

1 my name is J. Kerwin Rooney, attorney for the Board of Port  
2 Commissioners of the City of Oakland and we have several people  
3 who have come up because of their interest. I'd like to take  
4 the opportunity of introducing them: Carl Hansen, Vice Presi-  
5 dent of the Board of Port Commissioners; Peter Tripp, Commis-  
6 sioner, Port of Oakland; Ben Nutter, Assistant Executive  
7 Director and Engineer, Port of Oakland; Mr. Fred DeBois,  
8 publicity representative, Port of Oakland. We have two gentle-  
9 men from the Oakland Chamber of Commerce (Names unintelligible  
10 to reporter); and we also have Mr. Barnett of the California  
11 Aeronautics Commission here. Mr. Hansen has a brief statement  
12 on the problems which he would like to have the opportunity  
13 of reading to the Commission.

14 GOV. ANDERSON: Mr. Hansen, will you state your name  
15 and who you represent?

16 MR. HANSEN: Mr. Chairman and State Lands Commission,  
17 I am Carl Hansen, Vice President of the Oakland Board of Port  
18 Commissioners. The Port of Oakland was established in 1927 by  
19 amendment of the Oakland City Charter with exclusive control  
20 and management under the Board of Port Commissioners. The  
21 five members of the Board are appointed by the City Council  
22 upon nomination by the mayor. Since its establishment, the  
23 Port has developed excellent marine terminals, attracted in-  
24 dustry and payrolls and contributed substantially to the economy  
25 of the area and the entire state.

26 A recent survey showed that the combined Port facilities

1 annually generate \$173,000,000 in economic benefits, including  
2 payrolls, purchases of supplies, materials and services, and  
3 taxes. These are direct benefits and do not account for mil-  
4 lions more in benefits produced by businesses and industries  
5 in the area which profit, more or less, from Port operations,  
6 including those of our airport.

7 Metropolitan Oakland International Airport now is  
8 serving a local population of more than 1,400,000 persons.  
9 Air transportation is vital to the economy and growth of every  
10 metropolitan community, and with the jet age the need for  
11 adequate airport facilities is becoming more vital than ever.

12 Many of the major airports of the world are poorly  
13 located. Either they are far out from the population centers  
14 which they serve or they are in built-up areas which limit  
15 their expansion to meet even present day requirements.

16 In Oakland, we are more fortunate. Our airport was  
17 ideally located originally, back in 1927, and now as the entire  
18 East Bay area builds up, its location becomes more attractive  
19 every day, especially in the light of the fantastic progress  
20 which aviation has made. Just recently, Capt. Eddie Rickenbacker,  
21 of Eastern Air Lines, told us that Oakland has one of the best  
22 airport sites in the world, and he commented "You didn't do it,  
23 it was God given."

24 Our airport is only six miles from downtown Oakland.  
25 It is built on the waterfront and the underwater lands offshore  
26 are shallow enough to be filled economically at present.

1 Our new jet airliner runway will have two miles or more  
2 of unobstructed overwater approaches and will be one of the  
3 safest in the world.

4 Housing and building will never limit our operations  
5 or our expansion. We are expanding, investing \$17,500,000 and  
6 probably more, to meet the immediate needs of the air travelers  
7 and the industry in our area.

8 We have plans for future development and there can be  
9 no question that it will be necessary, even vital, to the area  
10 served by our airport, the state and the nation.

11 On behalf of the Board of Port Commissioners, I extend  
12 our sincerest appreciation for your cooperation in the ultimate  
13 development of our full potential.

14 Thank you.

15 MR. ZWEIBACK: Mr. Hansen, do your plans that you  
16 referred to just now - - do they include expansion of the  
17 airport itself into the area of the 1957 grant?

18 MR. HANSEN: Yes sir, they do, I understand it.

19 MR. ZWEIBACK: For airport purposes?

20 MR. HANSEN: Yes. Isn't that right?

21 VOICE FROM AUDIENCE: Yes. There is a portion in  
22 this application . . . .

23 MR. ROONEY: Mr. Chairman and members of the Commission,  
24 after the people of the City of Oakland voted ten million dol-  
25 lars of obligation bonds in 1953 for airport development and  
26 improvement, the Board of Port Commissioners was faced with

1 the problem of how to best spend this money in the public  
2 interest -- do we improve the existing airport located up here  
3 (indicating on map) denoted as "Present airport" or something  
4 else. We hired a prominent firm of engineers to study the  
5 problem and they recommended the Board not improve its existing  
6 airport. They recommended the Board go out into the Bay and  
7 build a brand new airport, which we have since done. In 1955  
8 we came to the State Legislature and asked for 10,000 acres  
9 of tide and submerged lands, which was granted to us for that  
10 development. We came back in 1957 and asked for an additional  
11 3,000 acres, which the Legislature granted to us. The '57  
12 area was primarily for approach and take-off areas. The '55  
13 grant was for that purpose and also for the purpose of locat-  
14 ing part of our improvements.

