

12. (CONSIDERATION OF SUBSIDENCE COSTS PROJECTS - L.B. W.O. 10,015.) The following report was presented to the Commission:

"The office of the City Engineer, City of Long Beach, has submitted plans and specifications for a project entitled 'Increasing the Height of the Sea Wall Along Bay Shore Avenue, between 55th Place and 65th Place'. This project is located along the north shore of the Alamitos Bay peninsula, presumably principally within the tidelands area although the exact location of the ordinary high water mark does not appear to be known at this time. The project as submitted by the City Engineer of Long Beach includes the following:

"L.B. W.O. 10,015 Work Proposed:

1. Construct 2,600 lineal feet of reinforced concrete parapet wall along the waterside edge of Bay Shore Avenue.
2. Construct 13,000 sq. ft. of sidewalk at various locations.
3. Construct 12 reinforced concrete stairways for access from the walk to the beach.
4. Remove concrete which makes up the existing low parapet wall.
5. Install storm drain outlets.

"Estimated Total Cost of Project - \$53,620.

"The subject project does not appear to be of any primary benefit or necessity in so far as tide and submerged lands are concerned. On the basis that the primary purpose of the sea wall will be the protection of upland recreational, residential, and commercial areas from inundation at extreme tidal stages, an informal opinion of the office of the Attorney General states, in part, as follows:

'It is our opinion that such costs of reconstruction are not "subsidence costs" within the meaning of these sections.'

'Under Section 1 (f) subsidence costs are defined in part as "...costs expended...to remedy and protect against the effects of subsidence of the land surface within the Long Beach Harbor District...and within the boundaries of the Long Beach tidelands situated outside of said Harbor District..." It is not entirely clear from this language whether the effects of subsidence, as well as the subsidence itself, must be within the specified areas. It is our opinion, however, that the legislative intent was that costs should be deducted from the State's share of hydrocarbon revenues only where such costs are necessary for the protection of lands within the designated areas. We have previously expressed our opinion that the purpose of the Legislature in allowing portions of subsidence

expenditures to be made out of moneys which would otherwise go into the State Treasury was to encourage remedial action against the effects of subsidence in the areas designated. (Op. No. 56/145, June 29, 1956.) To allow such expenditures for the benefit of upland areas outside of the Harbor District would violate this intent. We therefore conclude that expenditures primarily for the benefit of areas other than those designated in Section 1 (f) cannot be deducted as "subsidence costs" even though the actual project may be located upon lands so designated.'

"IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION DISSAPPROVE THE COSTS PROPOSED TO BE EXPENDED BY THE CITY OF LONG BEACH UNDER PROJECT W. O. 10,015, 'INCREASING THE HEIGHT OF THE SEA WALL ALONG BAY SHORE AVENUE BETWEEN 59TH PLACE AND 69TH PLACE'."

Mr. Jess D. Gilkerson, City Engineer of the City of Long Beach, reviewed maps of the subject area for the Commission for consideration of subsidence costs arising from placement of a proposed fill for park purposes.

In consideration of the lack of time for review of the factors involved in the proposed fill project, the recommendation made by the staff was withdrawn, and it was agreed that the project would be presented to the Commission for consideration at the next meeting after review by the City Engineer and the State staff has been completed.

13. (CONSIDERATION OF SUBSIDENCE COSTS - L.B. W.O. 10,018.) The following report was presented to the Commission:

"On August 15, 1956 (Minute Item 5, pages 2761-62) and September 27, 1956 (Minute Item 16, pages 2821-22) the Commission approved the costs proposed to be expended by the City of Long Beach, including subsidence remedial work during August, September and October, 1956.

"The same elements of subsidence cost expenditures which are to be paid during November, 1956 accountable under subsidence costs not included in the projects approved by the Commission heretofore (W. O. 10,002, 10,003, 10,006, 10,007, 10,008, 10,014) will require approval by the Commission if credit is to be received by the City of Long Beach for such costs under the provisions of Section 5(a), Ch. 29/56, 1st E.S. The staff of the State Lands Division has reviewed the statements presented by the City of Long Beach with respect to such expenditures during 1956. These amounts are tabulated on Exhibit 'A' attached hereto. In addition, the Harbor Department has requested prior approval by the Commission of an amount of \$120,000 estimated to be expended during the month of December, 1956 for payroll, force account and voucher payment other than for construction. The subsidence portion of this amount is estimated by the Harbor Department to be 77 percent, the same as for November, 1956. The request for approval of construction and property purchase payments for the month of December will be withheld until the next meeting of the Commission."