

a letter was directed to the City of Long Beach on September 19, 1956. It would appear that the problem is more legal than administrative, and may involve the legal principle of the ability of the City of Long Beach to make a negotiated settlement of the boundary without the consent of the State since the City of Long Beach certainly has a grant covering the area. However, since the passage of Chapter 29 of the Statutes of 1956 the State has a fifty percent interest in any revenue that might accrue from the tidelands in question, and such tidelands may possibly be productive of oil as they are not remote from present production. It is therefore believed that this boundary question should be resolved in such a manner as to protect any possible interest of the State."

Mr. Walhfred Jacobson, City Attorney of Long Beach, was present and indicated that he had no objection to the report presented and the recommendation made by the staff.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED AS FOLLOWS:

THE EXECUTIVE OFFICER IS AUTHORIZED TO REFER TO THE ATTORNEY GENERAL THE PROBLEM OF THE PROPERTY LINE DETERMINATION BETWEEN TIDELANDS GRANTED TO THE CITY OF LONG BEACH AND PRIVATE PROPERTY OWNED BY THE LONG BEACH AMUSEMENT COMPANY, FOR SUCH LEGAL ACTION AS MAY BE NECESSARY TO PROTECT THE INTEREST OF THE STATE; AND FURTHER, THE EXECUTIVE OFFICER IS AUTHORIZED TO OFFER TO THE ATTORNEY GENERAL OR TO THE CITY OF LONG BEACH ANY TECHNICAL SERVICES NECESSARY FOR THE DETERMINATION OF THE ORDINARY HIGH WATER MARK, IN ACCORDANCE WITH THE PROVISIONS OF THE PUBLIC RESOURCES CODE, BETWEEN PINE AND ALAMITOS AVENUES, LONG BEACH; AND FURTHER, THE EXECUTIVE OFFICER IS AUTHORIZED TO CONTRACT FOR SUCH EXPERT SERVICES AS MIGHT BE REQUIRED, IN AN AMOUNT NOT TO EXCEED \$5,000.

14. (CONSIDERATION OF SUBSIDENCE COST PROJECTS, LONG BEACH - W. O. 10,001.)
The following report was presented to the Commission:

"On July 2, 1956 the Office of the City Engineer, City of Long Beach, submitted plans and specifications for the construction of a hydraulic fill embankment south of Seaside Boulevard, between Rainbow Pier and 1st Place in the City of Long Beach, with the request that the project be considered for approval by the State Lands Commission so that partial costs of the remedial and protective work required by the subsidence element in the contract would be borne by the State in accordance with the provisions of Chapter 29 of the Statutes of 1956, 1st E.S.

"The project was reviewed by the staff and considered to include some 'subsidence costs' as defined in Section 1(f) of Chapter 29. Thereupon a recommendation for Commission approval of the project was included in the agenda for the August 15, 1956 meeting of the Commission.

"On August 14, 1956, by letter dated August 13, 1956, the City Manager of the City of Long Beach requested that consideration of approval of the subject project be set over to a later date.

On September 26, 1956, by letter dated September 25, 1956, the City Manager has requested that the matter of project approval consideration be placed on the agenda for the meeting of September 27, 1956.

"The project as submitted originally by the City Engineer of Long Beach included the following:

L.B. 10,001

Work Proposed: Placement of hydraulic fill in a subsidence area of Long Beach tide lands, removal and disposal of existing storm drain pipe, together with existing timber supports.

Estimated total cost of project: \$326,170

Estimated 'subsidence costs': \$106,260

"The City Engineer has now reported that the hydraulic fill is almost completed and that the City is ready to make disbursements for the work. The shoreward boundary of the project is currently indeterminate in that the location of the applicable position of the ordinary high water mark has not been established to date. This portion of the ordinary high water mark is a segment of the boundary problem discussed under Item 33 of this Calendar.

"In consideration of the resubmittal of the subject project only two days before the current Commission meeting, additional information from Long Beach is desired by the staff prior to presentation of a recommendation for action. It is suggested that this information be requested from the Long Beach representatives present."

The Executive Officer brought to the attention of the Commission the point that it was not apparent why Long Beach did not get advance approval before starting the work, whereupon City Attorney Walhfred Jacobson of Long Beach stated that he was prepared to present any additional information needed, either at the meeting or by report. Mr. Jacobson then introduced Mr. Bernard E. McCune, Deputy City Engineer, who offered to answer any questions the Commission might have. In reply to a question by the Executive Officer, he indicated that the plans and specifications were submitted on July 2, 1956, and on that same day bids for the projects were opened. He went on to say that they were in rather a critical period because part of the upland area was being washed away and it was imperative to take immediate action, and they found that the meeting of the State Lands Commission would not be held in sufficient time to permit execution of the required contract after approval. He explained that when Long Beach had asked that the item be taken off calendar for the meeting of July 2, they had just completed a new survey of subsidence, and they felt it would be best for the City of Long Beach if the new data obtained could be reviewed before requesting approval of the subsidence contribution from the State. They have since decided that they do not wish to change their original request.

The Executive Officer pointed out that this was a case that had been reviewed in advance of the actual construction work, and that at that time the staff had been prepared to make its recommendation except for the question of the location of the ordinary high water mark. He did not think the staff should recommend approving the item at this late date, as it might set a precedent, stating that while Chapter 29 of the Statutes of 1956, 1st E.S., permitted the Commission to approve the particular item, he thought the staff should be in a position to submit its recommendations to the Commission in advance of construction.

