

1 One bid was received and this is the bid of T. Jack Foster
 2 of San Mateo, California, offering a royalty of five cents
 3 per cubic yard on all material removed, plus an increment of
 4 one-half the market value in excess of thirty cents per
 5 cubic yard for all sand removed in the future.

6 Inasmuch as the engineer's estimate for the project
 7 estimates a total of fifteen million to twenty million cubic
 8 yards of material will be removed, the potential royalty in-
 9 come from this operation should be substantial.

10 The Department of Natural Resources again, as
 11 required by law, with respect to recreational activities has
 12 reported that from an examination of the application for the
 13 proposed operations there is no possible interference with
 14 the recreational use of the lands littoral to the tide and
 15 submerged lands involved.

16 However, the Division of Small Craft Harbors,
 17 agreeing in general with the use of dredged material for fill
 18 purposes, suggested a conference of interested agencies be
 19 held for the purpose of agreeing on the control of future
 20 operations in the Bay area. This is an opportunity for the
 21 Small Craft Harbors to come forth in connection with the
 22 issuance of this lease, although in substance the requirements
 23 and suggestions of the Division of Small Craft Harbors are
 24 of the same general tenor that had been proposed by a repre-
 25 sentative of the San Mateo Planning Council, East Bay Planning
 26 Commission, and other organizations -- that for some future

1 complete project for the entire development of San Francisco
 2 Bay it would be nice to have this fill material around to
 3 devote to such a project if and when necessary; as against
 4 which the Commission must decide the public desirability of
 5 issuing a lease which would produce by its operation an
 6 additional tax base for San Mateo County and which operation
 7 has been regarded with favor by the San Mateo Board of Super-
 8 visors, and at the same time also produce substantial revenue
 9 to the State Lands Fund.

10 I believe Mr. Dunham of Small Craft Harbors is
 11 present at the moment. The Chief was in the room earlier.
 12 I presume either or both will wish to report to the Commis-
 13 sion on this item before there is action on the staff recom-
 14 mendation that the mineral extraction lease for San Bruno
 15 Shoals be issued to the high bidder, Mr. T. Jack Foster.

16 MR. CRANSTON: Does anyone wish to be heard at this
 17 time?

18 MR. DUNHAM: My name is James Dunham, Division
 19 Engineer, Division of Small Craft Harbors. Actually, to
 20 this type of use of the land we have no objection. As a
 21 matter of fact, this is the type of use that we propose that
 22 the lands of the Bay be put to -- the submerged lands. We
 23 feel very strongly that eventually the answer to the problems
 24 of both navigation and the buildup of the surrounding area
 25 is the establishment of bulkhead lines around the Bay and the
 26 filling of the land behind these bulkheads with material

1 dredged from the Bay to navigable depths. This will remove
 2 the vast areas of presently unusable tidelands -- mud flats
 3 that give all sorts of trouble at the present time, both from
 4 the standpoint of navigation and odors, problems of disposal
 5 of waste materials. I could go on enumerating any number of
 6 problems with which most of you are familiar.

7 Unfortunately, the planning of this whole south Bay
 8 area has not proceeded with sufficient rapidity to judge these
 9 factors as they come up now for your consideration. It
 10 would be much easier to make a decision on this if you had
 11 the final answers now. There are agencies that are planning
 12 but the trouble is their funds are short, they can only go
 13 so far with it, and there are a few dedicated people looking
 14 to the future with the hopes that they can present a plan
 15 that will be accepted before it is too late.

16 Now, I understand -- I have not had a chance to
 17 review the work that has been done by various agencies in
 18 determining the areas where good material lies and where only
 19 poor material is available -- but I understand that it is
 20 quite limited. The vast bulk of the Bay muds are rather un-
 21 usable for fill material except in the base course. It is
 22 possible to pump this material into areas where it can
 23 settle, where it can be given time to consolidate, and then
 24 top it out with the good materials of the Bay.

25 As we stated to you in a previous letter, this is
 26 the sort of thing they have done in Mission Bay at San Diego,

1 with the result that the good materials of the Bay were
2 budgeted for use in topping out the poor fill material, so
3 it would provide a good crust on which to build and develop
4 for the future.

5 This is all we are asking your Commission to do
6 now -- is to consider these possibilities: whether or not
7 the good material should be used for construction aggregates,
8 which is the next item on your agenda here, and with your
9 permission would it be acceptable to talk on that just a
10 moment?

