

MEETING  
OF THE  
CALIFORNIA STATE LANDS COMMISSION

ORIGINAL

LEGISLATIVE OFFICE BUILDING  
ROOM 102  
1020 N STREET  
SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 17, 1995

3:15 P.M.

Nadine J. Parks  
Shorthand Reporter

## MEMBERS PRESENT

Gray Davis, Lieutenant Governor, Chairman

Kathleen Connell, Ph.D., State Controller  
(By Speaker Phone from Los Angeles)

Theresa Parker, Chief Deputy Director of Finance,  
for Russell S. Gould, Director of Finance

## Staff:

Robert Hight, Esq.  
Executive Officer

Jack Rump, Esq.  
Chief Counsel

Dwight Sanders  
Chief  
Division of Environmental Planning & Management

Gary Gregory  
Marine Facilities  
Long Beach

Bill Morrison  
Assistant Executive Officer

Jan Stevens, Esq.  
Deputy Attorney General

Sharon Shaw  
Executive Secretary

Lynda Smallwood  
Calendar Coordinator

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## P R O C E E D I N G S

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CHAIRMAN DAVIS: All right. I'm going to gavel this meeting of the Lands Commission to order. The Secretary will note that the Director of Finance is represented, the Lieutenant Governor is here. The Controller is here by the magic of telecommunications.

EXECUTIVE OFFICER HIGHT: Just so we can make sure that the Controller is here --

CHAIRMAN DAVIS: Controller, can you hear us?

(Thereupon, a spokesperson, not readily understood over the speaker phone, explained the Controller would be called to the phone.)

CHAIRMAN DAVIS: Just say we're ready to proceed. I was a little premature that we were all present.

(Thereupon, a technician attempted to make connection with the Controller in Los Angeles, after which the following proceedings were had.)

CHAIRMAN DAVIS: Controller, we're ready to begin the Lands Commission meeting.

COMMISSIONER CONNELL: Yes, we're here.

CHAIRMAN DAVIS: All right. Then, all three members of the Commission are present, and the Secretary will so note.

EXECUTIVE OFFICER HIGHT: Okay. For the record,

1 Mr. Chairman, Item No. C82, C93, C80, C79, and 96 are pulled  
2 from the regular agenda.

3 We have a letter that we just now received -- and  
4 we're trying to make some sense out of -- on Item C85. And,  
5 I guess, who wants to explain what our issue is here?

6 CHAIRMAN DAVIS: Let's remove it from the consent  
7 calendar and put it on the regular.

8 EXECUTIVE OFFICER HIGHT: Yes.

9 CHAIRMAN DAVIS: Now, the items that you just  
10 pulled off the consent calendar, are they pulled from the  
11 meeting entirely or just off of the consent calendar?

12 EXECUTIVE OFFICER HIGHT: Meeting entirely.

13 COMMISSIONER PARKER: I move the consent calendar.

14 CHAIRMAN DAVIS: Hearing no objection, the consent  
15 calendar is approved unanimously.

16 MR. RUMP: Mr. Chairman, because of the  
17 teleconference today, I would suggest that we have to take a  
18 roll call vote.

19 CHAIRMAN DAVIS: A vote, all right. I'd be happy  
20 to call for a vote. By the way, can we do this before we  
21 approve the minutes?

22 We also need to approve the minutes.

23 COMMISSIONER PARKER: I apologize.

24 CHAIRMAN DAVIS: You withdraw that motion?

25 COMMISSIONER PARKER: Yes.

1           CHAIRMAN DAVIS: And give me a motion to approve  
2 the minutes.

3           COMMISSIONER PARKER: Okay.

4           CHAIRMAN DAVIS: There's a motion to approve the  
5 minutes.

6           COMMISSIONER CONNELL: I'll second it.

7           CHAIRMAN DAVIS: The Controller seconds it. Do we  
8 need a roll call on that?

9           MR. RUMP: We might as well.

10          Chairman Davis?

11          CHAIRMAN DAVIS: Aye.

12          MR. RUMP: Controller Connell?

13          COMMISSIONER CONNELL: That's an aye.

14          MR. RUMP: Chief Deputy Parker?

15          COMMISSIONER PARKER: Aye.

16          CHAIRMAN DAVIS: All right. Passes unanimously.  
17 Now, we'll entertain a motion on the consent  
18 calendar.

