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**SPECIAL MEETING
STATE LANDS COMMISSION**

**STATE CAPITOL
ROOM 1145
SACRAMENTO, CALIFORNIA**

**THURSDAY, FEBRUARY 13, 1986
2:00 P.M.**

~~ORIGINAL~~

**Nadine J. Parks
Shorthand Reporter**

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Walter Harvey, Acting Chairman, for Kenneth Cory,
State Controller, Chairman

Nancy Ordway, for Jesse R. Huff, Director of Finance,
Commissioner

Laura Schlichtmann, for Leo T. McCarthy, Lieutenant
Governor, Commissioner

Staff Present:

Claire T. Detrick, Executive Officer
J. F. Trout, Assistant Executive Officer
R. C. Hight, Chief Counsel
Jane Smith, Secretary
Curtis L. Fossum

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P R O C E E D I N G S

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3 ACTING CHAIRMAN HARVEY: Let's call the meeting
4 to order. For the record, I understand we have three things
5 on the agenda. I will exercise the prerogative of the
6 Chair and take up Item 3 on the agenda first, unless there's
7 objection from someone here.

8 Item 3 is the matter of the application of the
9 City of Anderson. What to tell us what it is?

10 EXECUTIVE OFFICER DEDRICK: Bob, do you want
11 to do that?

12 ACTING CHAIRMAN HARVEY: Bob?

13 MR. HIGHT: The City of Anderson has an
14 application to annex an area of land adjacent to the City of
15 Anderson and separated by the Sacramento River. And it's my
16 understanding that the City of Eureka is here --

17 EXECUTIVE OFFICER DEDRICK: Redding.

18 (Laughter.)

19 MS. ORDWAY: Unless they have moved. Either
20 that, or it's a very large annexation.

21 MR. HIGHT: I won't say anymore. Anyway, the
22 City of Redding is here to speak on the subject.

23 EXECUTIVE OFFICER DEDRICK: But the issue that's
24 before the Commission is the question of the validity of the
25 surveyed boundaries; correct?

1 ACTING CHAIRMAN HARVEY: I understand there's two
2 issues that are before us.

3 MR. HIGHT: The Commission has a twofold
4 jurisdiction; one, to approve the legal sufficiency of the
5 boundaries, and two, to approve or consent as landowners
6 to the annexation; since we are an owner of land within
7 the annexation, it requires the Commission's consent.

8 It's the intent here to only deal with the
9 sufficiency of the legal description.

10 MS. ORDWAY: Question. What is the role of LAFCO
11 in this?

12 MR. HIGHT: LAFCO -- I think I will defer to
13 Curtis Fossum.

14 MR. FOSSUM: LAFCO's responsibility is to set
15 the sphere of influence primarily for the areas that may
16 someday be annexed in the cities.

17 The history between -- involving this particular
18 parcel of land, is that in 1983 -- correct me if I'm wrong --
19 in 1983, the land was transferred into the sphere of
20 influence to the City of Redding.

21 MS. ORDWAY: Why?

22 MR. FOSSUM: Why? I'm not sure about that. But
23 apparently it was against the staff -- LAFCO's staff's
24 recommendation at that time by a vote of 3 to 2. That
25 particular situation was reversed last year. And the summer

1 of 1985, the sphere of influence was transferred back to
2 or at least put in the sphere of influence of the City of
3 Red-- of Anderson also by a 3 to 2 vote.

4 And the submittal by Redding discusses that as
5 to why the City of Redding at least believes that took
6 place.

7 However, LAFCO-- the staff recommendation of
8 LAFCO has been that it was to be in the City of Anderson's
9 sphere of influence. It's directly adjacent to the City
10 of Anderson. And it is quite a few miles from the main body
11 of the City of Redding, but it's within a mile of the
12 corporate limits of Redding, because the airport is
13 incorporated within Redding. So, it's less than a mile
14 from the corporate limits of Redding, but it's directly
15 adjacent to Anderson.

16 And LAFCO has determined that it should be within
17 Anderson's sphere of influence. They will act after we act
18 as to whether or not this annexation should go forward. It's
19 their determination to make.

