

1 GOV. ANDERSON: Any discussion on it?

2 MR. CARR: I move the approval.

3 GOV. ANDERSON: Moved and seconded. Any objection?

4 (No response) Item 5 so ordered approved.

5 Next is Item 6 -- the sale of vacant State school  
6 lands. First applicant (a) Robert H. Atkinson and Donald D.  
7 Doyle; item (b) Robert Atkinson and Donald Doyle; (c) Olga  
8 Berend and George Berend; item (d) Martin Ellerman; (e)  
9 Robert A. Ellsworth and Harold E. Ensley; (f) Harry A.  
10 Loebenstein -- I wanted to ask a question on that. Yes ...  
11 I notice here you are rejecting their application. I wanted  
12 to primarily ask why are they taking title to this under  
13 their original application in several different names. Is  
14 this to get around the subdivision law and are we a party  
15 to something when we allow them to get around the subdivision  
16 law?

17 MR. HORTIG: We are not aware of the purpose, although  
18 the law provides and has always provided for multiple applicants  
19 and most generally the situation is that they are a group or  
20 coalition who are jointly financing the operation; and under  
21 the State land laws, patent if issued must issue in the name  
22 of the original applicant or applicants. The affidavit and  
23 the application for the purchase of such lands does not re-  
24 quire a disclosure as to why there are multiple applicants  
25 in connection with any application.

26 GOV. ANDERSON: When someone makes a bid, if they make

1 it in their own name and we accept their bid, then are they  
2 able to take title in other names?

3 MR. HORTIG: No sir.

4 GOV. ANDERSON: Or does it have to be in the name of  
5 the person we granted it to here?

6 MR. HORTIG: That is correct. There can be subsequent  
7 transfers but the original patent from the State to the  
8 applicant is in the name of the applicant. Even though the  
9 applicant may have died in the interim, the patent is still  
10 issued in his name and it is then up to any successor in  
11 interest to prove his interest in that particular patent.

12 GOV. ANDERSON: In this application, the reason we are  
13 rejecting it we were unable to reach Mr. Seery to find out if  
14 he was willing to comply with the rules and regulations?

15 MR. HORTIG: Not exactly, sir. He is one of the four  
16 applicants, who apparently did not agree with the other three  
17 applicants as to what they started out to do and - - -  
18 excuse me, just a moment, Mr. Chairman - - we have Deputy  
19 Attorney General Paul Joseph here, who reviewed for our  
20 office the legal technicalities with respect to this applica-  
21 tion, so if you wish he is here now to report to you if you  
22 want the details of this application.

23 MR. JOSEPH: My name is Paul Joseph, Deputy Attorney  
24 General, Sacramento. Under Rule 2302 of the State Lands  
25 Commission providing for the sale of unoccupied lands not  
26 suitable for cultivation, school lands, the procedure for

1 initially applying and paying a deposit, appraisal, and then  
2 allowing the initial applicant to meet the appraised value --  
3 all that was done here. Then, on the advertisement for bids  
4 at or above the appraised value, these four gentlemen made  
5 their application and it was in a rather peculiar form as  
6 they wanted it all -- I say peculiar because they wanted to  
7 split up the interests into one-fourth interests; but that's  
8 never become important because they then got into a squabble,  
9 apparently, as to whether they wanted to go on with the propo-  
10 sition and they made a condition of their bid that their  
11 money be returned if their bid was not accepted at the time  
12 when the bids were opened, but the Commission rules provide  
13 for reference of these bids to the Commission and a resolution  
14 of the Commission designating whether the highest bidder  
15 should get the land or, if the public interest dictates, that  
16 some other disposition be made of the land.

17 So the staff couldn't find out what the meaning of  
18 this bid was and some correspondence went on, and finally the  
19 four gentlemen withdrew their bid; and since they had bid  
20 higher than the original applicant, then the situation arose --  
21 the question was whether this bid could be withdrawn. And  
22 I don't believe here the original applicant had met that  
23 bid. Is that the case, Mr. Smith?

24 MR. SMITH: The original applicant had met the bid.

25 MR. JOSEPH: Yes, the original applicant had met the  
26 bid of these people who are now trying to withdraw, but

1 inasmuch as that original applicant had only increased his  
2 bid over the appraised value for the reason there was this  
3 bid in there, if the Commission sees fit to allow these joint  
4 bidders to withdraw their bid then the price of the land be-  
5 comes the appraised value and not the higher amount of the  
6 joint bid.

