

1 state and I would like

2 MR. LEVITT: We don't have that before us today.

3 MR. HORTIG: We were not aware of these questions.

4 We have no question in our record -- number one, but that
5 the lease is in existence; number two, it was renewed and
6 has a terminal date, I believe, in 1965.

7 MR. TURNER: That is right.

8 MR. HORTIG: I might explain for Mr. Turner's benefit
9 -- and possibly this will alleviate some of his concern --
10 the lease was activated 1940 as of a date 1947 because it
11 was not until 1947 that the Lands Commission had discovered
12 that the Oza! Company had been occupying State property for
13 seven years.

14 MR. TURNER: I think that clears that point. I might
15 mention one more fact -- the purposes stated in the lease
16 are for wharf purposes. Our use will be substantially the
17 same. The wharf extends 960 feet from the Southern Pacific
18 right-of-way. The wharf is T-shaped. The top of the "T"
19 is 150 feet wharf length and each way it extends 75 feet.
20 We are going to have to come in later and ask for an amend-
21 ment because the size of the tankers coming in there is such
22 the bow will extend easterly beyond, upstream. We will
23 bring that up at a later date.

24 I want to mention the urgency. I hate to hurry anyone
25 but we are up against an extremely heavy time schedule under
26 our contract with the United States Government to get these

1 facilities installed. The Lark Corporation is proceeding as
2 rapidly as it can with the tanks. The hill has been cut off.
3 We have to get down from the fourteen acres down on the
4 waterfront. We will put either two 16-inch lines or four
5 12-inch lines out the wharf to the end of the dock. That
6 will be maintained where tanks will be moored and the fuel
7 will be pumped to the shore. Loading and unloading facilities
8 and facilities for tank trucks will be on the uplands.

9 MR. LEVIT: Mr. Turner, the only thing before us today
10 is the assignment of the lease.

11 MR. TURNER: I don't want to take up your time unnecessarily
12 but we are most anxious to get that today.

13 MR. LEVIT: Well, if you will let us vote on it, you
14 probably will get it.

15 MR. TURNER: We want to come before your Commission
16 next meeting and have application on file to cancel this
17 when assigned and give us a new lease for fifteen years with
18 an option for ten.

19 MR. LEVIT: Of course we are not passing on that today.

20 MR. HORTIG: For Mr. Turner's assurance, that's in
21 process for the next meeting.

22 MR. LEVIT: Item (1) Myco Mining Corporation -- waiver
23 of operating requirements, mineral extraction lease in Fresno
24 County.

25 Next, Standard Oil Company -- extension of term --
26 submarine geological exploration permit in Santa Barbara,

1 Ventura and Los Angeles Counties.

2 GOV. ANDERSON: What do we get out of a permit like
3 that?

4 MR. HORTIG: Only the permit fee, Governor, but the
5 operation of the permit -- I should retract that. We get
6 good information out of such a permit; monetarily, only the
7 filing fee for issuance of the permit.

8 GOV. ANDERSON: What is that?

9 MR. HORTIG: Five dollars. But the permit is operated
10 at no cost to the Commission, in that any Commission staff
11 time in terms of inspection or other operations in connection
12 therewith are reimbursed by the permittee, at no cost to the
13 Commission. Such permits require the permittee to make
14 available to the Commission on a confidential basis all ex-
15 ploration results from the permit and extremely valuable
16 information comes to the Commission as a result of the issu-
17 ance of these permits.

18 MR. LEVIT: Are they actually operating on this permit
19 now?

20 MR. HORTIG: Spasmodically, depending on the success
21 or lack of success in connection with the operations under
22 some of the existing leases. This dictates the desirability
23 of initiating this type of exploration program. Therefore,
24 it is the preference of the permittees to have such permits
25 in effect, so that they can go into operation on rather short
26 notice -- invariably on a Sunday night, much to the chagrin

1 of the staff. But definitely they are always in an emer-
2 gency crash program, where they can't possibly wait for the
3 next meeting of the Lands Commission, hence these renewals
4 of these permit terms.

5 MR. LEVIT: All right. The next four items -- (k),
6 (l), (m), (n) -- are similar items, relating to Richfield
7 Oil, Union Oil, Monterey Oil, and the Texas Company -- and
8 in each case the staff has recommended the extension?

9 MR. HORTIG: Yes sir.

10 MR. LEVIT: Are there any questions or further discus-
11 sion of any of the items under No. 5? If not, a motion to
12 approve the recommendation of the staff and grant the per-
13 mits will be in order.

14 MR. CRANSTON: So move.

15 GOV. ANDERSON: Second.

16 MR. LEVIT: If there is no objection, that will be
17 the order by unanimous approval of the Commission.

18 Item 6 -- City of Long Beach projects which require
19 approval of the Commission. The first one, (a), relates
20 to wharf rehabilitation, Pier A, Berths 3 and 4 -- approval
21 of credit due the State of \$902.85 pursuant to final audit
22 on the completed project.

23 Item (b) -- allowance of additional \$15,000-odd
24 dollars to the City of Long Beach for subsidence costs pur-
25 suant to audit on Eighth Street construction.

26 The next item is also a credit due the State on final

1 audit in the LBHD and LBOD administrative area development.

2 MR. WHEELER: Those three -- the figures are in the
3 wrong order as you read them.

4 MR. HORTIG: They are in the wrong order on the index.
5 If we can refer to the calendar items themselves

6 MR. LEVIT: You mean the figures are transposed?

7 MESSRS. WHEELER and HORTIG: Yes.

8 MR. LEVIT: What is the 902.85?

9 MR. HORTIG: 902.85 is on administrative area develop-
10 ment operation. Pier A is credit due the City and if we
11 say credit due State 392.66 (b) and 902.85 (c) we would
12 conform to the calendar item as prepared.