20 We only can affect those properties that are
21 under our jurisdiction, which is the river.

22 ACTING CHAIRMAN HARVEY: Why do they wait for us?

23 MR. FOSSUM: They have to under Section 56108 of
24 the Government Code. They cannot take any further action
25 until such time as the State Lands Commission has approved it.

1 MS. ORDWAY: Has approved what?

2 MR. FOSSUM: That's a matter of some disagreement.
3 If we -- if we approved it today --

4 MS. ORDWAY: No. Let's stick to the issue. The
5 two issues that I'm going to be dealing with. One is whether
6 or not the survey boundaries are correct. The second is
7 our ownership of the river. Let's deal with the first one
8 first.

9 Is LAFCO waiting to hear that we validate the
10 survey boundaries and then are they free to act?

11 MR. FOSSUM: The answer to that is that the
12 Executive Officer at LAFCO believes that they have to wait
13 for the second consent. I spoke to her this morning and
14 she is of the belief that they need both consents before she
15 will proceed and, therefore, it will take several weeks
16 longer for the procedures to progress in LAFCO. But, at the
17 same time, we explained our situation to her, and she under-
18 stood that. So --

19 ACTING CHAIRMAN HARVEY: What do we believe --
20 excuse me.

21 MR. FOSSUM: The problem with this is that the
22 Government Code section, as written, requires a 45-day
23 period in which to respond to the application by a city or
24 LAFCO, whoever the applicants are. That period of time,
25 given our general Commission meeting dates, sometimes makes it

1 so that the Commission is not able to even undertake that
2 determination and, therefore, that's one reason to put on
3 a special meeting, for example.

4 The other thing is that it is a bifold
5 process -- twofold process. And the Commission historically
6 has taken it in a twofold step, untill the last couple of
7 years when we've tried to put these together on a unified
8 basis.

9 Because of the controversy that's been raised --
10 EXECUTIVE OFFICER DEDRICK: But the fact --
11 excuse me. The statute doesn't make it clear, as I under-
12 stand it, whether LAFCO has to wait for this Commission to
13 take both actions or whether they can act --

14 ACTING CHAIRMAN HARVEY: How do we read that
15 statute?

16 MR. HIGHT: We read the statute to believe that
17 LAFCO, once the Commission has approved the sufficiency
18 of the legal description, may proceed.

19 MR. FOSSUM: But the Executive Officer told us
20 that she would tend to wait to proceed with theirs until
21 our next meeting, which is two weeks from today.

22 MR. HIGHT: Other LAFCO agencies have
23 interpreted it our way and have likewise proceeded.

24 ACTING CHAIRMAN HARVEY: Excuse me if I may.
25 Where does delaying a decision on Part 2 put us with

1 resect to the 45-day period?

2 MR. HIGHT: It is our belief that the 45-day
3 period does not apply to the consent as to owner.

4 EXECUTIVE OFFICER DEDRICK: It only applies to
5 the description.

6 ACTING CHAIRMAN HARVEY: It only applies to the
7 description. Okay. We have two people that wanted to speak
8 on this issue. One is Walter McNeill, Deputy City Attorney,
9 City of Redding. Mr. McNeill?

10 MR. MC NEILL: Yes, sir. Thank you.

11 I understand --

12 EXECUTIVE OFFICER DEDRICK: Would you identify
13 yourself? Your name and the organization again for the
14 record?

15 MR. MC NEILL: Okay.

16 EXECUTIVE OFFICER DEDRICK: Thank you.

17 MR. MC NEILL: My name is Walt McNeill. I'm
18 Deputy City Attorney for the City of Redding. I'm here on
19 behalf of the City of Redding to speak to this subject
20 matter of the hearing today.

21 Now, I understand that it's been separated into
22 two different hearings.

23 ACTING CHAIRMAN HARVEY: Not yet.

24 MS. ORDWAY: No. Just two separate issues.

25 ACTING CHAIRMAN HARVEY: Two separate issues.

1 MS. ORDWAY: Two separate votes are required.

2 MR. MC NEILL: All right. The City of Redding
3 has objections to the approval of this, the annexation
4 of these submerged lands, that we're referring to here and
5 that have been described in the boundary description that
6 the City of Anderson has submitted.

7 Now, I don't know to what degree staff has
8 briefed you on this, but I did submit some written material
9 that I hope you'll have a chance to review before making
10 a decision.

11 I brought one map just to show and tell --

12 MS. ORDWAY: May I ask a question?

13 MR. MC NEILL: Yeah.

14 MS. ORDWAY: Do you disagree with the boundary?
15 Which -- now that we've separated the two issues, do you
16 disagree with the first issue, the boundary?

17 MR. MC NEILL: Yes.

18 MS. ORDWAY: Do you disagree with the lines,
19 the boundary lines that we would be approving?

20 MR. MC NEILL: Yes.

21 EXECUTIVE OFFICER DEDRICK: You think these
22 boundary lines are incorrectly drawn?

23 MR. MC NEILL: No, I don't think they're
24 incorrectly drawn.

25 MS. ORDWAY: What is it that you disagree with

1 in the boundary line issue?

2 MR. MC NEILL: My point is that we should --
3 I believe we should deal with a separate -- a different
4 boundary.

5 MR. HIGHT: Okay.

6 MS. ORDWAY: That's not before us.

7 MR. HIGHT: The Commission -- before the
8 Commission is the description as presented by LAPCO. And
9 the Commission only has the discretion to determine whether
10 or not the description as written is legally sufficient.

11 EXECUTIVE OFFICER DEDRICK: Doesn't have anything
12 to do with --

13 MS. ORDWAY: We could always --

14 EXECUTIVE OFFICER DEDRICK: -- the merits of
15 where the lines should be and politically speaking, it is
16 whether they are legally sufficient descriptions of land so
17 that the title transfer could take place. That's strictly
18 a technical matter.

19 MR. MC NEILL: And you don't have discretion
20 to adjust the boundary lines?

21 MS. ORDWAY: No, we don't.

22 EXECUTIVE OFFICER DEDRICK: Not as Item 1.

23 MR. FOSSUM: Only to the extent that somehow
24 it doesn't make sense with the physical features on the
25 land or with --

1 (Thereupon Mr. Fossun and Ms. Ordway
2 spoke at the same time.)

3 MS. ORDWAY: -- with another set of boundary
4 lines submitted to us. My understanding with what we would
5 do in that event is, say, disapprove them and ask for another
6 set of lines to be submitted to us.

7 MR. HIGHT: Correct.

8 MS. ORDWAY: We cannot change them is my
9 understanding. Am I correct?

10 MR. HIGHT: That's correct.

11 MR. MC NEILL: I'd still like to point out
12 something that I think bears on whether or not these
13 boundary lines make sense.

14 And I can tell it to you briefly and you can
15 tell me if I'm out of order.

16 MS. ORDWAY: I just want to know which part
17 you're speaking to. That's been my confusion. You're
18 probably speaking to a generic issue.

19 MR. MC NEILL: I'm speaking to the proposed
20 boundary line.

21 (Thereupon Mr. McNeill produced a
22 map and displayed it to the Commission.)

23 MR. MC NEILL: This is a map submitted for the
24 annexation area. The area in yellow shows property that the
25 City of Redding holds an option on that we are in the

1 process of purchasing, and intend to annex to the City of
2 Redding. After purchase --

3 ACTING CHAIRMAN HARVEY: For the record, the map
4 he is showing us is page 6, I guess, or No. 6, the colored
5 portion of that map that is I guess entered into the record.

6 MS. ORDWAY: Exhibit 1?

7 ACTING CHAIRMAN HARVEY: Okay. Figure 1 of
8 something.

9 MR. MC NEILL My point with respect to
10 boundaries is simply this. When this property becomes --
11 falls within the jurisdiction of the City of Redding,
12 it's our contention that it's inappropriate to put the
13 river lands directly adjacent to this property in the
14 jurisdiction of the City of Anderson.

15 I feel it's a certainty that this is going to
16 occur. We'll purchase the property, that this will become
17 the location of a waste water treatment facility for the
18 City of Redding. That's the source of the whole controversy
19 between the two cities. And it would be inappropriate to
20 make the river lands adjacent to the City of Redding
21 territory within the jurisdiction of the City of Anderson.

22 And it's my contention that a boundary line which
23 extends through this stretch of river all along this waste
24 water treatment site is inappropriate for annexation to the
25 City of Anderson.

