

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

CONSUMER AFFAIRS BUILDING
1020 N Street
Room 102
Sacramento, California

TUESDAY, APRIL 2, 1991

2:00 P. M.

Ronald J. Peters
Certified Shorthand Reporter
License Number 2780

COMMISSIONERS PRESENT

Honorable Leo T. McCarthy, Lieutenant Governor, Chairman

**Mr. Gray Davis, State Controller, represented by
Mr. James Tucker, Chief Deputy Controller**

**Mr. Thomas Hayes, Director of Finance, represented by
Mr. LaFenus Stancell, Assistant Director**

**Mr. Edward Manning, Environmental Counsel, representing
Lieutenant Governor Leo T. McCarthy, Acting Chairman**

STAFF PRESENT

Mr. Charles Warren, Executive Officer

Mr. James F. Trout, Assistant Executive Officer

Mr. Robert C. Hight, Chief Counsel

Ms. Patsy Tomasello, Executive Secretary

ALSO PRESENT

Mr. Jan S. Stevens, Deputy Attorney General

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PROCEEDINGS

1
2 ACTING CHAIRMAN MANNING: I'd like to call the
3 meeting to order.

4 Welcome everyone to the State Lands Commission
5 meeting. My name is Ed Manning. I am the environmental
6 counsel to Lieutenant Governor McCarthy, who is on his way
7 and should be here momentarily.

8 On my left is Stan Stancell from the Department
9 of Finance, and on my right is Jim Tucker from the
10 Controller's Office.

11 At this time I'd like to move the minutes from the
12 last meeting.

13 ACTING COMMISSIONER STANCELL: So moved.

14 ACTING COMMISSIONER TUCKER: Second.

15 ACTING CHAIRMAN MANNING: Okay. The minutes
16 from the last meeting are adopted.

17 If any of you want to speak on an item, there
18 are slips that can be filled out that should be in the
19 back of the room, and if you would fill them out and bring
20 them forward, we will make sure you have an opportunity to
21 speak.

22 At this time I'd like to ask Mr. Warren if there
23 are any items that have been taken off the calendar for
24 today's meeting.

25 EXECUTIVE OFFICER WARREN: Yes, Mr. Chairman.

1 On the Consent Calendar, Item Number 1, Number
2 2, 7, 8, 22 and 23 have been removed.

3 ACTING CHAIRMAN MANNING: Okay.

4 EXECUTIVE OFFICER WARREN: On the regular
5 calendar Items 28 and 30 have been removed.

6 ACTING CHAIRMAN MANNING: Okay. Thank you.

7 CHIEF COUNSEL HIGHT: Mr. Chairman.

8 ACTING CHAIRMAN MANNING: Yes.

9 CHIEF COUNSEL HIGHT: For the record, it is my
10 understanding that until the arrival of the Lieutenant
11 Governor, you will be sitting in a non-voting capacity for
12 the Lieutenant Governor.

13 ACTING CHAIRMAN MANNING: That is correct.

14 Okay. If there is anyone here to speak on those
15 items we will not be taking them up today. So you are
16 free to leave or stay and listen to the rest of the
17 meeting if you would like.

18 Calling the Consent Calendar, does anyone move
19 the Consent Calendar items?

20 ACTING COMMISSIONER TUCKER: I move it.

21 ACTING COMMISSIONER STANCELL: Second.

22 ACTING CHAIRMAN MANNING: Okay. The Consent
23 Calendar has been moved and seconded and is adopted.

24 Moving on to the regular calendar.

25 EXECUTIVE OFFICER WARREN: The first item on the

1 regular calendar, Mr. Chairman, is Item 24.

2 This item would authorize the Executive Officer
3 to execute a Memorandum of Understanding with the City of
4 Port Hueneme. Before proceeding with this item, I
5 understand that a representative of the City wishes to
6 make a statement, and for that purpose I would request
7 that you recognize Mr. Thomas Figg, the Director of
8 Community Development.

9 ACTING CHAIRMAN MANNING: Mr. Figg, would you
10 come forward, please?

11 MR. FIGG: Yes, Commissioners, there has been a
12 good deal of speculation about the environmental
13 consequences of the proposed recreational vehicle park.
14 In fact, a fundamental part of the Memorandum of
15 Understanding that is before you today was to allow the
16 City to proceed into the environmental phase.

17 The speculation became quite evident at the
18 workshop that was conducted a week ago, Monday, and
19 because of some of the discomfort that has been created by
20 the fact that there is environmental concerns, although
21 speculative at this point, we feel it is prudent that the
22 matter be taken off of calendar so that the City would be
23 able to proceed into the environmental phase of the
24 project by way of preparing an Environmental Impact
25 Report.

1 I might point out that we do this reluctantly.
2 We thought it was good, prudent business sense to gain the
3 consent of the State Lands Commission in advance of
4 expending a considerable amount of staff time and public
5 dollars in preparing an environmental document before we
6 proceeded into the approval process. However, because we
7 feel that there is discomfort in the community regarding
8 the environmental issues, we feel it necessary to proceed
9 into that phase at this point.

10 So we would ask that the Memorandum of
11 Understanding be withdrawn from the calendar at this time.

12 EXECUTIVE OFFICER WARREN: We have no objection,
13 Mr. Chairman.

14 ACTING CHAIRMAN MANNING: Yes.

15 Okay. Thank you, Mr. Figg, and that item will
16 be taken off calendar.

17 I do have a number of requests of people who
18 have come to speak on this item. At this time the item is
19 not on calendar anymore, and my understanding is that the
20 City will be preparing an environmental document, and at
21 some point in the future, then, this item could come back
22 before the State Lands Commission.

23 I think that should be satisfactory to those on
24 both sides. If there are people who would still like to
25 speak, I would like to give you the ability to do that

1 because a lot of folks have traveled quite a distance to
2 get up here.

3 Let me just go through the list, and if I call
4 your name and you'd like to speak, we will give you the
5 opportunity to speak for three minutes.

6 Homer Willard.

7 Mr. Willard.

8 MR. WILLARD: I will pass.

9 ACTING CHAIRMAN MANNING: I'm sorry?

10 CHIEF COUNSEL HIGHT: He will pass.

11 MR. WILLARD: I will pass.

12 ACTING CHAIRMAN MANNING: Oh, he will pass.

13 Chris Pulos.

14 MR. PULOS: I will pass until the next hearing.

15 ACTING CHAIRMAN MANNING: Okay. Thank you, Mr.
16 Pulos.

17 Ernest M. Brown.

18 MR. BROWN: I will pass also.

19 Will we be advised if it comes back on the
20 agenda at some future date?

21 ACTING CHAIRMAN MANNING: Absolutely, yes.

22 MR. BROWN: Thank you.

23 ACTING CHAIRMAN MANNING: You are welcome.

24 David B. Shea.

25 MR. SHEA: I will speak.

1 ACTING CHAIRMAN MANNING: Okay.

2 MR. SHEA: My name is David Shea. I represent
3 the Surfside III Homeowners' Association.

4 I am an attorney and I am very happy to hear
5 that the Memorandum of Understanding will not be executed
6 at this time.

7 One point that I would like to bring up briefly
8 is that I have heard through scuttlebutt of the Chambers,
9 that we are not a party to this agreement, we being
10 Surfside III.

11 The agreement, which is a 1972 lease agreement
12 -- excuse me, a boundary line agreement, involves several
13 parties, the State of California, the City of Port
14 Hueneme, Santa Clara Lemon Association and Leisuretime
15 Lovers, a Limited Partnership.

16 Surfside III Homeowners' Association is a
17 successor in interest to Leisuretime Lovers. Therefore,
18 for the record, I want to make sure that we should be
19 included in any negotiations of the 1972 boundary
20 agreement, and we will take further steps to make sure
21 that we are included in any subsequent conversations.

22 Thank you.

23 ACTING CHAIRMAN MANNING: Thank you, Mr. Shea.

24 I think that those are all the requests to speak
25 that I have on this item.

1 Is there anyone else who wanted to speak on this
2 item before we move on?

3 Hearing none, we will move on to Item Number 25.

4 EXECUTIVE OFFICER WARREN: Mr. Trout will
5 present Item 25, Mr. Chairman.

6 ASSISTANT EXECUTIVE OFFICER TROUT: Mr.
7 Chairman, Item 25, involves an application to construct 30
8 berths, two access ramps, piers and related facilities in
9 the Sacramento River at Walnut Grove.

10 This project has been around for approximately
11 five years and has involved preparation of a Negative
12 Declaration, permits to the Corps of Engineers and others.