11 MR. CRANSTON: Yes, I wish you would.

12 MR. DUNHAM: Here we see a very large amount of
13 good sand of the Bay is to be used for construction aggre-
14 gates. Now, such sand is available from many other places
15 and here again we haven't made sufficient studies to know.
16 We do know this -- that the maximum economical pumping dis-
17 tance for large scale operations is perhaps five or six miles.
18 This is what it was, I know, about six or eight years ago.
19 With heavier construction equipment, larger dredges, it may
20 be possible to pump even further and it may be possible that
21 these areas of the Bay that do have good sand, sandy material,
22 are within reaching distance -- within good pumping distance
23 of the surrounding area.

24 Now, it would be most unfortunate if all of this
25 good material were sold off for this purpose and when you
26 came to filling the lands surrounding the Bay for the ultimate

1 development you had to go elsewhere to get it at a much
2 higher cost. You are speaking here in terms of four to six
3 cents per cubic yard. The cost of obtaining fill material
4 trucked in from dry land sources to use in topping out would
5 amount to well over a dollar a yard and this would make many
6 projects completely infeasible -- might destroy the eventual
7 development of this or at least postpone it for a great many
8 years.

9 I have a copy of a letter here that I received
10 from the Planning Director of Alameda County, who has been
11 very dedicated in his efforts to secure planning for the
12 South Bay Council. He has organized the three-county
13 council for the South Bay area and has assisted with the
14 nine-county entire Bay area council on this. He states that
15 he is familiar with the position of both Mr. DeWitt Nelson
16 of the Department of Natural Resources and Mr. James Dunham
17 of the Division of Small Craft Harbors and "I support their
18 position fully. Long range planning and proper allocation
19 of fill deposits can materially benefit the development of
20 the Bay shoreline and protective policies can be established."

21 Unfortunately, I am in no position to make recom-
22 mendations as to specific action to be taken in this matter.
23 In our last letter to the State Lands Division we have sug-
24 gested that perhaps a meeting should be held to see if some-
25 thing could be done to push this planning along and come up
26 with a workable plan that could be used. All I can do now

1 is leave it to you gentlemen to determine whether this sort
 2 of thing should start right now with the turning down of the
 3 request in Item 8 or whether we will wait until the next
 4 time and start it then. If there are any questions con-
 5 cerning this

6 MR. CRANSTON: What is your feeling about Item 7,
 7 7(a) -- the item re Jack Foster -- in relation to what you
 8 are saying?

9 MR. DUNHAM: I would say it is in the nature of
 10 the type of plan of use of material we would approve.

11 MR. CARR: What kind of material is it under this
 12 1,263 acres? Is that sedimentary mud or what is it?

13 MR. DUNHAM: I have discussed this with Mr. Nichols
 14 of the firm of Dames and Moore, who have done quite a bit
 15 of work. I understand he is here today. Perhaps he could
 16 explain that better than I.

17 MR. NICHOLS: My name is Charles Nichols represent-
 18 ing T. Jack Foster, Civil Engineer. The material, I believe.....

19 MR. CRANSTON: Could we have about a three-minute
 20 recess? Mr. Anderson has to leave and we would like a brief
 21 conference up here. Frank, would you join us up here?

22 (RECESS 10:42-10:50 A. M.)

23 MR. CRANSTON: Lieutenant Governor Anderson has
 24 had to depart to some other duties and his new Administrative
 25 Assistant -- or perhaps that is not the right title.....

26 MR. HORTIG: Executive Secretary.

1 MR. CRANSTON: Don Rose. I'd like to introduce
2 him and he will come up and sit with us here and participate
3 as a member of the Commission.

4 (Mr. Nichols came forward)

5 MR. CRANSTON: Would you again identify yourself?

6 MR. NICHOLS: I am Charles Nichols with the firm
7 of Dames and Moore, civil engineers representing T. Jack
8 Foster, the applicant for the lease. I think I have only a
9 couple of words to say about this unless further explanation
10 is required. I have spoken with Mr. Dunham. I believe that
11 our plans for use of this material is in agreement with the
12 Division of Small Craft Harbors' desires as expressed by Mr.
13 Dunham. The material that we plan to extract from the Bay
14 is not commercially usable material and, therefore, it is
15 only suitable for this purpose of filling a larger area.
16 It is for the purpose of constructing a new integrated city
17 of about three thousand acres. I would be glad to leave
18 with the Commission a copy of the planners' report, which
19 illustrates the type of thing that is going to be done, if
20 you would like; and if there are any further questions I
21 would be glad to answer them.