7 Now, I was asked -- or we were asked, rather, of the  
8 right of a bidder on an advertisement to withdraw his bid and  
9 I very reluctantly came to the conclusion that such a bidder  
10 may withdraw his bid because the original applicant at all  
11 stages of the transaction, under the rules, is permitted to  
12 withdraw his application and have a return of his money less  
13 the expenses involved; and it seems the same thing applies  
14 or should apply to a subsequent bidder who raises the appraised  
15 value because until the offer of the bid is accepted by the  
16 Commission, nothing has happened.

17 So, therefore, in my opinion this bid here may be  
18 withdrawn -- the bid of these four gentlemen -- and in spite  
19 of the fact that they offered more than the appraised value,  
20 the only available offer to purchase is at the appraised value  
21 because the original applicant had merely increased the  
22 amount because of this bid which is now withdrawn.

23 MR. CARR: Is he so contending now, or did you bring  
24 that up? Is that his contention or is that your analysis?

25 MR. JOSEPH: That's my analysis. I don't know what the  
26 original applicant has been informed or whether he knows of



1 this withdrawal or not.

2 GOV. ANDERSON: In other words, we are in the position  
3 of possibly losing the sale even of the original applicant  
4 now as a result of the withdrawal of the subsequent bidders?

5 MR. JOSEPH: No, the original applicant has already  
6 placed the money to meet the higher bid; but the price will  
7 be, as I see it, the appraised value and this additional money  
8 will be returned to this original applicant.

9 Now, that's an unsatisfactory situation and I was very  
10 reluctant to come to any conclusion like that, but it seems  
11 to be the situation.

12 GOV. ANDERSON: Mr. Hortig, will then the original  
13 applicant pick up this property at the eighty-six forty bid?

14 MR. HORTIG: At the appraised value.

15 GOV. ANDERSON: Which would that be -- \$8,000?

16 MR. HORTIG: \$8,000.

17 GOV. ANDERSON: I thought you said the original  
18 applicant was willing to meet the new increased bid of eighty-  
19 six forty?

20 MR. HORTIG: That was correct as long as there was a  
21 new increased bid, but if the new increased bid is withdrawn,  
22 there is no increased bid and, therefore, it is the conclusion  
23 of counsel that the original bid price of the original applicant  
24 of \$8,000 should be the sale price of the land.

25 MR. JOSEPH: The original applicant has posted the  
26 additional \$640 and that is the amount I am saying should be

1 returned to him because the only reason that the original  
2 applicant deposited more money was because of the existence of  
3 a bonafide bid at the time, but that bonafide bid has since  
4 been withdrawn. Of course, the rules say that the Commission  
5 shall consider which is the bonafide bid before the Commission;  
6 the Commission shall review the recommendations of the staff  
7 and make final award or take such other action in the public  
8 interest. Now, it seems to me Commission action has to take  
9 place on the attempt to revoke this bid, but under the law I  
10 believe there is a right to withdraw this bid.

11 GOV. ANDERSON: Well, the way it reads here to me --  
12 we are not letting them withdraw it. We are rejecting their  
13 bid on the grounds that it is not a bona fide bid. It doesn't  
14 say anything about withdrawing. It says we reject the joint  
15 bid of eighty-six hundred as not qualified; and up ahead of  
16 that in the summarization it says it appears this bid from  
17 these four people is not a bonafide bid and that's the reason  
18 we are rejecting; doesn't say it was withdrawn.

19 MR. HORTIG: Actually, three of the applicants asked  
20 that it be withdrawn and the fourth one didn't. This also  
21 led to the irregularity of the bid, on which basis counsel  
22 informed the bid had to be rejected as unqualified. Three  
23 quarters of them are withdrawing, the fourth is not. This  
24 creates a reason for rejection.

25 MR. JOSEPH: The bid itself was not proper because they  
26 wanted the award at the time the bid was opened instead of in

1 accordance with the rules when Commission action had been had.  
2 There was some doubt about it and the staff communicated with  
3 them and they said "Yes" this was a condition of the bid and  
4 they finally withdrew this bid in this letter in the calendar  
5 here and apparently the four gentlemen signed it.