1 Now, I understand that it's staff's position
2 that the 45-day time limit of Government Code 56108 only
3 applies to the determining the boundary configuration.
4 But I have some serious doubts about that simply from taking
5 a plain reading of the statute.

6 It's not something that's been tested in court
7 before. It's my concern that -- that upon approving the
8 boundary lines of the area that's been submitted to you by
9 the City of Anderson, after 45 days elapses -- which I
10 believe will come before your next regular meeting on this
11 on the 27th, this Commission will lose jurisdiction to
12 determine the issue and then the annexation will be deemed
13 approved by operation of law.

14 The attorney here, Mr. Remy, that has repre-
15 sented a citizens group in the Anderson area and works with
16 the City of Anderson, may have an opinion on that as well.
17 I'm not sure that's a certainty, but I have a serious
18 concern that basically after today's meeting the horse is
19 out of the barn.

20 MR. TROUT: Mr. Chairman, can I -- may I
21 address a question to Bob?

22 ACTING CHAIRMAN HARVEY: Uh-huh.

23 MR. TROUT: The City Attorney from Redding said
24 that this would become operative if the Commission didn't
25 act within the 45 days. It seems to me from the law -- maybe

1 Curtis or Bob can answer it -- that the description may be
2 approved, but the annexation does not become effective
3 until approved by LAFCO. I think that's an issue we better
4 straighten out.

5 MS. ORDWAY: If you read from Section (d) of
6 that Code section, it's very clear. It says within 45
7 days after filing of the boundary description and map, SLC
8 shall make a determination that the proper offshore
9 submerged land boundaries. Such determination shall be
10 final and conclusive if the State Lands Commission does not
11 make the determination within that time, the proposed
12 offshore submerged land shall be deemed approved. (sic)

13 (Thereupon several members spoke at
14 once.)

15 EXECUTIVE OFFICER DEDRICK: That's the
16 boundary.

17 MR. FOSSUM: Section A is to be taken
18 differently in that it does not discuss boundaries there.
19 It talks about that no lands without approval of the
20 State Lands Commission shall be annexed or incorporated. And
21 so, if we don't approve the actual land being transferred
22 into the city, then they are not transferred. That's been
23 our interpretation for a number of years.

24 MR. TROUT: I just wanted to clarify the point
25 that the Commission is not, per se, by action or inaction

1 approving the application.

2 MR. HIGHT: It still would be required to go
3 to LAFCO. It would mean that the Commission's --

4 MR. TROUT: Right.

5 MR. HIGHT: -- jurisdiction or say in the thing
6 would not exist.

7 MR. TROUT: Exactly. I think that's the
8 point we would want to make sure --

9 MR. FOSSUM: (Interjecting) Even if we
10 approve everything, LAFCO can still deny the entire --

11 ACTING CHAIRMAN HARVEY: I understand that.
12 What Miss Ordway just read, to me, seems to say that that
13 45-day period commences with the filing of the boundary
14 descriptions. And we haven't filed boundary descriptions
15 yet. Therefore, the 45-day period hasn't commenced.

16 MR. FOSSUM: The applicant files --

17 EXECUTIVE OFFICER DEDRICK: The applicant
18 files that. We don't file the boundaries.

19 ACTING CHAIRMAN HARVEY: What happens if the
20 boundary description gets changed?

21 MR. HIGHT: Then new time starts.

22 EXECUTIVE OFFICER DEDRICK: New time starts.

23 MS. ORDWAY: The clock starts all over. That's
24 pretty standard.

25 ACTING CHAIRMAN HARVEY: That's pretty devious.

1 Okay.

2 EXECUTIVE OFFICER DEDRICK: But the operational
3 point might -- may I? The way I've always understood it
4 in the four years I've been sitting in this chair, was that
5 the 45 days applies to the question of approval or
6 disapproval of the correctness of the boundary
7 description, but not to the descretion of this Commission
8 to approve or disapprove an annexation.

9 MS. ORDWAY: In Section (a), which is what
10 you were referring to, there is no indication of any day
11 limit. The only day limit is in subsection (d), which
12 indicates the boundary.

