

1 What will be the well spacing in there? There's only two  
2 wells in there.

3 MR. HORTIG: Probably 320 acres, Mr. Carr; one  
4 well to 320 acres.

5 MR. KREFT: 660 for gas.

6 MR. HORTIG: I might point out that in lieu of any  
7 such a compensatory royalty agreement, while the Commission  
8 might consider -- if there were more favorable acreage for  
9 lease offer than there here is -- that in the interim, having  
10 not approved a compensatory royalty agreement, these operators  
11 would be completely within their legal rights to produce all  
12 the gas and drain the State's land without compensation to the  
13 State, and the State would lose ....

14 MR. CARR: What happens if, in the development of  
15 this field, it would appear to these geologists that they would  
16 like to bottom a well under the river? Is there a possibility  
17 of that?

18 MR. HORTIG: Then they would have to demonstrate to  
19 the Commission that a commercially valuable volume of oil and  
20 gas exists within the State land and ask that the area be put  
21 up for lease on competitive bid.

22 GOV. ANDERSON: I move it.

23 MR. CARR: Second.

24 MR. CRANSTON: Approval is moved, seconded and  
25 unanimously adopted.

26 Item 12 -- Authorization to recommend to State

1 Board of Control a claim on behalf of City of Sausalito in  
2 the amount of \$837.68, representing rentals collected by State  
3 and now properly payable to the City of Sausalito.

4 MR. HORTIG: In summary, Mr. Chairman, the Commis-  
5 sion had leased tidelands fronting on the City of Sausalito.  
6 Subsequently, and while the lease was still in full force and  
7 effect, the Legislature granted the tidelands to the City of  
8 Sausalito. It was assumed, in view of the fact that the  
9 language of the granting statute did not specifically transfer  
10 the existing lease to the City of Sausalito, that this con-  
11 tract would run until its termination date, and the State Lands  
12 Commission continued to collect the rental.

13 Finally, all attorneys involved, including the  
14 Office of the Attorney General, have come to the conclusion  
15 that the City of Sausalito is entitled to the payments of  
16 rental from the date of the legislative grant. These have  
17 been heretofore collected by State Lands Commission and put  
18 in the State Lands Act Fund and distributed in accordance with  
19 the statute. Therefore, there are no funds by which the  
20 Lands Commission could make a refund directly to the City of  
21 Sausalito and it is, therefore, recommended that the Commission  
22 authorize the Executive Officer to report approval to the  
23 State Board of Control on behalf of the State Lands Commission,  
24 in accordance with the legal findings of the Office of the  
25 Attorney General, if the City of Sausalito files such a claim  
26 with the State Board of Control.

1 MR. CARR: Moved.

2 GOV. ANDERSON: Second.

3 MR. CRANSTON: Moved and seconded and unanimously  
4 adopted.

5 Item 13 -- Approval of Maps: (a) Survey of the  
6 Mean High Tide Line Along the Shore of Santa Barbara Channel,  
7 Santa Barbara County, California dated February, March and  
8 April 1958; (b) Survey of the Mean High Tide Line Along the  
9 Shore of Monterey Bay, Vicinity of Santa Cruz, Santa Cruz  
10 County, dated April to May 1959; (c) Map of the Grant to the  
11 City of Chula Vista, Vicinity of San Diego Bay, San Diego County  
12 dated October 1959.

13 MR. HORTIG: The first two items, Mr. Chairman --  
14 As the Commission will recall, the survey activities of the  
15 State Lands Division are being concentrated on accomplishing  
16 record surveys to locate definitively the boundary of State  
17 lands, particularly in those areas where artificial conditions  
18 construction, etcetera, as at Santa Cruz, where the U. S. Army  
19 Engineers propose to put a series of jetties for shore protec-  
20 tion -- to be sure that the boundary of State lands, which  
21 will be obscured by artificial changes, will be of record and  
22 recorded in the county in which the land is located.

23 This is the basic purpose for the maps (a) and (b)  
24 relating to Santa Barbara Channel and Monterey Bay, Santa  
25 Cruz.

26 Item (c) represents approval of a completed series

1 of maps which were required by the Legislature to be completed  
 2 by the State Lands Commission to define a grant to the City  
 3 of Chula Vista. This last series of maps were undertaken under  
 4 a service agreement, under which the City of Chula Vista reim-  
 5 burses the Commission for its actual cost in making this  
 6 survey.

7 GOV. ANDERSON: I'll move it.

8 MR. CARR: Second.

9 MR. CRANSTON: Moved and seconded, unanimously  
 10 adopted.

11 Item 14 -- Authorization to execute a service agree-  
 12 ment with the San Mateo County Harbor District, County of  
 13 San Mateo, providing for surveying services to be rendered the  
 14 Harbor District, pursuant to Chapter 68/60, at a cost not to  
 15 exceed \$12,000.

