

Senator Stephen P. Teale from the 26th Senatorial District appeared briefly in support of a request of Calaveras County that it be given an opportunity to answer the objection of Alpine County.

Messrs. Joseph S. Huberty, District Attorney of Calaveras County; Ross Carkeet, Special Counsel for Tuolumne County; and Gard Chisholm, District Attorney for Amador County, all appeared and stated that they were satisfied with the "Report" dated February 24, 1954, and had no objections to it. However, Mr. Carkeet asked for an opportunity to review the objection now being filed; and Mr. Chisholm indicated that although he concurred with the "Report of February 24, 1954", in doing so he reserved the right to present additional evidence.

At the request of Mr. Powers, Senator Charles Brown of the 28th Senatorial District is to be informed of the action taken on this matter.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED THAT THE STATE LANDS COMMISSION TAKE UNDER ADVISEMENT THE QUESTION OF THE BOUNDARY BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES. MEANWHILE, ALPINE COUNTY IS TO FURNISH EACH OF THE OTHER COUNTIES AT INTEREST A COPY OF THE BRIEF ENTITLED "OBJECTIONS TO FINAL REPORT OF EXECUTIVE OFFICER PRESENTED BY ALPINE COUNTY", ANY ANSWERS TO THE BRIEF TO BE FILED WITH THE EXECUTIVE OFFICER WITHIN FIFTEEN DAYS AFTER RECEIPT OF ALPINE'S BRIEF; ALPINE TO BE ALLOWED THIRTY DAYS THEREAFTER IN WHICH TO FILE A REPLY TO SAID BRIEFS.

34. (MINOR STRUCTURE PERMITS ON LAKE TAHOE - W.O. 1124.) The Executive Officer presented a calendar item as follows:

"At a meeting of the State Lands Commission on March 26, 1954, a calendar item was presented relating to protests received from owners of piers and other structures extending into Lake Tahoe. These protests were in the nature of objections to being required to take out permits and pay the fees and rentals to the State requested by the Division of State Lands in letters dated December 1, 1953 that were mailed to all owners of record of such prestructures. The Commission directed the Staff to make a further study of the matter, and to report its recommendations at a future meeting.

"On May 14, 1954, a meeting was held at Lake Tahoe by prearrangement with the Lake Tahoe-Sierra Chamber of Commerce. Some 35 owners of piers, or their representatives, were in attendance. The Executive Officer described the surveys that were made by the Division of State Lands during the years 1950 to 1953, to determine the location, type, size and use of the structures, and the location of the water's edge at various elevations. He discussed the laws, the rules and regulations, and the rental policies of the Commission as applied to similar structures elsewhere, and furnished each one in attendance with a copy of a revised schedule of rates of rental proposed to be recommended.

"As to the proposed rental schedule, only one objection was raised, and that was to the point that the short duration of the season appeared to justify lower rates than those applied in other sections of the State where all-year use could be had.

"The principal objection was on legal grounds, and was to the effect that the 'wharfing-out' right which an upland owner possessed was superior to any rights the State might have with respect to the use and occupancy of sovereign lands. Accordingly, the Attorney General was asked to issue a formal opinion on the following questions:

1. Do the provisions of Division VI of the Public Resources Code of the State of California authorize the State Lands Commission to require the upland owner or constructor of a structure extending waterward of the low-water mark of navigable rivers, streams, lakes, bays, estuaries, inlets and straits to take out a permit and pay fees or rentals as the Commission may establish as against any rights of 'wharfing-out' that the upland owner may have?
2. Are the rights of the Commission with respect to ejectment, as expressed in Public Resources Code Section 6302, superior to any such 'wharfing-out' rights that the upland owner may possess?

"The Opinion of the Attorney General (No. 54/105, June 30, 1954) answered these questions as follows:

1. 'The provisions of the Public Resources Code authorize the State Lands Commission to require the upland owner to take out a permit and pay such fees as the Commission may establish where the upland owner wishes to 'wharf-out' on State property.'
2. 'The Commission has the right of ejectment with reference to structures covered by the first question for which no permit is granted.'

"For some years past the Commission has authorized the issuance of permits for so-called 'minor structures' to cover buoys, moorings, floating equipment, small boat landings, boat houses, etc. This type of permit was restricted to structures costing not over \$2,000, and was limited to a term of five years.

"The following schedule of rentals, adopted by the Commission at its meeting of October 24, 1951 (Minute Item 20, page 1468), has been applied:

<u>Value of Structure on State Lands</u>	<u>Use</u>	<u>Annual Rental</u>
\$1,000 or less	Recreational	\$ 5.00
	Commercial	10.00
\$1,000 - \$2,000	Recreational	10.00
	Commercial	20.00
Over \$2,000	Recreational	6% of value of State lands; minimum - \$10.00
Over \$2,000	Commercial	6% of value of State lands; purprestures to pay 9%; minimum - \$100.00

"The above rates are in addition to a filing fee of \$5 for each application. Where the rate of rental is \$25 per year or less, a lump-sum payment for the total rental for the term of the permit is required. Where the annual rental is in excess of \$25, the rentals for the first and last years are to be paid in advance.