6 MR. CARR: Did Mr. Loebenstein raise his bid to \$8640  
7 to meet these joint bidders? I move we accept the bid of  
8 eighty-six forty.

9 MR. HORTIG: There is no such bid.

10 MR. CARR: Did he raise it or didn't he?

11 MR. HORTIG: Yes, but only pursuant to the thought  
12 he had a higher bid to meet and now there is no longer a  
13 higher bid.

14 MR. CARR: I move we reject all bids and put it out  
15 for bid again.

16 MR. HORTIG: This is within the purview of the Commission.

17 GOV. ANDERSON: I don't see we are allowing them to  
18 withdraw it. It looks to me like you are rejecting it. They  
19 might say "Why are you rejecting a higher bid?"

20 MR. HORTIG: May I answer that? I have since been  
21 informed that since the preparation of this calendar item we  
22 are also in receipt of a four-party letter asking for withdrawal  
23 of the bid.

24 MR. JOSEPH: Oh, yes. That's in my calendar item. I  
25 have a copy of this letter.

26 MR. CARR: I move we reject all the bids and put it out

1 again.

2 MR. CRANSTON: Second the motion.

3 MR. ZWEIBACK: Mr. Loebenstein is apparently an  
4 innocent victim in this. If these bids are rejected and there  
5 is re-advertising, would Mr. Loebenstein have to bear the  
6 cost of the original advertising as well as the next adver-  
7 tising? In other words, who is going to stand the burden of  
8 that advertising? Also, I am assuming no new appraisal has  
9 to be made.

10 MR. HORTIG: That is correct and essentially it reduces  
11 to the fact that the successful applicant at the time of the  
12 next advertising would bear all appraisal costs and advertis-  
13 ing costs. If Mr. Loebenstein is it, why he is not in a dis-  
14 advantageous position; if he isn't the high bidder the next  
15 time around, he will at least have been assessed the prior  
16 advertising costs on which, as you say, on a rejection at  
17 this time he would be the innocent victim.

18 GOV. ANDERSON: This hardly seems fair.

19 MR. ZWEIBACK: If he is the successful bidder the  
20 second time around, would he have to bear the cost of the  
21 original advertising and appraisal as well as the advertising  
22 and appraisal if a secondary appraisal is needed?

23 MR. SMITH: The initial costs would be borne by the  
24 State, I believe. In cases we have had in the past where the  
25 bid was rejected, the State bore all the costs for advertising;  
26 but in the second time around, we have this problem, in the



1 case of rejection, in the preference right accorded the  
2 first applicant: Will Mr. Loebenstein file a first applica-  
3 tion and be a first applicant?

4 MR. ZWEIBACK: If I interpret what you say correctly,  
5 if at this point we reject all bids the State is going to  
6 stand the cost of advertising and appraisal to date and there  
7 will be no way of recovering that amount.

8 MR. SMITH: That's correct.

9 MR. ZWEIBACK: What is that amount?

10 MR. SMITH: I don't have the amount. It would be  
11 around \$150 including appraisal and advertising.

12 MR. HORTIG: That brings up an element, Mr. Chairman,  
13 The Commission might wish in connection with the rejection  
14 resolution to state that in the event that Mr. Loebenstein  
15 does apply the next time around, that he has been granted the  
16 status of first applicant as he was in this first application  
17 from which he was rejected through no fault of his own. This  
18 also has been done by previous Commissions in connection with  
19 rejections -- in other words, preserve the first applicant's  
20 status and give him the opportunity to meet the higher bids  
21 if there are any, if he desires to bid the next time around  
22 at all.

23 GOV. ANDERSON: So this way he wouldn't be losing this  
24 \$150 if he is not the successful bidder because then another  
25 bidder would be paying the entire cost, the successful bidder.

26 MR. HORTIG: That's correct. The only way he could be

1 hart is to lose his status as first applicant and thereby  
2 lose the land.

3 MR. CRANSTON: Should we amend the motion to include  
4 that?

5 GOV. ANDERSON: Do you want to restate that?

6 MR. CARR: We are rejecting the bids here but reserve  
7 the position of first bidder for Mr. Loebenstein if he cares  
8 to bid in the next subsequent bidding. When we reject the  
9 bids, we reject them all.