13 EXECUTIVE OFFICER DEDRICK: It was that point
14 that I ghought everybody --

15 MS. SCHLICHTMANN: This has not been tested in
16 court but has come up repeatedly?

17 MR. HICHT: It's come up at the Commission on
18 several occasions but has never been tested in court.

19 EXECUTIVE OFFICER DEDRICK: We certainly have
20 taken that action before.

21 MS. ORDWAY: I think -- may I speak to Mr.
22 McNeill?

23 ACTING CHAIRMAN HARVEY: Sure.

24 MS. ORDWAY: Other than the fact you don't
25 like the boundary line, is the boundary description fair and

1 accurate? Remove yourself from whether it's nice or not
2 nice.

3 MR. MC NEILL: Judging it as an engineer or a
4 surveyor --

5 MS. ORDWAY: Yes.

6 MR. MC NEILL: -- I really don't have any
7 complaint or criticism --

8 MS. ORDWAY: It's a valid description.

9 MR. MC NEILL: -- of it. I don't know what
10 sort of description they submitted, whether it's simply a
11 map, or metes and bounds, or whatever. That's really not --
12 that's really not my complaint.

13 MS. ORDWAY: That is the first issue before us
14 as to whether or not that is a fair representation.

15 MR. MC NEILL: My concern in that regard is
16 that apparently that decision is final and conclusive.
17 If that is the section of the river that we're going to be
18 looking at in the next hearing, then we kind of get put
19 on the horns of a dilemma here. Because I think there are
20 good reasons for disapproving the annexation of the
21 submerged lands. And I'm not going to talk about that today.

22 MS. ORDWAY: That's the second issue. The
23 first issue that I'm being asked to deal with is whether or
24 not that boundary description is an accurate representation;
25 is it fair and accurate. And that's all I have to deal with

1 right now.

2 We'll go on to the larger issue of whether it's
3 a good thing to do, whether it should be done, after.

4 The first issue is is it -- is it what it says it is?

5 MR. MC NEILL: I will assume that it is what it
6 says it is.

7 MS. ORDWAY: You don't have a complaint with
8 that.

9 MR. MC NEILL: I don't have any complaint with
10 that. They're trying to take this entire section of
11 river (demonstrating on map) and if they submitted a
12 description of that section, I don't have any argument
13 with their description from some kind of surveying stand-
14 point.

15 I do think you're entitled to take into
16 consideration the effect of the area that's submitted on
17 adjacent lands. I do think you're able to consider the
18 fact that this area here will come under the jurisdiction
19 of the City of Redding in making a boundary determination
20 today.

21 MS. ORDWAY: I don't think that comes -- I
22 don't think that's the issue for our first point that's
23 before us.

24 EXECUTIVE OFFICER DEDRICK: Commissioner, if I
25 may, one of -- the reason the staff recommended a division

1 here was that -- so that knowing that Redding had concerns
2 about the proposed annexation that Anderson wants -- was to
3 allow us time to calendar the discussion on the annexa-- on
4 the incorporation of State lands in the new annexation for
5 a regular Commission meeting when you would presumably have
6 more time to hear the kind of arguments both cities are
7 going to want to make.

8 MS. ORDWAY: And we'll be doing that on the
9 27th?

10 EXECUTIVE OFFICER DEDRICK: Which you will be
11 doing in two weeks. But we had to act on short order
12 because of the 45-day deadline on the legal sufficiency of
13 the description. And that's why we asked you to hear this
14 in a special meeting today, why we made the division of the
15 two --

16 ACTING CHAIRMAN HARVEY: Claire, it's my
17 understanding -- if I may, Nancy -- it's my understanding
18 that our counsel is telling us that they think that any
19 action that we take with respect to approving the
20 boundaries only that's before us puts us in a neat and
21 clean position with respect to the statute.

22 MR. HIGHT: That's correct.

23 MS. ORDWAY: Obviously from reading subsection
24 (d).

25 ACTING CHAIRMAN HARVEY: That's what you're

1 telling us.

2 And the ~~problem~~ then becomes LAFCO's.

3 MR. FOSSUM: Let me just clarify that. The
4 Executive Officer of LAFCO says that before they can
5 consider our action complete, they're going to want to have
6 our decision of the 27th.