"It will be noted that the annual rental for a commercial pier costing \$2,000 is \$20. Should the pier cost \$2,010, the annual rental would be at least \$100. This abrupt and comparatively large increase is known to be the cause of some of the dissatisfaction of potential permittees on Lake Tahoe.

"At the meeting of the Commission on March 26, 1954, it was pointed out that certain structures had been built for recreational use at resorts at Lake Tahoe, and that no direct charges by the owners to the public were being made for such use. The application of the schedule of rentals designed for commercial use to this class of installation was objected to. To meet this objection, a new category is proposed to be established with rates of rental fixed between those for personal recreational use and for commercial use. This category should apply to recreational structures that are a part of a commercial enterprise, but which produce no direct revenue by way of charges for their use.

"The question was raised at the Commission meeting of March 26, 1954, about the application of the rental rate of 9% of the appraised value of the lands occupied in the case of purprestures. This rate was fixed by the Commission at its meeting of September 15, 1949. The purpose was to waive whatever rights the State might have with respect to ownership of structures built on State lands without authority of law, and to impose, in exchange for such waiver, a higher rate of rental. It is believed that this policy is sound and generally should be continued in effect. Otherwise the determination of ownership of the structures involved will require numerous court actions and if resolved in favor of the State will result in the ownership, maintenance and management by the State Lands Commission of a variety of piers, pipe lines, arks and other structures or facilities.

"As a matter of applying such a policy at Lake Tahoe, it is believed to be proper to allow the 6% rate to apply in the case of a structure, the owner of which applies for and is issued a permit within a definite period of grace. This would tend to remove the element of surprise and feeling of injustice which accompanies the initial exercise of authority in a new area.

"The recommendation which follows is intended to meet the objectives stated above.

"IT IS RECOMMENDED THAT THE COMMISSION SUPPLEMENT THE ACTION TAKEN AT ITS MEETING OF OCTOBER 24, 1951, WITH RESPECT TO MINOR STRUCTURE PERMITS, AND ADOPT THE FOLLOWING RENTAL RATES FOR STATE LANDS TO BE OCCUPIED UNDER PERMITS ON LAKE TAHOE:

Value of Structure on State Lands	ANNUAL RENTAL		
	Personal- Recreational	Resort- Recreational	Commercial
\$1,000 or less	\$ 5.00	\$ 7.50	\$ 10.00
\$1,000 - \$2,000	10.00	15.00	20.00
\$2,000 - \$4,000	20.00	30.00	40.00
\$4,000 - \$6,000	30.00	45.00	60.00
\$6,000 - \$8,000	40.00	60.00	80.00
\$8,000 - \$10,000	50.00	75.00	100.00
\$10,000 or more	50.00*	75.00*	100.00*

\*Minimum; or 6% of appraised value of State lands, whichever is greater

"AN INITIAL EXPENSE DEPOSIT SHALL BE MADE WHENEVER A FIELD APPRAISAL BECOMES NECESSARY. BOND SHALL BE FURNISHED WHENEVER IT APPEARS THAT THE INTERESTS OF THE STATE REQUIRE PROTECTION AGAINST THE COST OF REMOVAL OF A STRUCTURE. WHEN THE RENTAL RATE IS TO BE A PERCENTAGE OF THE APPRAISED VALUE OF STATE LANDS, IT SHALL BE 6% OF SUCH VALUE FOR AN INSTALLATION CONSTRUCTED WITHOUT STATE PERMIT IF THE APPARENT OWNER APPLIES FOR AND IS ISSUED A PERMIT THEREFOR WITHIN SIX MONTHS OF THE DATE OF THIS ACTION. SHOULD THIS PERIOD OF GRACE BE EXCEEDED, THE RENTAL RATE SHALL BE 9% OF THE APPRAISED VALUE OF STATE LANDS."

In response to a question by Mr. Peirce as to the number of structures there are in each of the three proposed rental classifications at Lake Tahoe, it was reported by the Staff that only three so far have been classed as "Commercial", and a minority in the "Resort-Recreational" group. Of the total of 225 structures of all classes, 110 were under permit as of July 28, 1954, and another 33 were in process.

Assemblyman Donald D. Doyle of the Tenth Assembly District appeared briefly on behalf of the pier owners who live in Contra Costa County, and informed the Commission that they had requested his help. He then introduced Mr. Marion B. Plant, representing the Ketchikan Dollar interests.

Mr. Plant reported that he had submitted a brief to the Attorney General shortly before the recent opinion (No. 54/105) was issued, and that it was rather hastily done; therefore, he asked permission to submit an additional brief.

