1 And if my house burns down and I can't build it
2 back up, then I don't want the State to just pay me a
3 partial value for an improvement or for the structure, I
4 want to be able to rebuild it and I also want to be able to
5 get the value of the property as well.
6 COMMISSIONER DYMALLY: It might be helpful, and I
7 am quite sure the Attorney General's Office would make
8 available some free counsel --
9 MS. WAY: Well, I admit I am not a legal person.
10 COMMISSIONER DYMALLY: Wait a minute.
11 MS. WAY: I am a layman. I am a teacher. I
12 really have just barely gotten into this in the past year,
13 and I do need counsel.
14 COMMISSIONER DYMALLY: I don't think we can
15 resolve this right now.
16 MS. WAY: I am not trying to resolve it. I just
17 want you to consider what I have said and I want to submit
18 this to you so you can look at it.
19 COMMISSIONER DYMALLY: As one teacher to another,
20 all he is saying is that a precedent was set before this
21 resolution and this resolution has no bearing on your
22 situation.
23 MS. WAY: I don't see that because I am seeing
24 tidelands --
25 CHAIRMAN CORY: Let me put it to you this way,

1 Ms. Way, there is a dilemma to which there may not be a
2 solution that is acceptable to you, and that may be
3 unfortunate. But the Courts have held that we cannot make
4 a gift of public funds, and to compensate you -- and we are
5 talking about down the road at some point where someone may
6 want to exercise the trust over the parcel of land in which
7 your home is situated -- the statute does provide that you
8 be compensated for the structure. That is clear. But the
9 property itself, the State already has the right for commerce,
10 navigation and fisheries over that property.
11 Therefore, to compensate you for that land, we
12 could not do, because the Constitution says we can't give
13 away the public's money. We already have the right to use
14 it for that purpose.
15 MS. WAY: But I am paying all kinds of taxes on
16 the land and the structure.
17 CHAIRMAN CORY: Now, if the system were working
18 properly, your assessor would be taking into account a
19 slightly different value for that property based upon the
20 State's easement. The assessor may or may not be doing that.
21 There is not much that this Commission can do in terms of
22 that relief. But that rather lengthy title report that
23 most people don't read when they purchase a piece of
24 property probably made reference to that.
25 If it didn't, you may have recourse in the worse

1 situation to your title insurance company. But probably it
2 made reference to that and you are going to have to sit
3 there and worry and hope.
4 And there is not a great deal that this Commission
5 or anybody else can do, unfortunately.
6 MS. WAY: There is nothing that can be added or
7 amended or --
8 CHAIRMAN CORY: Because we are sitting here with
9 a constitutional provision that we have to live with in terms
10 of the gift of the public's funds, and that's where we are,
11 between a rock and a hard place.
12 MR. TAYLOR: Mr. Chairman, the staff has been
13 working on regulations which may speak to her problem but
14 which aren't before the Commission today, which are rules
15 and regulations for tidelands. Because, as a result of the
16 fact that tidelands became a very scarce commodity in the
17 State of California, and because these conflicts now have
18 become much more dramatic in some instances, there needs to
19 be an entire permit system where the State would give some
20 kind of assurance in these situations.
21 We are working on that. Now that situation isn't
22 before us today, but there is a system and we are working on
23 it because of comments that we have been receiving. So that
24 will be before the Commission and if you will ask to be
25 given copies of the Commission's minutes and our notices of

1 meetings, you will see when it comes up. It will not be for
2 another couple of months.
3 But there will be a regulation system which can
4 include the kind of situation which you are talking about.
5 COMMISSIONER DYMALLY: One comment. I hope that
6 when we discuss this matter again, that we invite the
7 assessors to give some observation about their practices in
8 having people pay for land that they don't own.
9 MR. TAYLOR: Mr. Chairman, I understand there was
10 an adjustment made in Marin County as a result of Marks
11 versus Whitney.
12 COMMISSIONER DYMALLY: I don't like assessors.
13 [Laughter.]
14 CHAIRMAN CORY: I am sorry we don't have a solution
15 but your comments will be a part of the record.
16 MS. WAY: Okay. Can I submit this to you?
17 I am speaking for -- this isn't a signed petition but I am
18 speaking for a lot of people.
19 CHAIRMAN CORY: The fact that you are here makes
20 a difference.
21 MS. WAY: In fact the only reason I am here is
22 because we called, a group of us called the State Lands
23 Commission, and voiced our concern, and the person suggested
24 that if we were concerned and it was dealing with tidelands,
25 that someone be here today.