19          COMMISSIONER PARKER: I move we adopt the consent  
20 calendar.

21          COMMISSIONER CONNELL: I second it.

22          CHAIRMAN DAVIS: All right. We'll have a roll  
23 call vote on the motion that's been made and seconded.

24          MR. RUMP: Chairman Davis?

25          CHAIRMAN DAVIS: Aye.

1 MR. RUMP: Controller Connell?

2 COMMISSIONER CONNELL: Aye.

3 MR. RUMP: Chief Deputy Parker?

4 COMMISSIONER PARKER: Aye.

5 MR. RUMP: It passes, Mr. Chairman.

6 CHAIRMAN DAVIS: All right.

7 That takes us to Item 97.

8 EXECUTIVE OFFICER HIGHT: The room is clearing.

9 (Thereupon, there was a pause in the  
10 proceedings while members of the audience  
11 exited the hearing room.)

12 CHAIRMAN DAVIS: Would you be kind enough to just  
13 keep your voices down so we can continue the meeting?

14 Mr. Hight?

15 EXECUTIVE OFFICER HIGHT: Yes.

16 CHAIRMAN DAVIS: Explain the item before us.

17 EXECUTIVE OFFICER HIGHT: Mr. Chairman, Item 97 is  
18 a series of memorandums of understanding with the Bureau of  
19 Land Management relating to the Desert Protection Act that  
20 Congress passed last year.

21 Included within the desert, the Commission has a  
22 total of 338,000 acres of land under its jurisdiction. This  
23 is 465 parcels of fee ownership surface land and 185  
24 parcels, totaling 70,000 acres of mineral rights.

25 They are shown on these maps. The red areas are--

1           CHAIRMAN DAVIS: Does the Controller have --

2           EXECUTIVE OFFICER HIGHT: Yes. The Controller has  
3 a copy of this map.

4           CHAIRMAN DAVIS: All right.

5           COMMISSIONER CONNELL: Yes. Thank you for asking,  
6 Mr. Chairman. I have the map.

7           EXECUTIVE OFFICER HIGHT: As you can see, there  
8 are a lot of parcels. Each one of those will have to be  
9 evaluated as to value in order to make an appropriate  
10 exchange with the Federal Government.

11           The Federal Government at the moment has a total  
12 of 1,392,000 acres of land scattered throughout California  
13 that they have, at the moment, put on the list that is  
14 exchangeable with the Commission.

15           The staff of the Commission will go through a very  
16 long process in order to categorize these lands as to  
17 appropriate use and exchange.

18           Once this process is done, staff will come back to  
19 the Commission with categories of various kinds of lands  
20 that we would suggest that you take, and we will brief you  
21 as this process goes along.

22           It will be probably a four- or five-year process,  
23 with parcels being exchanged on a go-forward basis. We'll  
24 keep up a running tally, if you will, of the value that we  
25 have given up and the value that we have taken.

1           CHAIRMAN DAVIS: Now, I gather that we're going to  
2 use the same appraisers that the Department of Interior is?

3           EXECUTIVE OFFICER HIGHT: That's correct.

4           CHAIRMAN DAVIS: And they'll go through the  
5 competitive bidding process?

6           EXECUTIVE OFFICER HIGHT: Yes. They will go  
7 through the Federal process.

8           CHAIRMAN DAVIS: All right. So, we'll basically  
9 use whatever appraisers they select?

10          EXECUTIVE OFFICER HIGHT: Yes.

11          CHAIRMAN DAVIS: And that's consistent with our  
12 laws and regulations?

13          EXECUTIVE OFFICER HIGHT: Yes.

14          COMMISSIONER CONNELL: Mr. Chairman, I have a  
15 question.

16          CHAIRMAN DAVIS: Sure.

17          COMMISSIONER CONNELL: Is there any priority that  
18 we're assigning to the way we select the land; in other  
19 words, is the return on -- of the sale of land a senior  
20 priority, followed by protection of endangered species? Or  
21 how do we rank the various sites that are available to us?

