ORIGINAL

Before The

STATE LANDS COMMISSION

STATE OF CALIFORNIA

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Regular Meeting held in
Room 2196 Capitol Annex
Sacramento, California

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Thursday, March 24, 1960
9:15 O'clock A.M.

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KAEMPFER REPORTING SERVICE
CERTIFIED SHORTHAND REPORTERS
4128 BRUHN COURT, SACRAMENTO 21, CALIFORNIA
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A P P E A R A N C E S

Commission Members:

Messrs. Glenn M. Anderson, Lieutenant Governor, Chairman
Alan Cranston, Controller
John E. Carr

Staff Members:

Messrs. F. J. Hortig, Executive Officer
Fred W. Kreft, Assistant Executive Officer
Kenneth C. Smith, Public Lands Officer

Others Present:

Messrs. Fred Zweiback, Executive Secretary to Lieutenant Governor Anderson
Jay L. Shavelson, Deputy Attorney General, Office of the Attorney General
Mrs. Julia T. Stahl, Secretary to the Commission

Mr. Alex C. Kaempfer, Court Reporter

Speakers: (In the order of their appearance)

Messrs. Samuel M. Roberts, Administrator of Subsidence Control and Repressuring, Long Beach Harbor Dept.
Jay L. Shavelson, Deputy Attorney General, Office of the Attorney General
Warren F. Gant, Attorney at Law representing J. M. Short, protestant
J. M. Short, Turlock, in propria persona
Francis W. Halley, Attorney at Law, representing Charles D. Warner & Son, Inc.
Charles D. Warner & Leon Warner
R. W. Cypher
Senator John J. Hollister, Goleta
Albert F. Knorp, representing Richard Grant and T. Jack Foster, General Contractors
James J. Stark, Deputy City Attorney, City and County of San Francisco, representing the Public Utilities Commission of the City and County of San Francisco
Julian L. Bardoff, Engineer for the City and County of San Francisco
Charles A. Nichols, Registered Civil Engineer, representing Richard H. Grant
Harold A. Lingle, Deputy City Attorney, City of Long Beach;
Also Messrs. Hortig, Zweiback & Kreft.

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

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THURSDAY, MARCH 24, 1960

9:15 O'CLOCK A.M.

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CHAIRMAN ANDERSON: All right, the regular meeting of the State Lands Commission will come to order.

The first item will be the confirmation of the minutes of the meeting of January 21 and of February 18, 1960.

MR. CARR: Mr. Chairman, I move they be confirmedand dispensed with without further reading.

MR. CRANSTON: Second the motion.

CHAIRMAN ANDERSON: Moved they be confirmed and dispensed with without further reading. If no objection, it will be so ordered.

Item 2 will be the special order of business, Long Beach tide and submerged lands boundary determination, pursuant to Chapter 2000, Statutes of '57. Mr. Hortig, do you want to lead off on that?

MR. HORTIG: Mr. Chairman, as you and Commissioner Cranston will recall on February 25 the Commission continued consideration of the disposition of the Long Beach tide and submerged lands boundary determination problem to its next scheduled meeting which is this meeting today. It is again proposed that a status report will be given first by the members of the Attorney General's office and any supplemental information desired by the Commission staff.

However, as has also become almost standard practice,

1 Representatives from the City of Long Beach have been invited
2 again to comment on the prospects of a negotiated settlement
3 of this matter, and it is suggested that the Chairman may wish
4 to call upon representatives of Long Beach who are present in
5 the audience this morning.
6 CHAIRMAN ANDERSON: Who is representing the City of
7 Long Beach this morning that would like to speak on this
8 subject?
9 MR. ROBERTS: First, I'd like to say --
10 CHAIRMAN ANDERSON: State your name for the record.
11 MR. ROBERTS: Samuel M. Roberts, Administrator of
12 Subsidence Control and Repressuring, Long Beach Harbor Depart-
13 ment.
14 I want to say that we appreciate very much the way the
15 Lands Commission has worked with us and your great patience
16 on this particular matter that we are talking about.
17 There has been a lot of conscientious work on the part
18 of the City people and the State people to try to arrive at
19 some type of a settlement of this particular problem. We are
20 not very encouraged at the prospects. I think we should be
21 very frank about that. It would appear that this thing
22 probably cannot be settled without litigation although there is
23 hope that it could be done.
24 It would appear in some respects that maybe we have
25 dragged our feet on this matter. We don't believe that that's
26 the case if you examine the problem we have on this and many

other legal problems with respect to our whole subsidence program.

We would like to request that action not be taken on this suit for at least 3 to 4 months because we are very much afraid that it could have adverse effects to the other parts of our program. I think you realize that we are about to engage in litigation to determine the ability of the City to join these units that have been created.

We have some very difficult negotations that we have underway concerning our upland leases. We still have problems with respect to our relationships with the Navy and Federal Government over our shipyard and we do feel that particularly in view of the fact that we've entered into this stipulation with the State which in effect waives the statute of limitations, the State is in no way adversely affected if the suit is delayed.

I'd also like to point out that we do have our council elections and so forth coming up this spring. It's very difficult for the council to work effectively on negotiating a settlement just prior to an election. And I do have hope that at a later date maybe we can get together although I don't think the prospects are very encouraging, and it may be the best answer for both the City and the State ultimately to settle this in court.

CHAIRMAN ANDERSON: In other words, you think that litigation at this time would hurt your negotiations for

unitization?

MR. ROBERTS: We believe that it would.

CHAIRMAN ANDERSON: Isn't this something that will continue on, though, that once it is cleared out of the way, something else will be in front? Aren't we facing some continual problem like this?

MR. ROBERTS: Well, we have many problems and we doubtless will have many problems 3 months from now. However, we are at a very critical point right now?

CHAIRMAN ANDERSON: On which one?

MR. ROBERTS: Well, for example, we are trying to complete our negotiations with Long Beach Oil Development with our gas contractors, the amendments we need for the City to join the unit. Then we have to immediately commence some type of litigation to determine our ability to go into these, our legal ability to go into the units which have been formed.

CHAIRMAN ANDERSON: This is fault block IV?

MR. ROBERTS: No, this is II and III. Then with reference to fault block IV, we have commenced our negotiations again which we have suspended for 2 months while we were cleaning up our agreements for II and III. So we're on that.

We have been negotiating for a year and a half on our upland leases which need to be amended for unitization. Now that we expect to move very rapidly and we sort of have to, you might say, give priority to first things first, and we believe it's of extreme importance that we concentrate our

efforts on this block IV unitization and on the related problems and on the matter of litigation to determine whether we can bring the tidelands into units II and III.

CHAIRMAN ANDERSON: What is there remaining in fault blocks II and III that a suit would jeopardize?

MR. ROBERTS: Well, I would say specifically that for one thing we have a limited amount of legal staff. We've had, I'd say, generally speaking, at least four attorneys working on nothing but related problems to this; if we have that and our special counsel go to work on this particular litigation while we're trying to bring litigation to the Supreme Court on the unit proposition, the joining of the units, it's difficult.

We will probably have at least one or two attorneys fully occupied in the next 3 months on these upland lease negotiations alone. We have an attorney working continually with us on our unitization for fault block IV and, frankly, there are negotiations in just unlimited number. We have so many things in short that we are working on that we think should have top priority, both for the interests of the City and the State. We can't slow up on this. We add just one more thing to our problem.

CHAIRMAN ANDERSON: With the problems confronting Long Beach, is there any time you can see in the conceivable future that your legal staff isn't going to be tied up in some way?

MR. ROBERTS: I would say this, for instance, that the

unitization of IV, the upland lease problem, the matter of the litigation to determine our ability to join these unit agreements, that the situation should be much clearer, say, 3 months from now than it is today. In fact, we would hope that we would have concluded many of these things within that period of time. I think on our upland lease problem that we certainly will be pretty well set within the next 3 to 4 months on it. And again I think we should point out that with the stipulations that we've entered into with the State that there's no financial loss to the State assuming, let's say, that they were successful in their contentions in court, there would be no financial loss to the State.

