

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MEETING

STATE LANDS COMMISSION

ROOM 2117

STATE CAPITOL

SACRAMENTO, CALIFORNIA

ORIGINAL

TUESDAY, JANUARY 26, 1978

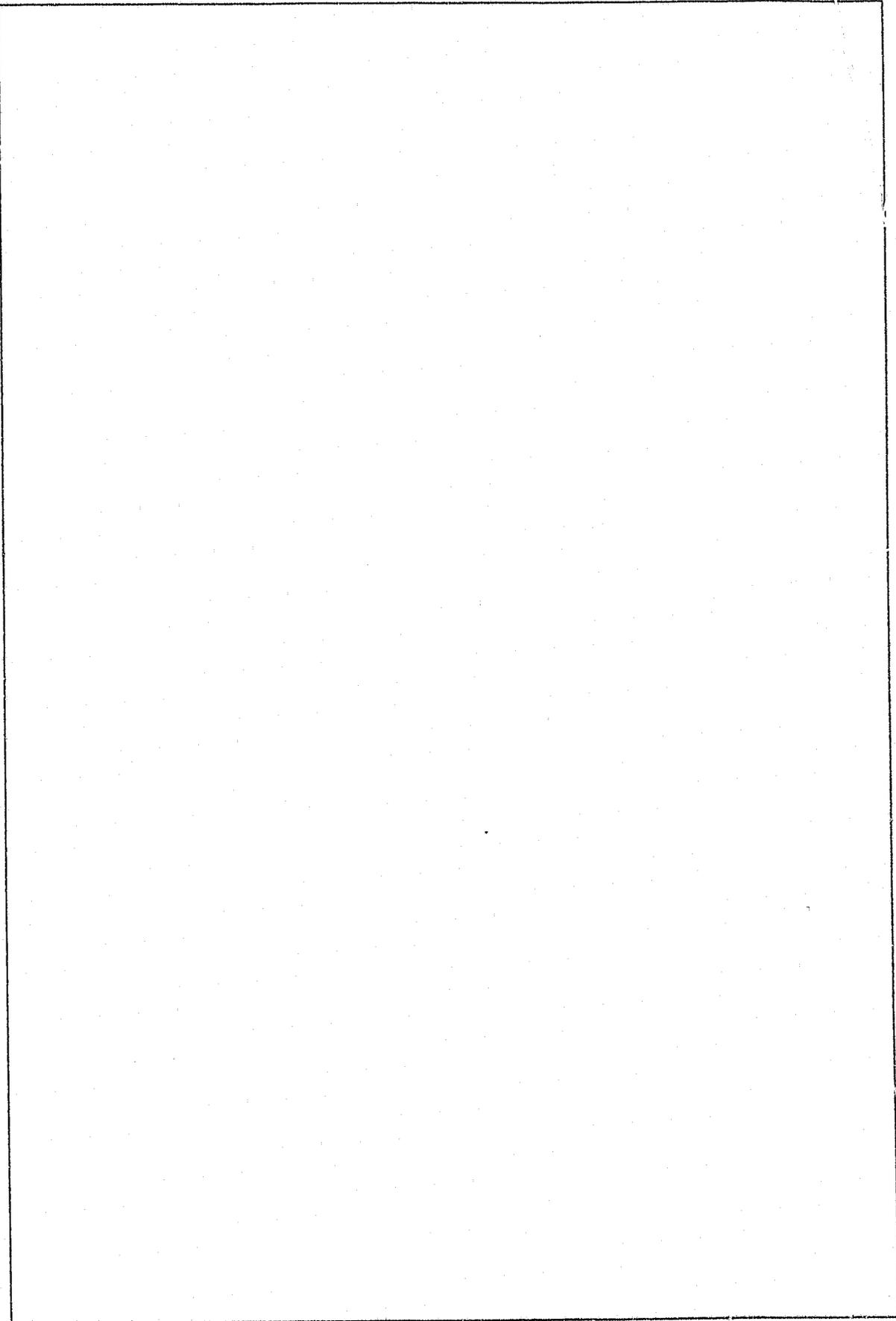
10:00 A.M.

Wendy E. Schiller

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MEMBERS PRESENT

- Hon. Kenneth Cory, Controller, Chairman
- Mr. Sid McCausland
- Ms. Betty Jo Smith

STAFF PRESENT

- William F. Northrop, Executive Officer
- Mr. R. S. Golden
- Mr. James F. Trout
- Mr. Robert C. Hight
- Mr. Don Everitts
- Mr. W. T. Thompson
- Ms. Diane Jones, Secretary

ALSO PRESENT

- Mr. Dennis Eagan
- Mr. Jan Stevens
- Mr. Alan Hager

I N D E X

	<u>Page</u>
1	
2	
3	1
4	1
5	
6	2
7	
8	4
9	5
10	
11	7
12	
13	8
14	8
15	8
16	9
17	11
18	11
19	14
20	15
21	17
22	18
23	18
24	19
25	20

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
 SACRAMENTO CALIFORNIA 95826
 TELEPHONE (916) 383-3601

	<u>Page</u>
1 INDEX (CONTINUED)	
2 Calendar Item 34	24
3 Calendar Item 35	24
4 Calendar Item 36	25
5 Calendar Item 37	26
6 Calendar Item 38	27
7 Calendar Item 39	29
8 Calendar Item 40	30
9 Calendar item 41	31
10 Calendar Item 42	31
11 Calendar Item 44	32
12 Calendar Item 45	33
13 Calendar Item 46	36
14 Calendar Item 47	37
15 Mr. William Everts	37
16 Calendar Item 48	38
17 Calendar Item 49	39
18 Calendar Item 50	40
19 Calendar Item 51	40
20 Calendar Item 52	46
21 Calendar Item 53	46
22 Calendar Item 54	47
23 Mr. Jan Stevens	47
24 Berkeley Waterfront	
25 Mr. Dennis Eagan	48

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 113
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1	INDEX (CONTINUED)	<u>Page</u>
2	AFTERNOON SESSION	52
3	Calendar Item 33	
4	Mr. Joe Loeb, Aminoil	53
5	Reporter's Certificate	56
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

--oOo--

1
2
3 CHAIRMAN CORY: Call the meeting to order, and
4 we'll take care of some of our housekeeping chores while
5 we await the arrival of Governor Dymally's representative.
6 We have a relatively long agenda today. I do not see how
7 we can possibly complete the agenda before lunch, and
8 acknowledging that fact beforehand might keep everybody in
9 a better frame of mind if in fact they have an opportunity
10 to eat lunch. For that reason, the calendar will be handled
11 in a way, for those of you are here on various items, we
12 will try to get through all of the calendar save the natural
13 gas pricing before lunch.

14 Plan on breaking for a lunch break and coming
15 back -- I don't know -- depending on when we get through,
16 1:30, 2:00, to reconvene to deal with the gas pricing. So,
17 those of you who want to allocate your time accordingly can
18 know that. We will have an executive session on litigation
19 problems. We will do that prior to the Commission itself
20 going to lunch. So, those staff people and people in the
21 audience who are interested in our calendar and how we're
22 going, we now have all of the members here and we will
23 proceed with the agenda, confirmation of minutes.

24 Any corrections or additions?

25 Without objection, the minutes will be confirmed

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 as presented.

2 Mr. Northrop, do you have reports?

3 EXECUTIVE OFFICER NORTHROP: Yes, Mr. Chairman.

4 In my September 29th, 1977 report to you, I discussed the
5 creation of the Motion Picture Development Council by
6 Government Code Section 14998. The Council was created
7 to promote the making of commercial motion pictures in
8 California, and the Code provides for the Council to issue
9 permits and establish fees to be paid to the Council for
10 the use of State-owned property. The Council collects its
11 fees for reimbursement to the operating departments for
12 the additional costs and the further support of the Council.
13 We will have a recommendation in the form of a calendar
14 item outlining future procedures for your consideration
15 at the Febraury meeting.

16 However, on Tuesday, January 24, the Council
17 requested the Commission's approval for the filming next
18 week of running an automobile from the old Fair Oaks/Sunrise
19 Bridge into the American River. The Film Location Industry
20 Council of Sacramento, whose coordinator is Sharon Shell,
21 is assisting the Council in obtaining the local approvals.
22 The automobile will have no gasoline or motor oil and will
23 be removed by the company making the film. Because of
24 the conditions that will be followed by the filming
25 industry and the --

PETERS SHORTHAND REPORTING CORPORATION

1700 COLLEGE TOWN DRIVE SUITE 211
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 381-3001

1 CHAIRMAN CORY: What will be removed, oil and gas

2 EXECUTIVE OFFICER NORTHROP: The car and all the
3 stuff that falls into the river. And the reason for this
4 calendar item, Mr. Chairman, is because of the short fuse
5 on the notice it becomes impossible to get a Commission
6 meeting for approval. What this report is about is next
7 Commission meeting we were asking approval for this one
8 even though it's --

9 CHAIRMAN CORY: Any objection from the members?

10 MR. McCAUSLAND: No.

11 CHAIRMAN CORY: Do they have anybody? Do they
12 need people in the car that they're going to run off? I
13 have some candidates.

14 EXECUTIVE OFFICER NORTHROP: I have a couple
15 candidates, Mr. Chairman.

16 (Laughter.)

17 EXECUTIVE OFFICER NORTHROP: That concludes with
18 a couple of items. Items C3 and C9 have a new legal
19 description. When you get to that point, we would like to
20 insert them into the record.

21 Items 27, 28 and 43 are off calendar.

22 That completes my report, Mr. Chairman.

23 CHAIRMAN CORY: Okay. If we can interrupt here
24 to accommodate some people's time, I think we have an item
25 before we get to the Assistant Executive Officer's report,

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 which we will get back to, there is Item 22. We have some
2 people that would like to talk to us on that item.

3 SENATOR BAER: I'm Senator Peter Baer, and I
4 represent a part of the state within which this item falls.
5 With me --

6 CHAIRMAN CORY: Did you bring your assistant?

7 (Laughter.)

8 SENATOR BAER: What happened is this, and the
9 staff recommends that our district, Humboldt Bay Harbor,
10 Recreation and Conservation District, be given some special
11 consideration under special circumstances. The District
12 was required to initiate litigation on State lands because
13 of actually few encroachments on District lands on Samoa
14 Peninsula and needed to do the necessary mapping for the
15 litigation. The estimate from the State Lands Division
16 was \$123,796, and there was a time constraint in getting
17 proper mapping done. So, with the blessing of the Division,
18 the District turned to Winzler and Kelly, which is a well-
19 known surveying and engineering firm in Eureka, which submitted
20 an estimate of \$65,000, and in addition to a firm in Long
21 Beach, Moffatt and Nichols, also very well-known, highly
22 regarded I'm told, assisted Winsler and Kelly.

23 So, the job was done. It was done on time, and
24 the issue here is whether or not in reviewing the work done
25 by these two reputable engineers it may be possible to, under

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 the circumstances, waive the usual cost, administrative
2 costs, of reviewing the work, which are estimated between
3 10 and \$20,000; and under the circumstances, we are pleased
4 to see that your staff has felt that there is justification
5 for this consideration. I'm here briefly to thank the
6 staff and recommend that the Commission follow its recommenda-
7 tion.

8 CHAIRMAN CORY: Mr. Keene, you are likewise so
9 disposed?

10 ASSEMBLYMAN KEENE: I really have nothing to add
11 that would be other than superfluous. It should be pointed
12 out that in addition to the duplication and additional
13 expenditures, the State's cases and the District's cases
14 in the pending litigation might be jeopardized by any delays.
15 Of course, the public interest might be so jeopardized as
16 well.

17 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, in this
18 calendar item is a recommendation that the Commission support
19 an augmentation of about \$22,000.

20 MS. SMITH: This doesn't set any precedent in terms
21 of review of any other surveys that are done by the District?

22 EXECUTIVE OFFICER NORTHROP: If the Commission
23 would -- I think that's worthwhile stipulating.

24 CHAIRMAN CORY: Stipulating that this is not
25 precedent, this is an individual case based upon the prior

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 983-3601

1 expenditures, litigation and the involvement of that litiga-
2 tion.

3 MR. McCAUSLAND: I think this is extremely unique
4 litigation, and we're cognizant of the burden which we
5 have placed on a very small economic base to support that
6 litigation. We'll be lenient and cooperative in this
7 particular case. It should not be considered a precedent.

8 CHAIRMAN CORY: I would presume that the kind
9 of cooperation will continue on the part of the legislators
10 when we come upstairs with our budget.

11 SENATOR BAER: I presume that and hope it's not
12 a rebuttable presumption.

13 (Laughter.)

14 MS. SMITH: With that stipulation, I have no
15 problems with it.

16 CHAIRMAN CORY: Without objection, then?

17 MR. McCAUSLAND: Well, if it can be rebuttably
18 done without objection.

19 (Laughter.)

20 CHAIRMAN CORY: Item 22 is approved as presented.
21 Thank you for adding dignity to our discussions this morning.

22 MR. McCAUSLAND: I'd like to thank you for
23 complimenting staff, too. Most of the people on today's
24 calendar are not here to compliment staff.

25 SENATOR BAER: Staff is always complimented when

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 it's moving in your direction in showing that judgment.
2 Thank you very much.

3 (Laughter.)

4 CHAIRMAN CORY: Okay. The Assistant Executive
5 Officer, Mr. Golden.

6 MR. GOLDEN: Due to the length of today's agenda,
7 this report on activities of the Coastal Commission will
8 be brief.

9 The State Coastal Commission is beginning its
10 reviews of the Issue Identification and Work Program phases
11 of the Local Coastal Programs. Permit matters still
12 predominate, however.

13 Greg Taylor and members of your staff met with the
14 North Coast Regional Commission and other interested local
15 jurisdictions in Eureka to work out the proper procedures
16 for dealing with public trust findings under the Coastal Act.

17 Procedures for the proper handling by State Lands
18 Commission of private development projects on public trust
19 lands are yet to be fully defined. This matter is being
20 pursued with the Attorney General's office.

21 That concludes my report, Mr. Chairman.

22 CHAIRMAN CORY: Questions by members?

23 Okay. The executive session will, for mechanical
24 convenience, take place prior to breaking for lunch.

25 The next items are the consent calendar items. You

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 have some --

2 EXECUTIVE OFFICER NORTHROP: Legal descriptions
3 on C3 and C9. I will give it to Mr. Trout, I believe.

4 MR. TROUT: Mr. Chairman, both C3 and C9 include
5 within the area sole border tidelands commissioner's lots,
6 and the legal description amendment is simply to include
7 within the private or public agency claims of border
8 tidelands commissioner's lots in the lease whatever interest
9 the State Lands Commission may have within those areas.
10 The basic transaction remains identical.

11 CHAIRMAN CORY: Okay. We have now before us,
12 so that those of you in the audience will be aware of what
13 we're about to do, we are going to take all of the consent
14 calendar items, which are designated with the letter "C"
15 in front of the numbers, C1 through C21; and we will take
16 them altogether unless there is anyone in the audience
17 who has particular objection to the proposed action on
18 any of these items.

19 Hearing no objection?

20 MR. McCAUSLAND: No objection.

21 CHAIRMAN CORY: The consent calendar items 1 through
22 21 will be approved as presented with the amendments to
23 the two items on the legal description.

24 Item 22 has been taken care of.

25 Item 23, Mr. Northrop?

PETERS SHORTHAND REPORTING CORPORATION

2200 COLLEGE TOWN DR. SUITE 213
SACRAMENTO, CALIF. 95826
TELEPHONE (916) 381-3801

1 EXECUTIVE OFFICER NORTHROP: Item number 23 is
2 an extension and amendment of the lease at Richmond Long
3 Wharf in San Rafael in Contra Costa County for the maintenance
4 of a marine petroleum wharf. This is one of our premier
5 volumetric rentals with a minimum annual rental of \$100,000;
6 however, there is some language that we would -- the
7 difference between the \$100,000 minimum rental and the
8 actual volumetric charge above that amount will go into
9 a suspension account awaiting the outcome of litigation
10 on the ability, I believe, of the Commission to charge
11 volumetric rentals.

12 CHAIRMAN CORY: I thought we were litigating the
13 ability of those infidels to keep us from doing what is
14 right and proper. I thought that that's what we were
15 litigating, but go ahead.

16 EXECUTIVE OFFICER NORTHROP: If the Attorney General
17 would care to comment on it.

18 MR. EAGAN: I have nothing to say really unless
19 the Commission has questions. The existing rental on the
20 lease is approximately \$34,000.