22          EXECUTIVE OFFICER HIGHT: The number one priority  
23 will be revenue to the Teachers' Retirement System. Under  
24 the trust by which the Commission holds the land, the major  
25 issue is revenue production, not wildlife enhancement.

1           So, any land that the Commission takes has to have  
2 a value for commercial use, which could include sale to  
3 someone as a wildlife habitat. But its primary mission is  
4 dollars.

5           COMMISSIONER CONNELL: Thank you.

6           EXECUTIVE OFFICER HIGHT: Yes. And, as I said, as  
7 soon as we have a compilation or a partial list of various  
8 options available for the Commission, we will come back for  
9 more discussion, and clarification, and direction.

10          CHAIRMAN DAVIS: All right. So, basically, this  
11 is an information item to explain to us you're about to  
12 embark on the process.

13          EXECUTIVE OFFICER HIGHT: Yes, and request for  
14 authorization to sign the memorandums of understanding,  
15 which enable this process to go forward.

16          COMMISSIONER PARKER: Bob, this is consistent with  
17 our fiduciary responsibility we also have, as members of the  
18 Commission, for overseeing the School Land Bank for the  
19 State Teachers' Retirement Pension Fund?

20          EXECUTIVE OFFICER HIGHT: That's correct. Any  
21 dollars that we would take would go into the School Land  
22 Bank Fund, with which the Commission then can purchase  
23 additional land for revenue production.

24          COMMISSIONER PARKER: So, we have a fiduciary  
25 responsibility to the Fund.

1 EXECUTIVE OFFICER HIGHT: Correct.

2 CHAIRMAN DAVIS: And I understand we act as  
3 trustees for the safety of the Retirement System in this  
4 process.

5 EXECUTIVE OFFICER HIGHT: That's correct..

6 CHAIRMAN DAVIS: Are we going to have any informal  
7 consultation with them as we go down this road?

8 EXECUTIVE OFFICER HIGHT: Yes. We have almost  
9 monthly meetings with them, basically telling them where we  
10 are, getting their input into any -- into the process and to  
11 options that they think would be available or best useful  
12 for the Fund.

13 CHAIRMAN DAVIS: Okay.

14 COMMISSIONER PARKER: Mr. Chairman, I would add  
15 that it's my understanding, also sitting on STRS, that there  
16 has been excellent cooperation between the staff of the  
17 Commission and also STRS on the provisions of the California  
18 Desert Protection Act.

19 So, I think the staff are well positioned in those  
20 two organizations to move forward on this particular  
21 project, and that serves their best interest.

22 EXECUTIVE OFFICER HIGHT: Thank you.

23 CHAIRMAN DAVIS: Do we need to hear any advice or  
24 guidance as to the action that you want us to take today to  
25 prepare the memorandum or the mou?

1 EXECUTIVE OFFICER HIGHT: Just a moment to approve  
2 would be all that's necessary.

3 CHAIRMAN DAVIS: All right. Is there any staff  
4 recommendation or --

5 EXECUTIVE OFFICER HIGHT: Staff recommends that  
6 you authorize the approval of the memorandums.

7 CHAIRMAN DAVIS: Is there anyone in the audience  
8 who would like to make for or against this matter?

9 Any comments from the Commissioners?

10 Do we have a motion?

11 COMMISSIONER CONNELL: I move the staff  
12 recommendation.

13 COMMISSIONER PARKER: Second.

14 CHAIRMAN DAVIS: All right. The motion's been  
15 made and seconded. And since we're doing a teleconference  
16 here, the secretary has to call the roll.

17 MR. RUMP: Chairman Davis?

18 CHAIRMAN DAVIS: Aye.

19 MR. RUMP: Controller Connell?

20 COMMISSIONER CONNELL: Aye.

21 MR. RUMP: Chief Deputy Parker?

22 COMMISSIONER PARKER: Aye.

23 MR. RUMP: It's been approved, Mr. Chairman.

24 CHAIRMAN DAVIS: All right. The matter's  
25 concluded.

1 EXECUTIVE OFFICER HIGHT: Okay. The last matter  
2 is Item No. C85, which is the authorization for a subsea  
3 abandonment program.

4 The Commission has a number of subsea wells that  
5 were drilled in the early fifties and sixties. And the oil  
6 companies involved would like to abandon these wells.