22 MR. CRANSTON: Is this to be entirely a development
23 of a residential city?

24 MR. NICHOLS: Integrated industrial and residential.

25 MR. CARR: Is this part of the area where you have
26 industry and residential above and below?

1 MR. NICHOLS: It is further down right at San Mateo
2 and between Bayshore Highway and the Bay on this tidelands
3 area at the end of the San Mateo Bridge. If you would like,
4 I will give you this.

5 MR. CARR: If Mr. Dunham agrees that this particu-
6 lar project here doesn't jeopardize the use of material for
7 a more economic purpose, this seems to be pretty high
8 economic purpose.

9 MR. DUNHAM: Yes, I would agree this is exactly the
10 purpose the material should be used for.

11 MR. CARR: I move the approval.

12 MR. CRANSTON: I will second the motion. Do you
13 have plans for further recreational and other development?

14 MR. NICHOLS: Yes, we have plans for both interior
15 and exterior.

16 MR. CARR: Mr. Chairman, I do think there is an
17 urgency about getting some plan around the Bay.

18 MR. CRANSTON: I would like to state my impression.
19 I would also like to ask if the Department of Public Works
20 is still present here. (No response) I guess nobody is.
21 (Mr. Hess came forward)
22 I would like to ask you one question after making a remark.
23 It is my feeling that it is very important that we do have a
24 master plan developed as rapidly as possible there and the
25 Lands Commission, representing a broader area than any one
26 city or county, should do everything to move that forward
and we should do all we can to see that materials are given

1 the highest and best use and that we don't siphon off
2 material before a master plan is made so it will be far
3 more costly to bring about.

4 It appears to me the Foster plan would be in
5 general along the lines of what the master plan would in-
6 volve and I don't think we should oppose it at this time.
7 However, I do think the item in Item 8 is of a different
8 character and I think before we have gone so far that it is
9 difficult to bring it to a halt, that it might be done as
10 you did with regard to land sales -- that we take a vacation
11 from approving any further use of materials from the bottom
12 of the Bay until we explore the possibilities of a master
13 plan for full development of that area. Perhaps by such
14 action we could move it faster.

15 I would like to ask the gentleman from Public
16 Works if this would be in general conformity with the view-
17 points of your department?

18 MR. HESS: I don't know that we have any objection
19 to it, although I am not familiar with this particular
20 question.

21 MR. HORTIG: We can answer specifically that this
22 project has been reviewed heretofore by Division of Highways
23 and in view of the base areas that it would develop and
24 provide for the freeway system it is a project that is
25 viewed with favor by Division of Highways.

26 MR. CRANSTON: Is there any further discussion on
the Foster item? (No response) If not, it is approved by

1 the Commission, with Mr. Carr and Mr. Granston moving
2 affirmatively.

3 We now move to Item 8 -- Southampton Shoal,
4 mineral extraction lease offer. Is there anyone to speak
5 on this matter.

6 MR. HORTIG: Well, this, Mr. Chairman, is the
7 item on which Mr. Dunham expressed himself as having reserva-
8 tions. We do have, as with the previous item, notice of
9 consideration -- the fact that a notice of consideration
10 has been sent to the Director of Natural Resources. In this
11 case, again, the Department found that the operation could
12 not affect the recreational use of the land littoral but
13 brought to our attention -- and, as a matter of fact, this
14 item was deferred for consideration until this Sacramento
15 meeting so that Small Craft Harbors could make a presenta-
16 tion with respect to the operation, that Mr. Dunham has
17 already made.

18 The complications, of course, in part stem from
19 the fact, as Mr. Dunham indicated, that there is no current
20 concrete plan and specific recommendations for better utili-
21 zation of the material are not available -- although they
22 are certainly being thought about. Additionally, in this
23 particular instance, Southampton Shoal by its very name
24 gives a very substantial clue. If some of this operation
25 isn't conducted and sand removed, being in an area which is
26 generally used for navigation in San Francisco Bay -- the

1 U. S. Army Corps of Engineers in San Francisco have informed
 2 us that they look at this operation with favor because this
 3 will eliminate or minimize the necessity of their spending
 4 Federal funds to dredge the navigation channel by having the
 5 material removed in this manner.

