

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 OF CALIFORNIA

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, APRIL 25, 1985
10:20 A.M.

ORIGINAL

Reported by:
Cathleen Slocum, C.S.R. #2822

MEMBERG PRESENT

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

Kenneth Cory, State Controller, Chairperson
Susan Wallace, representing Leo T. McCarthy,
Lieutenant Governor
Nancy Ordway, representing Jesse Huff,
Director of Finance

STAFF PRESENT

Claire Dedrick, Executive Officer
James Trout, Assistant Executive Officer
Robert Hight, Chief Counsel
Jane Smith, Secretary
Lance Kiley
Blaine Stevenson
Dwight Sanders

ALSO PRESENT

Jan Stevens, Deputy Attorney General
Rick Frank, Deputy Attorney General

I N D E X

	<u>Page</u>
1	
2	
3	Proceedings 1
4	Call to Order 1
5	I. Confirmation of Minute for Meeting of March 28, 1985 1
6	II. Report of Executive Officer 1
7	III. Consent Calendar C1-C11 1
8	IV. Regular Calendar 2
9	Item 13, off calendar 2
10	Item 14, Pacific Gas and Electric 2
11	Item 15, United States Department of Interior; Bureau of Land Management and the California State Historic Preservation Officer 2
12	
13	
14	Item 16, California Department of Forestry 3
15	Item 17, California Department of Forestry Sonoma Ranger Unit 3
16	Item 18, Department of Water Resources 3
17	Item 19, Department of Water Resources 4
18	Item 20, Exxon Corporation, off calendar 4
19	Item 21, State Lands Commission 4
20	Item 22, Natomas Energy Company; Phillips Petroleum Company 4
21	
22	Item 23, Edgington Oil Company 4
23	Item 24, Cal-Jet, Inc. 5
24	Item 25, Shell Western E&P, Inc.; Hershey Oil Corporation 5
25	Item 26, City of Long Beach 5

	<u>Page</u>
1	
2	Item 27, Union Oil Company of California 6
3	Item 28, Shell California Production, Inc. 6
4	Item 29, Texaco Trading and Transportation Inc. 6
5	Item 30, Chevron U.S.A., Inc. 6
6	
7	Item 31, Floyd M. and Margaret J. Brumbaugh, County of Imperial, et al 7
8	Item 32, City of Long Beach and Board of Harbor Commissioners 7
9	
10	Remarks by Carolyn Sutter 8
11	Item 33, Ideal Basic Industries, Inc. 8
12	Remarks by David Ivestor and Ed Johnson, Ideal Basic Industries 8
13	Item 12, The Reclamation Board, California Department of Water Resources 9
14	
15	Remarks by Ray Barsch, General Manager Reclamation Board 9
16	
17	Remarks by Jerry Elliott, Consultant Murray, Burns, Kienlen 12
18	
19	Discussion 18
20	
21	Remarks by Marc Faye, Reclamation Board Member 30
22	
23	Remarks by Walter Cook 36
24	
25	Remarks by Don Anderson, President Sacramento Valley Land Owners 45
	Remarks by George Basye, Attorney California Central Valley Flood Control Association, and the Parrott Ranch Company 47
	Remarks by Bill Conan, Road 29 area 58

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

Page

Further remarks by Mr. Elliott

59

Remarks by David Anderson, Counsel
Reclamation Board

61

Adjournment

65

Certificate of Shorthand Reporter

66

--oOo--

P R O C E E D I N G S

--000--

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

CHAIRPERSON CORY: Call the meeting to order.

Are there any corrections or additions to the minutes of the March 28 meeting? Without objection, the minutes will be confirmed as presented.

We have the report of the Executive Officer.

EXECUTIVE OFFICER DEDRICK: Mr. Chairman, the report is before you. If you'd like me to read it in the minutes, I will, but I don't think we need to.

CHAIRPERSON CORY: Any questions of Commissioners on the Executive Officer's report? Okay. It will be accepted as presented.

COMMISSIONER ORDWAY: Can I ask which items are off calendar?

EXECUTIVE OFFICER DEDRICK: The items off calendar is Number 13 and Number 20.

CHAIRPERSON CORY: 13 and 20 are off calendar.

The next item we have is the Consent Calendar, which are the items C1 through 11. They will be taken up in a single motion unless someone in the audience has some objection to the proposed staff recommended handling of those items. So if anyone doesn't like the proposed authorization, they should speak up now and we will remove the item from the Consent Calendar. If not, it's going to

1 be one motion and they're all going to be taken care of and
2 it will be over and done with.

3 COMMISSIONER ORINWAY: Motion.

4 CHAIRPERSON CORY: Motion, second, Consent
5 Calendar be approved as present.

6 Without objection, that will be the order.

7 Item Number 12 we are going to take up as the
8 last item on the agenda. I think it will serve people's
9 time if we did in that --

10 Item 13 is off calendar.

11 Item 14, approval of termination of 59 right-of-
12 way leases and issuance of a new master lease for PG&F.

13 Is there anybody in the audience on this item?

14 Any questions of Commissioners? Without objection,
15 Item 14 will be approved as presented.

16 Item 15, authorization to enter into Memorandum
17 of Agreement regarding treatment of cultural resources on
18 lands received from BLM. This is a tripartite agreement,
19 California State Historical Preservation Officer?

20 EXECUTIVE OFFICER DEDRICK: Yes.

21 CHAIRPERSON CORY: Lands Commission and the Bureau.

22 EXECUTIVE OFFICER DEDRICK: And Bureau.

23 CHAIRPERSON CORY: Anybody in the audience on
24 this item?

25 Questions of Commissioners? Without objection,

1 Item 15, authorization is granted.

2 Item 16, authorize the issuance of a patent title
3 of 80 acres plus or minus school lands. This is the
4 peak where we get the wrong peak; right?

5 EXECUTIVE OFFICER DEDRICK: Right.

6 CHAIRPERSON CORY: Is there anybody in the
7 audience who has any problem with this item?

8 Questions of Commissioners?

9 Without objection, Item 16 will be approved.
10 Authorization will be granted as proposed in there.

11 Item 17, authorize an execution of an interagency
12 agreement with the Department of Forestry covering
13 vegetation burning on 36 acres in Sonoma County. Anybody
14 in the audience on this?

15 Questions of Commissioners?

16 Without objection, Item 17 approved as presented.

17 Item 18, this is a Commission-approved Memorandum
18 of Understanding between the State Lands Commission
19 and the Department of Water Resources for proposed use of
20 lands or for a transmission line across the Kings
21 River in Fresno County. It's pursuant to a statute. Is
22 there anybody in the audience on this item?

23 Questions of Commissioners?

24 Without objection, Item 18 will be approved as
25 presented.

1 Item 19 is the same although this is Barker
2 Slough in Solano County.

3 Anybody in the audience on this item?
4 Questions of Commissioners?

5 Without objection, Item 19 is approved as
6 presented.

7 Item 20 is off calendar.

8 Item 21, authorize the approval of the December
9 '84 survey of the boundary in Mendocino County.

10 Is there anybody in the audience who disagrees
11 with this fixing of boundary?

12 Questions of Commissioners?

13 Without objection, Item 21 is approved as
14 presented.

15 Item 22, approval of assignment of a geothermal
16 lease at the Geysers, Lake County. The assignor is
17 Natomas; the assignee is Phillips.

18 Anybody in the audience on this item?

19 Questions of Commissioners?

20 Without objection, Item 22 will be approved as
21 presented.

22 Item 23, award of royalty oil sales to Edgington
23 Oil at 74 cents over. Is there anybody in the audience
24 on this item?

25 Questions of Commissioners?

1 Staff, this is the high bid; right?

2 EXECUTIVE OFFICER DEDRICK: That is correct.

3 CHAIRPERSON JORY: Okay. Without objection,
4 Item 23, the award will be made to Edgington.

5 Such will be the order.

6 Item 24, award of royalty oil sales for 67 cents
7 a barrel over. Anybody on ---

8 This is to Cal-Jet. Is there anybody in the
9 audience on this item?

10 Questions of Commissioners?

11 Without objection, Item 24 will be approved as
12 presented.

13 Item 25, assignment of lease and deferment of
14 drilling for state oil and gas lease PRC 6192 from
15 Shell Western E&P Inc. to Hershey Oil.

16 Anybody in the audience on this item?

17 Questions of Commissioners?

18 Without objection, Item 25 will be approved as
19 presented.

20 Item 26, development and operations and
21 budget plan for Long Beach Unit, Wilmington Oil Field,
22 Los Angeles County.

23 Anybody in the audience on this item?

24 We have -- Commissioners have the detailed report
25 before them, I believe. Any questions from Commissioners?

1 Without objection, Item 26 approved as presented.
2 Item 27, proposed authorization deferment of
3 drilling on PRC 2879, Santa Barbara County. Union Oil is
4 the lessee.

5 Is there anyone in the audience on this item?
6 Any questions of Commissioners?

7 Without objection, proposed action as proposed
8 will be taken.

9 Item 28, approval of amendments to four general
10 leases for rights-of-way use, PRC 3014, 3015, 3016 and 3017
11 for Shell Oil.

12 Is there anyone in the audience on this item?
13 Is there any questions by Commissioners?

14 Without objection, Item 28 is approved.

15 Item 29, Texaco Trading and Transportation,
16 approval of an amendment to lease PRC 550, general
17 lease, and the consideration is \$34,000 per year, five-year
18 rent review.

19 Is there anybody in the audience on this item?
20 Any questions of Commissioners?

21 Without objection, Item 29 will be approved as
22 presented.

23 Item 30, approval of a ten-year renewal industrial
24 use lease for Chevron, San Luis Obispo County, Estero Bay.

25 Anybody in the audience on this item?

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

Any questions of Commissioners?

Without objection, Item 30 is approved as presented.