15 Now, the '55 and '57 areas are -- pretty much in the  
16 standard language of tideland grants -- they are for harbor  
17 purposes, also airport purposes. The lands are in trust for  
18 the purpose of accommodating commerce, navigation, fishing,  
19 but for commerce by air in addition to by water. There was a  
20 condition in the 1955 grant, quoting: "... provided that said  
21 excepted and reserved rights and powers shall be exercised in  
22 a manner not inconsistent or incompatible with the use of the  
23 lands by the grantee for purposes of commerce and navigation."

24 Now, that language was purposely written into the  
25 grant, thoroughly explained to the Legislature. Both of these  
26 grants had the approval of the Attorney General's office, the

1 State Lands Commission, and the Legislative Counsel. There  
 2 was no question if the Legislature in its wisdom saw fit to  
 3 grant this to the City of Oakland that the City of Oakland  
 4 would spend millions of dollars for a new airport for the  
 5 benefit of all of the people of the State of California. We  
 6 have since taken over that program.

7 Mr. Nutter, our Chief Engineer, will explain this  
 8 later because it is primarily an engineering problem.

9 Now Ideal Cement Company have applied for a lease for  
 10 extraction of oyster shells for making cement, which to our  
 11 minds, on this land which we need for improvements, would  
 12 nullify the purpose for which the land was given to the City  
 13 of Oakland by the State of California. The Attorney General  
 14 has held in effect, if I understand his opinion which the staff  
 15 of the State Lands Commission was good enough to furnish us,  
 16 that within the area for which the City of Oakland has present  
 17 plans for improvement and extension within the area marked  
 18 "Future Dike" the use would very clearly be incompatible and  
 19 inconsistent, and any lease in that area would in the opinion  
 20 of the Attorney General be invalid.

21 MR. GARR: Where is that future dike?

22 MR. ROONEY: (Pointing on map) Outside of that dike,  
 23 in the '55 area and in the '57 area, the Attorney General said  
 24 that those considerations do not apply and in his judgment  
 25 the Commission has the discretion to determine whether it  
 26 should or should not grant the lease.

1 Now, the principal differences between the '55 and '57  
2 grants are that the language I read you concerning "inconsist-  
3 ent and incompatible" between the exercise of the mineral  
4 reservation and the use of the land for which it was granted  
5 is not in the '57 grant. Likewise, the '57 grant does not  
6 require the City to improve the property and that was done  
7 with forethought also, because the grant expressly states  
8 that it's for the purpose of protecting take-off and approach  
9 areas. Likewise, there is no reverter clause in the '57 grant.  
10 The '55 grant implies in substance that if the land is not  
11 improved within ten years title reverts to the State of Cali-  
12 fornia.

13 We have invested a total of seven to eight million  
14 dollars in the '55 area. Our present plans call for a future  
15 expenditure, total expenditure, of seventeen and a half mil-  
16 lion dollars within the next two years -- all made in the faith  
17 and reliance of the State granting this land to the City for  
18 airport development. We think it would nullify the intent of  
19 the Legislature in giving the City this land for this purpose  
20 to then come along and grant leases to dredge oyster shells  
21 for a nominal sum.

22 As far as the City is concerned, as far as the recom-  
23 mendation of the staff that the application of Ideal Cement  
24 be denied, we of course concur in that recommendation. With  
25 respect to reference of the subject matter to the Legislature,  
26 if by "subject matter" you mean the general problem that is

1 inherent in granting mineral reservations in tideland grants  
 2 throughout the state and you do not mean just these two grants,  
 3 we take no position upon that recommendation at all, because  
 4 we consider that a matter between the Commission and the Legis-  
 5 lature.

6 Now, Mr. Kutter, our Chief Engineer, would like to  
 7 explain some of the engineering features to you.

8 GOV. ANDERSON: Before we proceed, is there anyone  
 9 who has an objection to the recommendation of the State staff?  
 10 My feeling is we were going to take the recommendation here  
 11 and you are taking a lot of time to . . . . .

12 MR. CRANSTON: Is the Ideal Cement Company represented?

13 GOV. ANDERSON: Mr. Barnett, do you want to make any  
 14 statement here that hasn't been made?

15 MR. BARNETT: I would like two minutes to impress you  
 16 with the importance of the recommendation here, but if you are  
 17 going to take the recommendation . . . . .

18 MR. CRANSTON: I move we take the recommendation of  
 19 the staff and I include in the recommendation that we request  
 20 the Legislature to review the general subject matter but not  
 21 these special cases.

22 MR. ROONEY: Mr. Chairman, would it be in order to  
 23 ask that Mr. Kutter's statement be tendered and made part of  
 24 the recommendation?