21 EXECUTIVE OFFICER NORTHROP: Would you identify
22 yourself for the record.

23 MR. EAGAN: Dennis Eagan, Deputy Attorney General.
24 With the existing volume which is in the neighbor-
25 hood of 150 million barrels per year, we anticipate that

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 under the first five years of the newly negotiated renewal
2 the Commission will be receiving approximately 320 to \$345,000
3 per year as opposed to the \$34,000 it constantly receives.

4 CHAIRMAN CORY: And the language with respect
5 to the exemption of same product in, same product out is
6 well-detailed that each side clearly and explicitly under-
7 stands what we're talking about?

8 EXECUTIVE OFFICER NORTHROP: We don't anticipate
9 that problem, and we discussed it with the principals.
10 They seem to be in agreement. There is a member of the firm
11 here.

12 CHAIRMAN CORY: You're happy?

13 MR. EAGAN: I'm happy. The language is different
14 than the one you're referring to, Mr. Chairman.

15 EXECUTIVE OFFICER NORTHROP: Other language wasn't
16 adequate.

17 MS. SMITH: The agenda indicated that the staff
18 had reviewed the primary value system and terminal operation
19 of clean-up contingency plans. How long ago was that
20 review done?

21 MR. TROUT: Don, have you had somebody down there?
22 Have you looked at the Richmond Long Wharf recently, the
23 piping?

24 MR. EVERITTS: Within the last year.

25 CHAIRMAN CORY: Any further questions? Then

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 Item 23 will be approved as presented.

2 Item 24.

3 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item
4 Number 24 is a volumetric rental for Pacific Gas and
5 Electric. It's a 20-year general lease in which we're
6 attempted to consolidate all of the leases that the State
7 Lands Commission has for pipeline corridors with the
8 Pacific Gas and Electric Company into one agreement. It
9 is a volumetric agreement with a minimum rental of \$15,000.

10 We have for the record this statement regarding --
11 all right. I don't have a statement, Mr. Chairman. It
12 has been agreed that the difference between the volumetric
13 rental and the monies generated in excess of the minimum
14 volumetric rental of \$15,000 will similarly go into a
15 suspense account.

16 MS. SMITH: I have one question.

17 CHAIRMAN CORY: Betty?

18 MS. SMITH: I believe this is the calendar item
19 that concerns me. The Executive Officer is asking to have
20 delegation of authority to make minor changes in the agree-
21 ment.

22 EXECUTIVE OFFICER NORTHROP: Yes.

23 MS. SMITH: Is this the type of agreement where
24 you expect there will be a significant number of changes
25 made in the lease? Why was that provision inserted?

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 EXECUTIVE OFFICER NORTHROP: Miss Smith, I don't
2 expect significant modifications. As a matter of fact,
3 at this time I don't think there are any that we have in
4 mind at the present time.

5 CHAIRMAN CORY: The reason for it was because you
6 are combining all of PG&E's leases into one.

7 EXECUTIVE OFFICER NORTHROP: We're putting 89
8 leases into one package. Some of the nuts and bolts of
9 some of the rather small leases, while they're insignificant,
10 they do have a legal bearing; and we're trying to make the
11 package as neat as possible.

12 MS. SMITH: I notice you're doing the same thing
13 on Calendar Item 25.

14 EXECUTIVE OFFICER NORTHROP: Calendar Item 25,
15 we have some changes that we will bring to the Commission
16 in the next calendar item.

17 MS. SMITH: I didn't see the difference. Since
18 you are combining a system in Calendar Item 24 and in 25 --

19 EXECUTIVE OFFICER NORTHROP: The difference between
20 24 and 25, some of them are existing leases that have
21 already been in effect for 49 years and are still running.
22 We are pulling some of those leases out. PG&E has agreed
23 to put those into the same program. That is not the case
24 in 25 to the degree it is in 24.

25 MS. SMITH: So, then it would be an undue burden

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 on the Commission to have to come back every time you needed
2 to make a change.

3 EXECUTIVE OFFICER NORTHROP: I think so.

4 MS. SMITH: If they don't anticipate any change,
5 I don't see the need for it. If they anticipate that they're
6 going to need to make substantial changes, then fine if
7 it's going to be an undue burden.

8 MR. HIGHT: Maybe I can clarify the situation.
9 What we're asking for in Calendar Item 24 is the authority
10 for the Executive Officer to make minor environmental changes.
11 In other words, anything that does not require an environmental
12 document he will have the authority to change. If they're
13 going to change a valve or something, a slight minor change
14 in the pipeline, replacement of a pipe, anything that's
15 in the existing right-of-way would be included within this,
16 and anything that did not require environmental documentation.

17 CHAIRMAN CORY: Why would you not want the same
18 right? If that's a valid right, I think the question is
19 why isn't it a valid right in 25 as well.

20 MR. HIGHT: The magnitude of the problem just
21 didn't seem like it was --

22 EXECUTIVE OFFICER NORTHROP: In Item 25 we're
23 dealing less than 20. We doing 19 leases, and it's not
24 something we're going to have to go back and rework. There
25 is a difference in the character of the produce and location

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 381-3601

1 of the lines. Very simply, it's a public utility line and
2 it's under PUC regulation.

3 MR. TROUT: It's a point-to-point line. PG&E is
4 in the gas supply business, and they're always adding lines
5 or relocating lines.

6 EXECUTIVE OFFICER NORTHROP: Every time they
7 want to change, assuming it runs across State lands, we've
8 got to run back in, so what do we gain by lumping it together?

9 CHAIRMAN CORY: The majority of the Commission
10 has come to the conclusion the staff finally now makes sense.
11 Item 24 then, any questions?

12 MR. McCAUSLAND: No objection.

13 CHAIRMAN CORY: Without objection, 24 will be
14 approved as presented.

15 Item 25.

16 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we
17 indicated 24 and 25, while they are similar in some aspects,
18 have a different application; and Mr. Trout would like to
19 address the Commission on it.

20 MR. TROUT: The concept, as the Commission has
21 noted in the Southern Pacific item, is basically the same.
22 However, the Southern Pacific has two peculiar circumstances
23 not common to most of our volumetric leases. They ask for
24 the normal side letter concerning the amount of volumetric
25 rental above the minimum being put in suspense. They have

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 asked for two other things in the side letter which we
2 believe are reasonable. They have prepaid a number of
3 leases, and if this goes into effect as proposed in the
4 calendar item, they will not receive the full benefit of
5 those prepayments; and they just want a credit towards
6 those amounts, the amounts remaining in this year. We think
7 that's a reasonable request to be credited against the
8 minimum payment.

9 Second, they have asked for a determination that
10 if the high water/low water suit comes out as to low water,
11 that will be the boundary because we've written a lease
12 to high water. We agree that will be the law. So, there
13 doesn't seem to be any problem with that.

14 CHAIRMAN CORY: So, you agree with all of their --
15 EXECUTIVE OFFICER NORTHROP: We recommend approval.

16 CHAIRMAN CORY: Am I misremembering the briefing
17 I had on this item, or was there another point in that
18 lease that had been dropped?

19 MR. HIGHT: Yes, the other point has been dropped.

20 CHAIRMAN CORY: I have no questions.

21 Without objection Item 25 will be approved as
22 presented.

23 Item 26.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
25 is an assignment by Phillips Petroleum to their interest in

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 381-3001

1 Tosco Petro to a consortium of lenders, and Mr. Hight from
2 our legal staff will give you the background and ramifications.

3 CHAIRMAN CORY: This is the dissolution that
4 relates to the anti-trust case, and the federal court says
5 that's not good enough because you're still involved with
6 the company. You have to sever the relations so the lenders
7 are standing in the place of Phillips and, in essence,
8 guaranteeing the lease, right?

9 MR. HIGHT: Correct, Mr. Chairman.

10 MR. McCAUSLAND: No objection.

11 CHAIRMAN CORY: The Attorney General looked at
12 the documents to make sure that the lenders were really
13 on the hook.

14 MR. STEVENS: I don't believe we've had a chance
15 to review these documents.

16 CHAIRMAN CORY: I would like to approve it with
17 the caveat that the AG, if they are dissatisfied with those,
18 bring it back to us. As long as you are happy that you can
19 litigate and that the lenders are in fact hooked deep,
20 hard and solid, go ahead with it. I just don't want some-
21 time later, gee, we can't depend on that because that
22 document wasn't quite right. Get it the way you want it.

23 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for
24 the record, we will expect a letter from Mr. Stevens
25 indicating his pleasure.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CA, FORNIA 95826
TELEPHONE dl 383-3811

1 CHAIRMAN CORY: Item 27.

2 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
3 Items 27 and 28 are off calendar.

4 CHAIRMAN CORY: Okay. Item 29.

5 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
6 is an extension of a lease for the agricultural lease on
7 some property that we exchanged for which we gave up some
8 timber property and received this Santa Cruz beachfront
9 property. It's an extension of the existing leases.

10 CHAIRMAN CORY: How long is it extended for?

11 EXECUTIVE OFFICER NORTHROP: One year, Mr. Chairman.

12 MS. SMITH: What do you have to do to make the
13 land ready for future bid?

14 EXECUTIVE OFFICER NORTHROP: I beg your pardon?

15 CHAIRMAN CORY: What are we going to do with the
16 land in the long run?

17 EXECUTIVE OFFICER NORTHROP: The land is next
18 to Scaroni Ranch, which is part of the Parks Department. We
19 felt that it would make a good park site. It's beachfront
20 property.

21 CHAIRMAN CORY: How much land?

22 EXECUTIVE OFFICER NORTHROP: 900-some acres.
23 It's a very large parcel, very prime piece of property on
24 the beachfront.

25 CHAIRMAN CORY: Sometime send me a map. I may when

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3604

1 I'm in the area drop by there.

2 EXECUTIVE OFFICER NORTHROP: Yes, sir.

3 CHAIRMAN CORY: Without objection?

4 MS. SMITH: No objection.

5 CHAIRMAN CORY: Item 29 is approved as presented.

6 Item 30, Mobil Oil Estates (Redwood) Limited.

7 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,

8 Mr. Hight.

9 MR. HIGHT: Mr. Chairman, this is a lease for
10 an existing levee and authorization to make some slight
11 improvements to the levee to Mobil Oil Estates. It also
12 contains the condition that in the event the Commission
13 determines that this land is in fact owned by the State,
14 Mobil Oil will enter into the lease effective the date of
15 the lease. We're still preparing our factual basis in order
16 to make a claim determination, and Mobil Estates needs
17 approval now.

18 CHAIRMAN CORY: Without objection, Item 30 will
19 be approved as presented.

20 Item 31.

21 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
22 is an assignment, a sublease from Anza Liquidating Trust to
23 American International Skateboard Park in that area, and
24 it is a volumetric rental rate, Mr. Chairman.

25 CHAIRMAN CORY: Anybody in the audience on this

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3601

1 item? Any questions?

2 MR. McCAUSLAND: Well, I find this a fairly
3 unique arrangement, and I would probably like to be briefed
4 in it in more detail at some point in time. I understand
5 the item before us, and I can move for its adoption. I guess
6 it's an unusual lease.

7 (Thereupon a brief discussion was
8 held off the record.)

9 MR. McCAUSLAND: Fifty percent of the net income
10 after 1982.

11 MS. SMITH: That's a lot of money.

12 MR. McCAUSLAND: That's almost getting back past
13 the point of reasonable return.

14 CHAIRMAN CORY: Item 31 will be approved as
15 presented.

16 Item 32, Clear Lake Grant. The staff is asking
17 for authorization to hold hearings and make a report to the
18 Legislature on Lake County's administration of the Clear
19 Lake grant. There have been apparently some reported
20 problems of filling Clear Lake.

21 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, it
22 has come to the staff's attention that there are some problems
23 of filling of the lake and some other alleged problems,
24 and what we would like to do is the authorization to conduct
25 some hearings and try to plumb the depths of it to find

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE LANE DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 out it in fact there is a problem.

2 CHAIRMAN CORY: Whether or not what we do with
3 the Legislature and what recommendation will be brought here
4 so we --

5 EXECUTIVE OFFICER NORTHROP: Right. What we're
6 doing is an administrative hearing in an attempt to find out
7 where that is.

8 MS. SMITH: No objection.

9 CHAIRMAN CORY: Without objection, authorization
10 is granted.

11 Item 33, Ellwood Pier. I would be upset if a
12 year passed that we didn't have Ellwood Pier to talk about.
13 Tell me about Ellwood Pier this year.

14 EXECUTIVE OFFICER NORTHROP: We are attempting
15 to do something definitive about Ellwood Pier. Don Everitts
16 from our Mineral Section has been working with the City of
17 Santa Barbara. You have in front of you a letter from the
18 Santa Barbara Park Department. While you look at that,
19 I'll ask Mr. Everitts to make a presentation on that.
20 Mr. Trout also has a clarification on that.

21 MR. TROUT: Mr. Chairman, Chet Hart of the
22 Wildlife Conservation Board called our attention late last
23 night to one small correction that needs to be made at the
24 bottom of page 114 concerning the role of the Wildlife
25 Conservation Board. In the last paragraph it says the

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3501

1 Board has extended the request for a grant until April 26th.
2 The Board has pointed out that that extension actually
3 applies to a grant requested by the county and was granted
4 by the federal government. The Wildlife Conservation Board
5 is concerned with this project and would consider funding
6 once the arrangements have been worked out. It's just a
7 small technical change, but it does involve that aspect of
8 it.

9 MR. EVERITTS: Just in case you're interested,
10 here's a picture of the pier and other piers about 1950 or
11 '55 we're talking about. This is a more recent picture of
12 the pier as it exists today. It's the last in a series of
13 piers that were built originally in the '30's to service
14 an offshore oil field, and this particular lease has not
15 been producing since about 1972.

16 In 1972 when the production ceased, the company
17 was obligated to tear the pier out if we so chose, or we
18 have the option of taking the pier. About that time, the
19 County of Santa Barbara came to us and asked us whether it
20 would be possible to convert it into a recreational pier.
21 We've been working with them since 1972.

22 We've had a lot of meetings. The problem now is
23 that they've come to us and they've said that it's going
24 to cost \$3.5 million to put the program into effect. They
25 have about \$3 million funding. We think their estimates are

PETERS SHORTHAND REPORTING CORPORATION

2700 COLLEGE TOWN DRIVE SUITE 214
SACRAMENTO CALIFORNIA 95825
TELEPHONE (916) 383-3601

1 wrong. It probably might be \$4 million.

2 For example, they have \$120,000 in for land
3 acquisition, which was a 1973 estimate. They have never
4 even begun negotiations with the property owners.

5 They have an estimate of \$515,000 for a highway
6 access road, for an access road to be built by the Department
7 of Transportation. That's a 1973 estimate. Furthermore,
8 most of this year the Department of Transportation says
9 it's not in their six-year plan. They have no intent of
10 putting an access road in.

11 We have a letter from Parks and Recreation saying
12 that it would be highly advisable to stay away from the
13 area because the road will cross an archeological site that
14 they feel cannot be cleared, that it would be to better
15 advantage to take an alternate route.

16 We just don't think it's a viable project. That's
17 my advice and suggestion, that we issue this notice to the
18 company to take the pier out and get it out in a hurry
19 because you know that we have problems in that beach area
20 already. We've got this money from the federal government
21 to clean it, clear up what's left, and what's going to
22 happen is we're going to have a nice big storm one of these
23 days. That pier, the outer third of it is unsafe, and
24 we're just doggone lucky it didn't fall to the bottom of
25 the ocean. It's another problem. I think we should get

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 211
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 out of the pier business on this pier anyway.

2 CHAIRMAN CORY: Is there anyone here from Santa
3 Barbara? Santa Barbara's position is they still want to
4 do the project.

5 MR. EVERITTS: They want to do it. They're never
6 going to be able to do it the way they're doing it. They
7 don't have the money, and they don't intend to spend any
8 money. They have \$500,000 of their money to a three and
9 a half to four million dollar project, and that's it.

10 CHAIRMAN CORY: Is there anybody here from Santa
11 Barbara?

12 MR. McCAUSLAND: The reason this calendar item
13 is on today's agenda is that if we don't take action today
14 our handle on Aminoil is lost.

15 EXECUTIVE OFFICER NORTHROP: We gave Aminoil an
16 extension, Mr. McCausland, to the 31st of this month. With-
17 out some action by us and an agreement by them, I wouldn't
18 want to say what the liability is. They may have a question
19 whether they're liable any longer for the demolition of
20 the pier.

21 MR. EVERITTS: We know they were liable five,
22 six years ago, but I don't know how long their liability is
23 going to extend.

