

42. GRANT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FOR THE CONSTRUCTION OF NUCLEAR POWER AND DESALTING PLANTS OFFSHORE HUNTINGTON BEACH, ORANGE COUNTY - W.O. 6721.

After consideration of Calendar Item 40 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS AND DETERMINES:

A. THAT IT CONCURS IN THE LEGISLATIVE FINDINGS SET FORTH IN CHAPTER 1520, STATUTES OF 1967, AND

B. THAT THE ABANDONMENT OF THE PUBLIC TRUST AS TO THE PROPOSED ISLAND AND CAUSEWAY REFERRED TO IN CHAPTER 1520/67, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH THEREIN, WILL NOT IMPAIR THE POWER OF SUCCEEDING LEGISLATURES TO PROTECT, IMPROVE, AND DEVELOP THE PUBLIC INTEREST IN COMMERCE, NAVIGATION, AND FISHERIES; AND

2. REQUESTS THAT THE ATTORNEY GENERAL TAKE WHATEVER ACTION IS NECESSARY IN THE PROSPECTIVE LITIGATION TO EXPEDITE A PROMPT FINAL ADJUDICATION THEREIN AND TO DO WHATEVER HE DEEMS IS LEGALLY PROPER IN LIGHT OF THE FOREGOING FINDINGS AND DETERMINATIONS BY THE COMMISSION.

Attachment

Calendar Item 40 (3 pages)

GRANT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FOR THE CONSTRUCTION OF NUCLEAR POWER AND DESALTING PLANTS OFFSHORE HUNTINGTON BEACH, ORANGE COUNTY, CALIFORNIA - W.O. 6721.

The Legislature enacted Chapter 1520 in 1967 granting in trust to the Metropolitan Water District of Southern California, a State agency, certain tide and submerged lands described in said Act lying offshore in the City of Huntington Beach, Orange County. The District is authorized to reclaim, fill, and raise a limited portion of the granted submerged lands to create an island and to place a connecting causeway; and, in conjunction with public and private utilities, to construct, maintain, and operate thereon facilities for the production of fresh water and electrical energy, employing nuclear power. The Legislature found and determined that when portions of the granted lands were reclaimed and filled to create an island (not exceeding 125 acres without State Lands Commission approval) and a causeway (not exceeding 60 feet in width without Commission approval), such reclaimed areas would no longer be necessary or useful for commerce, navigation, and fisheries, and (after execution and recordation of appropriate instruments by the Commission) would be freed from the public trust.

The Legislature also found and determined that the conveyance to the District will result in great advantage and benefit to all the inhabitants of the State; that improvement in the art of desalting sea water will be of general benefit to the people of the State and of the United States; and that the granted areas are of but minimal size in relation to the tide and submerged lands in the area, and the removal of the trust as to the island and causeway will not substantially impair commerce, navigation, or fisheries on the remaining lands or waters in the area, and the greatest public interest will be served by such removal of the trust.

Project review by the Division has determined, consistent with the legislative findings, that:

1. This project may prove the economic feasibility of large-scale sea-water desalting, and thus help make possible an important incremental addition to the supply of water close to large population centers and improve water quality in some areas of Southern California by mixing pure desalted water with the harder Colorado River water.
2. Electrical energy may be produced for the benefit of the public by nuclear electric generating plants without creating air pollution problems.
3. The feasibility of the use of a man-made island for a nuclear power and desalting plant will be tested.
4. Estimates are that the project will produce approximately 1800 megawatts of electrical power (more than can be produced at Hoover Dam and enough to meet the needs of nearly two million people), and approximately 150 million gallons of water per day (enough to meet the requirements of approximately 750,000 people).

