1 applications.

2 CHAIRMAN FLOURNOY: Thank you very much,

3 Mr. Mansfield. Any questions?

4 Thank you.

5 MR. GLADISH: Mr. Chairman, I have a note here

6 that there is a speaker from the Oil Chemical Atomic

7 Workers International Union. I don't have a name.

8 MR. KELTY: My name is George Kelty, Mr. Chairman,

9 and rather than be repetitive I would just like to say that

10 as far as we are concerned, the Oil Chemical and Atomic

11 Workers, we are for granting this drilling operation. The

12 reason for that is that we do have a, as you well know in

13 the State of California, a very high unemployment ratio.

14 By the way, this won't give us one member. We have no

15 jurisdiction on the rigs. Our jurisdiction ends at the

16 coast. And so consequently we won't gain one member from

17 it. But we are interested in people working. At the

18 present time we have a high ratio of unemployment. We also

19 feel that as far as any energy is concerned, that this

20 will aid in refinery operation in the area and consequently

21 I can do no more than to urge you to adopt this resolution.

22 CHAIRMAN FLOURNOY: Thank you.

23 MR. GLADISH: Mr. Chairman, the last name I have

24 on the list is Senator Omer L. Rains from Ventura and

25 Santa Barbara Counties.

CHAIRMAN FLOURNOY: Senator Rains.

How was the bus ride?

SENATOR RAINS: Not very comfortable.

Good morning. Mr. Chairman, members, the statement that I just gave Mr. Gladish is a statement that I gave on September 21st. I will also distribute before the morning is over the statement that I give today. I gave you only the statement of September 21st because I would like to incorporate that by reference in the remarks that I intend to make at this time. I do this because I do not feel that the points of concern which I raised at that time have, for the most part, been adequately answered in the Final Environmental Impact Report.

I hasten to add, however, that to the extent the revised EIR does address itself to the concerns voiced on September 21st, the State Lands Commission and the consultants are to be commended.

Today, however, I wish to direct my oral remarks to three areas that I feel to be in particular need of additional clarification and/or revision.

First of all, Mr. Barry Cappello, City Attorney for the City of Santa Barbara, and I, both raised the question of liability at the September 21st hearing. The response to that question, in the final EIR, and I have the page numbers if you so desire, is in my opinion

1 inadequate, to say the least. To state that "existing
2 state and federal laws, oil industry compensation funds,
3 current lease arrangements, and the judicial process
4 adequately provide for all costs incurred by public entities
5 resulting from oil spills" is to deny the experience of
6 Santa Barbara over the past five years.
7 As I pointed out at the time of the earlier hearing,
8 shoreline public and private property, including property
9 owned by local governmental entities, experienced
10 unconscionable delays in receiving compensation following
11 the 1969 spills. Although liability for damages was
12 seemingly clear under California law, over four years of
13 negotiations and litigation were required before damaged
14 public entities were compensated. Moreover, there was no
15 compensation whatever for loss of tax revenues and the
16 resulting diminution in public services.
17 In substance, due to the great difficulties involved
18 in securing even partial compensation for damages resulting
19 from the 1969 oil spill, the assurances set forth in the
20 final EIR are simply not acceptable to the majority of the
21 people in my district. And my district, by the way, does
22 include the two coastal counties most affected, Santa Barbara
23 and Ventura.
24 Given this situation, it is my feeling that the
25 State Lands Commission should demand that ARCO accept strict

1 and unlimited liability for all damages that result from
2 their conduct on state leases whether or not negligence is
3 established. Should the State Lands Commission feel that
4 it lacks such authority under Section 6829(e) of the Public
5 Resources Code, I urge that remedial legislation be sought
6 to clear up any existing ambiguity in this area. I stand
7 ready, as a member of the State Senate, to support such
8 legislation.
9 Until this question is resolved, I believe this
10 Commission would be prudent in delaying its decision with
11 respect to this particular application.
12 I would now like to turn my attention to two
13 closely related issues which I feel must be addressed in
14 greater detail and with greater care than has been done
15 in the final Environmental Impact Report. The first of
16 these concerns personnel training in blowout prevention.
17 According to the EIR, it is the policy of ARCO to send
18 drilling personnel to the Louisiana State University
19 Blowout Prevention School. While we are assured that company
20 drilling foremen and supervisors are required to attend
21 LSU or an equivalent school, it is interesting to note that
22 ARCO requires only "on-the-job training" for its crews.
23 In other words, those most immediately involved in a drilling
24 operation are being given in-house, or on-the-job training,
25 and this does not, from all evidence, compare well with

formal blowout prevention school training.

My suggestions here are twofold. One, the State Lands Commission should not rely on ARCO to continue a policy of unsupervised in-house training. Rather the Commission should require supervised and adequate training. And two, such training should include attendance at blowout prevention courses by all platform personnel from roughnecks to supervisors.

A related issue is the question of cleanup capability. This question has, of course, been rehashed time and time again. Yet it remains one of the weakest points in the entire Environmental Impact Report, and therefore requires still further discussion. Several pages of the report in Volume I, C15 through 18, are devoted to a discussion of various types of available cleanup equipment. Yet there is no discussion whatever of the amount of oil which each available piece of equipment will pick up. We are informed that equipment today can pick up oil in five to six foot swells at 20 knots. But the question remains, how much oil will these pieces of equipment pick up? Until this question is answered, I do not feel that ARCO has supplied vitally needed information.