7 Just a few minutes before this Commission meeting,  
8 we received a letter from the air district, which I have not  
9 had an opportunity to read yet, so Dwight and Jan can  
10 explain it.

11 COMMISSIONER CONNELL: Can we ask again, Mr.  
12 Chairman, what item you're on?

13 EXECUTIVE OFFICER HIGHT: 85.

14 CHAIRMAN DAVIS: C85.

15 COMMISSIONER CONNELL: Oh, thank you. 85. Thank  
16 you.

17 CHAIRMAN DAVIS: It was pulled from the consent  
18 calendar pursuant to a letter the Commission received  
19 shortly before we convened.

20 MR. SANDERS: Commissioners, my name is Dwight  
21 Sanders, I'm staff to the Commission, Chief of the Division  
22 of Environmental Planning and Management.

23 In essence, the letter implies that the findings  
24 that the Commission is being asked to make, with respect to  
25 the subsea well abandonment program, do not allow the air

1 pollution control district to require mitigation for impacts  
2 that -- an impact that has been identified within the  
3 environmental impact report as we're required to as lead  
4 agency.

5 Under current rules and regulations, activity of  
6 abandoning subsea wells and flowlines is exempt from the  
7 Santa Barbara County Air Pollution Control District permit  
8 process. They so notified us in responding to the draft  
9 environmental impact report, indicating that no permit would  
10 be required from their district for this activity.

11 They opined, however, that the Commission itself  
12 ought to apply mitigation for an impact that the district  
13 itself is currently exempting from their own authority.

14 As lead agency, we have indicated that for one  
15 well abandonment activity, absent the exemption, the  
16 district would probably require mitigation for an impact.  
17 However, the fact is that the current rules and regulations  
18 of the district exempt this activity from their permit  
19 authority. And it's our understanding and information that  
20 the district has already issued a letter of exemption from  
21 their permit process to the only applicant which would,  
22 under other regulatory circumstances, have an impact.

23 The district is, in effect, by this letter,  
24 indicating that the wording of our mitigation measure would  
25 not allow them -- well, would not allow them to subsequently

1 or to apply mitigation. And they further, in addition to  
2 that, indicate the Commission ought to, through an authority  
3 as lead agency, apply a mitigation requirement for the  
4 impact.

5 Staff believes that the mitigation measure, as  
6 currently worded, would afford the district every  
7 opportunity, should their rules and regulations change, to  
8 apply a different standard to the activity than they  
9 currently now apply.

10 The only possible change to eliminate any  
11 confusion in this regard might be to indicate in our  
12 findings that the mitigation applies to the district's rules  
13 and regulations rather than "existing" rules and regulations  
14 to eliminate any confusion as to whether we are freezing an  
15 issue in time.

16 Other than that modification, which would be the  
17 elimination of the word "existing," as it currently exists,  
18 in view of our findings, I can say it is staff's opinion  
19 that the mitigation measure affords the district every  
20 measure of discretion that it may choose to, in the future,  
21 apply.

22 I reemphasize again that under the current rules  
23 and regulations of the district, this activity is exempt and  
24 they have so issued a letter of exemption to one of the  
25 applicants.

1 CHAIRMAN DAVIS: Jan, have you had a chance to --

2 MR. STEVENS: Well, we've had a full ten minutes  
3 to --

4 CHAIRMAN DAVIS: -- discuss it before the meeting,  
5 right?

6 MR. STEVENS: Mr. Chairman, we've had some time to  
7 discuss and deliberate on this ten minutes before the  
8 meeting. And our office did not participate in the  
9 transaction, so I apologize for not being fully up on this  
10 measure.

11 But as I understand Mr. Sanders' presentation and  
12 the letter, the Santa Barbara Air Pollution Control District  
13 has come in today and suggested that there are unavoidable  
14 adverse impacts, significant impacts, that are inconsistent  
15 with its clean air plan and should be more fully discussed  
16 in the EIR; but that, nevertheless, it's insufficient for  
17 this Commission to find that these impacts can be mitigated  
18 by requirements imposed by the Santa Barbara Air Pollution  
19 Control District, because the district has seen fit to  
20 exempt these activities. A somewhat circular position.

