

MINUTE ITEM

8/26/70
VJB

32. AUTHORIZATION FOR THE ATTORNEY GENERAL TO FILE AN AMICUS CURIAE BRIEF IN THE APPELLATE COURT SUPPORTING THE CITY OF LONG BEACH IN THE CASE OF UNION PACIFIC RAILROAD COMPANY v. CITY OF LONG BEACH, LOS ANGELES COUNTY - W-503.641.

After consideration of Calendar Item 11 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE OFFICE OF THE ATTORNEY GENERAL TO APPEAR IN THE APPELLATE COURT ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, TO FILE AN AMICUS CURIAE BRIEF IN SUPPORT OF THE POSITION OF THE APPELLANT CITY OF LONG BEACH, AND TO TAKE ALL LEGAL ACTION DEEMED NECESSARY TO PROTECT THE STATE'S INTEREST IN THE CASE OF UNION PACIFIC RAILROAD COMPANY v. CITY OF LONG BEACH.

Attachment.

Calendar Item 11 (1 page)

CALENDAR ITEM

8/70
W-503.641
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11.

AUTHORIZATION FOR THE ATTORNEY GENERAL TO FILE AN AMICUS CURIAE BRIEF IN THE APPELLATE COURT SUPPORTING THE CITY OF LONG BEACH IN THE CASE OF UNION PACIFIC RAILROAD COMPANY v. CITY OF LONG BEACH; LOS ANGELES COUNTY - W-503.641.

The City of Long Beach in 1962 amended its business license tax ordinance to impose a tax of three cents per-barrel-per-quarter for oil produced in excess of three hundred barrels per quarter from each oil well located in the City of Long Beach. This tax is also imposed on the City of Long Beach itself when the City acts in the capacity of a Unit Operator. The ordinance further provides that when the tax is imposed on production allocated to granted tide and submerged lands and would ultimately be borne economically by the City and the State, that portion of the tax is to be deposited in the appropriate tideland trust fund, from which it is disbursed according to the requirements and formulae of Section 4 of Chapter 138, Statutes of 1964, First Extraordinary Session.

Certain oil companies who produce oil within the City of Long Beach have challenged the validity of the City's tax in the Superior Court of Los Angeles County in the case of Union Pacific Railroad Company, et al. v. City of Long Beach, No. 838,005. The trial court upheld the basic tax, but declared unconstitutional that portion of the City's ordinance that provides for disposition into the tideland oil revenue fund of that portion of the tax attributable to granted tideland operations. Both sides are appealing, and the record on appeal is being prepared.

The staff estimates that if the City of Long Beach loses the appeal and the trial court's ruling is upheld as to the tideland portion of the ordinance, the loss of State revenues pursuant to Chapter 138 will be as follows:

Fiscal Year 1970-71	\$960,000
Cumulative from 7/1/70 to end of economic life of oil fields.....	\$9,000,000 to \$10,000,000

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO APPEAR IN THE APPELLATE COURT ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, TO FILE AN AMICUS CURIAE BRIEF IN SUPPORT OF THE POSITION OF THE APPELLANT CITY OF LONG BEACH, AND TO TAKE ALL LEGAL ACTION DEEMED NECESSARY TO PROTECT THE STATE'S INTEREST IN THE CASE OF UNION PACIFIC RAILROAD COMPANY V. CITY OF LONG BEACH.