Moreover, concerning the aforementioned size of the waves and the winds in which such equipment is effective, it is important to remember that such conditions are

1 normal in the channel waters. Indeed, the 1969 spill was
2 carried onshore by winds and waves considerably larger than
3 those mentioned.
4 Yet another problem is the fact that emergency
5 supplies must still be brought from Port Hueneme, a distance
6 which causes considerable loss of time in trying to stop
7 an oil spill before it reaches major proportions. Notwith-
8 standing the discussion on page 297 of the EIR, nowhere is
9 there any assurance that if the 1969 oil spill were to occur
10 tomorrow, the results would be any less disastrous than
11 they were in 1969. For this reason I cannot accept the
12 rather categorical assertion that the cleanup capability
13 is now sufficiently advanced that we may proceed without
14 considerable danger to our shores.
15 The third question I wish to raise today is that
16 of increased tanker traffic in the Channel. Obviously, the
17 chance of one tanker colliding with another tanker or ship
18 or platform goes up as the number of ships increase, from
19 perhaps the present 6,000 a year to somewhere around 10,000
20 in the 1980's, if we are to accept most of the estimates
21 now being advanced. The Coast Guard is apparently now
22 taking a position that pursuant to the provision of the
23 Jones Act it will route tankers outside the Channel, a
24 step in the right direction to be sure. But, will it be
25 enforced, and if so, how?

1 Tankers moving into shoreline installations, such
2 as the Ellwood field, or the proposed EXXON installation
3 at Las Flores, or to an LNG Terminal at Point Conception,
4 all that cross traffic will greatly increase the chance of
5 collision. This, of course, does not even take into
6 consideration the continued possibility of increased tanker
7 and super-tanker traffic through the Santa Barbara Channel
8 from the Alaska Pipeline Terminal at Valdez or from the EXXON
9 development off Gaviota.
10 Lest you think that I am exaggerating the
11 possibilities of an accident, allow me to cite but a few
12 statistics. In only the first quarter of 1974, according
13 to the Tanker Advisory Center, there were 326 tanker
14 accidents reported. The more serious ones included 18 fires,
15 29 breakups due to weather and 15 major collisions. Overall,
16 from 1959 to 1968 there were 50,559 tankers of various
17 sizes afloat. Of these 13,379 reported some kind of accident
18 resulting in significant damage, often the total loss of
19 the ship.
20 There are several recommendations which might
21 lessen the dangers in this area. A) Re-route tankers and
22 large vessels outside the Channel islands, a detour which
23 would add approximately 24 nautical miles to the passage
24 of such vessels along the coast. This could be done by
25 the Intergovernmental Maritime Consultative Organization,

1 IMCO, international agreements. In addition to such
2 agreements, or in lieu of such agreements, if they are not
3 feasible, a traffic control system based on the experience
4 of France and the United Kingdom in the English Channel
5 should be established. And most important of all, we
6 should make every effort to decrease, not increase, such
7 traffic, by not allowing the expansion of the present
8 drilling operation or the installation of new drilling
9 operations in the Santa Barbara Channel at this time.
10 One final comment. Without going into the detail
11 I did on September 2[illegible], I remain deeply concerned about
12 the cumulative effect of all the contemplated oil activities
13 in the Santa Barbara Channel. To virtually ignore the
14 cumulative impact of onshore and offshore drilling, of
15 increased tanker traffic, of the mish-mash of onshore and
16 offshore lines, and of vehicular traffic, is a travesty
17 to meaningful ecological thought.
18 In my opinion the final Environmental Impact
19 Report remains seriously deficient in this regard. Thank
20 you.
21 CHAIRMAN FLOURNOY: Are there any questions of
22 the Senator?
23 Thank you very much, Senator.
24 MR. GLADISH: Mr. Chairman, I have a note that
25 the counsel for Atlantic Richfield would like to make a

1 brief statement and clarify something. Mr. Jeff Pendergraft.
2 MR. PENDERGRAFT: Gentlemen, my name is Jeff
3 Pendergraft, attorney for Atlantic Richfield. I had not
4 intended to make any remarks today so I will keep them
5 rather brief. I just wanted to clear up the record on one
6 or two points.
7 First of all, Mr. Weingand, President of GOO,
8 indicated that a court in San Francisco had issued a TRO
9 preventing Atlantic Richfield from conducting operations in
10 the Santa Barbara Channel, pending a hearing. That is not
11 accurate. The regional Coastal Commission, sometime ago,
12 granted Atlantic Richfield an exemption for operations in
13 the Santa Barbara Channel. That exemption was affirmed
14 by the State Commission. The Attorney General agreed with
15 the recommendations of both the regional -- or the findings,
16 of the regional Commission and the State Commission.
17 A hearing was held in the San Francisco Superior
18 Court in October, and last Monday the Court asked, or ordered,
19 that new drilling not be commenced until a decision could
20 be prepared, which is expected within a week or two.
21 The second statement that was made, I believe it
22 was Mr. Cappello, indicated that Don McFarland, his
23 consultant, advised that there is a possibility of pollution
24 from pumping ballast water from the tankers. That statement
25 is also inaccurate. The Environmental Impact Report

1 indicates that all ballast water from the tankers will be
2 handled at an onshore disposal facility.
3 I just wanted to clear the record up on those two
4 points. I might also make one other comment. Several
5 of the speakers have indicated that this Commission is
6 not the proper Commission to decide this matter. It seems
7 to me that, at least Mr. Flournoy, you were on the
8 Commission that originally imposed the moratorium. This
9 Commission is the Commission that has studied the problem
10 and has been involved with it for several years, and I
11 think that they are the only ones with the experience and
12 the knowledge to decide this matter today. Thank you.
13 CHAIRMAN FLOURNOY: Thank you very much,
14 Mr. Pendergraft.
15 MR. GLADISH: Mr. Chairman, that exhausts the
16 list of people that I am aware of that wish to speak on
17 this subject.
18 CHAIRMAN FLOURNOY: Are there any others here
19 who wish to speak to the Commission on this matter?
20 Okay.
21 LIEUTENANT GOVERNOR HARMER: Mr. Chairman, I will
22 move the adoption of the application.
23 CHAIRMAN FLOURNOY: Mr. Harmer has moved the
24 adoption of the recommendation. Is there a second?
25 MR. ORR: I will second it.

1 CHAIRMAN FLOURNOY: Is there any discussion?

2 MR. ORR: Yes. I have sympathy with the position

3 that was expressed, as I think all members of the Commission

4 do. I think it is pertinent to state that this Commission

5 has also heard geothermal drilling, and has had an audience

6 not quite this large but equally opposed to geothermal

7 drilling. We had an audience at least this large when we

8 talked about the atomic plant in the south coast, and there

9 was strong objection to that.

10 I think it was Mr. Cappello that indicated it

11 would be more advantageous to get the American people to

12 cut their consumption of energy. That's a laudable

13 thought but apparently quite impracticable. I note that

14 since oil became available the sale of small cars has

15 practically ceased and the American public has gone back

16 to the purchase of large cars.

17 So, while I have sympathy for the position, I

18 think the overwhelming problem that this country faces is

19 the importation of oil in such quantities that our balance

20 of payments over the next five or ten years will be horribly

21 deficient. For that reason I feel that I am fully in

22 sympathy with the motion to approve the drilling.

23 CHAIRMAN FLOURNOY: I would just like to make a

24 couple of comments with regard to this motion. I think

25 they particularly relate to the appropriateness of this

1 Commission acting because I think it is true that this
2 Commission, and I am the only one, I suppose, who was here
3 at the beginning and at the end of the last eight years,
4 heard all the arguments a year ago or more when we made
5 the original decision with regard to both lifting the
6 moratorium and requesting lease-by-lease proposals from
7 the various lessees so that they could be considered.
8 I think that we have been very very responsive
9 over the years to environmental considerations in the
10 Santa Barbara Channel. I think that we are so today. I
11 think that we have to face the horns of a dilemma in terms
12 of the optimum or ultimate total recognition of both values
13 that are involved here, those that are environmental and
14 those that are economic, and some that are legal that
15 haven't even been mentioned. And I think that we have tried,
16 throughout this whole process, which culminates in this
17 proposal, to reconcile these competing demands and to
18 realize the optimum protection of the environment as well
19 as the optimum utilization of our resources. It is on that
20 basis that I too will support the recommendation.
21 It has been moved and seconded. All those in
22 favor say aye.
23 LIEUTENANT GOVERNOR HARMER: Aye.
24 MR. ORR: Aye.
25 CHAIRMAN FLOURNOY: Aye. It is unanimous and

the recommendation will be approved.

Let's see. We then have left for consideration, I think -- we are going to put 5A last.

Is there someone who wishes to address 5C, the Sequoia Refining Corporation item?

If there is no one who wishes to address the 5C operation --

ASSEMBLYMAN CORY: I would like to speak on it.

MR. TROUT: Mr. Chairman, and certainly Mr. Orr, will remember that over the past two to three years we have brought before you a number of renewals of old leases to the oil companies operating marine terminals and pipeline facilities in California waters under the Commission's jurisdiction. I think we told you at the time the Auditor General made a report about the lease-rental rates that we had substantially, in some cases in the neighborhood of a thousand to fourteen hundred percent, increased the rent of that company. The only remaining company at that time who had not renewed their lease was Sequoia, and as a result of our negotiations, and the Commission's backing, Sequoia has now succumbed or agreed to the revised rent schedules. Their rent will go up very substantially as a result of this lease.

It is an existing lease. It is a detached wharf for tankers and a pipeline from that detached wharf to their

1 petroleum processing plant near Hercules. It is a facility
2 that has been in existence for some period of time. The
3 rent has gone up about $10,000 from what it was originally,
4 and the rent now will be $14,500 per year. It is based on
5 the present rental rates applying to appraised value plus
6 the costs or the rental rates for the pipelines.
7 It is an extension of a lease that had been
8 formerly entered into, with amendments to reflect a recent
9 boundary line agreement that was approved fixing the
10 boundary, relating to Hercules, Sequoia, and I believe the
11 third party was Phillips. Anyway, there was a boundary
12 line agreement of which Sequoia was a party.
13 So this also amends the lease description. It
14 is an existing industrial lease.
15 MR. ORR: Could I ask what the most recent rent
16 was before this?
17 MR. TROUT: Excuse me?
18 MR. ORR: Could I ask what was the most recent
19 rent before this?
20 MR. TROUT: Well, they had been paying $10,000 a
21 year until the rental rate figures had been resolved and
22 we had come up with an agreed rental procedure. They will
23 also have to pay us back rent to the effective date of
24 this lease which was November, 1965.
25 MR. ORR: I see.