Item 31, this is a settlement of litigation covering a parcel of land along the Colorado River and, as I recall, there were fishing rights for each of the individual parcels facing and an additional easement --

MR. HIGHT: Public access easement.

CHAIRPERSON CORY: -- public access easement.

Is there anybody in the audience on Item 31?

Questions of Commissioners?

Without objection, settlement of litigation will be approved as presented.

Item 32, somebody wants to talk to us about.

EXECUTIVE OFFICER DEDRICK: Carolyn Sutter, Director of Tidelands Property from Long Beach is here.

MS. SUTTER: I was hoping to wait until after you voted on it.

Then my remarks could be directed appropriately.

CHAIRPERSON CORY: Okay. We can handle that one. Hold on.

Is there anybody else in the audience who --

COMMISSIONER ORDWAY: Wants to comment to us after we vote or before?

CHAIRPERSON CORY: Before we vote. Anybody else on Item 32?

1 Any questions of Commissioners on 32?

2 This is to authorize the Executive Officer to
3 execute an agreement with the Long Beach and the Board of
4 Harbor Commissioners settling the Long Beach trust matters
5 and transferring land to the tideland trust.

6 Any questions of Commissioners?

7 Without objection, the authorization will be
8 granted.

9 You're on.

10 MS. SUTTER: Thank you.

11 I came to thank you, Mr. Cory, and Miss Dedrick
12 and her staff for all of the work put in on this project
13 and naturally we're going to reinvest the monies that is
14 realized from this in the tidelands trust in ways that I'm
15 certain will be pleasing.

16 Thank you.

17 CHAIRPERSON CORY: Thank you for being here and
18 we hope you come up with some good programs for us down
19 there.

20 Item 33 is a compromise title settlement
21 involving lands at the junction of West Point Slough and
22 Redwood Creek in San Mateo County.

23 Is there anybody in the audience on this item?

24 MR. IVESTER: Mr. Chairman.

25 CHAIRPERSON CORY: Yes.

1 MR. IVESTER: David Ivester and Ed Johnson
2 from Ideal Basic Industries.

3 We filled those slips out in case the Commissioners
4 had any questions.

5 CHAIRPERSON CORY: Is there anyone else in the
6 audience who wishes to address the Commission on this
7 proposed settlement compromise?

8 Any questions of Commissioners?

9 Without objection, proposed compromise title
10 settlement be approved as presented.

11 We thank you gentlemen for being here to answer
12 questions had any arisen at this hearing.

13 Now, go back to 12.

14 Okay. We have before us in Item 12 a request
15 for authorization to amend the existing permit to allow
16 15,000 feet of emergency bank protection work along the
17 Sacramento River south of Chico Landing, Butte and Glenn
18 Counties. I believe we have, we have the people from the
19 Board here.

20 MR. BARSCH: Yes, sir.

21 CHAIRPERSON CORY: Would you like to tell us why
22 you believe that this should go ahead as an exemption from
23 CEQA? I think that's the question before us.

24 MR. BARSCH: Yes, Mr. Chairman. We have --

25 COMMISSIONER ORDWAY: Could you identify yourself

1 for the record?

2 MR. BARSCH: I'm sorry.

3 I'm Ray Barsch, General Manager of the Reclamation
4 Board and on my right is Dave Anderson, Counsel for the
5 Board.

6 Because of the complexity of this item and the
7 importance that we have placed on this, I would like to
8 ask Don Meixner who is Chief of the Division of Flood
9 Management from the Department of Water Resources to just
10 kind of brief us on how the Interim Plan of Flood Control
11 fits into the overall project of levee maintenance of the
12 whole program.

13 CHAIRPERSON CORY: Can you explain to me why that
14 is relevant to the question of whether or not there is an
15 impending emergency that justifies the exemption from CEQA
16 because I think that is the question before us as I under-
17 stand where we're at.

18 MR. BARSCH: Right. I just felt in order to see
19 how it all fits together that we, I just feel that we need
20 a little background on it. Now, if you don't think that's
21 necessary, we can go to the next phase I guess.

22 We feel --

23 CHAIRPERSON CORY: You have a real uphill battle
24 as to why you should be exempt from CEQA. You know, I'd
25 like for you to take your best shot explaining to us why

1 this particular project does not come under CEQA or comes
2 under a specific exemption to CEQA. That's the thing I
3 think we need a record to enable us to come to that
4 conclusion, because that seems to be the crux of it.

5 MR. BARSCH: Right.

6 CHAIRPERSON CORY: We need that information to
7 get to the emergency question.

8 MR. BARSCH: Right. I just feel that in order --
9 this thing is complex. We have four sites, and it's not
10 just like building four buildings and you build them or
11 not build them. This thing has to operate as a system and
12 I think until we kind of see how the system works, then
13 in order to get, move from that into site by site why the
14 sites have to be done this year.

15 CHAIRPERSON CORY: The question is what is the
16 emergency.

17 MR. BARSCH: If we do not do this work this
18 summer, each and every one of these sites has the potential
19 at the next high water to cause an emergency, and that's
20 the reasoning we're using on each and every one of these --

21 CHAIRPERSON CORY: If you can address that
22 issue, use your time, you know. Take your best shot however
23 you want to use it.

24 MR. BARSCH: In that case, we have with us a
25 consultant that we have used and your staff has also worked

1 with and his name is Jerry Elliott. He works for the firm
2 of Murray, Burns and Kienlen. I would like to ask him to
3 go through the reasons why each of these sites needs to be
4 built to prevent an emergency and we can start at site one
5 upstream or work down, or whatever you choose.

6 CHAIRPERSON CORY: It's your time. Take your
7 best shot.

8 MR. BARSCH: All right. Jerry.

9 CHAIRPERSON CORY: Mr. Meixner, or whatever,
10 I just want you to focus in on what we need to do to get
11 to where we can vote for what you want us to vote for.

12 EXECUTIVE OFFICER DEDRICK: Can you see those
13 all right?

14 CHAIRPERSON CORY: Uh-huh.

15 EXECUTIVE OFFICER DEDRICK: They're okay.

16 MR. ELLIOTT: Good morning, Mr. Chairman, and
17 Commissioners.

18 I'd like to introduce myself. I'm Jerry Elliott.
19 I am a Civil Engineer with the firm of Murray, Burns
20 and Kienlen here in Sacramento and we deal almost exclusively
21 with, have been, that is, with flood control, the flood
22 control project, flood damages, and we are consultants
23 at the present time to the Attorney General's Office and to
24 other people involved in flood control.

25 My experience goes back over 20 years with the

1 Sacramento River and monitoring it annually and during
2 flood periods and I think I have a fairly extensive back-
3 ground related to the changes that have been taking place.

4 As Mr. Barsch mentioned earlier, the upper part
5 of Butte Basin functions as a part of the Sacramento Flood
6 Control Project. Generally at the maximum design flows
7 the flood flows at the latitude of Chico Landing to
8 Ord Ferry is about 300 cubic feet per second. We have to
9 pass about half of that into Butte Basin so as not to
10 exceed the project capacity at Butte City. To get right
11 to it, these four sites in my opinion are necessary to
12 be protected and stabilized as they exist today to enable
13 this to happen.

14 I'd like to speak to them basically as two
15 general areas of the river, but it does encompass the
16 four revetment sites that are proposed.

17 The most upstream one is known as Monroeville
18 Bend and Murphy Slough area. What I have here are some
19 photographs which are dated on the left September 1974.
20 These aerials are photovericals. On the right is June
21 1984 of this reach of the river which you may already
22 recognize. This is the Chico Landing area here. The
23 Chico Creek comes in. This is the so-called Phelan Levee
24 that's been there for many years. Comes around like this
25 to the Murphy Slough plug which you either have heard about

1 or will hear about at this particular location here and
2 it terminates, goes to natural ground at about this
3 location. This is the Monroeville Bend which comes around
4 this way in an "s" or a switchback and approaches the
5 Murphy Slough plug at this location. Distance today of
6 only approximately a thousand feet.

7 We continue on downstream and the photo ends
8 just above the location of the Ord Ferry Bridge and on
9 downstream about six miles or so is the beginning of the
10 Left Bank Project at South Parrot Grant Line. The location
11 of the Ord Ferry Bridge is the Right Bank Project levee at
12 the upstream end of it.

13 This area is actually the head of Butte Basin
14 and it's the first opportunity for excess flood flows
15 to leave the main river channel and depart into Butte
16 Basin, which is a part of the Flood Control Project. It's
17 considered to be a bypass or storage system for the excess
18 flows of the Sacramento River which occur almost annually.

19 The overlay here that I have on the left, I have
20 overlaid in blue the river channel as it existed in June
21 of 1984, essentially today, on the 1974 photograph, a
22 period of approximately ten years. We can see at this
23 location -- well, all right, let's take the upstream first.
24 Monroeville Bend, Road 29 area, as you can see in the
25 approximate ten-year period, the river has extended a

1 distance of approximately a channel width at this location
2 or a distance of about 500 feet maximum. This has been
3 going on actively eroding for the past approximately 20
4 years at this location, although not specifically at this
5 particular site. We can see here just downstream, and
6 I'm pointing in this area now, just downstream or just
7 below the Murphy Slough plug, the river is approaching the
8 plug area and is threatening to destroy the so-called
9 terrain: anchors to which the Murphy Slough plug is
10 attached. In order to make it a viable part of the
11 project, there has to be something on which to build it.
12 The extension of the Monroeville Bend itself could cause
13 a couple of things to happen. One, for the river to bypass,
14 cut off this bend here seeping in the gradient, lower the
15 water surface elevation at this location and diminish
16 the ability to get water out of Butte Basin, out into
17 Butte Basin at the so-called Chico Landing weir site
18 up here, but also cause a diversion of flow if there is a
19 cut-off at this bend due to if extension is allowed to
20 continue and destroy the revetment work that has already
21 been placed downstream and also jeopardize the Murphy
22 Slough plug which is again at this location. So this can
23 be attacked or in jeopardy from two different locations.
24 From the extension of the bend at this location and moving
25 toward Murphy Slough plug and also the potential for this

1 to extend and cut off and cause also erosion in this
2 area or a bypass in direct shot down to the Ord Ferry
3 Bridge at this location.