13 During this time, the Department of Fish and
14 Game has consistently raised objections to this project,
15 in their opinion saying it would significantly interfere
16 with striped bass fishing. However, in spite of that, the
17 Corps of Engineers issued a permit in 1987 for the
18 construction of this project. That permit is valid
19 through the end of June in 1992.

20 After review of the arguments on both sides,
21 staff is supporting the Department of Fish and Game and
22 recommends denial of this application. Representatives of
23 the Applicant are present and would like to make a
24 presentation. They are headed by Mr. Dennis Vollman.

25 Following their presentation, representatives of

1 the Department of Fish and Game are here to explain to you
2 their concerns.

3 ACTING CHAIRMAN MANNING: Okay.

4 ASSISTANT EXECUTIVE OFFICER TROUT: If Mr.
5 Vollman wants to come up and make his presentation?

6 MR. VOLLMAN: Mr. LaBrie is our representative
7 and he will start off. I will follow him after his
8 presentation is over if that's all right.

9 ACTING CHAIRMAN MANNING: Please come forward.
10 Before your testimony, will you please state
11 your name for the record, please, and spell it.

12 Thank you.

13 MR. LaBRIE: My name is Gilbert LaBrie. I am an
14 architect.

15 ACTING CHAIRMAN MANNING: Could you spell your
16 name, please?

17 MR. LaBRIE: Yes. It is L-a-B-r-i-e, just like
18 the waterbed.

19 ACTING CHAIRMAN MANNING: Thank you.

20 MR. LaBRIE: I am an architect. I live in the
21 Delta. In fact, I have lived in the Walnut Grove area
22 where this project is being proposed, for 21 years. And I
23 have worked in the area for over 25 years.

24 I have worked as a professional consultant for
25 17 years and I have worked on probably hundreds of marina

1 projects throughout the entire Delta.

2 I have been heavily involved in planning for
3 Sacramento County in the Delta starting back in 1977, at
4 which time a long-range look was taken at the needs for
5 recreation, conservation and growth in the Delta.

6 Yesterday I delivered a packet of information to
7 each of the Commissioners which was intended to bring your
8 attention to, I think, the planning effort and the land
9 use decisions that have preceded this project.

10 This process sought to meet the future needs of
11 the Delta for preservation as well as to accommodate some
12 of the growth and to provide for a viable economy. The
13 point I was trying to make in that document was that this
14 type of project in this location was encouraged by that
15 process as a way of meeting the need for commercial
16 growth, yet controlling it.

17 And I mean encourage because it was, and I
18 included in that document some excerpts from the Delta
19 Community Plan which give you some indication of the
20 statements that were made and things that were said to
21 indicate what the focus of that Plan was and how it was
22 put together, the subsequent zoning, the Delta waterway
23 zone as well as the speed and wake control ordinance that
24 was adopted, all were done to facilitate that long-range
25 plan for limited growth in the Delta.

1 And the focus of that Plan, as I pointed out in
2 that packet, was to limit Marina development to specific
3 areas, those specific areas being within the confines of
4 existing communities and down in the Lower Andrus Island
5 area, where there is a considerable amount of recreation
6 development. And then some growth at existing marinas.

7 So that whole community Plan that Sacramento
8 County put together was put together to limit marina
9 development. The speed and wake control ordinance was put
10 into effect to do some of the same things, providing
11 restricted speed zones.

12 This project came about after that planning was
13 done and when we started this project, it was totally
14 consistent with that effort to focus marina development to
15 the extent it occurs in existing communities and in
16 specific areas. The area where this project is proposed
17 is a speed controlled zone. It is adjacent to a
18 commercially zoned area and it is obviously in one of
19 those communities.

20 You need the commercial zone adjacent in order
21 to provide for parking, which is an essential part of the
22 County's requirement for marinas. So it's not like there
23 are a lot of locations in the Delta for projects like
24 this.

25 There are other marinas in this area and that

1 again goes to the planning idea which was originally to
2 cluster the marinas, and so there are three or four other
3 small marinas in the same vicinity as this project.

4 And so what we have happening in the Delta Plan
5 is the same thing that you got recommended to you in your
6 carrying capacity study of the upper Sacramento area from
7 Freeport on up, which was the two options of either
8 clustering marina development within, I think, Reach 5,
9 which was the heavily impacted Reach, or you allow a few
10 to come within the whole length of that study area.

11 Well, the Delta Plan's idea was to cluster, to
12 limit the impact by clustering.

13 And, of course, in terms of Walnut Grove and
14 marina density, here it's nowhere near the same as to what
15 we are talking about up here in Sacramento. With this
16 project there would be a hundred and ten berths in this
17 community. So there's approximately 70 now.

18 And this project was reduced from 45 down to 30
19 as a mitigation effort, early on, when the concerns were
20 raised, some concerns were raised.

21 Now, let's talk a minute about the project. I
22 have got some pictures here to show you in relationship to
23 the vicinity.

24 But first of all, it's not a full service
25 marina. We will be providing a pump-out as required by

1 the Coast Guard, but there is no refueling, there is no
2 large public guest dock, there is no launching ramp, there
3 is no Harbor Master's office. It's a storage marina,
4 which means that the amount of activity in and out of it
5 is considerably less than what it would be if it was a
6 fully used marina.

7 In fact, it's considerably less than the public
8 guest dock that is across the river, immediately across
9 the river from this project, which provides for commercial
10 access to that side of the river.

11 So remember, this is a private marina. It is
12 not a public parking garage. You will not have 30 boats
13 going in and out all day long. And it's my
14 understanding, from working in this field for as long as I
15 have, that on a peak holiday weekend like the Fourth of
16 July or Memorial Day, the maximum you might expect is 30
17 percent use, ten boats out of a 30-boat marina.

18 And we do have someone here that operates a
19 large marina, or is going to be here, operates a large
20 marina in Walnut Grove that can really verify what kind of
21 traffic you get out of the storage marina.

22 This brings us to the issue, I think, that has
23 been presented to you, and that issue is, will this marina
24 significantly interfere with the existing fishing use of
25 this area?

1 Now, it is my understanding that what we are
2 talking about here is the boat traffic associated with the
3 marina, not the dock itself. But the physical location of
4 the dock at that site is not the problem. But it's about
5 boat traffic and it's about impacting trolling for
6 stripers. At least that's where this thing started. And
7 there has never been any data produced showing that this
8 project will have a significant impact.

9 Now, when this issue first came up, and it's
10 true as Mr. Trout indicated, it came up a long time ago, I
11 sought the advice of someone knowledgeable and experienced
12 in fishing activities in the Delta and had them take a
13 look at it, and they concluded that they felt that this
14 project would not be detrimental to striped bass fishing.

15 And in fact that individual, Mr. Bruns, is here
16 to further amplify on that. And it was based on that, I
17 think a great deal, that information, that helped
18 Sacramento County, the Reclamation Board, the Corps of
19 Engineers, conclude that this project would not have a
20 significant impact on the fishing activities in the area.

21 And I also have someone here who has got 23
22 years of experience in working for the Department of Fish
23 and Game as a warden and who has watched that area for
24 longer than that, that can also give you his own
25 observations. We have some long-time personal residents

1 of the area who can also give you their observations,
2 which is what I was coming from when we first got on this
3 project, because I have watched that area myself for 21
4 years.

5 So, in summary, I think this project represents
6 a good faith effort to work within good planning
7 guidelines and government regulations to provide some
8 alternative income to a farming family, because the owners
9 of the property on the upland are the ones that are
10 proposing this project. It provides for the needs of an
11 important recreational resource and industry in the Delta
12 and it does meet the need for diversification of industry
13 within our Delta and to help the community.

14 It is a project that is compatible with its
15 surroundings. As I indicated, it has been reduced to
16 mitigate the concerns, so we have made every effort to
17 bring this project in line and we have worked diligently
18 on it. And it has taken a long time.

19 Part of the reason it took a long time is
20 because we went back and redesigned it and reduced it.

21 I do not believe it will significantly affect
22 recreational fishing in the Walnut Grove area, and just to
23 give you a little indication of what, based on the
24 information that I have been able to gather, this is the
25 project as it is proposed.

1 (Thereupon maps were shown to the
2 Commissioners.)

3 MR. LaBRIE: North is up. This is the
4 Sacramento River. This is Georgiana splitting off here.
5 This is commercial along here and this is zoned commercial
6 and has been for a long time. This is a good riparian
7 growth that is along the riverbank and one of the
8 stipulations that all along was that any project in this
9 waterway, but what we were doing is we were not impacting
10 that riparian growth. So it's also not a very good site
11 for fishing, bank fishing, because it is a very rich
12 riparian growth. There is no way you can fish from that
13 bank.

