

MINUTE ITEM

7/6/72
CVB (JLS)

28. SETTLEMENT OF LONG BEACH TIDELANDS AD VALOREM TAX LITIGATION, LOS ANGELES COUNTY - W 503.546.

After consideration of Calendar Item 26 attached, and upon motion duly made and carried, the following resolution was adopted:

THE ATTORNEY GENERAL AND THE EXECUTIVE OFFICER ARE AUTHORIZED TO ENTER INTO ANY AND ALL STIPULATIONS AND AGREEMENTS, AND TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY OR DESIRABLE TO IMPLEMENT A SETTLEMENT OF LONG BEACH TIDELANDS AD VALOREM TAX LITIGATION SUBSTANTIALLY AS SET FORTH IN CALENDAR ITEM 26 ATTACHED, AND TO SECURE ANY AND ALL APPROVALS THEREOF REQUIRED BY LAW.

Attachment:

Calendar Item 26 (3 pages)

A 39, 44 & 68
S 32 & 37

SETTLEMENT OF LONG BEACH TIDELANDS
AD VALOREM TAX LITIGATION

Pursuant to authorization contained in Commission resolution of December 19, 1968, the Attorney General has intervened on behalf of the Commission in approximately 22 ad valorem tax cases pending in the Los Angeles Superior Court. These actions were brought against the County of Los Angeles and the City of Long Beach, as tax collectors, by the various oil companies having agreements with the City of Long Beach and the State for the development and operation of Long Beach tide and submerged lands. The basic issue involved in the pending litigation is whether the taxable interest in the Long Beach Tidelands mineral rights and the facilities thereon lie in private oil companies or in the City or State. If these rights are privately held, they are fully taxable, and under the terms of the four net profits contracts involved, about 95% (on a weighted average basis) of the burden of the tax will be borne by the State and the tidelands trust. If these rights lie in the City or the State, they are exempt from ad valorem taxation under Article XIII, Section 1, of the California Constitution. At stake in this litigation are past taxes aggregating \$84.7 million (computed as of July 1, 1972), and future taxes which are roughly estimated at \$90 to \$100 million.

By resolutions of January 26 and February 29, 1968, the Commission had authorized the Attorney General to appear on its behalf as amicus curiae in the California Supreme Court case of Atlantic Oil Co. v. County of Los Angeles. The Attorney General advised the Commission that as a result of this appearance, the decision in that case (69 Cal. 2d 585) had established a useful precedent for the pending litigation, but was not dispositive of the issues therein.

For many months, the Office of the Attorney General has been discussing with attorneys for the County of Los Angeles, the City of Long Beach, and the plaintiff oil companies, a possible settlement of this litigation, an understanding of which requires a brief description of the contracts under which the Long Beach tide and submerged lands are operated. These are as follows:

- a. The Contractors' Agreement covers Tract No. 1, the City-owned tidelands in the East Wilmington Field. The Field Contractor under this Agreement is THUMS (a combine of Texaco, Humble, Union, Mobil and Shell oil companies), which also has an 80% interest in the oil produced from Tract No. 1. Nonoperating Contractors (i.e., Contractors without any right to conduct operations) have a 20% interest in said oil. Tract No. 1 is committed to the Long Beach Unit and accounts for approximately 85% of the production from said Unit.
- b. The Tract No. 2 Agreement covers the State-owned tidelands in the East Wilmington Field. The Contractor under this

CALENDAR ITEM NO. 26. (CONTD)

Agreement (Atlantic Richfield) has no operating rights, but is entitled to receive the oil and gas allocated to Tract No. 2. This Tract is likewise committed to the Long Beach Unit and accounts for about 5% of the oil produced by the Unit.

- c. The L.B.O.D. (Long Beach Oil Development Co.) Contract covers the tidelands in the westerly portion of the Wilmington Oil Field within the City of Long Beach. About one-half the lands covered by this Contract are committed to four Unit Agreements and are unitized with uplands of varied ownership. The remainder of the L.B.O.D. lands are non-unitized. Also involved, for the tax year 1963 and part of 1964, are earlier L.B.O.D. contracts covering the presently unitized lands.
- d. The Parcel "A" Contract (under which Atlantic-Richfield was the Contractor during the years at issue) covers City-owned tidelands lying between the East Wilmington Field and the L.B.O.D. tidelands. Parcel "A" is not unitized.

Under the proposed settlement, the plaintiff oil companies and the State would concede the taxability of the following interests:

- a. The mining rights relating to the Field Contractor's (THUMS') 80% interest in Tract No. 1;
- b. The mining rights in the non-unitized portion of the L.B.O.D. lands;
- c. All mining rights in Parcel "A" (unless exempted under Revenue & Taxation Code Section 107.2 or 107.3);
- d. The Contractors' possessory interests in all tidelands operating facilities.

The County and the City, as tax collectors, would concede that the following interests are not taxable:

- a. The mining rights relating to Nonoperating Contractors' 20% interest in Tract No. 1;
- b. The mining rights in Tract No. 2;
- c. The mining rights in the unitized lands covered by the L.B.O.D. Contract.

In consideration for THUMS' joining in the settlement and thereby giving up their entire cause of action against the tax collectors and its potential financial recovery, THUMS will receive \$1.5 million. Of the \$1.5 million, \$225,000 (15%) will be borne by the State, \$45,000 (3%) by the Long Beach tidelands trust, \$200,000 by other private oil companies, and the remainder (slightly over \$1 million) by the public entities for whom taxes were collected.

CALENDAR ITEM NO. 26. (CONTD)

The net result of such a settlement would be that about 72% of the taxes levied would be considered valid and 28% invalid both as to the past and as to the future. The State will receive immediately the sum of \$18.3 million, plus a substantial amount as a return of subvention moneys previously paid by the State to the Long Beach Unified School District pursuant to Education Code Section 17703.

The Staff recommendation is based upon the following considerations:

1. The Attorney General has advised that the proposed settlement is legally realistic.
2. Due to the pendency of the litigation, approximately \$66 million of disputed taxes are presently impounded and are unavailable for public use at any governmental level -- State or local. The Attorney General advises that absent a settlement, the litigation can be expected to continue for three to five years, during which period the impounded sums would continue to be unavailable and would grow to about \$100 million. Under the settlement, the great bulk of the impounded moneys would be immediately released to the State and to local governmental entities such as the County of Los Angeles, the Long Beach Unified School District, and the City of Long Beach.
3. Given the relatively small economic interest of the plaintiff oil companies, this is basically intergovernmental litigation between the State and the local governmental entities.

IT IS RECOMMENDED THAT THE ATTORNEY GENERAL AND THE EXECUTIVE OFFICER BE AUTHORIZED TO ENTER INTO ANY AND ALL STIPULATIONS AND AGREEMENTS, AND TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY OR DESIRABLE TO IMPLEMENT A SETTLEMENT SUBSTANTIALLY AS HEREINABOVE SET FORTH, AND SECURE ANY AND ALL APPROVALS THEREOF REQUIRED BY LAW.