1 MR. TROUT: They are paying $4,000 --

2 MR. ORR: Oh, nine years back dating it?

3 MR. TROUT: Forty-five hundred dollars a month

4 back dating.

5 MR. ORR: Now, is this a lease that has been

6 leased on a percentage of the appraised -- for instance

7 six percent or seven percent or eight percent?

8 MR. TROUT: The area occupied by the wharf and

9 its useable areas surrounding it is based on six percent

10 of appraised value of the lands.

11 Then there is a pipeline bundle that runs from

12 the refinery to the detached wharf, and that is at the

13 current regulations of one cent per diameter inch per

14 linear foot.

15 MR. ORR: I thought we talked here about not

16 continuing the lease at six percent. I thought we talked

17 about that being an unrealistic figure.

18 ASSEMBLYMAN CORY: You are making my speech.

19 MR. GLADISH: Mr. Chairman, we had an item earlier,

20 a proposed emergency regulation, establishing that rate at

21 eight percent. In addition we have entered into some

22 additional studies to further evaluate the adequacy of the

23 eight percent.

24 However, the Attorney General has advised us that

25 our case for adopting the eight percent under the emergency

1 regulation aspect of the Administrative Procedures was weak.
2 Therefore we asked you to concur that we should file this
3 proposed regulation under the normal procedure, 30-day
4 announcement, of the proposed regulation setting documentation.
5 Under that concept this may be adjusted at eight percent.
6 It would come back for formal adoption after a 30-day period.
7 Perhaps --
8 MR. ORR: I wonder if I understand you. It has
9 been my contention that we ought to go to eight percent. Let
10 us assume -- it may be more but we will say eight percent.
11 But let us assume that we produce our regulation, it goes
12 to eight percent, we have our hearing in thirty days or
13 whatever, the necessary time elapses, and sometime in March
14 the new Commission has before it an effective eight percent
15 rate. Do we go back on this lease at eight percent clear
16 back to '65?
17 MR. TROUT: That would not be the case. At the
18 next renewal period it would be adjusted at the higher
19 rental. The only argument that could be made for going
20 ahead on this basis is that this was an understanding with
21 even a prior Commission before this one in the 1960s that
22 the oil companies would at such time as an agreement was
23 reached between the Commission on a rental rate schedule,
24 they would uniformly pay retroactive rent to the effective
25 date of that time, and all have at the six percent rate with

1 the excepti n of Sequoia which is now before you.

2 The others will also be up to whatever the current

3 rate is at the time the rents are reviewed. Currently on

4 most of them it is on five year intervals.

5 MR. ORR: Well, Mr. Chairman, I have no objection

6 to a retroactive rate from 1965 to the present time at

7 six percent because that's been the State Lands Commission

8 policy, and I don't think you can go back on a company and

9 change your policy. But this goes until 1980 and I don't

10 see why we give them the next six years at six percent.

11 We are right in the process of going to eight percent and

12 it has already taken us nine years to consummate a rental

13 agreement.

14 MR. TROUT: I think maybe we ought to probably

15 have the Office of the Attorney General comment on that.

16 A lease document was executed by the company and they have

17 deposited a rental. And what effect your motion would have,

18 I think maybe we ought to have their comments on it. We

19 certainly have no objection to putting it over, from the

20 staff's standpoint.

21 MR. TAYLOR: Mr. Chairman, from my reading of this

22 calendar item, this matter is an agreement on an existing

23 lease and I hadn't understood it as being a completely new

24 lease. Their lease still has five years to run, so if I

25 understand this calendar item, this calendar item is an

1 agreement at what the rental rate would have been during
2 this interim period. And there is no new lease being
3 contemplated at this time, but an adjustment of the amount
4 of money due under the lease which was entered into by the
5 Commission in 1965.
6 CHAIRMAN FLOURNOY: Is what you are saying that
7 there was a lease made in 1965 between the Lands Commission
8 and the lessee, pending the determination of the rate that
9 would be paid and what that amount was?
10 MR. TAYLOR: That is correct. And in my computation
11 there is still five -- there is only five years remaining
12 on the initial period of that lease and --
13 CHAIRMAN FLOURNOY: I suppose what becomes
14 pertinent is whether or not a lease itself, and when it
15 was executed, incorporated the six percent rate and merely
16 left the determination of what it was as applied to the
17 value of the property, to be determined or whether or not
18 it did not so incorporate that. Because I suspect it is
19 a legal point of view that would have bearing as to whether
20 or not we can change it.
21 MR. TROUT: The original lease did not address
22 itself, as I recall it, to the six percent per se. There
23 was, in the process, a negotiation between the industry
24 and the Commission as to the method for assessing rental
25 rates to the oil companies and their marine terminals.

1 Those negotiations were in progress at the time Sequoia
2 sought this lease in 1965. They agreed, at that time, to
3 pay $10,000 per year, with the understanding that at such
4 time as the Commission reached agreement with the industry
5 on an appropriate rental rate assessment or a rental rate
6 schedule applicable to this type of leasing, they would pay
7 retroactively back to the effective date of the lease, that
8 amount.

9 I think our only point is that there was really
10 no negotiations. The oil companies finally capitulated
11 in agreeing that the Commission's approach, its rules and
12 regulations affecting the rental rates for these kinds of
13 facilities, was a proper and correct approach and they
14 have, to a company, now agreed with Sequoia's agreement to
15 the percentage of appraised value, including not only the
16 actual area occupied by the facility but an additional area
17 of use, maneuvering space, berthing space, whatever
18 additional exclusive occupancy they wanted, as this is an
19 effective and appropriate way of appraising the property
20 and affixing the rent.

21 And as such, the amendment, the primary purpose
22 of this amendment is to amend the legal description to
23 reflect a recent boundary line agreement. They are also
24 agreeing to our rental schedule. They have deposited the
25 nine years of $4,509.93 worth of money with us, and in

1 addition have paid $14,509 for the next period.

2 This then brings them into line with all of the

3 other companies who have in effect totally capitulated to

4 the Commission's rental rate rules and regulations.

5 LIEUTENANT GOVERNOR HARMER: We are not then

6 extending the length of time of the lease?

7 MR. TROUT: The lease is not being extended. It

8 has three -- it is a forty-five year lease, a fifteen year

9 initial term and three additional renewal periods. This

10 is not a renewal of the lease. This is an amendment of

11 the legal description and in effect a fixing of the rental

12 rate pursuant to the agreement of the industry that the

13 Commission's rate fixing of rental review process is

14 appropriate.

15 LIEUTENANT GOVERNOR HARMER: Any action we took

16 here would not affect the impact on this lease of the

17 change in the percentage from six to eight, right?

18 MR. TROUT: At the time that this would be renewed

19 in 1980 it would be subject to the percentage rate or

20 whatever was then in effect, the same as with several other

21 oil companies.

22 LIEUTENANT GOVERNOR HARMER: But nothing we do

23 here affects the time when the lease is subject to renewal,

24 does it?

25 MR. TROUT: Correct.

1 LIEUTENANT GOVERNOR HARMER: So we are simply
2 by this action today bringing it into conformity with
3 everybody else and in effect settling the dispute that has
4 been going on for nearly ten years as to how much rent
5 they have to pay.
6 MR. TROUT: As to the rent. That is the effect of
7 this item.
8 LIEUTENANT GOVERNOR HARMER: Thank you.
9 Mr. Chairman, excuse me.
10 CHAIRMAN FLOURNOY: It's all right. We can't --
11 I hope the Attorney General keeps listening because I
12 sense all kinds of legal problems. We cannot in essence
13 change the terms of the lease by anything we do here today,
14 can we?
15 MR. TAYLOR: No.
16 CHAIRMAN FLOURNOY: Well, we couldn't say we will
17 knock it down to ten years and that reflects from the time
18 it was entered into until the time that these new regulations
19 may be adopted, and they can worry about the new period?
20 MR. TAYLOR: No, I do not believe that you can.
21 MR. GLADISH: Mr. Chairman?
22 CHAIRMAN FLOURNOY: Yes.
23 MR. GLADISH: Mr. Taylor, could we reserve the
24 right to adjust the percentage rate on the last five years
25 of the first term?

1 MR. TAYLOR: Off the record.

2 (Thereupon a short discussion was held off the
3 record.)

4 CHAIRMAN FLOURNOY: Mr. Cory is already anxious
5 to speak on that.

6 ASSEMBLYMAN CORY: Good. You are doing fine.
7 This is why I thought you should put it over. It seems to
8 me that my understanding is slightly different than the
9 staff but very close to the Commission members, that the
10 rental fee was in dispute and it is subject to what you
11 decide here today if you decide, as to what that rate should
12 be. And if you should decide it should be at eight percent
13 rate, and if they are willing to agree to it, Sequoia agrees,
14 you can take it back eight percent. There is a rate in
15 dispute and there is option to do that, and it seems highly
16 inappropriate, when you have got on the same agenda as
17 originally prepared, an item going to eight percent, to
18 approve this retroactively at six.

19 There are some other questions I have but it seems
20 to me that you have a great deal of options, and rather than
21 to forego those I think they ought to be explored.

22 MR. ORR: Mr. Cory, for what it's worth, my
23 suggestion would be that it would be unfair to the company
24 to go back ten years at an eight percent rate when we are
25 only now arriving at what I certainly think prospectively --

ASSEMBLYMAN CORY: I would suggest that the fact that they have only paid $10,000.00 for fourteen years when they should have been paying -- and we can't apparently legally collect the interest -- that two percent kicker, which legally can be put on and is not so unfair. They have been skating pretty free and pretty easy for fourteen years.

CHAIRMAN FLOURNOY: My own view is that I think the Attorney General ought to research what the options are and come back at the next meeting and lay it out.

MR. ORR: Yes.

MR. SHAVELSON: Mr. Chairman, I was just going to say that we didn't contemplate that this was going to be a controversial item and we would like the opportunity to study carefully the terms.

CHAIRMAN FLOURNOY: So moved.

LIEUTENANT GOVERNOR HARMER: Second.

CHAIRMAN FLOURNOY: And passed.

Okay. That takes care of 5C. Let's move on. I have here a note on item 13A. Oh yes, Main Zone Unit, Huntington Beach Field, Orange County.

MR. GLADISH: Yes, Mr. Chairman and commissioners, this item is a request to protect our interest financially and to protect the energy supply from a broad standpoint by modifying certain lease royalty rates. Specifically I am going to refer to a number of leases combined into what

is known as a 91.1 Main Zone Unit. This unit was formed for the benefit of lease holders and the State.

Most of these leases have produced oil since the 1930's. In 1972 a unit was formed as a means to maximize additional recovery. In short, the unit, as it exists today, consists of thirty leases controlled by Burmah Oil and Gas, and twenty held by others.

In 1972 when the unit was formed, several things happened. The State approved formation of the unit to facilitate secondary recovery by water flooding. Burmah Oil and Gas spent about $4 million in capital investment. Most of the original wells were plugged for efficiency measures and new wells were drilled. As a result of that a mixture of oil and water is produced with a ratio of about fifteen barrels of mix for each barrel of oil that is recovered. There are great variations on this but that is about the average.

I might interject that these leases, in the aggregate, have produced about $30 million in royalties for the State.

After the unit was in effect and the things I mentioned had gone on, the projected reservoir estimate of recoverable oil was revised downward from something like twelve and a half million barrels to about four million barrels. Oil prices for this oil have risen from $2.60 a

1 barrel to well over $10.00. Normally this would be a help
2 to a unit or a lease holder or the State.
3 However, this unit is unique. Most of the leases
4 in this unit pay the State on a price sensitive royalty
5 rate. The higher the price of oil the higher the royalty
6 rate due the State. At the time the unit was formed in 1962
7 the price was such that the royalty rate was about twenty-two
8 percent. At today's price of $10.40 for this oil in this
9 area the applicable royalty rate is eighty-four percent.
10 Out of every hundred barrels produced, the State gets paid
11 for eighty-four. This leaves sixteen barrels to cover costs
12 and other related items.
13 In February of this year, Burmah Oil and Gas and
14 others in the unit came to the State and indicated that
15 they would be compelled to break the unit unless some
16 adjustment in royalty rate would be forthcoming. This matter
17 was a major concern to us if, assuming that they were right,
18 the State would sustain a potential loss of about $7 million.
19 This loss could conceivably come about by a change in the
20 royalty rate that could occur if their interpretation and
21 their facts were right, that the unit could be broken. The
22 royalty rate would decline under those circumstances to
23 about twelve and a half percent.
24 This unit can be terminated by a vote of eighty
25 percent of the participants for nonprofitability.

1 We, the last ten months, have disputed measurements
2 on profitability but our analysis of current conditions
3 indicates that they have a strong case. Their analysis of
4 course leaves no doubt.
5 (Laughter.)
6 MR. GLADISH: Given the problem, possible
7 litigation, likelihood of termination of the unit, potential
8 losses and benefits of this unit, we entered into negotiations,
9 spent some, as I mentioned, nine or ten months of staff
10 efforts, computer time, outside consultants, expertise from
11 the AG's Office, and we recently arrived at what we believe
12 will be an acceptable settlement.
13 Our goals in this matter of negotiation were to
14 maximize the State's income by using overall income under
15 current, although maybe theoretical methods, as our target.
16 In other words, we did not want to change cash flow to the
17 State. This was implemented by modifying the cash flow
18 curve so that the unit was placed in the black during the
19 next two years, the main deficit period. This reduction in
20 royalty is essentially recovered in the period from year two
21 to year twelve. In other words, starting two years from now
22 and going on to twelve years from now.
23 We have a proposed settlement that treats Burmah
24 Oil and Gas separately from the other lessees because
25 Burmah has the unique ability to compensate the State for a

1 short term royalty reduction by agreeing to increase
2 royalty rates in the long pull. Burmah also bears the cost
3 for initiating the unit and carrying out the cost of
4 secondary recovery.
5 The highlights of the proposal before you in
6 regards to Burmah are these. We reduced the royalty rate,
7 the maximum royalty rate on primary oil, oil produced for
8 the next two years, easement leases, to forty-five percent.
9 The royalty rate for Burmah on the main PRC 91.1 lease or
10 secondary would be increased from twelve and a half percent
11 to nineteen percent for that period starting two years from
12 now. In addition, Burmah would agree that if the unit is
13 terminated by certain voluntary actions, they would agree
14 to pay the State the difference between the new royalty
15 rate and what the State would have received without this
16 adjustment.
17 In this case of breaking it at the higher royalty
18 rate on a secondary, it would also remain in effect. Burmah
19 agreed that their interest in the 91.1 Main Zone would not
20 be quitclaimed or otherwise surrendered to the State or any
21 other party without prior consent of the State.
22 Highlights of the proposal in regards to the
23 non-Burmah leaseholders are: Royalties on these leases
24 would be reduced to a maximum of seventy-five percent for
25 oil produced during the primary period, two years. The

State would receive the same limitations on termination and quitclaiming leases described in the Burmah proposal. This proposal puts the non-Burmah lessees in the black by our calculations, but just in the black.

Mr. Chairman, this proposal places the unit, as I indicated in the black, modifies royalty rates, protects the State from a possible rate loss of revenues in terms of breaking the unit and will have little effect on long term revenue. I ask that you approve the execution of documents by the staff with the advice of the Attorney General to accomplish the aforementioned purposes.

CHAIRMAN FLOURNOY: Okay. Is there any --

MR. GLADISH: Excuse me, Mr. Chairman. I have some correspondence from Mr. A. C. Marion of the Mar Rico Oil Company. He indicates that he would like to have the royalty rate reduced to forty-five percent.

MR. ORR: Mr. Chairman, I'd like to just make sure of one thing that I believe I understood. The price sensitive royalty is eight-four percent at $10.00. If it went to $12.00 or $14.00 or some such figure then they would pay a hundred percent?

MR. GLADISH: I believe, as I recall, in looking at those leases that there are graphs attached on them to explain the royalty rates. I believe it exceeds a hundred percent.

1 MR. EVERITTS: The formula is roughly eight times
2 the price so twelve and a half dollars would be roughly
3 one hundred percent.
4 MR. ORR: Then you would have no question that it
5 is unprofitable.
6 (Laughter.)
7 MR. ORR: Well now, let me ask one other question
8 which is purely technical in nature. The oil producing
9 countries in the last week or two have raised the price
10 of petroleum I believe five percent or some such matter.
11 Is that likely to be reflected in this $10.00 rate? In
12 other words, is that sensitive to imported oil rates or
13 is that --
14 MR. GLADISH: Certainly, certainly. The $10.00
15 rate went into effect about thirty, forty days ago.
16 MR. EVERITTS: October 1.
17 MR. GLADISH: October 1. This rate is very
18 sensitive to imports so I would suspect that we could
19 expect some rather large fluctuations in the new oil price.
20 MR. ORR: So then there is already the possibility
21 that we will be paying $10.50 a barrel?
22 MR. GLADISH: It is at $10.40 and has gone up
23 over $1.00 since we started working on the problem.
24 MR. ORR: That's all I have.
25 CHAIRMAN FLOURNOY: Okay. Any other?

LIEUTENANT GOVERNOR: Just one question. What about the other small individual leaseholders? Are we going to expose ourselves to some litigation on their part if they are not included in the agreement?

MR. GLADISH: There will be separate agreements with the individuals and with Burmah. And we propose, and under this proposal would set their royalty rate at a maximum of seventy-five percent effective the first of December.

Our calculations would put them in the black and would, in our mind, remove much of the incentive for litigation.

CHAIRMAN FLOURNOY: So we're dealing, in essence, with all the people?

MR. GLADISH: Everyone, yes.

CHAIRMAN FLOURNOY: Any further discussion?

LIEUTENANT GOVERNOR HARMER: I move the adoption.

MR. ORR: Second.

CHAIRMAN FLOURNOY: It has been moved and seconded. Without objection it will be approved.

Let's see. Now we have got Long Beach dry gas.

MR. GLADISH: Mr. Chairman, I don't have any backup for this item. I anticipated, when we prepared this item, that we would have settled some negotiations on this dispute that exists between the State Lands Division staff and the

City of Long Beach in regards to price paid to the State for dry gas.

CHAIRMAN FLOURNOY: Well, we don't have it.

MR. GLADISH: Chapter 138 sets up a definition of pricing mechanism and gives neither the State nor the City leverage in terms of the price. The law says that the State and the City shall agree, and the standards upon which our current agreements were based are in our mind not adequate, nor are they, I believe, in the mind of the City, although I don't want to speak for them in this case.

The City gave us notice under the current agreement to enter negotiations on a price change about a year and a half ago. They want the price to go down and we want the price to go up. That's the long and the short of the problem.

CHAIRMAN FLOURNOY: In other words, you have both been in violation of the law. You have not agreed as it says.

(Laughter.)

MR. GLADISH: I think they have come in some ways to recognize, at least, that they owe us a considerable amount of money at this point regardless of how it is settled. But considering that at this point in time I would ask your authorization to prepare a comprehensive critique of this problem for you and for the new Commission,

1 for the Legislature and for the City of Long Beach in
2 anticipation that this would stimulate resolution of the
3 problem.
4 CHAIRMAN FLOURNOY: I think that's fine, since
5 we can't resolve it today. I think we ought to get that,
6 and if we need additional help, create a mechanism to
7 facilitate the agreement, and we will probably have to go
8 to the Legislature to get it.
9 All right. That leaves us where?
10 MR. ORR: EXXON. But you also have Mr. Cory's
11 request for a new meeting time. I am going to leave but
12 I'd like to talk for a moment to that new meeting. I'd like
13 to ask the Attorney General how much time must be given
14 for items on the agenda? Is it ten days?
15 MR. TAYLOR: It is one week.
16 MR. ORR: One week. Then it wouldn't do any good
17 to set it on the seventh because the agenda couldn't be
18 published, but they could do it easily on the fourteenth.
19 ASSEMBLYMAN CORY: If we could give you the agenda
20 items --
21 MR. ORR: I know, but that's going further than
22 I want to go because that puts the new Commission into
23 effect earlier and I am simply not willing to do that,
24 Mr. Cory, but I am not anxious to hold you beyond either.
25 I'd like to set it the thirteenth or fourteenth.

CHAIRMAN FLOURNOY: Well, I'd say that technically the sixth -- so it would be the sixteenth.

MR. ORR: No, a week.

CHAIRMAN FLOURNOY: Oh, a week?

MR. ORR: A week.

CHAIRMAN FLOURNOY: Monday the thirteenth?

MR. ORR: Monday the thirteenth. I have no objection to that. I just don't see that the new Commission should start to act until they are legally constituted, by setting an agenda.

CHAIRMAN FLOURNOY: I'd be perfectly happy to go along with that. We will amend that and take that item out of sequence. The next meeting of the Commission will be January the 13th, 1975. Is ten o'clock all right, Mr. Orr?