In addition to the legal question of whether riparian owners have the right to "wharf-out" to the part of the water where a boat could be floated, Mr. Plant was interested in the question of the policy involved in charging rentals, claiming that it would cost the State as much as or more than the revenue to be derived therefrom to process the necessary leases. He further stated that, in his opinion, the issuance of leases by the Commission was discretionary and not mandatory.

Messrs. George Kehlet of Lake Tahoe; Don Huff, who operates the Homewood Resort on Lake Tahoe; Ed Wahl, secretary of a small association of property owners at Homewood; and John Boche, owner of property on the Lake, and also representing Mr. Henry J. Kaiser, each appeared briefly. Mr. Kehlet was concerned about property owners having to obtain a permit from the Commission before contractors will work for them. Mr. Huff was interested in the "Recreational-Resort" classification, and protested the fee to be charged. Mr. Wahl's concern was with the right of owners of piers and wharves to prevent their use by the general public.

The Chairman explained that this present work of the Division of State Lands was the result of action taken by the Commission before any of the present three members were serving on the Commission; and that the Commission would consider itself bound to a considerable extent by that action and by the opinion of the Attorney General; however, it would not want to take further action until such opinion was reaffirmed.

A query was made as to the number of permits the State has issued for occupancy of the same type of State lands in other parts of the State. The Staff of the Division of State Lands was directed to prepare a report on permits previously issued for structures or operations on nontidal lakes and other navigable waters, to be submitted at the next Commission meeting. Assemblyman Doyle asked that a copy of this report be mailed to him.

As to the rights of the property owners to restrict use by the public of their piers and wharves which are constructed on sovereign lands of the State, the Executive Officer reported that the Attorney General has definitely stated that once a permit is issued by the Commission, the permittee would have exclusive rights as against the public but would have no such rights prior to issuance of a permit.

Concerning the leasing of various other lakes in the State, those present were informed that Clear Lake had been leased to Lake County under a legislative directive; and that other sovereign lands of the State - namely, Bodega Bay to the County of Sonoma, and Morro Bay to the County of San Luis Obispo - had also been so leased. In other instances, where legislative grants had been made to political subdivisions of the State, the jurisdiction of the State Lands Commission has ceased except for any reversion that might come in future years.



UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED TO DEFER ACTION WITH RESPECT TO REVISION OF RENTAL RATES TO BE CHARGED FOR STATE LANDS TO BE OCCUPIED UNDER PERMITS ON LAKE TAHOE; IT WAS FURTHER RESOLVED THAT MR. MARION B. PLANT BE ALLOWED FIFTEEN DAYS AFTER RECEIPT BY HIM OF A COPY OF THE REPORT ON PERMITS ISSUED FOR STRUCTURES AND OPERATIONS ON NONTIDAL NAVIGABLE WATERS IN WHICH TO SUBMIT A REVISED BRIEF; UPON RECEIPT OF SUCH BRIEF, THE EXECUTIVE OFFICER IS TO REQUEST THE ATTORNEY GENERAL FOR AN OPINION ON ALL NEW QUESTIONS SUBMITTED OF A LEGAL NATURE.

35. (PROPOSED OIL AND GAS LEASE, TIDE AND SUBMERGED LANDS, RINCON AREA, VENTURA COUNTY - H.C. 1436.) The following calendar item was submitted for consideration: X

"On June 30, 1954, seven bids were received in response to a published notice of intention of the State Lands Commission to receive offers to enter into a lease for the extraction of oil and gas from 1,175 acres of tide and submerged lands in the Rincon Area, Ventura County. Publication of this offer was authorized by the Commission February 9, 1954 (Minute Item 2, pages 1960-61). A resumé of the compliance by the bidders with the specified bid conditions is attached. It is to be noted that complete compliance with all specified bid conditions was had by all bidders. The proposed form of lease and method of operations to be conducted thereunder by the high bidder were reviewed with the Land Use Committee of the Planning Commission of Ventura County. This review with the Committee was also conducted for the benefit of the Board of Supervisors of Ventura County, in accordance with a recommendation by the Administrative Assistant of the Board of Supervisors. The conclusion of the Land Use Committee was that there are no objections to the proposed operations on the basis of the review which was presented.

"The Richfield Oil Corporation submitted the two highest bid factor offers. The higher Richfield offer is predicated on all drilling operations being conducted from filled lands, while its lower offer would be applicable to a program of initial development from upland followed by a filled-land development. It is considered that the best development program could be achieved under the proposed filled-land operation. This program could delay initiation of production for the time required for the authorization of the project by the Army and the placement of sufficient filled lands, but the drainage of State lands in the meantime is through wells located on other State leases.

"Oil royalty rates which would be applicable for selected oil production rates under the Richfield Oil Corporation bid are given herewith: