

STATE OF CALIFORNIA

Minutes of the Meeting of the
State Lands Commission
Sacramento, California

APPEARANCES

Present:

Kenneth Cory, State Controller, Chairman
Walter O. McGuire, Special Assistant to the
Lieutenant Governor, alternate to Mervyn
M. Dymally, Lieutenant Governor, Member
Sid McCausland, Deputy Director of Finance,
alternate to Roy M. Bell, Director of
Finance, Member

Staff Members in Attendance:

William F. Northrop, Executive Officer
R. S. Golden, Assistant Executive Officer
Robert C. Hight, Staff Counsel
James F. Trout, Manager, Land Operations
D. J. Everitts, Manager, Energy and Mineral
Resources Development
Donald Hoagland, Staff Services Analyst
A. D. Willard, Supervising Mineral Resources
Engineer
W. M. Thompson, Manager, Long Beach Operations
Diane Jones, Secretary

Representing the Office of the Attorney General:

N. Gregory Taylor, Assistant Attorney General
Jan Stevens, Assistant Attorney General

Re Minute Item 26: Proposed Geothermal Resources Lease of
Reserved Mineral Interests, Sonoma County
Rodney C. Hill, law firm of McKenna & Feltling,
representing George C. Post
C.E. Woods, representing Aminoil USA, Inc.
Robert Membreno, representing the City of
Santa Clara

Re Minute Item 27: Public Hearings on Value of Natural Gas
Produced from State Leases
Douglas McCloud, Manager, Pacific Gas &
Electric Company

Re Minute Item 28: Compromise Settlement

Maury Hamilton, City Attorney, City of San Mateo

Re Minute Item 29: Authorize Compromise Settlement

Glen Olson, representing the National Audubon Society, Western Regional Office

Re Minute Item 32: Public Agency Permit - East Bay Regional Park District

Lewis Crutcher, Chief of Planning, East Bay Regional Park District

Re Minute Item 36: Amendment of Lease PRC 1390.1 - Pacific Gas & Electric Company

Emile Nurisso, representing Pacific Gas & Electric Company

Re Minute Item 48: Proposed Incorporation of the Cities of Muir and West Pittsburg, Contra Costa County

Ted Lichti, representing the Committee to incorporate the City of West Pittsburg

MINUTES OF THE STATE LANDS COMMISSION
MEETING OF
December 15, 1976

Chairman Kenneth Cory, State Controller, called the regular meeting of the State Lands Commission to order at 10:06 a.m. in Room 2170, State Capitol. Other members present included Commission alternate Sid McCausland, Deputy Director of Finance, representing Roy M. Bell, Director of Finance; and Commission alternate Walter O. McGuire, Special Assistant to the Lieutenant Governor, representing Norvyn M. Dymally, Lieutenant Governor.

The minutes of the meeting of October 28, 1976, were approved as presented.

EXECUTIVE OFFICER'S REPORT

W 21247

Mr. William F. Northrop reported that revised bylaws of Waterways Advisory Committee are before the Commission for approval. UPON MOTION DULY MADE AND CARRIED; THE BYLAWS, ATTACHED AS EXHIBIT "A" AND BY REFERENCE MADE A PART HEREOF, WERE ADOPTED AS PRESENTED BY A VOTE OF 5-0.

In connection with the City of Eureka, Mr. Northrop read a Resolution into the record expressing the Commission's support of the City with regard to its efforts to resolve title problems and boundary disputes involving its granted tide and submerged lands. The Resolution is on file in the office of the State Lands Commission and by reference made a part hereof.

UPON MOTION DULY MADE AND CARRIED, THE RESOLUTION, ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, WAS ADOPTED BY A VOTE OF 5-0. IN ADDITION, THE COMMISSION REQUESTED THE STAFF TO CONVEY TO THE CITY THE COMMISSION'S CONCERN REGARDING THE IMPACT THE STAFF HAS MADE ON THE LOCAL COMMUNITY AND THAT THEY ARE SYMPATHETIC ABOUT THE PROBLEMS.

With regard to the Division's pending dredging applications, Mr. Northrop requested that the Commission approve the staff holding public hearings to consider the magnitude of the increasing sediment load in connection with dredging, and to consider the potential impact on State land of all dredging applications.