7 ACTING CHAIRMAN HARVEY: Okay.

8 MR. FOSSUM: Even though we take -- we take a
9 different position. Other LAFCO's have taken a different
10 position. They are not going to act until that time.

11 EXECUTIVE OFFICER DEDRICK: The fact is that
12 it's within the discretion of this Commission to decide
13 whether or not you want to do that.

14 MR. MC NEILL: That's a common sense position
15 on the part of LAFCO, because the entire City of Anderson
16 is below -- south of this area that's sought to be
17 annexed. If this Commission disapproves this entire
18 stretch of river, then the annexation area across the
19 river to the north will be noncontiguous. In other words,
20 you're looking at a decision on the 27th -- if you act on
21 the entire stretch of river -- which would potentially
22 defeat the entire annexation.

23 MR. HART: Mr. Chairman?

24 ACTING CHAIRMAN HARVEY: Yes, sir?

25 MR. HART: I'm the representative from the City

1 of Anderson. May I respond?

2 ACTING CHAIRMAN HARVEY: You are Mr. Hart?

3 MR. HART: I'm Mr. Hart. If I may speak from
4 here.

5 ACTING CHAIRMAN HARVEY: For the record --

6 EXECUTIVE OFFICER DEDRICK: Identify yourself.

7 MR. HART: Yes. I'm about to. Tom Hart, I'm
8 the Planning Director for the City of Anderson. And we drew
9 these boundaries up with respect to policies of LAFCO,
10 which is that they be put on identifiable landmarks or
11 features. In this case, if you'll notice the map, it's on
12 two major roads, Airport Road and Dersch Road, and the
13 centerline of Stillwater Creek adjacent to the existing
14 incorporation boundaries of the City of Anderson that lie
15 in the channel of the Sacramento River. Portions of the
16 Sacramento River already lie within our city limits.

17 Based on this, I can't see why Mr. McNeill
18 would object to the logic of these boundaries or the
19 accuracy of them. They're drawn so that the area in
20 question will be contiguous with the city and we will not
21 have streams or zones of different jurisdictions between
22 the City of Anderson and the proposed annexation area.

23 One thing Mr. McNeill brought up was that the
24 City of Redding -- keep that in mind -- Redding is alleging --
25 will annex this property. I think Mr. McNeill's failing to

1 point out to you there's a number of procedural hurdles
2 which the City of Redding will have to surmount before
3 attempting such a thing. One is to change the sphere of
4 influence to have this area put back into Redding's sphere,
5 which LAFCO's staff is recommending that it be in Anderson's
6 sphere, and which was consummated in a LAFCO decision last
7 summer. Before the City of Redding can even attempt to
8 annex this area, it would have to get the spheres amended.

9 That seems unlikely at this time, considering
10 the substantial majority support by the property owners,
11 not only in this area but in areas north of it, south of the
12 airport.

13 The City of Anderson is not submitting a
14 spurious annexation as alleged by Mr. McNeill, nor is it
15 trying to subterfuge (sic) their waste water treatment plant.
16 The point is the City of Redding is in court with the City
17 of Anderson because they have not complied with CEQA, which
18 we all know is an important procedure to follow in
19 accordance with any major project in this State.

20 We have alleged they have not properly
21 negotiated that procedure. And that issue will be decided
22 in court. This issue concerning the boundaries and the
23 impact that the annexation would have on the State lands,
24 the submerged lands in the Sacramento River, I submit would
25 be neutral at worst and that the annexation and the

1 consideration of these submerged lands for annexation
2 should move forward.

3 Thank you.

4 ACTING CHAIRMAN HARVEY: Mr. Hart, if I may
5 ask just one question. What is your opinion as to the
6 effect of this Commission acting on -- only on the first
7 half of the two issues involved in the total question before
8 us?

9 MR. HART: Without consulting with my city
10 attorney, I first of all believe that the staff recommenda-
11 tion concerning the boundaries is correct. Concerning the
12 splitting of the action, such that you could, as a
13 property owner, object or disapprove of the annexation,
14 it appears to me that the LAFCO forum would be the place
15 to make such an objection known.

16 Whether -- I'm not authorized to waive any
17 particular position on behalf of the city at this meeting.
18 But, certainly, if the State Lands Commission believes there
19 are significant problems that would arise to the submerged
20 lands as a result of this annexation, the City of Anderson
21 would welcome any concerns and try to work with the State
22 Lands Commission to allay any problems that you foresee
23 as a result of this annexation.