25 GOV. ANDERSON: I think that would be fine, if he has  
 26 it in written form; and, Mr. Barnett, if you want to do that

1 you can. The motion is, then, the staff recommendation be  
2 accepted and the subject matter be referred to the Legislature  
3 as moved by Mr. Cranston. Moved and seconded. (If there is no  
4 objection, so ordered.

5 We will proceed to Item 10 -- lease offer for extrac-  
6 tion of sand and gravel at minimum royalty of 12¢ per cubic  
7 yard, American River, Sacramento County, pursuant to applica-  
8 tion from McGillivray Construction Co.

9 MR. HORTIG: Mr. Chairman, as the Commission will  
10 recall, the consideration of this item was deferred at the  
11 last regular meeting of the Lands Commission pursuant to a  
12 request from Assemblyman MacBride, in order that persons hav-  
13 ing protests relative to the proposed operation might be heard  
14 at a time and place more convenient, particularly close to  
15 the site of the proposed operations, and hence this item was  
16 deferred until today for consideration by the Commission here  
17 in Sacramento.

18 Assemblyman MacBride is in the audience and in view  
19 of the fact that we have not had the specific protests for the  
20 record for either the staff or the Commission, I would feel  
21 it would be appropriate to hear the protestants before the  
22 staff recommendation is made, in order that the protests can  
23 be included in the recommendation to be made.

24 ASSEMBLYMAN MacBRIDE:-- Mr. Chairman and members, I  
25 think the question is now moot. The contract that the  
26 McGillivray Construction Co. had was with the owners of this

1 particular property, which bordered on Howe Avenue here in  
 2 Sacramento County. That contract was subject to, I believe,  
 3 a thirty-day cancellation provision. The now owners of the  
 4 property have cancelled the contract and, therefore, McGillivray  
 5 Construction Co. -- as far as their application is concerned,  
 6 it would have no force and effect. For this reason, they no  
 7 longer have a contractual right for the extraction of the  
 8 sand and gravel from the bed. Therefore, there would be no  
 9 interest in bringing the protestants over here.

10 MR. HORTIG: McGillivray Construction Co., of course,  
 11 was notified as to the pendency of this item. I am not aware  
 12 that they are represented here today. Neither have we received  
 13 any withdrawal of the application.

14 I would feel that it would probably be in order for  
 15 the Commission to indicate to the staff that there be no  
 16 further action upon the success of the staff in completing  
 17 the record by having McGillivray indicate that they either  
 18 wish to withdraw or do not wish to proceed with their applica-  
 19 tion -- which as Assemblyman MacBride has indicated is probably  
 20 the case.

21 MR. CRANSTON: I move that the staff suggestion be  
 22 adopted and it be left in their hands.

23 MR. CARR: Second.

24 GOV. ANDERSON: Moved and seconded. No objection --  
 25 so ordered.

26 Item 11 -- amendment to rules and regulations of the

1 State Lands Commission to provide for the use of lease auto-  
2 matic custody transfer equipment by oil companies holding  
3 leases from the Commission. Mr. Hortig?

4 MR. HORTIG: As the Commission will recall, at the  
5 last meeting in Los Angeles amendments were adopted on one  
6 specific lease to provide for the operation of lease automatic  
7 custody transfer equipment because the operation of such  
8 equipment is not provided for in current rules and regulations  
9 of the Lands Commission but can be authorized by amendment to  
10 lease terms by mutual consent.

11 In all probability there will be additional applica-  
12 tions in the future from other lessees to install this type  
13 equipment, and in order to obviate the necessity for Commis-  
14 sion amendment of leases, it is recommended that authorization  
15 be given to the staff at this time to initiate the proceedings  
16 and hold the hearings in accordance with the Administrative  
17 Procedure Act, looking toward the day when leases may be  
18 changed to allow automatic custody transfer equipment.

19 MR. GARR: Mr. Chairman, from what Mr. Hortig reports  
20 and from what reports we have had -- we saw some of this  
21 equipment -- there would be no question that this is reliable.

22 MR. HORTIG: Minimum accuracy and precision specifica-  
23 tions would be specific parts of the rules and regulations in  
24 terms of assuring the staff that the equipment proposed to be  
25 operated under these rules and regulations would meet certain  
26 specifications.

1 MR. CARR: Have they been drawn up?

2 MR. HORTIG: There are tentative specifications of the  
3 American Petroleum Institute for such utilization, which,  
4 incidentally, are the basic reference in connection with the  
5 prior lease amendment previously authorized and would also  
6 be in connection with any proposed rules and regulations, as  
7 well as any future amendments intended to make them more  
8 rigorous.