UPON MOTION, DULY MADE AND CARRIED, THE COMMISSION APPROVED BY A VOTE OF 5-0 THAT THE DIVISION CONDUCT PUBLIC HEARINGS AS OUTLINED ABOVE AND CONDUCT A STUDY OF THE MIGRATION PROBLEM OF DRUDGE G.

In conclusion, Mr. Northrop stated there is a question as to the payment of the maximum ceiling price for State-owned crude oil as reflected in the recent FEA ruling on gravity differential. In this regard the staff requested that the Commission direct them to take all legal steps necessary to remedy this matter.

BYLAWS FOR THE
WATERWAYS ADVISORY COMMITTEE

ARTICLE 1

Section 1. The name of this committee shall be
Waterways Advisory Committee.

ARTICLE 2

Section 1. The purpose of this Committee shall be
advisory. Its primary objective is to advise the
State Lands Commission on the use of lands under
or adjacent to waterways of the State.

Section 2. This Committee is not authorized to discuss
those cases which are presently under litigation,
enter into contracts or official agreements, or
issue public pronouncements on behalf of the State
Lands Commission.

ARTICLE 3

Section 1. The membership of this Committee shall be
limited to nine (9) members. There shall be no
alternates designated for Committee members.

Section 2. All members shall be appointed by the
Executive Officer of the State Lands Commission
with the concurrence of the Commission. The

appointments of members are for a period of two (2) years, but at the pleasure of the Executive Officer.

Section 3. All vacancies shall be filled by the Executive Officer with the concurrence of the Commission.

Section 4. The State Lands Commission may abolish the Committee when, in its opinion, the Committee's purposes have been accomplished or the services of the Committee are no longer required.

Section 5. Except as provided in this section, members of the Committee shall serve without compensation. The Committee may request that the State Lands Commission reimburse nongovernmental members for actual and necessary expenses incurred in the performance of their duties.

Section 6. Initial and subsequent membership shall be representative of various interest groups and no more than one member shall be appointed for each special interest, with the sole exception being that State Government may have representatives from the Legislative and Executive Branches and from professional or technical disciplines which are elemental to the topics or areas of concern.

ARTICLE 4

Section 1. The officers of the Committee shall be a chairman and a vice-chairman; and staff services will be furnished by the State Lands Division.

Section 2. No officer or member of the Committee shall have authority by reason of such office or membership to contract on behalf of the Committee, the State Lands Division, or the State Lands Commission. Nor shall any member make any form of public pronouncement on behalf of the Committee unless so authorized by a majority vote of the Committee.

Section 3. The chairman of the Committee shall be selected by the Executive Officer of the State Lands Commission from the State Lands Division prior to its initial meeting. The vice-chairman shall be elected by and from the Committee at its first public meeting and thereafter shall be elected annually. The vice-chairman shall serve for one year and the term of office shall begin at the close of the public meeting at which he or she is elected.

ARTICLE 5

Section 1. The Committee shall meet at regular monthly meetings unless otherwise determined by the Committee.

Section 2. Special meetings may be called by the Chairman and shall be called upon written request of three (3) Committee members.

Section 3. Five (5) out of the Committee shall constitute a quorum. Action by the Committee shall be by majority vote of the members present. A member must be present to vote.

Section 4. All meetings shall be open to the public to assure that all interested groups and individuals may participate in the workings of the Committee.

ARTICLE 6

Section 1. The Committee shall not participate in any way in any campaign for public office or for any proposition before the voters.

Section 2. Members shall not, on behalf of the Committee, attempt to influence any action of the Commission.

Section 3. The Committee may, by a majority vote, designate a member to speak on their behalf at a meeting of the Commission. Such testimony shall be prepared and adopted by the Committee in advance of such meeting.

ARTICLE 7

Section 1. Individual membership shall be terminated at the close of the third consecutive regular meeting, from which the member is absent unless he is excused by the majority of the Committee members or the Executive Officer of the State Lands Commission.