24 ACTING CHAIRMAN HARVEY: One more question if I
25 may. You indicated that there was currently litigation

1 between Anderson and Redding.

2 Is this property specifically involved in that
3 litigation?

4 MR. HART: It would --

5 ACTING CHAIRMAN HARVEY: My question following
6 is that if it is, then I'd like to ask our own counsel
7 whether that has any effect with respect to its staying
8 the time in which we must act, matters already in litigation.

9 MR. HIGHT: I --

10 MR. FOSSUM: It's the river portion of it which
11 is in litigation, or simply the contiguous --

12 MR. HART: Not the river.

13 MR. FOSSUM: We haven't seen --

14 EXECUTIVE OFFICER DEDRICK: Identify yourself.

15 MR. FOSSUM: Curtis Fossum, staff counsel. We
16 haven't seen the documentation, CEQA documentation. I'm not --
17 I do not know whether it's simply the parcel that's to be
18 developed that Redding has or whether it would include
19 the outfall lines, or whether the EIR deals with that.

20 MR. HIGHT: Based upon our knowledge now, we see
21 no reason that the litigation would affect our time frame.

22 EXECUTIVE OFFICER DEDRICK: May I ask a question
23 of counsel? Bob, if the Commission approves the legal
24 sufficiency of these descriptions, does that in any way
25 commit the Commission's further action on its approval of the--

1 MR. HIGHT: No.

2 EXECUTIVE OFFICER DEDRICK: -- annexation?

3 MR. HIGHT: No, it does not.

4 EXECUTIVE OFFICER DEDRICK: Thank you.

5 MR. FOSSUM: That's at least our position.

6 There are -- obviously, there's a difference of opinion on
7 that.

8 ACTING CHAIRMAN HARVEY: But our own counsel is
9 telling us that it doesn't.

10 MR. FOSSUM: If the City of -- if the City of
11 Anderson is not willing to concede that fact, then it seems
12 to me there is a difference of opinion on it. They feel
13 that -- that we may have to go before LAFCO to make a
14 determination whether these lands can be annexed or not seems
15 to have an impact on whether they agree with our position
16 that they have to come before us for consent.

17 MR. MC NEILL: For my part, I hope that they're
18 right. But I'm concerned that the City of Anderson might
19 challenge you on this. I'm just voicing my concern.

20 As far as the lands in question being affected
21 by the litigation, I don't think the current litigation
22 directly affects these proceedings in any way. But the
23 litigation does concern the area that's under your
24 consideration.

25 We're talking about a waste water treatment

1 facility right here (demonstrating on map) that's going
2 to discharge treated water right into your submerged lands.

3 MS. ORDWAY: Then, as far as I'm concerned, you
4 just made the case for me. We're only dealing with the first
5 issue today.

6 I am not comfortable dealing with the second
7 issue that may -- until our counsel can take a look at what
8 is actually involved in that lawsuit. I'm not comfortable
9 dealing with the second half of the issue. But I will
10 move -- I will move the first part of the issue and determine
11 that the boundaries are fair and accurate descriptions.

12 ACTING CHAIRMAN HARVEY: I have no problem with
13 that. Without any objection, that will be decision one
14 at least. The boundaries as submitted are approved.

15 MS. ORDWAY: I would also like to ask our
16 counsel to take a look at what is involved in that lawsuit
17 and what --

18 MR. HIGHT: We will.

19 MS. ORDWAY: -- and what our potential
20 implications are.

21 ACTING CHAIRMAN HARVEY: I gather that your
22 intention is to make no further motion at this time?

23 MS. ORDWAY: I'm not comfortable making a further
24 motion until I know what they are in court over and how it
25 affects us.

1 ACTING CHAIRMAN HARVEY: I would also like to
2 ask, for the record, if this is a fait accompli, that
3 essentially there is going to be a waste disposal plant
4 constructed on this site, whether we have any jurisdiction
5 whatsoever with what will or will not go into the river?

6 MR. HIGHT: Yes, we have jurisdiction as to what
7 will go into the river, because permission would be required.

8 EXECUTIVE OFFICER DEDRICK: Excuse me. We have
9 a witness here --

10 MS. ORDWAY: Oh, I'm sorry.

11 EXECUTIVE OFFICER DEDRICK: -- I don't believe
12 you can see.

13 ACTING CHAIRMAN HARVEY: You, I presume, are
14 Mr. Remy?

15 MR. REMY: I'm on the same sign-in sheet. My
16 name is Michael Remy from the law firm of Remy and Thomas
17 here in Sacramento.

18 We represent citizens under the name of SAVE,
19 Save Anderson's Valuable Environment, who reside in the
20 area in question.

21 I would like to rise to correct what I consider
22 to be misstatements. They really do not go to the issue
23 before you, because I think the issue before you is merely
24 the correctness of the boundaries. But I'd like to at least
25 on the record correct some misconceptions.

1 Counsel for Redding has stated that the yellow
2 area, which is the area that they have under an option
3 to purchase, will either be annexed or come under the
4 jurisdiction of the City of Redding. Well, ownership of
5 land doesn't do that. Okay?

6 The City of Redding merely is exerting at this
7 point an option to purchase the property. And the
8 jurisdiction of land use stays -- unfortunately for the
9 City of Redding, it's not the State of California -- it's
10 another city. It does not thereby gain jurisdiction over
11 the land use of the area.

12 The point is simply this: That the mere
13 acquisition by another city of territory in another area
14 does not give it jurisdiction or the ability to convert it
15 to that governmental jurisdiction.

16 MS. ORDWAY: I think that's the same law that's
17 used for embassies located on property in foreign countries.

18 MR. REMY: Well, Redding is a big city in
19 Northern California.

20 MS. ORDWAY: A political subdivision.

21 MR. REMY: It's still a political subdivision,
22 correct.

23 ACTING CHAIRMAN HARVEY: Thank you, Mr. Remy.

24 EXECUTIVE OFFICER DEDRICK: I think you have a
25 motion pending. You voted? I didn't hear you.

1 MS. ORDWAY: The motion took care of it.

2 ACTING CHAIRMAN HARVEY: The motion was taken
3 care of.

4 MR. HIGHT: The calendar item, for the record,
5 was approved as presented insofar as the approval of the
6 boundaries.

7 ACTING CHAIRMAN HARVEY: Thank you. Okay.
8 With respect to --

9 MS. ORDWAY: Pardon. We will get back from
10 staff what is going on soon?

11 MR. HIGHT: Soon.

12 MS. ORDWAY: Very soon?

13 MR. HIGHT: Very soon.

14 EXECUTIVE OFFICER DEDRICK: How soon is very
15 soon?

16 MS. ORDWAY: Early next week.

17 EXECUTIVE OFFICER DEDRICK: All right. That's
18 soon.

19 Mr. Chairman, I would like to ask that Items 1
20 and 2 be put over till tomorrow for -- at eleven o'clock.

21 ACTING CHAIRMAN HARVEY: That would be fine
22 with me. I would like time to --

23 MS. ORDWAY: Eleven is fine. I'm not available
24 in the afternoon.

25 EXECUTIVE OFFICER DEDRICK: I think we checked

1 with everybody's schedule. Okay. Thank you.

2 ACTING CHAIRMAN HARVEY: Does anybody oppose
3 that? Okay.

4 MS. ORDWAY: Then we will recess this meeting?

5 ACTING CHAIRMAN HARVEY: We will --

6 EXECUTIVE OFFICER DEDRICK: We can't do that.

7 The law is different than it used to be.

8 ACTING CHAIRMAN HARVEY: Okay.

9 MR. HIGHT: We have a Commission meeting
10 scheduled for tomorrow.

11 EXECUTIVE OFFICER DEDRICK: We already filed
12 notice.

13 MR. HIGHT: So this meeting will be adjourned
14 and the new meeting will be reconvened -- convened
15 tomorrow.

16 ACTING CHAIRMAN HARVEY: We will convene in
17 this same room tomorrow morning at eleven o'clock for the
18 purpose of discussing Items 1 and 2 on the agenda before us.

19 Okay. This meeting, then, is adjourned.

20 (Thereupon the meeting was adjourned.)

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