21 Basically, I think Mr. Sanders has identified a  
22 viable option, which is to reiterate and clarify that it is  
23 the responsibility of the Santa Barbara Air Pollution  
24 Control District to provide for the mitigation offsets that  
25 would, in effect, mitigate the impacts caused by this

1 pollution. And that could be taken care of -- I think very  
2 clearly -- by simply modifying the mitigation measure  
3 identified on page 29 and again on 31 to delete under its  
4 existing rules and regulations, and simply say the applicant  
5 shall enter into, if required by the APCD, a legally binding  
6 contract for bona fide offset credits.

7 The only alternative, I think, would be for the  
8 Commission itself to impose these kind of requirements, and  
9 the air pollution control is really the responsibility of  
10 the district and not the Commission.

11 CHAIRMAN DAVIS: All right. Is there any  
12 opposition to proceeding along the lines that the Attorney  
13 General has suggested?

14 COMMISSIONER PARKER: Mr. Chairman, can I ask a  
15 question?

16 Mr. Hight, when we originally had the air quality  
17 district respond to the EIR -- it's my understanding it was  
18 months ago -- was the raised then about whether this oil  
19 company might be a candidate for mitigation?

20 EXECUTIVE OFFICER HIGHT: No. This is the first --

21 COMMISSIONER PARKER: So, this is new information,  
22 and this is the first time that we've heard it today?

23 EXECUTIVE OFFICER HIGHT: Yes.

24 COMMISSIONER PARKER: So, you're presuming, in  
25 that sense, the air quality district didn't know this at the

1 point in time that they had essentially signed off on this  
2 project?

3 MR. SANDERS: If I may intercede for Bob here, as  
4 I indicated in my statement, the district, in response to  
5 the draft environmental impact report, gave us in writing  
6 their position that no permit would be required for these  
7 activities by their district.

8 COMMISSIONER PARKER: And so, I presume that,  
9 since then, they have now discovered that one of these  
10 companies may be exceeding the air quality requirements.  
11 And since they can't do mitigation, they're asking us to do  
12 mitigation?

13 EXECUTIVE OFFICER HIGHT: We don't know the  
14 former, but definitely the latter. We don't know that  
15 anybody is or is not going to exceed a requirement.

16 COMMISSIONER PARKER: Mr. Chairman, my only  
17 concern -- I have no problem with the suggestion of the  
18 Attorney General on how to proceed. I'm a little bothered  
19 for the applicants here from the standpoint of learning all  
20 of this today, and how they might react to now being put in  
21 a situation of maybe some unknown of the air quality  
22 district imposing something on them or not imposing  
23 something on them.

24 I'm not sure what we can do about that. But I do  
25 think it's unfortunate that we're learning all about this

1 and dealing with it today.

2 CHAIRMAN DAVIS: I haven't even seen the letter.  
3 Is there a copy of the letter?

4 MR. SANDERS: Yes, sir.

5 CHAIRMAN DAVIS: Can we fax one down to the  
6 Controller?

7 COMMISSIONER CONNELL: I don't have a copy.

8 CHAIRMAN DAVIS: No. I said, "Can we fax one down  
9 to the Controller."

10 COMMISSIONER CONNELL: Certainly.

11 CHAIRMAN DAVIS: What's your fax number,  
12 Controller?

13 COMMISSIONER CONNELL: I wish I could tell you  
14 that, Mr. Chairman. I'll go get it for you in a moment.

15 (Thereupon, the fax number was  
16 exchanged.)

17 CHAIRMAN DAVIS: (Addressing the Controller)  
18 We're just reading the letter now. That's why you're not  
19 hearing anything. The letter will be down within about 30  
20 seconds.

21 COMMISSIONER CONNELL: Thank you.

22 (Thereupon, the Commissioners read  
23 the district's letter.)

24 CHAIRMAN DAVIS: So, the effect, Jan, of your  
25 suggestion would be to do what?

1 MR. STEVENS: Would be to, in effect, toss it back  
2 to the Air Pollution Control District of Santa Barbara  
3 County, which has the authority to deal with it.

4 The district could take a variety of actions. It  
5 would revoke the exemption hereto granted, I believe; amend  
6 its rules and regulations to include this activity within  
7 that scope, or it could independently enter into a contract  
8 on board action.