10 MR. CRANSTON: Second.

11 GOV. ANDERSON: You have heard the motion -- moved and  
12 seconded. No objection, so ordered. That pertained, then,  
13 to Calendar Item 32.

14 MR. HORTIG: Pages 28 and 29, item (f) under subdivision  
15 6 of the calendar summary.

16 GOV. ANDERSON: Item (f) under Item 6.

17 MR. HORTIG: Right.

18 GOV. ANDERSON: Now, we are still on the other ones of  
19 Item 6. (a), (b), (c), (d) and (e) we have passed over,  
20 Item (g) -- Eugene Smith. Any question on that?

21 MR. HORTIG: Mr. Chairman, if the Commission please,  
22 I would like to refer back to item (d) on page 22 before you  
23 feel the staff has completely gone off their rocker; but the  
24 land being sold is under thirty feet of water and we just want  
25 you to know that we know it. It is out approximately in the  
26 center of Salton Sea -- this having been vacant State school

1 owned by the State prior to the time Salton Sea became  
2 flooded about 1909-1910. The only use we can realize for  
3 the thing -- possibly someone can have a 640-acre private duck  
4 refuge if he can only coax the ducks to sit on 640 acres of  
5 water.

6 MR. CARR: He can have an exclusive skin diving con-  
7 cession out there, too.

8 MR. HORTIG: Yes.

9 GOV. ANDERSON: Motion is in order to approve Item 6,  
10 (a) through (g), except (f) which we took care of.

11 MR. CARR: So move.

12 MR. CRANSTON: Second.

13 MR. JOSEPH: There is another revocation.

14 MR. HORTIG: Page 30 -- which is actually another  
15 rejection.

16 MR. JOSEPH: Page 30 is another revocation of a bid.  
17 There is nothing wrong -- there was no irregularity with the  
18 highest bidder's bid, but after the first applicant met the  
19 higher bid price the bidder withdrew his bid -- which was  
20 considerably higher than the original appraised value. So  
21 it is essentially the same situation as the former one which  
22 you have moved to reject all bids.

23 MR. HORTIG: However, in this instance there is such a  
24 disparity between bids as to raise the question of serious  
25 error and, therefore, the error as a reason for the withdrawal  
26 of the higher bid because the average appraisal was at an

4  
1 average value of \$6.25 an acre and the high bidders submitted  
2 a bid, subsequently withdrawn, of \$10.95 an acre; so, there-  
3 fore, the first applicant who offered the \$6.25 an acre in-  
4 creased his offer to meet the high offer, which was withdrawn  
5 and therefore becomes extinct and we are back, as Mr. Joseph  
6 says, to the identical situation -- almost completely parallel  
7 to the preceding situation -- in that the bid was increased  
8 but as against a non-qualified or withdrawn bid. Therefore,  
9 is it equitable to hold the first applicant or reject his  
10 application under these circumstances, particularly because of  
11 the great disparity between the bids and the clear cut sub-  
12 mittal of the bid and the clear cut request on the part of  
13 the high bidder that the bid be withdrawn?

14 The equitable position, it would seem, to be considered  
15 here would be that the high bid was in error.

16 MR. ZWELBACK: May I say I recall on the second bidder --  
17 his bid was in error because he thought he was getting a  
18 different piece of land.

19 MR. HORTIG: We theorize this could have been. In  
20 other words, we can see the reason for the disparity in the  
21 extremely increased amount -- the spread between \$3,995 and  
22 \$7,000 for the same parcel of land. The potentialities are  
23 there that the high bidder, after he went out and looked at it,  
24 realized what he had done and decided to undo it.

25 MR. CARR: This is a speculation?

26 MR. HORTIG: This has to be a speculation.



1 MR. JOSEPH: This situation can be avoided by an amend-  
2 ment to the rules of the Commission to consider these bids  
3 are irrevocable -- that bidders on this land should know what  
4 they are doing. Once they come in, there is a danger of  
5 collusion in having these bids revoked because the higher bidder  
6 can go around to the other bidder and give him a little profit  
7 and then there is great danger in collusion.