16 MR. HORTIG: As just outlined and completed for the  
 17 City of Chula Vista, with the San Mateo Harbor District we  
 18 are at the beginning of complying with the statutory condition  
 19 that the Lands Commission survey the boundary line of the  
 20 tide and submerged lands granted to the County of San Mateo.

21 GOV. ANDERSON: I'll move it.

22 MR. CARR: Second.

23 MR. CRANSTON: Moved and seconded, unanimously  
 24 adopted.

25 Item 15 -- Authority for question relating to the  
 26 validity of the grant to the City of Coronado, Chapter 1839/53,

1 to be reported to appropriate Legislative Interim Committee  
2 for study and action, if any, that such legislative body deems  
3 advisable.

4 MR. HORTIG: Mr. Chairman, the Legislature, as  
5 appears on page 37 of your calendar, has made various legis-  
6 lative grants of tide and submerged lands to the City of  
7 Coronado. One of those grants, specifically Chapter 1839,  
8 Statutes of 1953, fails to express consideration for the  
9 grant. The State Lands Commission has previously asked the  
10 informal opinion of the Office of the Attorney General as to  
11 the validity or constitutionality of this statute and you  
12 gentlemen have a copy of that opinion attached to your calendar.

13 The Office of the Attorney General has indicated  
14 that there is an element of doubt and it is possible the  
15 grant may be defective legally.

16 The Legislature has expressed its intention to have  
17 the involved lands released from the tidelands trust. The  
18 question of constitutionality is not ordinarily within the  
19 purview of the State Lands Commission. It is the Commission's  
20 function, wherever possible, to effectuate legislative intent.

21 Therefore, it is recommended that the question of  
22 the validity of the grant to the City of Coronado, Chapter  
23 1839, Statutes of 1953, be reported to the appropriate legis-  
24 lative interim committee for such study and action, if any,  
25 that such legislative body deems advisable.

26 Before action by the Commission, I have this morning

1 received the following telegram relative to this item, which  
2 I would wish to read into the record:

3 (Addressed to the State Lands Commission)

4 "As a California taxpayer resident of California  
5 since 1940 and property owner taxpayer of  
6 Coronado since 1946 I demand that the Lands  
7 Commission report the matter of the grant to  
8 the City of Coronado to the appropriate legis-  
9 lative interim committee. I regard this grant  
10 of tide and submerged land to the City of  
11 Coronado and the subsequent gift of this land  
12 to a private and exclusive organization an  
13 unjustifiable precedent establishing violation  
14 of the statutes of the State of California  
15 further. Again request that the use of other  
16 tide and submerged land for 14 story apartment  
17 buildings as opposed to the uses prescribed by  
18 the statutes be denied as I have many times  
19 previously requested.

20 Mrs. John G. Thompson"

21 GOV. ANDERSON: What is the appropriate legislative  
22 committee?

23 MR. HORTIG: On this I would call upon you, Governor,  
24 for expert advice as President of the Senate for suggestions  
25 as to the selection of the appropriate committee.

26 GOV. ANDERSON: You haven't discussed it with  
Senate Rules?

MR. HORTIG: No sir. I would have expected to  
follow through with Senate Rules after further conference  
with you and other members of the Commission.

MR. CRANSTON: It seems to me we should at least  
consider another course of action, because, as it is stated  
here, "It is the Commission's function .... to effectuate

1 legislative intent." It is also our rule to abide by the  
 2 Constitution and also get legal opinion from the Attorney  
 3 General's office; and the Attorney General's report here  
 4 first calls attention to the numerous complaints we and they  
 5 have received, of which this is only one of many.

6 I think, to go further, they raise an element of  
 7 doubt on this. One explicit statement on page 3:

8 "In our opinion the 1953 'release' statute  
 9 probably is violative of Article IV, Sec-  
 10 tion 31 of the Constitution of the State  
 of California, prohibiting the gift of  
 public property."

11 It states on page 4:

12 "As concerns the agreement between the City  
 13 and the Coronado Woman's Club, in our opinion  
 it constitutes a gift of a 40-year leasehold  
 14 and, as such, also runs afoul of Article IV  
 of Section 31 of the Constitution, there  
 15 being no public benefit sufficient to con-  
 stitute the required consideration."

16 Various relevant cases have been cited. One is,  
 17 on page 5, in case City & County of San Francisco v. Ross,  
 18 "the Supreme Court found no public purpose was present where  
 19 insufficient controls were retained by a municipality in the  
 20 acquisition and leasing of property for a parking lot."