9 I'm not familiar with their rules and regulations,  
10 so I can't be more precise as to that.

11 There's one other alternative that that's  
12 available, of course, that is the Commission could itself  
13 impose these conditions and enter into a contract.

14 But, as a matter of purview and expertise, it  
15 appears to me that the district has the responsibility for  
16 this and could assume jurisdiction if it chose to do so.

17 CHAIRMAN DAVIS: All right. What about the point  
18 made earlier that, at least as regards to one applicant, an  
19 exemption has been granted?

20 MR. SANDERS: That's correct. It has been  
21 granted.

22 CHAIRMAN DAVIS: As it applies to the other  
23 applicants, it need not be granted?

24 MR. SANDERS: They are under consideration. The  
25 requests for the same exemption are currently under

1 consideration by the district as we speak, in effect. But  
2 one exemption has already been granted, and it is that  
3 company and that company alone, absent the rules and  
4 regulations, that might be subject to the offsets.

5 In other words, the air pollution control district  
6 has already exempted the only potentially violating company.

7 COMMISSIONER PARKER: So, if we were to take the  
8 action suggested by the Attorney General, then that company  
9 would only be in jeopardy if the air quality district  
10 decided, in a sense, take action to reverse its waiver and  
11 impose on them some mitigation requirements.

12 MR. SANDERS: I think what Jan is suggesting is  
13 that, by clarifying the mitigation slightly, that you state  
14 that fact; that if the district should decide at a later  
15 date that something is required, they would have the  
16 wherewithal to do so. This Commission would not be  
17 eliminating or modifying that opportunity.

18 CHAIRMAN DAVIS: Well, do we have the power to do  
19 that anyway?

20 MR. SANDERS: At this point, we have the power to  
21 merely state the facts, and the facts are that, under  
22 current rules and regulations, these activities are exempt.

23 Were they not exempt, then this one particular  
24 applicant out of six -- their emissions are .2 tons over an  
25 existing standard, which is not currently being applied.

1           COMMISSIONER PARKER: If we were to have taken  
2 action on this, as it was presented to us in the consent  
3 calendar -- which we pulled it -- would it have precluded  
4 the air district from coming back and essentially changing  
5 its requirements that might impact this particular oil  
6 company?

7           MR. SANDERS: No, ma'am, not in my opinion. Jan  
8 can react on his own. But, in my opinion, it would not.

9           COMMISSIONER PARKER: So, our choices are really,  
10 in that sense, are really to approve it, which doesn't  
11 change the air quality district's role from the standpoint  
12 of coming in and assessing some mitigations against them, or  
13 to essentially step in and to provide -- decide to impose  
14 some mitigation requirements.

15           MR. SANDERS: That is, I think, accurately stated.

16           MR. STEVENS: I think deletion of the phrase  
17 "under its existing rules and regulations" eliminates any  
18 possibility of argument that the legal position of the  
19 applicants is frozen in time as of today, when the district  
20 has a regulation exempting this activity.

21           So, I believe it doesn't preclude the district's  
22 ability in the future to assume jurisdiction over this.

23           EXECUTIVE OFFICER HIGHT: A representative of the  
24 applicants is here and maybe this would be an appropriate  
25 place to hear from him.

1           CHAIRMAN DAVIS:  If we're going to take an action,  
2 other than what was proposed by the intent of the placement  
3 on the consent calendar, I think the applicant is entitled  
4 to be heard, and I think anybody representing the district  
5 or the public is entitled to be heard.

6           So, if we have someone from the applicant group  
7 that wants to address, they're welcome.

8           MR. HOLLIS:  Good afternoon, Chairman and  
9 Commissioners, my name is Whitt Hollis.  I work for Arco Oil  
10 and Gas Company.  I am one of six -- or our company is one  
11 of six companies that your Commission requested years ago to  
12 jointly enter into a program whereby one jack-up rig would  
13 be brought into the area of operation and then jointly  
14 moved from one activity to the other.