MR. CARR: Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Carr.

MR. CARR: You mentioned fault block IV. There's no oil production in fault block IV that affects the State, is there?

MR. ROBERTS: Fault block IV is probably the most important area of the field from the standpoint of revenue to the State and to the City. The tidelands are about 40 percent of the production of IV. Is that what you were referring to?

MR. CARR: You were accenting II and III. Where does the State come in as far as fault block IV is concerned? What is the production of fault block IV and what is the problem of unitizing fault block IV?

MR. ROBERTS: Fault block IV has more producers in it,

for example, than II and III. Part of the area, by taking in to where we can run, say, about 90 percent of the repressuring operation, requires some 14 percent as well as the City. The negotiation has been underway for about a year and a half. We have memorandums of intention to unitize from 95 percent of the production. This fault block joins the Navy shipyard area. We believe it's essential to the program of maintaining the stability of land in the shipyard for example that we get the adjacent fault block IV area under pressure as soon as possible.

MR. CARR: Is there any water going under fault block IV now?

MR. ROBERTS: Quite a substantial amount on the south flank, that is, on the City administered tidelands. We have had, however, to cut those injections rates down in the last month and a half because we're beginning to move our response and we, of course, can't take the danger of moving oil off the property and it's very important that we close up that unitization. If we don't, why, we've got to keep our rates of injections down at a lower level than we want to keep them.

MR. CARR: When you get through asking a question of Mr. Roberts, why, I'd like to ask one of the Attorney General's office.

MR. CRANSTON: Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Cranston.

MR. CRANSTON: I have one question to ask. Do you have

1 Do you have the statement Mr. Carsten Shepard made the other
2 day? I don't have the statement with me. Could you give us
3 the general tenor of it?
4 MR. ROBERTS: Well, generally speaking, it's this.
5 The House Appropriations Committee is now concerned in the
6 matter of the shipyard. We've had the decision from the
7 Secretary of Navy that the area is stabilized as they asked
8 for and we now have to prove that to the House Appropriations
9 Committee so they will appropriate the money for remedial
10 work and for continuing the operation of the yard, and the
11 Committee is working on it now.
12 MR. CRANSTON: When is that Committee coming to Long
13 Beach?
14 MR. ROBERTS: We are not absolutely sure. We know
15 that representatives of the Committee are coming there very
16 shortly, probably during this coming week we are expecting,
17 and when the Committee will act on it, I can't tell you.
18 It should be within a relatively few weeks.
19 MR. CRANSTON: I have no further questions.
20 CHAIRMAN ANDERSON: Anything further, Mr. Carr?
21 MR. CARR: Not of Mr. Roberts, no --
22 CHAIRMAN ANDERSON: Thank you.
23 MR. CARR: -- unless you'd like to sit there.
24 MR. HORTIG: Just in case.
25 CHAIRMAN ANDERSON: I think we'd like to have Mr.
26 Shavelson from the Attorney General's office make a statement,

Mr. Carr.

MR. SHAVELSON: As far as the report called for in the calendar item, we have nothing to report on this as far as negotiations are concerned. We haven't heard from the City in many, many months now, so far as any counterproposal, and as the negotiations ended they were at a point where an approach would have to be made by the City to the State if any progress was made, but we can't report any progress as to those negotiations.

CHAIRMAN ANDERSON: Would you sort of go along with the sentiment that I received there from Mr. Roberts when he said that this probably could not be settled without litigation, although there were hopes that it actually boils down now to a situation where we either sue or delay our suit depending on what it does to Long Beach and in their other negotiations and not upon any hope on our part that we might negotiate a settlement between the two of us?

MR. SHAVELSON: I wouldn't like to recommend a delay on that basis. I think that we ought to, if we do this, it should be in the hopes of getting a negotiated settlement especially in light of the terms of our stipulation which do contemplate hopes of a settlement, and we have some problem if we're just putting the delay strictly on the ground of the effects upon other problems in this area, so I would rather have it on the grounds of some hope for settlement.

MR. CARR: We had a price tag on a lawsuit one time,

didn't we? Wasn't it the feeling that if we could negotiate a settlement that we would save considerable amount of money and time and work, wasn't that it?

CHAIRMAN ANDERSON: I think with one of them, yes.

MR. CARR: Well, what does the State have to lose? Do we prejudice our position at all, the State's position, by granting a further delay or agreeing to a further delay?

MR. SHAVELSON: In a legal sense, in light of the waiver of the statute of limitations, I don't think that the delay will prejudice the interests of the State. In a practical sense, from the standpoint of collection, we should keep in mind that only a very small portion of the lands that we claim to be tidelands, that the revenues are subject to impoundment, and that the remainder of those revenues are being spent by the City. But I do believe that the amount of money involved is such that the City would be able to pay it out of its own resources.

So, in short, the answer is, I don't think there would be any prejudice to the State from further delay. And I further want to reiterate the thing that we've stated a number of times, which is that this boundary problem is of relatively small importance in comparison with the overall problem. I'm sure we all recognize that. And if the Commission believes there will be a severe prejudice upon the overall hopes for repressurization, we certainly wouldn't urge that, the immediate commencement of litigation.

CHAIRMAN ANDERSON: Mr. Cranston says he's ready to make a motion. Mr. Cranston.

MR. CRANSTON: Well, in view of the information and views expressed to us by both representatives of Long Beach and of the Attorney General's office, I move that we put the matter over to the next meeting.

CHAIRMAN ANDERSON: In other words, just till the next meeting?

MR. CRANSTON: I think we should review this before the next meeting.

CHAIRMAN ANDERSON: You've heard the motion that we postpone action until our next meeting.

MR. CARR: I'll second it.

CHAIRMAN ANDERSON: Moved and seconded. No further objection? So ordered.

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1 CHAIRMAN ANDERSON: Item 3, permits, easements, and
2 rights-of-way to be granted to public and other agencies at
3 no fee, pursuant to statute, and the first is Applicant (a),
4 Department of Fish and Game; next one is item (b), the Division
5 of Highways -- I'll go through these, unless there's any question
6 on them -- item (c), the City of Martinez. And I just want to
7 ask a question on this. I noticed in the wording of it it says,
8 (reading:) "No fees are to be charged" -- this is for the
9 permit and fees -- "as long as the facility is controlled and
10 operated by the City."
11 MR. HORTIG: That is correct.
12 CHAIRMAN ANDERSON: What happens if they transfer
13 ownership or control?
14 MR. HORTIG: If the City should desire to transfer
15 ownership to some private entity, then the State Lands Commission
16 would entertain application for the normal type of commercial
17 lease to the private entity.
18 CHAIRMAN ANDERSON: In other words, the minute that they
19 want to transfer control or ownership of this, it comes before
20 us again?
21 MR. HORTIG: That is correct.
22 CHAIRMAN ANDERSON: That's all I wanted to know.
23 Item (d), Pacific Telephone and Telegraph Company.
24 And that's all those under Item 4. Do I have a motion?
25 MR. HORTIG: Mr. Chairman, I'm sorry, under Item 3; I
26 believe you said 4.

1 MR. CRANSTON: I move approval of the items under
2 Item 3.
3 MR. CARR: Second the motion.
4 CHAIRMAN ANDERSON: It has been moved and seconded.
5 No objection? So ordered.
6 Item Classification No. 4. Permits, easements, leases,
7 and rights-of-way issued pursuant to statutes and established
8 rental policies of the Commission. And the first one is
9 Applicant (a), California and Hawaiian Sugar Refining
10 Corporation, Limited. Do you want to comment briefly on that,
11 Mr. Hortig?
12 MR. HORTIG: Yes, Mr. Chairman, if you desire
13 amplification of the calendar item.
14 As all of you gentlemen know from the physical facts,
15 California and Hawaiian Sugar Refining Corporation's principal
16 plant immediately upstream from the Carquinez Bridge is located
17 on tide and submerged lands of the State of California, which
18 tide and submerged lands are leased to that corporation, and
19 pursuant to that major lease a portion of the leased area
20 downstream from the Carquinez Bridge has heretofore been sub-
21 leased to one Antone Dowrelio for a small boat harbor --
22 incidentally, one of the earliest of the small boat harbor type
23 activities that we had in California -- and it's been a very
24 effective one.
25 Mr. Dowrelio and California and Hawaiian desire to
26 expand the facilities and the operations under that sublease

1 wherefore it has been requested that a new lease be issued
2 for a 15-year -- excuse me -- for a 25-year term beginning
3 August 20, 1960 and ending August 19, 1985, which additional
4 lease period will give Mr. Dowrelio the necessary period in
5 which to amortize his investment and to insure being able to
6 get financing for the operation of the magnitude which he
7 contemplates.
8 It is recommended that the lease be issued at the
9 established rates as established by the Lands Commission
10 which in turn result in rental computations based on the current
11 appraised value of the lands with increments, additional
12 increments of appraised value being added for future increases
13 in value of those lands so being leased.
14 The issuance of the lease is recommended.
15 CHAIRMAN ANDERSON: Applicant (b), the Calitex Land &
16 Development Company.
17 Applicant (c) is also the Calitex Land & Development
18 Company.
19 I'll just go through these, unless there's some question
20 or objection.
21 Item (d), Charles D. Warner & Son, Inc.
22 MR. HORTIG: Mr. Chairman.
23 CHAIRMAN ANDERSON: Mr. Hortig.
24 MR. HORTIG: We have representatives of the applicant
25 as well as of the protestant with respect to the proposed
26 issuance of 15-year easement for this low-level bridge.

1 The Commission will recall that at the meeting of
2 January 21 this item was first considered. Mr. Jim Short,
3 the protestant, asked for a deferment of consideration because
4 at that time his attorney was unable to be present. They are
5 in the audience with us today, and I assume that Mr. Short
6 and counsel desire to continue to protest the staff
7 recommendation that a 15-year easement be issued to Charles
8 D. Warner & Son for the maintenance and use of the low-level
9 bridge crossing the Tuolumne River.
10 MR. CARR: Mr. Chairman, I move approval of (a),(b)
11 and (c) here.
12 CHAIRMAN ANDERSON: Mr. Carr moves that we approve
13 Applicants (a), (b) and (c) of Item Classification No. 4 and
14 clear that up to item (d).
15 MR. CRANSTON: Second it.
16 CHAIRMAN ANDERSON: Moved and seconded. No objection?
17 So ordered.
18 Then we'll proceed to item (d). Do you want to hear
19 the protestant, Mr. Short, or his attorney first?
20 MR. HORTIG: I would so recommend.
21 MR. GANT: Mr. Chairman, I'm Warren Gant, Attorney
22 from Modesto, representing Mr. Short.
23 Initially, I think it should be brought to the attention
24 of the Commission that under date of March 23, 1960, an
25 application has been filed by Mr. and Mrs. Short pertaining to
26 the same gravel which Mr. Warner proposes to remove under a lease

1 with the State of California.

2 It seemed to me, logically, that this question as to

3 whether or not he is going to get an easement for his bridge

4 should be decided and determined following a decision on who

5 was to be awarded the bid, so to speak, with respect to the

6 gravel. Do you follow me?

7 MR. HORTIG: I follow you but I'm unable to reconcile

8 what you stated.

9 MR. GANT: Well, Mr. Warner is seeking --

10 MR. CARR: Has he ever been before us?

11 MR. HORTIG: No, sir.

12 MR. CARR: Is there a pending application for this?

13 MR. HORTIG: Ultimately, not on this agenda, nor

14 even chronically, insofar as you gentlemen are concerned.

15 Initially, of course, there is the problem that in fact the

16 bridge has been in operation heretofore and has also been

17 utilized for transportation operations of Mr. Warner that are

18 not necessarily or exclusively tied to the matter of sand and

19 gravel removal from State lands on which there may be a bid and

20 on which a lease may or may not be issued.

21 Additionally, Mr. Warner operates sand and gravel

22 extraction facilities from his own privately owned uplands

23 even as lessees of Mr. Short do.

24 MR. SHORT: I don't know that they own the property.

25 MR. GANT: Well, I would assume inasmuch as Mr. Short

26 states that to be a fact, that is a fact. We will, of course,

at this time raise the same objections that we have raised all the way along, primarily that no license or permit has ever been granted to Mr. Warner to have the bridge in its present position on State lands, that under date October 27, 1959, he was advised by mail to remove the structure. There was no compliance with that order; that under an earlier date application was made by Mr. Ruddy, and was it Santa Fe?, Santa Fe Rock and Gravel for a permit for a bridge to accomplish the same primary purpose, and that permit was denied for the same reasons involved in this case, the prevention of injury to Mr. Short's property, which is riparian land some 600 feet downstream from the proposed site of the bridge.

I think that all these matters have been made abundantly clear by mail and we have supplied the Commission with photographs in order to enlighten them as to the situation down there as best we can.

MR. HORTIG: Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Hortig.

MR. HORTIG: If I may make an exposition on that.

CHAIRMAN ANDERSON: Go ahead.

MR. HORTIG: I believe that everything that Mr. Gant -- I know that everything that Mr. Gant has stated is completely factual with one minor but very important exception, and that is the basis for denial of the permit to Mr. Ruddy of Santa Fe Rock and Sand, who incidentally also are a State lessee for removal of sand and gravel from the Tuolumne River, who are also

1 a lessee and operate it for Mr. Short involving his own
2 privately owned uplands, and the basis for denial of bridge
3 permit to Santa Fe Rock and Sand for a similar purpose was not
4 on the same grounds as any problem that we have been able to
5 develop with the Warner bridge.
6 In the case of Santa Fe Rock and Sand, studies by the
7 Army Engineers, the flood control areas that are in the vicinity,
8 the technical staff of the State Lands Commission and the
9 Reclamation Board of the State of California indicated the
10 proposed manner of placement of that bridge would constitute
11 or would be a potential flood hazard, and therefore it was
12 suggested to Mr. Ruddy that a permit could be issued and would
13 be issued only, or recommended for issuance only provided that
14 the bridge were moved to a location and an elevation which
15 would eliminate its potential flood hazard.
16 Mr. Ruddy did not choose to submit an amended
17 application or desire to place his bridge at the locations
18 which were suggested as feasible for such placement.
19 The same agencies have reviewed the bridge which is
20 in operation by Charles D. Warner & Son, and have all reported
21 negatively as to the existence of any potential flood hazard
22 by reason of the structure being in place and additionally have
23 suggested that as a matter of final insurance flood control
24 works on the Tuolumne River are of such a nature and the actual
25 experience and operation thereof, while they are primarily
26 irrigation storage water reservoirs, that advanced notification

can be given at any time that excess releases of water must be made from such reservoirs which might be impeded by the existence of any bridge and therefore if a bridge easement is granted as being recommended here, which would require agreement by the lessee to remove the removable sections of the bridge upon notice and prior to the arrival of the extreme stages of the flood water, that this would constitute more insurance in fact than in the majority of instances where there are flowing waters with bridges anywhere else in California.

Now, there are two distinct differences, or there is a distinct difference as between a proposed Ruddy bridge and the existing Warner bridge, and that one has been determined by the technical experts as a potential hazard, whereas the Warner bridge has been classified as not constituting a potential flood hazard and particularly with the insurance factor of its already being in such location that it can be removed and that notice for removal can be given and the assurance by Mr. Warner in the lease that he will accept such notice and will make such removal, else he being in an extremely difficult additional liability position as I'm sure Mr. Gant would appreciate.

MR. GANT: May I ask one question in that regard?

MR. HORTIG: Yes, sir.

MR. GANT: From whom would the notice come?

MR. HORTIG: From the operators of the reservoirs upstream. Don Pedro Dam, I believe, is the first and primary one;

1 the Modesto Irrigation District, or whoever the operating
2 agencies are, and I'm now speaking from memory -- I haven't
3 reviewed this recently -- I know have assured us in the past
4 and even in connection with earlier operations by Mr. Ruddy
5 which were protested before a State lease was issued, even
6 there the lease was finally allowed because all of the
7 operating agencies and the adjoining land owners in general,
8 although not completely, accepted the representations of the
9 irrigation district that notices of impending heavy discharges
10 could be given three and four days in advance and therefore
11 allow adequate, safe-guarding operations to take place.
12 Mr. Ruddy, in his operations under the river now, which
13 are operated jointly with his lease on Mr. Short's land, is
14 under the same, subject to the same type of notice provision
15 inasmuch as at some time in his operations it could be
16 necessary that he have temporarily partially obstructed the
17 stream in order to get to a particular gravel deposit and so
18 forth. In the notice of impending flood, it would be incumbent
19 upon him under his lease and under liability coverage that he
20 has to eliminate the unnatural conditions forthwith so that
21 they would not create a back-up of any flood waters after having
22 received notice.
23 MR. GANT: Well, as a practical matter how are the
24 districts bound to give such notice?
25 MR. HORTIG: I believe they do as a matter of general
26 public service first of all because they are certainly, the

1 district is acutely aware of desiring not to be liable under
2 such circumstances where someone who finds himself under 10 feet
3 of water should subsequently announce in court or otherwise
4 that we could have prevented this if you had only let us know.
5 I have had handed to me here by the attorney for Mr.
6 Charles Warner a letter from Turlock Irrigation District,
7 dated November 3, 1959, addressed to Mr. Warner. (Reading:)
8 "Dear Mr. Warner.
9 "In answer to your question as to the flood control
10 operations on the Tuolumne River and how we are able to
11 give you advance information concerning any flood flows
12 below the LaGrange Dam, the district and the City of
13 San Francisco are under contract with the Federal Govern-
14 ment Corps of Engineers to operate the three storage
15 reservoirs, Hetch-Hetchy, Lake Lloyd and Don Pedro,
16 a total of 944,000 acre-feet capacity, so that there is
17 flood control space available during the flood season.
18 "This space amounts to a total of 360,000 acre-feet
19 and under the largest flood of record would allow us to
20 notify you about 3 days in advance of any flood below
21 LaGrange Dam.
22 Very truly yours,
23 Turlock Irrigation District
24 /s/ R. V. Michael
Chief Engineer."
25 MR. GANT: I'm just wondering about the situation that
26 would develop absent some notice from the district, I still don't

1 see how they would be bound to give anybody notice. Whether
2 they do as a matter of practice I don't know. But I don't think
3 they do, quite frankly.
4 MR. HORTIG: I believe you will concede, Mr. Gant,
5 not wanting to be argumentative, there are other bridges across
6 the Tuolumne River also.
7 MR. GANT: That's true, but those bridges don't affect
8 Mr. Short's property.
9 MR. HORTIG: Which may or may not constitute flood
10 hazard, whereas the bridge for which the Lands Commission has
11 an application now has been reviewed as to placement, type of
12 structure, removability, by the Chief Engineer of the Turlock
13 Engineering, or Turlock Irrigation District, who has expressed
14 approval of the bridge location, the State Reclamation Board
15 has authorized the bridge placement from the standpoint of flood
16 control, and the owners of the upland property at either end of
17 the bridge, which is of course immediately upstream from Mr.
18 Short's property, have submitted letters expressing satisfaction
19 with the bridge placement.
20 MR. CRANSTON: May I ask what the facts are in regard to
21 the order of October 27, 1959, with regard to the removal of
22 this bridge?
23 MR. HORTIG: This order was stayed, Mr. Controller,
24 because application was made by Charles D. Warner immediately
25 thereafter requesting the issuance of an easement to maintain
26 the bridge.

MR. CRANSTON: What was the reason for the order in the first place?

MR. HORTIG: The bridge was found to be a nuisance and a trespass on State lands without any authorization.

MR. CRANSTON: Have we had similar cases to this in the past?

MR. HORTIG: Yes, sir.

MR. CRANSTON: What has been the normal course of events?

MR. HORTIG: The normal course of events is to serve notice and request an application from the people occupying the trespassing lands, and in about 99 percent of the cases applications are made and authorizations secured and the required rentals are paid.

MR. CRANSTON: What is the contention in regard to the damage to the Short property?

MR. GANT: I think I can best explain that by showing the Commission a photograph of the bridge.

(Photograph shown to the Commission.)

You will note these two causeways have been constructed from the bank narrowing the flow of the river, and this large 8-foot diameter pylon which supports the bridge.

MR. CARR: The bridge is constructed of old cars?

MR. GANT: Two flat cars.

MR. CRANSTON: What is the contention with regard to the effect of this?

MR. GANT: Also, there is another bar down here; the

1 Short property lies downstream and on the left --
2 MR. CARR: Which is the upstream?
3 MR. CRANSTON: How far downstream is the Short property?
4 MR. GANT: 600 feet. The contention is that this would
5 have the natural force and effect of speeding the flow through
6 this area here (indicating) and in periods of high flow would
7 divert it to the south bank, and the same thing has happened
8 and a lawsuit is presently pending over damage that was received
9 in the same way --
10 MR. CARR: Same place?
11 MR. GANT: Yes. -- downstream a little farther but
12 the same general situation. We're just concerned about the
13 repetition of that injury.
14 CHAIRMAN ANDERSON: Does that liability cover that?
15 MR. HORTIG: Yes.
16 MR. GANT: There's 50,000 property damage.
17 CHAIRMAN ANDERSON: Fifty.
18 MR. HORTIG: Well, of course, whether or not damage
19 has accrued or can again accrue from this fact is a matter of
20 litigation as Mr. Gant has said, so we're hardly in position to
21 state conclusively what the decision of the court is going to
22 be in that case. However, as an abstract matter of the
23 probability of the bridge constituting a flood hazard or a
24 contributor to damage they say all of the State agencies who are
25 concerned technically with such bridge placement plus the
26 irrigation district who operate the storage reservoirs that feed

1 the water into the stream have all indicated everything from non-
2 objection to outright approval of the placement of the bridge.
3 MR. SHORT: I might point out, though, that none of
4 these agencies are concerned with our land, and when the water
5 takes the land out, we are over a barrel -- not the agencies.
6 It is our land that goes out, and that's the hard part.
7 We are in the process of developing this land. We
8 have 60 acres of walnuts and eventually we'll have 150 acres.
9 MR. CARR: This picture here of the trees and orchard
10 up here on the bank, is this your property?
11 MR. SHORT: No, sir, that's the north bank.
12 MR. GANT: Would you explain that to Mr. Carr?
13 MR. HORTIG: Mr. Chairman, the applicant Charles D.
14 Warner and his attorney are also represented here this morning.
15 CHAIRMAN ANDERSON: Yes.
16 (Mr. Short explaining picture to the Commission out
17 of hearing of the Court Reporter.)
18 MR. CARR: Why was the bar built there?
19 MR. GANT: Mr. Warner is here. He can explain that.
20 CHAIRMAN ANDERSON: Yes, we'll hear from him in a moment.
21 The question was asked why the bar was built there, the one just
22 below the bridge. He said that was built by Mr. Warner on State
23 property without permit as well as the bridge.
24 MR. HORTIG: That would be correct. Of course, building
25 a bridge approach into the stream and particularly in this
26 general area or even temporary truck roads over the stream entirely

1 in periods of low water with simply a culvert is not an
2 unusual procedure.
3 CHAIRMAN ANDERSON: This is not a bridge approach;
4 this is a diversion.
5 MR. HORTIG: Numerous diverting bars that are in the
6 river naturally that also shift from time to time depending
7 on the flow of the water.
8 CHAIRMAN ANDERSON: There's one picture here and
9 there's another picture here (indicating). This is how it
10 goes out to divert.
11 MR. HORTIG: Well, in many instances these are built
12 by the sand and gravel contractors to serve as an approach for
13 their dragline dredge so that they can get over to the edge of
14 the river bank and drag the gravel in.
15 Additionally, after they have served their useful
16 purpose and finally get around to convincing them, they are
17 again dredged out. We had numerous structures of this type;
18 not numerous but several operations of this type immediately
19 opposite Mr. Short's property by Santa Fe Rock and Sand Company
20 prior to the time that we required them to take out a State
21 lease.
22 Subsequently, they have also leased operating rights
23 over on Mr. Short's property and there's a large channel being
24 maintained there now and probably existed in nature, but during
25 the period of their unauthorized operation, why, obstructions
26 like this occurred and quite frequently, but once it served its

1 purpose of course it's no longer the economic interest of the
2 person digging out the rock and gravel unless he is forced to
3 do so either because of the feeling of the impending liability
4 because this may create a flood hazard or he finds himself
5 under a directive from the State Lands Commission to restore
6 the river channel to its normal situation, the problem being
7 that we have thousands and literally thousands of miles of
8 navigable streams in California potentially subject to sand
9 and gravel extraction operations.
10 As the need for sand and gravel increases, as local,
11 as county zoning restricts this type of operation, more and
12 more activity of this type is going on on streams that are not
13 already zoned and consequently policing of this type of operation
14 on a day-to-day basis is what it would take.
15 CHAIRMAN ANDERSON: Is Mr. Warner using this now?
16 MR. HORTIG: I don't know, but Mr. Warner is here and
17 can certainly tell you.
18 MR. CARR: Is it a suit for damages or suit to curb
19 the applicant?
20 MR. GANT: Suit for damages.
21 MR. SHORT: Is it possible to fix this bridge and Mr.
22 Warner can still use it so the stream is in the center of the
23 bridge and not against the south end? Mr. Warner has the
24 equipment. He can put another span on that bridge, extend the
25 bridge just one more span. His trucks would cross the river
26 through here (indicating); his trucks can cross the river and then

1 when high water comes, the current is going to be in this
2 center span and not like it is right against the bank; then
3 we have no objection. But as it stands now, that is a direct
4 threat to our property; not only that, but the bridge is in
5 and can all be fixed with that one span and then we would have
6 no complaint.
7 MR. CARR: You can bring suit to do this, sue Mr.
8 Warner to bring damages.
9 MR. SHORT: Yes, sir, it's in now.
10 MR. GANT: Suit does not concern this bridge.
11 MR. CRANSTON: I have one point. What does the present
12 suit concern?
13 MR. GANT: It concerns land downstream and land that
14 was damaged allegedly as a result of a different diversion.
15 CHAIRMAN ANDERSON: Mr. Warner, would you like to have
16 your attorney come up and hear your side of it?
17 MR. HALLEY: My name is Francis W. Halley. I'm attorney
18 from Modesto, too, and I represent Mr. Warner on this matter.
19 I might say, I couldn't hear entirely everything that was said
20 at the bench but I believe Mr. Gant did make it clear that the
21 litigation which is now underway does not allege that this
22 bridge caused the damage of which he is complaining, and I think
23 there should be no misunderstanding about this. It concerns
24 another diversion, claimed diversion of a channel, and it's not
25 claimed that this project has caused any damage.
26 Mr. Warner is here and will be glad to answer any questions.

MR. CARR: I'd like to know what Mr. Warner's reaction to this is. Obviously this bridge is an asset to you, isn't it, Mr. Warner?

MR. WARNER: Yes, it is.

MR. CARR: What do you think of Mr. Short's suggestion of putting another span in there and resolving his fears of damage to his land that he's developing?

MR. WARNER: Well, I took this up with the engineer of the irrigation district and he said that would absolutely not help anything at all because the river was solid against the north bank and it curved to the south down below so this bridge was put over 100 feet from that north bank already.

MR. LEON WAGNER: And we have doubled the bridge span from what it was the first time.

MR. CARR: Do we have any jurisdiction over this quarrel between these neighbors there? This is not a court of domestic relations, is it?

(Laughter.)

Nor marriage counseling or anything like that?

CHAIRMAN ANDERSON: What was this other little diversion bar that you've built just below the bridge?

MR. WARNER: Down below there?

CHAIRMAN ANDERSON: It looks like it may have been 100 or 200 feet down below it. This is the one that Mr. Short claims pushes the stream across on his side.

MR. WARNER: Well, the bar down below down there was a

1 much bigger bar than that many years ago, and I dug that bar
2 completely out once and through two different floods it has
3 built that bar back up, and this diversion, this place where I
4 dug up was to riprap a bank on the north side because it was
5 cutting over into the walnut trees into Mr. Beard's. I dug
6 that gravel up and intended to place it all over on the bank.
7 In the meantime water come, got high enough in the
8 river that I couldn't finish over there. I had to move the
9 dragline out, and I couldn't get back until the next summer.
10 Well, in the meantime we had a flood.
11 CHAIRMAN ANDERSON: Well, your contention is that this
12 was not built by you but was built by the waters themselves?
13 MR. WARNER: One little channel, one little bridge
14 I built up with a dragline in order to get enough gravel to
15 riprap the bank on the north side because it was cutting out
16 the bank and into his walnut orchard.
17 MR. HALLEY: This is the channel below the bridge.
18 CHAIRMAN ANDERSON: Yes.
19 MR. CARR: Who uses the bridge besides you, Mr. Warner?
20 MR. WARNER: I'm the only one that uses it. You see,
21 I have ten dump trucks.
22 MR. CARR: You're here with an application to leave the
23 bridge in. You put the bridge in illegally.
24 MR. LEON WARNER: We don't know it was illegal.
25 MR. WARNER: Didn't know it was illegal.
26 MR. CARR: What about that, Mr. Hortig?

1 MR. HORTIG: The bridge in question and even larger
2 structures have a bad habit of appearing across intervening
3 bodies of water whenever it isn't practicable for people living
4 on either side to get to the other side, and that is in a
5 majority of instances, particularly on the smaller streams,
6 the first times that the individuals are made aware of the
7 fact that it happens to be a navigable stream and under the
8 jurisdiction of the State Lands Commission, so these are almost
9 in the majority of instances, I should say, a case of post-
10 leasing rather than a case of making an application in the
11 first instance.
12 This is typical of a type of trespass that recurs on
13 our navigable waters and California being as large as it is
14 it's just an economic impossibility to police it on a day-to-
15 day basis.
16 MR. CARR: What are the facts of the case? Have you
17 inspected this property yourself?
18 MR. HORTIG: Yes, sir.
19 MR. CARR: What are the facts of the case? Is Mr.
20 Warner illegal trespass on navigable stream actually endanger-
21 ing Mr. Short's property?
22 MR. HORTIG: We are informed by all the technical
23 reviewers whom I've enumerated previously, no, but we have not
24 proposed to resolve and represent to the Commission that we know
25 what the answer to Mr. Short's litigation is going to be.
26 MR. CRANSTON: Well, there is apparently no relationship

1 with the present case, is there?

2 MR. HORTIG: Except by analogy that Mr. Warner's
3 unspecified operations or unidentified operations here for
4 the moment, for the purpose of this discussion, are alleged
5 previously to have caused damage to Mr. Short's property,
6 therefore the assertions that to be certain that this can't
7 happen again, all further operations by Mr. Warner should be
8 abated.

9 MR. HALLEY: May I say something?

10 CHAIRMAN ANDERSON: Yes.

11 MR. HALLEY: You are correct that the suit now on file
12 does not allege that this is the cause, and I might also say
13 this, that if Mr. Short feels that this is going to be a detri-
14 ment to his property, he certainly has a right to amend his
15 pleadings and ask that we be enjoined, if he can prove in court
16 that this is a dangerous device, which we don't believe it is.
17 I mean, he has a remedy as far as he and Mr. Warner are
18 concerned.

19 MR. CRANSTON: Frank, do you feel we have the best
20 technical information and advice that is available to us, that
21 the bridge does not constitute a hazard to Mr. Short's property?

22 MR. HORTIG: With the insurance factor which is to be
23 a part of the lease and with the assurance of the reservoir
24 controlling agencies that notices can be given, we feel every-
25 thing that can be evaluated technically has been done, and we
26 don't have any exception as to the proposed operation being a

1 hazard except by Mr. Short.

2 MR. CRANSTON: I therefore move that the application

3 be approved.

4 MR. CARR: Before I second the motion, I'd like to ask

5 another question. Mr. Short, your objection on this thing,

6 and I'd like to get back as to the law on mental relations

7 as this constitutes mental cruelty as grounds for divorce,

8 and if you're so apprehensive as to what might happen to your

9 developing walnut orchard, is your fear due to the bridge or

10 due to this bar which is in there? What are the conditions

11 which bother you?

12 MR. SHORT: The conditions are, sir, that this current

13 on the south bank even in the last few months, Mr. Warner

14 has deepened that, so that when the current as it now stands

15 is deeper than it was owing to Mr. Warner's dragline being

16 in there again. Now, when the high waters come it has no place

17 to go except against the south bank.

18 I'm not trying to put Mr. Warner out of business

19 but I do feel that if he extended his bridge, put another span

20 in there, then when the high water comes it wouldn't back up

21 and be forced against the south bank. It would go straight down

22 the river.

23 Now, Mr. Warner has the equipment. I'm not asking

24 something that would be expensive. But I am concerned because

25 it is our property that's going down the river and, as I say,

26 he has in the last 2 or 3 months deepened that channel so that

1 the current is permanently against the south bank. It is
2 anchored there. And I feel -- maybe I'm getting hot -- but by
3 George it's our land, sir, that goes out, and all I'm asking, --
4 I'm not denying the man his bridge even though it's there
5 illegally -- I'm asking him to extend another span so that when
6 the high water comes it will go down the center of the stream.
7 MR. CARR: Then what is the significance of this gravel
8 bar that extends out there which forces the channel against
9 the south bank?
10 MR. SHORT: If this other span was there, sir, he would
11 take that bar out and that would not be an obstruction to the
12 water. As it is now --
13 MR. CARR: If the bar were taken out anyway, that bar
14 he pointed out in this picture, apparently has nothing to do
15 with the bridge, does it?
16 MR. SHORT: Except to force the water against the south
17 bank.
18 MR. WARNER: If I may answer that? The water for the
19 last 45 years -- we have a record that the water has always
20 been against the south bank to his property, and this water
21 has never changed.
22 MR. CARR: Is your property on the south bank eroding
23 at the present time, right now?
24 MR. SHORT: No, sir, because there isn't enough water.
25 MR. CARR: When was there enough water last to erode
26 the bank?

MR. SHORT: In the year '55, sir.

MR. CARR: Is that prior to any of these flood control dams being in operation?

MR. SHORT: Well, as far as I know there was no change on the river, sir.

MR. CARR: What about that, Mr. Hortig?

MR. HORTIG: There was, however, in that year, Mr. Carr, an extreme flood such that, if I have the year correctly, it was about that time the river didn't even stay in any of the channels which are under discussion here. It was all over the adjoining territory.

MR. CARR: So that obstructions or non-obstructions didn't mean a thing.

CHAIRMAN ANDERSON: Mr. Warner says the channel has always been against the south bank or at least for the last 40 some odd years, is that true, that it's always been against your property?

MR. SHORT: Mr. Anderson, if that's the case, why did he put his dragline in this year? That certainly didn't make it any shallower.

MR. WARNER: EACH YEAR the fellow has a pump above me and whenever the low water comes, like it was now, when irrigation takes all the water out of the river except the seepage, why, we have to put a small dam across there to hold the water up to its present level where it was so he can pump.

Now, as soon as the anticipation of maybe more water

coming down, I take this bar in and out each time and that's what I did; that's what I did. I just dug it so the water is the same level as it was before.

MR. HORTIG: This is a common practice on the river, incidentally; it's not unique with Mr. Warner.

MR. WARNER: No.

MR. SHORT: As I say, all we're asking is another span on the bridge.

CHAIRMAN ANDERSON: What's your reaction to that, Mr. Hortig? Have you looked into this?

MR. HORTIG: It would widen the bridge just as the -- this is the first time this suggestion was made as a possible basis for eliminating this dispute, which as Mr. Carr has classified it we feel properly is a dispute among neighbors and not necessarily restricted to the technical factors that are nominally evaluated by the State Lands Division for the report to the Commission.

I think possibly it would be a question of economics which Mr. Warner should respond to. Certainly it is technically feasible and, as Mr. Short said, there would be a wider area for the water flowing.

MR. CARR: Would we be in order to grant Mr. Warner's application for this bridge which he has already put in illegally on the condition that he put another span in?

MR. HORTIG: The Commission could so provide.

MR. CARR: Would that make everybody happy?

MR. HORTIG: It would be within the control of the Commission. This is why I'd like to have the Chairman ask Mr. Warner.

I think so far we're sure everybody but Mr. Warner would be happy.

MR. CARR: I didn't want to ask a hypothetical question. I just wondered if he had the right to make that. What would you say to that, Mr. Warner? Would you object to putting another span in there?

MR. WARNER: Yes. That would cost us about $1,500 to put a second one in. I talked with the engineer down there about that and he says that putting another section in wouldn't change that one particle for his land. But what I intend to do this summer is to take and dig the bar down clear up to where it's lower than the bridge, the bar on the south side, and then in the event that any water would come up higher it would go straight up the bar and straight down. I would dig it so it would be just above water level.

MR. CARR: $1,500 doesn't seem to be too much -- that land is valuable property -- $1,500 to put in another span doesn't seem to me to be a very high price to pay for amity in the neighborhood.

I'll second your motion on the condition that he put another span in the bridge.

MR. LEON WARNER: It wouldn't do any good.

MR. CARR: Well, who says it wouldn't?

1 MR. WARNER: The engineer says so.

2 MR. CARR: You can either go to court and decide these
3 things or not. I'm not a water expert or a bridge expert in
4 these things.

5 MR. LEON WARNER: The cost of putting it in wouldn't
6 be just the cost of the span. It would cost you two, three
7 or four thousand dollars to put in a pier and then it would
8 cost you all the labor to put that other span on there which
9 we have went to the engineer and found out how big and how high
10 the bridge should be to carry the water there. And that was
11 the amount that he told us it would have to flow under the
12 bridge. That's why we made the bridge that size.

13 MR. WARNER: I added a second span to it already to
14 widen it out so it would take all the water that they turned
15 down which is up to 9,000 second-feet under ordinary circumstances.

16 MR. CRANSTON: What were your total costs for doing so?

17 MR. WARNER: Well, I've got about between four and five
18 thousand dollars in this bridge.

19 MR. CRANSTON: What were your total costs for putting that
20 second span in?

21 MR. WARNER: Well, that would run about, as near as I --
22 I didn't keep it down to exact figures, no. You see, I only
3 needed one pier to put this other in.

4 MR. CARR: But you had to put the pier in to put the
5 second span in, though?

6 MR. WARNER: Yes, I had to put the pier in to put the

1 second span in.

2 MR. CARR: You'll just have another span and another

3 pier. I think that's a reasonable figure.

4 MR. WARNER: You see, that's a big bar, big gravel bar.

5 If you went over it the other way it's inside the big gravel

6 bar and it wouldn't do any good but it would be just a wall

7 there. If you cut the top of the gravel bar off to the water

8 level, that would do more good. That's what the Turlock

9 Engineer told me.

10 MR. CRANSTON: What was the total cost of that second

11 span?

12 MR. WARNER: It was around $2,500.

13 MR. HALLEY: May I say this, gentlemen. We don't want

14 to create another condition here that may be worse. Now, we

15 have tried to rely on what the engineers have told us is

16 feasible, and we certainly don't want to do something here

17 that's going to be bad for the river and everybody on it.

18 As I say, we have to rely on what the engineers say

19 will be feasible and that has not been recommended to us. We

20 certainly are willing to comply with all these conditions that

21 have been put in here including the liability insurance and

22 I am wondering if Mr. Short's ability to have recourse in the

23 courts might not give the protection which I think you properly

24 have in mind?

25 This is actually an engineering problem and the State

26 engineers have gone over this thoroughly, the State Reclamation

1 Board and our own engineers. We think we have good engineering
2 advice and may I say also that we don't feel we have damaged
3 Mr. Short's property, I mean, he states we have, but there's
4 a very definite and sincere dispute on that question, and we are
5 not fearful of the outcome of that.
6 MR. CRANSTON: Frank, what would be your thoughts based
7 on your technical information on the subject of the relative
8 merits insofar as whatever protection it might give to Mr.
9 Short's property of (a) this additional span, and (b) this
10 other work Mr. Warner indicates he intends to do?
11 MR. HORTIG: There is no warranty that an additional
12 span even though it would decrease the velocity of flow past
13 the expanded bridge would in any wise be beneficial, and as
14 Mr. Warner's attorney has indicated there could be circumstances
15 under which it actually could be found subsequently to have
16 been detrimental and reconcentrating the waters at extreme
17 flows in a different manner in which they've been found in
18 here naturally or even in a disturbed condition resulting from
19 the gravel operations.
20 I think the thing that's being overlooked here in
21 these discussions is that primarily the water flow that is being
22 discussed here today is in a rather small channel and that which,
23 as Mr. Warner says, has been concentrated against the south bank
24 of the river is the primary deeper water channel and the only
25 place where the water flows or has flowed for years in times of
26 particularly low water. But this is a small channel inside a

broader river channel, and when there are extreme flows of water, that water is just all over the scenery and where depends upon how Mother Nature and the velocity of the river has moved the gravel banks around at that particular time, and in extreme flows as I reported before, in 1955 where they weren't even able to hold the flood back in storage reservoirs and it came right back over the top of the storage reservoirs, I must presume Mr. Short's land was partially inundated, certainly the properties on the north bank were inundated.

Were you under water in the flood of '55, Mr. Warner?

MR. WARNER: Yes, the whole plant -- the water comes above me, over the outside of the river bars; it's about half a mile, about, above me, and comes out of the river bank above me, and the whole river bank is all under water, and so what little bit I place down at the bottom of the river wouldn't have any effect on the flood coming down the river.

MR. HORTIG: So you see the hazardous prediction, Mr. Cranston, we can't just be sure the river is going to do the same thing next time.

MR. CRANSTON: Do you have a comment to make on the other proposal Mr. Warner made?

MR. HORTIG: Of digging out the bar?

MR. WARNER: Of digging out the bar to just the water level.

MR. HORTIG: Insofar as the existing bar immediately downstream from his bridge is concerned, and if that were to be

lowered -- this is in the direction of hope for improvement -- and we haven't been able to foresee any hazard that would result.

MR. CARR: When was this bridge first constructed and when was the second span put in?

MR. HORTIG: Mr. Warner?

MR. WARNER: Well, in 1955.

MR. CARR: After the big flood?

MR. WARNER: No, we put in the first span before the big flood. So we went in, lifted the span off during the flood and --

MR. LEON WAGNER: -- set the bridge over on the ground with a drag line.

MR. CARR: The water during this big flood, did it go over this land?

MR. WARNER: About 14 feet over the top of the bridge over the whole bottomland about a quarter of a mile wide, bottomlands and all.

MR. CARR: When did this damage occur that Mr. Short is suing you for at the present time?

MR. WARNER: During the '55 flood when it covered the whole territory there.

MR. HALLEY: It completely washed out this bar downstream that you're talking about.

MR. CARR: Did it wash out the bridge approaches, too?

MR. WARNER: Yes.

MR. CARR: Completely or just partially?

MR. WARNER: Just partially on the north side there, which we left, we put the gravel over there for it to wash out so any time water would come over it it would wash it out and then we would refill it.

MR. CRANSTON: Mr. Chairman, I would be reluctant to require the addition of a span there without further engineering evidence that it would serve a useful purpose to require that expenditure.

MR. CARR: I don't think that's in our province. I'll second your motion without reference to another span and then Mr. Short can seek his remedy at law. However, this isn't a law court.

CHAIRMAN ANDERSON: In other words, the motion is to grant the recommendation of our Executive Officer pursuant to his recommendation at the January 21 meeting?

MR. CRANSTON: Yes.

MR. HORTIG: Mr. Chairman, may I understand that for the effective date of this easement will you be back to the date of application for Mr. Warner for the easement?

CHAIRMAN ANDERSON: Which date is that?

MR. HORTIG: October of '59?

CHAIRMAN ANDERSON: October 1, 1959?

MR. HORTIG: No, that was the Commission meeting but it was in the immediate vicinity of that date. But whatever it may be, whatever the date of application was in October, '59,

1 recommended as the effective date of easement.

2 MR. CRANSTON: Without this being incorporated in the

3 motion, I would like to have you state to us when you will do

4 this work on the bar and will you advise Mr. Short when you

5 do this work?

6 MR. WARNER: I'll do it during the summer months when

7 the water is down.

8 MR. CRANSTON: And you will notify us before the end

9 of summer that that work has been completed?

10 MR. WARNER: Yes.

11 CHAIRMAN ANDERSON: Been moved and seconded. Mr. Gant?

12 MR. GANT: I have one further comment to make. Might

13 the permit contemplated be conditioned upon that work?

14 MR. CRANSTON: I would be very happy to so amend the

15 motion.

16 MR. HALLEY: No objection.

17 CHAIRMAN ANDERSON: If there's no objection then, the

18 item will be approved according to the recommendation of our

19 Executive Officer.

20 MR. CRANSTON: With that additional proviso.

21 CHAIRMAN ANDERSON: With that additional proviso.

22 MR. HALLEY: Thank you, gentlemen.

23 CHAIRMAN ANDERSON: Then we'll proceed to Applicant (e),

24 R. W. Cypher; Applicant (f) Willard L. Johnson.

25 MR. CARR: Let's hear Mr. Cypher separately.

26 MR. HORTIG: Mr. Chairman, I think on (e) I should call

1 to the attention of the Commission that while this recommendation
2 is for what is a standard form of prospecting permit to be
3 issued by the State Lands Commission, this is the first
4 application for its utilization in connection with prospecting
5 for and the possibility of developing geothermal steam from
6 State lands, an application, incidentally, which has been
7 cleared by the office of the Attorney General as being within
8 the scope of authorization of the Commission to contemplate, but
9 I did want to bring to the attention of the Commission that this
10 is unique in the sense of being the first attempt of this type
11 on State lands.
12 There is already under construction in the geyser area
13 of California a geothermal steam electric generating plant
14 constructed by Pacific Gas & Electric Company, which will be
15 the first one in the United States to do so. This type of
16 development has gone forward in Italy, in New Zealand and some
17 other areas of concentrated volcanic activity, but the calendar
18 item is disarmingly routine on its face but does have this
19 unique feature that it does relate to what we hope can be a
20 substantial asset to power generation in California if geothermal
21 steam can be tapped by means of wells and then used for generat-
22 ing power.
23 MR. CRANSTON: Despite this unique situation, are we
24 adequately protected on royalties?
25 MR. HORTIG: We believe we are, sir. We have had the
26 advantage of the economic studies of all operations of similar

type literally world-wide, particularly the analyses that preceded the P. G. & E. installation at the geysers area and the basis on which Public Utilities Commission Authorizations were granted for contemplating that type of operation.