21 It goes on to state:

22 "Even assuming that the operation of a woman's  
 23 club is of itself not inconsistent with the  
 trust for navigation, commerce and fisheries,  
 24 nonetheless the lease here fails to embrace  
 the principles enunciated in the above-cited  
 25 decisions. The lessee is unfettered by  
 controls sufficient to enable the city to see  
 26 to it that the property is being devoted to  
 a public use."

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In conclusion, the Attorney General's report states:

"We believe it is a question of policy, to be decided by the Commission, as to whether the State should institute a suit at this time, for the dual purpose of ascertaining the effect of the 1953 'release' statute and challenging the validity of the lease."

It goes on to say that:

"... after being advised hereof, the City and the Woman's Club will see fit to renegotiate the said lease so that its provisions will satisfy the criteria laid down..."

and cites various cases.

The concluding paragraph:

"We have not attempted to recommend a definite course of action. In view of the public discussion which has developed, it is suggested that copies of this memorandum be made available to the officials of the City of Coronado and to interested citizens so that they may take such steps as they desire."

Has that been done? Have copies of this opinion gone forward?

MR. HORTIG: I am specifically aware that the copy has gone to the City Attorney of the City of Coronado. The problem has also been discussed at length, Mr. Chairman, as you know, by the staff with Mrs. John G. Thompson in all its facets.

GOV. ANDERSON: Who is Mrs. John G. Thompson?

MR. HORTIG: A California taxpayer and property owner in Coronado since 1940.

1 GOV. ANDERSON: I mean, has she been involved in  
2 this particular case?

3 MR. HORTIG: She has objected continuously and  
4 specifically with respect to this particular Coronado question,  
5 which primarily, again, for the staff gave the problem that  
6 in the first instance there are many legal problems involved  
7 which, again, are not strictly within the purview and scope  
8 of the normal type of activity of the State Lands Commission;  
9 and when the Attorney General further quoted in the opinion  
10 or stated in the opinion, from which Mr. Cranston just quoted,  
11 that it might be decided as a question of policy by the State  
12 Lands Commission as to whether to sue to find out what these  
13 statutes meant, it occurred to the staff that possibly the  
14 Commission might wish to re-refer this to the legislative body  
15 that drafted this statute, complete with questions, for further  
16 consideration -- rather than to initiate a suit questioning  
17 what Coronado had done.

18 MR. CRANSTON: Could we hear from the Attorney  
19 General on this?

20 MR. SHAVELSON: In this case, although I think the  
21 Chairman is correct that it is definitely the opinion here  
22 that the grant is defective in some way, it isn't too clear  
23 exactly what the Legislature's intent would be in light of  
24 this defectiveness. We have something here that is quite  
25 analogous to what happened in Long Beach in 1951, when the  
26 Legislature terminated the trust as to part of the tideland

1 revenues and the State Supreme Court held that that created a  
2 resulting trust in the State and it is possible that would be  
3 the result here. It is a very analogous situation.

4 On the other hand, it may be desirable to see  
5 whether the Legislature -- in light of the fact that it can't  
6 release these things to the city without consideration,  
7 whether it would prefer demanding a consideration or whether  
8 it really wants these lands to revert to the State of Cali-  
9 fornia. It may be that the Legislature would prefer to make  
10 a new grant for a consideration and it may be that that might  
11 be acceptable to the City of Coronado; and, therefore, the  
12 intent of the Legislature and of the parties could be carried  
13 out in that way and that could conceivably be a better policy  
14 than immediately going in, for example, and ascertain a  
15 resulting trust in the State of California.

16 Our office also feels that we want to carry out  
17 the legislative intent if it is possible and give them a  
18 chance to let us know what that intent is.

19 MR. CRANSTON: What would be the status of the  
20 lease during this time if it would go to a committee?

21 MR. SHAVELSON: Well, if this grant is invalid,  
22 the lease itself is invalid. I think quite clearly if these  
23 lands are still subject to a tidelands trust I don't think  
24 this is a proper tidelands trust purpose.

25 MR. CRANSTON: Until it is determined by further  
26 legislative action, this is simply a situation with a cloud  
over it?

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MR. SHAVELSON: Yes sir.

MR. CARR: Are there any improvements on that?  
What are they?

MR. HORTIG: Yes sir -- a woman's club using several yacht and boathouse facilities.

GOV. ANDERSON: Have they been notified of the cloud?

MR. HORTIG: Yes sir -- Coronado?

GOV. ANDERSON: I mean the woman's club itself?

MR. HORTIG: Well, this was a matter of extensive, acrimonious, and very vocal debate reported in the Coronado press as between the proponents and the opponents, as between the City Commission in Coronado, etcetera.