4 So in my opinion not that it would necessarily
5 occur next year, but it is going to occur if it's allowed
6 to continue and once a flood is in progress, it is
7 impossible to really prevent further damage at that time.

8 CHAIRPERSON CORY: How long is this condition
9 been building? You say it's been going on for 20 years?

10 MR. ELLIOTT: Well, in some form or another.
11 Not at this particular location. This erosion started
12 all within the last three or four years would be the most
13 active at this particular location. This has been moving
14 for some time, but not to the point where it's, where
15 we're just running out of space at this location.
16 As I said, we only have a thousand feet at this particular
17 site before we lose. If this cuts off here, the entire
18 Sacramento River will come through this.

19 There's about eight-foot head differential,
20 eight-foot difference in the water surface elevation
21 between the upstream side at the Murphy Slough plug and
22 the downstream side. If this comes through here at which
23 it did in 1970 and 1974, the water surface drops, the
24 water surface drops up here along the Chico Landing weir
25 site, the head of the overflow, by about three feet under

1 those conditions, and you greatly diminish the ability
2 to get the flow that has to be gotten out at this location
3 as a result of that.

4 So I think those two things, these two sites,
5 Monroeville Bend, Road 29 site, and the site just below
6 Murphy Slough plug are rather work in concert
7 to stabilize this entire bend and maintain the split of
8 flows, if you will, into Futte Basin and on down the
9 Sacramento River.

10 CHAIRPERSON COPY: I don't think there is any
11 question that some type of work needs to be done in this
12 area. The purpose I think of this hearing is to deal
13 with the question of identifying the emergency nature
14 and why is it that if that's been building for three or
15 four years, how are we justified in shortcircuiting the
16 CEQA process? I think that's a critical question that
17 must be dealt with and that's where I think we need to
18 focus. Just because the work needs to be done doesn't
19 mean that you can violate CEQA. CEQA is not to prevent
20 work. It's just to make sure you know what you're doing
21 when you do it I think. So that's I think the question
22 before us is how do we get around to make a finding of
23 fact that there is some impending emergency that something
24 more than the facts we have self-created it. I mean, there
25 is a classic definition of a Yiddish term, "chutzpah" of a

1 young lad who kills his mother and father and places himself
2 before the court pleading mercy because he's an orphan
3 and that's the argument you have to overcome. If you've
4 been sitting around for three or four years knowing this
5 is the problem it is and that now to come in and say,
6 gee, because we haven't done anything you have to find an
7 emergency and, therefore, we get to violate the law, I think
8 we're all likely to get in trouble if we opt for that
9 option unless we create a fairly good record as to why
10 there is an emergency that must be dealt with at this point
11 in time.

12 COMMISSIONER ORDWAY: How much above or below
13 average rainfall would cause an emergency next winter or
14 spring on that river?

15 How much water has got to be moving?

16 MR. BARSCH: Don.

17 MR. ELZOTT: Don Meixner might answer that
18 better than I could.

19 COMMISSIONER ORDWAY: Would there be an emergency
20 created with normal rainfall?

21 MR. MEIXNER: With normal rainfall, usual
22 average rainfall, no. A once-in-a-hundred-year occurrence
23 will undoubtedly wipe out Murphy Slough plug.

24 COMMISSIONER ORDWAY: How frequently in the last
25 100 years have we had a hundred-year flood occurrence?

1 MR. MEIXNER: Since Shasta Dam we haven't had.
2 We've had 50 year.

3 COMMISSIONER ORDWAY: How frequently have we
4 had 50 year? I assume a 50-year flood would do the same
5 thing?

6 MR. MEIXNER: 1940, 1958, 1970, 1983.

T2 7 COMMISSIONER ORDWAY: Am I correct that a 50-year
8 flood would do the same?

9 MR. MEIXNER: A 50-year flood --

10 COMMISSIONER ORDWAY: Or would it not?

11 MR. MEIXNER: In my opinion a 50-year flood would
12 destroy Camp 2 Bend, cause a cutoff at that point. 1983
13 was a 50-year event. Conditions were different at Murphy
14 Slough plug in 1983. A 50-year flood could destroy
15 Murphy Slough plug. A 100-year event would destroy
16 Murphy Slough plug.

17 COMMISSIONER ORDWAY: Thank you.

18 MR. BARSCH: The Reclamation Board has had varying
19 testimony before the Board on this and you can play with
20 these numbers, one in ten years, one in fifty, one in a
21 thousand, but no one can predict next year's rainfall.
22 We could get the one in one hundred, we could get the one
23 in fifty.

24 COMMISSIONER ORDWAY: I'm not asking you to. I
25 just wanted to get a sense of what damage is done at

1 various rain levels.

2 MR. BARSCH: I'm saying it's not an exact
3 science. We can't say that the one in ten won't do it
4 or the one in fifty. We know that in the last 20 years
5 we've had four flood events that would cause damage or
6 would case the loss of this bend and this would be
7 devastating downstream. If you overload the project
8 system, you get more in the levees, downstream then
9 150 CFS, in other words, the water is not allowed --
10 150,000 cubic feet per second between the project levies,
11 then something's got to give. You break a levee downstream
12 somewhere. That's all we're saying here. Last year we
13 made it through. Last year --

14 CHAIRPERSON CORY: Why did you not start the
15 CEQA process last year? That I think is the real bottom
16 line question. What strange phenomenon or what has
17 occurred that allows us to say, yes, it's okay to violate --

18 MR. ANDERSON: Excuse me. I'm David Anderson,
19 Counsel for the Board.

20 There had been some misunderstanding as to the
21 application of CEQA to this project. But what I would like
22 to --

23 COMMISSIONER ORDWAY: Could you explain that,
24 why there would be a misunderstanding?

25 MR. ANDERSON: Because this area is part of the

1 == there are a number of weirs up and down the Sacramento
2 River that take water out of the river and put it into
3 Butte Basin and the Sutter Bypass. If you get too much
4 water between the levees, you're going to have a levee
5 overtop and you're going to have some serious damage.
6 Half of that water goes out in Butte Basin which is an
7 unimproved section of the river, and viewed then for
8 quite a long time, also because of the history of the
9 Sacramento River bank protection project, was that that
10 was a maintenance activity of a preexisting project.

11 CHAIRPERSON CORY: Try to be real slow on that one.
12 I did not understand what you just --

13 MR. ANDERSON: The Sacramento River Flood Control
14 Project was authorized in about 1911 and a bypass in the
15 weir system has been built up over basically in the
16 twenties and thirties and forties. The functioning of the
17 Butte Basin overflow area as a weir is essential to the
18 operation of that project and the Corps of Engineers has
19 expected us to maintain that in order to keep the project
20 working. We have viewed it as project maintenance and
21 that was the reason for the thinking that perhaps CEQA did
22 not apply or not that it did not apply but there was a
23 maintenance exemption to this.

24 Mr. Cory, if I could --

25 CHAIRPERSON CORY: You are sitting here of the

1 opinion that the only way we can proceed is to find an
2 emergency, that that is the only statutory thing, way we
3 can get to that point. Now, is there any disagreement with
4 that interpretation?

5 MR. ANDERSON: At this point we are saying that
6 the reason for the exception is emergency, yes. That's
7 what we're saying. If I could, I'd like to address your
8 earlier point --

9 CHAIRPERSON CORY: Fine.

10 MR. ANDERSON: -- as to why it kind of looks
11 like we're coming in at the last minute and how that looks
12 bad.

13 I'd like to point out that the rock work that we
14 put in to protect the site, to protect the river elevation,
15 is done under the authority of the Sacramento Bank Protection
16 Project which is a federal project. That project had not
17 been formally recognized and no funds had been appropriated
18 by Congress until 1983, fiscal year '83-84. So our
19 authorities follow federal authorities.

20 COMMISSIONER ORDWAY: That still gave you enough
21 time.

22 MR. ANDERSON: I was answering sort of a question
23 as to how late are we. It hasn't been four years that
24 we've been recognizing this problem and not acting on it.
25 Actions have been taken on an ad hoc emergency basis under

1 PL 94 emergency work prior to this. We adopted an interim
2 plan of flood control in March of 1984 once Congress had
3 given the authorization and the money to do it. So that's
4 the time schedule that we've been operating on. I just
5 wanted to clarify that.

6 MR. BARSCH: Also, it doesn't exactly speak to
7 your question, but the Board at the last meeting,
8 April 19, did vote and asked or directed staff to
9 do an EIR on this area that would include this work that
10 it's proposed to do this summer. So we'll take in any
11 of the effects from an environmental standpoint of this
12 work into that EIR that's going to be prepared.

13 COMMISSIONER ORDWAY: What's the time line of
14 the EIR?

15 MR. BARSCH: It should be out by December of this
16 year. Of course, the Corps of Engineers did an EIS on this
17 entire area previously.

18 COMMISSIONER ORDWAY: When was the EIS?

19 MR. BARSCH: It was finished this year, the last
20 supplement to that was finished.

21 MR. SANDERS: Mr. Chairman, if I can elaborate.
22 The final supplement to the Final Environmental Impact
23 Statement has a date of January 1985.

24 MR. BARSCH: Thank you.

25 EXECUTIVE OFFICER DEDRICK: We calculated that

1 a supplement to that EIS, which would comply with CEQA,
2 could have taken roughly 45 days, 45 to 60 days. Sixty
3 was depending on how much work was necessary to do the
4 job.

