommendations are followed there will be a period  
13 when royalty bidding will be solicited, but this is the  
14 first stage and we feel that the State should by all means  
15 get all the cash they can on this first step because it is  
16 very speculative. It is not like drilling in the Wilmington  
17 Field.

18 MR. PEIRCE: Mr. Allen.

19 ASSEMBLYMAN ALLEN: Mr. Chairman, one more thing and  
20 I have to leave. I am not recommending that the Lands  
21 Commission resort to this gentleman's services. I am not  
22 proposing that the Lands Commission delay this matter any  
23 further, but I do feel that the extent to which there are  
24 oil lands unleased in the tidelands is not so unknown in  
25 the industry as it is to those of us in public office.  
26 In hearings we had before the 1957 bill was enacted, we

1 discovered there was a great deal of coredrilling going  
 2 on in the tidelands under no permit and the operators  
 3 refused to tell us how deep they were drilling. We do  
 4 urge this Commission proceed with this form, this cash  
 5 bonus bidding, proceed with caution. I wouldn't want to  
 6 wake up five years from now when the major portion of  
 7 oil-bearing lands had been leased and the State is getting  
 8 18% royalty where it could have gotten a very much higher  
 9 return if we had allowed the oil company with the best  
 10 information to bid a royalty. I do think the Commission  
 11 has taken a wise action in retaining these consultants  
 12 and wish you luck.

13 MR. PEIRCE: Thank you, Mr. Allen. Now, I believe  
 14 the time has come for us to hear from representatives of  
 15 the industry and Mr. Paul Home, chairman of the special  
 16 committee of the Western Oil and Gas Association is here  
 17 and we would like to hear from you, Mr. Home.

18 MR. HOME: Mr. Chairman, members of the Commission,  
 19 I would like to take this opportunity to express the very  
 20 sincere appreciation of the members of the Subcommittee of  
 21 the Western Oil and Gas Association for the cooperation  
 22 which we have had in trying to arrive at a satisfactory  
 23 lease form, both from the staff and from the consultants  
 24 who were retained by the State. This has been a long and  
 25 arduous process to arrive at some semblance of a form that  
 26 will be satisfactory, we hope, to the industry generally

1 and will meet the State's requirements.

2 After our last series of meetings in Sacramento,  
3 the staff published a rough draft of lease form -- which,  
4 in general, we felt carried out most of the things which  
5 had been discussed and upon which tentative agreement had  
6 been reached at that meeting. Thereafter, in review of  
7 such rough draft, the Attorney General's office brought  
8 forward certain suggestions that resulted in changes in  
9 the initial rough draft, which we felt were in certain  
10 respects wholly unsatisfactory.

11 Following receipt of that second draft with these  
12 changes or deletions, there was little time within which  
13 to review. We selected the three major points at which  
14 we felt the lease form had been seriously impaired.

15 One of those was the liability clause. Initially,  
16 that clause was drafted so as to relieve the lessee of  
17 potential liability for non-negligent damage to subsurface  
18 reservoirs. That language got changed in the second draft,  
19 but thanks to the Attorney General's office and the staff  
20 it is back in, in revised form, in the lease form we are  
21 considering this morning.

22 Another element of considerable dissatisfaction  
23 was the provision relative to the time between wells....  
24 I believe that's paragraph 3 of Exhibit A, the matter of  
25 120 days from cessation of drilling to commencement of the  
26 next well -- because cessation of drilling, if it simply

1 means stopping turning the bit, is not the point of com-  
2 pletion of a well, you are not past your trouble at that  
3 point in drilling a well. So the lessee could well have  
4 found himself with a fishing job or other troubles in the  
5 wells while his 120-day period was running, so he would  
6 not have reasonable opportunity to start the next successive  
7 well. After discussion and trying out a number of alterna-  
8 tives, it was decided to define drilling operations in the  
9 lease in such a way to include therein most of the opera-  
10 tions that take place in the boring of the well during  
11 which there can be troubles that result in delays, and  
12 such a definition has been prepared and placed in para-  
13 graph 3 of Exhibit A.

14 Then, there was one further and perhaps more  
15 serious difficulty. That was this matter of paragraph 10,<sup>1</sup>  
16 the requirement, or actually the authorization, I should  
17 say, of the State Lands Commission merely upon the finding  
18 that it would be in the best interests of the State to  
19 require the lessee to engage in a program of second recovery  
20 or pressure maintenance without any participation whatso-  
21 ever by the State in the cost of such an operation.

22 In the face of that requirement, it was felt that  
23 so long as the Commission merely had to find that it would  
24 be in the best interests of the State or the public inter-  
25 est to require such a program, that there were no criteria  
26 to base such a determination -- obviously economics did not

1 enter into it -- if the State could make an additional  
2 thousand dollars, it would probably be your duty to require  
3 the lessee to engage in such a program even though it  
4 might cost the lessee a million dollars in loss. That  
5 was pointed out to the staff and was discussed with the  
6 members of the Commission and a new paragraph 10 has been  
7 placed in the lease which places a substantive requirement  
8 upon the Commission that they find, when subsidence is  
9 occurring, that damage or loss to onshore property may  
10 result. After a hearing, then they can require the lessee  
11 to suspend or curtail his operations which are so resulting  
12 in loss or subsidence.

13 Now, that was designed not unmindful of Assembly  
14 Bill 5. The staff, the Association representatives work-  
15 ing with them, and the Attorney General's office, all  
16 considered "How would this provision work in with Assembly  
17 Bill 5 in the event that bill becomes law?" The present  
18 provision places in the hands of the Commission the power  
19 to make a finding that subsidence is occurring, that  
20 damage may result, and to compel the lessee to shut down  
21 his operations. It does not go beyond that. The lessee  
22 must shut down until a program is put in to alleviate  
23 subsidence damage. That places a powerful weapon in the  
24 hands of the Commission. It enables them to stop the lessee  
25 in thirty days' time. It enables them to require the  
26 lessee to conform with whatever requirement may exist under

1 Assembly Bill 5 at that time before he may resume his  
2 operations.

3 So, with those changes and elimination of the old  
4 requirement whereby the Commission could order a lessee  
5 into a full scale pressure maintenance operation, and with  
6 many other minor, lesser changes throughout the lease  
7 form which have been made, I have no hope that this form  
8 will meet all of the desires of all the persons present  
9 in this room but I feel in general we should have a form  
10 that should be generally acceptable to the industry and  
11 on which we could proceed.

12 MR. PEIRCE: Would you recommend that we proceed  
13 to adopt or approve this form today?

14 MR. HOME: That would be my recommendation.

15 MR. PEIRCE: Are you speaking for your committee  
16 or yourself?

17 MR. HOME: I am speaking primarily for myself in  
18 this matter because we have not had opportunity in the  
19 short time since release of the last draft to review it  
20 with all of the committee and get the views of all the  
21 Association members.

22 MR. PEIRCE: You are of the opinion, however, that  
23 the present draft of the proposed lease form would meet  
24 with the general approval of the industry, though there  
25 may be some dissent?

26 MR. HOME: That is my opinion, although I believe

1 the general representation of the industry is present  
2 today. You will undoubtedly hear those views, particularly  
3 those who wish to dissent.

4 MR. PEIRCE: Mr. Kirkwood.

5 MR. KIRKWOOD: I was curious -- This 10 is a pro-  
6 vision I am looking at for the first time this morning.  
7 I was curious as to why it was in the exact language it  
8 was in instead of the language presented here. And this  
9 is both to you and Mr. Shavelson -- Why was the damage  
10 restricted to onshore developed recreational or residential  
11 property rather than on "property"?

12 MR. HOME: I believe that's the language of Assembly  
13 Bill 5.

14 MR. SHAVELSON: No, that's the language of 6874.

15 MR. KIRKWOOD: I have an idea .... we had onshore  
16 residential, but we do have the S.P. tracks; we do have  
17 that liability. I assume they would come after us. You  
18 spoke of "property". In our imposing limits on offshore  
19 things, we are restricted on those hearings to residential  
20 and recreational, but I wouldn't think in this area .....

21 MR. SHAVELSON: We had in mind property on submerged  
22 lands under a lease and there would have to be some kind of  
23 monetary damage, pecuniary loss rather than damage to the  
24 ocean.