GOV. ANDERSON: So they are on record. There wouldn't be any further improvements until this is settled?

MR. HORTIG: Well, everybody knows there is a problem and all we are recommending is that the appropriate authors rectify the problem.

MR. CARR: In the meantime, what action has been taken down there? Do they recognize the problem that they are not to construct further improvements or are they going ahead?

MR. HORTIG: During the initial debate they constructed the woman's clubhouse, which is in. Yes.

GOV. ANDERSON: I move the recommendation of the staff.

1 MR. CARR: Second.

2 MR. CRANSTON: Approval of the staff recommendation  
3 has been moved and seconded, unanimously adopted.

4 Item 16 -- Confirmation of transactions consummated  
5 by the Executive Officer pursuant to authority confirmed by  
6 the Commission at its meeting on October 5, 1959.

7 MR. HORTIG: As reported on pages 38 through 40,  
8 there are presented for Commission confirmation actions  
9 completed by the Executive Officer under delegations of author-  
10 ity, which consisted of approval of the assignment of two  
11 prospecting permits, the assignment of an arksite lease on  
12 Corte Madera Creek in Marin County, the extension of a  
13 geological survey permit, and the issuance of a grazing lease  
14 for which the total rental at the appraised value is \$12.80  
15 per year.

16 MR. CARR: I move it.

17 GOV. ANDERSON: Second.

18 MR. CRANSTON: Approval is moved, seconded, and  
19 unanimously adopted.

20 Item 17 -- Report on status of major litigation --  
21 informative only, no Commission action required.

22 MR. HORTIG: And no special staff comments, Mr.  
23 Chairman.

24 MR. CRANSTON: Item 18 is confirmation of date,  
25 time and place of next Commission meeting -- Thursday,  
26 September 29, at nine a.m. in Sacramento. In connection with

1 this, and not in reference to this meeting but in reference  
2 to future meetings, several people in Southern California  
3 have asked us about the meeting time in Sacramento of nine  
4 a. m. -- which we will have for the next calendar, because  
5 it is already set; but apparently the people who are attend-  
6 ing the meetings of the Lands Commission at Sacramento are  
7 from the southern area and apparently a nine a.m. meeting  
8 is so early they must come up that night.

9 I'd like to ask if a ten a. m. meeting would be  
10 more convenient. If it is, we could start meeting at ten  
11 a.m. I see heads shaking in a down and up way, so a motion  
12 would be in order to set our time for ten a.m. after the  
13 coming meeting, for future meetings in Sacramento.

14 GOV. ANDERSON: I so move.

15 MR. CARR: I would like to ask would it be also  
16 more convenient if the meeting here began at ten a.m. for  
17 the benefit of those who might be coming from Sacramento?

18 GOV. ANDERSON: I don't think they have the same  
19 problem. You have most of the people represented in the  
20 south.

21 MR. CARR: The people from Long Beach still have  
22 to get up in the morning.

23 MR. CRANSTON: Would a ten a.m. meeting also in  
24 Los Angeles be more desirable from your points of view?

25 MR. LINGLE: Our only trouble with ten o'clock  
26 again, we get fogged in. We have run into problems. If the

1 planes get off the ground, we have no problems. If you make  
2 it nine, ten, eleven -- at least from Long Beach we like to  
3 come up the night before, only because we are afraid of the  
4 air lines.

5 MR. CRANSTON: That's a chance you take anyway.  
6 John, do you want to add that we meet at ten also in Los  
7 Angeles?

8 MR. CARR: If people are coming up some distance  
9 if we made it ten instead of nine it relieves the congestion  
10 on the freeway somewhat. I do move -- ten o'clock.

11 MR. CRANSTON: Both ends of the State. You accept  
12 the amendment?

13 GOV. ANDERSON: Yes.

14 MR. CRANSTON: Without objection it is so ordered  
15 that after the meeting on September 29th we will start meeting  
16 at ten o'clock and remember to make your lunch dates later  
17 than usual as we may be running past twelve o'clock.

18 The next meeting will be in Sacramento on Thursday,  
19 September 29th, at nine a.m., Room 2170 State Capitol.

20 If there is no further business, meeting is  
21 adjourned.

22 ADJOURNED 10:05 A.M.

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CERTIFICATE OF REPORTER

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I, LOUISE H. LILLICO, reporter for the Division of Administrative Procedure, hereby certify that the foregoing thirty-two pages contain a full, true, and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION held in Los Angeles, California on August 25, 1960.

Dated: Sacramento, California, August 31, 1960.

*Louise H. Lillico*  
\_\_\_\_\_  
*Louise H. Lillico*