5 MR. ELLIOTT: I wonder, Mr. Chairman, if I could
6 say one more brief statement, please, about -- this goes
7 sort of toward the emergency nature. We go back to 1955,
8 we had a major flood on the Feather River. The levees
9 were overtopped downstream of Yuba City on the right bank.
10 There was also a leveebroak without overtopping further
11 downstream at Nicholas and other minor breaks on the
12 Western Pacific Interceptor Canal. Some 150,000 acres of
13 land, as I recall, was flooded. Forty-two people lost their
14 lives in the Sutter County area.

15 In 1954 the last stretch of levee on the right bank,
16 the upstream end of the project on the Feather River was
17 completed up in the Biggs general vicinity. A wide overbank
18 area on the right bank of the main channel of the Feather
19 River was proposed to be cleared. The contract had been
20 let. Between just below the mouth of the Yuba River and
21 upstream of what is known as Shanghai Bend, a distance of
22 about two and a half miles, as I recall. The clearing was
23 held up by the Department of Fish and Game. The
24 December 1955 flood occurred. The levees overtopped and
25 broke the length of about 1800 feet there and, as I say,

1 flooded Yuba City and killed 42 people plus maybe some
2 that were not identified.

3 I worked on that flood. In defense of the State
4 of California in the flood litigation that ensued in 1964,
5 hydraulic studies that I participated in indicated that
6 had that clearing been done, the water surface at that
7 location at the time of the peak would have been about
8 a foot and a half lower which would have put the water
9 surface elevation below the crest of the levee. I can't say
10 that the levee wouldn't have failed in any event, but never-
11 theless, the levee being overtopped is certain to fail and
12 no one in 1954 or 1955 prior to December predicted the flood
13 of that magnitude, obviously. They wouldn't have had
14 anything to base it on if they did.

15 So that's sort of the situation potentially that
16 we might be talking about here as far as overloading the
17 system.

18 CHAIRPERSON CORY: I have no quarrel with that
19 end of it. My concern, and I have a strong personal interest
20 in making sure that you do a good job maintaining the levees;
21 on the Sacramento River.

22 MR. ELLIOTT: That's what I'm interested in also.

23 EXECUTIVE OFFICER DEDRICK: He lives there.

24 CHAIRPERSON CORY: But I'll tell you what I see
25 from the record now, I think somebody's got a dead bank

1 winner in filing a lawsuit keeping you from proceeding
2 even if we approve this because we got nothing in the
3 record to explain why it is we haven't complied with the
4 laws of government. We passed these laws. We have to
5 comply with them. If we approve this, I would think we are
6 going to get this job done much later than if we don't
7 approve this if we're talking about a 45, 60-day compliance
8 with CEQA because I don't have anything that I've heard yet
9 that leads me to believe that we shouldn't comply with CEQA.

10 Now, you may not like the law, but it is the law
11 and just too many times these kinds of shortcuts end up
12 in taking more time and I think that's the question before
13 us. If it takes you 45 days to go through and by the
14 numbers and by the book, it seems to me we're all going to
15 be better off and we're going to get that done quicker because
16 once it gets into the hands of the courts it's going to be
17 longer than 45 days. I don't know where the other
18 Commissioners are, but I don't see a whole lot in this
19 record yet that deals with the question of why do we have
20 to proceed right now and why haven't we gone through the
21 normal process that the statute contemplates. I think
22 that's the real question. We may have to pay more overtime
23 because we didn't act as a government in a timely manner,
24 but I'm not so sure that the court isn't going to say that's
25 your problem and that's what you need to do and that's

1 my great hesitancy. So give us some kind of a record if
2 you've got something. At this point I'm not persuaded to
3 vote. I want the stuff done, but I think we got some
4 problems with the record.

5 MR. BARSCH: Well, we've got four sites. Each and
6 every one of them has its own peculiar reason why it needs
7 to be done because if the work isn't done, it could fail
8 and it really gets, it seems to me it gets down to if we
9 knew it wasn't, we weren't going to have a wet year --

10 CHAIRPERSON CORY: No. Wrong question. Wrong
11 question. Why have you not complied with CEQA? Why are
12 you using the emergency procedures as opposed to in
13 '83-84 when you knew the appropriation was made, why
14 wasn't the 45 to 60 days to do the EIR done so we could
15 proceed? I mean, why are we here under an emergency thing
16 rather than having an environmental report in front of us
17 where we can say fine, boom, boom, automatic, go on the
18 consent calendar. That's the question. We have got to
19 have some sort of a record so when we go before the court
20 we can defend ourselves as to why this is an emergency.
21 Other than the fact that we just didn't do our work in a
22 timely manner. I think that's our problem. Because I
23 think we lose it. If we go this way without anything in
24 the record, I'm afraid we lose and then we are clearly not
25 going to get it done in any manner by this winter.

1 MR. BARSCH: Well, it seems to me like we can't
2 back up in time. Other than that we didn't, we honestly
3 didn't feel we had to go through the CEQA process until,
4 I don't know, a month or two ago. So we've been working
5 on that.

6 COMMISSIONER ORDWAY: Why?

7 CHAIRPERSON CORY: But two months ago is 60
8 days. We could have a CEQA report completed by then.

9 COMMISSIONER ORDWAY: Why wouldn't you think
10 you had to go through CEQA?

11 MR. BARSCH: Because we were under the understand-
12 ing that we had a permit to do work for maintenance and
13 that maintenance, if you do work on an existing project
14 for maintenance that predated CEQA, you were exempt from
15 CEQA.

16 COMMISSIONER ORDWAY: But not all the projects
17 are existing projects that you had done repair work on
18 before, so how did you think it applied to all the projects?

19 MR. BARSCH: The permit we had covered 194
20 river miles of the Sacramento River for maintenance of the
21 project levees. We interpreted that to mean that we could
22 do work to maintain those levees. The work in this area
23 is critical. That's why I wanted to go back to the
24 interim plan of flood control to show you why the relation-
25 ship between the project in Butte Basin and how it has to

1 overflow in this area or we bust the billion dollar system
2 that's already been built. That's, you know, it goes
3 together. In other words, you --

4 EXECUTIVE OFFICER DEDRICK: Excuse me. The
5 permit that I think Mr. Barsch is referring to is a permit
6 this Commission issued last June. That permit was processed
7 and approved under a categorical exemption for maintenance
8 from CEQA and the permit was for maintenance on existing
9 construction. That is to say, not for new construction.
10 The Commission action was very clearly stated that the
11 permit was not for the whole 192 whatever it was there, but
12 for the maintenance of a placement of rip-rap on existing
13 rip-rap.

14 COMMISSIONER ORDWAY: How many of the four
15 project sites fall under that permit, Miss Dedrick?

16 MR. BARSCH: All four sites fall within the
17 length of the permit.

18 COMMISSIONER ORDWAY: That's not what I'm asking.
19 I'm asking how many of the four sites fall within the
20 purview of the permit that we issued last June?

21 MR. KILLY: The staff doesn't feel that any of
22 these four sites fall within the purview of that permit
23 because no previous rip-rap work had ever been done here.
24 So we didn't believe it was maintenance.

25 MR. FAYE: We say it does. That's all.

1 MR. KILEY: Personally I did not believe that that
2 constitutes maintenance.

3 MR. BARSCH: Mr. Chairman, I have Marc Faye,
4 one of our Board members is here. He'd like to speak
5 on that point.

6 MR. FAYE: That's what it is. Our position
7 simply, in my opinion, as a farmer and a member sitting on
8 that Board, is that that work has been maintenance. It
9 always has been considered maintenance and it's part of
10 what we've been doing. We did not feel it was something
11 that was outside the permit and from my point of view
12 we now have a difference of opinion between the staffs
13 of two agencies.

14 COMMISSIONER ORDWAY: When did the difference
15 of opinion come up? We've been arguing this since last
16 June?

17 MR. FAYE: Quite recently.

18 COMMISSIONER ORDWAY: We've been arguing it
19 since last June?

20 MR. BARSCH: No, March of this year. March 12
21 there was a letter.

22 MR. FAYE: So we no longer have the 45 days
23 to go back and do that. That's why we need the emergency
24 today. We're willing to resolve those issues between the
25 staffs and have it resolved, but I don't feel as a citizen

1 that that difference of the government opinion between
2 agencies should stop this work. From my experience, I've
3 been on that Board for six years, we've been putting work
4 off on that section much too long. We're down to a
5 desperate point. If we delay another summer, I think it's
6 irresponsible on the part of the State of California, and
7 you can lay your blame on whatever bureaucracy failed in
8 the system. But we should not prevent the work. That's
9 my point.

10 CHAIRPERSON CORY: But my point is if we proceed
11 this way, trying to cram something into an emergency
12 not having anything, you know, that really makes me feel
13 comfortable --

14 MR. FAYE: I understand.

15 CHAIRPERSON CORY: -- I think somebody's going
16 to issue a temporary injunction and nobody's going to do
17 anything. I think that's a slam dunk loser for the
18 State of California.

19 MR. FAYE: That's what's going to happen if we
20 don't take action anyway. Nobody's going to do anything.
21 We're at the point now where we're, actually passed the
22 point where we should have had those contracts working.
23 So I think we're in an emergency position. If we have to
24 fight it out in court, we would. But I think we have a
25 defensible position. But that's my personal opinion

1 simply because I'm saying, I'm maintaining that we're under
2 permit already.