25 MR. KIRKWOOD: Wouldn't a statement "developed  
26 property" rather than "residential or recreational" meet that?

1 MR. HOME: I would think so.

2 MR. KIRKWOOD: We are talking of "adjacent."  
3 Would that materially change the thinking on this?

4 MR. HOME: I do not think so, no.

5 MR. HORTIG: As a matter of fact, in terms of  
6 definition, the way this came up -- Particularly being  
7 conscious of specific language of qualification in AB 5,  
8 unless there be any future attempt to tie this operation  
9 specifically to AB 5 in a matter which might be determined  
10 not applicable by AB 5 itself, we elected to specify other  
11 conditions and seized upon specific language out of the  
12 Public Resources Code which you recognized, without any  
13 thought, however, of using it in its limited sense. As  
14 you indicate, and upon cold rereading it here, it can well  
15 be so interpreted.

16 MR. HOME: The Public Resources Code uses this termi-  
17 nology: "The Commission in determining whether the issuance  
18 of such lease would result in such impairment or interfer-  
19 ence with the developed shore line, recreational or resi-  
20 dential areas adjacent to the proposed leased acreage or in  
21 determining such rules and regulations as shall be necessary  
22 in connection therewith shall at said hearing receive evidence  
23 upon and consider whether such proposed lease ... would be  
24 detrimental to the health, safety, comfort, convenience or  
25 welfare of persons residing in, owning real property, or  
26 working in the neighborhood of such areas; (b) interfere

1 with the developed shore line, residential or recreational  
2 areas to an extent that would render such areas unfit for  
3 recreational or residential uses ...."

4 MR. KIRKWOOD: I know it's in there and I would  
5 think that's a different applicability. Here, we are  
6 looking at protecting the State against liability and  
7 this would not be a restriction on that.

8 MR. HOME: I would think there would be no broader  
9 terminology, provided we get away from the idea that the  
10 mere fact of subsidence itself is a damage. It certainly  
11 may not be in the area at which we are now looking. A  
12 great deal of subsidence could occur without damage to  
13 property.

14 MR. KIRKWOOD: On page 21, line 23, for example:  
15 "... might aggravate or cause subsidence to the impairment  
16 or interference with the developed shoreline recreational  
17 or residential areas adjacent to the leased lands" --  
18 instead, saying "... to the impairment or interference  
19 with property of areas adjacent to the leased lands" rather  
20 than having "... the developed shoreline recreational or  
21 residential areas." There would have to be one other place  
22 that would have to be done. Unless there were substantial  
23 reason to have it the other way, I think it should be from  
24 that point of view.

25 MR. HORTIG: Might I suggest retaining the language  
26 and adding "or damage to other property"?

1 MR. KIRKWOOD: All right. I thought "areas adjacent  
2 to the leased lands...."

3 MR. HORTIG: On shore properties.

4 MR. PEIRCE: All right. You have made a note of  
5 that, Mr. Hortig and Mr. Shavelson?

6 MR. KIRKWOOD: I don't think that's anything to  
7 cause us to hold this over. May I come back again ....  
8 I find the only problem I have in this thing -- I mentioned  
9 it to you the other day briefly -- is on this Section 18.  
10 Are you in agreement -- again, I may propose this to you  
11 and Jay -- that this is as far as we can go under existing  
12 law in requiring this information to be made public, or  
13 is this a policy we are adopting here? What bothers me  
14 here, it seems to me this Section 18 gives to the operator  
15 who gets this first lease a tremendous foot in the door  
16 and, in effect, it excludes anybody else wanting to bid  
17 on the subsequent leases on proven areas, so called,  
18 proven in the minds of the operator and proven in the minds  
19 of the Commission, without anybody else having access to  
20 the information. This one worries me a bit. Is this as  
21 far as we can go? By this lease we are tying the hands  
22 of the State. Maybe the Legislature could come along --  
23 but maybe we would be dealing without due process. Either  
24 one of you can answer.

25 MR. HOME: I would mention this. This is an ancient  
26 and honorable custom in the oil business to start with;

1 that Section 6826 of the Code relative to conduct of  
2 geological and geophysical surveys, taking of samples,  
3 does indicate an expression of legislative intent that:  
4 "The Commission shall require, as a condition for the  
5 issuance of any permit ... that the permittee make avail-  
6 able to the Commission, upon request, all factual and  
7 physical exploration results, logs, and records resulting  
8 from the operations under the permit. Any such factual  
9 or physical exploration results, logs, or records which  
10 the permittee is required to make available to the Commis-  
11 sion shall be for the confidential use of the Commission  
12 and shall not be open to inspection .... without the  
13 written consent of the permittee."

