

30. STATUS OF MAJOR LITIGATION.

The attached Informative Calendar Item 28 was submitted to the Commission for information only, no action thereon being necessary.

Mr. N. Gregory Taylor, Deputy Attorney General, reported on the status of the following lawsuits:

1. Union Oil Co. of California, et al., v. The Honorable Rogers C. B. Morton, et al., U.S.D.C., Central District of California, No. 73-1692.
2. People of the State of California, acting by and through the State Lands Commission, et al., v. Frank G. Zarb, et al., CV 75-854 WPG, U.S.D.C., Central District.

Mr. Robert C. Hight, Staff Counsel for the State Lands Division, briefed the Commission on the status of the following lawsuits in the Sacramento River:

1. People v. Halvor G. Schultz, et al., Yolo County Superior Court Case No. 32197
2. People v. Patricia Avila, et al., Yolo County Superior Court Case No. 32249

Mr. Darrell J. McConnell, representing the California Marina Recreation Association appeared stating that considerable confusion exists among the marina operators on the Sacramento River. He indicated that these operators had no previous knowledge that they were required to obtain permits for the use of the land. Chairman Cory pointed out that the Public Resources Code is very explicit in this matter. A lengthy discussion followed.

Attachment:
Informative Calendar Item 28 (5 pages)

STATUS OF MAJOR LITIGATION

As of February 28, 1975, there were 251 litigation projects involving the Commission.

1. Pariani v. State of California W 503.737
San Francisco Superior Court Case No. 657291

(Plaintiff seeks to quiet title to three parcels of land in Sonoma and Lake Counties. State patented said land into private ownership in 1953, reserving all mineral rights. Plaintiff now seeks to determine whether geothermal energy was reserved to the State under the 1953 patent.)

The Attorney General's Office filed a cross-complaint in July 1973, and in October 1973 a demurrer was filed to certain answers filed by one group of plaintiffs. On December 4, 1973, the Court upheld the State's demurrer, thereby eliminating three of the plaintiff's defenses in the case.

On May 1, 1974, the San Francisco Superior Court denied defendant's motion for summary judgment and judgment on the pleadings. On July 25, 1974, the Attorney General's Office served interrogatories on all parties to the litigation. To date, no responses have been received.

2. Union Oil Company of California v. Houston I. Flournoy,
et al. W 503.747
U. S. District Court, Central District

(An action by Union Oil Company to prevent the State from selling royalty oil.)

Under State Oil and Gas Lease PRC 3033 entered into with Union Oil Company, the Commission had the right to receive royalty payments in kind. At its July 1973 meeting, the Commission announced its intention to receive bids for this royalty oil and for royalty oil for other Orange and Los Angeles County leases. Bids were subsequently received for this royalty oil. The contract for the purpose of this oil was to be awarded at the October 25, 1973, Commission meeting, but this award was prevented by Union's filing and obtaining on October 4, 1973, an order to show cause and temporary restraining order. Union alleged that the sale was in violation of the Federal Government "Phase IV" price controls and was hence illegal. On November 5, 1973, the preliminary injunction obtained by Union was denied and the temporary restraining order was dissolved.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

2. Union Oil Company of California v. Houston I. Flournoy,
et al. W 503.747
U. S. District Court, Central District
(CONTINUED)

On November 29, 1973, the Commission awarded the contract to purchase the oil. That same day, Plaintiff applied for another temporary restraining order to prevent the sale, which order was denied. Plaintiff's second application for preliminary injunction was heard and denied on June 3, 1974, at which time Union indicated they would hold the case in abeyance pending the outcome of People v. Simon. A pretrial hearing was set for December 9, but upon Union's Motion the hearing was postponed. Union now indicates they will file a motion for summary judgment, but to date no motion has been filed.

3. State of California v. County of San Mateo, et al. W 1839.28
San Mateo Superior Court Case No. 144257 W 6987

Suit seeking Declaratory Judgment to protect the public property rights in land covered by the open waters of South San Francisco Bay westerly of the deep draught ship channel, the area of which has been substantially increased with the filing of a cross-complaint by Westbay Community Associates to be an approximate 10,000 acres and 21 miles of shoreline including most of the westerly portion of the Bay between the San Francisco International Airport and the southerly San Mateo County line. Titles to other adjacent substantial areas of salt ponds have been brought into the case with the filing of a complaint in intervention by Leslie Salt Co. Pretrial and discovery proceedings are now in progress, with factual investigation, relating to substantial and complex issues, continuing.