1 The rest of the community is attending County
2 hearings on an ordinance that is trying to be passed that is
3 really putting us in jeopardy, which I think is not going to
4 be passed because it's illegal.
5 That clearly states that we could not rebuild our
6 homes.
7 Thank you very much.
8 CHAIRMAN CORY: Thank you.
9 MR. NORTHROP: Mr. Chairman, along that line, the
10 Marin County Board of Supervisors today has this on their
11 Agenda and because we have it on ours, they have, I under-
12 stand, postponed action until later.
13 MS. WAY: Yes. They have delayed action until
14 July, but it still is a public hearing that maybe I will
15 attend later this afternoon.
16 CHAIRMAN CORY: Thank you very much.
17 MR. NORTHROP: Speaking on the same subject,
18 Mr. Chairman, I would imagine that Mr. Herbert H. Angress,
19 he is a real estate broker from Tomales Bay Realty, is here
20 and I assume he is talking to the same subject.
21 MR. ANGRESS: Mr. Chairman and Members of the
22 Commission, I was made aware, as Ms. Way was, by your own
23 staff of this meeting here today, and basically it came to
24 my attention through the Marin County Board of Supervisors
25 who are considering today regulations pertaining to titles

1 subject to the public trust easement. And it became very
2 clear that it would be extremely difficult to rebuild a
3 home that would burn down in Marin County if more than 75
4 percent of the structure was destroyed.
5 All I would really like to ask you and urge you is
6 to recognize that many improvements have been built on
7 tidelands in the Marin County area and I think there are
8 other areas in the State that it also has occurred.
9 People are confused, and I myself am confused.
10 Most of the real estate that I am selling consists of
11 improved homes on tidelands. There are about a hundred homes
12 on Tomales Bay, I would say, that are on tidelands. And the
13 first question people ask me, you know, with Marks versus
14 Whitney and the Coastal Commission, "Can we rebuild our
15 homes?"
16 And my answer always has to be "I don't know."
17 After Marks versus Whitney was passed, County
18 Counsel wrote all the property owners that had homes on
19 tidelands and he flatly stated that in general terms this
20 land cannot be used for buildings, lands subject to Marks
21 versus Whitney. The result of that was, and I was the lucky
22 guy that had a house in escrow on tidelands, and the Title
23 Insurance and Trust Company simply refused to issue title
24 insurance. The people that owned the house and were trying
25 to sell it had to make other commitments and they are faced

1 with foreclosure. And it took the Attorney General's
2 intervention to change the Title Company's mind.
3 Subsequently, Marin County's representative,
4 Representative Bear, introduced the bill and that resulted
5 in 5312, which would compensate people for their losses in
6 case the State tells them to remove buildings. County
7 Counsel originally interpreted that the State had the perfect
8 right to tell them to take your house off here without
9 compensation. Then, later on at a meeting in Marin County,
10 the annual meeting of the Tomales Bay Association on
11 August 22, 1974, the question was raised about rebuilding
12 improvements of losses due to fire, and the Marin County
13 Counsel replied that the current attitude of the Attorney
14 General's Office was that a property owner does have the
15 right to rebuild using the same area as long as it doesn't
16 interfere with public access.
17 Now Marin County is considering an additional
18 regulation pertaining to Marks versus Whitney, where that
19 clearly is not the case. And I just ask you to statewide
20 give us some guidelines so that we know that if I have a
21 client who asks me "Can I rebuild or can't I rebuild,"
22 that I can give him some reasonable answer, yes or no, which-
23 ever.
24 CHAIRMAN CORY: Okay. The staff has indicated
25 that there will be some hearings on regulations in the

1 relatively near future on that. I cannot speak to you as to
2 what the law is but I would strongly suggest that if you are
3 selling property subject to the tideland's easement, you have
4 a rather strong moral obligation, it would seem to me, to
5 inform the prospective purchaser that they are really in a
6 very difficult position.
7 And I would guesstimate, not as an attorney, but
8 having some experience in the Legislature and having
9 attorneys talk to me a lot, that the cold, hard facts are
10 that you have got a shot at getting compensation for
11 property, the actual improvements, but you aren't going to
12 get anywhere in terms of getting anything for that land if
13 the State feels the public needs to take it.
14 That is a bitter pill but it seems to me that the
15 moral obligation rests rather clearly with the realtor in
16 this situation to inform the prospective buyer.
17 Now, I don't know how you close a deal with that
18 kind of a problem, but therein I think is the rub of
19 professional ethics.
20 The title companies have -- I have never been
21 impressed with bond counsel or title companies, frankly, but
22 that is what they are supposed to do. But you have to have
23 a pretty good staff of lawyers to end up with the type of
24 policy that is worth a tinker's damn in terms of really doing
25 anything for you. And that's the tough part of this business

1 But we appreciate your comments and we will make
2 sure that you are contacted with respect to the regulations
3 concerning tidelands property so that the area in Tomales
4 Bay which affects your life can be aware of what we are
5 doing.
6 MR. ANGRESS: Thank you. That's all I wanted.
7 COMMISSIONER DYMALLY: Just a little historical
8 background on this. It was this incident that gave birth
9 to the Lands Commission. An appointee of the Governor sold
10 some land in Southern California and the title company gave
11 title to the land. When it was discovered that they gave
12 title to State land, they were faced with bankruptcy and the
13 Legislature in that instance gave title to the land to Long
14 Beach. And as a result of which in that scandal, this
15 Commission was born.
16 So we have to be sure that we don't get into
17 another scandal.
18 [Laughter.]
19 MR. NORTHROP: Mr. Chairman, that completes the
20 staff's presentation on this.
21 CHAIRMAN CORY: Did the Attorney General have
22 anything to say?
23 MR. TAYLOR: We worked with the staff in the
24 preparation of this item and we concur in the staff's
25 recommendation, Mr. Chairman.