14 That, of course, is in reference to the permits for  
15 geological and geophysical operations. It does not nec-  
16 essarily affect the terms of the lease; but we felt, at  
17 least, that it was the legislative intent that these  
18 factual results obtained in the offshore area would be  
19 treated in a confidential manner.

20 MR. KIRKWOOD: Frank, would you or Jay like to  
21 comment?

22 MR. SHAVELSON: I would just like to say, as far  
23 as our office was concerned the original requirements were  
24 a little more stringent and we wanted to make it clear, at  
25 least in case of litigation, that the State wouldn't have  
26 its hands tied in cases of litigation between the lessee

1 and the State. It's my opinion -- which I can't absolutely  
 2 bind our office to -- it's my personal opinion that under  
 3 the waiver provisions of the 3000 sections of the Public  
 4 Resources Code, relating to the confidential nature of  
 5 material filed on oil and gas, that we can abstract a  
 6 complete waiver from the lessee. Therefore, we could go  
 7 farther as a matter of law if it is a matter of principle.  
 8 But the angle our office approached it from this time was  
 9 the policy to make it confidential and we just wanted to  
 10 make it available to the extent it was necessary in matters  
 11 of litigation.

12 MR. KIRKWOOD: Policy of the Legislature?

13 MR. SHAVELSON: No, the State Lands Commission.

14 MR. KIRKWOOD: Frank, do you want to comment?

15 MR. HORTIG: Yes. The factors, for your information,  
 16 that went into setting the scope of this; the factors that  
 17 were considered by the State Lands Commission; why this  
 18 section goes as far as it goes and doesn't go any farther --  
 19 were, as Mr. Home indicated, there definitely would have  
 20 been dissatisfaction on the part of a potential bidder with the  
 21 extreme deviation from the ancient and honorable custom  
 22 (as he stated) of the information being available subsequent  
 23 to his own investments in the property. We are actually  
 24 proposing in this lease form to clearly set forth, which  
 25 has been the program of the Commission before, that which  
 26 is already an expansion away from that activity, in that in

1 lines 9 and following on page 2 of the lease form it will  
2 be provided that the State, however, will "permit others  
3 (that is, others than the lessee) to conduct geological  
4 or geophysical surveys on the leased lands or drill core  
5 holes into said lands ...." So, when the time comes  
6 there are adjoining parcels which the State wants to lease  
7 and persons on the adjoining land feel it is proper to have  
8 information on the leased parcel to help them evaluate the  
9 parcel for lease, they can, at their own expense and with  
10 the permission of the State Lands Commission, acquire such  
11 data. So under this proposed lease form, he normally  
12 wouldn't be in the position he is in under other than  
13 State leases, where he would have exclusive control of  
14 data on the prospective lands.

15 MR. KIRKWOOD: Our only control would be, in effect,  
16 on an evaluation, to set up what we think ought to be the  
17 minimum royalty scale bid. It would still give the advan-  
18 tage to the operator at that time. In a private operation,  
19 the landlord has the right to sit down and negotiate --  
20 it isn't a question of open bids. This one puzzles me a  
21 bit.

22 MR. HORTIG: Where we fall off that, Mr. Kirkwood,  
23 is that at certain times -- and certainly this has been  
24 demonstrated heretofore, particularly in State leases --  
25 the possession of the operating or the production data  
26 doesn't always determine who the successful bidder is

1 going to be. There are so many elements of the economic  
2 position of the oil supply situation at the time that a  
3 bid is received, all of which situations are highly differ-  
4 ent in this highly competitive industry, that we have  
5 actually had .... well, I can think of one not too distant  
6 oil and gas lease offer where the potential lessee with  
7 most of the geological data was the undisputed low bidder  
8 out of thirteen bidders.

9 MR. KIRKWOOD: Do the consultants want to comment  
10 on this?

11 MR. WANENMACHER: I would like to say that every-  
12 where else except in California, as far as I know, informa-  
13 tion is released and .....