14 The bulk of the fishing, as I understand it, and
15 other people can talk about it, and as I have seen it,
16 occurs down here at the mouth of Georgiana and downstream
17 of this project, on downstream.

18 There is a sandbar, and in the packet that I
19 gave you there are different profiles, and there is a
20 sandbar that begins to start down here and goes out down
21 here, which, as I understand it, is a better place for
22 striped bass trolling. It's deep out here. This is 30
23 feet deep and then it drops down fast to this channel
24 depth and that shows up in what I gave you.

25 And also you will note, just of interest, this

1 picture was taken in June, the 24th, just a couple of
2 years ago, and there is some boating activity in June.

3 This picture over here illustrates this project
4 in relationship to the rest of the Delta, the Walnut Grove
5 area. Again, here is the project downstream of the Walnut
6 Grove bridge, and the speed and wake control zone comes
7 all the way down into the Sacramento, down Georgiana to
8 this location here, where Thornton Road takes off, and
9 goes all the way up north of the Boat House Marina. This
10 is the Boat House Marina, 59 slips, Landing 63 with 13
11 slips, the Deck Hands with approximately 8 slips, which is
12 1100 feet north of this project, and here is the Boondocks
13 commercial guest dock.

14 So those are the facilities that are in this
15 reach of the river, and I worked and was involved in all
16 but this one over the years.

17 That's all I have. We have other people here to
18 give you their position on it. I hope you will see your
19 way clear to granting my clients a lease on this project.

20 MR. VOLLMAN: Good afternoon. My name is Dennis
21 Vollman. I am associated with the owners of the property.
22 I'd like to sort of expand upon Mr. LaBrie's comments for
23 a moment.

24 We have been in the process of seeking the
25 approval of this project for something better than five

1 years. We have gone diligently through all of the
2 different departments and received approvals from every
3 single one of them, including State Lands. For your
4 refreshment, on September 26th, we were Consent Item
5 Number 23 on the agenda.

6 As it turns out, the afternoon before, about
7 3:00 o'clock on the 25th, and I may have the dates wrong a
8 day or so, the point is really that Fish and Game
9 recognized that the project was again ready for approval
10 and ready to go final, and they sent a telefax to State
11 Lands stating something to the effect that the winter run
12 of the Chinook Salmon had been designated an endangered
13 item and that they requested strongly that this item be
14 pulled from the agenda. Properly, it was.

15 It took some time for us to get responses,
16 however, after working with State Lands, and Mr. LaBrie.
17 We did get a request of jeopardy or no jeopardy and
18 finally we got that request back from Fish and Game, and
19 son of a gun, no jeopardy.

20 During this time period, our Corps of Engineers
21 permit expired, so we sought an extension, and since we
22 had previously extended, that was not available to us. So
23 we resubmitted. Fish and Game again came up and said that
24 they feel that this will impact the trolling for the
25 striped bass. The Corps of Engineers again said, "Gee, we

1 think that is probably a conflicting use and go ahead and
2 build your marina."

3 I don't have a problem with the Fish and Game
4 folk. I understand the need to conserve. But I think it
5 is a relative need.

6 Our family has been in this property for over a
7 hundred years. We don't have the alternative of finding
8 another site. We own this one and it has been a struggle
9 to keep it. You may know that agricultural has not been a
10 substantially productive and profitable business in the
11 last 20 years. We are working very hard to try and
12 maintain this holding for the family. We intend to try
13 and do so for as long as we have to.

14 We have been fortunate to have local people who
15 have been in the community for several decades be willing
16 to come and testify to their visual experiences regarding
17 the amount of trolling being done in front of this
18 property in the follow of the bridge that goes across the
19 river.

20 As an aside, and I am not suggesting anything
21 other than just a comment, if the Fish and Game people are
22 supposed to have a right of disapproval, then they should
23 be in the disapproval process. It seems that had we known
24 in 1985 or 1986 that Fish and Game would disapprove the
25 project and that the approving authority, the Corps of

1 Engineers, would not, in fact, act over their heads, then
2 we probably would have saved ourselves several thousand
3 dollars and several years of time and effort. And if
4 those folks that deem that the checklists are made out and
5 the approving authorities are designated, are listening,
6 then they maybe ought to look at this.

7 I am followed by at least two or three other
8 individuals.

9 Are there any questions for me?

10 CHAIRMAN MCCARTHY: No, and we appreciate what
11 you have said and the previous witness. If you have other
12 witnesses, if they have something specifically new to add,
13 we'd be happy to hear from them. Otherwise we would like
14 to hear from the other side.

15 MR. VOLLMAN: I think that each of the three
16 people that are here to testify are here to testify
17 directly to their experience with regard to the amount of
18 trolling and probably would not take more than a minute or
19 two each.

20 ACTING COMMISSIONER TUCKER: Is there somebody
21 that can address the issue of need?

22 MR. VOLLMAN: Mr. LaBrie may be able to address
23 the issue of need. You mean in the relative number of
24 slips?

25 ACTING COMMISSIONER TUCKER: Yes.

1 MR. VOLLMAN: Mr. Schmiedeh is the operator of
2 the upstream marina at the Boat House. Mr. Schmiedeh
3 probably is more attuned with the number of people that
4 are on his waiting list than anyone else.

5 CHAIRMAN MCCARTHY: Mr. Vollman, let me suggest
6 that if the witnesses that want to give some testimony on
7 whether it is good fishing where you want to build your
8 marina is the case or not, why don't they just indicate
9 their names and we will accept their names as testifying
10 to that point and consider it cumulative. I think the
11 Commission will have some questions on some other points,
12 and after the proponent has finished, we do want to hear
13 from the Fish and Game side of this so we can start to
14 weigh in our minds what we have been hearing here.

15 You will have a crack at this if you want to bat
16 cleanup at the end of it or Mr. LaBrie, for your side.

17 MR. VOLLMAN: Okay, great. Thank you.

18 Those people who are testifying, announce your
19 names, please.

20 CHAIRMAN MCCARTHY: Do you want to give us your
21 names, please, and we will put it in the record?

22 Yes, sir?

23 MR. SLAWSON: My name is Bill Slawson. I am a
24 retired Fish and Game Warden with 40 years' duty. I'd
25 like to testify.

1 CHAIRMAN MCCARTHY: Is that S-l-a-u-s-o-n?

2 MR. SLAWSON: S-l-a-w-s-o-n.

3 CHAIRMAN MCCARTHY: Okay.

4 Mr. Slawson, was your testimony to the point of
5 whether it is good fishing at this point in the river or
6 not?

7 MR. SLAWSON: I would just testify to the fact
8 that this would have no effect on the fishermen in the
9 Delta and will not hurt it.

10 CHAIRMAN MCCARTHY: Okay. All right. With your
11 permission, we will put that in the record as your
12 statement.

13 MR. SLAWSON: That's fine.

14 CHAIRMAN MCCARTHY: All right.

15 Other witnesses on this point?

16 Yes, sir.

17 MR. WILCOX: Mark Wilcox --

18 CHAIRMAN MCCARTHY: W-i-l-c-o-x?

19 MR. WILCOX: Correct.

20 CHAIRMAN MCCARTHY: All right.

21 MR. WILCOX: I am a farmer in the area. I farm
22 adjacent parcels to the project. And I have witnessed for
23 the last 20 years, because that is where I have been
24 farming, that to say that there is any significance at all
25 to trolling where this marina is, I mean I don't see it

1 and I go by there every day.

2 CHAIRMAN MCCARTHY: Do you fish there?

3 MR. WILCOX: No, I don't. I farm in that area
4 right adjacent to that. I have three parcels that I farm
5 right adjacent --

6 CHAIRMAN MCCARTHY: And you are saying you don't
7 see others fishing there?

8 MR. WILCOX: Right, I don't see other people
9 fishing.

10 CHAIRMAN MCCARTHY: All right.

11 Thank you.

12 Any others?

13 Yes, sir.

14 MR. BRUNS: George Bruns, B-r-u-n-s.

15 CHAIRMAN MCCARTHY: Yes, sir.

16 MR. BRUNS: And I was asked to write a written
17 report a few years back on this project. I believe you
18 have that.

19 CHAIRMAN MCCARTHY: All right. And your
20 testimony is on the same point, Mr. Bruns?

21 MR. BRUNS: Yes, sir.

22 CHAIRMAN MCCARTHY: That this is not a
23 particularly exciting fishing area?

24 MR. BRUNS: Yes, sir.

25 CHAIRMAN MCCARTHY: Especially for those of us

1 that may need it more than others?