The parties have been participating in settlement negotiations but have not yet arrived at any compromise which could be recommended to the Commission.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

4. People v. Magoon Estate, Ltd. W 503.762
San Francisco Superior Court Case No. 12281

(An action in ejectment and quiet title.)

This action was brought against Magoon Estates, a development company owning property in Lake County. Magoon Estates claims to be the adverse possessor of a part of a lieu section which is surrounded by private holdings of Magoon Estates. It is the State's position that lieu lands and school lands cannot be adversely possessed as they are subject to a trust for the support of the public schools. The matter is presently in negotiation with the attorneys for Magoon.

5. People v. Jonathan Club, et al. W 503.773
Los Angeles Superior Court No. 35486

(Complaint to quiet title 4.5 acres of artificially filled tidelands in the City of Santa Monica.)

In 1921, the Legislature granted tidelands to the City of Santa Monica. Since that time, the area granted has been artificially filled, resulting in an additional 4.5 acres of beach. Plaintiffs--the City of Santa Monica, the Department of Parks and Recreation, and the State Lands Commission--contend that this artificially filled area is State owned. Defendant's demurrer to the State's complaint was overruled. The parties will now proceed with pretrial procedures.

6. Wilcox v. State of California W 503.778
Sacramento Superior Court Case No. 252408

(Plaintiff brought action to quiet title to a berm attached to his uplands on the Sacramento River across from Rio Vista.) The basis of the action rests on an application of Section 6360 of the Public Resources Code. This section creates certain presumptions concerning ownership and boundaries to lands in the Delta area. The Office of the Attorney General is presently preparing an Answer to the Complaint.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

7. Cory v. State
Sacramento Superior Court Case No. 252295

W 503.780

(Complaint to vacate the approval of PRC 4977 offshore El Capitan, Santa Barbara County.)

On December 19, 1974, the State Lands Commission authorized the issuance of a lease to Exxon Corporation and Exxon Pipeline Company. In so doing, the Commission adopted an environmental statement prepared pursuant to the National Environmental Policy Act. The Complaint alleges that the project, as approved by the Commission, differs significantly from the project as described in the environmental statement and that the Commission's approval was an abuse of discretion. Plaintiff, now represented by the Office of the Attorney General, asks that the approval of the lease be set aside. A court hearing was held on March 19, 1975.

8. City of Santa Barbara v. State
Santa Barbara Superior Court Case No. 105591

W 503.781

(Complaint to set aside State Lands Commission approval to resume drilling on PRC's 3150 and 4000, Santa Barbara Channel, Santa Barbara County.)

On November 21, 1974, the State Lands Commission approved the resumption of drilling on two State-owned Standard Oil Company leases in the Summerland Offshore Field, Santa Barbara County. Plaintiff contends that the Commission's action in approving the drilling based on a negative declaration was an abuse of discretion since the drilling may have a significant effect on the environment and thus require preparation of an environmental impact report under Section 21100 of the Public Resources Code. Standard Oil Company has agreed to prepare an environmental impact report, and negotiations are underway to place the case in abeyance or dismiss the action pending preparation of the report. Consequently, the case has been dismissed.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

9. People v. Halvor G. Schultz, et al. W 503.785
Yolo County Superior Court Case No. 32197

(Ejectment action to compel removal of trespassing marina from the Sacramento River, and damages therefor.)

On February 13, 1975, the State Lands Commission filed a Complaint in ejectment and for damages for trespass to compel the removal and to prevent the continuing trespass and maintenance of a marina situated on the Sacramento River in Yolo County at the confluence of the American River. Defendants in this action have been served with a Summons and Complaint and have scheduled a meeting with the Division to discuss settlement of the matter and leasing arrangements.

10. People v. Patricia Avila, et al., W 503.787
Yolo County Superior Court Case No. 32249

(Ejectment action to compel removal of trespassing marina and restaurant from the Sacramento River, and damages therefor.)

On February 25, 1975, the State Lands Commission filed a Complaint in ejectment and for damages therefor to compel the removal and to prevent the continuing trespass and maintenance of a marina and restaurant situated on the Sacramento River in Yolo County at the confluence of the American River. Defendants in this action have been served with a Summons and Complaint.

11. People v. Zarb, et al., W 503.788
U. S. District Court, Central District
CV #75-854 WMB

(Complaint for injunction and declaratory relief.)

The State Lands Commission has filed an action against the Federal Energy Administration and the Burmah Oil Company, challenging the validity of a determination by the FEA that Burmah is entitled to the State's royalty oil despite sell-off agreements to World Oil Company and U.S.A. Petroleum Company. A hearing on a preliminary injunction is anticipated in early April in the U. S. District Court in Los Angeles.