14 MR. KIRKWOOD: You mean by that across the board, on  
15 private as well as on public?

16 MR. WANENMACHER: The State records are public  
17 records. The operators turn their electric logs into the  
18 log bureau or allow the logging companies to sell copies  
19 of these logs. Wherever there is a state where there is a  
20 severance tax and the pipelines are reported, they become  
21 public. There are scouting services that give complete  
22 information. The well information and the log that are  
23 turned into the state are considered public information and  
24 are available by simply ordering them and paying the cost  
25 of production.

26 Our firm first came to California some ten years ago

1 to help Frederick Harris when they were studying the sub-  
 2 sidence at Wilmington and we were amazed at the way Cali-  
 3 fornia operators held on to their information. We eventu-  
 4 ally got it because we were working for the U. S. Navy;  
 5 but it is a time-honored tradition here that the operator  
 6 keeps everything secret. It is my own personal opinion  
 7 that the operator would be better off if the information  
 8 was released because it gives the appraiser something to  
 9 work with and he finds oil.

10 In this particular instance, I believe that it  
 11 might be to the benefit of the State if the information  
 12 from the wells on the leases which are granted was released --  
 13 not promiscuously, but at the date bids were solicited.  
 14 In other words, the State would keep it confidential until  
 15 they wanted to release a bid on a high royalty bid on a  
 16 nearby parcel.

17 MR. PEIRCE: Any further questions.

18 MR. SHAVELSON: I believe, in connection with Dr.  
 19 Haveler's (sic) statement -- perhaps I didn't make myself  
 20 clear as to my personal opinion; that we aren't limited by  
 21 Section 6826, which isn't applicable to leases at all, and  
 22 that we can put as liberal provision as we want as to dis-  
 23 closure in light of the waiver provisions of the Public  
 24 Resources Code filed with the D.O.G. If I didn't make  
 25 myself clear before -- if it is clear now .....

26 MR. KIRKWOOD: You mean it can be in the ....

1 MR. CHAVELSON: Yes, I think it's a matter of  
2 discretion with the Commission is what I meant to say.

3 MR. HIRKWOOD: I don't at this date want to throw  
4 any monkeywrenches into our getting a lease, an invitation  
5 out to lease, but this one -- If there were some way along  
6 the line that Mr. Wanenmacher suggested of a restricted  
7 availability as of the time that we are using this as a  
8 pattern ... In other words, if we ever go out with a lease  
9 adjoining, except as a wildcat, this wouldn't be made  
10 available; but somehow so this could be evaluated by the  
11 prospective bidders. That would be the purpose of it.

12 MR. WANENMACHER: Yes.

13 MR. PEIRCE: Mr. Hortig?

14 MR. HORTIG: May I comment?

15 MR. PEIRCE: Yes.

16 MR. HORTIG: The primary difficulty the staff has  
17 recognized on that problem -- if we could carry a program  
18 as you have suggested -- the primary difficulty is the  
19 difference in statutory provisions and the practice which  
20 has grown up, to suggest to the Commission that it should  
21 be provided that this data be released under a State Lands  
22 Commission lease when the identical data are required to  
23 be filed as confidential information with the Division of  
24 Oil and Gas and aren't even available under subpoena. So  
25 from a State policy, it would appear to be incongruous  
26 to require on the one hand that a document be filed as

1 confidential and on the other hand another agency proceeds  
2 to broadcast the information. This could well be a problem  
3 that the Legislature should reconcile.

4 MR. PEIRCE: Any further discussion? Dr. Kaveler.

5 DR. KAVELER: Mr. Chairman, in view of Mr. Horig's  
6 last statement, and in sympathy with Mr. Kirkwood's state-  
7 ment, it might be well -- the Commission might well con-  
8 sider putting an open door in this paragraph, so in the  
9 event there was legislative action to clear the point or  
10 make other provisions, that this lease would come under  
11 that future act of the Legislature -- at least give you an  
12 open door to do the things you have in mind.

13 MR. KIRKWOOD: Would that be feasible, Jay?

14 MR. SHAVELSON: If I am correct that it can be  
15 done now, it seems to me that would be a lot simpler --  
16 not meaning to intrude on policy, but as a statement of  
17 legislative intent. It seems to me there is a difference  
18 between a statute making these things secret as to every-  
19 one primarily concerned probably with private oil leases  
20 and private operators who want to keep the information  
21 confidential, and a lease applying to State lands; that  
22 a legislative policy applying to all oil lands necessarily  
23 applies to a lease by the State Lands Commission.