1 [Thereupon Commissioner Bell left the room.]

2 CHAIRMAN CORY: Do you think Roy Bell is trying to

3 tell us something?

4 [Laughter.]

5 CHAIRMAN CORY: We are ready for action.

6 COMMISSIONER DYMALLY: So moved.

7 CHAIRMAN CORY: Governor Dymally moves and I will

8 second that the resolution, as presented to us, be adopted

9 without amendment.

10 Without objection, such will be the order.

11 The record will show that Mr. Bell is out of the

12 room and there are two votes for it.

13 Moving on on the Agenda to Agenda Item 5, Permits

14 and Easements. Item (A), the Shell Chemical Company.

15 MR. NORTHROP: Mr. Chairman and Governor, the

16 Shell Chemical Company has a lease in excess of 20 acres

17 and they are asking that that lease to be reduced to 2.72

18 acres and the rental be reduced from $1764 per year, to

19 $1,026.90 per year.

20 And we accept the quit claim deed from the

21 lessee.

22 COMMISSIONER DYMALLY: So moved.

23 CHAIRMAN CORY: Without objection, such will be

24 the order.

25 Item (B), Recreational Permits.

1 MR. NORTHROP: Mr. Chairman, these recreational
2 pier permits are in line with the recommendations made by the
3 Governor at the meeting before last. These are for five years
4 and all the piers comply with Building Codes of the area in
5 which they are constructed.
6 COMMISSIONER DYMALLY: So moved.
7 CHAIRMAN CORY: Without objection, such will be the
8 order.
9 MR. NORTHROP: Mr. Chairman, the next item is a
10 Burmah Oil and Gas Lease. It is a redrill of an area in an
11 on-shore location. The increase in revenue to the State is
12 considerable on this particular lease.
13 COMMISSIONER DYMALLY: So moved.
14 CHAIRMAN CORY: Governor Dymally moves and without
15 objection, such will be the order.
16 6 (B).
17 MR. NORTHROP: Mr. Chairman, this is a dredging
18 permit by the Port of Oakland for dredging some 49,000 cubic
19 yards. All spoilage will be deposited at the Army-approved
20 site near Alcatraz Island and becomes the property of the
21 State.
22 COMMISSIONER DYMALLY: So moved.
23 CHAIRMAN CORY: Without objection, such will be the
24 order.
25 MR. NORTHROP: Mr. Chairman, the next item. In

1 last month's meeting we approved the 1975-'76 Budget for the
2 Long Beach operation. This Eleventh Modification is to
3 balance out mainly inflation and high utility costs for the
4 balance of 1975. This is Item 7 (A) on the Calendar Summary.
5 COMMISSIONER DYMALLY: So moved.
6 CHAIRMAN CORY: It has been moved and seconded.
7 Without objection, such will be the order.
8 7 (B).
9 MR. NORTHROP: 7 (B) is the approval of Long Beach
10 to expend money to purchase lots in Long Beach.
11 MR. TAYLOR: This is the approval to use tidelands
12 oil revenues for the purchase of three lots on the east
13 beach area to be incorporated into the City's east beach
14 bathing beaches. And that is a proper trust use under
15 Chapter 138.
16 They are asking for approval of the operation --
17 they are notifying us of the expenditure and we have an
18 opportunity to object to it. In this case the staff agreed
19 with a finding that it is within the reasonable discretion.
20 [Thereupon Commissioner Bell returned to his
21 seat.]
22 CHAIRMAN CORY: The property shall be used in
23 perpetuity for recreation only?
24 MR. TAYLOR: Yes.
25 CHAIRMAN CORY: And it will be open to the public

generally?

MR. TAYLOR: Surrounding property is already used for public beaches and this will be incorporated into the public beach.

CHAIRMAN CORY: There is no way that they can use the money for this and then go back and change it later?

MR. TAYLOR: No. The escrows are all open and we are a party to all the escrows.

COMMISSIONER DYMALLY: So moved.

COMMISSIONER BELL: Second.

CHAIRMAN CORY: Without objection, such will be the order.

MR. NORTHROP: Mr. Chairman, Item 8 (A) and the following items are budgetary items. This is the authorization of a contract with the Ace Blue Print Company for drawings and related materials for the Long Beach Office. This has been pursuant to bid procedure.

CHAIRMAN CORY: Low bid?

MR. NORTHROP: This one was a low bid, wasn't it?

MR. GOLDEN: Right, this was low bid.

COMMISSIONER DYMALLY: Mr. Chairman, does it also apply for Items --

MR. NORTHROP: Item (B), Governor Dymally, there may be a question on, Item (C), rather. I would think we ought to discuss that.

1 CHAIRMAN CORY: (A).

2 COMMISSIONER DYMALLY: So moved.

3 COMMISSIONER BELL: Second.

4 CHAIRMAN CORY: Okay. Governor Dymally moves and

5 Mr. Bell seconds.

6 MR. NORTHROP: Item (B), it was a low bidder.

7 COMMISSIONER DYMALLY: So moved.

8 COMMISSIONER BELL: Second.

9 CHAIRMAN CORY: Okay. Without objection, such will

10 be the order.

11 Item (C).

12 MR. NORTHROP: Item (C) is the execution of a

13 contract, while on the face of it the Cartwright Aerial

14 Surveys, Inc., is the winner of the bid based on the volume

15 of business handled by the Commission, it should be pointed

16 out here that Mr. Cartwright of Cartwright Aerial Surveys,

17 Inc., I believe, serves on the Board of Control. Is that

18 right, Mr. Chairman?

19 COMMISSIONER BELL: That is correct.

20 MR. NORTHROP: For that reason I think we should

21 bring that to the Commission's attention and ask if there is

22 someone here to address themselves to that.

23 CHAIRMAN CORY: There was another bidder on that

24 particular item?

25 MR. NORTHROP: Yes, there was another bidder on

1 that particular item. Murray-McCormick, I believe, was the
2 name of it. It is on page 44 of the summary. The
3 differences, as you will see on page 44, they bid three
4 dollars a square foot versus Cartwright's $3.19 a square
5 foot. However, they gave no discount for volume and our
6 volumes run usually 25 sheets or more which means a 20
7 percent discount which brings the price considerably lower.
8 Now, Murray-McCormick has done work for the
9 Commission, I understand, and is aware of our volume but
10 did not offer the discount.
11 CHAIRMAN CORY: Question to the staff. How is it
12 possible that bids are not identical? I mean it seems that
13 somehow the regulation should be drafted or the request for
14 a bid, that they have to bid on the same thing, and either
15 the discount proposal is part of the bid and either one or
16 the other should be thrown out for not meeting the specs.
17 MR. NORTHROP: Mr. Trout.
18 CHAIRMAN CORY: It would keep us out of this bind.
19 MR. TROUT: Mr. Chairman, I think you are correct
20 in Monday morning quarterbacking. We provided at the bottom
21 of the bid form for a provision for discounts if any.
22 Murray-McCormick considered that to mean a cash discount and
23 they put "None." Cartwright considered that, since the
24 camera has a very difficult setup, and we considered
25 recommending rejecting the bids but, since there are only the

1 two firms in Sacramento that do this work and since the bids
2 were already out, they would each know what each other bid
3 and it would make it very awkward to cancel the bids.
4 This is an alternative that the Commission has.
5 You can reject all bids and we can bid again but we only have
6 the two bidders and they now know what each of them bid.
7 MR. TAYLOR: Mr. Chairman, we have reviewed this
8 matter. The discount statement was on the bid. There
9 wasn't anything ambiguous about the fact that there could be
10 a discount expressed. One bidder chose to express a dis-
11 count and the other bidder wrote in the discount location
12 "None." So at least he saw that there was a discount
13 situation there.
14 It is only because he interpreted "discount" to
15 mean something different than the other one. We think that
16 the form put out by the staff was proper, that the bids are
17 proper, and the lowest bid based on volume is the one that
18 has been recommended to you by the staff.
19 COMMISSIONER DYMALLY: Mr. Chairman, based on the
20 Attorney General's opinion, I move that we recommend
21 approval of the bid.
22 CHAIRMAN CORY: The Cartwright bid?
23 COMMISSIONER DYMALLY: Yes.
24 COMMISSIONER BELL: May I just ask, on the discount
25 notation on the bottom, did it indicate discount by volume?

1 MR. TROUT: No. It just said "Discount, if any."
2 Now, I might point out that both bidders contacted
3 the Commission by telephone and both bidders have done an
4 equal amount of work during this fiscal year for the office
5 and are familiar with the volume of business -- in other
6 words, the fact that we have given them in fairly large
7 volume -- and both of them were, as far as we know, equally
8 knowledgeable on the Division's activity.
9 CHAIRMAN CORY: In the future it would seem to me
10 that the staff should draft the things to avoid this
11 situation because where we find ourselves, if we go with
12 Cartwright and we are wrong on the volume of business, we
13 are going to be subject to criticism for accepting the
14 higher bidder who happens to be involved in the governmental
15 family, or we have to go to somebody who is ostensibly at a
16 higher price. And there is no good solution to that dilemma.
17 And that is why it seems to me that although we may be
18 technically within the law, in future bidding we should
19 figure out a way to avoid those situations, and we are talking
20 about roughly a 2,000, $1500 difference, whichever way we
21 guess in terms of being wrong.
22 I am sure that greater mistakes have been made in
23 the anals of government. However, I try to avoid them.
24 MR. TAYLOR: Mr. Chairman, I think it is known.
25 The quantity is known. In other words, we have the orders

1 on file at the present time to know and be assured that we
2 will have that volume, so I don't think there is any mis-
3 understanding.
4 CHAIRMAN CORY: Is that correct, in terms of the
5 staff, you know you will place them?
6 MR. TROUT: Yes, Mr. Chairman. We are completely
7 in control in the sense that we can save up our orders until
8 we submit them in units of 20 or more, and the staff has
9 already been instructed that if you concur in the recommenda-
10 tions, that that is the way we would handle it.
11 COMMISSIONER BELL: And that is the way you would
12 have done it either way?
13 MR. TROUT: That is the way we have in the past
14 been doing it practically.
15 COMMISSIONER BELL: Okay. Okay, Cartwright.
16 COMMISSIONER DYMALLY: So moved.
17 COMMISSIONER BELL: I will second.
18 CHAIRMAN CORY: Governor Dymally moves and
19 Commissioner Bell seconds that the Cartwright bid will be
20 approved.
21 Without objection, such will be the order.
22 COMMISSIONER DYMALLY: I want it clear that I
23 don't know Mr. Cartwright or know anything about the firm.
24 COMMISSIONER BELL: I don't either, frankly,
25 Governor.

1 MR. NORTHROP: Mr. Chairman, Items (D), (E), and
2 (F) are computer contracts.
3 One of them is for Control Data Corporation to
4 do the equity work that is necessary with the Long Beach
5 unit. At a contract not to exceed $1500.
6 CHAIRMAN CORY: Shall we take them as a group?
7 MR. NORTHROP: Yes.
8 CHAIRMAN CORY: Proceed.
9 MR. NORTHROP: The second one is with IBM for
10 fiscal and peripheral work.
11 COMMISSIONER DYMALLY: I move (D), (E), and (F).
12 CHAIRMAN CORY: Governor Dymally moves (D), (E),
13 and (F).
14 COMMISSIONER BELL: Second.
15 CHAIRMAN CORY: Mr. Bell seconds.
16 Without objection, such will be the order.
17 Item (G).
18 MR. NORTHROP: Item (G) is a renewal service
19 contract that we have, a renewal helicopter contract, or at
20 least permission to go to bid for surveillance and monitoring
21 of oil spills in the Santa Barbara Channel and to make
22 unscheduled inspections on the off-shore facilities.
23 CHAIRMAN CORY: Is this actually used?
24 Is this contract that is being put out to bid for
25 a flat fee, minimum fee, or only if we utilize it based upon

1 some hourly basis?

2 MR. NORTHROP: What it is, it is an hourly basis

3 with a floor. We guarantee so much and then above that we

4 pay on an hourly basis.

5 CHAIRMAN CORY: What is the floor?

6 MR. NORTHROP: The floor is -- Do you have the

7 floor on that?

8 CHAIRMAN CORY: The maximum is 15 grand?

9 COMMISSIONER BELL: Yes, you have to have so much.

10 MR. NORTHROP: I believe 15 is the floor on that.

11 CHAIRMAN CORY: No, 15 is the max.

12 MR. NORTHROP: All right, max.

13 COMMISSIONER DYMALLY: Moved.

14 COMMISSIONER BELL: Second.

15 CHAIRMAN CORY: It has been moved and seconded.

16 Without objection, such will be the order.

17 (H).

18 MR. NORTHROP: 8 (H) and (I), which we can

19 probably take as a group and split off. The staff has been

20 conducting hearings on a new Administrative Code for

21 rentals. We have held the hearings and come to the

22 recommendation that the flat rentals that we have been

23 assessing should be increased from six to eight percent.

24 However, there has been and there seems to be

25 very little objection in our hearings to this increase in

1 amount.

2 However, the pipeline throughput concept has run

3 into considerable objection in the petroleum industry as

4 well as among the public utilities.

5 And the staff would like to take an additional

6 90 days and discuss that and have additional hearings on

7 that concept, and hammer out a rental program. While it

8 would perhaps not be acceptable to the oil industry or all

9 of industry, it would at least give us a chance to put

10 together a meaningful rental program. And that's (H).

11 CHAIRMAN CORY: (H) and (I)?

12 MR. NORTHROP: (H) is the emergency meeting, and

13 excuse me. (H) is the emergency meeting.

14 CHAIRMAN CORY: To authorize us in emergencies

15 to move quicker than the seven days.

16 MR. NORTHROP: Fine.

17 COMMISSIONER DYMALLY: So moved.

18 COMMISSIONER BELL: Second.

19 CHAIRMAN CORY: Governor Dymally moves and

20 Mr. Bell seconds on the emergency regulation.

21 COMMISSIONER BELL: I was amazed to find that we

22 didn't have one.

23 CHAIRMAN CORY: Without objection, (H) will be

24 approved.

25 (I) is splitting?

1 MR. NORTHROP: (I) is splitting, right.

2 We have a Mr. Strengell, Manager of Engineering

3 of Calnev Pipe Line Company. I believe Calnev is a

4 subsidiary of Southern Pacific, is that correct?

5 MR. STRENGELL: No, it is a subsidiary of Union

6 Pacific.

7 MR. NORTHROP: Union Pacific, I'm sorry.

8 CHAIRMAN CORY: Did you want to speak to splitting

9 these two items up? If we go as the staff recommends to

10 approve the other rental items, and put the throughput

11 charge over for additional hearings, do you still have

12 something you'd like to say?

13 MR. STRENGELL: I'd still like to comment anyway,

14 just in case.

15 CHAIRMAN CORY: Have at it. The mike is yours.

16 Identify yourself and go to it.

17 MR. STRENGELL: Just in case we have some future

18 consideration of charges like this.

19 Mr. Chairman and Commissioners, my name is Paul

20 Strengell and I am Manager of Engineering for Calnev Pipe

21 Line Company.

22 I would like to make a statement in opposition to

23 the proposed increase in charges for use of State lands for

24 pipeline occupancy as recommended in amendments and changes

25 dated March 31, 1975. We consider that the result of the

1 proposed throughput charges is to levy a tax on pipeline
2 transportation and has no relationship whatever to fair
3 or reasonable charges or rental based on value of State lands.
4 Calnev is a subsidiary of the Union Pacific
5 Corporation and is classed as an independent pipeline
6 carrier which is non-shipper owned. We are a common carrier
7 reporting to, and filing tariffs with, the Interstate
8 Commerce Commission for inter-state movements from California
9 to Nevada. Additionally, for movements in California,
10 Calnev is a public utility and common carrier filing intra-
11 state tariffs with and regulated by the California Public
12 Utilities Commission.
13 Calnev is in the business of pipeline transporta-
14 tion. We have no ownership whatsoever in the commodity
15 moving through the line nor are we involved in oil
16 production, refining or the ultimate use of petroleum
17 products. We are simply a common carrier engaged in public
18 transportation. We transport jet fuel for the United States
19 Air Force, turbine fuel for major airlines, diesel fuel for
20 major railroads and truck lines and gasoline for the public
21 in general.
22 Calnev now possesses a 50-foot right-of-way
23 strip across two separate tracts of State land in
24 California; one 2500 feet in length and the other 1104 feet
25 in length. Both tracts are located in remote desert areas

1 at the extreme eastern edge of San Bernardino County in the
2 Mojave Desert. The combined area of both tracts equals
3 4.14 acres.
4 At the present time, Calnev is paying $504 per
5 year for the use of these rights of way which is based on
6 one cent per diameter inch per lineal foot per year for a
7 14-inch pipeline. As we understand the proposed changes,
8 the charges for transmission pipelines occupying State lands
9 would increase from the present formula to a schedule of
10 charges based on barrels of throughput and related to the
11 length of the parcels.
12 At current throughput levels, the new charges to
13 Calnev for occupancy of these two tracts would increase to
14 $183,209 per year, an increase of 36,000%. This would
15 result in a cost of $44,250 per acre per year for rent on
16 undeveloped desert property and constitutes a charge equal
17 to four percent of our total tariff to Las Vegas.
18 We believe that such a proposed increase is
19 arbitrary, unreasonable and wholly unrelated to reasonable
20 compensation for the land used. We further believe that
21 such an increase must ultimately be born by the shipper
22 which in the end will place an undue burden on the consumer.
23 I thank you for the opportunity to appear here
24 today.
25 CHAIRMAN CORY: I have a question, sir.

1 When the regulation on diameter inch was imposed,
2 did you oppose those fees?
3 MR. STRENGELL: I personally felt they were a bit
4 unreasonable in regard to the property you were crossing.
5 CHAIRMAN CORY: Did you oppose it?
6 MR. STRENGELL: These types of charges are in
7 effect in many cities at the present time so we had a
8 precedent set there already.
9 CHAIRMAN CORY: It just seemed to me that your
10 basic argument, not having relationship to the property
11 charge you are now paying, bears very little relationship
12 to the value of the property on so much per diameter inch
13 of pipeline.
14 There is something missing in your logic. I
15 understand the economics of your argument but I wasn't sure
16 that --
17 MR. STRENGELL: I will agree with you there. I
18 think both our logics are probably diverting somewhat, but
19 I can't see any logic in the other charges at all. Actually
20 they should be based, I believe, on the actual value of the
21 land. That is a reasonable charge, the value of the
22 property that you are using.
23 CHAIRMAN CORY: If we adopt the 8 (I) as presented,
24 you will have additional hearing opportunities --
25 COMMISSIONER BELL: Ninety days.

1 CHAIRMAN CORY: -- in the next 90 days to go
2 ahead with it.
3 Thank you very much.
4 Anyone else?
5 MR. NORTHROP: Western Oil and Gas has indicated
6 they would like to speak.
7 MR. McCLINTOCK: Mr. Chairman and Members of the
8 Commission, my name is Greg McClintock, and I am appearing
9 here today as attorney for the Western Oil and Gas
10 Association.
11 I had intended to make comments regarding the
12 need for additional time both, I believe, for the staff to
13 study the proposed regulations and also for the oil industry
14 to study and comment upon those regulations. And in light
15 of what the staff is proposing, the 90 days, I think, would
16 give us the time which the industry needs. This should take
17 care of that problem.
18 The other matter which I wish to address myself
19 to was certain legal issues which are presented by the
20 regulations as presently drafted.
21 However, in light of the fact again that the staff
22 is proposing to give these regulations further study, I
23 don't think it is necessary that I make those comments at
24 this time and it would probably be more appropriate if we
25 addressed our legal arguments to the staff and gave them an

1 opportunity to consider those arguments and comment thereon.
2 For that reason I will cut my remarks short unless
3 the Commission or any Member of the Commission appears
4 inclined to disagree with the staff recommendation in which
5 case I would like to proceed.
6 CHAIRMAN CORY: Your concerns are only with the
7 throughput charge and you realize we are adopting everything
8 other than throughput at this point?
9 MR. McCLINTOCK: Yes.
10 CHAIRMAN CORY: Mr. Bell.
11 COMMISSIONER BELL: No, I can assure you that I
12 plan to accept the staff recommendation.
13 MR. McCLINTOCK: Fine, very good. In that event
14 I will cut my remarks short and thank you very much for the
15 opportunity to speak.
16 MR. NORTHROP: Mr. Chairman, there is a change
17 that Mr. Trout had.
18 MR. TROUT: System bites man or something. In any
19 event, in the bureaucracy of adopting regulations pursuant
20 to Senate Bill 90, and mandated local costs, we found that
21 we had an outdated statement on page 52, Recommendation
22 No. 3.
23 And in lieu of the statement that is there -- I
24 haven't had time to have it typed and reproduced, but I'd
25 like to read it to you, the amended language we would like

1 to have you adopt in place of that in Item 3.

2 The language is, "Determine there are no State

3 mandated local costs in this regulation that require re-

4 imbursement under Section 2231 of the Revenue and

5 Taxation Code because there is an option as to compliance.

6 And in the alternative, notwithstanding Section 2231 of the

7 Revenue and Taxation Code, there shall be no reimbursement

8 pursuant to this regulation because duties, obligations or

9 responsibilities imposed on local governmental entities by

10 this regulation are such that related costs are incurred

11 as a part of their normal operating procedures."

12 We believe that this will make the regulation

13 consistent with the provisions of Senate Bill 90, Section

14 2231 and the State Administrative Manual sections that now

15 govern.

16 MR. NORTHROP: Thank you, Jim,

17 Mr. Chairman, also in this is subpoena power for

18 the staff to get information.

19 CHAIRMAN CORY: Any questions?

20 COMMISSIONER BELL: I recognize your language as

21 that which is advocated by our department to all agencies

22 in the State.

23 MR. TROUT: It came from your predecessor.

24 COMMISSIONER BELL: Therefore it's good.

25 [Laughter.]

1 CHAIRMAN CORY: Mr. Bell moves?

2 COMMISSIONER BELL: I will so move with --

3 CHAIRMAN CORY: With the amendments.

4 COMMISSIONER BELL: -- with the amendments which

5 merely change the language.

6 CHAIRMAN CORY: Governor Dymall seconds?

7 COMMISSIONER DYMALLY: Giving due praise.

8 CHAIRMAN CORY: Without objection, such will be

9 the order.

10 MR. NORTHROP: Mr. Chairman, we are asking

11 approval of preliminary maps, which start on page 56, on

12 Donner Lake.

13 CHAIRMAN CORY: Any questions or comments on the

14 approval of preliminary maps, 9 (A)?

15 COMMISSIONER DYMALLY: So moved.

16 COMMISSIONER BELL: Second.

17 CHAIRMAN CORY: Governor Dymally moves and

18 Mr. Bell seconds.

19 Without objection, such will be the order.

20 10. We have a list of concurrent jurisdictions

21 for Federal --

22 MR. NORTHROP: Mr. Chairman, the Commission has

23 discussed this preliminarily and Mr. Richard Golden will

24 speak to it now.

25 MR. GOLDEN: Mr. Chairman, this is just to cede

1 jurisdiction so the Federal and the State regulations will
2 govern over these areas.
3 COMMISSIONER BELL: This is really the right way
4 to do it, isn't it?
5 MR. GOLDEN: Yes, it is. It's the only way in
6 the Code to proceed.
7 COMMISSIONER DYMALLY: So moved.
8 COMMISSIONER BELL: Second.
9 CHAIRMAN CORY: Governor Dymally moves and
10 Mr. Bell seconds.
11 Without objection, they are therefore approved as
12 presented.
13 11 (A).
14 MR. NORTHROP: Mr. Chairman, 11 (A) and (B) are
15 two requests for litigation. One is to get from the
16 United States Department of Agriculture monies due to the
17 State Lands for State timber that was sold. And I guess the
18 only way they can get the money back to us is for us to take
19 this kind of action.
20 Secondly --
21 COMMISSIONER BELL: So moved.
22 COMMISSIONER DYMALLY: Second.
23 CHAIRMAN CORY: Mr. Bell moves and Governor
24 Dymally seconds.
25 Without objection, such will be the order.

11 (B).

MR. NORTHROP: Secondly, we were trying to get the Federal Government to acknowledge our ownership or at least get proprietary ownership of some Geothermal lands in Surprise Valley.

COMMISSIONER DYMALLY: So moved.

COMMISSIONER BELL: Second.

CHAIRMAN CORY: It has been moved and seconded.

Without objection, 11 (B) will be approved.

MR. TAYLOR: No action on (C). We have a meeting with the Commission on the 4th to discuss this.

MR. NORTHROP: Routinely, the City of Seal Beach has asked for approval of a proposed annexation to their beach property.

CHAIRMAN CORY: Does that relate to any of the minerals?

MR. GOLDEN: No, sir. This just has to do with approving the boundaries that they have adopted locally for the extension of the jurisdiction of the City.

CHAIRMAN CORY: What if we ended up doing what HuntingtonBeach is, and the County, Orange County's constant attempt to get tideland revenues for beach maintenance?

You know Burke always carries the bill.

MR. NORTHROP: Mr. Chairman, we are still working on that with the City of Huntington Beach, Mr. Chairman.

1 CHAIRMAN CORY: Okay. So we aren't affecting
2 that?
3 MR. NORTHROP: It has nothing to do with that, no.
4 CHAIRMAN CORY: Okay. Annexation?
5 COMMISSIONER BELL: I have no problem with that.
6 I would recommend that it be approved.
7 COMMISSIONER DYMALLY: Second.
8 CHAIRMAN CORY: Mr. Bell moves and Governor
9 Dymally seconds.
10 Without objection, such will be the order.
11 13 (A).
12 MR. NORTHROP: Mr. Chairman, this is a finalization
13 of a contract or an agreement with Atlantic Richfield
14 which was completed at the last Commission meeting.
15 However, there was some language change suggested
16 and the staff has worked with ARCO and has Item 6 on page
17 89 as the finalization of that language.
18 COMMISSIONER DYMALLY: So moved.
19 CHAIRMAN CORY: Governor Dymally moves --
20 COMMISSIONER BELL: I will second.
21 CHAIRMAN CORY: Mr. Bell seconds.
22 Without objection, such will be the order.
23 MR. NORTHROP: Mr. Chairman, the next meeting is
24 in Sacramento.
25 CHAIRMAN CORY: The meeting will be June 23rd,

at 10:00 a.m., in Sacramento.

Is that the fourth Tuesday?

MR. NORTHROP: Do you have a problem with the fourth Tuesday?

MR. BELL: No, I thought all our meetings were on the fourth Tuesday.

COMMISSIONER DYMALLY: It was changed because I am supposed to go to Washington.

COMMISSIONER BELL: Oh, okay.

CHAIRMAN CORY: We stand adjourned.

[Thereupon the May 27th meeting of the State Lands Commission was adjourned at 12:00 o'clock noon.]

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State of California)
) ss.
County of **Sacramento**)

I, RONALD J. PETERS, a Notary Public in and for the County of Sacramento, State of California, duly appointed and commissioned to administer oaths, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission Meeting was reported in shorthand by me, Ronald J. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 23rd day of June, 1975.

Ronald J. Peters

Ronald J. Peters
Notary Public in and for the County of Sacramento, State of California

OFFICIAL SEAL
RONALD J. PETERS
NOTARY PUBLIC CALIFORNIA
COUNTY OF SACRAMENTO
My Commission Expires August 29, 1976

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