24 CHAIRMAN CORY: Okay. Without objection, I think
25 given the circumstances that we should go ahead and protect

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 our interest. I think we should also let people know if
2 there is any viable change, I guess if somebody wants to
3 fund something and can do so without disturbing archeological
4 sites and be compatible environmentally and they have the
5 funding to make an alternate use of it, I would not want
6 this action to be taken as saying we're rejecting that; but
7 we're not in the position of funding any of the unfunded
8 portions of the project, or I'm not willing to say to hell
9 with the archeological problems, those things. So, if
10 that's where it is, go ahead and issue the order. If they've
11 got something to talk about, we'll be around.

12 Without objection?

13 Item 34.

14 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
15 deals with litigation.

16 MR. HIGHT: Yes, Mr. Chairman. This is the
17 settlement of the first lawsuit that the Commission brought
18 relative to trespassers on the Sacramento River. This
19 settlement involves payment of rental of \$450 a year or five
20 percent of the gross and \$2,000 in back rent. The staff
21 feels that this is a very good settlement.

22 CHAIRMAN CORY: Anybody in the audience on 34?
23 Without objection, Item 34 will be approved as
24 presented.

25 Item 35.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95828
TELEPHONE (916) 383-3601

1 MR. HIGHT: Item 35, Mr. Chairman, is the request
2 for authorization for the Lands Commission and/or the
3 Office of the Attorney General to bring a lawsuit on the
4 Smith River for a mineral conversion. The operator there
5 is removing what we estimate to be about \$200,000 a year
6 in minerals and has refused to at this point even discuss
7 the matter with the staff.

8 CHAIRMAN CORY: What kind of minerals?

9 MR. HIGHT: Sand and gravel.

10 MR. McCAUSLAND: No objection.

11 CHAIRMAN CORY: Without objection, Item 35
12 authorization is granted as requested.

13 Item 36. This is our bomb?

14 EXECUTIVE OFFICER NORTHROP: Our bomb problem,
15 Mr. Chairman. Mr. Hight.

16 MR. HIGHT: This is authorization, Mr. Chairman,
17 for the payment of back rent. The federal government condemned
18 this land during World War II, and it's now full of bombs
19 and for practical purposes has no other use than military
20 purposes. The federal government has condemned the five-year
21 leaseholds, and this is the settlement of the last five-year
22 leasehold. We are attempting to negotiate with the federal
23 government to find a better solution for this problem.

24 CHAIRMAN CORY: Anybody in the audience on this
25 item?

PETERS SHORTHAND REPORTING CORPORATION

7000 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 Commissioners?

2 MS. SMITH: They are just settling back rent and
3 then they're going to continue negotiations?

4 MR. HIGHT: In addition, Mr. Chairman, the form
5 that is attached at the end of the calendar item is not
6 the identical language, and we would like that stipulated
7 that it will be substantially in the form as indicated.

8 MS. SMITH: Okay.

9 CHAIRMAN CORY: Okay. Without objection, Item 36
10 authorization is granted as requested with the understanding
11 that the agreement will be substantially in the form as the
12 sample, but not exactly.

13 Item 37.

14 MR. McCAUSLAND: I think those values in that
15 form are totally inappropriate.

16 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, Item 37
17 reached you rather late. With that in mind, I'd like to
18 have Mr. Trout go into some detail on that boundary line
19 agreement.

20 MR. TROUT: This stems from a long-standing lawsuit
21 filed by the Wiese's and the Legislature at one time
22 authorized a boundary line in there and an exchange of
23 interest. As a result of work done by Marin County and
24 our staff, the actual location of the last natural high
25 tide line is really impossible to determine. So, instead

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3600

1 of using the statute in the exchange, we're accomplishing
2 the same thing through an agreement as to the location
3 of the boundary; and the County of Marin will be executing
4 this document as the State's trustee and also as the
5 "private upland owner" on a good part of it.

6 We have a sketch. We've got a map over here
7 that just gives you the idea of the boundary agreement.
8 The Gallinas Canal is above the line. The line that the
9 Commission is agreeing to is the green line, and we are
10 getting fill property between the red and green line to
11 the left and between the blue and green line on the right.
12 The blue line is the 1954 mean high tide line. Research
13 has indicated that this was swamp and overflow land that
14 was artificially dredged and has been partially refilled,
15 and we think this is a good solution to a long-standing
16 dispute.

17 The green line is also the same line that was
18 in the legislation.

19 CHAIRMAN CORY: Is there anybody in the audience
20 on Item 37?

21 Without objection, Item 37 will be approved as
22 presented for the green line, right?

23 38, reforestation project.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
25 is authorization for six months' trial on the reforestation

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 of about in excess of 35,000 seedlings. It is part of a
2 federally-funded project initiated by the State Lands staff,
3 and the trees will be grown by State Forestry and the
4 planning will be handled by the CCC.

5 CHAIRMAN CORY: What is this going to cost?

6 EXECUTIVE OFFICER NORTHROP: The total 18-month
7 project is about \$500,000, Mr. Chairman, of federal funds.
8 It will handle reforestation in our area of about 5,000
9 acres. As a result of this, it will be part of, I imagine,
10 the CCC --

11 CHAIRMAN CORY: How do you pick which 90 acres?

12 EXECUTIVE OFFICER NORTHROP: Well, we find that's
13 one of the problems is finding out which 90 acres to plant
14 it on. As an aside, one of the members of our staff owns
15 some property and he's a forester. He put trees on it
16 and not one of them grew. So, we have to select the
17 particular parcel --

18 CHAIRMAN CORY: He put his trees or our trees?

19 (Laughter.)

20 EXECUTIVE OFFICER NORTHROP: The point I'm making
21 is the fact you just can't plant trees anywhere. Even a
22 forester makes mistakes once in a while. What we have done
23 is selected lands that lend themselves to reforestation.

24 CHAIRMAN CORY: Is that same person selecting
25 the sites?

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 EXECUTIVE OFFICER NORTHROP: In consultation with
2 other foresters.

3 CHAIRMAN CORY: Mr. Green Thumb?

4 (Laughter)

5 (Thereupon a brief discussion was held
6 off the record.)

7 CHAIRMAN CORY: I don't have any problems, I guess,
8 as long as you're sure they're going to grow.

9 EXECUTIVE OFFICER NORTHROP: No warranty is given
10 to their growth, Mr. Chairman. We're just going to put them
11 where they have the best chance.

12 (Thereupon a brief discussion was
13 held off the record.)

14 CHAIRMAN CORY: Okay. Item 38 is approved as
15 presented.

16 Item 39, South San Diego Bay report.

17 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
18 is a report that you have, I believe, in front of you as a
19 result of a task force from the Secretary of Resources,
20 and it's a joint report being approved by the State Lands
21 Commission and the Secretary of Resources. It covers the
22 area of South San Diego Bay.

23 CHAIRMAN CORY: Is there anybody in the audience
24 on Item 39?

25 And you want us to approve or just receive this?

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 EXECUTIVE OFFICER NORTHROP: Receive and approve,
2 Mr. Chairman.

3 MS. SMITH: Has the Secretary of Resources already
4 approved it?

5 EXECUTIVE OFFICER NORTHROP: Yes.

6 MR. McCAUSLAND: We are equal partners.

7 EXECUTIVE OFFICER NORTHROP: We are co-equal
8 partners. We're trying to do it hitting the line at the
9 same time as closely as possible.

10 CHAIRMAN CORY: Okay. Without objection, Item 39
11 is approved as presented.

12 Item 40, Feralta Community College, find out if
13 they have complied with the terms of the grant in Alameda
14 County. It has now been determined that they have?

15 EXECUTIVE OFFICER NORTHROP: Yes, sir.

16 CHAIRMAN CORY: Is there anybody in the audience
17 on Item 40?

18 Any questions?

19 MS. SMITH: No.

20 CHAIRMAN CORY: Without objection, Item 40 will
21 be approved as presented.

22 Item 41. This is a summary of the settlement
23 negotiations with the City of Los Angeles.

24 EXECUTIVE OFFICER NORTHROP: And reporting to the
25 Legislature as required.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363 3601

1 CHAIRMAN CORY: And reporting to the Legislature.
2 Is there anybody in the audience on Item 41?

3 (Thereupon a brief discussion was held
4 off the record.)

5 CHAIRMAN CORY: Item 41, the report will go to
6 the Legislature as staff suggests.

7 Item 42, annexation of the City of Stockton,
8 San Joaquin County. Tell us about that one.

9 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this
10 is an annexation of an area adjacent to Stockton, and staff
11 tells me it's contiguous. If you recall several months
12 ago we had on the calendar a discussion of an item wherein
13 the City of Stockton and a marina operator came in and
14 applied about the same time for a piece of property, and
15 the Commission at that time opted for the city. This annexed
16 that parcel into the City of Stockton.

17 CHAIRMAN CORY: Okay. Anybody in the audience
18 on this item? Problems?

19 MS. SMITH: No.

20 MR. McCAUSLAND: I figured out what the map said
21 that you sent me. Now it's great.

22 CHAIRMAN CORY: Item 42 will be approved as
23 presented.

24 Item 43 is off calendar.

25 Item 44.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, this is
2 a cutting agreement, and Mr. Trout and our chief forester
3 would like to give you a program of what that is.

4 MR. TROUT: We have a little map as to what's
5 involved here. What Mr. Grimes is showing you here is
6 the oddly-shaped State parcel as a result of early surveys.
7 The area in blue is forested with the merchantable timber.
8 The balance of the parcel is basically scrub.

9 The parcels outlined in green and yellow are
10 privately owned, that being Louisiana Pacific on three
11 sides of us and then the Forest Service has that portion
12 above and the small portion there.

13 We were originally approached on this parcel by
14 Louisiana Pacific. If I have my terms right, they are
15 undertaking a logging program on their property around us.
16 They asked if we would sell them our timber at the same
17 time. At that time the maps we had indicated that the
18 only access to the parcel was across Louisiana Pacific's
19 property exclusively. After we got into it, we found that
20 a small portion of Louisiana Pacific's road is actually
21 on State property.

22 We initially proposed this as a negotiated settle-
23 ment with Louisiana Pacific for the timber in exchange for
24 some reasonable money and a right of way. Now we find
25 that we can exchange mutual interests in the right of way,

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3501

1 and we would like your permission to agree to the exchange
2 of interests on the rights for the easement to the cutting
3 line, which would be an agreement that the State's timber
4 is on one side of the line and LP's on the other. Then we
5 will go on to bid in the marketplace for the timber, and
6 it would be sold to the highest bidder; and that bid, as well
7 as the agreement, would be brought back to the Commission
8 for approval.

9 CHAIRMAN CORY: Anybody in the audience on this
10 item?

11 (Thereupon a brief discussion was held
12 off the record.)

13 CHAIRMAN CORY: Item 44 is approved as presented.
14 (Thereupon a brief discussion was held
15 off the record.)

16 CHAIRMAN CORY: Item 45.

17 EXECUTIVE OFFICER NORTHROP: This is a request by
18 Union Oil Company, Magma Thermal Power for two wells in
19 the "State Ottoboni area, State Lease Number 4596" 38, 39
20 and 25.

21 CHAIRMAN CORY: Anybody in the audience on Item 45?
22 Without objection? Question?

23 MR. McCAUSLAND: I have no problems with the
24 Calendar Item 45, but I think that the development of the
25 geothermal resources has raised some interesting litigation

PETERS SHORTHAND REPORTING CORPORATION

1700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 which I'd like to review with staff at some point in the
2 future in terms of whether or not the level of environmental
3 review that we do on these projects is adequate in terms
4 of laying the groundwork for later consideration. I don't
5 believe in the concept that we should do a full development
6 EIR, but I'd like some staff advice and counsel regarding
7 whether or not the level of environmental review that we do
8 is adequate to point the way for us in terms of what our
9 potential hazards might be at a later date.

10 I'd move approval of 45, but I'd like us to look
11 at that entire issue again.

12 EXECUTIVE OFFICER NORTHROP: I think we understand
13 and are sympathetic to what you're asking. Would you prefer
14 to do it in an open session?

15 MR. McCAUSLAND: We'll just discuss it in our
16 briefings and see if it is something that should be a
17 calendar item.

18 EXECUTIVE OFFICER NORTHROP: We understand what
19 you're saying and are sympathetic to the position.

20 CHAIRMAN CORY: Even if it's not in a calendar
21 item for the Commission, just a detailed show and tell as
22 to what you really do in that environmental report.

23 EXECUTIVE OFFICER NORTHROP: This bears really
24 on a court case that recently held that to do exploration
25 the detail of the environmental impact required was less

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 than, I believe, what we probably do normally. With that
2 in mind, I think it's a very cogent question to be raised
3 now as to what we're doing in light of that litigation.

4 MS. SMITH: That was a Superior Court decision?

5 EXECUTIVE OFFICER NORTHROP: Yes.

6 MR. STEVENS: There is an appellate decision too
7 bearing on it.

8 EXECUTIVE OFFICER NORTHROP: I think we should
9 review ours both in light of what our policy would be and
10 our legal obligations. I think our legal obligations are
11 considerably less than what we have set up as policy obliga-
12 tions.

13 CHAIRMAN CORY: What I'm saying is rather than
14 just words, it might be a real dog and pony show as to what
15 it is you really do because sometimes these papers lack
16 certain meaning to those of us who sit at the desk most
17 of the time. I speak for myself in that. What is it the
18 people are really looking at and really doing out there
19 in the field? Whether it takes actual slides of what you
20 are doing out there or whether we have to go out to look at
21 it, I'd like some feel for how deep you're going. I'm
22 not sure I understand that.

23 The other Commissioners may fully understand that.
24 I'm not sure I do. I'd like to look at the substantive
25 issues rather than the legal obligations.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 EXECUTIVE OFFICER NORTHROP: A main criticism
2 made of the EIR's is that they're nothing more than
3 subsidies for academia and have little real value other
4 than academic substance.

5 MR. McCAUSLAND: I don't think he just made the
6 point that he wanted to make. The point that he wants to
7 make is that the staff of the State Lands Commission goes
8 beyond the use of academia's credentials in fronting for
9 the State Lands Commission and actually looks at some of
10 the issues involved.

11 CHAIRMAN CORY: Where are we? Has 45 been approved
12 or not?

13 EXECUTIVE OFFICER NORTHROP: 45 has not been
14 approved.

15 MS. SMITH: No objection.

16 CHAIRMAN CORY: Without objection, 45 will be
17 approved as presented.

18 Item 46, Moe Sand Company wants a ten-year mineral
19 extraction but they're dredging?

20 EXECUTIVE OFFICER NORTHROP: Mineral extraction
21 of about 50,000 cubic yards at a ten-percent royalty.

22 CHAIRMAN CORY: Ten percent?

23 EXECUTIVE OFFICER NORTHROP: Ten percent of the
24 weighted average sale price.

25 CHAIRMAN CORY: Is there anybody in the audience

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 on Item 46?

2 MR. McCAUSLAND: No problem.

3 CHAIRMAN CORY: Without objection, Item 46 will
4 be approved.

5 Item 47, American Bridge Division of U.S. Steel
6 wants to dredge, take it out of something and put it back
7 on Alcatraz Island at 15 cents per cubic yard. Is there
8 anybody in the audience on this item?

9 MR. EVERTS: William Everts. I'm just here in
10 case there should be questions, Mr. Chairman.

11 CHAIRMAN CORY: You are with?

12 MR. EVERTS: American Bridge Company.

13 CHAIRMAN CORY: You'd like us to approve it.

14 MR. EVERTS: I would hope so.

15 CHAIRMAN CORY: Anybody else in the audience?
16 Any questions?

17 Without objection, Item 47 will be approved as
18 presented.

19 We get to be informed on Item 48.

20 MR. McCAUSLAND: May I ask him a question as long
21 as he came all the way up here?

22 CHAIRMAN CORY: We have a question for you, sir.

23 MR. McCAUSLAND: If the decision was made to do
24 the disposal in the Pacific Ocean beyond the hundred fathom
25 line, do you have any cost estimate on what the marginal cost

PETERS SHORTHAND REPORTING CORPORATION

2700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95808
TELEPHONE (916) 383-3001

1 of that disposal would be versus the Alcatraz site?

2 MR. EVERTS: I'm sorry to say I don't have the
3 answer to that.

4 CHAIRMAN CORY: Is that something you may be able
5 to get and send along?

6 MR. EVERTS: Yes, I could.

7 CHAIRMAN CORY: One of the questions I guess Sid
8 has come to, each month we sit here and periodically get
9 these permits to dump things at Alcatraz Island. Every
10 time I'm in the City I wonder where all that stuff is going.