2 MR. BRUNS: Right. It doesn't offer a lot in
3 that particular area.

4 CHAIRMAN McCARTHY: It will be so noted in the
5 record.

6 MR. BRUNS: Thank you.

7 CHAIRMAN McCARTHY: Now may we hear from the
8 other side?

9 MR. CLARK: Yes, sir. My name is Wally Clark.

10 CHAIRMAN McCARTHY: Is this is on the
11 proponent's side?

12 MR. CLARK: Yes.

13 CHAIRMAN McCARTHY: All right. Would you
14 identify yourself?

15 MR. CLARK: My name is Wally Clark.

16 CHAIRMAN McCARTHY: First name?

17 MR. CLARK: Wally.

18 The last name is Clark.

19 CHAIRMAN McCARTHY: W-a-l-l-i-n-g?

20 MR. CLARK: W-a-l-l-y. Clark, C-l-a-r-k.

21 CHAIRMAN McCARTHY: Oh, all right.

22 MR. CLARK: And I'd like to speak on behalf of
23 my mother who is one of the owners of the property, and I
24 will speak after Fish and Game, if it's all right.

25 CHAIRMAN McCARTHY: No. If you would come up

1 now, sir? We are hearing from the proponents first.

2 MR. CLARK: I always like to see what can be
3 shot at.

4 CHAIRMAN MCCARTHY: We all like that last punch.
5 If you hear something that is really outrageous,
6 then we will give you a chance to re-fire. Why don't you
7 give us your testimony now?

8 MR. CLARK: I am speaking on behalf of my mom
9 who is back there in a wheelchair. And she grew up down
10 in the Delta. She is one of the third generation owners
11 of the property.

12 My cousin and family is fourth generation. I
13 will be fourth generation. This gentleman asked about
14 need. I think need can be defined in two separate things.
15 One, we have a need as a family to make income to keep our
16 property. We have had it a long time. We want to keep
17 it. We want to keep paying taxes, hiring people, keep
18 people employed, have people like Mark Wilcox be able to
19 farm the land there and not turn it into something else.
20 So there is a need.

21 A need is in ourselves, being good Californians,
22 being good business people. We'd like to use our property
23 for something we deem responsible and fitting the
24 guidelines with which the County has decided it should be
25 used down there.

1 Now, whether or not X number of boats have or do
2 not have berths in Sacramento, I couldn't give you a
3 count, but I think anybody that would ever go to any one
4 of the boat docks anywhere in the County on a Saturday
5 afternoon and have to wait in line to try to get their
6 boat in the water, would surely agree that there is a need
7 for a marina. I think it's an economic need.

8 Other than that, thank you for your
9 consideration.

10 CHAIRMAN McCARTHY: Thank you, Mr. Clark.

11 Anyone else on the proponent's side of this
12 issue?

13 May we hear from the opposition, please?

14 MR. MENSCH: Good afternoon, Mr. Chairman. I am
15 Jerry Mensch with the Department of Fish and Game,
16 M-e-n-s-c-h, 1701 Nimbus Road, Rancho Cordova.

17 The Department of Fish and Game has long been
18 involved in Delta planning and protection. We have been
19 involved in the various versions of the Delta Recreation
20 Master Plan, involved in planning for providing for both
21 recreational use, boating use and resource protection.

22 None of these plans anticipated that every area
23 within the Delta would be appropriate or usable for any
24 particular use, and that identified that areas within
25 certain designations had a higher opportunity for use

1 while other areas were going to be specifically precluded.

2 Our position is that this will, in fact,
3 interfere with the recreational use of the area. We grant
4 that it is not the highest value on the very specific
5 site. The trolling occurs throughout this area. There
6 are marinas across the river or docking facilities and
7 marinas upstream which currently restrict certain uses.
8 The capability to troll or turn through this type of an
9 area, when boats are anchored fishing at the mouth of
10 Georgiana and at the center of the Slough, causes
11 additional interference.

12 At times of the year the area currently becomes
13 pretty much, if you want to say, restricted by anchored
14 boats and the current level of use.

15 I also believe that there are alternatives to
16 this location and alternative methods of providing such
17 facilities for boating storage, and they can be placed in
18 areas where they will not interfere with the established
19 recreational use.

20 That's basically all we have for our position on
21 it. We have some of our people, one of our people, that
22 can testify on the specifics if you would like.
23 Otherwise, we would be happy to answer any questions.

24 CHAIRMAN MCCARTHY: Let me see if I can
25 understand. 'Fish and Games' is an overall Delta approach,

1 that you don't think motor driven boats are an appropriate
2 use too frequently in the general sense and specifically
3 at this point.

4 MR. MENSCH: No, I don't think we are talking
5 about any particular kind of boat. What we are saying is,
6 as you are well aware, the Commission approves many types
7 of marinas and many marinas within the Delta. The
8 Department of Fish and Game does not object to -- well, I
9 am not sure of the exact number, but within the last ten
10 years as far as I have been involved in this area, I think
11 we have objected to two marinas. Most of them we have no
12 objection. There are no interferences with the
13 established recreation use or protection of habitat.

14 In this case, we believe there is. The specific
15 recommendations are not because of motor-driven or non-
16 motor-driven boats.

17 Maybe, if I could just use the applicant's
18 charts --

19 CHAIRMAN MCCARTEY: Yes, if they don't mind.

20 MR. MENSCH: What happens is the trolling occurs
21 primarily in an upstream, downstream and the main portion
22 of the Sacramento, boating coming up, generally turning
23 within this area, and going back down. When there are
24 boats anchored, which they do, within these holes or the
25 deeper water areas that were alluded to, boats will

1 anchor.

2 The only way that trolling can occur is it
3 either stops here or it has to troll closer to the
4 shoreline. This shoreline is obstructed. There is boat
5 use. The bridge basically calls for turning in this area.
6 This, in our opinion, will interfere with the continuation
7 of that use and basically require that trolling stop
8 somewhere further downstream.

9 CHAIRMAN MCCARTHY: So it's not that there is a
10 lot of fish in this specific point where the marina would
11 be, you are saying, it's the whole traffic pattern that
12 would be interfered with?

13 MR. MENSCH: That's correct. As indicated, we
14 recognize probably there are some better areas on some of
15 the shoals downstream. However, you can't just stop at
16 the good part when you are trolling. It takes a period or
17 it takes a space to operate your boat and turn within that
18 area.

19 CHAIRMAN MCCARTHY: Now, the points that you say
20 would make suitable locations for berth areas, are any of
21 those property owners interested? Have they applied to
22 develop their areas?

23 MR. MENSCH: Well, we review such proposals all
24 the time. I know there has been some upstream that we
25 have reviewed within the last couple of months. Maybe not

1 this specific site, but --

2 CHAIRMAN McCARTHY: Well, I don't mean this
3 specific site. Is there anything proximate to this that
4 would meet the convenience of people who find themselves
5 in this general area for fishing?

6 MR. MENSCH: I couldn't speak to the specifics
7 on it. I believe it is a number of miles, maybe two or
8 three miles upstream. That would be my best estimate on
9 the very most recent proposal, and it was a renewal of a
10 State Lands lease that we concurred in with no impacts.

11 CHAIRMAN McCARTHY: I am puzzled by one thing,
12 shifting gears now to a different point.

13 MR. MENSCH: Okay.

14 CHAIRMAN McCARTHY: There was a Negative
15 Declaration issued on this --

16 ASSISTANT EXECUTIVE OFFICER TROUT: Yes, sir.

17 CHAIRMAN McCARTHY: -- proposed development. I
18 don't remember any objection coming from Fish and Game
19 when that was issued.

20 MR. MENSCH: Fish and Game, going back to 1985,
21 has consistently recommended against the project on the
22 very same basis.

23 CHAIRMAN McCARTHY: It must have been just an
24 administrative oversight or something?

25 MR. MENSCH: Yes. Understand, we see hundreds

1 of them. If we missed one, that is something that has
2 happened, although I believe our comments and our
3 opposition has been on record throughout that period.

4 CHAIRMAN McCARTHY: Always on the same basis.

5 MR. MENSCH: That is correct.

6 CHAIRMAN McCARTHY: Any questions of the Members
7 of the Commission?

8 ACTING COMMISSIONER TUCKER: Do you have any
9 opinion as to what the need in this particular area is for
10 a marina, an additional marina?

11 MR. MENSCH: No. That's out of our area of
12 expertise. We restrict our comments and our knowledge and
13 information is basically restricted to fish and wildlife
14 resources.

15 ACTING COMMISSIONER STANCELL: Excuse me. Do
16 you have any data that would indicate how many boats on an
17 average day would be trolling in that area?