13 MR. WHEELER: Page 30 shows them as they should be.

14 MR. HORTIG: Page 30 the three projects are listed as:

15 Credit due the State - -0-
16 \$392.66
17 \$902.85

18 MR. LEVIT: Anyway, they are right in the material and
19 in the resolutions as presented.

20 MR. HORTIG: That's correct.

21 MR. WHEELER: Yes.

22 MR. LEVIT: Item (d) involves Piers 28 and 29, bulk-
23 loader reconstruction -- estimated expenditure by Long Beach
24 Harbor Department of \$20,000 to cover raising of bulkloader
25 facility on Pier D.

26 Item (e) refers to repairs of terminal facility damaged

1 by subsidence, estimated expenditure by LBHD of an additional
2 \$20,000 for terminal facility repairs damaged by subsidence.

3 Item (f) Belmont Pier Fish Market -- denial of request
4 by the City of Long Beach for approval of proposed expendi-
5 tures of approximately \$10,000 for construction of a fish
6 market. This is a recommended denial?

7 MR. HORTIG: Yes.

8 MR. LEVIT: The others are recommended approvals?

9 MR. HORTIG: Approvals, yes.

10 MR. LEVIT: Item (g) is a recommended approval of an
11 application to contract through public bidding for site
12 preparation and so forth relating to water injection wells --
13 estimated cost not to exceed \$700,000.

14 Is there any discussion or questions from the staff
15 regarding any of these items?

16 MR. FRIEDMAN: May I ask a question about that last
17 item?

18 MR. LEVIT: Yes.

19 MR. FRIEDMAN: The \$700,000 water injection facilities
20 Parcel K -- I take it the approval is for expenditure of
21 tideland trust funds of Long Beach?

22 MR. HORTIG: Well, the financing would come from tide-
23 lands trust funds but this would be conducted as part of the
24 normal oil operations and would be charged to the oil opera-
25 tion expense to the City and, therefore, one-half of the
26 expense would be apportioned in the subtraction of the

1 revenue to the State.

2 MR. LEVIT: We are not even determining that. We are
3 only giving formal approval of going ahead with the project.

4 MR. FRIEDMAN: I wasn't sure whether it was a finan-
5 cial approval or project approval.

6 MR. LEVIT: My understanding is project approval.

7 MR. HORTIG: And approval to spend \$700,000 on this
8 project.

9 MR. LEVIT: In other words, it not only approves the
10 project, but determines it is chargeable in this way?

11 MR. HORTIG: That is correct.

12 MR. LEVIT: What page is that resolution on?

13 MR. HORTIG: That is page 37.

14 MR. LEVIT: Any further question?

15 MR. LINGLE: On the fish market

16 MR. LEVIT: What is your name?

17 MR. LINGLE: My name is Lingle. I am from the Long
18 Beach City Attorney's staff. We recognize that we probably
19 have a legal dispute with your staff and advisers but one
20 thing I would like to point out. It is suggested here that
21 we should resolve our differences with the attorneys. We
22 have attempted to arrive at some solution with the Attorney
23 General's staff and we were then referred to the Commission
24 and in this item we are asking to spend \$10,000 and I am
25 not going to press it at this time -- I know you don't want to
26 get in a debate with me nor do I wish to take the time of

1 your attorneys at this point; but the \$10,000 -- if we are
2 finally left with the resolution of the matter to go to
3 court, we are going to spend of your time and our time, it
4 seems to me, almost more money in addition to the amount of
5 money we are required to spend for this fish market.

6 MR. LEVIT: Well, I suspect you won't go to court
7 just to build a fish market. You will be doing it to estab-
8 lish precedent for similar projects in the future and that
9 would apply equally to us if we should act now. So I don't
10 know that we can avoid this. In other words, I suppose this
11 would be something of a test case.

12 MR. HORTIG: The court has retained continuing juris-
13 diction, so declaratory relief items are expeditious. In
14 fact, the City has proceeded on numerous other questions
15 heretofore.

16 MR. LINGLE: I am aware of one

17 MR. FRIEDMAN: It took two years, but you got your
18 point.

19 MR. LEVIT: Any further questions or discussion? If
20 not a motion to approve the recommendations submitted by the
21 staff, or the resolutions submitted by the staff will be in
22 order.

23 GOV. ANDERSON: So move.

24 MR. CRANSTON: Second.

25 MR. LEVIT: That will be the order of the Commission.

26 Item 7: Sales of vacant State school lands. The first

1 three items involve Stanford C. Shaw. These items have been
2 before us previously. The first is to accept a bid on cer-
3 tain lands; the second is to ratify an extension of deposit
4 time on another application and provides for cancellation if
5 the deposits are not made on time.

6 Now, the third item you will have to brief me on. That
7 relates to policy relative to advertising. What is that?

8 MR. HORTIG: Yes sir. The problem before the Commis-
9 sion which is brought into focus today by Mr. Shaw's applica-
10 tions will be equally applicable to other applications pend-
11 ing which are in process by the Commission.

12 MR. LEVIT: Well, are they binding on this Commission?

13 MR. HORTIG: The others are not, but the policy on
14 this matter on Mr. Shaw's application would be equally applie-
15 able to the other issues.

16 MR. LEVIT: Which one?

17 MR. HORTIG: Pages 38 and 39 relate to Mr. Shaw's
18 application for an aggregate of a large tract of land

19 MR. LEVIT: In order to know what we are doing, I
20 suggest we pass items (a) and (b) and take up item (c),
21 which is a matter of policy. Under that item, let me read
22 your recommendation:

23 "It is recommended that a determination be made by the
24 Commission that it is considered to be in the best
25 interest of the State to require that all published
26 notices for receipt of sealed bids on State school

1 "lands and on lands acquired in place thereof which
2 are authorized to be sold under school land regula-
3 tions, shall provide for the submission of competi-
4 tive bids on individual parcels embraced in an
5 application (a parcel containing a full section or
6 less), and that in instances where noncontiguous
7 parcels exist within a section of land separate
8 bids likewise shall be required."

