

57. APPROVAL OF WAIVER IN ACCORDANCE WITH CHAPTER 1044, STATUTES OF 1969, AND APPROVAL OF RIGHT-OF-WAY IN VENTURA COUNTY FOR STATE HIGHWAY PURPOSES IN ACCORDANCE WITH SECTION 101.5, STREETS AND HIGHWAYS CODE; DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS - W-3914, P.R.C. 4402.9.

During consideration of Calendar Item 61 attached, the Executive Officer read the following correspondence into the record:

Letter of January 5, 1970, from Mr. and Mrs. M. M. Bidgood of Ventura, who, as homeowners and leaseholders at Seacliff Colony, expressed their concern regarding the proposed freeway route because of the additional restriction on recreational use in the area and the unknown risks involved regarding erosion. They asked that consideration be given to alternatives of an elevated double-deck through the area, or routing the road on the landward side of the railroad.

Letter of January 3, 1970, signed by Dr. George A. Antonelis and several other home owners on leased ground in the Seacliff Beach Colony, who claim that the change in contour of the land would be a threat to their homes.

Appearances were made by the following:

In favor of the proposal:

State Senator Robert J. Lagomarsino
State Assemblyman Thomas C. MacDonald
Haig Ayanian, District Engineer, Division of Highways, District 7,
Los Angeles, who outlined Highways' commitment to protect the
area against adverse effects from the project
Ralph R. Bennett, Supervisor, Ventura County

Opposed to the proposal:

Walter Hoffman of Hoffman, Vance and Worthington, Land Management,
Ventura - an upland owner at Seacliff

Upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 1044, STATUTES OF 1969, FINDS THAT THE EXECUTION OF A WAIVER ON BEHALF OF THE STATE OF CALIFORNIA OF ANY STATE-OWNED TIDE AND SUBMERGED LANDS WHICH WOULD OTHERWISE INURE TO THE STATE AS THE RESULT OF A DEPOSITION OF A FILL IN WATERS OF THE PACIFIC OCEAN, VENTURA COUNTY, FOR STATE HIGHWAY CONSTRUCTION IS IN THE PUBLIC INTEREST IN THAT THE CONSTRUCTION REPRESENTS LARGE ECONOMIC SAVINGS TO THE PEOPLE OF THE STATE, AS OPPOSED TO OTHER ALTERNATIVES.

2. IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 1044, STATUTES OF 1969, SUBJECT TO THE APPROVAL OF THE GOVERNOR, AUTHORIZES THE EXECUTION OF A WAIVER ON BEHALF OF THE STATE OF CALIFORNIA OF ANY STATE-OWNED TIDE AND SUBMERGED LANDS WHICH WOULD OTHERWISE INURE TO THE STATE AS A RESULT OF THE DEPOSITION OF A FILL FOR STATE HIGHWAY CONSTRUCTION ON TIDE AND SUBMERGED LANDS BETWEEN SEACLIFF AND MUSSEL SHOALS, VENTURA COUNTY. THE WAIVER SHALL BE EFFECTIVE UPON:
 - a. RECEIPT OF WRITTEN NOTIFICATION FROM THE BUREAU OF LAND MANAGEMENT, U. S. DEPARTMENT OF THE INTERIOR, OR OTHER APPROPRIATE FEDERAL AGENCY THAT THE UNITED STATES WITHDRAWS ITS OBJECTIONS TO THE FILL.
 - b. RECEIPT OF FORMAL AUTHORIZATION FOR THE FILL FROM THE UNITED STATES GOVERNMENT.

3. IN ACCORDANCE WITH THE PROVISIONS OF SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE, AUTHORIZES THE APPROVAL, EFFECTIVE THE SAME DATE AS THE WAIVER, OF THE MAPS SUBMITTED BY THE DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS, DESCRIBING AN AREA OF SOVEREIGN LANDS IN THE PACIFIC OCEAN BETWEEN SEACLIFF AND MUSSEL SHOALS, VENTURA COUNTY, ON WHICH IT IS PROPOSED TO DEPOSIT 2,800,000 CUBIC YARDS OF FILL FOR AND FOR THE PROTECTION OF STATE HIGHWAY ROUTE 07-VEN-101. MAP DESIGNATIONS ARE 19579C, 19580C, AND 19581C.

Attachment

Calendar Item 61 (3 pages)

61.

APPROVAL OF WAIVER IN ACCORDANCE WITH CHAPTER 1044, STATUTES OF 1969, AND APPROVAL OF RIGHT-OF-WAY IN VENTURA COUNTY FOR STATE HIGHWAY PURPOSES IN ACCORDANCE WITH SECTION 101.5, STREETS AND HIGHWAYS CODE; DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS - W-3914.