MR. CARR: Have you had any education on this technical subject, Mr. Cranston?

MR. CRANSTON: It commenced about 2 minutes ago.

MR. CARR: Well, you might like to hear from Mr. Cypher. I happen to know Mr. Cypher; I have for a long time. I didn't know he was engaged in this endeavor but I was very much interested in this technology because I know that in Italy and other places it's been a great asset and I think I would be very much in favor of encouraging him to go ahead.

Now I'm ready to move the issuance of the permit but for just an educational purpose you might like to hear the reasons why he wants it.

CHAIRMAN ANDERSON: Is Mr. Cypher here?

MR. HORTIG: He is here, yes.

MR. CRANSTON: Yes, I would like to hear from him.

MR. CARR: This is a very interesting thing. It may amount to more of an asset to the State than we suspect.

CHAIRMAN ANDERSON: Mr. Cypher.

MR. CYPHER: Do you want me to make a formal statement, gentlemen?

CHAIRMAN ANDERSON: We want to be educated in about 5 minutes.

MR. CYPHER: I'll try to keep it down to that. The area involved, on which the State land is located, surrounds some recently active volcanoes at the southeast end of the Salton Sea, and these volcanoes have intrigued geologists for a number of years and because of the intriguing aspect of them and the recent character and the mud pots and steam vents that surround them.

There have been a great many geological papers written on the area so we recently drilled -- incidentally, it's 220 feet below sea level -- the section which gives that some characteristics of hydrostatic head which you need for producing geothermal steam -- and we recently drilled a well in there which was approximately 2 miles from these bottom holes and it had a surprising thermal gradient of 11 degrees to the hundred feet, and it's the only well in which any measurements have actually been made of volatile temperature, and 11 degrees is about ten times normal thermal gradient in the earth, and we got a temperature of, bottom-hole temperature reading of 562 degrees on that well at 4,600 feet and it is a long way from the area.

Now, there's a whole lot of missing links in connection with this project. It's almost as bad as proving evolution. But there have been 70 some wells drilled in the area and from the study of those wells there's an indication that the thermal gradient increases as you get up nearer the volcanoes.

If we can get a high enough temperature from the rocks

1 to get a steam pressure above the hydrostatic head, we'll have
2 economic steam production.
3 The steam pressures go up as the temperature goes up
4 rather rapidly so that's the missing link. It appears that
5 there's a very good chance that we will get those temperatures
6 and if we do we'll get high pressure steam at the surface
7 which does not exist in any area of the world.
8 The steam pressures in Italy are between 55 and 85
9 degrees and up at the geyser , a working pressure of 100 pounds --
10 I mean 55 to 85 pounds -- and the geyser is 100, and we do hope
11 to get high pressure steam there.
12 There are a few wells in New Zealand that are up to
13 240 pounds but if we get what we think, what we hope for, why,
14 it will be quite much greater source of geothermal power than
15 any other area in the world.
16 It also comprises about 15 square miles which is
17 considerably larger than -- that's based on the geophysical
18 evidence -- it covers an area of about 15 square miles. The
19 State has additional property in the area. It could be quite an
20 asset.
21 MR. CARR: I'm ready to move we grant the permit.
22 MR. CRANSTON: Second the motion.
23 CHAIRMAN ANDERSON: Moved and seconded. No objection?
24 So ordered.
25 MR. CYPHER: Sorry I have no domestic problem.
26 (Further discussion off the record.)

CHAIRMAN ANDERSON: Applicant (f), Willard L. Johnson; Applicant (g), Joseph Belluomini, Inc.; Applicant (h), William F. McNair and Garrett E. Paulson; Applicant (i), the Moe Sand Company; Applicant (j), Construction Aggregates Corporation; Applicant (k), Pacific Gas and Electric Company; Applicant (l), Sohner Tree Service, Inc.; Applicant (m), Standard Oil Company of California.

MR. HORTIG: Mr. Chairman, on Item (m), will the Commission please strike consideration? Commission action is not required on this item at this time under the Standard Oil Company lease.

CHAIRMAN ANDERSON: If there is no objection, then, Item (m) will be stricken from the calendar.

MR. HORTIG: Mr. Chairman, also before the Commission -- I'm sorry, I'll reserve this until you've completed Item 4.

CHAIRMAN ANDERSON: We'll continue then with Item Classification 4. Item (n) is also the Standard Oil Company of California.

MR. HORTIG: This is something that should be brought to the attention of the Commission, unique, in terms of application for the placement of the second self-supported offshore drilling platform on State oil and gas lease to be on the same lease where the existing platform is located offshore at Summerland which the Commissioners have visited.

This second platform is necessary in order to proceed with the effective and more complete development of that lease

area.

CHAIRMAN ANDERSON: Will that be built adjacent to the present one?

MR. HORTIG: More than a mile away, sir.

CHAIRMAN ANDERSON: In other words, a separate island?

MR. HORTIG: Yes, sir.

MR. CRANSTON: Do you have a map showing where this would be?

MR. HORTIG: Yes, sir.

(Map being shown to Commission.)

This is existing platform indicated as Platform No. 1. It would be to the west and approximately the same distance offshore in Santa Barbara County.

CHAIRMAN ANDERSON: Does this come before the Santa Barbara County Commissioners?

MR. HORTIG: Only in this sense, sir, that prior to the issuance of this lease, public hearings were held as to conditions which the county felt should be included in a lease, in a then potential lease to assure that there would be no detrimental or damaging effects to the developed shoreline or residential activities.

Such public hearing is required by the Public Resources Code if the county or the adjoining municipality desires to be held. It was held. And the county at that time reported that it would be satisfactory to the county if the Commission provided the requirement that if there were to be any offshore structures within the lease that they be located at least one

1 mile oceanward of the shore. The existing platform is
2 two and two-tenths miles offshore and the proposed platform
3 is going to be very close to two miles offshore, therefore
4 meeting completely the lease condition which the county
5 requested be included.
6 CHAIRMAN ANDERSON: That was in the original lease
7 agreement?
8 MR. HORTIG: Yes, sir.
9 CHAIRMAN ANDERSON: For this particular one, the county
10 would not have been notified, would they?
11 MR. HORTIG: Not again, sir, no, sir, except in terms
12 of the fact that the county is aware of it because a public
13 hearing is also held by the United States Army Corps of Engineers
14 when a specific location for such a platform is selected in
15 order to determine whether or not the placement would
16 constitute a hazard to navigation.
17 The Army Corps of Engineers have decided that the manner
18 of placement and the aids to navigation which will be placed
19 on the platform will not constitute hazards to navigation, and
20 the Department of the Army permit for this platform has already
21 been issued.
22 CHAIRMAN ANDERSON: As to -- on an application like this,
23 neither would the assemblymen or the senators be notified in this
24 specific case?
25 MR. HORTIG: With respect to this calendar item being
26 considered by the Lands Commission today, the assemblymen and