15           So, my first point I'd like to stress is that this  
16 is, in reality, six individual companies or six individual  
17 projects.  By the sheer nature of the request of the State  
18 Lands Commission staff to have one vessel conduct all of  
19 that activity, we find ourselves here years later before  
20 your Board with a last-minute request from the air pollution  
21 control district, which all abandonment activities inside  
22 Santa Barbara County under the existing rules and  
23 regulations are exempt.

24           CHAIRMAN DAVIS:  They may not at some future point  
25 unexempt them?

1 MR. HOLLIS: The APCD is currently proposing a  
2 rule change which would require abandonment activities to go  
3 from a nonexempt to a --

4 CHAIRMAN DAVIS: I'm not suggesting that they do  
5 that, but I mean --

6 MR. HOLLIS: Right.

7 CHAIRMAN DAVIS: -- you don't dispute that they  
8 have the power to change their rules prospectively.

9 MR. HOLLIS: The promulgation process is underway.  
10 Whether or not they do adopt that or not is in the future  
11 somewhere.

12 Another point of clarification is, under the rules  
13 and regulations, we do not believe that a request for an  
14 exemption is necessary. The rules clearly state abandonment  
15 activities are exempt.

16 However, Phillips, which has representatives here,  
17 is the company that people are talking about of having a  
18 project of theoretically 25 tons. Our project is five tons.  
19 We have also put in a letter requesting -- just, if you will  
20 pardon the phrase, but dot the I and cross the T. However,  
21 our position would be a rule change in the future could  
22 still cause questions about that exemption letter being set  
23 in stone, if you will.

24 Therefore, we urge your Commission to adopt the  
25 item as it went before the -- on the consent calendar.

1 Because, in our opinion, the question of whether or not  
2 these projects will ever actually ever be able to be done is  
3 in jeopardy due to whether or not offsets are available.

4 MR. SANDERS: Or required.

5 MR. HOLLIS: Or required, or available, whatever.  
6 This is simply a matter for our company of taking well that  
7 was put in place subsea in 1963. It performed very well. A  
8 lot of revenue was generated in royalties to the State. And  
9 now we're just asking to go back in there with a jack-up and  
10 abandon that one well, a minor matter.

11 And, again, if our project was looked at by  
12 itself, it would be one well, a matter of a few weeks, and  
13 clearly exempt under all rules and regulations. And we  
14 cannot express strong enough our concern about the process  
15 causing us to end up having offsets that are, one, not  
16 available or, two, seriously questionable whether or not  
17 legally required.

18 I'd defer to any other representative to speak.  
19 Thank you very much.

20 CHAIRMAN DAVIS: Thank you. Are there any  
21 questions?

22 COMMISSIONER PARKER: Mr. Chairman, I have one.  
23 My understanding is that these are six individual projects,  
24 but they all rise and fall together; is that correct? So,  
25 if one oil company was in question, would the balance of the

1 projects be able to go forward?

2 MR. HOLLIS: Is that a question to me?

3 COMMISSIONER PARKER: Yes.

4 MR. HOLLIS: I believe it can seriously jeopardize  
5 the whole project going forward, but it will be a question  
6 of economics as to the companies jointly agreeing to share  
7 the mobilization and demobilization of the rig. That's  
8 probably where the practical answer lies.

9 COMMISSIONER PARKER: So, obviously, even if the  
10 air district doesn't have a problem with you exceeding the  
11 air quality standards, you could be impacted because another  
12 oil company, which is part of this project, may --

13 CHAIRMAN DAVIS: It would increase your  
14 operational cost, right?

15 COMMISSIONER PARKER: Right.

16 CHAIRMAN DAVIS: If perchance Phillips is not  
17 approved, then you have five companies sharing the cost  
18 rather than six.

19 MR. HOLLIS: The sheer fact of the request of the  
20 Commission to have the companies jointly share a rig has had  
21 us have to do very serious legal concerns about an antitrust  
22 implication of jointly going out there and agreeing to share  
23 one rig. And we'll be meeting for two days, Thursday and  
24 Friday, to work -- continuing on the contract between the  
25 six companies to deal with that.

1           So, from just one aspect, we have the EIR, and  
2 then the responsible agencies and the permits before the  
3 various other agencies we need tot get. But a whole other  
4 matter for us is the issue about trying to work together and  
5 not violate any antitrust acts, but yet share this agreement  
6 and, in turn, share, prorate our costs; so, yes.