8 MR. CARR: That is the reason I believe in rejecting  
9 them. Maybe a third or fourth person may come in. One of  
10 our failings, for some time there has not been enough publicity  
11 given to these bids. Some come in to pick up a sleeper, because  
12 I have knowledge of a person who is doing this now. I hope I  
13 remember his name when it comes up. I know there are people  
14 going around doing this. I don't blame them.

15 This doesn't look good to me, where somebody bids so  
16 much more and withdraws it. That's not so good. What do you  
17 recommend? What would the A. G.'s office recommend -- change  
18 the rules, holding them to these bids once they make them or  
19 throwing them out and giving them a little more publicity and  
20 getting more what the land is worth?

21 MR. JOSEPH: Something should be settled as to whether  
22 the bids can be revoked or not. Of course, you may want to be  
23 in a position that you can reject these things when complica-  
24 tions arise -- but, of course, you have the right to do that  
25 anyway. It's just a personal suggestion of mine. The rules  
26 don't give any indication as to whether this type of bid is

1 revocable or may be withdrawn; but on general rules of  
2 contract law and because the original applicant can withdraw  
3 at any stage of the game, it seems such interpretation should  
4 be given to allow subsequent bidders to withdraw -- but the  
5 results of that are not good.

6 MR. HORTIG: In the light of that and Mr. Carr's ques-  
7 tions and the study of land procedures which is under way,  
8 I should like to suggest to the Commission as a matter of  
9 standardization that this item be treated as the preceding  
10 one -- bearing in mind insofar as the equities of the first  
11 applicant may be protected, this will be protected by reserv-  
12 ing to the first applicant the status of a first applicant on  
13 any subsequent offer if he chooses to avail himself of that  
14 status.

15 GOV. ANDERSON: Supposing he comes back in and makes  
16 an offer of less than his original opening bid here?

17 MR. HORTIG: He can't.

18 MR. CRANSTON: I move we reject it and readvertise.

19 GOV. ANDERSON: It has been moved and seconded that  
20 we do the same in item (g) that we did in item (f). No  
21 objection -- so ordered.

22 For the secretary's benefit, then, the one motion that  
23 Mr. Carr made was (a) through (e) instead of (a) through (g);  
24 (a) through (e), that was approved as recommended, and (f)  
25 through (g) we had the two separate motions on.

26 MR. HORTIG: Mr. Chairman, also for the secretary's

1 benefit, may we have a very brief recess for retreading of  
2 the fountain pen, etcetera?

3 GOV. ANDERSON: We will have a three to five minute  
4 recess.

5 (Recess 11:35-11:45 a.m.)  
6

7 GOV. ANDERSON: The meeting will reconvene. It has  
8 been suggested that we have the staff draw up some resolution  
9 for the next meeting relative to these rejections of bids, so  
10 that we have, actually, a procedure in the future -- feeling  
11 that it should be made much more difficult to get a bid with-  
12 drawn or rejected and unless there can be some clerical error  
13 or some misunderstanding definitely in the bid. Can you do  
14 that and have that by our next meeting?

15 MR. HORTIG: Mr. Chairman, do I understand your request  
16 to be for a review as to alternative solutions to the problem  
17 or precluding the problem arising in future with draft of  
18 amendments to rules and regulations or whatever it is felt  
19 it is necessary to do to accomplish this?

20 GOV. ANDERSON: Yes, I think I favor the latter part  
21 of what you mention there -- that it be made difficult for  
22 any bid to be withdrawn or to get any rejection like this  
23 unless there are rules the people know about in advance.

24 MR. HORTIG: May I suggest in view of a study which the  
25 Commission knows is under way and which is yet to be reported  
26 to the Commission with alternatives with respect to policy

1 for the sale of lands in the future, that these requirements  
2 to rectify the problem you were faced with today might well  
3 be included as part of that study and will be reported on to  
4 you.

5 GOV. ANDERSON: At this time we will proceed with  
6 classification 7 on the agenda -- selection and sale of  
7 vacant Federal lands -- first for Howard O. Simmerley and  
8 Josephine Simmerley; item (b) James K. Stonier.