9 Now this has to do with what -- with the advertising for
10 bids?

11 MR. HORTIG: Yes.

12 MR. LEVIT: We can't change the situation that existed
13 on the advertisement for bids in connection with Mr. Shaw.

14 MR. HORTIG: No sir. Mr. Shaw's original application
15 has been processed in parts and he has already acquired cer-
16 tain parcels of land which were specified in his original
17 application; and recommended in the first item of the calendar
18 of the series here today, is a recommendation relative to
19 approval of the sale of two more parcels pursuant to competi-
20 tive public bidding. These were advertised as separate
21 parcels and separate bids were received, and Mr. Shaw is
22 the high bonafide bidder on those.

23 Now, there remain additional lands of the 20,000 acres
24 applied for, on which Mr. Shaw has now deposited the addi-
25 tional funds to meet appraised value, which are now ready to
26 go to advertising; and the question is a matter of policy

1 before the Commission is: Do we advertise 20,000 thousand
2 acres in one block or do we advertise a series of parcels
3 comprising not more than the lands in one section in each
4 advertising notice?

5 MR. LEVIT: What has been the practice in the past?

6 MR. HORTIG: We have only had in the past one large
7 application for land sales and that one was with respect to
8 acquisition of lands for a consolidated ranch holding and
9 that was divided into numerous notices, but not nearly as
10 many notices as would be recommended here.

11 MR. LEVIT: When would you be advertising these lands?

12 MR. HORTIG: Immediately after the Commission action
13 which tells us which way to advertise.

14 MR. LEVIT: Which way are you recommending -- separate?

15 MR. HORTIG: We are recommending minimum size parcels
16 not to exceed one section of land per notice, in order to
17 achieve the maximum competitive public bidding, to achieve
18 the maximum sales value of these lands for the benefit of
19 the school trust fund.

20 MR. CRANSTON: What other precedents other than the
21 one recent one -- have there been other ones in the past,
22 more recent past?

23 MR. HORTIG: Ken?

24 MR. SMITH: No, just the one large one. It has been
25 the practice in the executive office for the last five years
26 to advertise for receipt of bids individually. Most of the

1 applications that would fall under that directive, however,
2 wouldn't contain more than two or three parcels at the most.

3 MR. CRANSTON: What occurred at that time? Did the
4 person who was seeking the whole thing acquire the whole
5 thing, or were portions acquired by others as a result of
6 the separate bidding?

7 MR. HORTIG: Acquired the entire acreage.

8 MR. CRANSTON: By meeting the bids?

9 MR. HORTIG: Yes.

10 MR. CRANSTON: Does that mean if these sections are
11 taken altogether that somebody could bid on this inside
12 section while somebody was bidding the whole?

13 MR. HORTIG: That is correct, except I must emphasize
14 that these land applications, all land applications we have
15 on file are scattered. In other words, it is proposed that
16 contiguous lands in one section be offered as a block and
17 that when it no longer can be considered in contiguity, it
18 be as one.

19 MR. LEVIT: Are there some contiguous lands here that
20 do exceed one section?

21 MR. HORTIG: I don't believe in this application. Is
22 that correct?

23 MR. SMITH: Not contiguous. They are all checker-
24 boarded.

25 MR. HORTIG: However, we have other applicants who
26 have lands, previous applications for lands, which will be

1 acquired from the Federal government in lieu of State lands on
2 applications which have been in process for many years, and
3 who are represented here today and would like to comment
4 upon this recommended policy by the State. Mr. Pon is here,
5 if the Commission would care to hear from him.

6 MR. PON: About 1953 an exchange application was filed
7 with the State and processed and I understand that it prob-
8 ably is being appraised at the present time and will shortly
9 be advertised for sale. I happen to have the checkerboarded
10 sections, the odd numbered sections, and the even numbered
11 sections which the State is acquiring -- has recently acquir-
12 ed from the Federal government on this exchange -- will make
13 a solid block. So, obviously, if the sections were sold
14 individually in smaller parcels, I would not know at what
15 point I would begin to assemble a solid block.

16 In other words, it is a question of the entire applica-
17 tion was processed not in individual parcels but on the
18 entire thing as a unit, and I have had a sizable deposit up
19 with the State for almost six years; and, after all, the
20 property is being appraised, not as of six years ago but as
21 of now, and yet it was started approximately six years ago
22 when I deposited without interest all of that time. Natur-
23 ally if I felt that the properties would ultimately be sold
24 in small units, I wouldn't have started the application in
25 the first place.

26 MR. LEVIT: But I understood this has been the practice

1 of the Commission -- to advertise separate items where they
2 were noncontiguous parcels.

3 MR. SMITH: Yes, it has been.

4 MR. PON: Well, if they are isolated parcels. You
5 see, in this one application there are some parcels in
6 another township that are somewhat disjointed and constitute
7 less than a section of land. In those particular cases I
8 can see that no one would be harmed and someone might be
9 benefited who has property adjoining those sections.

10 MR. LEVIT: The point I am making, sir, that's bother-
11 ing me -- I don't think we should be asked to make rules to
12 meet special cases. In other words, if we have a practice
13 that we have been following, I think we ought to continue to
14 follow it and not make special exceptions, because then
15 people do get misled if we are going to do that. We are
16 going to be constantly faced with the necessity of doing that.
17 If this has been the practice of the Commission, as I under-
18 stand it this resolution you are proposing is in accordance
19 with the past practice of the Commission.

20 MR. HORTIG: That is correct, with the understanding
21 that the past practice of the Commission is that the Commis-
22 sion has had very little practice in connection with adver-
23 tising and selling large tracts of land which were applied
24 for in one application. We had one such application and
25 even that application was broken down in a greater number of
26 parcels than contained in the original application, although

1 not the number of parcels it would have been broken down
2 into in accordance with the present recommendation.