24 MR. PEIRCE: Any further discussion?

25 MR. KIRKWOOD: What is the problem, Jay, what  
26 would be the problem if no mention is made in this lease --

1 if the lease goes as it is now -- and subsequently a law  
 2 were enacted applicable, requiring this to be done on  
 3 State-owned lands and under State leases? Could it affect  
 4 the findings under this lease after the adoption of that  
 5 act?

6 MR. SHAVELSON: I think to the extent this lease  
 7 makes the information confidential, conceivably that  
 8 would be an impairment of a contractual obligation and  
 9 would therefore be invalid. I don't want to commit our-  
 10 selves to that.

11 DR. KAVELER: This lease is subject to the condi-  
 12 tions available under date of bidding, so if you issue  
 13 new regulations by legislative act you have to leave the  
 14 door open in order to make this lease come under anything  
 15 like that.

16 MR. ERCK: Martin Erck, Monterey Oil Company. Mr.  
 17 Chairman, members of the Commission, at the moment I don't  
 18 know the answer to the question that has been propounded.  
 19 I am sensitive to your problem and I am also sensitive to  
 20 the ancient and honored custom in California. My company  
 21 represents interests in California and abroad and I suppose  
 22 most of the gentlemen here do. As a result, I don't know  
 23 what the answer would be as to which they would prefer.  
 24 I do have the feeling it is a very basic question that has  
 25 been discussed here. It is not a question that has been  
 26 raised in previous lengthy discussions of the form. It is

1 a question of policy. While it may have arisen, it is not  
 2 a matter that has been given the attention that it should  
 3 be given and because of the fact that I don't know, for  
 4 example, for my company what my answer would be -- we  
 5 operate in both places -- I think if other representatives  
 6 knew what their companies' policy would be that they would  
 7 be up letting you know, that's what they are here for  
 8 today, to let you know what they want you to know about --  
 9 I think this is so deep and the policy so fundamental, it  
 10 should not be changed just prior to the eleventh hour of  
 11 this lease.

12 MR. LOWER: After that invitation by Mr. Erck, I think  
 13 I should say that for my company, Superior Oil Company,  
 14 we are opposed to free dissemination of drilling and geo-  
 15 logical information. I can understand the viewpoint of  
 16 Mr. Wanenmacher and how, in all deference to him and his  
 17 associates, how they might look at a situation of this  
 18 kind, being in consulting practice. The oil companies who  
 19 are spending their money have traditionally, in California,  
 20 considered their geological information as part of their  
 21 investment in the property. This concept has been carried  
 22 over into the State law. The Legislature has always  
 23 recognized the confidential nature of information filed  
 24 with the Division of Oil and Gas; and it has gone so far  
 25 as to allow the operator to withhold filing his logs on  
 26 wildcat wells until six months after they have been

1 completed.

2 Now, I think for this Commission to take any other  
 3 viewpoint is just inviting further disinterest on the  
 4 part of industry in these properties. I get the impres-  
 5 sion from two things that were said -- first by Senator  
 6 Richards, regarding the possible conflict on this subsidence  
 7 question. I am inclined to agree with Senator Richards.  
 8 I think if there is one authority in this State that's  
 9 vested with an authority to make a decision and another  
 10 Commission that's vested with the same authority, the  
 11 operator can be in violation of his lease terms by comply-  
 12 ing with the State statute. It seems to me from that and  
 13 what has been said about State lands being different from  
 14 private lands and therefore they should be able to publicize  
 15 this information, it looks like an effort is being made to  
 16 give special treatment to the lands of the State of Cali-  
 17 fornia. In other words, it's all right for the Legislature  
 18 to pass laws but it's all right if they don't apply to  
 19 State lands.

20 I wouldn't want the inference left that the lease  
 21 form in its present form is acceptable as far as my company  
 22 is concerned. We think the royalty rate as established is  
 23 way too high. We think it will discourage bidding. We  
 24 think it will dissuade an operator in producing his wells  
 25 at maximum rate so as not to get into an unprofitable  
 26 operation. Thank you.