9 If there is no comment on either of these, then, a  
10 motion to approve them will be in order.

11 MR. CRANSTON: So move.

12 MR. CAER: Second.

13 GOV. ANDERSON: So moved and seconded. No objection --  
14 so ordered.

15 Item 8 -- approval of maps.

16 MR. HORTIG: Mr. Chairman, item (a) -- approval of  
17 maps on State lands in South Humboldt Bay -- I desire to  
18 revise at this moment to be informative and in the nature of  
19 a progress report to the Commission that we have an initial  
20 survey and maps of Humboldt Bay as required by the Statutes  
21 of '59, which directed the Commission to prepare such maps  
22 and report to the Legislature at the next session.

23 However, I desire to withhold any recommendation for  
24 Commission approval of these maps at this time until we have  
25 completed a further field check and reconciliation of some  
26 recent indications of desirability of completing a check of



1 the record title status in Humboldt County. So, if the  
2 Commission will please pass this item without action ...

3 GOV. ANDERSON: That's both (a) and (b)?

4 MR. HORTIG: No sir -- just (a).

5 GOV. ANDERSON: In other words, it's the recommendation  
6 of the Executive Officer that item (a) be passed on today  
7 without action -- passed over?

8 MR. HORTIG: Right.

9 GOV. ANDERSON: No objection, that will be so ordered;  
10 and then you wish to recommend that you be authorized to  
11 approve item (b)?

12 MR. HORTIG: That's correct -- representing maps of  
13 the grant to the City of Redwood City pursuant to Statutes of  
14 1945.

15 MR. CRANSTON: Move approval.

16 MR. CARR: Second.

17 GOV. ANDERSON: Moved and seconded. No objection --  
18 so ordered.

19 MR. HORTIG: Excuse me -- 1954 -- typographical error  
20 in your index.

21 GOV. ANDERSON: The next item on the agenda is 9 --  
22 approval of plan to establish a representative of the Western  
23 States Lands Commissioners Association in Washington, D. C.;  
24 authority for the Executive Officer to notify the association  
25 of the desire of California to participate in such a program;  
26 authorization for inclusion in the annual budget of the

1 Commission of a sum not to exceed \$7,500 to cover costs of  
2 California's participation. Mr. Hortig.

3 MR. HORTIG: As the Commissioners are aware, the State  
4 Lands Commission of the State of California is a member of  
5 the association of Western States Land Commissioners compris-  
6 ing Land Commission representatives of all the western public  
7 land states.

8 GOV. ANDERSON: What do you mean by that? What  
9 states are those?

10 MR. HORTIG: Essentially, everything west of the  
11 Mississippi.

12 GOV. ANDERSON: This takes in Texas, Oklahoma -- which  
13 other southern states?

14 MR. HORTIG: Yes sir, up to -- as far as southern, it  
15 only goes as far east as Texas and Oklahoma. North Dakota is  
16 included, the State of Kansas ....

17 MR. SMITH: Nebraska and South Dakota; that's as far  
18 east as they go.

19 MR. HORTIG: Everything west of those states, including  
20 Alaska and Hawaii, with no gaps.

21 GOV. ANDERSON: We have the eleven western states are  
22 included and there should be seven more states -- Texas,  
23 Oklahoma, North Dakota, South Dakota, Kansas, Nebraska ...

24 MR. CRANSTON: Would Alaska be included?

25 MR. HORTIG: Alaska and Hawaii -- Colorado.

26 GOV. ANDERSON: Is Missouri in it?

1 MR. HORTIG: No sir.

2 GOV. ANDERSON: Arkansas?

3 MR. SMITH: No.

4 GOV. ANDERSON: We are one short there.

5 MR. HORTIG: New Mexico.

6 GOV. ANDERSON: That's one of the eleven?

7 MR. HORTIG: Right.

8 MR. CARR: This is a \$7,500 ticket on this, multiplied  
9 that many times?

10 MR. HORTIG: This has been the proposal of the  
11 Western States Land Commissioners Association by resolution.

12 MR. CARR: What does that add up to, or am I little  
13 bit hazy this morning?

14 MR. ZWEIBACK: About a hundred fifty thousand, includ-  
15 ing Alaska and Hawaii.

16 MR. CARR: A million dollars for a lobby?

17 MR. ZWEIBACK: One hundred fifty thousand.

18 MR. SMITH: That is the maximum in the conference.  
19 I think the estimate he gives there was four to five thousand  
20 dollars, which was a rough estimate, and the maximum that  
21 could come up reasonably would be seventy-five hundred.