9 MR. CARR: I move.

10 GOV. ANDERSON: It has been moved ...

11 MR. CRANSTON: Second.

12 GOV. ANDERSON: No further discussion? So ordered.

13 Item 12 -- amendment of delegation of authority  
14 previously given to the Executive Officer.

15 MR. HORTIG: As two members of the Commission will  
16 recall, when you gentlemen first met in 1959 there was an  
17 approval of the continuation of delegations of authority pre-  
18 viously assigned to the Executive Officer to conduct the  
19 routine administrative business in general of the State Lands  
20 Commission. The prior practice had been that in instances  
21 where standard leases, easements, rights-of-way, and similar  
22 standardized operations were carried on under forms previously  
23 approved by the Commission and in conformance with established  
24 rules and regulations, such documentation and such ministerial  
25 acts could be completed and the completed act brought to the  
26 Commission for ratification at the next meeting, subsequent

1 to completion, in order to eliminate from the calendar  
2 consideration of numerous matters such as the numerous right-  
3 of-way easements and such things which you gentlemen here  
4 consider en bloc. The consideration over the last several  
5 months has served a dual purpose: It gave us a period for  
6 further study of these delegations of authority. It also  
7 brought to the attention of you gentlemen the scope and type  
8 of operations, including routine operations, that do flow  
9 through the State Lands Commission.

10 At the time of the original grant of authorization,  
11 this question of bringing items completed by the Executive  
12 Officer under delegated authority for further ratification  
13 was questioned by Chairman Bert Levit, who felt it might be  
14 desirable to have the delegation absolute and no return for  
15 ratification of the actions by the Commission. This question  
16 was posed to the Attorney General, who felt such delegation  
17 would be too broad under existing statutes and to accomplish  
18 the program suggested by the then Chairman would require  
19 statutory amendment. The only procedure which would follow  
20 the law would be that we had previously -- that of completing  
21 transactions under delegation of authority and where the  
22 document completed was of a type that would normally require a  
23 resolution of the Commission, such transactions could be  
24 brought back to the Commission for ratification at the meeting  
25 subsequent.

26 Also, a second question on the delegation was raised.

1 While the delegation for years had authorized redelegation  
 2 by the Executive Officer of his delegated authorities, the  
 3 Attorney General in his rereview suggested that delegation  
 4 was too broad -- that it would be preferable to cover the  
 5 situations where redelegation was necessary, such as operation  
 6 during periods of time where the Executive Officer was absent  
 7 from all offices of the Lands Commission, out of the state or  
 8 on vacation, that there be a delegation from the Commission  
 9 directly for the Assistant Executive Officer to act on those  
 10 routine items in such periods of absence.

11 So it is here recommended that the Commission recognize  
 12 that the staff procedure henceforth will be to return to the  
 13 original program of processing routine actions. Those that  
 14 would require Commission resolution will be brought to the  
 15 next meeting subsequent for ratification and will be reported  
 16 on. This will shorten the calendar of routine business to  
 17 come before the Commission if the Commission considers it  
 18 desirable; and, secondly, to authorize the action of the dele-  
 19 gation of authority to authorize the Assistant Executive Officer  
 20 to act during such times as the Executive Officer is absent  
 21 from all offices of the Commission.

22 GOV. ANDERSON: You have heard the recommendation.

23 MR. CRANSTON: I move adoption of the recommendation  
 24 of the staff in this regard.

25 MR. CARR: Second.

26 GOV. ANDERSON: It has been moved and seconded. No

1 objection -- so ordered.

2 Item 13 -- adoption of revised rental rates and  
3 policies in connection with commercial and recreational leas-  
4 ing of State lands. This is the one Mr. Cranston asked for  
5 an extension for study.

6 MR. CRANSTON: Professional and business groups have  
7 asked for time to review this study.

8 GOV. ANDERSON: Want further extension? All right.  
9 Review of rental rates and policies of the Commission will be  
10 put over to the next meeting of the Commission at Los Angeles.

11 Before we approve the time and place of the next  
12 meeting, a Mr. Short is here at the suggestion of Senator  
13 Donnelly, who wishes to appear on the calendar in connection  
14 with an item on the Tuolumne River not on the calendar. Mr.  
15 Short, will you give us your name and state your problem?

16 MR. SHORT: Mr. Chairman, members of the Commission,  
17 my name is Jim Short. My address is Post Office Box 369,  
18 Turlock. My wife and I own a ranch on the south bank of the  
19 Tuolumne River, a mile and three-quarters downstream from the  
20 Waterford Bridge. About six hundred feet upstream from our  
21 east property line, Warner Sand and Gravel of Modesto have  
22 constructed a low level bridge spanning the Tuolumne River.  
23 This bridge is about ninety feet long and twelve feet wide.  
24 It is constructed from two railroad flat cars and is supported  
25 by a concrete pillar eight feet in diameter. Gravel causeways  
26 extend from each bank to the span. In addition, another