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5. The United States (pursuant to The Saline Water Conversion Act of 1952) and the Metropolitan Water District entered into a contract in August 1964, jointly sponsoring an engineering feasibility study of a combination sea-water-desalting and electric-power-generating plant, which study was conducted by the Bechtel Corporation of San Francisco with the assistance of representatives of the City of Los Angeles, the Southern California Edison Company, and the San Diego Gas & Electric Company. (The foundation and geological studies were made under permit authorization by the Commission.)
6. In April 1965, the City of Los Angeles, the Southern California Edison and the San Diego Gas & Electric Companies proposed a basis for joint participation with the Metropolitan Water District, whereby two dual-purpose nuclear power plants would be designed, constructed, owned, and operated by the City and the Companies, and whereby the City and the Companies would pay the estimated costs of a single-purpose electrical facility so that the District's cost would be limited to the incremental difference in cost between a single-purpose and a dual-purpose plant.
7. The Bechtel study, completed in December 1965, indicated the technical feasibility of the proposed project and approved the aforesaid joint participation plan as resulting in the probable lowest cost for the production of water and minimization of the District's capital investment in the desalting plant. The study also recommended the subject site, i.e., a man-made island to be located offshore from Bolsa Chica State Beach in Huntington Beach.
8. The Atomic Energy Commission, the Department of the Interior, the Edison and San Diego Companies, the City of Los Angeles and the Metropolitan Water District have executed contracts at a total cost of \$940,000 to enable the Bechtel Corporation to make a detailed site investigation.
9. The total cost (based on 1965 prices) of the project is estimated at \$444 million, of which Los Angeles and the Edison and San Diego Companies will contribute about \$257 million and the District \$187 million. Of this \$187 million, the United States, acting through the Atomic Energy Commission and the Department of the Interior, will contribute \$61 million. The United States will also contribute an additional \$11.2 million towards the operating and maintenance cost of the desalting facilities.
10. In order to meet target dates in 1973, construction of the island must be commenced at the earliest possible date. A condition precedent to such construction is the acceptance of easements by Los Angeles and the Edison and San Diego Companies. Before accepting such easements and committing their large share of the total expenditures, these entities must have a judicial determination that good title to the easements will be granted by the proposed instruments and that the provisions of Chapter 1520, terminating the public trust, are constitutional.
11. Under Chapter 1520, the island must be constructed within Parcel I, as described in Section 2. This parcel is about 5000 feet by 7200 feet or

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about 826 acres in area, and its landward boundary is about 900 feet from shore. The island to be constructed cannot exceed 125 acres in area without Commission approval, and will be located about 2800 feet from mean high tide. The causeway is to be placed upon Parcels I and II, described in Chapter 1520. Parcel II connects Parcel I with the shore, and is 600 by 900 feet, or about 12.2 acres. The causeway cannot exceed 60 feet in width at its top without Commission approval. It is the opinion of the Division that when the island and causeway are constructed, the underlying granted lands no longer will be needed for commerce and navigation. Under the statute, the right of navigation and fishing in the waters surrounding the facilities is reserved to the public, as well as the right to fish from safe and convenient locations on the island and causeway in a manner compatible with contemplated operations.

The Division and the Attorney General have been informed that the Executive Secretary of the Metropolitan Water District has refused to execute proposed grants of easements to the Southern California Edison Company and San Diego Gas & Electric Company, as authorized and directed by the Board of Directors of the District, on the grounds that Chapter 1520 is unconstitutional and invalid. The Attorney General is of the opinion that the Act can be legally sustained as constitutional and valid. It is anticipated that the District will file a petition for writ of mandate against its Executive Secretary in the California Supreme Court at some date during the week of January 8, 1968, seeking to test the constitutionality of Chapter 1520, and naming the State, acting through the Commission, as one of the real parties in interest.

The Attorney General, as counsel for the Commission, will require a policy directive from the Commission in connection with this anticipated litigation prior to the Commission's next regular meeting in January of 1968.

Therefore,

IT IS RECOMMENDED THAT THE COMMISSION: (1) FIND AND DETERMINE (a) THAT IT CONCURS IN THE LEGISLATIVE FINDINGS SET FORTH IN CHAPTER 1520, STATUTES OF 1967, AND (b) THAT THE ABANDONMENT OF THE PUBLIC TRUST AS TO THE PROPOSED ISLAND AND CAUSEWAY REFERRED TO IN CHAPTER 1520/67, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH THEREIN, WILL NOT IMPAIR THE POWER OF SUCCEEDING LEGISLATURES TO PROTECT, IMPROVE, AND DEVELOP THE PUBLIC INTEREST IN COMMERCE, NAVIGATION, AND FISHERIES; AND (2) REQUEST THE ATTORNEY GENERAL TAKE WHATEVER ACTION IS NECESSARY IN THE PROSPECTIVE LITIGATION TO EXPEDITE A PROMPT FINAL ADJUDICATION THEREIN AND TO DO WHATEVER HE DEEMS IS LEGALLY PROPER IN LIGHT OF THE FOREGOING FINDINGS AND DETERMINATIONS BY THE COMMISSION.