1 outlined.

2 MR. HORTIG: A representative of the Transit

3 District is also here -- Mr. L. A. Kimball, the Assistant

4 General Manager, -- and under the circumstances it would

5 appear appropriate to ask whether this procedure would be

6 satisfactory to the Bay Area Rapid Transit District.

7 GOV. ANDERSON: Mr. Kimball.

8 MR. KIMBALL: Mr. Chairman, members of the Commis-

9 sion, the procedure and conditions as stated by Mr. Sembler

10 are satisfactory to the District; and we would request your

11 granting the permit, as amended by the conditions.

12 Thank you.

13 MR. HORTIG: This would be recommended by staff.

14 MR. SHEEHAN: I'll so move.

15 MR. CRANSTON: Second.

16 GOV. ANDERSON: Moved and seconded. Do we have to

17 have anything in writing on this amendment?

18 MR. HORTIG: We do have. I have a copy of Mr.

19 Sembler's statement and the conditions desired.

20 GOV. ANDERSON: You have that condition?

21 MR. HORTIG: Yes, sir. I have it in writing.

22 GOV. ANDERSON: It has been moved and seconded that

23 the permit, as amended by the statement of which Mr. Hortig

24 has a copy, be approved. Carried unanimously.

25 Item 17 -- Authorize Executive Officer to execute

26 agreement providing for rendering of surveying services by

1 the Engineer of the County of Los Angeles and by the County
2 of Los Angeles to the State Lands Commission, relating to the
3 location and re-establishment of surveying markers necessary
4 for the Commission to comply with Chapter 2000/57, for the
5 1964-65 fiscal year, at a cost not to exceed $3,000.
6 MR. CRANSTON: Move approval.
7 MR. SHEEHAN: Second.
8 GOV. ANDERSON: Moved and seconded, carried
9 unanimously.
10 Item 18 is to authorize Executive Officer to execute
11 a delegation of authority to Francois D. Uzes, Civil Engineer-
12 ing Associate, to conduct an investigation under Chapter
13 2000/57.
14 MR. SHEEHAN: Move approval.
15 MR. CRANSTON: Second.
16 GOV. ANDERSON: Moved and seconded, carried
17 unanimously.
18 Item 19 is report on reports that have been made to
19 legislative committees on proposed legislation affecting tide
20 and submerged lands.
21 Mr. Hortig?
22 MR. HORTIG: Mr. Chairman, the material on this
23 follows Exhibit A, following page 71 of your supplemental
24 calendar item.
25 The Commission will recall -- in connection with
26 review of pending legislation at the last session -- an

1 authorization given to the Executive Officer to again report,
2 to the various legislative committees considering tidelands
3 grants, the analyses by the State Lands Division of the pro-
4 posed tideland grants, as well as the general and specific
5 conditions for tideland grants which the Commission adopted
6 as suggestions to be reported to the various committees, this
7 adoption having taken place on August 18, 1964, and relating
8 principally to the recommendation of placement of a moratorium
9 on the issuance of new grants until such time as the various
10 studies being conducted by the various branches of State
11 government were completed and appropriate control specifica-
12 tions have been adopted.

13 With respect to the bills pending at the time of
14 the last meeting of the Lands Commission, where there have
15 been committee hearings the recommendations of the Commission,
16 as authorized, have been delivered to the respective commit-
17 tees and to the authors of the legislation.

18 We now have pending currently three additional
19 tidelands grants: S.B. 985 by Senator Gibson -- an act to
20 convey approximately 170 acres of sovereign lands in Suisun
21 Bay and Carquinez Straits to the City of Benecia; A.B. 2050,
22 Assemblyman Stevens -- which, in summary, is an act to broaden
23 the purposes for which tide and submerged lands previously
24 granted to the City of Santa Monica may be used, and, addi-
25 tionally, certain separate parcels of tide and submerged lands
26 in Santa Monica Bay would be granted respectively to the City

of Los Angeles and to the County of Los Angeles; A.B. 2182 by Assemblyman Crown -- An act to convey the State's interest arising out of the State's sovereignty in a specifically described 2.548 acre parcel to the Alameda Unified School District for school purposes.