7           CHAIRMAN DAVIS: And we asked you to do that,  
8 because we didn't want six different pieces of equipment out  
9 there, and the oil companies have acted to respond to public  
10 policy.

11           MR. HOLLIS: Correct.

12           CHAIRMAN DAVIS: And I appreciate that. And that  
13 raises a question. Jan, could the Commission just act  
14 favorably on this proposal, and then write a letter to the  
15 air district saying we believe you have the authority to  
16 take whatever action you think is appropriate; that we're  
17 acting within our jurisdiction from the facts and evidence  
18 before us, and you're the agency that has the responsibility  
19 for mitigation.

20           MR. STEVENS: That's an available option,  
21 certainly.

22           COMMISSIONER PARKER: Mr. Chairman, under that  
23 consideration, will we be adopting the language in the staff  
24 recommendation that was in the consent calendar, not as  
25 suggested by the Attorney General?

1           CHAIRMAN DAVIS: Yes, and that would be accompany  
2 it with a letter --

3           COMMISSIONER PARKER: A letter.

4           CHAIRMAN DAVIS: -- stating that we think they are  
5 fully empowered to take whatever actions they think are  
6 appropriate, and the applicants have passed muster with us  
7 under our applicable laws.

8           EXECUTIVE OFFICER HIGHT: I think that would be  
9 very appropriate, Mr. Chairman.

10          CHAIRMAN DAVIS: Controller, do you have any  
11 comments?

12          COMMISSIONER CONNELL: I think that you're  
13 approaching it the way that I would do it on this issue.

14          CHAIRMAN DAVIS: All right. Let me just invite  
15 anybody from the public who would suggest we not take the  
16 action; namely, that we approve the action as proposed to us  
17 in the consent calendar, but we will send a letter to the  
18 air district -- Santa Barbara Air Pollution Control District  
19 telling them we think they have all the applicable powers  
20 that they're asking us to implement beyond our charter.

21                 Plus, we're not prepared to do that today. The  
22 letter just arrived. But we think, if they want to do it,  
23 they have the power to do it.

24                 And you don't see a problem with that approach,  
25 Jan?

1 MR. STEVENS: No more than any other alternatives.  
2 There's no perfect solution to this.

3 CHAIRMAN DAVIS: All right. Do I hear a motion?

4 COMMISSIONER PARKER: I would make that motion,  
5 Mr. Chairman. I think that's the best solution to this.

6 COMMISSIONER CONNELL: I second it.

7 CHAIRMAN DAVIS: All right. We have to have a  
8 roll call vote.

9 The secretary will call the roll.

10 MR. RUMP: Chairman Davis?

11 CHAIRMAN DAVIS: Aye.

12 MR. RUMP: Controller Connell?

13 COMMISSIONER CONNELL: Aye.

14 MR. RUMP: Chief Deputy Parker?

15 COMMISSIONER PARKER: aye.

16 MR. RUMP: Motion's passed.

17 CHAIRMAN DAVIS: Motion passes.

18 EXECUTIVE OFFICER HIGHT: Okay. With that, that  
19 concludes the open agenda off the Lands Commission.

20 CHAIRMAN DAVIS: I might just add that you would  
21 draft the letter and then show it to Jan, the Attorney  
22 General --

23 EXECUTIVE OFFICER HIGHT: Yes.

24 CHAIRMAN DAVIS: -- and get approval before it  
25 goes out.

1 EXECUTIVE OFFICER HIGHT: Right.

2 That concludes the open agenda, and we'll convene  
3 to go into closed session to discuss pending litigation.

4 (Thereupon the open session of the  
5 State Lands Commission meeting was  
6 concluded.)

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1 CERTIFICATE OF SHORTHAND REPORTER  
2  
3

4 I, Nadine J. Parks, a shorthand reporter of the  
5 State of California, do hereby certify that I am a  
6 disinterested person herein; that the foregoing meeting was  
7 reported by me in shorthand writing, and thereafter  
8 transcribed into typewriting.

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

12 In witness whereof, I have hereunto set my hand  
13 this 9th day of November, 1995.  
14

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16 Nadine J. Parks  
17 Shorthand Reporter  
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