

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION
SACRAMENTO, CALIFORNIA
JANUARY 21, 1960 - 9:00 A. M.

PARTICIPANTS:

THE COMMISSION:

Messrs. Glenn M. Anderson, Lieutenant Governor, Chairman
Alan Cranston, Controller
T. H. Mugford, Deputy Director of Finance
(for Mr. Carr)

F. J. Hortig, Executive Officer
Fred Zweiback, Executive Secretary to
Lieutenant Governor Anderson
Fred Kreft, Assistant Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Assistant Attorney General Dan Kaufmann
Deputy Attorney General Jay L. Shavelson

APPEARANCES:

(In the order of their appearance)

Mr. Harold A. Lingle, Deputy City Attorney,
City of Long Beach

Mr. H. E. Ridings, President, Board of Harbor
Commissioners, City of Long Beach

Mr. Jim Short, Landowner on Tuolumne River

Mr. Charles D. Warner, Charles D. Warner & Sons

Reporter: Louise H. Lillico
Division of Administrative Procedure

I n d e x

(In accordance with Calendar Summary)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF TRANSCRIPT</u>
1 Confirmation of minutes November 18, 1959			1
2 <u>Special order of business:</u> Long Beach tide and submerged lands boundary determination	25	1	1
MOTION ON ITEM 2			3
3 <u>Permits, easements, leases,</u> <u>rights-of-way, fee</u>			
(a) Elsbree, Leonard and Roland E. Elrod	16	2	4
(b) Myco Mining Corp.	19	3	5
(c) Natural Gasoline Corp.	12	4	5
(d) Roscoe F. Oakes et al	15	5	5
(e) Pierce, Karl, et al	20	6	5
(f) Tanner, S. A.	8-9- 10-11	7-14	5
(g) Tornell-Malone Company	17	15	6
MOTION ON (a) through (g)			6
(h) Charles D. Warner & Sons	31	17	6
MOTION ON (h)			11
4 <u>City of Long Beach Projects</u>			
(a) Pier B - Storm Drain System Mitchell Avenue	24	20	12
(b) Pier A East, South Main Avenue Improvement	23	22	12
MOTION ON ITEM 4			13

- continued -

I N D E X
(In accordance with Calendar Summary)
continued

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

<u>ITEM CLASSIFICATION</u>	<u>ITEM NO</u>	<u>PAGE</u>	<u>PAGE OF</u>
	<u>CALENDAR</u>	<u>CALENDAR</u>	<u>TRANSCRIPT</u>
5 <u>Sales of Vacant State School Lands</u>			
(a) Corbin, James P.	22	24	}
(b) Eisen, Jerome & Albert	3	25	
(c) Johnson, Robert E.	2	26	
(d) Magri, Guy and Virginia	6	27	
(e) O'Connor, George R.	21	28	
(f) Patterson, Floyd L. & Jessie	13	29	
(g) Schmitt, John F. & Elise	5	30	
6 <u>Approval of Selection and Sale</u> <u>Vacant Federal Lands</u>	27	31	13
7 <u>Mineral Extraction Lease Offer</u> <u>Russell A. Donnelly</u>	7	32	14
8 <u>Grant Deed to Responsible Realty</u> <u>Investment - Lot 25, Block 45,</u> <u>Tract 4983, Los Angeles</u>	14	33	15
9 <u>Service Agreement - City of</u> <u>Richmond Survey</u>	4	34	16
10 <u>Amendment - Easement PRC 652.1</u> <u>P G & S - Deleting bond</u>	29	35	17
11 <u>Withdrawal from public sale,</u> <u>rejection application and right</u> <u>reserved to James R. Corbett</u>	28	36	18
12 <u>Issuance of Patent - Samuel Simon</u>	18	37	19
13 <u>Confirmation of Transactions</u> <u>Consummated by Executive Officer</u>	1	39	20

(see next page for listing)

- continued -

I N D E X
(In accordance with Calendar Summary)
continued

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

<u>ITEM CLASSIFICATION</u>	<u>ITEM ON CALENDAR</u>	<u>PAGE OF CALENDAR</u>	<u>PAGE OF TRANSCRIPT</u>
13 - <u>Transactions by Executive Officer:</u>			
Connolly Pacific Company	1	42	} 20
Pacific Gas & Electric		41	
Parker Valley Telephone Co.		40	
Tanler, Stanley A.		39- 40	
U. S. Bureau of Reclamation		42	
14 <u>Informative report on application for mineral extraction lease San Bruno Shoal - Richard Grant and T. Jack Foster</u>	30	43	21
15 <u>Report on Status of Major Litigation</u>	26	44	22
16 Next Meeting Date			26
<u>Uncalendarred:</u>			
Status of Long Beach Unitization Agreements, etc.			22

1 GOV. ANDERSON: The meeting of the State Lands
2 Commission will come to order. First item is the confirma-
3 tion of minutes of the November 18 meeting. Is there a
4 motion to dispense with their reading?

5 MR. CRANSTON: I so move.

6 MR. NUGFORD: Second.

7 GOV. ANDERSON: Moved and seconded. If there is no
8 objection, so ordered.

9 Second item is the special order of business -- Long
10 Beach tide and submerged lands boundary determination pursuant
11 to Chapter 2000/57. Mr. Hortig?

12 MR. HORTIG: Mr. Chairman, as the Commissioners will
13 recall, at the meeting of December 17, 1959 the Commission
14 continued further consideration with respect to possible
15 bases for resolution of the Long Beach boundary problem and
16 deferred this further consideration until the next regular
17 meeting, which is today and currently. It is intended that
18 verbal reports will be given to the Commission this morning,
19 with questions to follow. A report is to be given by Deputy
20 City Attorney Lingle of the City of Long Beach; and Assistant
21 Attorney General Kaufmann is here to present the report on
22 behalf of the Attorney General's office. The gentlemen are at
23 the bar apparently anxious to speak to you.

24 GOV. ANDERSON: Which one do you want?

25 MR. HORTIG: Under the circumstances, I don't see any
26 reason why we might not defer to Mr. Lingle, as our visitor.

1 MR. LINGLE: Mr. Ball was unable to come. As you
2 may know, he is engaged in a lengthy trial in Los Angeles and
3 was unable to be excused.

4 Since your last meeting, our City Council has held
5 still another meeting. I was not personally at all of that
6 meeting. I got there late and I understand from those that
7 were there for all of it that they are still working dili-
8 gently and attempting to find some suitable bases -- suitable
9 to all of them -- to discuss with all of you. I have nothing
10 further than that to report, However.

11 GOV. ANDERSON: No progress? That is the progress?

12 MR. LINGLE: That is the progress. They are still
13 working on it.

14 GOV. ANDERSON: Mr. Kaufmann?

15 MR. KAUFMANN: From our point of view, following the
16 meeting of the Commission in October, when Mr. Ball and Mayor
17 Kealer indicated there was still room for negotiation and the
18 Commission instructed us again to continue the negotiations,
19 we haven't really heard from the City. We had one meeting
20 with them prior to your November meeting, which was called at
21 our request in anticipation of the November meeting, and at
22 that time the counsel for the City indicated that they would
23 go back to the City Council and get instructions. That's
24 been almost two months ago and we have heard nothing since,
25 except from time to time -- I would say on several occasions
26 Mr. Ball has indicated to me that the matter would be taken

1 up with the City Council. That's all we have heard -- so
2 there have been no meetings of any kind for approximately two
3 months.

4 GOV. ANDERSON: Any questions?

5 MR. CRANSTON: I'd like to ask the representatives of
6 Long Beach if there has been any information on the Navy Yard
7 decision.

8 MR. LINGLE: Not that I know of.

9 MR. RIDINGS: I might say, Mr. Cranston, unofficially ...

10 GOV. ANDERSON: Would you like to identify yourself?

11 MR. RIDINGS: H. E. Ridings, President of the Board
12 of Harbor Commissioners. There has been no official word.
13 Unofficially, we understand favorable recommendation was made
14 for something less than the total sum necessary for the final
15 remedial work in the Navy Yard. They are still awaiting, I
16 believe, the finalization of the unit agreement and the various
17 contracts necessary to implement it, expecting to make a
18 report to the Congress either the very last of this month or
19 the first part of February. It is unofficial, however. There
20 is no word from the Navy Department.

21 GOV. ANDERSON: Mr. Mugford, anything?

22 MR. MUGFORD: No.

23 MR. CRANSTON: I move the matter be continued to the
24 next meeting.

25 MR. MUGFORD: Second.

26 GOV. ANDERSON: Moved and seconded - no objection,
so ordered.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

GOV. ANDERSON: Next item will be the permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental policies of the Commission. First item, (a) - Leonard Elsbree and Roland E. Elrod - - Any of these, if you have any comments, fine; if not, I will go through the list.

MR. HORTIG: Mr. Chairman, I would like to make a comment on the first item. In line with Mr. Carr's suggestion at the last meeting that, in relation to similar operations on privately owned lands, we be assured that such operations would integrate and be at least unobjectionable to the Small Craft Harbors Commission of the State of California -- since that last meeting we have arranged for staff meetings for a review of such types of operations with the Small Craft Harbors Commission; and the items which henceforth (including those today) appear on your agenda, will have been reviewed by the Small Craft Harbors Commission and when there is no representation by that agency, they feel the operation is compatible and nonobjectionable to any operations they have in view. If they feel additional comment should be given to the Commission, representatives of that division will appear before the Commission to give their view with respect to the item to the Commission.

We have two items on the agenda today and these have both been reviewed and are satisfactory with the Small Craft Harbors Commission.

1 GOV. ANDERSON: Item (b) Myco Mining Corp. -- Accept-
2 ance of quitclaim; item (c) Natural Gasoline Corporation --
3 approval of assignment of compensatory agreement; item (d)
4 Roscoe F. Oakes -- approval of extension on easements;
5 item (e) Karl Pierce -- approval of deferment of operating
6 requirements; item (f) S. A. Tanner -- issuance of four two-
7 year prospecting permits.

8 MR. CRANSTON: On item (f), I'd like to inquire as to
9 those prospecting royalty rates. What is the formula on that?

10 MR. HORTIG: The formula has been established in the
11 past by the State Lands Commission by sliding scales and depend-
12 ing upon the value and types of minerals which may be dis-
13 covered and produced under a preferential mineral lease and
14 these have been applied uniformly to all prospecting permits
15 issued since that time. The statutes that provide for
16 issuance of a prospecting permit provide that any minerals
17 removed during the term of the prospecting permit carry a
18 royalty of twenty per cent, which for most minerals is pro-
19 hibitive. However, the statutes also provide that in the
20 event of discovery of commercially valuable deposits of
21 minerals, the permittee is entitled to a preferential lease
22 at rates which the Commission will determine -- which must
23 be prior to the time there has been any discovery or identi-
24 fication of any commercially valuable minerals. Hence, the
25 royalty rates set out have to be broad enough and profitable
26 enough to cover whatever minerals might be discovered.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

GOV. ANDERSON: Item (g) Tornell-Malone Company -
issuance of 15-year lease. I think we might go through
items (a) through (g) because there might be some discussion
of (h).

MR. MUGFORD: So move.

MR. CRANSTON: Second.

GOV. ANDERSON: Moved and seconded -- ~~no~~ objection,
so ordered.

Item (h) -- Charles D. Warner and Sons, Inc. --
Application for 15-year easement for low-level bridge,
Tuolumne River, Stanislaus County.

MR. HOETIG: As noted on your calendar summary,
there has also been a protest, which you have heard of previ-
ously from Mr. Jim Short. As of yesterday, we received a
call from Mr. Short's attorney, Mr. Gant, requesting that
this item be placed off calendar until the next meeting of
the Commission for the reason that Mr. Gant had a conflict
that he couldn't reconcile and he couldn't possibly be
present at this meeting today to represent Mr. Short. We
replied to Mr. Gant that equitably, in view of the fact that
the applicant was to be represented here today and had indi-
cated he would be (On behalf of Charles D. Warner and Sons)
that the staff under those circumstances could not undertake
to simply remove the item from the agenda; that the decision
for deferment would have to come properly from the Commission;
and it was felt if the Commission heard from the applicant's

1 representatives as to whether or not such deferment were
 2 desirable -- Mr. Short is also present here this morning to
 3 request this deferment -- the staff certainly has no objec-
 4 tion to deferment if the Commission wishes to grant it on
 5 his application.

6 I might simply add to complete the record, of course,
 7 that one of the primary premises of objection which has here-
 8 tofore been filed by Mr. Short is that the time that it is
 9 taking the staff and the Commission to consider this matter
 10 could be detrimental and repeated postponements which have
 11 been necessary because of considerations by other State
 12 agencies might have made this operation more hazardous depend-
 13 ing on whether or not there is a flood or bad weather.
 14 Therefore, I want to be sure the Commission recognizes in
 15 the consideration of the delays, that Mr. Short is now suggesting
 16 this be laid aside until the next meeting -- this request is
 17 now coming from Mr. Short.

18 I would suggest, Mr. Chairman, on the request for
 19 deferment, either hearing further on this from Mr. Short and
 20 then hearing from the representatives of Charles D. Warner
 21 and Sons before the Commission decide the action to be taken.

22 GOV. ANDERSON: Mr. Short.

23 MR. SHORT: Mr. Chairman, members of the Commission,
 24 my name is Jim Short. It is I who protested to this bridge
 25 of Warner Sand and Gravel in the Stanislaus River -- I should
 26 say over the Tuolumne River. We are (the wife and I) owners

1 of lands on the south bank of the river. We have also
 2 suffered damage from the Warners' operations. This is in
 3 the Superior Court in Modesto. There has been quite a long
 4 delay there owing to a crowded calendar, but they have now
 5 appointed a new judge -- which we hope will speed up the
 6 matter; and I would request - - I expected to have my attorney
 7 here to plead my case but he was unable to be present --
 8 I would request the Commission that they delay authorization
 9 of this bridge in order that they can wait until the courts
 10 have decided as to whether I have a right to accuse Mr. Warner
 11 of damage or not.

12 I might point out to the Commission this bridge has
 13 been across the river for some time without authorization
 14 and it was postponed for a while in order that I could see
 15 whether the courts can speed up the trial and render judgment.

16 GOV. ANDERSON: How long would this be?

17 MR. SHORT: Sir, I don't know how long that would be.
 18 They have appointed a new judge. We met with Mr. Warner's
 19 attorneys around Christmastime -- a pretrial arrangement.
 20 We both asked questions, so from that I gather it's moving
 21 along; but as to giving you an exact date, that I cannot do.

22 MR. HORTIG: Mr. Chairman, I should like to bring to
 23 the attention of the Commission that while both the bridge
 24 and the damage alleged to have occurred to the Short property
 25 are associated with the operations of Charles D. Warner and
 26 Sons, I believe I am correct, am I not, Mr. Short, it is not

1 your allegation that this bridge as such, or even its pre-
2 decessors, were the cause of the damage on which you are now
3 having your litigation, but rather other operations of Warner
4 and Son on the river you allege have caused the damage?

5 MR. SHORT: Mr. Hortig, I would not like to confirm
6 that completely. As I say, this is something my attorney is
7 working on with engineers. I have my own opinion -- but for
8 me to give an opinion without the authority of the engineers
9 on our side, I don't think I am qualified.

10 GOV. ANDERSON: Would our action either way influence
11 the court case?

12 MR. HORTIG: I think I would almost have to para-
13 phrase what Mr. Short just said. We can't imagine what inter-
14 relationships might be alleged. I would say a reasonable
15 delay in order to permit Mr. Short to have his attorney here
16 to plead his case might be the optimum procedure because
17 until this moment the staff had not been aware of the fact
18 the two actions were inter-related -- that is, the bridge
19 and damage action. They had been considered separate issues
20 and, therefore, it did not appear appropriate to suggest that
21 the bridge determination -- the feasibility and desirability
22 of the bridge -- should be delayed until such time as a separate
23 damage action relating to separate operations would be deter-
24 mined.

25 In other words, the staff analysis is that the only
26 common point these two issues have is that Charles D. Warner

1 and Sons, who desire to operate the bridge, are involved in
2 both actions.

3 MR. SHORT: Another confusing point, sir, is that the
4 original attorney, Warner Gant's father, was our attorney and
5 passed away -- which left the suit in the hands of his son.
6 That is another point that has delayed the case.

7 GOV. ANDERSON: There is a gentleman back there --
8 were you seeking the floor?

9 MR. WARNER: I am Charles Warner of Charles Warner
10 and Sons and I think this is so -- the bridge has no connec-
11 tion whatsoever to what they consider damages. I don't
12 consider they're damages anyway -- either case is a matter of
13 opinion. The bridge hasn't anything -- it is above the
14 property. I have permission from both properties there.
15 The Lands Commission, when they come, investigated; they were
16 satisfied the bridge would do no damage, had nothing to do
17 with his property; and I don't see why the bridge should enter
18 into the picture as to anything he has, to cause any damage.
19 We have cleaned it all up on the bypass and we can move this
20 bridge off with a drag iron in a few hours.

21 They talk about flash floods. They have a million
22 acres of storage above. I have been there twenty years and
23 there has never been a flood I didn't know about three or four
24 days ahead of time, so I can't see any reason to delay the
25 bridge action.

26 GOV. ANDERSON: I think it would be your recommendation

1 to delay this for a meeting or two?

2 MR. HORTIG: It might be reasonable to defer the
3 decision until the next meeting in Sacramento.

4 MR. CRANSTON: Do you have any objection to a defer-
5 ment of this matter to the next meeting?

6 MR. WARNER: Well, I don't know any particular reason
7 for it because the Lands Commission, after they checked it,
8 they approved it; and the Reclamation Board has approved it;
9 and the engineer of the district that I supply has been
10 checking us out and they are satisfied we are not doing any
11 damage; and any engineer I take up there is the same;

12 MR. CRANSTON: But the deferment of the action would
13 cause you no damage -- the bridge is there?

14 MR. WARNER: Well, it would cause me no damage so
15 long as I can continue to use the bridge.

16 GOV. ANDERSON: There will be no jeopardy there. Is
17 there a motion to defer to the next meeting in Sacramento?

18 MR. CRANSTON: I so move.

19 MR. MUGFORD: Second.

20 GOV. ANDERSON: That will be the second meeting
21 from now.

22 MR. ZWEIBACK: That could be construed a special
23 meeting.

24 GOV. ANDERSON: No, the next regular meeting in
25 Sacramento. Our next meeting date actually was ...

26 MR. HORTIG: The last item on the summary -- Thursday,

42
1 February 25, 1960 -- location and time to be set by the
2 Commission.

3 GOV. ANDERSON: We will proceed to Item 4 -- City of
4 Long Beach projects -- approvals required pursuant to Chapter
5 29/56: (a) Pier B - Storm drain system in Mitchell Avenue.
6 Do you want to comment on these, Mr. Hortig?

7 MR. HORTIG: This item, appearing on calendar page
8 20, is the normal type of development in connection with
9 subsidence alleviation and protection operations in Long Beach;
10 and the Commission has heretofore conditionally approved costs
11 to be expended by the Harbor Department, but it has developed
12 that additional costs will have to be disbursed by the Harbor
13 Department to complete the project in an estimated additional
14 amount of \$20,000 -- to which it is recommended the Commission
15 give advance approval, subject to the standard reservations
16 that the amount ultimately to be allowed will be determined
17 on final engineering review and audit after the work is com-
18 pleted.

19 GOV. ANDERSON: Any further comments or questions?

20 Item (b) - Pier A East, South Main Avenue Improvement.
21 Mr. Hortig?

22 MR. HORTIG: This is one of the infrequent recommenda-
23 tions, which will become more numerous as time progresses,
24 relating to projects heretofore approved by the Commission
25 which have now been completed. From the magnitude of the
26 dollars, the Commission will realize this was a minor project

1 and an additional amount of \$21.45 of unallowed subsidence
2 costs is due the State, upon payment of which the project
3 will have been completed and accounted for.

4 GOV. ANDERSON: Any questions or comments? If not,
5 a motion to approve both items in Number 4

6 MR. CRANSTON: So move.

7 MR. MUGFORD: Second.

8 GOV. ANDERSON: Moved and seconded. No objection,
9 so ordered.

10 Item 5 -- Sale of vacant school lands. First
11 application is James P. Corbin; item (b) Jerome Eisen and
12 Albert C. Eisen; (c) Robert E. Johnson; (d) Guy Magri and
13 Virginia Magri; (e) George R. O'Connor; (f) Floyd Lester
14 Patterson and Jessie Lee Patterson; (g) John F. Schmitt and
15 Elise S. Schmitt. Any comment? If not, a motion to approve
16 item 5 is in order.

17 MR. MUGFORD: I'll move.

18 MR. CRANSTON: Second.

19 GOV. ANDERSON: Moved and seconded. No objection,
20 so ordered.

21 Item 6 -- Approval of selection and listing for sale
22 of Federal lands -- 560 acres in San Bernardino County.

23 Mr. Hortig?

24 MR. HORTIG: The item appears before the Commission
25 because the original applicant did not desire to proceed with
26 the acquisition of the land. It is felt selection of the

1 particular land and addition to the vacant school land list
2 would be in the interest of the State. Therefore the recom-
3 mendation is that the Commission permit completion of the
4 selection procedure and acquisition of the land on motion
5 of the Commission rather than following through with the
6 application from an original potential purchaser.

7 MR. MUGFORD: I'll so move.

8 MR. CRANSTON: Second.

9 GOVERNOR ANDERSON: Moved and seconded. No objection,
10 so ordered.

11 Item 7 -- Mineral extraction lease offer pursuant to
12 application from Russell A. Donnelly, 40 acres vacant school
13 land in Inyo County. Mr. Hortig?

14 MR. HORTIG: The requested authorization is for the
15 staff to be permitted to proceed with an advertisement for
16 bids for a mineral extraction lease to be issued to the highest
17 competitive bidder, if in the judgment of the Commission
18 issuance of such a lease is in the State's interest. This
19 current recommendation is simply to initiate the proceeding
20 which ultimately may result in the staff bringing to the Com-
21 mission bids with a recommendation for consideration of
22 acceptance.

23 (Moved by Mr. Cranston, seconded by Mr. Mugford)

24 MR. HORTIG: I might amplify, Mr. Chairman, this
25 item was placed on the agenda that the Commission might be
26 aware that we have a potentially interested prospector for

1 a gold lease, gold being virtually at a standstill, apparently.

2 GOV. ANDERSON: No objection -- it will be approved.

3 Item 8 -- Grant deed to the Responsible Realty
4 Investment Co. for mineral reservation made by the State
5 Controller in conveyance of Lot 25, Block 45, Tract 4983,
6 City and County of Los Angeles. Mr. Hortig?

7 MR. HORTIG: The situation which necessitates this
8 type of action by the State Lands Commission was inherited
9 from earlier procedures from the Controller's office, which
10 have since been changed by statute. Up to approximately ten
11 years ago, lands escheated to the State - that were under
12 disposition and control of the Unclaimed Properties Office
13 of the State Controller's Office - were sold with a mineral
14 reservation to the State. The statutes then authorized the
15 Controller to make a sale without the mineral reservation.
16 There were, in preceding sales, mineral reservations which
17 in most instances were useless, as in this instance, where a
18 single mineral reservation is in a residential area. So
19 the Lands Commission was also authorized to make disposal of
20 these mineral reservations after investigation.

21 The Commission has, as a matter of policy, established
22 that it would be equitable to dispose of the reservation (where
23 there are no commercially known minerals and it is commercially
24 unfeasible to produce them) at a set fee plus a specific cost
25 for making inspection. This is the specific recommendation
26 in this item and it is recommended that the Commission