The Chairman asked if the staff was prepared to submit a recommendation, whereupon the Executive Officer indicated that it was, but did not want its recommendation taken as a precedent, and submitted the following:

"IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION APPROVE THE COSTS TO BE EXPENDED BY THE CITY OF LONG BEACH, INCLUDING SUBSIDENCE REMEDIAL WORK, UNDER PROJECT L.B. 10,001 - PLACEMENT OF HYDRAULIC FILL, SUBJECT TO THE CONDITION, HOWEVER, THAT THE AMOUNT, IF ANY, OF EACH OF THE ITEMS TO BE ALLOWED ULTIMATELY AS SUBSIDENCE COST, DEDUCTIBLE UNDER THE PROVISIONS OF SECTION 5(a) OF CHAPTER 29, STATUTES OF 1956, 1ST E.S., WILL BE DETERMINED BY THE COMMISSION UPON AN ENGINEERING REVIEW AND FINAL AUDIT SUBSEQUENT TO THE TIME WHEN THE WORK UNDER ANY OF THESE ITEMS IS COMPLETED AND SUBSEQUENT TO THE TIME WHEN THE LOCATION OF THE ORDINARY HIGH WATER MARK HAS BEEN DETERMINED AS THE SHOREWARD LIMIT OF THE PROJECT; AND THAT THE EXECUTIVE OFFICER, OR THE ASSISTANT EXECUTIVE OFFICER, OR THE MINERAL RESOURCES ENGINEER BE AUTHORIZED TO EXECUTE APPROPRIATE WRITTEN INSTRUMENTS REFLECTING THE COMMISSION'S CONDITIONAL APPROVAL. THIS APPROVAL IS ALSO TO BE SUBJECT TO THE UNDERSTANDING THAT IT SHALL NOT CONSTITUTE ANY PRECEDENT FOR ANY SUBSEQUENT SUBMITTALS BY THE CITY OF LONG BEACH REQUESTING APPROVALS FOR COST DISBURSEMENTS IN CONNECTION WITH PROJECTS FOR WHICH APPROVAL COULD HAVE BEEN SECURED BY THE CITY PRIOR TO COMMENCEMENT OF ACTUAL CONSTRUCTION OPERATIONS."

Mr. Walhfred and Mr. McCune indicated their approval of the recommendation submitted, whereupon Mr. Kirkwood asked Deputy Attorney General Jay Shavelson if the recommendation was consistent with the Attorney General's opinion, to which Mr. Shavelson replied, "Yes, the Commission can approve any time before disbursing".

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED AS FOLLOWS:

THE STATE LANDS COMMISSION APPROVES THE COSTS TO BE EXPENDED BY THE CITY OF LONG BEACH, INCLUDING SUBSIDENCE REMEDIAL WORK, UNDER PROJECT L.B. 10,001 - PLACEMENT OF HYDRAULIC FILL, SUBJECT TO THE CONDITION, HOWEVER, THAT THE AMOUNT, IF ANY, OF EACH OF THE ITEMS TO BE ALLOWED ULTIMATELY AS SUBSIDENCE COST, DEDUCTIBLE UNDER THE PROVISIONS OF SECTION 5(a) OF CHAPTER 29, STATUTES OF 1956, 1ST E.S., WILL BE DETERMINED BY THE COMMISSION UPON AN ENGINEERING REVIEW AND FINAL AUDIT SUBSEQUENT TO THE TIME WHEN THE WORK UNDER ANY OF THESE ITEMS IS COMPLETED AND SUBSEQUENT TO THE TIME WHEN THE LOCATION OF THE ORDINARY HIGH WATER MARK HAS BEEN DETERMINED AS THE SHOREWARD LIMIT OF THE PROJECT;

THE EXECUTIVE OFFICER, OR THE ASSISTANT EXECUTIVE OFFICER, OR THE MINERAL RESOURCES ENGINEER ARE AUTHORIZED TO EXECUTE APPROPRIATE WRITTEN INSTRUMENTS REFLECTING THE COMMISSION'S CONDITIONAL APPROVAL. THIS APPROVAL IS ALSO TO BE SUBJECT TO THE UNDERSTANDING THAT IT SHALL NOT CONSTITUTE ANY PRECEDENT FOR ANY SUBSEQUENT SUBMITTALS BY THE CITY OF LONG BEACH REQUESTING APPROVALS FOR COST DISBURSEMENTS IN CONNECTION WITH PROJECTS FOR WHICH APPROVAL COULD HAVE BEEN SECURED BY THE CITY PRIOR TO COMMENCEMENT OF ACTUAL CONSTRUCTION OPERATIONS.

15. (CONSIDERATION OF SUBSIDENCE COSTS PROJECTS, LONG BEACH - W. O.s 10,0C2, 10,006, 10,007, 10,008.) The following report was presented to the Commission:

"On August 15, 1956 (Minute Item 4, pages 2759-60) the Commission approved the costs proposed to be expended by the City of Long Beach, including subsidence remedial work for the balance of the fiscal year under two projects, W. O. 10,003, 'Subsidence Maintenance', and W. O. 10,014, 'Subsidence Studies'.

"The City of Long Beach, through the Port of Long Beach, has presented for consideration and conditional approval four additional projects to remedy and protect against the effects of subsidence of the land surface within the Long Beach Harbor District. The following projects have received initial staff review and are considered to include some 'subsidence costs' as defined in Section 1(f) of Chapter 29.

"L.B. 10,002 - Project submitted by the Port of Long Beach, Pier B.

- Work Proposed:
1. Complete construction of reinforced concrete wharf and bulkhead at Berths 12 and 13. Place earth fill material.
 2. Construct footings for transit shed, move transit shed and repair.
 3. Pier B reconstruction.
 4. Force account work.
 5. Electrical and plant section installation.

Estimated total cost of project: \$1,300,473 for the period
November 1, 1956 - June 30,
1957.

Estimated 'subsidence costs': \$826,561.