6 So you are betwixt and between. On the other hand,
 7 if all this material was in places where it wasn't a navi-
 8 gation hazard, there is simply no doubt, even as there is
 9 a continuing acceleration in our land values, that probably
 10 for construction materials there will be a similar accelera-
 11 tion, as well as a better ultimate plan for the disposition.

12 On this matter of the general planning and trying
 13 to coordinate these projects, I think the fact that the
 14 State Lands Division has been interested in this and have
 15 been participating when there have been things to be dis-
 16 cussed is evidenced by the fact that Mr. Dunham is here
 17 this morning, in order to try on an interagency basis at
 18 least to get the best possible use out of these operations.

19 I therefore suggest for consideration by the
 20 Chairman and the Commission whether there should be a reason-
 21 able going forward rather than an absolute vacation on addi-
 22 tional sand and gravel extraction leases in San Francisco
 23 Bay, with the assignment to the staff of the responsibility
 24 to maintain current knowledge with respect to studies and
 25 data, if any, as they are generated and as they are of
 26 potential practical application to areas that the Commission

1 is considering offering for lease.

2 A complicating factor to putting an absolute stop
 3 comes to mind. There are several of these shoal areas in
 4 San Francisco Bay on which there are long-term agreements
 5 already, not being utilized currently but which might come
 6 at any time -- on which the Commission has agreed, in
 7 accordance with law, to make them available to the Division
 8 of Highways for highway construction purposes and Highways
 9 can use these materials for construction material. It just
 10 means their construction costs less money. So all of it
 11 belongs in a long-range program, but query: Whether the
 12 Commission would care to take, as the Chairman said, a vaca-
 13 tion from leasing in San Francisco Bay until that happy day
 14 when there is something approaching a master plan, or
 15 whether each operation should be scrutinized on its own
 16 merits and either set aside or permitted to proceed because
 17 of the extenuating circumstances which I suggested.

18 The desirability in any event of dredging shoal
 19 areas for navigation, the fact that it is available to High-
 20 ways for highway construction purposes also, would seem to
 21 indicate that this particular application for Southampton
 22 Shoals might not clearly fall into the category of one that
 23 should be reserved -- and by reserving could cause other
 24 applications.

25 MR. CARR: Do you know what the conditions are on
 26 Southampton Shoal? What is the depth of the shoal in low

1 water and how much does it interfere with navigation right
2 now?

3 MR. HORTIG: Well, actually, of course, this
4 constitutes a shoal area on the channel approaching the
5 Richmond Bridge for any traffic intending to go up to the
6 Carquinez Straits and Sacramento and San Joaquin Rivers,
7 and there are some indicated areas here -- and I trust
8 these depths are in feet (sometimes they are in fathoms) --
9 in feet, we have a 16-foot line, a 15-foot line, and 21
10 feet and 23 and a 20-foot line. So in open navigation --
11 and this adjoins immediately the existing channel which is
12 maintained and dredged by the U. S. Army Corps of Engineers
13 to an attempted depth to hold up to 40 feet -- dredging
14 operations under this proposed lease would widen that channel
15 and would also remove material which is currently sloughing
16 into the channel.

17 This is only, I might point out, an extension of
18 an existing lease approved by the Commission, and the exten-
19 sion of the new lease is about one-third of the total area
20 already under contract to be dredged.

21 MR. CRANSTON: I would like to ask that this go
22 over to the next meeting, to give me time to familiarize my-
23 self with this general situation; and I certainly don't
24 suggest any prolonged vacation at this time, but would like
25 to ask this go over to the next meeting.

26 MR. HORTIG: Mr. Chairman, may I note for the

1 record that we have also just received today a copy of the
2 letter from Mr. Robert L. Williams, County Director of the
3 County Planning Commission, to which Mr. Dunham made refer-
4 ence previously

5 MR. CARR: Which county?

6 MR. HORTIG ... I am sorry, Alameda; and a telephone
7 call from City Attorney O'Drain of the City of Richmond,
8 requesting deferment of action on this subject item and a
9 consideration of feasibility of obtaining some of the sand
10 for city development.

11 MR. CARR: I second the motion.

12 MR. CRANSTON: The matter is deferred to the next
13 meeting.

14 Item 9 - Proposed oil and gas lease offers, Santa
15 Barbara County -- authorization for Executive Officer to
16 conduct public review in Santa Barbara County.

17 MR. CARR: I move that he be authorized to conduct
18 a public review.

19 MR. CRANSTON: Well, I second the motion, with the
20 understanding that members of the Lands Commission may parti-
21 cipate in that hearing if it works out properly for that
22 purpose.

23 MR. HORTIG: It is axiomatic that the Commission
24 members are welcome.

25 MR. CARR: I move that we grant ourselves permission
26 to do this.

1 MR. CRANSTON: Number 10 -- approval of maps entitled
2 "Plat of the Grant to the County of Marin," dated September
3 1959-January 1960. Frank?

4 MR. HORTIG: By Statutes of 1959, certain tide and
5 submerged lands in Richardson Bay and adjoining, within the
6 city limits of Belvedere, were granted to the County of Marin.
7 The statutes require and it has now become standard that the
8 Commission shall, at the cost of the grantee, survey, monu-
9 ment and record the area of State lands acquired. The survey
10 has been completed by the State Lands Division and it is
11 recommended that the Executive Officer be authorized to
12 approve and have recorded these survey sheets.

13 MR. CARR: So move.

14 MR. CRANSTON: Moved and seconded, so ordered.

15 Item 12 -- Salary schedule for Executive Officer.

16 MR. HORTIG: I am sorry, sir, you skipped one.

17 MR. CRANSTON: Item 11 -- Authority for Executive
18 Officer to approve and execute the agreement for compromise
19 of claim and stipulation for judgment in the settlement of
20 City of Oakland quiet title action.

21 MR. HORTIG: By reconstruction of various and
22 sundry grants in the City of Oakland, it is determined that
23 there is a possible cloud on one-half acre of land that the
24 City of Oakland owns. This may have been ungranted tide and
25 submerged land of the State. However, in order to solve the
26 problem of the cloud, in order to permit the City to proceed

1 with the development of the land, procedures were developed
 2 through the office of the Attorney General -- and particularly
 3 by Attorney General Joseph sitting behind me -- for a form of
 4 agreement for compromising the claim and stipulation for
 5 judgment, with the City paying \$499; and on the entry of the
 6 stipulated judgment, the City will finally have free and
 7 clear title and all the proper legal requirements with respect
 8 to disposal of State lands and elimination of the claim will
 9 be met.

10 It is recommended that we execute

11 MR. CRANSTON: Moved and seconded that the staff
 12 recommendation be authorized and it is so ordered.

13 Item 12 -- Salary schedule for Executive Officer.

14 MR. HORTIG: The Commission will recall at the
 15 meeting of June 23rd a resolution was adopted declaring the
 16 Executive Officer's salary open for adjustment as of July 1.
 17 The Department of Finance has issued an exempt pay memorandum
 18 indicating salary range revised for Executive Officer, State
 19 Lands Commission, to range from 1155 to 1405, which conforms
 20 to like adjustments made for civil service classes.

21 Additionally, the Personnel Board -- and I assume
 22 with the approval of the Department of Finance -- have indi-
 23 cated that steps in these ranges, inasmuch as they do not
 24 reflect full five percent, may be adjusted upward as of
 25 January 1 or as of the employee's anniversary date after his
 26 last adjustment. Therefore, it is recommended that the

1 Commission consider:

2 (1) Fixing the salary of the Executive Officer at
3 the maximum of the range as set by the Department of Finance
4 and (2) authorize the Executive Officer to effectuate any
5 Commission action in this matter, including acceptance of
6 any of the subsequent range adjustments that the State Person-
7 nel Board may order.

8 MR. GRANSTON: Mr. Carr, this is in your department.

9 MR. CARR: I move the recommendation.

10 MR. GRANSTON: I second it. If there is no further
11 discussion, it is so ordered.

12 Item 13 -- Confirmation of transactions consummated
13 by the Executive Officer.

14 MR. HORTIG: The items appearing in the tabulation
15 on page 40 of your calendar are two standard actions relating
16 to extension of a geological exploration survey permit and
17 the issuance of a grazing lease, in accordance with the
18 established policies of the Commission. They are presented
19 for confirmation in order to ascertain and be certain that
20 the full requirements of the statutes relative to actions by
21 resolution of the Commission be complied with.

22 MR. CARR: Mr. Hortig, would you please go into a
23 little more detail on this item?

24 MR. HORTIG: Which item is this, Mr. Carr?

25 MR. CARR: Number 13.

26 MR. HORTIG: Item 13 - Confirmation of transactions...

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MR. CARR: M-mhm-mhm.

MR. HORTIG: By delegation of authority from the State Lands Commission, the Executive Officer is authorized to complete certain types of transactions -- issuances of leases other than oil, gas and mineral leases, in accordance with standard forms and at standard rates as prescribed by the Commission; approval of assignments; and other situations which are particularly prescribed both in the statutes and within the rules and regulations and written policies of the State Lands Commission. These actions are carried on in this manner so that there can be effective documentation issued between Commission meetings and not have to withhold all and sundry routine for specific individual action by the Lands Commission.

However, in the opinion of the office of the Attorney General, to be certain that there can never be a contest subsequent and particularly in areas where land titles might be involved, in view of the requirement of the Public Resources Code that all actions by the State Lands Commission shall be on motion and vote of the State Lands Commission, these items (which have already been completed under delegation of authority) in order to be insured that they have the full approval required, required full approval of the Lands Commission as specified by statute, are brought back at the end of the month to the Lands Commission for confirmation of action.

MR. CARR: What are these two actions?

1 MR. HORTIG: As you will see from the tabulation,
 2 one was an extension of an existing geological survey permit
 3 which had been previously authorized by the State Lands Com-
 4 mission, extending the term for operation. That was the
 5 first item -- Order Number 3563 to Monterey Oil Company.

6 The second was the issuance of a grazing lease to
 7 Diaz Brothers for one year for \$112 per year.

8 MR. CARR: The first is an exploration -- geological
 9 survey permit?

10 MR. HORTIG: That's correct. Original permit was
 11 authorized by resolution of the Commission to run to May
 12 the 15th, 1960. May 15, 1960 there was no State Lands Com-
 13 mission meeting. Under delegation of authority, I issued
 14 the extension.

15 MR. CARR: What about number two -- where is this
 16 land located?

17 MR. HORTIG: Lassen County.

18 MR. CARR: This is for one year?

19 MR. HORTIG: On 2,240 acres, on which the appraised
 20 grazing capacity and appraised grazing value was appraised
 21 at \$112.

22 MR. CARR: How many head of cattle can you run for
 23 this \$112?

24 MR. HORTIG: Not too many -- the carrying capacity
 25 is low.

26 MR. SMITH: Well, it's suitable for grazing for not

1 more than two months out of the entire year.

2 MR. CARR: I move the approval.

3 MR. CRANSTON: Second the motion, and it is so
4 ordered.

5 Item 14 we have already covered.

6 Item 15 -- Report on status of major litigation.

7 MR. HORTIG: On which there are, as the Commission-
8 ers will note, no dynamic changes since the last report, so
9 this report is submitted to the Commissioners for their
10 information and file.

11 The Commis sioners have just received a supplemental
12 calendar item, copy of it, Mr. Chairman

13 MR. CRANSTON: We will proceed with the supple-
14 mental item and will you please explain it?

15 MR. HORTIG: Yes, I wish we could, but perhaps
16 a reading of the facts to keep them in chronological order --
17 We find ourselves in the situation that the Lands Commission
18 is faced with the necessity of taking immediate action for
19 the removal of a derrick barge beached offshore from Hunting-
20 ton Beach State Park at Huntington Beach.

21 The chronological order of the occurrences that
22 bring us to the position we are in are that on June 24, 1960
23 during the course of performing a salvage operation, a salvage
24 barch known as the "Donohugh Power Derrick Barge" and belong-
25 ing to Captain W. N. Bill Donohugh broke its anchorage and
26 washed ashore on the tidelands fronting the shore of Huntington

1 Beach State Park. In so doing, the hull of the vessel was
2 broken -- in the parlance, the vessel broke its back. There-
3 after, on June 29, 1960, Donohugh directed a letter to the
4 Corps of Engineers, in which he detailed the manner in which
5 it was lost. The letter pointed out that the barge was
6 properly and securely anchored prior to its breaking loose;
7 that high winds and unusual wave action caused the barge to
8 break from its mooring; that thereafter he endeavored to re-
9 move it seaward and finding its back broken concluded
10 removal attempts would present a new menace to navigation;
11 and after consultation with the Coast Guard it was decided
12 to leave the barge at its location and leave its disposition
13 to the Corps of Engineers.

14 The Corps of Engineers have disavowed any interest
15 in removing the barge since it is not in a navigable channel.

16 Although the barge is beached on Huntington Beach
17 State Park, it is beached on tide and submerged lands and
18 this is technically outside their jurisdiction.

19 As a result of our own staff counsel's investigation,
20 it was concluded it was as a result of an act of God and not
21 as an act of negligence of the owner and, therefore, under
22 Federal law the owner is under no legal liability to remove
23 it after he has abandoned it.

24 The tide and submerged lands on which the vessel
25 is beached are under the general control of the Lands Commis-
26 sion, as provided in the Public Resources Code. Additionally,

1 this matter falls under the Commission's jurisdiction as a
2 result of 1959 statutory enactments relating to salvage
3 operations over and upon the ungranted tide and submerged
4 lands of the State -- although it must be admitted that the
5 Legislative Committee at the time of this enactment were
6 considering salvage values to have possible profit, not
7 costs attached thereto.

8 While some responsibility for the removal might be
9 attributed to the City of Huntington Beach under the Harbors
10 and Navigation Code, since the vessel lies within an area
11 annexed by the City, the Code is permissive and not mandatory --
12 hence the City cannot be forced to take action if it does not
13 so desire and we can add from an informal conference with the
14 City Attorney they do not so desire.

15 The Attorney General's office has advised that
16 action to force the City, or attempt to force the City, to
17 remove the barge would result in a dispute and does not
18 appear advisable due to the urgency of removal.

19 In its present location just offshore of the State
20 Park, the barge is a menace to public health and safety. In
21 a letter of July 13, 1960, A. D. Philbrook, District Super-
22 intendent of Beaches and Parks requested its removal for the
23 reason that -- and this has been verified by inspection of
24 the Lands Division, -- the lifeguards and other personnel are
25 unsuccessfully attempting to warn visitors away from this
26 attractive hazard.

1 MR. CARR: Have they a sign up?

2 MR. HORTIG: There are police on it; there are
3 signs; and the lifeguards do nothing but run from one end to
4 the other to keep people from getting into trouble.

5 It is imperative that this be remedied as soon as
6 possible. Telephone call on July 27th, yesterday, from
7 the State Park indicates that within the last three or four
8 days two persons were seriously lacerated, stitches had to
9 be taken, as a result of having been washed into the barge
10 by rip tides. These resulted by people who swam out and
11 swam in to the barge to keep away from the lifeguards, and
12 entered the area. Salvage bids indicate that the remaining
13 value of any salvage will be scrap or junk not to exceed
14 \$500.

15 MR. CARR: Is this a wood or steel barge?

16 MR. HORTIG: It is a wooden barge. There is
17 machinery aboard, a winch, a thoroughly soaked gasoline
18 engine, steel derrick boom, and so forth. Rough estimates
19 from the same sources also indicate the cost of removal
20 should not exceed \$7,000. Bids released provide for compen-
21 sation to the successful bidder for the value of all salvage
22 in connection with the removal of the barge, plus blank
23 dollars, which would be the bidders' cost for services over
24 and above the salvage value.

25 In view of the foregoing and the urgency of this
26 matter, it is recommended that the Executive Officer be

1 authorized to enter into a contract providing for removal of
 2 the barge now lying abandoned, the contract providing for
 3 services as has already been outlined; and it is further
 4 recommended that the Executive Officer be authorized to submit
 5 a request for deficiency authorization against State Lands
 6 Act Fund to the Department of Finance to defray the cost of
 7 this work, since the State Lands Division budget for this
 8 year made no provision for emergency costs.

9 I would add, in view of the necessary fast drafting
 10 of this calendar item, also the office of the Attorney General
 11 would be requested to ascertain whether there were any
 12 responsibilities still remaining with the original owner of
 13 the barge and/or others from whom at least partial collection
 14 might be made.

15 MR. CARR: Whose legal opinion is this?

16 MR. HORTIG: Combination of staff counsel and the
 17 office of the Attorney General.

18 MR. CARR: Is this actually a menace to health --
 19 the barnacles and things that accumulate on a jetty?

20 MR. HORTIG: Strictly, no; but being within the
 21 Huntington State Beach Park area to which admission is
 22 charged and having a very attractive device, namely a block
 23 with a hook on it swinging in the surf, you can really get
 24 a wild ride by getting out there if you can beat the life-
 25 guards to it.

26 MR. CARR: Can't they get the block out of the surf?