18 MR. MENSCH: No, we don't. However, we do have
19 Captain Jim Dixon, who was in charge of wildlife
20 protection for the entire Delta for approximately 15
21 years, and who lives in Walnut Grove, is here and may be
22 able to answer some of those specifics. He is intimately
23 familiar with the area.

24 CHAIRMAN McCARTHY: Okay.

25 MR. MENSCH: Jim, would you come up, please?

1 Identify yourself, please.

2 MR. DIXON: My name is James Dixon. I am with
3 the Fish and Game --

4 CHAIRMAN MCCARTHY: Is that spelled D-i-x-o-n?

5 MR. DIXON: Yes. My name is James Dixon. I am
6 with the Fish and Game Department. I have lived in Walnut
7 Grove since 1973.

8 I do not have a daily count of the number of
9 boats that fish in that area but I think we were
10 commenting, too, when I was asked to comment on it, is the
11 area used by sport anglers? And the area is used. And
12 there may be better areas upstream and downstream, but
13 this will impact the fishing in that particular area
14 simply because of the restriction in the area where the
15 marina is going to be built.

16 There is an existing dock across the river. The
17 Walnut Grove bridge restricts it for access upstream of
18 it, but it is an area that is used spring and fall by
19 sport anglers, and the construction of the marina, in our
20 opinion, will restrict that fishing effort.

21 ACTING COMMISSIONER STANCELL: So when the first
22 marina went in, which is across the river from what is
23 being proposed, you folks reviewed that marina?

24 MR. DIXON: That marina was in existence when I
25 moved into Walnut Grove, and perhaps Mr. Mensch can

1 respond to that. I have no idea what was reviewed back
2 then.

3 ACTING COMMISSIONER STANCELL: Were there any
4 complaints about that marina and how it impacted the
5 recreational use of that area?

6 MR. MENSCH: No. Again, that was in there long
7 before I came on the scene, working for the Department in
8 this area. I think --

9 CHAIRMAN MCCARTHY: That was installed before
10 there was a Fish and Game Department.

11 (Laughter.)

12 MR. MENSCH: Well, not quite that long ago.
13 However, it was before we were involved in many of the
14 project review activities that we are now.

15 The other thing that we are seeing here, again,
16 is that we are seeing cumulative impacts. Obviously, the
17 first one has little impact, but as you get more and more
18 within an area, you get to a point where it starts a
19 significant restriction.

20 Again, there are many areas in the Delta where
21 marinas are still appropriate without any conflicts with
22 fish and wildlife resources. We have no objections to
23 them. We have no objections to marinas, per se. We do
24 see conflicts within this particular area.

25 ACTING COMMISSIONER STANCELL: So it doesn't

1 matter how many berths are involved. If it's one berth,
2 it's still, in your opinion, interfering?

3 MR. MENSCH: Well, if you had one, the
4 cumulative impact, well, we probably wouldn't hassle one,
5 but when you start getting a commercial marina where you
6 are going to have a significant number of boats, and 30 or
7 40 boats, it starts getting significant within the area.

8 At some point, and I couldn't say whether it is
9 two or 29 or something, somewhere in there, it gets to the
10 point where it does. And probably if you were at other
11 than just a couple, it really would interfere, and if you
12 had these small boats tied up close to the dock or close
13 to the shore.

14 ACTING COMMISSIONER STANCELL: Well, one of the
15 points that was made by Mr. LaBrie, I think it was,
16 indicated that this is a storage area and that only ten
17 percent of the boats would probably be used at one time
18 and was it ten percent or 30 percent of the boats?

19 CHIEF COUNSEL HIGHT: Thirty.

20 ACTING COMMISSIONER STANCELL: Thirty percent of
21 the boats. Does that at all have any difference?

22 MR. MENSCH: Well, that has something in it
23 there is already significant boat use at times of the
24 year. During the time that the striped bass, when the
25 population of the striped bass were better, and which we

1 hope to have better in the future again, restore them, you
2 would find it difficult to troll through some of this area
3 because of the number of boats trolling. There are days,
4 and I personally have seen that, where it was difficult to
5 navigate a boat through the area.

6 So it's all, again, part of the total package.
7 The boats being there, extending out into the waterway,
8 reduces that available area, the movement of boats. It's
9 not one or the other, it's a combination of the marina and
10 the boat use that will occur with it.

11 CHAIRMAN MCCARTHY: Do we have any standards of
12 any kind against which we lay applications like this as to
13 when they are permissible and when they are not? If this
14 river were 30 feet or 40 feet wider at this point, is that
15 something we consider to make a difference? How do we
16 judge these things. Is it ad hoc with each situation?

17 MR. MENSCH: That is correct. The way it is
18 now, and getting back to the seventies, I personally
19 worked on one version of the Delta Recreation Master Plan.
20 That was the idea, to try to provide some width criteria,
21 some fish and wildlife habitat criteria and some
22 development criteria. That type of a plan on a delta-wide
23 basis is an absolute necessity. More and more conflicts
24 of this type will be coming forth as there is more and
25 more demand for limited resources.

1 I believe that the Commission staff is currently
2 working on types of plans. We have met and discussed with
3 them.

4 CHAIRMAN McCARTHY: That's what they tell us.

5 MR. MENSCH: And I would sure urge that that
6 type of planning activity is absolutely necessary.

7 CHAIRMAN McCARTHY: So, if an applicant like
8 this came forward, at least you'd know what the rules were
9 and whether or not they could visit this.

10 Really, there is something rankling here. I am
11 sympathetic to Fish and Game's view not to interfere with
12 one of the nicest uses, Delta fishing. And on the other
13 hand, we don't seem to have a set of rules here that we
14 are operating within. The fact that these folks have gone
15 through this for five years now has taken up an awful of
16 time, I would say, and probably cost the taxpayers and the
17 people working for State Government. There is something
18 the matter with that.

19 MR. MENSCH: That is correct. And I agree with
20 that. The one thing, again, I would like to reiterate is
21 that the Department has made its position known and the
22 applicant has known or been aware of that position, and
23 that is of opposition, since early on in the planning
24 stages of the project, and has made that choice to proceed
25 in the light of that known opposition.

1 CHAIRMAN McCARTHY: You know the Corps of
2 Engineers is not with you on this one, huh?

3 MR. MENSCH: That is correct.

4 CHAIRMAN McCARTHY: Aren't they pretty tough on
5 this same subject, fishing?

6 MR. MENSCH: Well --

7 CHAIRMAN McCARTHY: Recreational uses?

8 MR. MENSCH: I'd like to leave the Corps to
9 speak for themselves.

10 (Laughter.)

11 MR. MENSCH: They support us on many where we
12 have the same issues, and on others they don't.

13 ACTING COMMISSIONER STANCELL: Well, what is the
14 county's interest since they seem to be in agreement with
15 the plan?

16 MR. MENSCH: The County, I think, may be more
17 concerned, and maybe I should let them speak for
18 themselves. They are, again, not in the fish and wildlife
19 resource protection field.

20 CHAIRMAN McCARTHY: On the other hand, they just
21 entered into a Memorandum of Understanding with the State
22 Lands Commission to try to assemble parcels of land along
23 the Sacramento River stretching for 31 miles.

24 MR. MENSCH: That is correct. And Sacramento
25 County is --

1 CHAIRMAN McCARTHY: The River Parkway System.

2 MR. MENSCH: Sacramento County is also very
3 involved with the Department and other agencies, and I
4 believe with State Lands, at Beach Lakes, Stone Lakes
5 Reserve.

6 CHAIRMAN McCARTHY: When are we possibly going
7 to have that set of rules? This is only one aspect, I
8 know, of an overall plan --

9 EXECUTIVE OFFICER WARREN: On the Delta?

10 CHAIRMAN McCARTHY: Yes.

11 August 15th?

12 (Laughter.)

13 EXECUTIVE OFFICER WARREN: I am sorry.

14 MR. MENSCH: What year might be the question.

15 ACTING COMMISSIONER TUCKER: Well, we have done
16 the river study for part of the river and I think that the
17 difficulty is that you can't -- it's hard to come up with
18 a rule that says, okay, if you do the following four
19 things, it will be approved, because, as Fish and Game
20 indicates, you are talking about a cumulative impact and
21 deciding when that last layer is added that makes the
22 whole thing too heavy, I think, is difficult to judge in
23 this matter.

24 CHAIRMAN McCARTHY: Well, I think that's a good
25 point you are raising, Commissioner Tucker, but I haven't

1 heard from the Fish and Game folks that they think that
2 that is a major consideration here, too much, is it?
3 It's sort of the cumulative effect is kind of tossed in
4 there.