ARTICLE 8

Section 1. These bylaws have been adopted by the State Lands Commission. They may be amended at any regular meeting of the Committee by a two-thirds vote, provided that any amendments must be approved subsequently by the State Lands Commission. Such amendments shall have no effect unless they have been approved by at least two (2) members of the State Lands Commission.

ARTICLE 9

Section 1. The Committee shall be guided by Roberts Rules of Order (Revised) if parliamentary matters arise and require resolution.

WATERWAYS ADVISORY COMMITTEE

Voting Members

Dick Atlee, State Lands Division

Bob Testa, Senate Committee on Natural Resources

Bob Connelly, Assembly Committee on Land Use and Energy

Frank Goodson, Resources Agency

Larry Moss, Planning and Conservation League

Richard Simpson, California Taxpayers Association

Glenn Crouch, Sacramento River Property Owners Association

Al Thews, Boat Owners Associated Together

Richard Farrell, Marina and Recreation Association

Committee Consultants

Roy Minnick, State Lands Division

Lin Patton, State Lands Division

Bill Felts, Department of Navigation and Ocean Development

Leonard Fisk, Department of Fish and Game

In addition, he presented for the record a copy of a letter dated December 3, 1976 addressed to all the States lessees demanding a maximum ceiling price for lower tier oil to be paid the State commencing October 1. Mr. Northrop requested that the Commission ratify the staff's action as set forth in the letter.

UPON MOTION DULY MADE AND CARRIED, THE COMMISSION 1) DIRECTED THE STAFF TO TAKE ALL LEGAL STEPS NECESSARY TO REMEDY THE MATTER AS OUTLINE ABOVE; AND 2) RATIFIED THE STAFF'S ACTION AS SET FORTH IN THE LETTER TO THE STATE'S OIL AND GAS LESSEES DATED DECEMBER 3, 1976, FROM THE DIVISION ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.

Others matters discussed are outlined in Mr. Northrop's written statement attached as Exhibit "A" and by reference made a part hereof.

Attachment: Exhibit "A"

EXHIBIT "A"

EXECUTIVE OFFICER'S REPORT

By

WILLIAM F. NORTROP
EXECUTIVE OFFICER
DECEMBER 15, 1976

WATERWAYS ADVISORY COMMITTEE

W 21247

THE WATERWAYS ADVISORY COMMITTEE HELD AN INFORMAL MEETING ON NOVEMBER 17 AND SCHEDULED ITS FIRST PUBLIC MEETING FOR JANUARY 12. THE GROUP REVISED ITS BYLAWS WHICH ARE BEFORE YOU FOR APPROVAL. STAFF IS PROVIDING THE GROUP WITH BACKGROUND INFORMATION ON THE COMMISSION'S STATUTORY CHARGES, ITS PROGRAMS, AS WELL AS PROBLEM AREAS. WITH YOUR CONCURRENCE, STAFF WILL INFORM THE GROUP THAT THE REVISED BYLAWS HAVE BEEN APPROVED.

CITY OF EUREKA - LITIGATION

W 20698

TRIAL OF THE FIRST PHASE OF THE 14 LAWSUITS AGAINST THE CITY OF EUREKA AND THE STATE OF CALIFORNIA INVOLVING MORE THAN A MILE OF THE DOWNTOWN EUREKA WATERFRONT HAS BEEN CONCLUDED. THE TRIAL COURT HELD THAT PRIVATE OWNERSHIP EXTENDS WATERWARD TO THE LINE IN HUMBOLDT BAY WHERE THE WATER WAS SIX FEET DEEP AT LOW TIDE IN 1857. HOWEVER, THE TRIAL COURT REJECTED PLAINTIFFS' CLAIMS THAT THEY OWNED BEYOND THAT DEPTH, AND INVALIDATED CERTAIN DEEDS ISSUED AFTER ADOPTION OF THE 1879 CONSTITUTION. EUREKA'S PARTICIPATION IN THIS LITIGATION, AS TRUSTEE OF GRANTED TIDE AND SUBMERGED LANDS, HAS BEEN VERY

EXPENSIVE. IN LIGHT OF THE CITY'S CONSCIENTIOUS AND VIGOROUS EFFORTS TO PROTECT THE PUBLIC'S TITLE TO THESE GRANTED TIDE AND SUBMERGED LANDS, IT IS RECOMMENDED THAT THE COMMISSION EXPRESS ITS SUPPORT OF THE CITY BY ADOPTING THE FOLLOWING RESOLUTION, SUBSTANTIALLY IN THE FORM WHICH IS BEFORE YOU.