22 MR. CRANSTON: Mr. Chairman, I have some hesitation on  
23 this, which I would like to resolve in my own mind and I  
24 would like to have it passed over.

25 MR. CARR: Is that a motion?

26 MR. HORTIG: I should like to amplify, Mr. Chairman,

1 and particularly for Mr. Cranston's benefit, in a re-review  
2 we were also informed by counsel of the possible desirability,  
3 if the program were to be acceptable to the State Lands Com-  
4 mission, of modifying the recommendation for approval by the  
5 Commission to cover (1) a review and opinion by the office of  
6 the Attorney General as to the legality of this procedure;  
7 and, in the event of the demonstration of no specific statutory  
8 authority for this, that the budgetary request also include  
9 a request for legislative authorization to participate in  
10 this type of activity -- specifically, authority to the Lands  
11 Commission to so do.

12 MR. CRANSTON: In addition -- not only to the financial  
13 aspect of it, budgetary matters -- but in addition to that,  
14 the policy matters. I'd like to know what the policy of this  
15 commission is. I note they want to ask for land legislation  
16 beneficial to the western states and work against any legis-  
17 lation inimical to their welfare. Who decides that, and  
18 what kind of blank check do they want from us?

19 I notice the document by Mr. Morgan of New Mexico  
20 that apparently led to this is a big attack on the Interior  
21 Department and the Bureau of Land Management and accuses it  
22 of bureaucratic ways and "eastern" thinking and it has been  
23 my impression that that department under both Democratic and  
24 Republican administration has been a watchdog over public  
25 lands in an effort to protect it in the public interest.

26 This Mr. Morgan says: "We are accused of seeking land



1 grabs and that we are after the national forests and national  
2 parks." I'd like to know whether they are or aren't.

3 MR. HORTIG: We feel we have the answers to your ques-  
4 tions. This is simply an opportunity to review and report.

5 MR. CRANSTON: Yes, I think we should solicit the view  
6 of Senator Engle on this matter.

7 MR. CARR: Yes, I think so too.

8 GOV. ANDERSON: And in addition to that, these agencies  
9 start on the financial side with a reasonably small budget  
10 and then they say California is so much bigger and we will  
11 find our cost is higher; and if our cost is higher, especially  
12 with our anticipated population increase, what is going to be  
13 our voice in the organization? Are we going to have only one  
14 vote like all the other states or more than one vote if we  
15 are going to pay our portion of the bill?

16 MR. HORTIG: Very preliminarily, California has had  
17 only one vote. However, I think the other hazard, which could  
18 be a very real one under ordinary circumstances, of alleging  
19 the size of California in proportion to the balance of the  
20 organization, is fortunately not particularly applicable in  
21 this instance. Oddly enough, many of the other public land  
22 states have much more public land interest and New Mexico today  
23 is administering something on the order of four times as much  
24 state land as the State of California is. They are probably  
25 the ones with the most state land interest, actually, regard-  
26 less of population; so that allegation of increased costs for

1 California -- if anything, I think we could probably make  
2 a very strong representation that if costs are to be borne  
3 in proportion to interest instead of uniformly, California's  
4 proportion would be a minority portion.

5 GOV. ANDERSON: Yes, but they do it on the basis of  
6 population. What did they increase our National Council of  
7 State Government portion?

8 MR. ZWEIBACK: Approximately fifty per cent. We and  
9 New York pay the highest figure in the country, as, for  
10 example, we pay forty-nine thousand and there are some areas  
11 like Alaska that pay \$500 a year.

12 MR. HORTIG: I appreciate that. There, of course,  
13 our proportion is alleged to be in our State problems, whereas  
14 this is where they are focusing their attention on only one  
15 thing -- public lands; and public lands-wise we are a minority  
16 interest.

17 MR. CARR: Mr. Chairman, I'd like to add the further  
18 comment I am not sure it is in California's interest to be in  
19 common with Texas and New Mexico. We are participating in  
20 other matters. I think policywise we ought to be interested  
21 whether we should join in with these states on these things.  
22 That's more important than the cost or distribution of cost --  
23 particularly with Texas.