5 MR. MENSCH: Well, again, if this project or if
6 a project of this size was proposed upstream of the
7 bridge, we wouldn't be here. The same uses don't occur in
8 the upstream area. This size in the upstream area would
9 have no impact. In the downstream area --

10 CHAIRMAN McCARTHY: I guess what I am aiming at
11 here is that Commissioner Stancell asked about that little
12 dock across the river. You didn't raise in your
13 affirmative testimony a concern about the cumulative
14 impact of at least this part of the river, that's all. I
15 am just trying to fish around here and find out about
16 this.

17 EXECUTIVE OFFICER WARREN: So to speak.

18 CHAIRMAN McCARTHY: At least to find out what
19 your main points are.

20 ACTING COMMISSIONER TUCKER: In the
21 environmental study that was done back in 1987, the
22 environmental study that was done, Fish and Game
23 indicated, according to this document, that exactly what
24 he testified to here, that it isn't the impact on the fish
25 in that area, but it's the impact on the boat traffic that

1 they were concerned about.

2 CHAIRMAN MCCARTHY: Well, I think that that's a
3 clear point that they have made.

4 MR. MENSCH: Yes, that's basically it. There
5 are appropriate areas, and at this time, in our opinion,
6 this is not an appropriate place.

7 CHAIRMAN MCCARTHY: Well, is there any
8 reasonable guess as to when we can have a set of rules, so
9 that if we don't go with these applicants, that they won't
10 have to wait five years to get an answer based on some
11 reasonable set of guidelines?

12 I agree with Commissioner Tucker, you can't
13 predict ahead of time some nice clean set of rules to
14 judge every one of these applications, but we ought to
15 have some clearer guidelines than we have right now.

16 EXECUTIVE OFFICER WARREN: We did have the
17 marina capacity study for the 31-mile stretch of the
18 Sacramento River, which is now the stretch involved in the
19 Riparian Parkway planning. Looking ahead, that is the
20 only marina capacity. We have no plans. We are not
21 engaged in a specific planning process for marina capacity
22 outside that area and specifically in the Delta.

23 To deal with that subject in the Delta, we
24 anticipate will require a Delta planning process which the
25 Commission may well consider sponsoring, together with the

1 other agencies. And this is a long way of saying that I
2 cannot give you a specific estimate of when, for the Delta
3 as a whole, capacity studies will be available.

4 I think that I have to be somewhat -- well, I
5 just cannot give you with any degree of precision at all.
6 I would say it is probably two to four to five years away.

7 But I think that these are, as Fish and Game
8 indicates, we are taking a very essential first step, and
9 as you undoubtedly fully appreciate, there are political
10 sensitivities involved in such an approach because they
11 have been attempted in the past unsuccessfully. And we
12 would like to take advantage of the errors of the past and
13 perhaps improve our chances of success in this instance.
14 But it will be tricky, and difficult, but worth doing.

15 MR. MENSCH: Mr. Chairman, I might make a
16 comment on that. It is also that such uses as the boating
17 use become very intertwined with other programs such as
18 the levee subvention program and the special flood control
19 projects programs, which provide for fish and wildlife
20 protection and levee protection. All of these programs
21 have to be tied together, and I think that's what Mr.
22 Warren was alluding to.

23 It's a very complex situation, and just to say
24 what kind of allocations for boating or for marina needs,
25 without taking into consideration these other programs and

1 the other activities, the need for local flood control,
2 all of those have to be integrated into a planning
3 program. It's a fairly large planning program, but one
4 that is extremely in need for long-term protection and use
5 of the Delta.

6 And that's not speaking for the Department, and
7 a little off to the side here just from having worked in
8 the Delta working on and being in charge of the Fish and
9 Game portion of the levee subvention program. It is
10 extremely complex, especially in light of the water use
11 and water diversion in the Delta as well.

12 CHAIRMAN MCCARTHY: You testified that there are
13 several other places nearby that would be more appropriate
14 places for such berths. Do you have those identified by
15 the Department?

16 MR. MENSCH: Well, areas where the Department --
17 as a hypothetical example, the Department would not object
18 to a marina being constructed on either side of the river
19 upstream of this location, say, within, to the best of my
20 knowledge, a mile on either side upstream. On the left
21 bank or the east bank is the Delta Cross Canal, but within
22 those areas, the use is very different. It doesn't
23 receive the kind of trolling use. It uses anchored boat
24 use to the best of my knowledge, but it's just not the
25 same kind of use. And so a project of this type wouldn't

1 interfere within that area. It's just very specific
2 locations.

3 CHAIRMAN MCCARTHY: Okay.

4 So one final question for me. There were a
5 double row of berths, as I looked at the applicant's map,
6 right? There are two rows of berths?

7 ASSISTANT EXECUTIVE OFFICER TROUT: One row.

8 CHAIRMAN MCCARTHY: One row?

9 What was the intrusion into the river, how many
10 feet?

11 MR. LABRIE: Sixty feet. About sixty feet,
12 total.

13 CHAIRMAN MCCARTHY: What is the width of the
14 river at that point?

15 MR. LABRIE: It varies from 450 to 480.

16 CHAIRMAN MCCARTHY: Okay. Any other questions
17 of Commissioners?

18 ACTING COMMISSIONER TUCKER: Yes. I wanted to
19 ask, on the vegetation that is on the shore bank that was
20 referred to earlier, does it really have any impact on the
21 fish use of that vegetation?

22 MR. MENSCH: No, it won't have any impact on the
23 fishery's use. However, well -- I take that back. Under
24 any marina, you always have in the boat storage area, you
25 have the potential for accidental fuel spills. There

1 could be some kind of an effect under an accidental
2 circumstance. Fishery's impacts related to the habitat
3 are basically that of an accidental type nature.

4 There could be some disturbance factors on the
5 wildlife use in the area. Obviously there are certain
6 types of bird use that are the primary species of concern
7 that could be impacted, could be reduced, depending,
8 again, on the type of boating use. If the people are out
9 there at midnight having parties on their boat, yes, there
10 is going to be some disturbance factors maybe for the
11 neighbors. However, there could be some and probably
12 would be some level of impact to the wildlife species.

13 CHAIRMAN MCCARTHY: Okay. Let me understand the
14 partnership arrangement here again. It's the landowner,
15 that's Ms. Clark and her son Wally, all right, and then
16 Mr. Vollman --

17 MR. VOLLMAN: Mrs. Clark's maiden name is
18 Vollman and she is my father's sister. It's been in the
19 Vollman name for a long time.

20 CHAIRMAN MCCARTHY: So this is a proposal by the
21 owners of this land period.

22 MR. VOLLMAN: No outside parties.

23 CHAIRMAN MCCARTHY: Okay. That shoots what I
24 was going to propose. I was hoping you folks might be
25 interested in looking at some of the upstream locations

1 for development.

2 MR. VOLLMAN: I think Mr. LaBrie and myself would
3 have just a brief thing to say in rebuttal to Mr. Mensch.

4 CHAIRMAN McCARTHY: All right. Take your shot.

5 MR. VOLLMAN: A lot of the conversation that we
6 witnessed has to do with future plans and future rules and
7 regulations, and they are clearly in need. And I would do
8 whatever I could to assist in the development of those.

9 There might be a couple of items that the
10 Commission may not be intimately aware of. Items that
11 would possibly be more acceptable to Fish and Game that
12 are upstream also are not zoned commercial, do not have
13 utilities or access to them to be able to provide
14 services, and the power that is required to run the pump
15 house, do not have areas to park on and, in fact, aren't
16 within the zoned property for the County of Sacramento.

17 So, I mean, there is a number of reasons why we
18 selected this. It's not just the fact that it's ours. If
19 it wasn't zoned properly, we wouldn't be messing with it.
20 We can't afford to go through a rezoning action.

21 Consequently, or along that same thought
22 process, those folks that are upstream but are in the same
23 agricultural boat as we are, probably are not going to go
24 through the zoning action to try and get their property
25 rezoned from Ag-80 or Ag-160. permanent agriculture, to

1 some kind of commercial zoning to allow a marina on it.

2 The facts that have been brought up about
3 trolling are very interesting, and, of course, it is very
4 fortunate that we have the photographs because we can
5 really get a good handle on how large this is. This is a
6 rather large boat that is here in the middle of the river.
7 This is the marina, as big as it would ever be. This is
8 the existing boat dock and two other boats that are parked
9 at it, and this is the time of year when this heavy
10 trolling is going on.

11 I mean, we have several people that have been
12 here for a long time. I am nearly 50 and I have fished
13 down there since I was knee-high to whatever. And I have
14 seen some boats trolling down there but I have never seen
15 it congested, ever, in this area.