3 MR. CRANSTON: Are there no rules in existence govern-
4 ing that?

5 MR. HORTIG: No sir, but now that we are faced with,
6 for the first time since my tenure in office with the Com-
7 mission, this matter of what to do with large acreages of
8 land contained in one application as exemplified by Mr.
9 Shaw's application, and in the near future will be faced with
10 what to do with respect to applications containing large
11 acreages which have been pending for a long time -- Mr.
12 Pon's and others -- we felt it was essential that we have a
13 directive from the Commission as to the appropriate practice
14 to follow.

15 I might indicate to the Commission -- on which I think
16 Mr. Pon will agree -- he certainly has a plea in equity on
17 the matter of his application being in process for six
18 years, this six years being by courtesy of the Bureau of
19 Land Management in Washington, D.C. This is how long it
20 takes us to get Federal land sometimes. This is a typical
21 example.

22 MR. CRANSTON: What is the precedent with land that
23 comprises more than one section and that is contiguous?

24 MR. HORTIG: There really have not been, at least in
25 my experience, sufficient number of sales out of the total
26 number of sales that have existed to say that we had

1 established a precedent.

2 MR. CRANSTON: To continue that line of thought, do
3 we have anything like that before us at the present time,
4 where there is land in more than one section that is con-
5 tiguous?

6 MR. HORTIG: As of today's agenda, I don't believe so.

7 MR. SMITH: I don't believe there are.

8 MR. LEVIT: Doesn't the man that puts up the deposit
9 have opportunity to meet bids that are made?

10 MR. HORTIG: As the first applicant, under the present
11 rules and regulations he has first refusal to meet the high
12 bid.

13 MR. LEVIT: Then, in view of the fact it seems to me
14 that this is consistent with the practice we have had; in
15 view of the fact it will open the bidding to more competi-
16 tion and thereby be likely to benefit the State in the long
17 run; and in view of the fact that the first applicant does
18 have an advantage in being able to meet the bids if he
19 chooses to do it, just at this point I feel inclined to
20 approve the recommendation of the staff.

21 MR. HORTIG: May I verify something, Mr. Chairman.
22 I am correct all of these applicants do have first applicant
23 status?

24 MR. SMITH: They do, speaking for the exchange.

25 MR. HORTIG: Mr. Pon, for example?

26 MR. SMITH: Yes. Under the present rules, of course.

1 MR. LEVIT: Well, I assume that in proposing this rule
2 you were looking ahead prospectively and not aiming this
3 particularly at the present applicants, even though it would
4 apply to them.

5 MR. HORTIG: Well, that is correct.

6 MR. LEVIT: In other words, you are looking towards a
7 long-term policy in this matter.

8 MR. HORTIG: With the necessity that the Commission
9 have a consistent policy, as you have indicated; and now,
10 being faced with this situation for the first time, is the
11 time to establish the policy rather than after we have estab-
12 lished some adverse precedents down the line.

13 MR. CRANSTON: What would be your recommendation for a
14 situation that might come up in the future where the land
15 was more than one section and is not contiguous?

16 MR. HORTIG: This rule would require advertising not
17 more than one section per notice.

18 MR. LEVIT: Do you have anything to add, Mr. Pon?

19 MR. PON: Just this -- that there has been six years of
20 very hard work with the State coordinating with the Federal
21 government and the various Federal agencies to make it avail-
22 able so that the State could effect the exchange, which would
23 result in the State acquiring the property and Uncle Sam
24 acquiring lands in the Joshua Tree National Monument.

25 MR. HORTIG: I believe we have the problem, for the
26 benefit of the Commission, that the first responsibility of

1 the Commission with respect to the trust lands is to achieve
2 the maximum returns from the land for the trust fund, and
3 then we look at and certainly cannot deny the equitable
4 rights of the depositors and literally the blood and tears
5 by which applicants, including Mr. Pon, certainly have
6 expended tremendous effort in these things.

7 MR. LEVIT: The equities in these things don't impress
8 me. I can figure out why you want to have it the way you
9 suggest, but whether you have any other reason to suppose
10 it would be otherwise than suggested here is what I can't
11 understand. In other words, from all we hear here today
12 the practice of the Commission has been to break these
13 things down.

14 MR. PON: Of course all the State lands that have been
15 sold have not been sold as a result of acquisition from
16 Uncle Sam. In this particular case, this entire application
17 was started, as I say, some six years ago and required a
18 terrific amount of work and expense in just processing it
19 through the various departments and various State agencies;
20 and governmental agencies were very cooperative but, as you
21 know, the red tape involved - - Had that work not been done,
22 naturally we wouldn't have started the application in the
23 first place.

24 MR. LEVIT: Did you have any reason to believe that
25 it would be processed any differently than is being recom-
26 mended now?

1 MR. PON: Well, initially, if the application had
2 gone through, to answer your question indirectly -- if the
3 application had gone through within a year from the time it
4 was filed, it probably would have sold for considerably less
5 at that time. So the harder we worked and the longer we
6 worked we were penalized and the State is making another
7 appraisal.

8 MR. LEVIT: We are not talking about price. We are
9 talking about the method of sale, the method of advertising.

10 MR. PON: Well, as you probably know, some of these
11 small government tracts that have been sold through the
12 Bureau of Land Management, you see them scattered throughout
13 the countryside -- little 2 x 4 buildings on them without
14 restrictions and many of those people, thinking they were
15 buying from Uncle Sam, paid three or four times more than
16 the property was worth. The improvements were in accordance
17 with those set up by planning commissions and actually, when
18 we consider the amount in the initial application, the
19 appraisal in the initial application, it sounds ridiculous
20 but that was the basis on which it was initiated. That was
21 about two dollars an acre six years ago. Naturally, the ap-
22 praisal will be considerably higher and I will be at the mercy
23 of the State appraiser for whatever it is worth, whatever
24 it is appraised at.

25 It is just a question whether somebody who has made
26 this possible should have an opportunity to bid on it as

1 a whole, because if one isolated bidder gets in there on
2 part of it, it will be useless.

3 MR. LEVIT: I think we should act separately on this
4 item (c).

5 GOV. ANDERSON: Do you first want to approve the
6 recommendation of the staff on this policy?

7 MR. LEVIT: Well, if you do that settles it.

8 GOV. ANDERSON: I mean I am satisfied with the
9 recommendation of the staff, I think.

10 MR. LEVIT: Can we have a motion to that effect, then?

11 GOV. ANDERSON: I so move.

12 MR. CRANSTON: Second the motion.

13 MR. LEVIT: Motion is to adopt the recommendation of
14 the staff on Calendar Item 48. If there is no objection,
15 that will be the order of the Commission.

16 Now, let's go back to

17 SENATOR DOLWIG: Mr. Chairman, may I interrupt at this
18 point? Would it be possible to go back to your item relative
19 to the tidelands? I was in committee and was not able to
20 be here and would like to get some information from your
21 Commission.

22 MR. LEVIT: Relative to the tidelands? You mean the
23 boundary determination? Certainly. What do you have in
24 mind?

25 SENATOR DOLWIG: I was the original chairman of the
26 committee in 1951 that made a study of the tideland situation,

1 and at that time we discovered the Lands Commission did not
2 have an inventory of all the State lands and as a result of
3 that study I understand the State has gone ahead and made an
4 inventory and there is a question so far as exact descriptions
5 are concerned; and in the legislation we are having in com-
6 mittees at the present time we have noticed that the State
7 has been making grants very much on a general description.

8 Now, it's my understanding that this has been causing
9 considerable difficulty and at the present time in one of the
10 committees we have set a policy that insofar as the local
11 agencies are concerned that they should come in with an
12 exact description.

13 Now, I would like to inquire from the Commission
14 whether it is possible for the municipalities now to obtain
15 a metes and bounds description of these tidelands and I think
16 the Commission is familiar with the problem we are having,
17 particularly in the Long Beach situation, where due to the
18 fact where there has been lack of exact descriptions there
19 are many problems that devolve on it.

20 I would like to make inquiry -- maybe Mr. Hortig or
21 somebody can answer my question -- as to exactly where we
22 stand on these descriptions.

23 MR. LEVIT: Mr. Hortig?

24 MR. HORTIG: If I may, Mr. Chairman. Mr. Dolwig, since
25 1947, in my own personal experience, the Lands Division at
26 the direction of the Lands Commission have invariably worked

1 with the authors of all tideland grant legislation, seeking
2 to assist technically, not as to the merits of whether a
3 grant should be processed, but to ascertain that the techni-
4 cal land descriptions in grants are technically accurate. In
5 a very few instances, and this has been many years ago now,
6 a few of the authors desired not to accept the description
7 of the Lands Division as to the description of the lands and
8 proceeded with their own descriptions.

9 Certainly, as you recognize, while it is not a policy,
10 it certainly has been a practice of the Senate of the State
11 of California to require grants to specify that the granted
12 lands will be surveyed, platted and recorded by the State
13 Lands Division at the cost of the grantee. Every one of the
14 grants which roughly start in the series since 1950 that
15 have required that type of survey and recordation and mapping
16 have been completed and there are, in the counties in which
17 the lands are located, recorded maps which are accurate and
18 will permit at any time in the future the exact location and
19 determination of the areas and position of the lands which
20 the Legislature has granted -- which, admittedly, has been a
21 far cry from our inability to do likewise in grants that
22 were so popular in the period 1911 to 1917, most of which
23 as of this date are very difficult to determine as to their
24 location and extent.

25 Yesterday, in your Senate Governmental Efficiency Com-
26 mittee, it was indicated by Senator Collier that even in

1 amendments to previous grants it would be desirable to have
2 those grants further amended to include conditions which your
3 committee now feels should be standard, namely, mineral
4 rights to the State, survey of the lands by the State, and
5 a condition for reversion of those lands in the event those
6 grants are not for the purpose originally intended.

7 SENATOR DOLWIG: That's true, Mr. Hortig, and we still
8 have the question -- we have these deals before us. I think
9 we have six or seven moving right now, two or three in Marin
10 County. I would like to ask this practical question. I am
11 sure the Commission is interested in it and that is this:

12 When the legislation is put in, is it possible for a
13 municipality to get a metes and bounds description, so this
14 can be put in the legislation, so in the future if oil is
15 developed in these areas the State will not be in the same
16 problem they are in the Long Beach situation?

17 I think this is something that is going to require a
18 policy so far as the Legislature is concerned and is cer-
19 tainly something the Lands Commission will be concerned with.

20 MR. HORTIG: I believe you have touched upon the crux
21 of this thing, Senator Dolwig, when you say it is going to
22 require a policy of the Legislature. In all instances
23 where municipalities have requested grants and have requested
24 assistance from the State Lands Commission, there have been
25 furnished upon their requests metes and bounds descriptions
26 which have been subsequently recorded by the State Lands

1 Commission, so there is no doubt of the location of the
2 lands granted by the Legislature. As I have said, this has
3 not been even remotely universal except since 1951 and even
4 of the number of grants being processed in the Legislature
5 today, one half of the descriptions originated in the Lands
6 Division at the request of the grantee, the other half were
7 offered to the Legislature that it might have assistance on
8 the description, so it would be technically correct. If, as
9 a matter of legislative policy, the Legislature should pro-
10 pose to direct any proposed grants to the Lands Division
11 for approval of description, our problem will be solved.

12 SENATOR DOLWIG: I don't believe you have answered my
13 question. Six, seven or eight bills are in. Every one I
14 have examined does not have an adequate metes and bounds
15 description so the State and municipality will know exactly
16 what lands are granted. This is a question I would like to
17 have answered, because I think we have got to solve this
18 problem, either legislatively or through regulation by the
19 Commission. This is the question I am pursuing, because
20 this has been raised and there is legislation under con-
21 sideration. I would like to get the viewpoint of the Commis-
22 sion on this matter. You are the people that are dealing
23 with it.

24 MR. LEVIT: Senator, if I might comment -- I am not
25 nearly as familiar with this as you are, but just from
26 listening to the interchange here, the Lands Commission can't

1 control, and wouldn't want to in any way, the action of the
2 Legislature. If a legislator introduces a bill and it
3 doesn't have descriptions in it and the Lands Commission
4 does not have the request or isn't given the opportunity to
5 prepare the descriptions, there is not very much we can do.

6 Now, it would seem to me that there would be a
7 technique possible, whereby the bill would be passed subject
8 to, as Mr. Hortig indicated, subject to the actual survey
9 and metes and bounds description being supplied by the Lands
10 Division, and I would think there is no real difficulty there
11 except to the extent that you can't control what the Legis-
12 lature might do in passing bills otherwise drawn.

13 SENATOR DOLWIG: That's true, Mr. Chairman. The only
14 thing I am speaking of is information -- number one, if we
15 put that in as a condition on tideland grants from now on,
16 is the State Lands Division from a practical standpoint in
17 a position to produce exact descriptions when we pass legis-
18 lation with the condition that the description will be
19 furnished by the State Lands Commission? Can we do that?

20 MR. HORTIG: In general, Senator Dolwig, the answer
21 would be yes -- except where the grants might fringe on an
22 area where title is in litigation.

23 May I ask a question? Apparently I don't understand
24 your terminology with respect to the insufficiency of the
25 descriptions in the grant legislation now pending before the
26 present session, inasmuch as every one of the bills which

1 has been introduced has been reviewed by the Lands Division
2 and where the descriptions were not sufficient have been
3 amended by the authors of the legislation so that if the
4 legislation is adopted the area conveyed can actually be
5 surveyed and monumented on the ground and survey filed as
6 required by the statute, and so far as records in the future
7 there will always be complete knowledge because there will
8 be a recorded plat on file in the county where the property
9 is located. The descriptions in there, while they may not
10 meet your particular test of a metes and bounds description,
11 are nevertheless sufficiently definitive and accurate to
12 locate the ground on such a plat or survey.

13 SENATOR DOLWIG: Then, why, Mr. Hortig, do we have
14 the problem so far as Long Beach is concerned? To go back
15 to the 1911 act, this description was along the same descrip-
16 tions you have. Now we are confronted with the problem of
17 where are the lines -- how much is owned by the State and
18 how much is not owned by the State. I think this is a prob-
19 lem.

20 MR. HORTIG: I think the answer is rather simple, in
21 retrospect at least. If your predecessors had had the fore-
22 sight that you gentlemen are exercising now in requiring
23 platting and monumenting before a grant, if that had been
24 filed in 1911 as to what were the granted lands in 1911,
25 then there would be no question. There is no question on any
26 grant that you gentlemen have passed since 1951.

1 SENATOR DOLWIG: Now, is there any way we can take
2 care of, by regulation through the Lands Commission or by
3 legislation, to determine those boundaries now of all the
4 grants we made prior to 1950. This is a matter I think we
5 have to take up in legislation.

6 MR. LEVIT: This matter, it seems to me, is of course
7 a very interesting legal problem which might involve some
8 of the principals that were involved in the boundary litigation.
9 I think that all we could say now we might refer
10 this matter to the Attorney General for some

11 SENATOR DOLWIG: Mr. Chairman, I have discussed it
12 with the Attorney General in a general way. We haven't had
13 enough time to go into the thing thoroughly but I wanted to
14 have this opportunity, since this Commission is meeting, to
15 find out what the facts are. I'll be glad to take it up
16 further and not take your time up and take it up with the
17 Attorney General.

18 MR. LEVIT: It does seem to me, Senator, that any
19 attempt on the part of the Legislature to pass any legisla-
20 tion that would determine the boundaries would have the
21 effect of leading to litigation anyway.

22 SENATOR DOLWIG: I'll take that matter up with the
23 Attorney General. I think that is definitely a consideration.

24 I have another request. I wonder if it is possible,
25 since this is under consideration now, to get the report of
26 the special attorneys on this problem.

1 MR. LEVIT: You weren't here when we discussed this
2 earlier and I read a letter from the Attorney General in
3 which he pointed out that it would be very detrimental in
4 his opinion to the interests of the State if these details
5 were made public; and I stated that my own conclusion was,
6 and I believe I can say that this is the opinion of the
7 members of the Commission, that this is correct -- that
8 these are detailed briefs, if you will, or opinions prepared
9 by an attorney for his client and as long as litigation is
10 pending or likely to ensue, it would be most unusual and
11 unwise and prejudicial to the interests of the State to dis-
12 close the detailed investigations of our own attorneys.

13 Therefore, I stated that these reports would be kept
14 in a secret file at the Lands Commission but would, of
15 course, be made available at such future time as this situa-
16 tion no longer exists. We have consulted as individuals and
17 also as members, of course, as members of the Commission in
18 an attorney-client relationship with the Attorney General and
19 his staff in going over the details of these reports, and we
20 probably will do that again before the Commission reaches a
21 final decision as to what it should do.

22 We have, however, a public recommendation of the
23 Attorney General in which he states that the State has liti-
24 gible rights in his opinion against the City of Long Beach
25 and has also concluded that no actions relating to this
26 question should be commenced against any other persons at

1 this time.

2 I think I should also say that the Commission is fully
3 aware of the requirement of law that all its meetings are
4 public meetings and it is not only aware of it but is in
5 complete sympathy with it; but at the same time there are
6 certain situations that occasionally arise where you don't
7 have formal meetings because obviously the Commission can't
8 act in private -- it has to act in public meetings. No
9 action was taken in these consultations with the Attorney
10 General and none was contemplated or will be contemplated;
11 but there are certain situations where the public interest
12 requires that members of a public body have to consult in
13 private. One of those obvious matters is matters relating
14 to preliminary investigations involving personnel, where
15 disclosures prematurely would injure character and simply
16 couldn't be tolerated in fairness; and another situation,
17 it seems to me, is an attorney-client situation where an
18 attorney is making an investigation and detailed recommenda-
19 tions and reports. If those are made public and litigation
20 ensues, you in effect are furnishing legal services to the
21 opposition and this would be damaging to the interests of
22 the client, in this case the State of California.

23 SENATOR DOLWIG: Mr. Chairman, as a lawyer I am fully
24 aware of the situation as far as attorney and client is
25 concerned. However, this is public business and I am a
26 member of the Legislature; and, as I have indicated here,

1 there is a legislative problem involved and certainly the
2 members of the Legislature should have all of the facts
3 that have been developed on this particular problem

4 Insofar as the Commission is concerned, I am certainly
5 aware of the fact that there is litigation pending and so
6 forth, but I am still making the request to the Commission
7 that I be given a copy of it -- with the understanding, and
8 I am sure that you realize if I told you it is only going
9 to be used from the standpoint of considering legislation,
10 that as far as I am concerned the document will not be made
11 public. I am making that request.

12 MR. LEVIT: Well, Senator, I think we have to distin-
13 guish between yourself as a legislator and the Legislature;
14 and if I read Chapter 2000 of the Statutes of 1957 correctly
15 the Legislature has referred this matter to the Lands Com-
16 mission, with instructions and authority to act. It is not,
17 therefore, at this time in the hands of the Legislature and
18 I think that the problem you pose, regretfully I say this,
19 is a much broader one than the way you put it.

20 In other words, I think we either have to maintain
21 the position that the Commission has already stated it would
22 maintain or else we have to determine that this is a public
23 document and available to any limited group -- let's say
24 all the members of the Legislature or other officials than
25 the Lands Commission; and I know you won't misunderstand
26 what I am saying now, but I believe if we take that position,

1 Senator, why we might just as well assume it is a public
2 document.

3 You are not the only legislator who has made a request
4 that these documents be furnished and the Attorney General
5 called me some days ago and told me that he had had requests
6 from legislators to furnish these opinions and asked me
7 what I thought; and I told him that as far as I was concerned
8 he was the attorney for the Lands Commission in this matter
9 and it was up to the Commission and not up to the Attorney
10 General to furnish this information to anyone else than the
11 Lands Commission.

12 I am sure you are aware of the fact that when your
13 counsel, the Legislative Counsel, renders an opinion to you
14 at your request, no one outside the Legislature -- no matter
15 how much they may be interested in or affected by the opin-
16 ion -- can get it except by release of the legislator him-
17 self.

18 SENATOR DOLWIG: Mr. Chairman, that's all very true;
19 but we have a practical problem from a legislative stand-
20 point. At the present time there is legislation affecting
21 this matter; there is legislation under consideration; We
22 have a deadline of practically May 4th as a practical matter.
23 I think it's making it very difficult because we as legis-
24 lators are certainly concerned about not putting in any
25 legislation that in any way is going to prejudice the State's
26 position insofar as any of these law suits are concerned.

1 That determination cannot be made unless we are in full
2 possession of the facts.

3 MR. LEVIT: Then I think the Legislature should by
4 resolution instruct the Commission on the current legisla-
5 tion. We are subject to that.

6 SENATOR DOLWIG: If you would like collective action
7 rather than individual action

8 MR. LEVIT: There can't be individual action.

9 SENATOR DOLWIG: I meant so far as any individual legis-
10 lator is concerned. I am in agreement with your position.

11 MR. LEVIT: I certainly don't want to convey the im-
12 pression that I have the slightest doubt

13 SENATOR DOLWIG: No, no

14 MR. LEVIT: ... of your ability to keep this secret,
15 but if we turn it over to you we have to turn it over to any
16 legislator that wants it and it's quite obvious from just
17 general knowledge of human nature and past experience as to
18 what the effect of that will be.

19 SENATOR DOLWIG: Mr. Chairman, I appreciate your prob-
20 lem in this matter and if it is going to require determina-
21 tion by the Legislature, we will look into that. I appre-
22 ciate your problem, as an attorney.

23 MR. LEVIT: I am not attempting to bind the Commission
24 by what I am saying. I believe I am giving the opinion of
25 the Commission.

26 MR. CRANSTON: May I ask one question? Is it

1 possible that certain information contained in the Attorney
2 General's opinion would be helpful to the Senator on legis-
3 lative inquiries he is concerned in, that it might be pos-
4 sible to be made available to him without making others?

5 MR. LEVIT: How can the Senator tell what he wants
6 without seeing the whole?

7 MR. CRANSTON: I think it might be possible in a con-
8 ference between the Senator and the Attorney General's
9 office.

10 SENATOR DOLWIG: My problem is we don't want to take
11 any action that will prejudice the State's position. As I
12 have indicated, I think ~~are~~ are other problems here and
13 certainly legislation should go ahead to resolve the prob-
14 lems; and, again, we have a practical problem and I can see
15 you have.

16 MR. LEVIT: I'd like to suggest one possible way to
17 approach this, Senator. That is, if you can discuss this
18 matter with Mr. Kleps, Legislative Counsel, I'd be very
19 happy to discuss it with him and with the Attorney General
20 because I'd like very much to work out a satisfactory
21 conclusion.

22 SENATOR DOLWIG: All right. I'll do that.

23 MR. CRANSTON: It seems to me by such a conference he
24 could get the information he wants.

25 MR. LEVIT: All right. We will proceed with the
26 calendar.....

1 MR. WIRSING: I am Robert Wirsing, representing
2 Senator Shaw, in this matter that was just before you and
3 that you passed on, at the request of Mrs. Shaw. As you
4 know, Senator Shaw has been out ill since a week ago Monday.
5 I am in no position to tell you the gravity or the serious-
6 ness of his illness. However, at Mrs. Shaw's request she
7 instructed me to pray the Commission would put over all
8 matters pertaining to his application for thirty days and
9 I respectfully

10 MR. LEVIT: Now, let's make sure what we are talking
11 about here. We haven't taken any action yet on any of Mr.
12 Shaw's applications. Item (c), although it appears under
13 the name of Mr. Shaw, does not relate to Mr. Shaw and was
14 taken up separately as an adoption of a rule that related to
15 all applications pending or to be pending in the future. It
16 didn't relate to Mr. Shaw.