SACRAMENTO RIVER CLEAN-UP

W 21247

ON NOVEMBER 15, 1976, AN ARTICLE APPEARED IN THE SACRAMENTO BEE CONCERNING JUNK AND DEBRIS EXPOSED ALONG THE SACRAMENTO RIVER DUE TO ABNORMALLY LOW WATER LEVELS.

THE STATE LANDS COMMISSION INVESTIGATED THE MATTER AND INITIATED A CLEAN-UP PROGRAM IN COORDINATION WITH OTHER STATE, COUNTY AND LOCAL AGENCIES. COOPERATION HAS BEEN SUBSTANTIAL AND HAS RESULTED IN EXPEDIENT CLEAN-UP OPERATIONS. THE SACRAMENTO COUNTY SIDE OF THE RIVER FROM THE JUNCTION OF THE SACRAMENTO AND AMERICAN RIVERS TO MILLER PARK HAS BEEN COMPLETED. WORK HAS BEGUN ON THE YOLO COUNTY SIDE, WHICH WILL INCLUDE THE AREA FROM THE JUNCTION OF THE SACRAMENTO AND AMERICAN RIVERS TO THE ENTRANCE TO THE BARGE CANAL OF THE PORT OF SACRAMENTO.

COLORADO RIVER PUBLIC SESSION

W 20693
W 20693.1

THE STATE LANDS DIVISION HELD A PUBLIC INFORMATION MEETING IN BLYTHE, ON NOVEMBER 18, 1976, TO INFORM THE GENERAL PUBLIC OF THE DIVISION'S DAVIS LAKE AREA PROJECT SOVEREIGN LAND IDENTIFICATION AND MAPPING EFFORTS.

APPROXIMATELY 35 PEOPLE ATTENDED THE MEETING. MOST OF THOSE ATTENDING WERE REPRESENTATIVES OF VARIOUS PUBLIC AGENCIES, SUCH AS THE U. S. BUREAU OF RECLAMATION AND U. S. BUREAU OF LAND MANAGEMENT. OTHER COMPANIES REPRESENTED INCLUDED THE SAN DIEGO GAS AND ELECTRIC COMPANY, AND THE SAFECO TITLE INSURANCE AND THE TITLE INSURANCE AND TRUST COMPANIES. NO REPRESENTATIVE OF THE ARIZONA STATE LANDS DEPARTMENT WAS PRESENT.

MANY QUESTIONS WERE ASKED BY THOSE WHO ATTENDED, AND A VERY INFORMATIVE DIALOGUE WAS DEVELOPED. HOWEVER, NO REFERENCE MATERIAL OR TESTIMONY WAS OFFERED BY ANYONE ATTENDING THE MEETING THAT WOULD AFFECT THE POSITION OF THE AREA CLAIMED BY THE STATE AS SPECIFIED IN THE DAVIS LAKE BOUNDARY STUDY.

DOW - JOINT HEARINGS

W 21003

ON WEDNESDAY AND THURSDAY, DECEMBER 8 AND 9, SLC PARTICIPATED IN THE COMBINED 5-STATE AGENCY HEARINGS ON THE DOW PETROCHEMICAL PLANT. THE MAIN ISSUE OF THE HEARINGS WAS THE TRADEOFFS TO BE CONSIDERED BETWEEN POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND THE ECONOMIC EFFECTS OF NEW CAPITAL AND JOBS. A SERIES OF SPEAKERS ADDRESSED THE ISSUE ON EACH SIDE, ABOUT TWICE AS MANY SPEAKING AGAINST THE PROJECT AS FOR IT.

NEGOTIATIONS ARE CONTINUING IN THE DIVISION ON THE LEASE TERMS AND CONDITIONS WITH DOW, LOOKING TOWARD RESOLVING REMAINING ISSUES IN ADVANCE OF FINALIZATION OF THE ENVIRONMENTAL IMPACT REQUIREMENTS.