16 There are a couple of really good reasons. This
17 time of year, when we do have water, the high water brings
18 down a lot of garbage, trees and tree trunks, and they
19 catch on these pilings and fenders from the bridge. There
20 is also a fire dock that would be attached to that that
21 has been there for about sixty years that collects odds
22 and ends also.

23 One of the reasons that I wouldn't park my boat
24 out here and try to troll is because this stuff breaks
25 loose from time to time, and if you have a fishing boat

1 that is maybe ten or fifteen feet long, and you are
2 watching the pole out of the back of the boat, and you
3 have a twelve to fifteen-foot log hit you, it could be a
4 little bit of a surprise.

5 But this boat ought to give you a relative
6 significance of how much impact that these, sitting here
7 and parked in the way, might actually have a little bit of
8 confusion with the trolling if there was a lot of
9 trolling. And everybody that has testified, has testified
10 that the best fishing is down this way and down in
11 Georgiana. I think that anyone that is here would
12 probably agree to that.

13 CHAIRMAN MCCARTHY: Is that it?

14 MR. VOLLMAN: I think it is, except thank you
15 for the time. We do hope that you will have a favorable
16 thought for us, and Mr. LaBrie has a short word, and I do
17 heartily endorse future guidelines. They should be
18 consistent with the zoning documents of the County.

19 MR. LaBRIE: Mr. Chairman --

20 MR. VOLLMAN: Take a seat up front.

21 MR. LaBRIE: Oh, I'm sorry.

22 I wanted to address a couple of things.
23 Alternate locations, I think, is one of them, because one
24 of the reasons why I took great pains and I took your time
25 to explain to you on how much involvement I have had in

1 planning in the Delta is because I have watched that over
2 the years.

3 I was involved in the Sacramento County planning
4 effort to set up the Delta Community Plan. I am Chairman
5 of the Delta Advisory Council and have been since 1977.
6 And we were charged with coming up with that community
7 plan which covers from Freeport all the way down to
8 Antioch, just about to Antioch.

9 So we looked at the Delta and all of that area
10 in terms of all kinds of uses and in terms of
11 developmental uses and potentials as part of that planning
12 effort. And I have been involved with a number of
13 projects down there. I have people calling me, not
14 recently, but from time to time, asking about locations.
15 And there aren't many locations. There just are not.

16 Now, the upstream of the Walnut Grove Bridge on
17 the east side, which is the community of East Walnut
18 Grove, which they call East Walnut Grove, there is a dock
19 permitted for there. It is a 750-foot-long community
20 guest dock. I got the permits for that because the
21 community homeowners' association, which is the
22 homeowners' and merchants' association, which is the
23 property owners, could not get a funding source to put in
24 that community guest dock there, and I think the permits
25 are going to start lapsing if they haven't lapsed pretty

1 soon. And they began discussions with Commission staff
2 but never concluded it.

3 There is no landside parking to support a
4 marina, if you were to put a berthing marina there. There
5 isn't the landside parking. In fact, one of the
6 conditions of the use permit that Sacramento County
7 imposed on it when they granted the use permit for this
8 project, which was basically County sponsored, the
9 condition was that there be no overnight berthing. And it
10 has to do with that parking limitation plus they agreed
11 with the fact that there probably is a need for commercial
12 access to the community from that kind of a dock similar
13 to what is downstream to facilitate the growth of the
14 commercial area in that community.

15 On the opposite side, you have got two marinas
16 where you could have them. One of them is an existing,
17 Number 63, is existing. It was upgraded. The other one,
18 which is called Deck Hands, I got permits for a number of
19 years ago. It is as big as it can be because of, again,
20 parking and availability of parking, and the fact that
21 between there and downstream to the bridge is residential,
22 and upstream of that is residential.

23 So it takes a hand-in-hand situation to, in
24 terms of zoning, to make these things work.

25 The last project I worked on upstream at

1 Courtland on the Steamboat Slough, where the owner of that
2 property, who has provided her property so generously for
3 people to tie up to for years and years with sailboats and
4 everything else in that beautiful slough, wanted to put in
5 a marina to, in effect, control what was going on out
6 there, and the problem she ran into was that the property
7 on the other side of the levee is zoned agricultural. And
8 she had to seek a rezone to provide parking, so she
9 couldn't do it.

10 So the provision of services, access and parking
11 becomes a very important factor of controlling where you
12 can put these marinas, and rightly so.

13 So in terms of alternate locations, there aren't
14 that many alternate locations in Walnut Grove readily
15 available, and what you have got is probably a marina
16 going in in one of the last locations in Walnut Grove that
17 is zoned and set up to allow that kind of thing to happen,
18 and was done back in 1983. So, I mean, it's going in at a
19 location that was set up to facilitate it.

20 You can see what we have got here. The issue is
21 differing opinions about the impact at this particular
22 project that that location is going to have on fishing use
23 in the area, and that's what it is. It is a difference of
24 opinion. We have got people here, some of whom didn't
25 really spell it out in long terms, who have watched it,

1 who disagree with Mr. Mensch. And it is because there are
2 others who disagreed in other agencies that this project
3 got approved with all these others, because, you know,
4 that's the nature of things, that it is compromised and
5 everybody doesn't always get satisfied or everybody
6 doesn't always win.

7 And he voiced his objections. It was reviewed
8 and it was determined that it was not a significant
9 impact.

10 And I think that's a key. I mean that's a key
11 word, how significant is that impact? So it went through
12 the process.

13 Lastly, I agree with the guidelines. I mean, I
14 have been in this process for years. There is a bad need
15 for guidelines. I told Dwight Sanders that. He and I
16 used to work in the Analyst's Office together years ago.

17 One of the things that bothers me is that State
18 Lands in the lease is the end of the process. You ask for
19 and you insist upon seeing all the other approvals before
20 it gets to you. We need some guidelines to know going
21 into this thing.

22 I mean I think the State Lands ought to be the
23 beginning of the process, become the lead agency, get on
24 the cutting edge of it. If that's how you want to
25 approach this thing, then you don't have this. Because I

1 think we have been through a fair process of give and take
2 over all of these years to come up with something that was
3 a compromise.

4 Thank you.

5 CHAIRMAN MCCARTHY: Thank you.

6 ASSISTANT EXECUTIVE OFFICER TROUT: Mr.

7 Chairman, reluctantly staff has to admit that we have
8 presented you with the need to act today because, under
9 the Permit Streamlining Act, the Commission must act by
10 the 16th of April. It seems to me that the Commission
11 basically has two options.

12 If you believe that the project would
13 significantly interfere with fishing and agree with the
14 Department of Fish and Game, the Commission should approve
15 the staff recommendation.

16 If you believe that it will not significantly
17 interfere with fishing, then you need to either deny the
18 application without prejudice, with the understanding that
19 we would negotiate a lease and guarantee that this would
20 be back on calendar for the May 1st meeting, or, if the
21 applicant would prefer not to have a denial, then we would
22 suggest that the applicant on the record withdraw the
23 project this afternoon, we would consider it resubmitted
24 this afternoon, and again come back to you with a lease
25 ready for approval at the May 1st meeting.

1 But the Commission must take either some action
2 to deny or we must have a withdrawal from the applicant so
3 that we can move forward, because we have not negotiated
4 and you do not have before you the terms of a lease that
5 would fit this location, although I guarantee that we can
6 do that by the May 1st meeting.

7 CHAIRMAN MCCARTHY: Does the applicant
8 understand the options?

9 MR. VOLLMAN: I understand the options. There
10 have been one or two items that have taken place in the
11 recent past, and now there is a \$10,000 reapplication fee
12 which we would certainly not want to have to bear.

13 (Laughter.)

14 MR. VOLLMAN: And in fact the lease has been
15 negotiated, is accepted and is in --

16 CHAIRMAN MCCARTHY: We need the income.

17 (Laughter.)

18 CHAIRMAN MCCARTHY: We are \$9 billion -- no,
19 that's close but we just got a new press statement from
20 the Department of Finance, we are \$18 billion in the hole.

21 ACTING COMMISSIONER STANCELL: \$18 billion.

22 (Laughter.)

23 ACTING COMMISSIONER STANCELL: Let the record
24 show that that's not true.

25 (Laughter.)

1 ACTING COMMISSIONER TUCKER: We would be
2 interested in selling you the whole river, though.

3 (Laughte..)

4 CHAIRMAN McCARTHY: Do you understand the
5 options just laid out by Mr. Trout?

6 MR. VOLLMAN: Yes.

7 CHAIRMAN McCARTHY: Let's assume that you don't
8 have to pay another \$10,000 fee.

9 MR. VOLLMAN: Let me restate them to ensure, in
10 fact, that I do understand them. If I understand what is
11 said, if I understand what I heard, it is that the options
12 are to deny, to deny without prejudice, which would allow
13 us to come back at a later date, or we could withdraw and
14 be guaranteed, I guess, for lack of another word, that we
15 would not have to suffer the new application fee and that
16 we would be able to present a lease on the May 1st
17 meeting. Is that it?

18 EXECUTIVE OFFICER WARREN: That's assuming we
19 can negotiate a lease by then.

20 ASSISTANT EXECUTIVE OFFICER TROUT: Yes, we are
21 assuming that we can negotiate a lease, and my
22 understanding from talking to Mr. Kiley, is that we were
23 very close to summary on the lease as we tried to work out
24 the differences with the Department of Fish and Game.
25 We'd like the opportunity to make sure that that is in

1 final form and bring it back to you.

2 The option, then, would be to deny without
3 prejudice, and that takes care of the Permit Streamlining
4 Act requirements. The other option is not to have a
5 denial but have the applicant withdraw and consider it
6 immediately resubmitted, and again come back to you with a
7 negotiated lease on the May 1st meeting.

8 MR. VOLLMAN: We would like to withdraw and be
9 immediately resubmitted and come back for the lease on
10 May 1.

11 CHAIRMAN MCCARTHY: Is that agreeable to the
12 Members of the Committee?

13 ACTING COMMISSIONER STANCELL: That is fine.

14 CHAIRMAN MCCARTHY: Mr. Tucker.

15 ACTING COMMISSIONER TUCKER: Could I ask a
16 question?

17 CHAIRMAN MCCARTHY: Mr. Tucker.

18 ACTING COMMISSIONER TUCKER: One thing is that I
19 am not sure that I agree with the, if I understand it
20 correctly, with the characterization issue by Mr. Trout.
21 I didn't think that we had to make a finding that there
22 would be significant negative impact on the river to deny
23 a lease.

24 ASSISTANT EXECUTIVE OFFICER TROUT: I misspoke,
25 if that's the interpretation you had.

1 ACTING COMMISSIONER TUCKER: It seems to me that
2 what we need to focus on, and I'll certainly be looking to
3 the staff for its recommendation on this, is whether or
4 not it's in the public interest to lease public property.
5 And that's what, I think, we have to return the focus to
6 is that. And I am sympathetic to the landowners here, but
7 these are adjacent landowners. They are adjacent to State
8 property. They don't have a right to conduct business on
9 State property.

10 That doesn't mean that, you know, it may be a
11 good idea, and if the staff comes up with a
12 recommendation, I would certainly be interested in hearing
13 what the reasons are that staff feels that we should
14 conduct this lease, but I think it should be clear that
15 they are not entitled to this simply because they live
16 next door to public property to conduct business on that
17 public property.

18 And I think our obligation is to make a decision
19 as to whether or not this is the best use of public
20 property. And we will look to the staff for their
21 recommendation as to whether or not this property should
22 be leased for this or any purpose.

23 EXECUTIVE OFFICER WARREN: I think that fairly
24 states the attitude of staff towards matters of this kind.

25 CHAIRMAN MCCARTHY: Okay. That will be the

1 action of the Commission.

2 Twenty-six.

3 ASSISTANT EXECUTIVE OFFICER TROUT: Item 26 is
4 the approval of a ten-year General Lease for water wells
5 and rights of way on 640 acres of school land in eastern
6 San Bernardino County.

7 CHAIRMAN MCCARTHY: Anybody want to testify on
8 Item 26?

9 If not, the staff recommendation is approved.

10 Twenty-seven.

11 EXECUTIVE OFFICER WARREN: Item 27, Mr. Chairman
12 and Members, is the approval requiring collateral access
13 from the California Coastal Commission.

14 Peter Douglas, who is the Executive Director of
15 the California Coastal Commission, is here and would like
16 to address the Commission for a short period of time
17 inasmuch as this will be the first of many such
18 acquisitions.

19 CHAIRMAN MCCARTHY: Okay.

20 MR. DOUGLAS: Mr. Chairman and Members of the
21 Commission, on behalf of the California Coastal Commission
22 I would like to express our deepest appreciation to your
23 staff in working with us to reach this point. We strongly
24 support the staff recommendation that is before you today.
25 We believe that approval of this recommendation will

1 represent a significant step forward toward increasing
2 public access opportunities along the California coast.

3 I am here to answer any questions you may have.
4 I think I believe you have a staff report before you and,
5 again, Mr. Chairman, we strongly support the staff
6 recommendation.

7 CHAIRMAN MCCARTHY: Any questions by Members of
8 the Commission?

9 ACTING COMMISSIONER TUCKER: Will this get the
10 Sacramento Bee off your back?

11 (Laughter.)

12 MR. DOUGLAS: I didn't realize that they had
13 been on our back.

14 ACTING COMMISSIONER TUCKER: They had some
15 comments on access and the lack of it.

16 MR. DOUGLAS: Yes. Unfortunately, there was a
17 bit of inaccuracy in the article. We have been in contact
18 with the reporter. Unfortunately, corrections never get
19 the attention that the original article does.

20 CHAIRMAN MCCARTHY: Are there any collateral
21 easements that run from Sacramento to the coast?

22 MR. DOUGLAS: No, we checked that before we came
23 here today.

24 CHAIRMAN MCCARTHY: Any other questions?

25 All right. Thank you.

1 Accepted gratefully.

2 EXECUTIVE OFFICER WARREN: We will try to find
3 one, though, Mr. Chairman, if you would like.

4 CHAIRMAN MCCARTHY: I'd appreciate that very
5 much.

6 Twenty-eight.

7 ASSISTANT EXECUTIVE OFFICER TROUT: I think Item
8 28 is off the calendar.

9 CHAIRMAN MCCARTHY: Twenty-nine.

10 ASSISTANT EXECUTIVE OFFICER TROUT: Item 29, the
11 City of Del Mar, is approval of a public agency permit to
12 remove interferences placed by upland owners pursuant to a
13 court decision in the City of Del Mar on the beach.

14 Staff recommends approval.

15 CHAIRMAN MCCARTHY: Any questions?

16 If not, it is unanimously approved.

17 Thirty-one.

18 ASSISTANT EXECUTIVE OFFICER TROUT: Item 31 is a
19 denial of an application for use of State-owned property
20 on the Russian River near Jenner. Facilities have been
21 placed without a Commission permit and without a Coastal
22 Commission permit, and since the time is running on this
23 item, we recommend that it be denied and we will deal with
24 the applicant.

25 CHAIRMAN MCCARTHY: Questions?

1 ACTING COMMISSIONER STANCELL: Move approval.

2 ACTING COMMISSIONER TUCKER: Second.

3 CHAIRMAN McCARTHY: Approved as recommended.

4 Thirty-two.

5 ASSISTANT EXECUTIVE OFFICER TROUT: Item 32 is
6 the tenth modification of the plan and budget for the Long
7 Beach unit, transferring within budget, \$1,200,000 to
8 increase the Injection Well Workover Account.

9 We recommend approval.

10 CHAIRMAN McCARTHY: Any questions?

11 We approve the tenth modification and look
12 forward eagerly to the eleventh modification.

13 (Laughter.)

14 CHAIRMAN McCARTHY: Thirty-three.

15 ASSISTANT EXECUTIVE OFFICER TROUT: Item 33 is
16 requesting your approval to notify the Legislature of the
17 Commission's intent to increase the amount of money
18 required to do some hazard removal work on the coast.
19 This would provide for capping of a number of seeping
20 wells in the Summerland area of Santa Barbara and Ventura
21 Counties.

22 We had expected this project to cost \$500,000.
23 We went out to bid. We only received one bid. It was for
24 \$497,000. We reviewed the bid and feel that our estimate
25 was incorrect, and this would use money that is available

1 to the Commission for this project.

2 We recommend approval.

3 CHAIRMAN MCCARTHY: Questions?

4 The recommendation is approved.

5 That's the conclusion of this Commission
6 meeting.

7 Thank you, ladies and gentlemen.

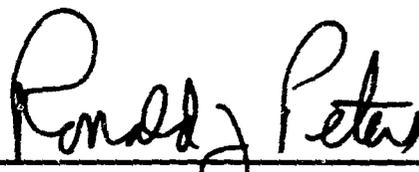
8 (Thereupon the April 2nd, 1991 meeting of
9 the State Lands Commission was concluded
10 at 3:20 p.m.)

CERTIFICATE OF SHORTHAND REPORTER

I, RONALD J. PETERS a Certified Shorthand Reporter, of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing State Lands Commission Meeting in shorthand and thereafter caused my shorthand writing to be 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 16TH day of April, 1991.



Ronald J. Peters

Certified Shorthand Reporter

License Number 2780