24 MR. CRANSTON: I fully concur.

25 GOV. ANDERSON: You have the thinking, I think, of the  
26 members of the Commission. You would like a motion, then,

1 that we defer action upon this subsequent to having the  
2 Attorney General making a survey or study as to the legality  
3 of it.

4 MR. HORTIG: I think we certainly should know this  
5 before we discuss it with the Commission further.

6 MR. CRANSTON: I would also like to ask that it be  
7 discussed with Senator Engle.

8 GOV. ANDERSON: Do you make the motion?

9 MR. CRANSTON: So move.

10 MR. CARR: Second.

11 GOV. ANDERSON: You have heard the motion. No objec-  
12 tion, so ordered.

13 Next is Item 10 -- authority for the Executive Officer  
14 to advise the Board of Supervisors of the County of Santa Cruz  
15 that proper and sufficient notification of its intention to  
16 convey tide and submerged lands in Monterey Bay to the City  
17 of Capitola has been received. Mr. Hortig.

18 MR. HORTIG: The Legislature, by Statutes of 1935,  
19 granted certain tidelands in Monterey Bay fronting the village  
20 of Capitola, but granted them in trust to the County of Santa  
21 Cruz. This grant was amended by 1959 statutes to provide that  
22 the County of Santa Cruz may convey to another public agency  
23 these granted lands, subject to the trust conditions and sub-  
24 ject to notifying the State Lands Commission of the proposed  
25 conveyance; also the conveyance is subject to an acknowledg-  
26 ment by the State Lands Commission that notification of the

1 proposed conveyance has been received. Such notification of  
2 proposed conveyance has been received. It has been found by  
3 counsel to be in the form and to comply with the requirement  
4 of the statute.

5 We are at a loss to understand what is complete advice  
6 of the receipt of notification and acknowledgment, but are  
7 recommending that receipt be acknowledged because it has been  
8 received in fact; and hasten to point out to the Commission  
9 that there is another element of control which is yet to come  
10 and that this transfer is far from complete because by addi-  
11 tional statutes of 1959, all tide and submerged lands which  
12 are authorized to be conveyed or transferred in any manner  
13 starting in 1959 and going forward -- title does not pass until  
14 such lands have been surveyed, monumented and recorded on a  
15 plat by the State Lands Commission at the cost of the grantee.

16 We are now in the process of negotiating with the City  
17 of Capitola to enter into a service agreement to accomplish  
18 this. Some time in the future we will be back to the Lands  
19 Commission with the survey plats for approval for recordation;  
20 and only at that time, after completion of the recordation,  
21 will the City of Capito? in fact have title to these tide-  
22 lands which are being transferred to them by the County of  
23 Santa Cruz.

24 GOV. ANDERSON: Is there a motion?

25 MR. HORTIG: Simply to acknowledge the notification  
26 required by the Statutes of 1959.



1 MR. CARR: So move.

2 MR. CRANSTON: Second.

3 GOV. ANDERSON: So moved. No objection, so ordered.

4 Item 11 -- authority for Kenneth C. Smith to execute  
5 indemnity selection and exchange applications filed by the  
6 State with the U. S. Bureau of Land Management.

7 MR. HORTIG: Mr. Smith, would you please outline that  
8 inasmuch as you are the victim?

9 MR. SMITH: Yes. The calendar item refers to a change  
10 in the Federal statutes requiring considerable amendments to  
11 existing indemnity selection applications; and this request  
12 is to speed up the refiling of amended applications selecting  
13 other Federal lands in lieu of Sections 16 and 36, which have  
14 not passed to the State.

15 GOV. ANDERSON: What is your pleasure?

16 MR. CRANSTON: Move approval.

17 MR. CARR: I don't exactly understand what it means.

18 GOV. ANDERSON: Would you explain further?

19 MR. HORTIG: Simply there are now required by the  
20 procedure specified by the Bureau of Land Management of the  
21 Department of the Interior certifications as to the title  
22 status and certification as to the records within the State  
23 Lands Division office as of the time of processing applications  
24 for selection of these indemnity lands; and as there has been  
25 no need for it, there has never been a specific delegation of  
26 authority in the State Lands Division to "X" individual to so