17 MR. WIRSING: I am sorry.

18 MR. HORTIG: Not exclusively.

19 MR. LEVIT: Well, it will affect him like all the rules
20 of the Commission will affect him.....

21 MR. WIRSING: Yes.

22 MR. LEVIT: ... but we didn't pass on this as a matter
23 specifically relating to Mr. Shaw. Now, are you suggesting
24 that we don't take any action on those for the next thirty
25 days? Are there any applications to which Item (c) relates
26 that can be processed -- that have to be processed within

1 the next thirty days?

2 MR. HORTIG: Well, in the normal circumstances of the
3 deposits already made by Mr. Shaw -- in connection with
4 these matters, in the normal processing by the Commission
5 these areas would be advertised for bid immediately and the
6 question was the manner in which they would be advertised.

7 MR. LEVIT: You are talking about item (a) now,
8 aren't you?

9 MR. HORTIG: We are actually talking about how item
10 (b) shall be processed under the rules of item (c). Item
11 (a) is a completed series of bids and the question is
12 whether the Commission will award the sale as to the bids.
13 This is as to a portion of the acreage originally applied
14 for. (a) is completion of a sale.

15 MR. LEVIT: That has been advertised.

16 MR. HORTIG: That has been advertised, bids have been
17 received. Mr. Shaw is high bidder.

18 MR. LEVIT: But (b) is ratification of extension of
19 time.

20 MR. HORTIG: To five p.m. today to complete deposits
21 on which lands would then be advertised in accordance with
22 the rules under (c).

23 MR. LEVIT: Are you asking that that be extended?

24 MR. WIRSING: Yes, item (b), Mr. Commissioner.

25 GOV. ANDERSON: I think first we should ratify what we
26 have done in the past so that part is taken care of.

1 MR. LEVIT: Yes, we can do that; but I am just trying
2 to see what it is they want us to do. Senator Shaw came
3 before the Commission some time ago and asked for an exten-
4 sion of time, which was granted. Then prior to this meeting
5 of the Commission, the Senator got in touch with me and ex-
6 plained he needed a short additional time. I assume from
7 what you say it ran until today -- I don't recall; and I
8 undertook to grant that extension because there wasn't time
9 to consult with all the other members of the Commission and
10 since then that has been ratified individually by the other
11 two members of the Commission.

12 Now, I understand you want to postpone for a period of
13 thirty days again?

14 MR. WIRSING: Yes.

15 MR. LEVIT: ... the time within which the deposit
16 must be made?

17 MR. WIRSING: Yes.

18 MR. LEVIT: Well, if the extension is granted, or if
19 the deposit is not made today, there wouldn't be any occa-
20 sion to proceed under item (c) within the next thirty days?

21 MR. HORTIG: There wouldn't be the immediate necessity,
22 I don't believe. We have no other applications processed so
23 far.

24 MR. LEVIT: I mean nothing would happen under item (c).

25 MR. SMITH: That is correct. There are no lands under
26 present application where the second applicant would be

1 held up.

2 MR. LEVIT: What I can't understand, if these things
3 are all to be acted on at the same time -- for instance, if
4 you get a thirty-day extension, that will take you just
5 about up to the next meeting of the Commission and whether
6 Mr. Shaw wants to make a deposit or not might depend to some
7 extent on how the Commission acts on Item (c) -- that is,
8 in connection with the rule.

9 MR. WIRSING: I hesitate to speak for the Senator or
10 Mrs. Shaw, but I don't believe -- I think the paramount
11 interest at the moment, Mr. Chairman, is the fact of his
12 illness.

13 MR. CRANSTON: I move the matter be extended to the
14 May 28th meeting.

15 MR. LEVIT: You mean item (b)?

16 MR. CRANSTON: Yes.

17 MR. HORTIG: May the staff bring the Commission's
18 attention to some complications? First, I can answer at
19 least in part again to Mr. Wirsing, that in contemplation
20 of any consideration of establishment of the policy in regard
21 to the matter of advertising, this was brought to the atten-
22 tion of Senator Shaw before the item was brought to the Com-
23 mission and I believe no objection to that procedure was
24 indicated by Senator Shaw.

25 MR. LEVIT: What is the complication?

26 MR. HORTIG: The complication is that at this time the

1 appraisals for the land for which you are proposing to grant
2 further extensions of time are over nine months old and on
3 the basis of information available to the Commission's
4 appraisal staff -- and, incidentally, they are this old be-
5 cause of the successive extensions of time heretofore granted
6 to Mr. Shaw -- on the basis of the Commission's appraisal
7 staff, land evaluations may have raised to the point where
8 it is outdated. Ordinarily, any appraisal is reviewed where
9 the appraisal is over six months old. This is extremely
10 important in desert areas of the southern portion of the
11 State, where demand is great and increasing almost daily, and
12 particularly where development of such lands for substantial
13 use, largely as subdivisions, desert homesites or even in-
14 dustrial use has occurred subsequent to completion of the
15 original report.

16 Therefore, it is felt that in connection with any
17 granting of any further extension of time the staff would
18 have to recommend to the Commission that there be a direc-
19 tive to the staff to reappraise these lands and then Senator
20 Shaw would have the opportunity to again meet the new
21 appraised value; and then if he does, the lands to go to
22 advertising. In other words, if we don't complete this
23 situation as of five p.m. tonight, which is the last dead-
24 line of a series which the Commission has granted in exten-
25 sions, we are up against the very serious problem of probably
26 going to advertising with minimum prices required which are