

MINUTE ITEM

3. LONG BEACH BOUNDARY DETERMINATION, CHAPTER 2000/57 - W.O. 2716.

The Chairman reviewed the matter of the Long Beach boundary determination under Chapter 2000/57, which, at the April meeting, the Commission had directed should be calendared as a special order of business at the May meeting. He summarized that, at the April meeting, the Commission received a communication from the Attorney General's office in which it was advised that legal studies had been conducted by the Attorney General and private counsel. The Attorney General concluded that the State has litigable rights against the City of Long Beach and that that office was ready to commence proceedings to establish these rights if so directed by the Commission, and that no actions relating to this question should be commenced against any other persons at this time. The Attorney General's office subsequently, by another letter, expressed the opinion that the Commission is required to bring any actions it deems necessary to determine these boundaries where there exists the possibility that such action would successfully establish that lands presently claimed to be uplands are, in fact, tide and submerged lands subject to the tidelands trust. In this letter the Attorney General's office also advised that, in effect, the statute makes it mandatory for the Commission to so determine the boundaries of the Long Beach tidelands, and further that the statute does not appear to vest discretion in the Commission as to whether or not proceedings should be brought where there is reasonable prospect of success. The Chairman re-emphasized the need to place certain documents received from the Attorney General in a secret file of the Commission pending the likelihood for, and outcome of, possible litigation.

Senator Richard Richards expressed his views as to the importance of the Long Beach tidelands and that it would be of benefit to the public to have the boundary question pursued through expeditious negotiations, and suggested that litigation should be avoided if possible. He stated that he would desire that the Commission give every consideration to his suggestion for negotiations now, rather than immediate litigation.

Assemblyman Bruce F. Allen expressed the opinion, based upon his understanding of the State Supreme Court decision, that the State's title to tidelands could not be lost by adverse possession due to lapse of time. Although he did not oppose negotiations, he did recommend to the State Lands Commission the exercise of its duty to assert title and to insist upon the protection of the State's interest.

Mayor Raymond C. Kealer of the City of Long Beach commented on the problem of subsidence confronting that city which must be solved if it is to survive, and advised that, by motion of the City Council, he was directed to ask the Commission to have its legal counsel and administrative staff meet with like officials of the City of Long Beach to solve the tidelands boundary problem. Accordingly, he asked for 30 days' respite in which to negotiate in an effort to accomplish mutual agreement so that a report would be available to the Commission for its June meeting.

Mr. Cranston raised a question as to the effect under the statute of limitations if action were deferred. Mr. Friedman of the Attorney General's office advised that the State's interest is a direct money interest and that the

determining date for loss of revenues would be the filing date of any lawsuit, and that revenues would most likely include those within a four-year period preceding such filing. Mr. Cranston expressed the opinion that he did not feel the Commission should be put into the position of any extended period of negotiation, and suggested that he was prepared to accept a 30-day extension if the other members were.

Mr. H. A. Hansen, representing himself, proffered legal advice to the Commission based upon his studies of the boundary problem, whereupon the Chairman stated that he doubted whether the Commission would set itself up as a court of law on this matter and suggested that the Commission would be happy to receive, without request, any private legal opinions Mr. Hansen might have from his attorneys. Mr. Hansen advised that he would prepare a memorandum to the Commission, excerpting such legal opinions. Mr. Hansen also expressed the opinion that the statute of limitations could not operate against the State in its constitutional capacity, nor could the rights of the State be compromised by imposition of any rules of the court.

UPON MOTION MADE BY LIEUTENANT GOVERNOR GLENN M. ANDERSON, DULY SECONDED, AND UNANIMOUSLY APPROVED, THE FOLLOWING RESOLUTION WAS ADOPTED:

IN ACCORDANCE WITH THE OBJECTIVES OF CHAPTER 2000/57, AND IN CONCURRENCE WITH THE SUGGESTIONS AND RECOMMENDATIONS OF THOSE REPRESENTED HERE TODAY AND THE RECOMMENDATIONS OF OUR ATTORNEY GENERAL, THE COMMISSION RECOGNIZES THE URGENT NECESSITY OF FACILITATING ARREST OF SUBSIDENCE IN THE LONG BEACH AREA, AND DESIRES, IF POSSIBLE, TO AVOID LITIGATION WHICH MIGHT JEOPARDIZE THE PROGRESS OF THE ANTI-SUBSIDENCE PROGRAM; THEREFORE, IN VIEW OF THE FOREGOING, THE COMMISSION DIRECTS ITS STAFF AND REQUESTS THE ATTORNEY GENERAL TO:

1. IMMEDIATELY ENTER INTO NEGOTIATIONS WITH THE CITY OF LONG BEACH FOR THE PURPOSE OF ARRIVING AT A MUTUALLY ACCEPTABLE DETERMINATION AS TO THE TRUST STATUS OF CITY-HELD LANDS AND INCOME THEREFROM, AND
2. PRESENT TO THE COMMISSION AT ITS JUNE 1959 MEETING A REPORT OF THE RESULT OF SAID NEGOTIATIONS.

Attachment

Calendar Item 34 (1 page)

CALENDAR ITEM

34.

LONG BEACH BOUNDARY DETERMINATION, CHAPTER 2000/57 - W.O. 2716.

On April 30, 1959 (Minute Item 3, page 4720), the Commission tabled the matter of determination of the boundaries of tide and submerged lands pursuant to Chapter 2000, Statutes of 1957, and directed that the subject be calendared for further consideration as a special order of business at the current meeting.