11 MR. EVERTS: I'd be glad to find that out.

12 CHAIRMAN CORY: Item 47 will be approved as
13 presented.

14 Item 48 we are to be informed upon. Owens Lake
15 bid lease.

16 EXECUTIVE OFFICER NORTHROP: Mr Chairman, the
17 Commission left with the Executive Officer the obligation
18 or charge to review the possibility index indicator, and
19 we have come up with the following indicator of 10 percent
20 of the raw material and/or 25 percent of the net profits
21 of the finished material; but in no case will the 25 percent
22 be less than the 10 percent raw material figure.

23 CHAIRMAN CORY: A floor of 10 percent of the gross
24 25 percent of the net, whichever is greater.

25 EXECUTIVE OFFICER NORTHROP: Yes.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 211
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 483-3509

1 CHAIRMAN CORY: Anybody in the audience on this
2 item?

3 We have been informed.

4 49. Inform us again.

5 EXECUTIVE OFFICER NORTHROP: You have a very large
6 tome that was delivered recently to your office entitled,
7 "Power Seeps in California".

8 MR. McCAUSLAND: For those who haven't had the
9 chance to see how thick it is --

10 EXECUTIVE OFFICER NORTHROP: It was done by
11 Mr. Ed Welday whose last work with the staff was to complete
12 that, and we think he did a really fine job on that report.

13 CHAIRMAN CORY: In essence what that document
14 represents is a baseline of existing hydrocarbon seeps
15 along our shoreline.

16 EXECUTIVE OFFICER NORTHROP: Right, and an attempt
17 at some kind of a definitive explanation of some of them.

18 CHAIRMAN CORY: So that will help us in future
19 questions, if a person with a lease is having some activity
20 in somehow one of those in the vicinity of one of those
21 seeps starts to increase its quantity rather substantially
22 we are able to sit down and talk to them on somewhat
23 specific terms.

24 EXECUTIVE OFFICER NORTHROP: In the environmental
25 processing buzz word terminology, this is the benchmark study,

PETERS SHORTHAND REPORTING CORPORATION

1700 COLLEGE TOWN DRIVE, SUITE 211
SACRAMENTO, CALIFORNIA 95825
TELEPHONE (916) 383-3601

1 a baseline study, which has been one of the problems we
2 felt in the federal NCS, particularly at the staff level,
3 that there had been too little, if any, real bench work
4 done prior to the development. Unfortunately, this bench mark
5 is a time bench mark and not prior to development, but at
6 least we know what happens, good or bad, from this point
7 forward. It's just a baseline study of this issue.

8 CHAIRMAN CORY: Is there anybody in the
9 audience on Item 49?

10 MR. McCAUSLAND: It's an excellent report.

11 CHAIRMAN CORY: Item 50, the approval of the
12 fourth modification.

13 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I'd
14 like to ask Mr. Thompson to discuss 50, 51, 52 and 53 with
15 the Commission, if you please.

16 MR. THOMPSON: Calendar Item 50 is a ratification
17 of the Executive Officer's action, and this really is to
18 do some work in the Long Beach unit to produce upper tier
19 oil. We're planning on building two wells and redrilling
20 one well.

21 CHAIRMAN CORY: This is all upper tier?

22 MR. THOMPSON: All upper tier oil, yes.

23 CHAIRMAN CORY: Fine. Approved.

24 MR. THOMPSON: The fifth modification is a little
25 more difficult problem for us to make a staff recommendation

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 on this. What we think we're doing here is following up
2 on the Commission's policy of augmenting the budget with
3 a portion of any increase from crude oil pricing. We have
4 had problems here in obtaining ceiling price for oil, and
5 this had been blamed on the entitlement program by those
6 companies who oppose it.

7 Effective January 1st, 1978, the Department of
8 Energy changed the entitlements credit for lower tier crude
9 in hopes of getting this ceiling price posting.

10 The first tabulation that you have there actually
11 shows what treatment of oil is under this entitlements
12 program. On the left columns there you'll see the lower
13 tier oil at Wilmington. The very left one is the present
14 posted price, and the one on the right is a ceiling price.
15 You see there is about a 72 cent difference there. We
16 have the potential of getting 72 cents more a barrel for
17 our oil.

18 Now, the posted companies have maintained that
19 under the entitlements program their oil is not worth the
20 ceiling price. You see what happens as you move to the
21 bottom line that the oil that starts at \$4.35, because of
22 its obligation, its penalty, gets up to \$9.20 under this
23 treatment. Without the treatment it would be over \$10.

24 Hopefully under this treatment then you would
25 then have a comparison. Then we would be able to receive

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3001

1 ceiling price for oil so that the cost of refinement under
2 the entitlement program would then be a little over \$10
3 compared to competitor oil of A&S crude or imports of
4 about \$12. Even though those oils initially started out
5 at the selling price of over \$13.

6 We would like to augment the budget here and
7 start some additional development here, but again we are
8 at the crossroads of depending on the Department of Energy
9 to do something in the entitlements program; and then the
10 other part of the action is for posters to increase their
11 price. As of today there has been no increase in the
12 posted prices as a result of this entitlement change on
13 the first of January.

14 Again, the staff has the problem here of giving
15 recommendations, augmenting budgets to do things, and in
16 the past we have been burnt on this. I think at the present
17 time here that the Commission's action back in Washington,
18 especially the Chairman's with the DOE, I think this is
19 possibly a little more favorable environment now than we've
20 had in the past.

21 The second part here actually has a statement by
22 DOE that they want to do everything they can to allow the
23 producers in California to receive ceiling price. This is
24 not a windfall because the price can only go to the ceiling
25 price.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 Again, they are going to follow this up with
2 a hearing sometime in the first quarter of 1978, as they
3 say, to see if any adjustments are necessary. This again
4 is the extra page that will be necessary for the DOE to
5 carefully monitor the California market to determine whether
6 in fact the incentive provided was adequate. So, again,
7 we have hopes that if posted prices do not increase as a
8 result of this change, that they will do something in this
9 hearing to do this. Again, we seem to have statements as
10 part of President Carter that he wants to maintain
11 production of California crude at a high level.

12 So, we seem to have a favorable environment to
13 do this, but again you're betting on the company.

14 CHAIRMAN CORY: If we make that bet and for
15 some reason it doesn't come to pass, is it likely that there
16 might be a market for the additional rig and some of the
17 additional things that we've obligated ourselves that we
18 might mitigate our loss by peddling to someone else?

19 MR. THOMPSON: That is a distinct possibility.
20 Delivery time on a drilling rig now is running about 12 to
21 15 months.

22 CHAIRMAN CORY: Part of this is a rig.

23 MR. THOMPSON: There is a limitation in there
24 for \$3.4 million for a drilling rig. So, in effect, we're
25 trying to place an order. With the demand for drilling rigs

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3801

1 right now, I feel fairly confident, yes. If you wanted to
2 cancel out on that rig later on, you could probably get
3 out without any obligation.

4 MS. SMITH: That was my understanding that we
5 would cancel out if the prices didn't increase.

6 EXECUTIVE OFFICER NORTHROP: I think the position
7 has been that we would come back to the Commission and
8 reevaluate our position. It well may be there are mitigating
9 circumstances.

10 CHAIRMAN CORY: We could get out at that point.

11 EXECUTIVE OFFICER NORTHROP: If the Commission
12 felt that that was the thing to do.

13 MR. THOMPSON: Also, any of these expenses you
14 augment for if you want to come back later on and remove
15 them, we can't spend the money instantaneously. There is
16 a period of time to spend these monies. We especially would
17 like to get a commitment for the drilling contract so we
18 can start this rig because these are two locations that
19 we haven't been able to drill from for almost two years.

20 CHAIRMAN CORY: I guess we go along with the
21 understanding that you keep us posted and we should have
22 it in good faith to DOE that we will try to do our part.
23 So, if we go back in and nothing is happening, we can go
24 with clean hands.

25 MR. THOMPSON: All right, and we'll try to

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 concentrate on upper tier oil, cut the cost of the water
2 injection wells, report back to you in February.

3 CHAIRMAN CORY: Maybe we should assume that
4 they're going to get us what they said they're going to
5 get us, and they're going to continue to monitor it if
6 that doesn't happen. So, if we don't get the additional
7 prices, checking back -- in fact, I'm thinking of doing that
8 next week or the following week -- to keep them posted you
9 are apprised that nothing has changed out here yet and
10 that we are proceeding on the good faith effort, that we're
11 going to take them at their word that they're going to do
12 whatever it takes to increase the penalties on foreign oil
13 or increase our entitlements reduction, continue to give
14 us the price advantage we need to make it happen.

15 MR. THOMPSON: My understanding of this would be
16 that you approve this then --

17 CHAIRMAN CORY: Yes, it's approved.

18 MR. THOMPSON: We'll be able to go ahead and get
19 the drilling contract.

20 CHAIRMAN CORY: Go ahead.

21 MR. THOMPSON: We will then put the order in
22 for the low bidder for the drilling rig; and, if necessary,
23 in the future we will back out.

24 CHAIRMAN CORY: Let's make it clear that we
25 understand that if we back out that we will mitigate our

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 loss, that we will not end up saying the contract doesn't
2 exist. We realize we're entering into a contractual
3 obligation, but we have an asset there which we could sell
4 as a business judgment.

5 MR. THOMPSON: That, and we will get out of the
6 obligation as soon as possible depending on if it becomes
7 adverse.

8 Calendar Item 52 is merely a reporting of
9 geological hazards, and our staff review of these bench
10 mark elevation changes substantiates that no subsidence
11 in the land surfaces has occurred as a result of the operations
12 in the Long Beach unit.

13 CHAIRMAN CORY: Anybody in the audience on Item 52?
14 Without objection, it will be approved.

15 MR. THOMPSON: Calendar Item 53 is merely
16 closing of a subsidence cost item. This was a land fill
17 project in the harbor section down there and as a result
18 of this will be closed, and there will be an adjustment to
19 the State of a little over \$16,000.

20 CHAIRMAN CORY: Anybody in the audience on 53?
21 Without objection, that will be approved.

22 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I
23 just received a message that Mr. Loeb from Aminoil is on
24 his way from the airport and would like to speak to the
25 Commission on Item 33. We've already passed the item, so

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 I will advise the Chair of the problem. It's the Ellwood
2 Pier.

3 CHAIRMAN CORY: Okay. I guess we can listen to
4 him and see what Uncle Ellwood has for us today.

5 Item 54.

6 MR. HIGHT: Yes, Mr. Chairman, this is the
7 settlement of a lawsuit that the Sierra Club brought on
8 the Humboldt Coast.

9 CHAIRMAN CORY: When did they bring suit?

10 MR. STEVENS: About two years ago, I think,
11 Mr. Chairman, two or three years ago.

12 MR. HIGHT: This settlement would remove any
13 implied dedication claims on the property, and the Commission
14 would acquire public access to the beach area through this
15 mechanism.

16 CHAIRMAN CORY: Why is it when we sue up in
17 Humboldt County it takes so long?

18 MR. STEVENS: Because I think here the landowner
19 was willing to settle, Mr. Chairman.

20 CHAIRMAN CORY: I just thought I'd ask. Anybody
21 in the audience on Item 54?

22 Without objection, we will accept the proposal
23 on that.

24 Do you have any questions, Sid, on 54?

25 MR. McCAUSLAND: No, I don't.

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 CHAIRMAN CORY: Okay. Now we are at that difficult
2 point where we are now ready to go into the executive
3 session, save for the fact that we have gotten a telephone
4 message that somebody from Aminoil would like to come in
5 and speak to us on Item 33, which we have already dealt
6 with, Uncle Ellwood.

7 MR. McCAUSLAND: Do we want to rescind our action?

8 CHAIRMAN CORY: I'm not prepared to rescind our
9 action; although, I think it would probably be appropriate
10 to listen to the gentleman.

11 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, we also
12 have one piece of litigation that probably we should
13 discuss and it can be done in public session, and that is
14 the Berkeley waterfront case.

15 CHAIRMAN CORY: Okay. Let's discuss the Berkeley
16 waterfront case.

17 MR. EAGAN: Dennis Eagan again, Deputy Attorney
18 General.

19 (Thereupon a brief discussion was
20 held off the record.)

21 MR. EAGAN: As the Commission may know, the
22 Commission is involved as a defendant and cross-complainant
23 in litigation which involves title to approximately 650
24 acres of tide and submerged lands along the Berkeley
25 waterfront of which 80 percent is still under the water of

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 381-3501

1 San Francisco Bay. The action started as an inverse
2 condemnation case brought by some developers and Mr. Murphy
3 and Sante Fe railway, who alleged that they had been denied
4 the right to develop their property by certain zoning
5 decisions by the City of Berkeley.

6 In the course of that inverse condemnation action
7 the claimed title of the private claimants came under
8 question; in view of that our grantee being the City of
9 Berkeley, the State Lands Commission was joined as a party
10 defendant. We brought approximately 600 additional acres
11 into the lawsuit. The other side moved early in the lawsuit
12 for partial summary judgment on the issue of the nature of
13 title which had passed to the tidelands in the 1870's.
14 These were deeds issued by the Board of Tideland Commissioners.

15 There is language in certain cases, both at
16 the Supreme Court level and the Court of Appeal of the
17 State of California, which indicates that these deeds as
18 of their issuance established tidelands trust over these
19 lands. Based on those decisions, the Superior Court granted
20 the partial summary judgment moved for by the opposing
21 parties.

22 The Commission then decided along with the city
23 to seek extraordinary relief, not waiting for entry of
24 final judgment on the other issues in the case. We filed
25 a petition for writ of mandate in the California Superior

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 Court seeking an order from that court ordering the
2 Superior Court to vacate its prior order. This was back
3 in September of 1977. Without decision, the California
4 Supreme Court transferred the matter for decision to the
5 California Court of Appeals in San Francisco. That court
6 chose not to hear the matter on the merits and issued a
7 one-line decision denying our petition for writ of mandate.

8 We then petitioned for hearing in the California
9 Supreme Court, and last month, the California Supreme Court
10 hearing and ordered the Court of Appeal to hear the matter
11 on the merits.

12 In the perspective of where we had come from
13 in terms of our prior progress in the case, we consider
14 that a major victory. We still don't have a decision on
15 the merits from the Court of Appeals, and it's highly
16 problematical as to what that decision might be. In any
17 case, I think whichever side loses in the Court of Appeals,
18 there will be further activity in the California Supreme
19 Court. The matter is set for oral argument currently in
20 the Court of Appeal on February 16th of next month. Any
21 questions?

22 EXECUTIVE OFFICER NORTHROP: We can now have
23 an executive session because the attorneys are here.

24 CHAIRMAN CORY: Okay. We can now have an
25 executive session because the attorneys are here. I would

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 guess that what we'll do when we reconvene -- how long
2 will the executive session take?

3 EXECUTIVE OFFICER NORTHROP: Greg, how long?

4 MR. TAYLOR: Forty-five minutes probably.

5 (Thereupon a brief discussion was held
6 off the record.)

7 CHAIRMAN CORY: We will adjourn into executive
8 session. If we could have public and unnecessary staff
9 please leave the room so we can deal with the litigation,
10 I would like somebody of the staff to remain at the door
11 to let people know we will take up the gas pricing item,
12 Item 55, and hear anybody that wishes to talk on Item 37
13 when we reconvene.

14 (Thereupon the morning session of the
15 State Lands Commission was recessed for
16 lunch.)

17
18
19
20
21
22
23
24
25

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

AFTERNOON SESSION

--oOo--

1
2
3 CHAIRMAN CORY: The time of 1:30 having arrived
4 there are a couple of housekeeping things I'd like to
5 try to at least commence before we get into the hearing
6 itself.

7 Is the representative from Aminoil here?

8 MR. LOEB: Yes, two representatives, Messrs. Kelly
9 and Loeb.

10 CHAIRMAN CORY: And you would like to talk to
11 us on Item 33. Okay. We will probably wait another five
12 or ten minutes for the remaining members to maximize the
13 probability of whatever it is you wish to do.

14 I want to fill you in that this morning before
15 we got your telephone call we had already acted on the
16 item, and what we are doing now is providing time for you
17 to make your pitch at some point, but an action has been
18 taken. If it's the inappropriate action in your opinion
19 and we should do something else, we're willing to listen,
20 but procedurally where we are we would have to rescind the
21 previous action to take any other. In essence, as I recall.
22 Item 33 is Uncle Ellwood again, and the question that the
23 staff presented to us was that the proposal, as they under-
24 stood it from Santa Barbara, was what they would like to
25 do and that Santa Barbara had half a million dollars toward

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3001

1 that end and that there were some environmental problems
2 with the project to boot; and the Commission did act upon,
3 in essence, terminating the various extensions that had
4 been granted while we tried to figure out something and
5 tried to precipitate an action with the understanding that if
6 anybody in the interim came up with any viable solution
7 we are not predisposed against that. It just seems like
8 we had no reason to keep the thing open. That's where we
9 are.

10 We'll probably sit here for another five or ten
11 minutes. We would prefer to have all the Commission members
12 here to hear you.

13 (Thereupon a brief recess was taken.)

14 CHAIRMAN CORY: We are back in session and would
15 the gentleman from Aminoil come forward. I have explained
16 to him where we are procedurally.

17 Would you identify yourself for the record, please?

18 MR. LOEB: My name is Joe Loeb. I'm an attorney
19 with Aminoil. To my left is Mr. Kelly, who is the Division
20 Production Manager for the west coast of Aminoil USA, Inc.

21 We don't want to prolong the never-ending saga
22 of Ellwood Pier. In fact, your action today is consistent
23 with our ideas, and we are in favor of this decision. We
24 want to point out a few things that almost grow naturally
25 out of the procedures that will now ensue. In order to

1 demolish the pier, which is our directive, we will have to
2 obtain certain equipment; and it is much more efficient to
3 do it at certain times of the year, and we will have to
4 get our permits from the Corps of Engineers and from the
5 Coastal Commission, et cetera.

6 So, there is a built-in time delay. The best time
7 of the year to perform this task is in the latter part of
8 summer, and the particular piece of equipment that is
9 adapted to removing the pier of this size and this length
10 will be available about the same time. Also, as you know
11 probably better than we do, the permitting sometimes gets
12 sticky and that's going to take at least months.

13 So, during this period of time we plan to commence
14 immediately in the permitting procedures, arrange for
15 the equipment and get started on this which now permits
16 us time to examine the other possibilities for this pier.

17 We can see from the viewpoint of the State and
18 the County of Santa Barbara, of course, they are still in
19 the picture. They still evidence their desire to do some-
20 thing with this pier, and some other oil companies who are
21 operating on both State and Federal leases in this area can
22 make use of a portion of the pier, which would be removal
23 of the outboard of the pier which is beyond the boat landing
24 right now. If in this interim which they can see that it's
25 to their advantage, and even through the county or through

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE, SUITE 213
SACRAMENTO, CALIFORNIA 95820
TELEPHONE (916) 383-5601

1 the offers of other oil companies -- not Aminoil. We had
2 been approached by other oil companies who have use for
3 this pier, at least the inboard portion to the boat landing.
4 We now have a built-in time life to examine the other
5 possibilities. So, we are prepared and are going to move
6 ahead ultimately to remove the whole thing and prepared
7 to stop at a logical place which would leave a stub of the
8 pier which could be used for recreational purposes and
9 for State employees to examine and inspect the State
10 facilities offshore from this area.

11 This is the only pier, as we know, in the entire
12 area. It would be helpful for emergency procedures in
13 case there were an oil spill. All in all, you can think
14 of, and many people have over the last six or seven years,
15 various possibilities. To sum it all up, we are not
16 obstructing anything. We are in favor of getting people
17 to either move or stop the never-ending story.

18 CHAIRMAN CORY: That's where we are. If anything
19 comes up, we're willing to listen to any reasonable proposal
20 that anybody wishes to put forth. We cannot keep you on
21 the hook any longer. Go ahead with your contractual
22 obligation. Proceed. If something comes up -- any questions?

23 (Thereupon a brief recess was taken.)
24
25

1 STATE OF CALIFORNIA)
 2) ss.
 3 COUNTY OF SACRAMENTO)

4 I, WENDY E. SCHILLER, a Notary Public in and for
 5 the County of Sacramento, State of California, duly
 6 appointed and commissioned to administer oaths, do hereby
 7 certify:

8 That I am a disinterested person herein; that the
 9 foregoing State Lands Commission Meeting was reported in
 10 shorthand by me, Wendy E. Schiller, a shorthand reporter
 11 of the State of California, and thereafter transcribed into
 12 typewriting.

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

16 IN WITNESS WHEREOF, I have hereunto set my hand
 17 and affixed my seal of office this 14th day of February, 1978.



Wendy E. Schiller
 WENDY E. SCHILLER
 Notary Public in and for the
 County of Sacramento, State of
 California

PETERS SHORTHAND REPORTING CORPORATION

7700 COLLEGE TOWN DRIVE SUITE 213
 SACRAMENTO, CALIFORNIA 95826
 TELEPHONE (916) 383-3601

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MEETING
STATE LANDS COMMISSION

State Capitol
Room 2117
Sacramento, California

ORIGINAL

Excerpt of Proceedings

THURSDAY, JANUARY 26, 1978
10:00 A.M.

Wendy E. Schiller

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MEMBERS PRESENT

Hon. Kenneth Cory, Controller, Chairman
Mr. Sid McCausland, representing Roy M. Bell
Ms. Betty Jo Smith, representing Mervyn M. Dymally

MEMBERS ABSENT

Hon. Mervyn M. Dymally, Lieutenant Governor
Hon. Roy M. Bell, Director of Finance

STAFF PRESENT

Mr. William G. Northrop, Executive Officer
Mr. Robert C. Hight, Staff Counsel
Mr. Allen Willard
Mr. Don Everitts

ALSO PRESENT

Mr. Jan Stevens, Attorney General's Office
Mr. Alan Hager, Attorney General's Office

I N D E X

	<u>Page</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
Proceedings	1
Agenda Item 55:	
Authorization to determine the reasonable market value for royalty gas produced under State leases in Northern California	1
Mr. William Bennett, Board of Equalization	1
Mr. Allen Willard, Staff Presentation	19
Mr. Robert Paschall, Board of Equalization	24
Mr. Richard Gravelle, California Public Utilities Commission	32
Ms. Sylvia Siegel, Toward Utility Rate Normalization	91
Mr. Earl Radford, Shell Oil Company	102
Mr. Edward Perez, City of Los Angeles	108
Mr. Robert Peckham, Chevron USA, Inc.	118
Mr. Leonard Snaider, City and County of San Francisco	124
Mr. Ronald Leineke, California Independent Producers Association	137
Mr. Monte Doris, Public Comment	147
Mr. Stanwood I. Williams, Public Comment	154
Mr. Jack Fallin, Pacific Gas and Electric Company	161
Mr. Henry F. Lippitt, II, California Gas Producers Association	225
Adjournment	244
Reporter's Certificate	245

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

P R O C E E D I N G S

--oOo--

1
2
3 CHAIRMAN CORY: The next item is Item 55 on calendar,
4 and the question is gas prices on State leases in Northern
5 California. It has been indicated that Mr. Bennett would
6 like to speak to us on this subject, and I think he is
7 most --

8 MR. BENNETT: Mr. Chairman, the group with whom
9 I'm associated has structured their own order of appearance
10 and I'll defer to them. They would prefer that the attorney
11 for the Pacific Gas and Electric Company speak first, then
12 Commission Gravelle, and then I will attempt to clarify any
13 doubts they have planted in your minds and then we'll have
14 a litany of other witnesses who cast light upon this grave
15 question.

16 CHAIRMAN CORY: Before you do that, let me explain
17 as an elected constitutional officer you have certain rights
18 and privileges. Before you give them away, let me explain
19 that after we take care of obligations to our fellow
20 constitutional officers, the Chair may be somewhat arbitrary
21 in how we parcel out the time.

22 MR. BENNETT: That being the case, may I speak
23 first, Mr. Chairman?

24 (Laughter.)

25 CHAIRMAN CORY: I thought that was what you wished

1 to do.

2 MR. BENNETT: Well, Mr. Chairman, Mr. Cory,
3 Mr. McCausland, and Betty Jo Smith, I have no prepared
4 statement, and I have read the material here rather quickly
5 and I'm speaking spontaneously. So, my thoughts may not
6 be in the order I would like or which would have the best
7 appeal to you. But I want to give you my background in
8 the field of regulation, litigation with the oil and gas
9 industry. It's extensive. It has gone on for almost two
10 decades. In my public positions I've had jurisdiction over
11 such matters directly and also before federal regulatory
12 bodies.

13 I understand your responsibility. It's a grave one.
14 You are a public trustee, as am I, and you must derive the
15 best revenue as you see it for the State; but as I read
16 your statute, you are also charged with being concerned with
17 the public interest, and the facts and the prices which are
18 before us are really not in dispute. It's just whether they
19 should be granted.

20 This case represents to me an exercise of the
21 effect of monopoly power of the oil industry upon a state
22 and its people and its elected public officials. Because
23 there is control of market prices in the Middle East and
24 Canada and wherever and because there is an absence of any
25 government control over such prices, either at the federal

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 level by abdication and neglect of the Nixon years or
2 because of the economic power of the sheiks in the Middle East,
3 we are confronted with the reality of high prices; and you
4 can tell by looking at those prices that they represent
5 windfall profits to the oil companies.

6 For example, the quadrupling of natural gas prices
7 by the negligent Federal Power Commission gave to the oil
8 industry an 18 percent return on equity computed at a 48-
9 percent corporate tax rate, and it's a fact that many, and
10 in some times most oil companies pay little or no corporate
11 tax at that rate. Indeed, sometimes they pay no taxes,
12 and the average is around 16 percent. So, the 18-percent
13 return on common equity is stated on the low side.

14 Coming to California, you're really in an awkward
15 position, not a regulatory body. You don't have a showing
16 of revenues and expenses so you can measure what is being
17 asked for by way of a return. And one thing you should
18 determine, either by voluntary statement or by some witnesses,
19 is what is the return on investment to those producers
20 resulting from the prices asked. That's critical.

21 To price gas produced in California which has no
22 transmission costs with Canadian gas and Middle Eastern prices
23 is not fair to the public nor to the State. To derive a
24 revenue of \$2 million when the effects will be a triggering
25 of gas prices throughout the state and an increase in utility

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 bills of \$100 million to the people on the face of it seems
2 to be a bad bargain. Two million at a cost of 98 million
3 if my figures be correct.

4 I have no trouble in finding that the public interest
5 calls upon you to reject this. Now, there is a great deal
6 of dialogue from lawyers such as myself and from consultants,
7 but the proof of their case would lie in an exhibit, a
8 witness, something under oath showing that the present prices
9 are inadequate, their investment is being confiscated
10 because of an inadequate return over the years and they're
11 not being made whole. If that's the case, I'll be the first
12 to say increase the prices.

13 I think you can conclude from the absence of such
14 a showing that they can't make it. We should not be companion
15 to this piggy banking operation of a large or a small
16 producer or a group of producers who are benefitting from
17 the exploitation of the world by the oil companies oligopoly
18 or near-monopoly situation. That's what this case is in
19 miniature. You have the power because you have the discretion
20 to deny this, and we don't want any compromise price in
21 between.

22 Now, the last thing I want to say is this: If you
23 would permit me, I would call Mr. Lippitt as a witness,
24 because if I were sitting here as a deputy attorney general --
25 and I was one once for a period of 12 years. I did then

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95026
TELEPHONE (916) 383 3601

1 write opinions about conflict of interest. It isn't a
2 question of the competency of Mr. Lippitt or his integrity
3 or his understandable human desire to earn a fee. It has
4 nothing to do with his competence or expertise. It has to
5 do with the fact that he may not and cannot with fairness
6 serve two masters, the public interest and the private
7 interest.

8 As I understand it, he is the attorney and repre-
9 sentative of the producers. He is an advisor to the State
10 on this very matter which is the subject of this hearing,
11 and his testimony should be stricken for that reason. It
12 is a horrendous thing in this day when it's all too common
13 for us to be sitting here as one of the matters which is
14 before you because I'm bringing it before you. Do you think,
15 for example, that the principal attorney for the Pacific Gas
16 and Electric Company should or could, without challenge, be
17 advising the Public Utilities Commission of the State of
18 California as to what rate of return it should receive?

19 I state to you there is no difference between
20 that situation and this situation. So, Mr. Lippitt's testi-
21 mony and his exhibit, if you do not reject it out of hand,
22 I'm personally outraged at a financial arrangement of this
23 kind. It should not be tolerated. It will be considered
24 as an example for others to do the same in the future, and
25 the State should not put out public funds to hire a voice

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 from the producers of the State of California to advise this
2 important agency upon producer prices. Common law case law
3 dealing with conflict of interest forbids such an arrangement

4 Now, if you do not agree with that which I've
5 said about the conflict here, then I would ask -- and I will
6 call Mr. Lippitt as a witness, and I feel rather certain
7 I could readily establish he is not impartial despite his
8 competence. He has a bias, a proper bias because of the
9 nature of the relationship to his clients, and he should not
10 be a voice which goes into your decision-making process
11 except as an advocate clearly on that side of the table,
12 properly representing his interest, which I consider to be
13 contrary to the public interest.

14 So, I say, gentlemen, in conclusion, do not impose
15 a massive rate increase upon an already overburdened state
16 in terms of utility rate increases because you want to
17 further enrich oil companies. I'll conclude on this note.
18 I would ask Mr. Lippitt to tell this body what the return
19 on investment, on equity, on sales or whatever it may be
20 to the producers involved in this arrangement is.

21 That's something you should know because it may
22 well be that they are having a 50-percent return on equity,
23 a 30-percent on equity, and maybe indeed they're bordering
24 on insolvency. If that's the case, I'll join Mr. Lippitt's
25 cause.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 Now, if you have any questions --

2 CHAIRMAN CORY: Bill, there are some areas because
3 of your background that you might be able to explain.
4 Previous hearings on the subject have really not gone a
5 great deal to further fact discovery, unfortunately; but
6 given your posture, there are some questions that go through
7 my mind.

8 Why is there not an involvement of the PUC in
9 this area of controlling prices here within California? It
10 somehow seems like coming in the middle of a movie that I
11 don't necessarily fully understand.

12 MR. BENNETT: There has been criticism of actions
13 of this agency, and improperly so. Let me give you the
14 history of this.

15 It was the Federal Power Commission which, by
16 administrative decision, held that the Natural Gas Act was
17 intended to regulate production and sales of natural gas
18 at the wellhead sustained by the United States Supreme Court
19 in 1954 by the landmark Phillips decision. I argued the
20 second Phillips decision case in the United States Supreme
21 Court further affirming regulation.

22 When I was a member of the California Public
23 Utilities Commission, I wrote a dissenting opinion urging
24 that under Section 216(c) of the Public Utilities Code that
25 the Commission should open investigation leading to the

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 imposition of regulation upon the producers of the State of
2 California. Because a Texas producer was getting, let us
3 say, 20 cents, the transmission charge was, let's say, 5 cents
4 and it was a border price of 25 cents. California producers
5 were getting border price and they had no transmission
6 charges. There were never enough votes on the Commission,
7 despite a decision of the California Supreme Court known
8 as the Richfield case wherein by way of dicta they suggested
9 they were subject to regulation, there were never enough
10 votes to issue an order leading to the regulation of the
11 producers of the State of California; and I maintain that
12 that should be attempted if only to have the California
13 Supreme Court put the matter to rest.

14 Justice Traynor in his opinion suggests that if
15 the Commission were to proceed in a certain way, there could
16 be imposed regulation at the wellhead. It isn't done, and --

17 CHAIRMAN CORY: Without any statutory changes?

18 MR. BENNETT: It can be done without any statutory
19 changes relying under Section 216(c). The Yucaipa case,
20 as I recall, another case -- this is memory of ten years ago --
21 permitted the Commission to do that with reference to water
22 companies, public utility water corporations. It has never
23 been tried with reference to producers, and the impact upon
24 the State is enormous and the Commission ought to do it.

25 That's why I understand your position. You will be

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 told not to permit it. At the same time you say, well, what
2 is the Commission doing about this?

3 You're not a rate-setting body. You don't
4 regulate them. You are supposed to give them their prices
5 with the public interest in mind. And I do maintain that
6 you have authority to deny this because of public interest.
7 But I will articulate that today. I say it's high time the
8 California Commission proceeded to regulate the producers
9 of the State of California.

10 CHAIRMAN CORY: The problem I have is the role
11 we're being cast in. It seems to me that I can equate to
12 the public interest responsibility that I have, but what I
13 see happening is that to do what some suggest -- and I think
14 what you are suggesting is putting the State Lands Commission
15 in a role of saying, well, we will deny ourselves what every-
16 body else we know is going to get because the PUC won't
17 deny them. When the PUC commissioners -- we will have one
18 speaking here later -- called me and spoke to me privately
19 on this subject saying, you shouldn't do that. I asked them,
20 why don't you just put a stop to it and declare a public
21 policy. They keep saying they can't do that.

22 MR. BENNETT: I disagree.

23 CHAIRMAN CORY: I have trouble with why it is that
24 we are put in this role of the villain when in fact we have
25 prior cases of secret contracts, if you will, that have been

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 uncovered in this investigation which it seems to me the PUC
2 should have been aware of and disclosing to the public.
3 If these things are so horrendous, they are the body that is
4 better equipped to deal with that end of it.

5 The end result of what I'm afraid you're suggesting
6 is we won't charge for ours, but we'll give this gas to one
7 private corporation, Standard Oil of California, at a gift
8 price so they can benefit from it, and they will contract
9 secretly or publicly -- I'm not sure which -- with PG&E so
10 another private corporation gets its piece of the action and
11 a profit on the deal; and lo and behold, everybody else is
12 going to get the high prices and we get the green weanie.
13 That's my problem with this whole thing. If you can help in
14 that end of it --

15 MR. BENNETT: Those are problems which must be
16 solved over a period of years because they haven't been
17 squarely addressed perhaps, and they should have been. I
18 will obtain for you a copy of my dissenting opinion. It
19 was 1963, I think. That's how ancient it is.

20 At that time the savings to California consumers,
21 if they only got the same price Texas producers could have
22 gotten, I think it was something like \$50 million annually.

23 Now, in those days one would stop in the street
24 to pick up \$50 million; today you pass it by, as we all know.
25 But I would not be here if this would trigger a \$5 million

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 increase or whatever.

2 CHAIRMAN CORY: Why, with the power of the PUC,
3 must it trigger the increase?

4 MR. BENNETT: Because the power prices are not
5 regulated, and if they choose to price their gas five times
6 what it is today and PG&E through its monopoly position
7 somehow, despite it, must pay that, then those are the
8 contract prices and those go into the expenses which will
9 be allowed by the Commission.

10 CHAIRMAN CORY: What I'm in essence publicly
11 challenging the PUC to do is flat come out and say these
12 things are not in the public interest. I'm saying to you
13 if you're going to allow the private sector to do this, then
14 the public sector should be entitled to the same that
15 Occidental got from its arbitration or any of these others.

16 MR. BENNETT: And that's why I understand your
17 position.

18 CHAIRMAN CORY: I'm willing at some point to put
19 some price into this and at the same time bounce the ball
20 back into the PUC and say, if you want to use your power to
21 declare these contracts not in the public interest and to
22 come in and regulate them, feel free; but I'm not sure that
23 I have the right, from this vantage point, to exercise that
24 kind of power.

25 It seems to me that the Legislature has given you

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 the power, the courts in their cases as Bill has indicated
2 them -- and I tend to go along usually with your analysis
3 of legal principles -- that you've got the power --

4 MR. GRAVELLE: I'd like to have a chance --

5 CHAIRMAN CORY: Oh, you'll have your chance, but
6 I want you to know what's coming down the pike. I'm getting
7 a little bit tired of people who I don't think are doing
8 their job to come over here and dump on my head when I don't
9 have your responsibilities.

10 MR. BENNETT: I was in your same position in the fifties
11 and sixties. I would go before the Federal Power Commission
12 and become indignant about Phillips Petroleum wellhead prices,
13 and Chairman Kuykendahl, during the Eisenhower years, would
14 say to me, why doesn't California regulate its producers?
15 They can charge whatever the traffic will bear, and that
16 was the truth.

17 So, I have a real personal interest in trying to
18 get the Commission, of which I was then a member, to regulate
19 producers in California, and there just weren't the votes.

20 The Governor's office at that time was in a state
21 of shock at the mere thought, let alone whisper, let alone
22 articulation of such an idea.

23 I won't comment about whether it's the same today.
24 I don't know.

25 Those are the realities of our political lives.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 We know them. I'm a part of that process.

2 You see, the way it could be done would be this:
3 You increase these prices and the PG&E pays them and the
4 Commission could say, those are unreasonable prices. Even
5 though you paid them, we reject them. You should have paid
6 half as much and disallow it. That would be the theory upon
7 which they would proceed. Whether they would be sustained
8 or corrected, I don't know because PG&E would be out of
9 pocket for those. Once you pay it it's very difficult to
10 correct it, as you know.

11 So, there should be an attempt to regulate by the
12 Commission. They should find out if they have the power or
13 not. The statute, to me, gives them the power. 216(c)
14 defines one who sells and then who resales to the public.
15 That's the wholesaler, the retailer. That's 216(c), and they
16 are subject to regulation.

17 I'll conclude, unless you have further questions,
18 again by saying all of us do represent the public, and it
19 is clearly not in the public interest to visit upon this
20 state a \$100 million rate increase, whatever the figure is,
21 for the benefit, the dubious benefit of \$2 million increased
22 revenue to California.

23 I don't have any question that if you deny this
24 it's within your discretion and would be sustained by any
25 reviewing court. It's just a bad bargain.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383 3601

1 Now, if we're back here in two years or three years
2 and nothing has been done about controlling producer prices,
3 then I think we can take the position nobody cares, including
4 the Commission, and nobody is going to be in a position to
5 complain to whatever prices you allow. Maybe this should
6 be an action for attempting to get the matter redressed.

7 CHAIRMAN CORY: Bill, that leads me to another
8 question I'd like to ask you. We have been asked at various
9 times to delay this, which I have been willing to do, but at
10 one point the facts seem to indicate that the other non-public
11 parties to these various contracts the market price was
12 somewhere around \$1.34, \$1.38, in that order of magnitude.

13 I had suggested in a private conversation to
14 PG&E that perhaps putting in some accommodation for the
15 consumer and suggested maybe \$1.30, \$1.31 price, allowing
16 them to discount 11 cents per MCF from that for gathering
17 charges. They rejected it as being inappropriate.

18 I think the record should be very clear that that
19 was done, that PG&E did in fact reject that.

20 Subsequently, the facts have come out and prices
21 keep going upward, that we leave this thing in limbo and
22 don't make a decision, all of the facts keep escalating it
23 upward. What I see happening, unless somebody steps in and
24 deals with the public policy issue which we don't have
25 control of, those prices are going to continue to go up.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 And waiting I'm not sure is doing the consumer any favor.

2 I ducked the issue. We begged off and left it in
3 limbo in the past, some 15 months ago, something of that
4 order of magnitude; and the facts now seem to indicate that
5 others are getting, marketing and PG&E is agreeing to meet
6 the low sulfur fuel oil prices, pegging gas to those prices
7 and various other things so that we're up in the stratosphere
8 of gas prices. I just wonder whether or not we're really
9 not really serving the public interest by waiting any longer.

10 MR. BENNETT: As a consumer greatly concerned about
11 the willingness to pay the prices in Indonesia and other
12 places, I hope that PG&E is as militant in Canada and other
13 places as it is here. But, you know, you have to accept
14 the reality of life as it is. I'm here on this matter and
15 these prices, and I clearly, as a customer of that utility,
16 don't want \$100 million increase imposed upon me.

17 CHAIRMAN CORY: You're value judgment is that the
18 PUC will pass it on, then?

19 MR. BENNETT: I don't know that. It would depend
20 on the impact upon return. But if it's 100 million it will
21 be passed on. No question about that. They couldn't absorb
22 that. If you deny them this, they'll have more of a
23 financial ability to pay their property taxes.

24 (Laughter.)

25 MR. BENNETT: But the last thing, I want to emphasize

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 this again. As a matter of law -- which is a narrow ground,
2 but I think it may be correct -- I don't know what evidence
3 is before you of what the producers want or need. If the
4 only evidence is that from Mr. Lippitt, I move to strike that
5 for the reasons I've stated.

6 CHAIRMAN CORY: Mr. Bennett, I don't think -- at
7 least my view is relative to what the producers want or need
8 is irrelevant. I just don't think that's relevant to our
9 scope. It's really a chart of what are Standard Oil and
10 PG&E, what's the marketplace for gas; and the contract says
11 we are to fix the marketplace --

12 MR. BENNETT: But he does have material about the
13 market value.

14 MR. McCAUSLAND: Mr. Bennett, I appreciate your
15 coming today, and I've also appreciated working with you
16 in the past. We had concerns about the advisability of
17 relying on Mr. Lippitt's testimony at our earlier hearing.
18 That resulted in a lot of research and a lot of reading. I
19 can say almost without equivocation that we're in an excellent
20 position to make a decision today with no reference at all
21 to Mr. Lippitt. It may have been advantageous for us to have
22 him do some work for us because it raised a number of issues
23 that I, for one, would never have raised, nor would I have
24 ever gone to the trouble of doing the research to realize
25 that PG&E has already entered into a contract which is in

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 the best interests of the supplier to proceed with. It's
2 a special delivery agreement which will guarantee the producer
3 110 percent of the low sulfur fuel oil index effective
4 July 1, 1978. If I was the producer, I would make certain
5 that that unbreakable, noncancelable, special delivery
6 agreement for emergency peaking gas is brought into full
7 force and effect.

8 I further contend that virtually all the gas that
9 we're talking about -- no -- clearly the majority of the gas
10 that we're talking about in California is peak gas for the
11 cold winter mornings and the days that PG&E really has to
12 have this supply. I don't see anything contrary in the
13 fact record to the notion that PG&E believes that peak value
14 gas for the days when we really need the extra supply is
15 a very valuable commodity.

16 I will not vote for a proposal which will have
17 an onerous burden on the consumer, but I'm also very tired
18 of being the villain in a charade of many veils which has
19 built a subterfuge that the consumer can't see through, the
20 Commission has had to plow through reams of material to see.
21 I want it on the record that PG&E has a special delivery
22 agreement at 110 percent of whatever the Saudis want or
23 anybody wants, and I'm willing to settle for a whole lot
24 less than that.

25 MR. BENNETT: That's why I'm just on this matter.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 You said something, you talked about the value of the gas.
2 That word discloses what is wrong with this whole system of
3 producer sales in California. We should be determining fair
4 prices based upon cost, reasonable costs, expenses, reasonable
5 revenues and a reasonable fair return. Value is subjective,
6 and the reason that oil companies are having their way, they've
7 got the world educated to the proposition that they must
8 get the value for it.

9 Value to them is one thing. Value to me is
10 another. But the costs are reasonably certain, and we've
11 gotten away from that. That's why the Commission should
12 proceed to a critical examination by the regulatory process
13 of their revenue needs and expenses and a reasonable return.
14 That's what this is all about.

15 The last thing I want to say is this: I don't
16 quarrel with whatever material Mr. Lippitt gave you or the
17 fact that you learned something from it. That's not the
18 point. It's not his competence, the eloquence of his state-
19 ments, documents; it's the fact that he's in a position
20 where he cannot represent the producers and the State Lands
21 Commission no matter if his name is Michaelangelo, Onassis,
22 Jacquelyn Kennedy or Henry Lippitt. He's in a position of
23 conflict. That is what's wrong with it.

24 MR. McCAUSLAND: As an individual commissioner,
25 I concur with you wholeheartedly. I am glad that I now have

PETERS SHORTHAND REPORTING CORPORATION

26 NESH COURT
SACRAMENTO CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 his testimony in the record along with all of the others.
2 I am not certain whether we could have gone for as much
3 information as he led us towards, but I agree with you.

4 MR. BENNETT: Thank you very much.

5 CHAIRMAN CORY: Thank you, Bill.

6 Okay. Mr. Willard.

7 MR. WILLARD: Mr. Chairman, I'd like to summarize
8 for the Commission the basis for the staff recommendation
9 included in Calendar Item 55.

10 After a detailed study of the Northern California
11 gas marketplace, we are recommending that the reasonable
12 market value for gas produced and sold from the Rio Vista,
13 River Island and Ryer Island fields be established in
14 accordance with the weighted average of the prices paid by
15 PG&E for its purchases in the Northern California gas market.
16 This procedure would utilize the weighted average for the
17 price of PG&E's purchase of El Paso out-of-state gas, the
18 weighted average price of Canadian gas delivered at the
19 California/Oregon border and the weighted average price
20 paid for Northern California-produced gas.

21 Such prices would be adjusted for Btu content and
22 its contract load factor for peaking value, the peaking premium
23 which PG&E pays for having gas available for its peak day
24 needs.

25 The recommended prices are included in your

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3661

1 Calendar Item 55 and have been broken into three periods:
2 that is, January to June of 1977, July through December of
3 1977 and January to June of 1978, with the median or average
4 price being \$1.91 per million Btu's.

5 In the course of the staff's investigation of the
6 reasonable market price, the Commission subpoenaed various
7 documents covering the sale of gas produced from the Union
8 Island field in Northern California. The best summaries that
9 can be made, I think, of these various contracts have been
10 diagrammed on the board. Starting from the far left is a
11 chart which is time-related and pertains to the various
12 decisions that can be made at various time intervals --

13 CHAIRMAN CORY: I must comment on the particular
14 layout and graphic representation of that. It shows a high
15 degree of intellect that I have not generally seen on the
16 part of the staff.

17 (Laughter.)

18 CHAIRMAN CORY: Whoever came up with that specific
19 graphic layout is to be commended, Mr. McCausland.

20 MR. McCAUSLAND: Thank you.

21 (Laughter.)

22 (Thereupon a brief discussion was held off
23 the record.)

24 MR. WILLARD: Well, the basic sales and purchase
25 agreement covers a period from October 1975 through June of

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 363-3601

1 1978, and it is for a basic price of \$1.36 per million
2 Btu's, plus an \$.08 for MCF gathering fee.

3 During the term of this primary contract, PG&E
4 had the option to extend it for a period of three years;
5 however, they have advised us that they have elected not
6 to extend the contract. Then the decision now lies with
7 Phillips and Union, the sellers of the gas in this field,
8 as to an option to extend the primary contract for an
9 additional four-year period. We believe it will be in the
10 best interest to elect to extend this contract and will do
11 so. It's our understanding, however, they have not yet
12 elected to. They have until June of 1978 to make this
13 decision.

14 Following the termination of this fourth year,
15 or indeed the termination of the primary contract in June
16 of '78, the special delivery agreement will go into effect,
17 which commands a price of 110 percent of the low sulfur fuel
18 oil price in California, plus again the \$.08 gathering fee.

19 This special delivery agreement covers the delivery
20 of this needle peaking gas to PG&E. I'll discuss the needle
21 peaking capability of the field in a little later discussion.

22 Staff then made a very careful analysis of the
23 various agreements that were involved in the Union Island
24 field, and commencing with the base contract price of \$1.20
25 per MCF, which when converted to a million Btu basis is

PETERS SHORTHAND REPORTING CORPORATION

24 E 55 COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 \$1.36, there were numerous additional added considerations
2 included in this carefully concealed document which, when
3 accumulated and carefully analyzed, we came up with a
4 weighted average cost to PG&E throughout the primary term
5 plus the extended fourth year of \$1.76 per million Btu's.

6 This price, we feel, is a very conservative price.
7 In fact, the PUC in their deliberation for their rate base
8 pricing elected only to consider the heat content adjustment
9 and the production payment and came up with an average cost
10 of \$1.66. Had they elected to further analyze these
11 various agreements, I believe that our \$1.76 average price
12 would indeed be a very, very conservative figure. However,
13 using the \$1.76 figure and prorating it over the life or the
14 term of this four-year contract, we have prorated this and
15 come up with values which would be comparable to the period
16 under consideration by the Commission today. That is, from
17 January to June of '77, \$1.70; in the middle period, \$1.82;
18 and from January to June, 1978, \$1.84.

19 We are not advocating that these prices should be
20 used alone to establish reasonable market price for gas in
21 Northern California. They are merely one component of
22 the entire mix of purchases by PG&E in Northern California.
23 However, we certainly think that these prices support the
24 staff's recommendation. They are practically equivalent
25 to our recommendations.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95811
TELEPHONE (916) 383-3601

1 There are a couple of things that I would like to
2 get into the record with respect to the production characteris-
3 tics of the Union Island field as compared to one of the
4 fields being considered by you today, that is, the Rio Vista
5 field. That is, the remaining primary recoverable reserves
6 in the Union Island field is estimated to be about 250 billion
7 cubic feet as compared to the Rio Vista field remaining
8 recoverable reserve in excess of 500 billion cubic feet.
9 The Rio Vista field has twice the remaining reserves that
10 the Union Island field has.

11 CHAIRMAN CORY: I'm dumb. What's the significance
12 of that?

13 MR. WILLARD: The remaining reserves in the Rio
14 Vista field, recoverable, that will be recovered over a
15 period of time, is twice that of the Union Island; therefore,
16 the added value to PG&E is indeed increased, or should be,
17 with Rio Vista.

18 CHAIRMAN CORY: Longer term gas supply for them?

19 MR. WILLARD: Yes, sir. The needle peaking
20 characteristics of the Union Island field are approximately
21 110,000 to 120,000 MCF per day as compared with the peaking
22 characteristics of Rio Vista of in excess 200,000 MCF per
23 day, almost twice again the characteristics of the Union
24 Island field; yet PG&E says that the Rio Vista gas is only
25 worth \$1.20. As compared to our analysis of the Union Island

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 field, their cost is \$1.76.

2 One of their arguments with respect to that is
3 that the gas in the Union Island field is different than
4 the gas in Rio Vista. That is, the Union Island gas is
5 new gas as compared to Rio Vista gas being old. That is,
6 it has been producing for a long time.

7 We feel that this new and old concept is an
8 arbitrary distinction established by the federal government
9 for the regulation and control of crude oil prices and
10 natural gas prices and should not be used as a basis for
11 determining the reasonable market value of gas in Northern
12 California. The reasonable market value of gas in Northern
13 California is the weighted average price being paid by
14 purchasers in Northern California, including out-of-state
15 gas, and our recommendation contained in the resolution in
16 Calendar Item Number 55 contains those prices.

17 CHAIRMAN CORY: Any questions from members?

18 MR. McCAUSLAND: He answered all my questions.

19 CHAIRMAN CORY: The next person I have on my
20 list is Mr. Robert Paschall.

21 Sir, could you in identifying yourself, give us
22 some indication of your background?

23 MR. PASCHALL: Yes, sir, I'll be glad to do that.
24 My name is Robert Paschall. I am presently Senior Petroleum
25 Appraisal Engineer for the State Board of Equalization, have

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 been for the past 15 years following about 20 years' experience
2 as a petroleum geologist.

3 I have appraised oil and gas properties for
4 property tax purposes in 15 counties in California, served
5 as advisor to county assessors in this matter. About three
6 years ago I served as a consultant to local government in
7 Alaska estimating the oil and gas reserves of the Prudhoe
8 Bay field and appraising that oil field for tax purposes.

9 Following that, I served as a consultant to the
10 Alaska State Senate on taxation of oil and gas.

11 I'm a registered geologist and registered petroleum
12 engineer in California and a member of several professional
13 societies, all of them that deal specifically with oil, gas
14 and other minerals.

15 MR. McCAUSLAND: Having waded through some of the
16 documents that you have had to wade through, I want to thank
17 you for taking on this difficult assignment. I realize that
18 you did it as an individual. I realize that your work has
19 not been certified by your board, but I really appreciate
20 your bringing your professional expertise to this problem;
21 and I apologize for the abuse that you've taken from a number
22 of individuals who don't happen to agree with the conclusions
23 that you reached. Thank you for stepping into a situation
24 filled with adversity and subjecting yourself to some
25 McCarthy era tactics.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3891

1 MR. PASCHALL: Thank you, Mr. McCausland. It
2 really didn't concern me too much because the only thing
3 I did in the administrative hearing and which I'll do today
4 is to express my professional opinion. I'm not here as an
5 advocate of either side. If someone mistakenly assumed I was,
6 why that's their problem.

7 Shall I review what I did state at the administra-
8 tive hearing?

9 You will recall that at the time that I came to it,
10 if you've read all the documents, that I brought with me at
11 that time a revised final table which, in essence, does what
12 Mr. Willard's table does up there, that is, give an indication
13 of my estimate of average cost per million Btu the buyer
14 would pay for gas in the Union Island gas field based on
15 my analysis of the contract.

16 The contracts that I employed primarily were the
17 gas fields and purchase contracts and the production payment
18 contract. I didn't concern myself too much with the special
19 delivery contract because it dealt with very small quantities
20 of gas, and I was concerned with the larger volumes that
21 were going to be bought by the buyer from the sellers during
22 the preliminary three-year contract period.

23 CHAIRMAN CORY: May I interrupt you? Just one
24 thing. With your background of having spent a lot of time
25 evaluating oil and gas leases throughout California and

PETERS SHORTHAND REPORTING CORPORATION

28 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 elsewhere, is it normal for a contract for a given field of
2 gas to be broken into so many different agreements and
3 contracts?

4 MR. PASCHALL: I would say that that was not common,
5 Mr. Chairman, yes.

6 CHAIRMAN CORY: Do you have any idea why, what are
7 the advantages to anyone of complicating it with the multi-
8 plicity of documents and contracts rather than just putting
9 it all in one?

10 MR. PASCHALL: I suspect you may be asking a
11 question that calls for a legal answer, and I'm not prepared
12 to give one. I really don't care to speculate on it.

13 MR. McCAUSLAND: As long as we haven't let you
14 really get started yet, in the last hearing following your
15 testimony I assume that several issues were raised which
16 you agree are perhaps factually debatable or questionable
17 because you did an analysis in which you were privy to total
18 facts; but one witness that followed you suggested that
19 your analysis was irrelevant and that it would be more
20 appropriate to consider another economic analogy, and I
21 quote:

22 "If you're going to open up a fast food
23 chain and sell hamburgers for competitive
24 reasons you would look at the price
25 MacDonald charges and Jack-in-the-Box

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 charges. You'd not go to the Fairmont
2 Hotel and get the menu that shows a
3 \$5 hamburger and say hamburgers are
4 being sold for \$5."

5 I have read that and reread that and tried to
6 apply it to this situation. It looks the biggest red
7 hamburger I've ever seen.

8 (Laughter.)

9 MR. McCAUSLAND: Can you tell me if that has any-
10 thing to do with the issue that you're trying to address?

11 MR. PASCHALL: I didn't try to pursue the analogy,
12 if there is one.

13 Now, the prices that I came up with last time were
14 actually somewhat different. I should say price or cost,
15 one of the two, being equivalent to Mr. Willard's values.
16 I found it necessary to convert the nominal prices into the
17 cost per million Btu's because, unlike most contracts in
18 the area, the contract was based on gas that had a heating
19 content of 885 Btu. Normally a thousand Btu is stipulated,
20 per thousand Btu per MCF.

21 Now, that conversion I think everybody concurs
22 with. I then decided that rather than seek simply the price
23 of gas, because of the complexity of the contracts, I instead
24 determined, as I think I noted on the first page of my
25 report, to estimate or compute the total consideration paid

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 by the buyer to sellers for 1,000 Btu of gas.

2 Now, going on to that I found that two different
3 sets of prices prevailed for the two sellers, and the reason
4 for that is the difference in the production payments. You
5 gentlemen are probably familiar with it. The timing and
6 the size of production payment in dollar amounts differed
7 for the two different sellers so that there was a different
8 impact upon the true cost of the gas to the buyer in each
9 case.

10 I obtained or was furnished with actual purchases
11 of gas by the buyer and ran out a computation which is quite
12 similar, almost identical, to one that you'd run out in
13 working out a home mortgage. That is, you have an unpaid
14 balance, which in this case consisted of the unliquidated
15 portion of the production payments; a payment which is just
16 like a mortgage payment, the payment being the amount of
17 money paid in a given month by the buyer; and an interest
18 charge on the unpaid balance on the production payments,
19 the balance going to the principal, reducing the principal
20 and so on down month-by-month.

21 In doing that, running it out I found a notably
22 different impact on the price paid, especially in the
23 first year, the effective cost, let me say, to the buyer in
24 the first year relative to the gas furnished by the two
25 different sellers.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 For example, Phillips Petroleum's total net cost
2 to the buyer per 1,000 Btu gas for the first three years
3 was \$1.52, \$1.49 and \$1.52. Union Oil's was \$1.85, \$1.57
4 and \$1.52. This is for the primary term of the contract.

5 Since the time that I testified on that and earlier
6 furnished you with that, I was surprised with the fact that
7 the gas gathering fee is being paid in lieu of the buyer's
8 installing a line within the field, as is customarily the
9 case, a line with connections to each wellhead. The sellers
10 themselves furnish the intrafield gas lines so that, at
11 least in part, it appears the gas gathering fee is a payment
12 for the amortization of this line.

13 So, I worked that out recently. I went to the
14 Oil and Gas Journal, the number one trade publication, in
15 their issue on last August 12th on pipeline economics. I
16 got out information on pipeline costs and made my own
17 estimate of the cost of the intrafield pipeline, applied to
18 that an amortization charge, and I found out that actually
19 in terms of the impact on the cost to the buyer, or let's say,
20 the net return to the sellers, the impact to this amortization
21 was quite minor. It was only about three-tenths of a percent
22 per MCF.

23 As a result, I didn't feel it was necessary to
24 adjust my prices. I have a separate report that I'll hand
25 to you on that just for your record, but my original figures

PETERS SHORTHAND REPORTING CORPORATION

26 NECS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 that you received earlier still stand.

2 Incidentally, the matter of the pipeline amortization
3 turned out to be a rather complicated problem. I won't burden
4 you with it fully, but one could ask, for example, whether
5 the pipeline amortization should take place over the life
6 of the field -- which was unknown to me -- over a reasonable
7 period, such as 15 years anyway. Should it be confined to
8 the primary term plus the total amount of the extended term
9 of ten years, or should it be applied only to the three
10 years of the primary term? All kinds of choices to make
11 just on how to work out that amortization cost.

12 I chose to assume that somebody was going to produce
13 and receive the gas over a ten-year term and that therefore
14 the amortization would occur over that time, and the actual
15 cost to the buyer would simply be the annual cost of
16 amortization in the first three years of the total primary
17 and extended term.

18 But in any event, it is a minor amount. I don't
19 know with these figures and my previous submittals, I won't
20 say anything more. Perhaps you have some questions you'd
21 like to ask.

22 CHAIRMAN COFF: Thank you very much. I would like
23 to apologize to you because at the Board of Equalization
24 meeting where I meant to, before the other Board Members,
25 take notice of your professional ability to deal with a

PETERS SHORTHAND REPORTING CORPORATION

26 HESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 factual situation, sticking to the facts and do a very
2 workman-like job, I had forgotten your name and did not
3 get that into the record over at the Board of Equalization.
4 But I attempted at that point to recognize before the board
5 the quality of work which I thought was very, very good.

6 MR. PASCHALL: Thank you, Mr. Cory.

7 MR. McCAUSLAND: I do have a question, and if
8 you don't believe it to be within the purview of your study,
9 don't try to answer it.

10 Did your study involve any assessment or analysis
11 of what portion of the gas consumed from this area is used
12 primarily for peak need situations?

13 MR. PASCHALL: No. I took no account of the need
14 of the peaking aspect of it.

15 MR. McCAUSLAND: I have no further questions.

16 CHAIRMAN CORY: Mr. Gravelle.

17 MR. GRAVELLE: Mr. Chairman, you indicated you
18 were going to be a little bit arbitrary. Would you prefer
19 to hear from Mr. Fallin of PG&E first or from me?

20
21 (Thereupon a brief discussion was held
22 off the record.)

23
24 MR. GRAVELLE: Mr. Chairman and Members of the
25 Commission, my name is Richard Gravelle. I'm a member of

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 the California Public Utilities Commission and have probably
2 a dual purpose to serve today.

3 One of the first items that I'd like to get out
4 of the way is that I have a statement and a letter addressed
5 to the members of the State Lands Commission from a minority
6 member, minority of one member of the California Public
7 Utilities Commission, Commissioner William Symons, Jr., who
8 supports your staff recommendation for higher prices.

9 I don't know whether that should make you feel
10 comfortable or not. I know it wouldn't make me feel comfortable
11 if I was to go along with it.

12 I would like to thank you, as did Mr. Bennett,
13 for the opportunity to come here. You are a State agency,
14 and I represent a State agency as well. I think we have
15 a common responsibility or common interest, and that is the
16 overall general public interest, and that is what I presume
17 is the goal of each of us in these considerations before you.

18 You are, as I understand it, considering prices
19 for three fields of gas principally. As I have analyzed the
20 material that I have looked over dealing with the problem
21 before you and the position that the Public Utilities Commission
22 has taken -- that is, the position supporting a continuation
23 of the \$1.20 price for the three fields in question -- may
24 be in an oversimplification, but I hope not, I break it down
25 into two bases. They are the legal bases of can you go to

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 the price recommended by your staff; and, secondly, should
2 you go to that price assuming that you have the ability to
3 do so.

4 We believe as a Commission that the answer to both
5 of those questions is no. In going through the material,
6 particularly the informal opinion supplied by the Attorney
7 General's office, and in looking through the description of
8 the calendar item today, we have a reference throughout to
9 the reasonable market value of the gas in question. The
10 reasonable market value of the gas in question, as I look
11 at the section of the Public Resources Code which I believe
12 governs your action today which is 6827, the reference there
13 is to the current market price and the current price at
14 the well and of any premium or bonus paid on the production
15 removed or sold from the leased land.

16 There is a geographical as well as a quality
17 restriction placed upon you by the Legislature in determining
18 your responsibility. The Attorney General's opinion I
19 respectfully disagree with -- we do, as a commission. It does
20 not cite any cases from California dealing with this subject
21 matter.

22 Now, because of the impact of what we believe to
23 be the adoption or the impact on the public of this state,
24 the ratepayer, the 110 million dollar increase that we believe
25 would be necessitated -- and that comes in line, Mr. Cory,

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 as to some of the questions you asked Mr. Bennett as to why
2 they would be necessitated. We can get to that in a moment.

3 We feel strongly enough about it, at least I do
4 as one commissioner, that I would recommend to the balance
5 of our Commission that if the price were to go to that level,
6 or indeed go above the \$1.20 level, which we believe to
7 be the constraint placed upon you by the Legislature, that
8 in all fairness to the consumers of this state, the public
9 of this state, that that determination would have to be
10 litigated.

11 You might then have some California law on the
12 subject of how these prices should be determined and what
13 data can and cannot be considered in making the price
14 determinations.

15 CHAIRMAN CORY: Pardon me, sir. Are you aware of
16 the Occidental arbitration?

17 MR. GRAVELLE: I am.

18 CHAIRMAN CORY: It's my understanding that that
19 arbitration, which was affirmed by the various courts, deals
20 with that very point. Is that not the case as you understand
21 it?

22 MR. GRAVELLE: I'm also aware, Mr. Cory, that
23 PG&E negotiated the \$1.20 contracts subsequent to the arbitra-
24 tion entered into with Occidental, and here we are talking
25 about --

PETERS SHORTHAND REPORTING CORPORATION

24 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 CHAIRMAN CORY: That's talking about market gas.
2 You were talking about legal points. I'm trying to ascertain
3 a legal point. If I misunderstand that, it would be very
4 helpful in clarifying the record.

5 It is my understanding that the arbitration awards
6 dealt with a different standard of what reasonable market
7 price was.

8 MR. GRAVELLE: Reasonable market price, correct.
9 What I'm saying is that the only place that reasonable market
10 price appears in the material with which we are dealing are
11 the leases, one lease that you have executed with the producers
12 in the three fields in question. That is a standard that I
13 don't believe you can bootstrap yourself to above the
14 current market price at the well in the leased fields in
15 question, which is the statutory language. Do you follow
16 what I'm saying there?

17 CHAIRMAN CORY: No, I do not.

18 MR. GRAVELLE: The lease, one lease in question,
19 pursuant to the data set forth in the Attorney General's
20 opinion to you which describes the terms in some synopsis,
21 the terms of the leases, makes reference to reasonable
22 market value. The other two make reference to, in general
23 terms, the statutory language, which is the current market
24 price at the well. You, I am saying, are not able to utilize
25 the reasonable market value as a standard in making the

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 determination of the prices to be paid for gas in question
2 here.

3 CHAIRMAN CORY: We should use the standard of
4 current market price?

5 MR. GRAVELLE: Current market price at the well
6 of the leased lands.

7 CHAIRMAN CORY: Let me make sure I understand it.
8 You're saying that in one of the three contracts we have
9 the right to use reasonable market price.

10 MR. GRAVELLE: No, I'm not saying that. I'm saying
11 that one of the leases utilizes that term. To expand that
12 lease, that lease is governed by your statutory ability.
13 To the extent that the lease would exceed your statutory
14 ability, you cannot utilize that as a bootstrap approach to
15 expand the jurisdiction or the measure for determining value
16 determining the price, rather.

17 CHAIRMAN CORY: The presumption of this colloquy is
18 that there is a distinction between reasonable market price
19 and current market price.

20 MR. GRAVELLE: Reasonable market value.

21 CHAIRMAN CORY: Reasonable market value and current
22 market price. There is a legal distinction between those two
23 terms; is that correct?

24 MR. GRAVELLE: Yes, sir.

25 CHAIRMAN CORY: You have regulations that define

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 those terms or expand upon them that give them precision?

2 MR. GRAVELLE: I could give you an example,
3 Mr. Chairman, in the practice of public utility law where
4 you do not have willing sellers and willing buyers because
5 of the nature of the property involved. There are condemnation
6 proceedings. The Public Utilities Commission and courts
7 are called upon to determine the reasonable market value of
8 property that is to be condemned, for instance, by a public
9 agency in taking over a public utility's operations.

10 So, there is some body of law which is common to
11 our practice that deals with reasonable market value.
12 Reasonable market value concerns itself with subjective
13 considerations that have to be determined when you do not
14 have market price guidelines to enable the trier of fact
15 to reach a decision.

16 CHAIRMAN CORY: Such as a monopoly; is that correct?

17 MR. GRAVELLE: I beg your pardon?

18 CHAIRMAN CORY: Such as a monopoly. Is that not
19 correct? You started with the concept that in cases where
20 there is a monopoly that exists, you are called upon to
21 determine reasonable market value in some cases.

22 MR. GRAVELLE: Monopoly in the sense that public
23 utility property does not often trade hands. That is the
24 sense of the law. Public utility property, which is a monopoly
25 operation basically, does not often change hands. There is

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 not a market where water companies, for instance, or PG&E
2 is bought and sold over a period of time.

3 CHAIRMAN CORY: I just want to make sure I
4 understand that in those cases where a monopoly exists there
5 is not a market at which it is really operating; therefore,
6 you are called upon to determine reasonable market price.

7 MR. GRAVELLE: That's correct, but the same
8 criteria, Mr. Chairman, would apply in any situation in
9 which you could not determine from the marketplace what the
10 current market price would be. It is then up to a court or
11 a regulatory body to utilize the other standard, the reasonable
12 market value standard.

13 CHAIRMAN CORY: I think we agree. Go ahead.

14 MR. GRAVELLE: Here we maintain that because of
15 the 180-some odd contracts entered into by PG&E --

16 CHAIRMAN CORY: Which, pardon me, is a monopoly as
17 you said before?

18 MR. GRAVELLE: That's right.

19 CHAIRMAN CORY: Thank you.

20 MR. GRAVELLE: I fail to see the connection.

21 CHAIRMAN CORY: I don't know if there is. Go
22 ahead.

23 MR. GRAVELLE: Now we're talking about buying a
24 product, not a utility. There you have current market prices
25 which come within the standard provided by the statute which

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 governs your body, and that that is the standard which you
2 must utilize on a legal basis to make the determination of
3 the price to be charged for these fields in question.

4 CHAIRMAN CORY: There is a problem in following
5 your syllogism at that point, sir, but go ahead.

6 MR. GRAVELLE: Would you mind indicating the
7 problem?

8 CHAIRMAN CORY: The only purchaser is the monopoly,
9 PG&E, for those various contracts.

10 MR. GRAVELLE: I fail to see the significance of
11 that.

12 CHAIRMAN CORY: Well, you had escalated yourself
13 to reasonable market value based upon a monopoly situation,
14 and it seems to me that we have a monopoly situation in
15 those various contracts you alluded to to say that we cannot
16 get there because you only have one buyer, PG&E, and the
17 seller is the position of taking it or leaving it. I'm at
18 a loss to see how on the one point one set of standards applies and
19 in this one it doesn't. It seems to me the crux of your
20 argument in terms of your syllogism cannot follow.

21 MR. GRAVELLE: Mr. Cory, the crux of my argument
22 is the statutory limitation placed upon you by the Legislature.
23 That is the crux of the argument, the current market price.

24 CHAIRMAN CORY: So, you're saying that that lease
25 in which another term is used exceeds the statutory authorization;

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95824
TELEPHONE (916) 383-3601

1 and, therefore, the lease is null and void?

2 MR. GRAVELLE: I'm saying that the lease may be
3 subject to attack; and if the prices that you set here are
4 based upon your determination of reasonable market value,
5 that you may have exceeded your authority and that that
6 question, I believe, should be litigated.

7 CHAIRMAN CORY: There is a point at which if you
8 had a written contract which you had two people enter into,
9 if there was not a meeting of the minds or the price agree-
10 ment that was agreed to in that contract contravened statutory
11 provisions, it would seem to me that my position in defending
12 the State's and public's viewpoints that the entire contract
13 must fall because there was never a meeting of the minds
14 on a valid price, and that may be probably the best public
15 good that can be served. I'm not opposed to that, but I'm
16 not necessarily willing to say that if we litigate that point
17 the relief should be focused just down to a more limited
18 issue of price because I frankly believe that all three
19 contracts are contrary to public interest.

20 They were entered into prior to my being here.
21 I've got serious problems with them, and if there is some
22 way that they could be eliminated, if we didn't have a meeting
23 of the minds and there wasn't a real agreement, I think we
24 could do a lot better by the public if we had that gas to
25 give directly to the public rather than allow Standard Oil

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 to profit on it, to allow PG&E to profit on it at the public
2 expense.

3 MR. GRAVELLE: Mr. Cory, as I understand from
4 reading the A.G.'s opinion, there is reference also to the
5 contractual ability of the State Lands Commission to take
6 this gas in kind. If that's your choice, if that is provided
7 in the terms of the leases, I don't see why you shouldn't
8 do that.

9 CHAIRMAN CORY: I'm not so sure we have that right.
10 We do not have that right. That's my concern.

11 MR. GRAVELLE: The statute provides that right.

12 CHAIRMAN CORY: The contract does not.

13 MR. GRAVELLE: The reference in the opinion --

14 CHAIRMAN CORY: I am aware of the reference, and
15 there are some contracts which previous commissions have
16 entered into which allow us do that. The staff has informed
17 me that these particular contracts do not allow us to take
18 the gas in kind. I am perfectly willing, if you can show
19 me how or if your staff can show us how we can take this
20 gap in kind and use it for public benefit, I am perfectly
21 willing to do that. I do not see how we can do that.

22 Let's put that in focus. If you can help us in
23 that regard, I would like to be there; but I don't think we
24 can do it unless the contracts can be voided on some basis
25 of being contrary to the statute.

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 MR. GRAVELLE: If you would allow me, I'd like
2 to refer to page three of the opinion of November 10, 1977.
3 That's a description of the leases. After a description
4 of the individual leases, the paragraph at the top of the
5 page about a little past halfway down after the quotation
6 then makes reference to:

7 "The leases also provide that the Lessee
8 shall file with the State true and correct
9 copies of all contracts for the sale of
10 gas produced from the leased land and that when
11 the State elects to take its royalty in money
12 rather than in kind, ' the lessee shall not
13 sell or other wise dispose of. . ." et cetera.

14 Certainly the presumption that I got out of reading
15 that was that the State has the ability to take that gas in
16 kind rather in money because otherwise there should be no
17 reference --

18 CHAIRMAN CORY: Alan, can you clarify the factual
19 point of where we are?

20 MR. HAGER: Yes. The big contract here is Rio Vista.
21 That's where most of the gas is. There is no provision in
22 that lease or easement that permits the State to take its
23 royalty share of the gas in kind. In the Ryer Island and
24 River Island contracts, the State may, but that's a very,
25 very small portion of the gas. If I may comment on one thing --

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 CHAIRMAN CORY: There is one point I think probably
2 should be put on the record in context. You were quoting
3 from the Department of Justice, Attorney General letter of
4 November 10th, '77, page three, first paragraph.

5 MR. GRAVELLE: Yes, sir.

6 CHAIRMAN CORY: Part of the part that was left out,
7 as I recall it, is starting, current market price at the well
8 which shall be determined by the State and shall not be less
9 than the highest price in the nearest field in the State of
10 California. I think that's relevant to put on the record
11 as to what our limitations are as to what we can and can't
12 do.

13 MR. GRAVELLE: That's exactly what I was trying
14 to point out to you. The limitation is in the statute, not
15 in the lease. You cannot bootstrap your statutory limitation
16 by extraneous language.

17 CHAIRMAN CORY: Alan?

18 MR. HAGER: The statute that you quote which is
19 part of what is commonly called the Cunningham-Shell Act,
20 sets forth the requirements that the Commission must follow
21 when they're entering into new leases. One of the leases
22 that is patterned after the statutory scheme are the Ryer
23 Island leases, and that's where they do provide for current
24 market price.

25 The Rio Vista easement antedated the promulgation

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 of the statutory scheme, and we have a lease agreement with
2 Chevron on this. It says, "reasonable market value". That's
3 the term of the lease.

4 Now, the Legislature, when they passed this statute
5 couldn't alter the term of that contract, and they haven't.

6 MR. GRAVELLE: Are you telling me that the lease
7 predated the legislation?

8 MR. HAGER: Correct, and the legislation refers
9 to leases that are to be entered into by the Commission
10 subsequent to the date of enactment of the statutory scheme,
11 which would be the Ryer Island leases.

12 MR. GRAVELLE: The one lease that uses the
13 terminology of reasonable market value then you say would not
14 be governed by the statutory provision.

15 MR. HAGER: Correct.

16 MR. McCAUSLAND: Let me offer another rebuttable
17 presumption for you to chew on. Since I am not an attorney,
18 today is rebuttable presumption day.

19 The operative phrase is it "shall not be less than"
20 "shall not be less than". I read that as saying let's make
21 sure the State Lands Commission does not sell out to the
22 wrong interest.

23

24 MR. GRAVELLE: Where is the language "shall not
25 be less than"?

PETERS SHORTHAND REPORTING CORPORATION

24 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 CHAIRMAN CORY: Same paragraph you were quoting
2 from.

3 MR. GRAVELLE: That is from the lease. That is
4 the language of the lease. My ability to be clear today
5 apparently is less than --

6 MR. McCAUSLAND: You're getting there.

7 (Laughter.)

8 MR. GRAVELLE: Less than superior.

9 CHAIRMAN CORY: The question, though, the one lease
10 that predates the statute --

11 MR. HAGER: Two leases, in effect. It wasn't a
12 problem, but the River Island leases, which are a small one,
13 predate the statute.

14 CHAIRMAN CORY: Which lease does not go into the
15 normal PG&E distribution system but instead is dealt with
16 on an industrial user contract?

17 MR. GRAVELLE: Ryer Island.

18 CHAIRMAN CORY: Is that the one that is under the
19 statutory?

20 MR. HAGER: Correct.

21 CHAIRMAN CORY: That is the one that has this
22 amount in it, this language that you're suggesting. Okay.
23 That gives me a very clear understanding of why that lease
24 needs that language in it, because the public in no way is
25 going to benefit from it. The only beneficiary is Standard

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 Oil, who in essence has a transmission agreement, as I
2 understand it, with PG&E. The public never sees that gas.
3 It goes directly from that field to the Standard Oil refinery
4 to be used based upon a transmission charge; is that correct?

5 MR. EVERITTS: Yes.

6 CHAIRMAN CORY: So, the only beneficiary of that
7 gas is Standard Oil of California and PG&E, and since the
8 people aren't participating in that, it seems totally
9 appropriate for somebody to include in a mechanism that we
10 shouldn't be selling out to allow PG&E and Standard Oil to
11 profit by a sweetheart secret private deal. It seems
12 reasonable. It seems like that protects the public interest.
13 Whatever happens to that contract doesn't up or down what
14 happens to the consumer. The other two contracts do in fact
15 predate the statute you wish to base your decision on, and
16 we are at the point where the controlling language is
17 the easement language; and we have apparently arrived at
18 the factual situation which defines our dilemma. I don't
19 particularly like where I am.

20 MR. GRAVELLE: Defines at least the grounds for
21 some judicial determination as to the ability of where we
22 can go.

23 CHAIRMAN CORY: If there is no disagreement in
24 fact, what is there to litigate?

25 MR. GRAVELLE: There are many things to litigate

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 thereafter, Mr. Chairman.

2 CHAIRMAN CORY: Please go ahead.

3 MR. GRAVELLE: Such things as what should be
4 utilized in determining your reasonable market value. That
5 gets back to the subject that we left where you were concerned
6 that a monopoly was making a purchase from a producer or
7 from a series of producers -- as I understand it, some 180,
8 which account for, I believe, Mr. MacKenzie's previous
9 statement to you of 83 percent of the gas produced in
10 Northern California.

11 There is nothing of which I am aware -- maybe you
12 are -- that would indicate anything but an arm's-length
13 transaction between the producers, large or small, and the
14 monopoly buyer in this case.

15 CHAIRMAN CORY: Of monopoly power.

16 MR. GRAVELLE: If there was, certainly I would
17 anticipate that this Mr. Lippitt's representation of the
18 producers that there would be litigation on that question.

19 MR. McCAUSLAND: I would say that of the supplemental
20 submittals since the hearing in which Mr. MacKenzie partici-
21 pated, perhaps the bulk of those have been from producers,
22 several of whom have advised the Commission through their
23 correspondence that they had negotiated sales agreements
24 with other firms, but since PG&E had the only system
25 available for transmission of that gas and since the producer

1 could not reach agreement with PG&E for the transmission
2 of their gas, those opportunities to sell to others at a
3 higher value were voided. Obviously, they've come in since
4 the last hearing. You can discredit them or someone can
5 attempt to discredit them, but they are now a part of the
6 record.

7 I think we are dealing with a situation where it
8 has been PG&E's gathering system in transmission lines that
9 have allowed them to determine what the price of gas is
10 from field to field and from agreement to agreement. It
11 would be to our advantage to have the PUC involved in that
12 relationship and this Commission not being the body forced
13 to determine whether it's an arm's-length arrangement between
14 the monopoly gathering transmission --

15 MR. GRAVELLE: That gets to the questions that
16 Mr. Cory asked Mr. Bennett, which eventually I hope we can
17 get to, because there are some substantial answers, things
18 that Mr. Bennett was not aware of when he responded to you
19 which made me sit there biting my tongue and waiting for
20 a chance to respond.

21 CHAIRMAN CORY: Go ahead. We'll take as much time
22 as necessary.

23 MR. GRAVELLE: I'd like to get on with this so that
24 we don't take all of your time. I know that you have many
25 other people that you are going to hear from, who at least

PETERS SHORTHAND REPORTING CORPORATION

24 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 would like to address you to make their views known.

2 I would say as an aside, but an important aside,
3 that as Mr. Bennett pointed out the relationship -- and
4 I appreciated your remarks, Mr. McCausland, in response to
5 this -- that the relationship of a State agency, in whatever
6 form, utilizing for purposes of the determinations that you
7 have to make here the services of Mr. Lippitt -- and again
8 I'm not criticizing his ability, as Mr. Bennett remarked --
9 but I think that there is a clear conflict of interest, and
10 I would respectfully suggest that your body seek from the
11 Fair Political Practices Commission an opinion as to the
12 validity of that representation since State funds, I presume,
13 have been paid to Mr. Lippitt.

14 CHAIRMAN CORY: As far as I'm concerned, and I
15 don't know what the other Commissioners think, but they
16 may well agree with me, the question of Mr. Lippitt seems
17 to be a case where people would prefer to pound on the table
18 and talk about personalities and conflicts which appear to
19 me to be irrelevant to getting the facts.

20 I am prepared in reaching any determination I
21 reach to exclude anything Mr. Lippitt had to say. It seems
22 irrelevant to me. We have opened a situation where we have
23 gotten to a whole lot of secret contracts. We've got a lot
24 of evidence of the marketplace, independently derived at.
25 If somebody wants to put a standard of truth of the poisonous

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3601

1 tree, I'm not sure we could sustain that one; but with that
2 caveat, the facts are the facts.

3 They have been independently ascertained through
4 subpoenaing documents and records, and I'm not putting a great
5 deal of reliance on any individual phrasing, testimony of
6 Mr. Lippitt. I don't know where the other Commissioners are,
7 but I just hate to belabor the issue.

8 MR. McCAUSLAND: I'd like to make a statement for
9 the record in that regard. In preparing for today's hearing
10 I reviewed all the submittals and transcripts of the prior
11 deliberations, with the exception of Mr. Lippitt's, because
12 I didn't feel that I wanted to relive the embarrassment that
13 was associated with the dialogue that that generated last
14 time. I think that I can say in all honesty that Mr. Lippitt's
15 participation in this thing has had no bearing on the
16 frame of mind that I bring to this hearing today or the
17 review of the evidence which I have before me; and if it were
18 possible to do so, I would move to strike Mr. Lippitt's
19 testimony from the record.

20 I think that would be a futile act, but Mr. Lippitt's
21 testimony and his participation in these hearings at this
22 point in time have no bearing on my decision in this case
23 because he became the catalyst that opened the barn door,
24 and we have more than we can deal with here.

25 MR. GRAVELLE: I would again, as I say, respectfully

PETERS SHORTHAND REPORTING CORPORATION

26 NESS COURT
SACRAMENTO, CALIFORNIA 95826
TELEPHONE (916) 383-3401