The Department of Public Works, Division of Highways, requested a right-of-way over submerged lands of the Pacific Ocean, Ventura County, in December 1968. The right-of-way is needed for the construction of Freeway Route 101 and was requested in accordance with Section 101.5 of the Streets and Highways Code, which states: "The Department may file for record with the Division of State Lands of the Department of Finance such maps as are necessary to furnish an accurate description of any ungranted...tide and submerged lands...or other sovereign lands of the State of California which in the opinion of the department are needed as a right-of-way for and for the protection of any state highway.... Upon the approval of such maps by the Chief of said Division of State Lands, the lands therein are reserved for such use by the department...."

It is proposed to construct a rock-protected freeway embankment on tide and submerged lands along the coast between Seacliff and Mussel Shoals, Ventura County. The embankment would be approximately 8800 feet long with a maximum encroachment seaward of about 600 feet from the existing shoreline, and would require 2,800,000 cubic yards of revetted earth fill.

The project could have the effect of changing the location of the three-mile offshore boundary separating outer continental shelf lands of the United States from tide and submerged lands owned by the State of California. In the absence of nearby permanent harbor works or low tide elevation, the boundary is located three geographical miles seaward from the line of mean lower low water. If the shoreline is moved seaward by any means, including the perceptible placement of fill material, the U. S. Supreme Court has determined that the offshore boundary will shift correspondingly seaward, thus transferring jurisdiction over lands previously held by the United States to California. The Bureau of Land Management of the Department of the Interior has objected to the fill because of the effect it could have on the boundary. Consequently, the U. S. Army Corps of Engineers has withheld its approval of the fill.

Since there was no State agency extant with authority to negotiate such boundary problems with the United States, the Legislature approved the passage of SB 950 (Chapter 1044, Statutes of 1969).

The bill authorizes the State Lands Commission to negotiate with, and with the approval of the Governor, to enter into agreements with the United States concerning the effect of any fill, dredging or construction operations, or other activities on or adjacent to tide and submerged lands within the County of Ventura upon the boundary between State-owned submerged lands and outer continental shelf lands under the jurisdiction of the United States, or concerning the location of such boundary. The statute also provides that such agreements may, without limiting the scope of agreements, waive on behalf of the State any increases in submerged

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lands resulting from such activities which would otherwise inure to the State. The Commission is required to make a finding of public interest prior to entering into such agreements.

The Division of Highways reports that four other alignments were considered. The costs of the other four alignments ranged from \$18.4 million to \$37 million. The proposed alignment with rock fill would entail a total cost of \$16.8 million, and would not affect any oil wells in the area. The Division of Highways believes the proposed alignment is sufficiently justified on the basis of the cost comparison. The area of submerged land on the three-mile belt, which the State would waive, is approximately four acres. It is presently estimated that the area could conceivably produce oil and gas royalties totaling \$125,000.

The highway right-of-way will encroach on Leases P.R.C. 427.1, P.R.C. 410.1, P.R.C. 145.1 and P.R.C. 3184.1, which are oil and gas leases, and Leases P.R.C. 3997.1 and P.R.C. 4017.1, which are pipeline easements to Union Oil Company. The Division of Highways reports that it has obtained clearances from some of the State's lessees and is currently negotiating with the others.

Continuous access to the ocean will be provided by the construction of a 15-foot wide "shelf", at elevation 15 along the oceanward side of the fill. A series of pedestrian undercrossings to the shelf will also be constructed. The configuration of the fill will isolate two parcels of tidelands between the freeway and the old highway. A separate permit covering the parcels, which contain about seven and four acres respectively, will be issued to the Division of Highways for construction and maintenance of drainage easements. Both parcels when filled would be considered suitable and desirable for vehicle parking for persons desiring access to the ocean. The pedestrian undercrossings would provide access from the parking area to the shelf.

The Ventura County Board of Supervisors in a resolution dated December 16, 1969, cited the present situation where cars are now dangerously parked along the limited shoulder area of Highway 101. The resolution by the Board of Supervisors "... recognized the need for public use of the two parcels described and wished to express its intention to the State Lands Commission that the County of Ventura will look favorably upon the development and use of the parcels for park purposes and access to the ocean area in the Rincon".

The Park Department of the County of Ventura has expressed a willingness to lease the parcels through a nominal lease agreement for public park and access purposes. Such a lease arrangement would be in accordance with current Commission policy.

The Division of Highways engaged the services of a consultant on the beach erosion control problem. It was recommended that no groins or feeder beaches be constructed, unless and until there is sufficient evidence showing the necessity for such work. The Division has started procedures for monitoring the effect of the proposed highway construction on the adjacent beach.

The Department of Fish and Game expressed concern about the relocation of clams in the area. An interagency agreement is now being processed relative to the relocation of the Pismo clams.