3 CHAIRPERSON CORY: Okay.

4 MR. BARSCH: About a week ago the Executive
5 Officer called me from Los Angeles and said if you'll get
6 a request for an application or a permit or license or
7 whatever you want to call it over to the staff this
8 Friday, we'll ask the Commission to approve under this
9 CEQA ruling for the four sites. Now the whole issue has
10 come up about whether we have a permit or not. But we
11 were trying to go through this in order to satisfy your
12 rules, your laws, so that you're doing what you have to do
13 and we're doing what we have to do. We have three agencies,
14 the Department of Water Resources, the Reclamation Board,
15 and the Corps of Engineers. We're charged with the
16 responsibility of maintaining this flood control project.
17 These people have all met. They've all agreed that these
18 sites are critical and have to get done. The next flood
19 could break them, could overload the project system and now
20 it seems like we're just arguing over semantics or whose
21 rules on who. I realize that you can't give out a sort of
22 just a blanket permit to just let us do things. We're
23 going to do an EIR in this area. I want to know who would
24 try to stop us? I understand there is some opposition.
25 But the main opposition was from the Sacramento River

1 Preservation Trust. They have agreed orally and essentially
2 in writing that they do not have a problem with doing these
3 four sites. I don't think there's anybody standing in the
4 wings who's going to sue us for maintaining the flood
5 control project to the Sacramento River.

6 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, may
7 I speak to Mr. Barsch's earlier comments in his statement?

8 CHAIRPERSON CORY: Okay.

9 EXECUTIVE OFFICER DEDRICK: About somewhat over
10 60 days ago it came to the attention of our staff who
11 immediately brought it to me that the Reclamation Board
12 had a contract with the Corps of Engineers with, as I
13 understood it, start work date of somewhere around either
14 April 15th or May 1st to carry out this project and that
15 they thought they had a permit from the State Lands
16 Commission.

17 As I stated earlier, the permit they had does
18 not give them permission to do what they want to do, nor
19 could you have legally issued such a permit under a
20 categorical exemption for maintenance on existing structures.

21 I called Mr. Barsch, notified him of the problem.
22 I talked to Bob James who is Chief Counsel at Department
23 of Water Resources and convened a meeting in my office to
24 discuss the issue. It became clear at that meeting that
25 a supplement to the EIS, the federal document, would

1 probably be adequate to comply with CEQA and allow you to
2 issue the permit they request.

3 I thought at that time we had made that clear.
4 I notified, I had a letter in my hand available that day
5 to send to Mr. Barsch. I told Mr. Barsch I would like him
6 to review that letter to see if he had any serious problems
7 with it prior to my sending it. He did review it. He
8 stated that he felt that they had a permit. I told him
9 that I was advised that they did not have a permit and
10 as Executive Officer I sat in that meeting, I briefed the
11 Commission. The Commission knew what was happening. There
12 was a member of the Rec Board staff present who stated on
13 the record that he understood the permit and that the
14 permit did not cover what they said. I then advised
15 Mr. Barsch as I had advised again the, ultimately, the
16 Deputy Director of the Department, Alice Cunningham,
17 that an environmental impact work must be done. That we
18 put together a protocol as to the amount of time that would
19 be involved, the exact items that State Lands Commission
20 thought had to be addressed by the Reclamation Board in
21 such a document and estimated that from 45 to 60 days of
22 work, depending on the amount of time allocated by the Rec
23 Board, would be adequate to put you in a position where you
24 could vote for these permits.

25 Recently within the last three weeks we were

1 apprised that they simply would not go that route. I
2 was advised that there was a possibility that they could
3 make adequate findings under CEQA's emergency exemption
4 to qualify for, to allow you to issue this permit. I
5 apprised Mr. Barsch of that fact two weeks ago and said
6 that if you can come up with findings which convince the
7 Commission and the attorneys will agree and therefore advise
8 the Commission that these findings are adequate under the
9 law to justify an emergency exemption, I will go forward
10 on that basis. The reason the issue is before you is
11 that reason. I agreed that we would at least try that route
12 after the Reclamation Board staff at least had refused to
13 try to pursue the Environmental Negative Declaration and
14 initial study route.

15 MR. BARSCH: I'd just like to say we didn't really
16 refuse to do that. We just felt that under the -- there is
17 a problem with timing on all of this. We're restricted on
18 the amount of time we can work in the water in the Sacramento
19 River because of turbidity, inundation, a lot of reasons.
20 There is such a short time that the Board can do their
21 work, that if we allow -- they have to advertise, they
22 have to have bids, they have to go through the whole
23 procedure and it's on a very tight schedule. Forty-five
24 days would essentially stop the work this summer. When
25 she called and said that we could do it, go this or at

1 least make this presentation, we said let's go that way.

2 EXECUTIVE OFFICER DEDRICK: Mr. Barsch, more than
3 60 days have passed since I advised you that within 60 days --

4 CHAIRPERSON CORY: I don't think any of that is --
5 we've got to deal with the question of can we find an
6 emergency or can we not. So if you would like to --

7 MR. BARSCH: I guess I'd just like to say back
8 to the point that if we get a flood this year, we've got
9 an emergency. If we don't do this work, we've got a
10 problem. If somebody can say, okay, if it rains and we
11 have a problem, we lose a levee, we flood a town, we'll
12 take care of it, then I guess we can say all right, we'll
13 do an EIR and do this work next year. But I don't see
14 how anybody can take this responsibility.

15 CHAIRPERSON CORY: Nice cheap shot. We'll go on
16 to the next person.

17 Mr. Cook. You look vaguely familiar.

18 MR. COOK: My name is Walter Cook.

19 CHAIRPERSON CORY: I'd never guess.

20 MR. COOK: It's a great deal of pleasure that I
21 have a chance to appear before the Commission again having
22 retired several years ago.

23 I'm here speaking primarily on my own behalf.
24 I personally live along the Feather River, a short distance
25 downstream from Shanghai Bend which was recently mentioned.

1 I know that if we have a flood equivalent to the 1954-55
2 flood at Yuba City that the levee at my place may very
3 well not be enough. I may end up wet and washed out.

4 I have a personal stake in that in that sense
5 and I think that you can say that if we have an
6 extraordinary flood, most anybody that lives along the
7 river could be washed out. I think that's perhaps one of
8 the risks that we take.

9 I can't imagine arguing that it's an emergency
10 because there might be a 100 year flood that would overtop
11 that levee. I know in the '54-55 flood I've been told by
12 people that were there that the water was at the top of the
13 levee. Had it not broken on the Yuba City side, it
14 probably would have broken on our side.

15 That's personal and I'll try to keep this as
16 short as I can and get to something a little more specific.

17 I'm also representing the Sutter-Butte Chapter
18 of the National Audubon Society who has not had the
19 opportunity to take specific action with respect to this
20 request for permit from the Commission but has taken action
21 to support AB 722 which is before the Legislature to
22 postpone the rip-rapping on the Sacramento River until an
23 adequate study of the meander belt alternative is made.
24 It's rather interesting because even though that's before
25 the Legislature and will be coming up in fact Monday before

1 one of the committees, it's rather interesting this
2 particular emergency will complete one-third approximately
3 of the specific reach of the river that this interim
4 plan involves. It will complete it without waiting for
5 any further study. It will be an accomplished fact when
6 that bill is perhaps passed.

7 I'd also like to say that with respect to
8 another organization, Sportsman for Equal Access, that
9 I have talked with a number of the directors and they are
10 generally opposed to the rip-rap project in general. We
11 haven't had a chance for resolution. I will try to get to
12 the emergency. I'm merely pointing out that this is a
13 very serious thing I think and that I certainly feel that
14 the EIR goes to the very heart of what's being done here
15 and the attempt to shortcircuit the EIR process and to do
16 a major portion of the project without the EIR, it creates
17 a real problem.

18 As far as I'm concerned there are a number of
19 things that cause considerable skepticism on my part as
20 to the credibility of the statement that this is in fact
21 an emergency. One of the things is that, talking about
22 the maintenance of this portion of the river, in the
23 proposed interim plan of flood control for the Sacramento
24 River from the Butte County line to Chico Landing of March
25 1st, 1984, which I was given this morning by Mr. Stevenson

1 and which I believe you have as part of the record, in that
2 this whole area was stated to be a no man's land because
3 it was not within the authorized area of the currently
4 active Sacramento River Bank Protection Project. This
5 was apparently amended in 1983 to fund work in this
6 particular area. Prior to that it had not been deemed to
7 be of great importance apparently. It was on a deferred
8 at least basis.

9 I should point out historically that one of the
10 reasons this is a no man's land and this has not been
11 subject to the leveeing projects that we've had on the
12 rest of the river, is that back in between 1917 and 1925
13 under the Debris Commission report, the land owners in the
14 Butte Basin asked and voluntarily withdrew from the flood
15 control project. They did not want to pay the cost of
16 reclamation from the Sacramento River. As a result the
17 water has flown in there and they felt at that time,
18 part of the statement was, they felt this was beneficial.

19 In any event, we feel that there is a real
20 problem. There is another thing and I would like to, unless,
21 if the Commission would accept it, I have charts and maps
22 which were taken from this matter that was just given to me
23 this morning by Mr. Stevenson. I can give it to the
24 Commission or I can refer to them just very quickly.

25 COMMISSIONER ORDWAY: We'll accept them.

1 CHAIRPERSON CORY: Accept them.

2 MR. COOK: What happened a year ago the
3 Reclamation Board made these studies and they determined
4 that there was an emergency at one station of the river.
5 They determined that there were four sites which were
6 1-A priority but not emergency a year ago. Those I've
7 taken the liberty, Mr. Cory, of highlighting the ones that
8 we are dealing with here today. If you'll notice they are
9 all 1-A. Towards the top of the page you'll notice that
10 there is one which is not being dealt with today which
11 is an emergency reference. My point is, if it was not
12 an emergency a year ago after the '82-83 floods, I question
13 whether there is an emergency today. They didn't
14 apparently think it was there then.

15 In addition, I'd like to point out that the
16 same engineering firm that just spoke to you prepared
17 what was called a 50-year meander belt. We have the maps.
18 The maps are available to State Lands and the topography
19 with this meander belt line on it. Apparently on a 50-year
20 basis the river would not do all the things that they're
21 talking about. Apparently on a 50-year, so-called 50-year
22 flood, it's unlikely that there would be, I think it was
23 mentioned -- I don't think it was unlikely -- I think they
24 mentioned that it's possible that there would have been
25 excess water going into the Butte Basin but possibly not.

1 On a 100-year flood this plan, the interim plan
2 and the EIS that we already have, on a 100-year flood, it's
3 not covered. The EIS, every plan they have is only a 50-year
4 plan up to this point. Therefore, whatever they're doing
5 here apparently is not adequate for a 100-year flood
6 which the engineer stated would no doubt break out the
7 Murphy plug.

8 I think that with respect to the three sites on
9 the left bank of the river where there are these, what
10 they call F.D.F.'s on those maps that you have there, the
11 Parrott F.D.F. and M&T and another one, the name escapes me
12 -- I just read this this morning, so I'm a little bit not
13 totally cognizant -- but in any event, the middle one is
14 a proposed flow control into the Butte Sink. It doesn't
15 even exist today. The water extends through that area at
16 the present time and certainly there is no proposal here
17 for rip-rap going into that proposed F.D.F. They do plan
18 at some time in the future to build that meaning that
19 there apparently is no control in that direction going into
20 the Butte Basin. In addition to that on the Parrott F.D.F.,
21 which is further downstream -- I think I've highlighted
22 that -- that's another structure. The rip-rap is proposed
23 for that, but it also points out in this report that that
24 control structure has been raised in excess of what the
25 plans were, which were adopted several years ago by the

1 Reclamation Board as far as elevation. That will hold back
2 water from going into the Butte Sink, however, they will
3 change that if this proposal is adopted by the Commission
4 today. So, in other words, there is a levee holding water
5 back from going into the Butte Basin there today according
6 to this. It's along a ditch that they have so they
7 can't seem to have that as a problem or as an emergency.
8 The lack of one at the middle one there, I think it's the
9 M&T one, at least the middle one, the lack of the
10 control structure, the fact that it isn't even built doesn't
11 seem to be an emergency. It just seems that most everything
12 you look at here indicates that there is no real, real
13 emergency.

14 I would like to also say that it's clear from
15 their report, from the Reclamation Board report, that I
16 just previously mentioned, from which these particular
17 documents were taken, that it is further the intent of the board
18 that this interim plan of flood control shall remain in full force and effect
19 until a permanent plan of flood control -- now, the
20 interim plan is the one we're talking about the 50,000
21 lineal feet, or, you know, plus ten miles of which this is
22 one-third, that this interim plan of flood control shall
23 remain in full force and effect until a permanent plan of
24 flood control, including reclamation of the Butte Basin,
25 shall be authorized and constructed. This is a long term

1 plan, funds just now become available. Suddenly we find
2 an emergency. It appears that the emergency is important
3 where these proposals are. It appears that they just
4 somehow fit the priority schedule for the plan even though
5 when the plan was first set out a year ago it wasn't an
6 emergency. It appears that all those things are very
7 convenient.

8 If I may just look quickly at this map on the
9 board, this I believe is 185.5. It's on the right bank
10 of the river. How that controls water going into the
11 Butte Basin I don't know, if that is the one that was
12 mentioned previously as eroding 300 and some feet of the
13 width of the river, that is going this way toward the
14 road, which is on the levee. It's going in a direction
15 which I don't understand an emergency there. I don't
16 understand what that will do. Over here they say that
17 this is eight feet lower than here which perhaps is the
18 case, and perhaps this Murphy plug may be in danger. That
19 may possibly be an emergency. I don't know. It wasn't
20 decided a year ago as an emergency. It was merely a
21 higher priority, one of the higher priorities.

22 This other end, by the way, has already been
23 rip-rapped up here. It's a fact that this river working
24 this way is unlikely. Down here we have another rip-rap
25 on the right bank which is the opposite bank from the Butte

1 Basin. We have this one which is on the left bank and
2 which does control erosion in this direction toward the
3 Butte Basin. We have the Parrott F.D.F. modification needed.
4 That is presently, according to this, several feet higher
5 than it should be and it will only be removed in the event
6 this is done. This is the, oh, the Three B F.D.F., that's
7 the proposed one. This black is a proposed rip-rap, but
8 they apparently do not consider this an emergency. They
9 have a question mark for priority. This is to be done
10 in the future. At the present time, water merely goes
11 over the bank and on down into the Butte Basin. As pointed
12 out here earlier by the engineer, it happens almost every
13 year. The water goes into the Butte Basin. I won't belabor
14 this much more, but I would like to ask that this report
15 which Mr. Stevenson had on the interim plan be made part
16 of the record. I'd like that those be made part of the
17 record.

18 I would think just in a very brief summary, that
19 the proposed emergency matches exactly what was proposed
20 before there was any need to determine that there was an
21 emergency and the emergency has the earmarks of a contrived
22 method of avoiding CEQA and that avoiding CEQA is a very
23 serious matter on this particular one.

24 I thank you very much, Mr. Cory.

25 CHAIRPERSON CORY: Any questions from Commissioners?

1 Mr. Cook, you are an attorney?

2 MR. COOK: Yes, sir.

3 CHAIRPERSON CORY: And you're still a member of
4 the Bar?

5 MR. COOK: Yes, sir.

6 CHAIRPERSON COOK: So if you really felt strongly,
7 let me put it the other way. If we should approve this,
8 would you contemplate filing suit against us?

9 MR. COOK: Well, I'm not opposed to participating
10 in lawsuits on this site. I have participated and am
11 participating at the present time in one. I have participa-
12 ted in another one. We went on appeal to the Supreme
13 Court. I can't tell you that I would in this particular
14 instance. But on the other hand, I think in answer to
15 your question would I contemplate, I certainly would
16 contemplate it. I believe that there's no excuse for what's
17 happening here and I really feel very strongly that this
18 is an attempt to railroad something through without
19 justification.

20 Thank you very much.

21 CHAIRPERSON CORY: Thank you.

22 Mr. Don Anderson.

23 MR. ANDERSON: I'm Don Anderson, President of
24 Sacramento Valley Land Owners Association. I'm a land
25 owner in the Monroeville Bend area, County Road 29. I have

1 with me today Bill Conan, also a land owner in County Road
2 29 area of Monroeville Bend.

3 Speaking to the emergency portion of the question
4 this morning, naturally the first thing that comes to my
5 mind is the declaration from the County Board of
6 Supervisors declaring Road 29 an emergency for protection
7 of the county road. Prior to 1983 private funds of
8 which Mr. Conan and myself were instrumental in developing
9 placed some of the rip-rap being protecting that road
10 which is now completely eroded. I think the black dots
11 there point that out.

12 That is now gone. There is no protection for
13 County Road 29. In addition --

14 CHAIRPERSON CORY: When did that disappear?

15 MR. ANDERSON: In 1983 when the river moved 500
16 feet. As it moved 500 feet, in addition to that, I have
17 two neighbors, now, one of them has been in business there
18 since 1927 in an walnut orchard, the Oscar Province
19 residence.

20 Their barn is now 150 feet from the river.
21 The Harold Cartlidge residence is just upstream from the
22 Oscar Province residence is in the same criteria. Two
23 residences, two farm headquarters in jeopardy of going down
24 the river. As a neighbor of theirs I don't really like to
25 see that.

1 I think that's about all I have at the moment.
2 That's all I'd like to present.

3 CHAIRPERSON CORY: Okay. Any questions from
4 Commissioners?

5 Okay. Thank you, sir.

6 George Basye.

7 MR. BASYE: Mr. Chairman, Members of the
8 Commission, I'm George Basye. I'm an attorney in Sacramento.
9 I'm an attorney for the California Central Valley Flood
10 Control Association. I'm also an attorney for the Parrott
11 Ranch Company, which is the area that's shown in pink at
12 the lower end of that picture.

13 The Flood Control Association and certainly the
14 Parrott Ranch Company urge that you approve what we
15 understand to be a clarification of an existing permit
16 given to the Reclamation Board for the Bank Protection
17 Project.

18 First I'd like to say that --

19 CHAIRPERSON CORY: Let me stop and make sure you
20 understand what we think the facts are. That there was a
21 permit issued that was very explicit and clear on its face
22 as to what it was and what it was not. Now, when we look
23 at it, there is no question as to what that permit was
24 last June. There was no question from the records that were
25 presented to this Commission as to what it was and to the

1 extent there was a misunderstanding or a lack of reading
2 the English language, that may have occurred. But I just
3 want to make sure you get a chance to address the issues
4 that I think are going to control how people vote up here
5 to maximize the probability of you getting what you wish
6 to have happen. That there, if we are mistaken as to those
7 facts, we can get them out and all read them here, but I
8 think the staff has gone over that and it's my understanding
9 that the permit had explicit conditions upon it. Everybody
10 had sort of, yeah, we understand where we are. That's
11 not explicitly clear and that needs to be clarified.
12 If there's some other vagueness question that we need to
13 entertain, I'm willing to try to see what evidence will
14 be that. But I do not want to leave in the record some
15 implication that there is a vagueness issue here with
16 the question of defining the emergency.

17 MR. BASYE: Thank you, Mr. Chairman.

18 It was my impression, and I'm not prepared to go
19 into the details of that issue, but I had assumed, and
20 perhaps incorrectly, that a permit had been issued for the
21 Bank Protection Project. I'd like to address the subject
22 of what the Bank Protection Project does comprise. First
23 I'd like to suggest that we should distinguish very carefully
24 for the purpose of your consideration the Bank Protection
25 sites that are the subject of today's hearing and the

1 interim plan of flood control that Mr. Cook has been
2 talking about. Those are two totally different and distinct
3 issues and the interim plan of flood control has nothing
4 whatever to do with the issue of revetment of the riverbank
5 under the Bank Protection Project.