ASSEMBLYMAN CORY: It's awfully early but I can make it.

CHAIRMAN FLOURNOY: In Sacramento.

(Laughter.)

CHAIRMAN FLOURNOY: Now, let's go back. That leaves only the EXXON item, right?

MR. GLADISH: Yes, sir.

CHAIRMAN FLOURNOY: Okay.

MR. GLADISH: Mr. Chairman, if I might, Mr. Trout is prepared to present in summary the project and the

environmental impact and how it relates to our responsibilities on the project, and I'd like to close when he concludes.

MR. TROUT: Mr. Chairman and Lieutenant Governor, the EXXON project is just a little different from the project that Mr. Everitts has presented to you in that in this case the project involves the Federal Outer Continental Shelf lease with the Santa Ynez unit, which is basically this unit here. The unit operator is EXXON Corporation.

The proposed drill site on this project is in Federal Outer Continental waters shown with this large red circle. The project has been the subject of a Federal environmental impact report and which was approved by the Undersecretary of the Interior on August 16th, 1974.

The project involving the Commission starts at the offshore boundary of the State which is three geographic miles from the nearest point, and runs across State tidelands and onto the shore near El Capitan in an area which terminates in the Torrey Canyon, which was mentioned earlier by some of the speakers, with an onshore facility.

The other aspect of it is a relocation of an existing marine loading terminal, which is this small circle right here, to a new marine terminal located farther out to sea. So, the thing to be emphasized here is that there has been Federal treatment of the Federal leasing program and the Federal offshore drilling platform. The Commission's

1 jurisdiction involves the tidelands from the outer boundaries
2 of the State to the mean high tide line at the point where
3 the pipelines go on shore.
4 The project across Commission jurisdiction involves
5 a 16-inch well production line coming to shore along this
6 red right of way, a 12-inch gas line along the same right
7 of way, an eight-inch water line, fresh water line, out to
8 the platform, and a six-inch power cable out to the platform.
9 It also involves a 24-inch marine loading line coming along
10 the same right of way and then spurring out to the new
11 marine loading terminal. The present marine loading terminal
12 here involves a standard five-point mooring system, was
13 formerly used by Shell Oil Company and is primarily a barge
14 loading facility. It is right at the edge of the kelp beds
15 in here and the Department of Fish and Game has a kelp
16 harvester under lease in that area at the present time.
17 The new facility will be thirty-seven -- thirty-five
18 to thirty-seven hundred feet out from shore and will be some
19 distance from the kelp beds and will involve a radius, a
20 circled radius of eight hundred feet, and it will be of the
21 new single-anchor-leg mooring system, instead of five or
22 seven buoys. It will be a single buoy to which the barge
23 or small tanker will revolve so that it always heads into
24 the waves or the wind. This site is not conducive or is it
25 possible to be used for a supertanker. It is limited by

1 the depth of water and by the size of the ground gears in
2 the relatively small coastal tankers and so it is not a
3 supertanker single point mooring. It's not big enough.
4 The water is not deep enough. It just is a superior state
5 to the arch of the old five-point mooring system.
6 The pipeline in the near-shore zone will be
7 buried out to the point where the wave effects will no
8 longer be noticed on the bottom and it will be buried either
9 by blasting, where necessary, through rocks, and they will
10 have to get a permit from Fish and Game or by jetting in
11 this area.
12 So that is basically the project. To get a
13 relationship, this is Point Conception and here is the
14 now familiar Holly, Hilda, Hazel and Hope Platforms, Goleta
15 and Santa Barbara. This is the location of the proposed
16 right of way.
17 MR. GLADISH: Mr. Chairman, the development plan
18 for this lease was approved by the Department of the
19 Interior in August of this year. Indications are that this
20 lease will contribute about one billion barrels of crude
21 oil and a half a billion cubic feet of gas to our energy
22 supply. The approved plan contains two alternatives for
23 the handling of oil and gas. One involves bringing the oil
24 and gas to shore via pipelines and the system that Mr. Trout
25 has described, storage facility modifications on shore,

1 and an existing marine floating terminal off shore. This
2 alternative requires approval, of course, of this Commission,
3 Santa Barbara County and the Coastal Commission.
4 The County of Santa Barbara Planning Commission
5 yesterday, after three hearings, it is my understanding,
6 approved this project coming in on shore in terms of their
7 jurisdiction, and it is also my understanding that portions
8 of the project must yet go to the Board of Supervisors.
9 The Coastal Commission has not yet acted upon this project.
10 The second alternative that was also approved by
11 the Secretary of the Interior, should the State and county
12 bodies not approve onshore operations, involves treating
13 and storage of oil in a floating vessel moored outside the
14 three-mile limit. Treated crude oil would then be off loaded
15 to shuttle barges or tankers for transport to market.
16 Alternative one, bringing the oil and gas to shore
17 has two basic benefits. It involves less environmental
18 risk and will allow for the utilization of the natural gas
19 production, which as has been stated here today, is in short
20 supply. The staff of the State Lands Division has had this
21 item under study for about a year and a half. The EIR was
22 reviewed and endorsed by the Resources Agency, and
23 Mr. Chairman and Commissioners, I recommend approval.
24 CHAIRMAN FLOURNOY: Okay. Do we have a group of
25 people who want to speak to this?