MINUTE ITEM 12/28/67

43. AD VALOREM TAX LITIGATION - W.O. 5200.400V.

During consideration of Calendar Item 41 attached, Mr. Kenneth K. Williams, Deputy City Attorney for the City of Long Beach, appeared and requested that Commission action be deferred, inasmuch as the date for submission of briefs had been advanced at least thirty days from the date of this meeting. He also noted that the Court had decided to grant the mutual requests made that the Long Beach-Los Angeles cases be consolidated with the Orange County case, and that the consolidated cases will be heard directly by the Supreme Court rather than going through the Court of Appeals. Mr. Williams called attention to possible long-range effects and detriments of the proposed policy that the Commission was being asked to endorse, such as tax losses to local agencies, with specific reference to school districts, and indicated that the State would be required to make up such losses through subventions, with possibly no net gain to the State. He then outlined ten points of particular concern to Long Beach regarding the wisdom and propriety of the recommendations made by the Commission's staff.

Considerable discussion followed, and several questions were raised by the Commissioners, including the possible position that would be taken by the State Board of Equalization.

For a complete verbatim report of the discussion, see the typed transcript that is on file in the Los Angeles Office of the State Lands Division, file reference W.O. 5200.400V.

The matter was postponed for further consideration, tentatively on January 26, 1968.

Attachment
Calendar Item 41 (2 pages)

A 39, 44 & 68
S 32 & 37

SUPPLEMENTAL CALENDAR ITEM 12/28/67

41.

AD VALOREM TAX LITIGATION - W.O. 5200.400W.

There are pending presently appeals in three court cases involving the method of valuation for ad valorem tax purposes of oil and gas interests held by private companies in lands owned by tax-exempt governmental entities, as follows: Atlantic Oil Company, et al. v. County of Los Angeles, et al., Los Angeles Superior Court case No. 839597, Humble Oil & Refining Company, et al. v. City of Long Beach, Los Angeles Superior Court case No. 839598, and Hammil Oil Corporation, et al. v. County of Orange, et al., Orange County Superior Court case No. 135900. The basic issue in all these cases is whether, in valuing the private company's oil and gas interest in tax-exempt properties, any deductions should be made for payments to the exempt governmental landowner, whether in the form of royalties in the case of ordinary oil and gas leases, or in shares of net profits in the case of drilling and operating contracts. The defendant city and county assessors take the position that these payments are identical or closely analogous to rentals. The California Supreme Court has held that rentals paid to governmental entities are merely the price for acquiring the lease and are not deductible in computing the value of the leasehold interest for assessment purposes. De Luz Homes, Inc. v. County of San Diego, 45 Cal. 2d 546 (1955); Texas Co. v. County of Los Angeles, 52 Cal. 2d 55(1959). The plaintiff oil companies contend that the right of the governmental bodies to receive a portion of production, either in money or in kind, constitutes a portion of the mineral estate or real property; and hence that the inclusion of the value of this right in computing ad valorem taxes violates Section 1 of Article XIII of the State Constitution, which exempts governmental property from taxation. Most of the oil and gas interests involved in these cases arise out of ordinary oil and gas leases. However, four drilling and operating contracts also are involved, which are similar in many respects to the contracts covering the granted Long Beach tidelands and the Alamitos Beach Park Lands in the Wilmington oil field. Thus, the outcome of these cases, insofar as they affect drilling and operating contracts, will constitute a significant precedent as to the proper method of determining the amount of taxes, if any, properly assessable against the Long Beach contractors.

Under the terms of the various Long Beach contracts, large portions of the expenses (ranging from 92% to 100% and averaging about 96%), including ad valorem taxes, will be borne directly or indirectly by the State. It has been estimated that if, as contended by the City and County assessors, no deduction should be made for payments to the City of Long Beach and the State, State revenues over the next 35 years would be reduced in excess of $100 million. For this reason, it is suggested that the Commission take an interest in the pending cases and request the Attorney General to file an amicus curiae brief seeking to sustain the trial court's decision in two of the cases that payments to governmental entities must be deducted in determining the value of the contractors' interests under drilling and operating contracts. It is the view of the Division that, looking solely at the Commission's responsibilities with regard to the maximization of State oil and gas revenues, the filing of such a brief is essential to the State's interests. However, any such decision should

A 39, 44 and 68
S 32 and 37

also take into consideration the entire statewide interest, including the possible effects of any court decision upon local revenues from other tax-exempt properties, especially Federal lands. Representatives of the Division and of the Attorney General's office have met with members of the staff of the Board of Equalization, who will examine the possible statewide impact of a State Supreme Court decision in these cases. The Board is expected to consider this matter at its next meeting, on January 8, 1968.

Opening briefs presently are scheduled to be filed in these cases in the Supreme Court on January 6, 1968, and any brief filed on behalf of the Commission would have to be filed within 30 days thereafter.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ATTORNEY GENERAL TO FILE AN AMICUS CURIAE BRIEF OR BRIEFS ON BEHALF OF THE COMMISSION IN ANY APPELLATE PROCEEDINGS IN THE ABOVE-CITED CASES INSOFAR AS THEY AFFECT THE METHOD OF VALUATION OF TAXABLE INTERESTS ARISING FROM DRILLING AND OPERATING CONTRACTS OR OTHER SIMILAR INSTRUMENTS FOR THE PRODUCTION OF OIL AND GAS.