6 The Bank Protection Project is one of course which
7 is designed to protect the levee system of the Sacramento
8 River Flood Control Project from Chico Landing down. This
9 reach which Mr. Cook has described as a no man's land
10 and it was at one time referred to that, is within the
11 reach that is authorized in the project. It's within the
12 area of jurisdiction of the Sacramento and San Joaquin
13 Drainage District. It was a part of what was intended to
14 be protected by the overall project. It was, as Mr. Cook
15 says, left open for those upper few miles at that time as
16 a result of the request of the land owners. The
17 Parrott Ranch Company, which has owned the ranch there for
18 100 years, ever since the original grant, they thought that
19 it was safe for them to live with the river. They've lived
20 with the river for 100 years, since 1861 or 2. They were
21 accustomed to the problems that this river presented. What
22 they didn't appreciate in 1925 which they do now is the
23 impact of being the only area that is open to the river
24 overflow and flooding. That has contributed it would appear
25 to a serious erosion that's occurred in that reach which I'm

1 sure has been described to you already and which is
2 continuing and which, if allowed to continue, will jeopardize,
3 according to the engineers, the Flood Control Project
4 downstream. That's the purpose, of course, of the
5 Bank Protection Project. These revetment sites are simply
6 that. They are bank protection sites for the purpose of
7 holding revetment of the riverbank. They have nothing to
8 do with the impact of the overflow, which is what the
9 Interim Plan of Flood Control would address. That's a
10 totally separate issue of course, and that is still to be
11 resolved.

12 But it assumes that there will be a protection of
13 the present bank location which if it is not revetted as
14 proposed in this project, will continue to be moving
15 perhaps as much as several hundred feet per year. More
16 than that in the last very serious years. Fortunately
17 this last winter has been a mild one. We haven't had the
18 problems except it is continuing to erode at least in
19 the Parrott Ranch Company because it's an abrupt, straight
20 up and down riverbank.

21 CHAIRPERSON CORY: Commissioner has a question.

22 MR. BASYE: Yes.

23 COMMISSIONER ORDWAY: I personally don't have
24 a problem with the purpose of the project. My problem is
25 with showing me that there's an emergency that exists.

1 So could you maybe speak to that issue?

2 MR. RASVE: Yes, I concur with the conclusion
3 of the State Reclamation Board that there is an emergency.
4 Now, the question is if it's an emergency, why wasn't it
5 last year or the year before. Funding is now available
6 to treat this. It's an emergency in the sense that the
7 river is working very hard and in any sizeable year works
8 very much harder than it has in this last year against
9 that riverbank.

10 If that riverbank erodes, particularly the one
11 on the Parrott Ranch, the furthest one down, the result
12 of that will be, can very well be as the engineers say
13 the river realigning itself behind the downstream project
14 levee. It's working in that direction. We know that over
15 the years the Sacramento River has moved in all directions.
16 Below Chico Landing it can't be allowed to do that because
17 we have a levee system that would be destroyed if it moved
18 out of that levee system. That's what the river is trying
19 to do at that lowest location on Parrott Ranch. We consider
20 that to be an emergency. That's evidenced by the fact
21 that there is very dangerous erosion occurring downstream
22 in the farmlands, scouring a substantial hole. That's the
23 river trying to go that way. Now, when's it going to go
24 that way? Maybe it won't go that way this year. But
25 a substantial flood can put it that way and that is the :

1 reason that the State of California has expended the
2 Department of Water Resources, the Resources Agency has
3 expended a great deal of effort to assist the Corps in being
4 able to work on these sites within this one year
5 before the next flood control season. Otherwise the
6 ordinary planning would have carried it over into subsequent
7 seasons. It's structured now so that it can be taken care
8 of before the next winter because how are we to know,
9 who is to know that the next winter won't be the big one?

10 CHAIRPERSON CORY: It can be taken care of if
11 we find there is an emergency that allows us the exemption
12 from the CEQA process.

13 MR. BASYE: And that I believe to be the emergency.
14 We don't know that emergency will happen now. This is an
15 emergency about to happen if you want to call it that.

16 CHAIRPERSON CORY: What I am concerned about is
17 whether or not that is a self-created emergency because
18 we, the government, chose not to comply with CEQA until
19 the point at which we could then say it was an emergency.
20 I'm not so sure that taking that posture is truly going to
21 please the court. My great fear is if we're talking 45
22 days and everybody got their act together and did the
23 amendment to the Environmental Report, the strength of
24 doing that in 45 days as opposed to running the risk of
25 litigating and having this thing tied up in litigation for

1 two to three years. I mean, that seems to be the question
2 and I'm trying to ask those of you who would like to do this,
3 please give me a record that will enable me to vote for an
4 emergency and have it upheld by the court if it's challenged.
5 Saying it is an emergency or saying that, geo, we haven't
6 done anything for a long period of time, now we have an
7 emergency, seems to say it is an emergency that we
8 created and, therefore, we are going to take advantage of
9 our inaction to exempt ourselves from the law.

10 Now, I am not very comfortable with that and
11 if you as a lawyer could help me be more comfortable with
12 it, you would help your cause because I frankly would like
13 to protect those levies. But what I see happening is a
14 slam dunk case against us if we find for an emergency
15 with this relatively flimsy evidence in the record at best
16 that there is an emergency other than saying, yeah, it's
17 an emergency. Well, why is it an emergency? Why wasn't it
18 an emergency back when the Reclamation Board adopted some
19 things? What has changed? What facts are different
20 today than when those were put together? That's the record
21 I'd like somebody to address because I would be frankly
22 more comfortable not voting against this. But at this
23 point I don't see anything in the record that enables me to
24 vote for it.

25 MR. BASYE: Well, I'm a lawyer as Mr. Cook is,

1 but I don't relish the concept of litigation and I share
2 the Chairman's desire that that be avoided. That certainly
3 would be desired that it not be ensnared in litigation.
4 We don't wish to have that result obviously. From the
5 standpoint of the evidence to support --

6 CHAIRPERSON CORY: Is there anything new in the
7 Parrott Ranch? Has there been any, in the last 60 days,
8 any increase in scouring? I mean, you say that all the
9 evidence we've got so far is that this has been going on
10 for three, four-year period of time. Is there anything
11 new?

12 MR. CHACKTO: It's continuous working.

13 CHAIRPERSON CORY: It's continuous, someone in
14 the audience?

15 MR. BA, YE: Yes, Mr. Chackto is a representative
16 of the Parrott Ranch Company advises that it's continuing
17 to erode. I can't say that it's eroded dramatically in the
18 last 60 days. I have not been there to know that and the
19 manager of the ranch is not here. The erosion does
20 constantly continue because that soil is straight up and
21 down and very soft.

22 CHAIRPERSON CORY: I completely understand that.
23 I live along the river. I suffer the same kinds of
24 problems and I am deeply concerned about it. Please
25 believe me. But I'm trying to get a record that we can

1 defend and I'm not sure we've got much. Go ahead with what
2 you wish to say.

T4
3 MR. BASYE: Well, I think I've indicated my
4 position. I suppose that what you're looking for is
5 engineering testimony I'm not prepared to give. I'm not
6 the one to offer that. So from a factual standpoint,
7 it's my position that there is an emergency, I believe,
8 and I think it is demonstrated by the continuing working
9 of the river. Beyond that I have not a factual basis to
10 offer to you.

11 CHAIRPERSON CORY: Could you differentiate and
12 help the record in the regard of, I mean, it would seem to
13 me that continual working along the river exists anyplace
14 that there is not a revetment or rip-rap or concrete
15 structure. What is unique about this other than the fact
16 that you have a client that owns property there?

17 MR. BASYE: Well, what would be unique, Mr. Chairman,
18 I appreciate that question, because it does point up the
19 difference. Let's suppose there were a half mile of berm
20 or a quarter mile of berm between the river and the levee,
21 and that's true downstream in the reach of Butte City,
22 for example, where the levee is set a considerable distance
23 back from the river. There's a considerable erosion going
24 on there. I, like the Chairman, I have an interest in
25 property on the Sacramento River near Colusa and there's about

1 an eighth of a mile between the levee and the berm and
2 the river washes a little bit, but it's a long ways to the
3 levee.

4 That's not an emergency. You could lose a
5 quarter of a mile of berm. It's a shame if you did, but
6 it wouldn't be an emergency because of that erosion.

7 What we have here is no levee backing up this
8 overflow. You have erosion on a bank which is declining.
9 As Chairman and the Members know, along the Sacramento
10 River the highest point is the river. The river has built
11 it up and from there at least below Chico Landing falls
12 away. So as you erode, you lose elevation as well and you
13 increase the overflow and there's no levee to backstop it
14 at this point except -- well, there isn't any levee to
15 backstop it. It would go behind the levee system which
16 starts downstream about three miles below at the lower
17 end of the Parrott Ranch. Therefore, it is distinctly
18 different from any other kind of erosion because where you
19 have a levee system standing as a backstop erosion, and this
20 is what the Bank Protection Project was designed to try and
21 reach, to hold those banks there so we didn't get to the
22 levee. But we're still trying to catch up on that.
23 Unfortunately you do it just about when it's close to the
24 levee. You can't get at the berms that are a long ways out
25 to protect them. If you don't, the levee system is there

1 as a backstop to prevent the river from shifting and
2 destroying the levee system. Here there is no bank stop
3 to prevent the river from shifting which is exactly what
4 we're saying and the engineers have said is the potential
5 emergency that if the river shifts, it will not simply
6 stop at the Levee. It will go behind the downstream system
7 and the levee system will be gone.

8 CHAIRPERSON CORY: Okay. Thank you very much.

9 Is there anyone else who wishes -- Mr. Cook.

10 MR. COOK: Mr. Cory, could I make just one
11 brief statement in response to Mr. Basye's statement that
12 the interim report has nothing to do with the present
13 proposal.

14 The interim report, of course, the Interim Plan
15 for Development includes the identical locations that are
16 being discussed today, the identical action along with
17 others. It places them in a priority basis. It was a
18 year ago. What that has to do with the present proposal
19 is that a year ago there were certain comments made, certain
20 things made with respect to the river at this reach which
21 are not quite consistent with today's proposal.