As stated at the bottom of page 2 of the supplemental item, in consideration of the August 1964 and March 1965 actions of the Commission, it is recommended that the Executive Officer be authorized to report to appropriate legislative committees the position of the Commission relative to the respective legislation as follows:

S.B. 985 (Gibson) and A.B. 2050 (Stevens) -- Report the general and specific recommendations adopted by the Commission on August 18, 1964, relative to grants of tide and submerged lands to political subdivisions.

Now, while this covers the basic position of the Commission with respect to any tideland grants, Assembly Bill 2050 has such additional factors of such an order of magnitude that full analysis has been reported to the Commission on problems and complications, following on pages 3 through 6 of the supplemental calendar item -- all of the complications that are found in A.B. 2050.

It is, therefore, recommended that the Executive Officer be authorized to report both to the author and to the respective committees considering A.B. 2050 the ultimate result of the proposed combination of grants and authorizations for

joint powers agreement in Santa Monica Bay and for development under which, it appears (to summarize), the proponents or the recipients of these grants could in the future develop State land, obtain all the revenue therefrom, and still leave the State with a substantial responsibility for maintaining any project without any obligation or responsibility of the grantees as corporate entities, also without any compensation to the State or any consideration to the State for granting the lands on which these operations would be conducted.

It is felt, in view of the fact that this analysis was prepared for the State Lands Commission, that it should be brought to the attention of the committees who may consider A.B. 2050.

GOV. ANDERSON: Are you saying that the position would be to oppose it?

MR. HORTIG: Yes, sir.

GOV. ANDERSON: Any further comments or questions? Mr. Sieroty.

MR. SIEROTY: In addition to the information that is stated here, Frank, have we done any investigation, any work, in terms of the tidal action and the erosion that might occur in this event -- what would happen to the beaches? Do we have any information?

MR. HORTIG: There have been studies by the U. S. Corps of Engineers, including model studies.

The test of the efficacy would be the results

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1 actually achieved in experience as, if and when construction
2 takes place. The hazards in this situation are outlined -
3 the real hazards within the scope of your question are outlined
4 on the top of page 6 of this summary, in which it is pointed
5 out that one such project to be located on the lands proposed
6 to be granted would be the proposed Santa Monica Causeway,
7 which contemplates that a large fill shall be placed in Santa
8 Monica Bay.

9 Such a fill will be exposed to the erosive powers
10 of the Pacific Ocean along the westerly side, where the
11 proponents plan to establish a public beach under the juris-
12 diction of the State Department of Parks and Recreation.
13 Such beach area will constitute a buffer against the elements
14 for a State freeway to be located on top of the causeway;
15 and such State freeway will be expected to be a buffer for
16 lands lying easterly thereof, where recreational and resi-
17 dential developments are proposed to be placed. Through
18 such development the State might be required to absorb the
19 greater percentage of the possible nonreimbursable costs for
20 maintaining any development.

21 This would result from the inability of the beach
22 to stay where it might be placed, and then in turn requiring
23 protection of the freeway location -- all of which are re-
24 quired to protect the other developments, which would be for
25 the private benefit, as well as for the development of the
26 joint powers contractors, the City of Santa Monica, City of

1 Los Angeles and County of Los Angeles, without any considera-
2 tion to the State of California.
3 MR. SIEROTY: The thing I was concerned with --
4 you mentioned the erosion problem. There will be under this
5 proposal two areas where erosion or the question of beaches
6 arise -- that is the existing beach and then a proposed
7 beach on the westerly, or the easterly side of the causeway.
8 I was wondering whether our staff has done any work in terms
9 of trying to estimate what might happen in the event this
10 causeway were constructed -- what would happen to the
11 existing beaches and what would happen to the beaches that
12 are proposed as part of this causeway.
13 MR. HORTIG: The answer is: In depth, there has
14 not been any such work. There has been an engineering feasi-
15 bility study which was prepared for the benefit of the City
16 of Santa Monica, the principal sponsors of this legislation
17 and the proposed project.
18 The engineering feasibility study, which is by a
19 very reputable firm of consulting seacoast engineers -- who,
20 incidentally, also periodically are under service contract
21 to the State Lands Division, so we can attest to their
22 engineering proficiency -- indicates that probably minimum
23 effective protective works could be maintained.
24 However, the protective feature and why the Lands
25 Division has not gone into any greater depth at this time in
26 evaluating this feasibility study -- It occurred to us that

the protective features in the bill, if the bill were to pass, the erection of all of these facilities is subject to approval by the State Lands Commission and, patently, such evaluation would have to take place and we would have to determine that such construction could be recommended to the Lands Commission and the studies would be made at that time if we had to prepare recommendations for the Lands Commission.

In the event the determination at that point was negative, as the bill is interpreted the Lands Commission could withhold approval and, therefore, no actual operations could be conducted under this legislation because of lack of feasibility.

GOV. ANDERSON: Well, to clarify my understanding, on S.B. 985, we are not taking a position for or against; but on A.B. 2050, we are opposing it?

MR. HORTIG: On S.B. 985, it is recommended that we report to the committees the basic recommendation of the Lands Commission that there should be no tidelands grants until there is an established legislative policy -- which is not active opposition, except suggesting adherence to some sort of policy to bring order out of what has been up to now accumulated chaos with respect to tideland grants.

A.B. 2050 has the double-barreled problem of involving tideland grants and, therefore, does not fit within any legislative policy and this matter should be brought to the attention of the committee, just as a matter of tideland

1 grants; but then, additionally, 2050 -- as the Lands Division
2 sees it -- has a tremendous number of technical obstacles and
3 real problems on three points -- legal, administrative, and
4 engineering.
5 MR. SIEROTY: On the policy question, doesn't 2050
6 provide that the State would grant to the City of Los Angeles
7 and the County of Los Angeles tidelands, submerged lands, and
8 then the City and County would be able to sell them to private
9 interests?
10 MR. HORTIG: This is a proposed authorization.
11 This raises a series of legal questions -- whether it is
12 legally feasible.
13 MR. SIEROTY: The City at the present time cannot
14 do that?
15 MR. HORTIG: There is a constitutional prohibition
16 against the sale of tide and submerged lands within two miles
17 of a city; and a constitutional prohibition against the sale
18 of tide and submerged lands anywhere.
19 GOV. ANDERSON: Can we grant these tidelands to the
20 City with the knowledge they may be putting it up for sale?
21 MR. HORTIG: The question is: Can the Legislature
22 do it?
23 MR. SHAVELSON: The power of the grantee would be
24 subject to the same limitations as the power of the State.
25 In other words, we can't authorize them to alienate lands to
26 any extent greater than we can alienate them ourselves.

The decisions do indicate that where tide and submerged lands have been cut off and isolated from navigable waterways, the Legislature can declare they have lost their character as tide and submerged lands and, therefore, are not within the constitutional prohibition.

However, in this instance, to my knowledge this would be since the enactment of the Constitution in 1879 the first attempt to convey lands situated right in the middle of important navigable waterways. So I believe it would raise a series of questions on alienability.

GOV. ANDERSON: Any further questions or comments? (No response).

Item 20 ....

MR. HORTIG: Mr. Chairman, there are more bills in this item.

On A.B. 2182 by Crown, we wish authorization to direct the attention of the author to the necessity for clarification as to the actual status of the lands proposed to be conveyed, and to offer amendments to accomplish this.

This is a technical matter and inadvertently by the description the inference is that State sovereign lands are involved and they are not, in fact; and we would presume the author would prefer to have the technically correct descriptions in his bill, as has been determined to be the case from the basic land title records which are under the jurisdiction and the custody of the State Lands Commission.