22 CHAIRPERSON CORY: Okay. Is there proponents,
23 any of the people from the Rec Board have anything they
24 want to say before we vote?

25 MR. BARSCH: We are prepared to go through the

1 sites one by one, but if the engineering testimony on the
2 particular problem with each site is not what you're
3 looking for, then I guess we're through.

4 CHAIRPERSON CORY: If there is an engineering
5 problem that addresses itself to the existence of an
6 emergency, I think that would be very helpful. But there
7 is no -- I don't have any question that this seems to be
8 the kind of work that should be done. It's a question of
9 whether or not we can exempt it from CEQA is the question
10 before us. So if there are factual information that helps
11 us reach the conclusion of the emergency exemption from
12 CEQA, that would be helpful. I think you have no quarrel
13 at least with me or other members if, yes, the work needs
14 to be done, but it's a question of how we procedurally
15 approach getting that work done.

16 Yes, sir. Would you identify yourself?

17 MR. CONAN: Bill Conan from the Road 29 area.
18 Just one little supplement to what Don Anderson said.
19 I spent some time there yesterday on Road 29 and with this
20 Province family in particular where they established their
21 residence in 1927. There's two homes where it moved
22 500 feet in 1983 toward their residence and it's within
23 150 feet now. So you can see that one small flood is going
24 to take out two homes and a homesite and, of course,
25 Road 29 goes, which is a County road and a federally funded

1 levee and is so set for this work to be done, it would just
2 be a shame if it weren't done. Thank you.

3 MR. ELLIOTT: Mr. Chairman, if I could say one
4 more thing briefly on this, and I hope it addresses, it's
5 addressing to the point.

6 Engineers have a little trouble, I suppose,
7 perceiving an emergency situation such as what we're
8 talking about here. It's pretty obvious if you're in
9 flood, the levee's eroding, threatening to inundate an
10 area where the water is not intended to go, that's an
11 obvious emergency. That's an easy decision. This
12 situation here, as I perceive it, is an emergency as
13 someone said, to coin someone's phrase here, about to
14 happen. We have the opportunity with the river in its
15 present regime at these two locations to hold what we
16 have, to prevent the loss of those two sites at which
17 time we lose the ability to maintain the operation of
18 the federal-state flood control project as it was conceived
19 and as it has been operating. That I see as an emergency.
20 We talk about how close do we get down the levee portion.
21 How close do we let the berm erode to the levee before
22 we finally revet it. When does it become an emergency?
23 That's an easy definition. It's defined as when the
24 riverbank encroaches to the theoretical slope of the levee
25 if it were continued on down. That also is an easy shot

1 to call.

2 I believe we are within a thousand feet of the
3 Murphy Slough plug at the one location. I don't think we
4 can afford to lose any more land at that point because if
5 we do, we end up with a situation such as up at Mile 215,
6 the so-called Kaiser-Aetna area where a cutoff occurred
7 several years ago. There's nothing left to build anything
8 on. The river has done what it wants to do.

9 The situation here is that we are at the top of
10 the project and if we have a 100-year flood, whenever that
11 may be, next year, a flood of the magnitude of 1983 or
12 larger, which we could well have, we will lose these
13 two sites. We will lose the ability to discharge water
14 into Butte Basin. We will exceed the design and safe
15 capacity of the Sacramento River Flood Control Project
16 levees and who knows what can happen? That is an emergency.
17 If we wait another year, we might have exactly the same
18 situation. When does it become the point where it is not
19 viable to maintain the status quo at these two sites, and
20 that's what's unique about these two sites. These are the
21 points of overflow and the Camp 2 Bend site is the last,
22 the south site, is the last chance we have before we reach
23 the portion of the levee project which is leveed on both
24 sides.

25 CHAIRPERSON CORY: If I ask you a question,

1 maybe it will shed some light.

2 MR. ELLIOTT: I think I understand the problem.

3 CHAIRPERSON CORY: My problem is not that they
4 should do the work.

5 MR. ELLIOTT: I realize that.

6 CHAIRPERSON CORY: But can you tell me is there
7 anything that is recently occurred because I am very
8 fearful that we come to a conclusion of saying that
9 it's an emergency, yet the record said money was available
10 in '33, everybody's been sitting around sort of planning
11 for it. It doesn't sound to me like an emergency. It
12 sounds to me like, yes, it's something that very much
13 needs to be done. But we have a law we're supposed to
14 comply with and not to comply with that law, we must make
15 a finding of fact. If you as an engineer, the things
16 you address are something that we should have done last
17 December sometime. Now we're here. I just think we lose
18 in court if we do that. If I'm wrong --

19 MR. ELLIOTT: We may lose in court if we don't.
20 There's present lawsuits filed downstream right now
21 dealing with bank erosion which could relate to allowing
22 the river to do what it's done thus far. The consequences
23 could be much more severe.

24 CHAIRPERSON CORY: Okay. Thank you, sir.

25 MR. DAVID ANDERSON: If I could make just one

1 final point and maybe tell you why we're at this juncture
2 today. The Sacramento River Bank Protection Project as
3 has been described to you before was created to protect
4 the existing levee bypass system and as originally envisioned
5 in phase one it was rock work to protect levees and I think
6 very readily seen as maintenance of an existing
7 structure.

8 Phase two was a little more forward looking.
9 It was to protect the banks in front of the levees before
10 they were subject to erosion, a little more remote.
11 This no man's land was always sort of a problem area.
12 Nobody really had clear authority or clear idea what to do
13 about it except it was up there and it was important.
14 A clarification was had in '83 and it was done in the form
15 of extending the Bank Protection Project. With that
16 extension, our view went along that this was still in
17 that same sense but one step further of maintaining the
18 integrity of that project. All I can tell you is that the
19 reason for the emergency today is because we have gone
20 along all this time in good faith saying that this was
21 maintenance of existing facilities.

22 CHAIRPERSON CORY: That question is not before
23 us today.

24 MR. DAVID ANDERSON: Well, inasmuch as you're
25 wondering why work wasn't done before. I'm explaining to

1 Mr. Cook has presented to us?

2 MR. DAVID ANDERSON: I don't believe I have.

3 CHAIRPERSON CORY: It purports to be the Sacramento
4 Butte Basin overflow area bank protection sites and I
5 believe it is the interim, this is from the Interim Plan.

6 MR. COOK: Those were attachments to the Interim
7 Plan.

8 CHAIRPERSON CORY: Of the Reclamation?

9 MR. COOK: As I understand it, I received them
10 this morning from Mr. Stevenson and I believe he received
11 them perhaps the day before yesterday from the Reclamation
12 Board. Is that right, Blake?

13 MR. STEVENSON: Either that day or the day before
14 that.

15 MR. COOK: All right. In any event, they were
16 just received from the Reclamation Board and they refer
17 to the Interim Plan.

18 CHAIRPERSON CORY: Okay. Fine. Any questions
19 from Commissioners?

20 Anybody wish to make a motion to approve the
21 application?

22 Hearing no motion, the application is denied.

23 Any more business to come before the Commission?

24 EXECUTIVE OFFICER DEDRICK: No, Mr. Chairman.

25 CHAIRPERSON CORY: I am about to adjourn, but

1 You why work wasn't done before. I'm explaining to you
2 why --

3 CHAIRPERSON CORY: I understand.

4 MR. DAVID ANDERSON: -- we've been operating in
5 good faith.

6 CHAIRPERSON CORY: I just wanted to make sure
7 that I understood the question of what we have before
8 us is an emergency application, not an existing maintenance
9 application.

10 MR. DAVID ANDERSON: Surely.

11 CHAIRPERSON CORY: I just wanted to make sure
12 I understood it correctly.

13 MR. DAVID ANDERSON: In order to perhaps
14 accommodate other agencies and groups, if one were to say
15 at this point, no, Reclamation Board, you're incorrect,
16 we think this is not maintenance, it doesn't have a
17 maintenance exemption, then we have to say: My gosh, this
18 work which we thought was so important you're now saying
19 is not exempt from CEQA as maintenance, it is still as
20 essential... physically that it be done. So now it is
21 an emergency, but not because we backslid or dragged our
22 feet or for any reason like that. We've operated in good
23 faith on this. We've never hidden our views as to the
24 relationship with CEQA to this project.

25 CHAIRPERSON CORY: Have you seen the stuff that

1 I would like people from the Reclamation Board to know that
2 I do not lack sympathy for what you're trying to accomplish.
3 If it requires this Commission to adjust its meeting
4 schedule so that we can comply with the CEQA law and you
5 can have the maximum amount of time, I am prepared to do
6 that.

7 COMMISSIONER ORDWAY: Or hold a special meeting.

8 CHAIRPERSON CORY: Special meetings or what have
9 you, but I think we have to obey the law. I think whether
10 we like it or not it is the law and we took an oath to
11 uphold the law and that's our problem and that's why we
12 are where we are. So in the future if there is some
13 accommodation or if you need us to beat on our staff to
14 work around the clock, if you will, to accomplish those
15 amendments to the EIR so that we can go through the normal
16 CEQA process, I am prepared to give all the encouragement
17 to the staff to do that almost to the point of demanding
18 it of them. So that's where we are. I think the other
19 Commissioners feel similarly.

20 So with that, we stand adjourned. Thank you.

21 (Thereupon the meeting of the State
22 Lands Commission was adjourned at
23 11:50 a.m.)

24 --oOo--
25

CERTIFICATE OF SHORTHAND REPORTER

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

I, CATHLEEN SLOCUM, A Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission meeting was reported in shorthand by me, Cathleen Slocum, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 1 day of May, 1985.

Cathleen Slocum
CATHLEEN SLOCUM
Certified Shorthand Reporter
License No. 2822