THE FINAL PHASE OF THE COMBINED HEARINGS WILL BE HELD THIS FRIDAY, DECEMBER 17. SLC WILL AGAIN PARTICIPATE TO THE CONCLUSION OF THE HEARING PROCESS.

STAFF WILL REPORT BACK TO THE COMMISSION AFTER THE SUPPLEMENTAL DATA HAS BEEN MADE AVAILABLE AND HEARING NOTES HAVE BEEN PUBLISHED.

CITY OF LONG BEACH

W 10326

THE CITY OF LONG BEACH, UNDER THE TERMS OF THEIR GRANT, IS REQUIRED TO OBTAIN PRIOR APPROVAL FROM THE STATE LANDS COMMISSION FOR THE EXPENDITURE OF OIL REVENUE ON A PROJECT WHICH IS IN EXCESS OF \$50,000. THE CITY CURRENTLY HAS ISSUED A CONTRACT TO EXPEND \$310,000 OF OIL REVENUE ON A FEASIBILITY STUDY FOR A PROPOSED MARINA ON THE TIDELANDS IN THE DOWNTOWN AREA, AND CONTENDS THAT PRIOR APPROVAL IS NOT REQUIRED BECAUSE AN ADEQUATE DETAILED DESCRIPTION OF THE PROJECT CANNOT BE MADE UNTIL THE PRELIMINARY PLANNING HAS BEEN DONE. THE CITY'S POSITION IS TO CONDUCT THE FEASIBILITY STUDY AND THEN IF A DECISION IS MADE TO CONSTRUCT THE MARINA, THE FUNDS EXPENDED FOR THE FEASIBILITY STUDY WOULD BE INCORPORATED IN THE PROJECT FUND PRIOR APPROVAL REQUEST TO THE COMMISSION FOR THE MARINA.

THE ATTORNEY GENERAL'S OFFICE AND THE DIVISION CURRENTLY ARE NOT IN AGREEMENT WITH THE CITY'S CONTENTION THAT THIS TYPE OF EXPENDITURE DOES NOT REQUIRE PRIOR APPROVAL BY

THE COMMISSION. WHILE NOT OBJECTING TO THE CITY'S ACTION IN THIS INSTANCE, UPON THE ADVICE OF THE ATTORNEY GENERAL'S OFFICE, THE CITY HAS BEEN FORMALLY NOTIFIED THAT IN THE FUTURE, EXPENDITURES OF OIL REVENUE IN EXCESS OF \$50,000 FOR PLANNING WILL REQUIRE PRIOR APPROVAL. PHASE I AND PHASE II PRIOR APPROVAL ARE NOW GIVEN FOR SUBSIDENCE COSTS AND THIS TYPE OF PROCEDURE WILL BE FOLLOWED IN THE FUTURE.

DREDGING PERMITS

W 9270.1

THE U. S. ARMY CORPS OF ENGINEERS ESTIMATES THAT FUTURE DREDGING REQUIREMENTS TO MAINTAIN HARBOR AND MOORING FACILITIES IN SAN FRANCISCO BAY WILL BE 200 MILLION CUBIC YARDS OVER THE NEXT 20 YEARS. THE PRACTICE OF THE CORPS OF ENGINEERS HAS BEEN TO APPROVE PLACEMENT OF MOST OF THE DREDGE SPOIL IN SITES WHERE ACTIVE CURRENTS CAUSE THE SPOIL TO MIGRATE CONSIDERABLY.

A SIGNIFICANT COMPONENT OF THE SEDIMENT BEING REMOVED PROBABLY COMES FROM PREVIOUSLY SPOILED DREDGED MATERIAL. ADDITIONALLY, THE CORPS STUDY INDICATES THAT THE ANNUAL INFLOW OF SEDIMENT TO THE BAY EXCEEDS THE OUTFLOW BY ABOUT 4 MILLION CUBIC YARDS.

ON TODAY'S CONSENT CALENDAR THERE IS AN EXTENSION OF A MAINTENANCE DREDGING PERMIT IN SAN FRANCISCO BAY (STANDARD; RICHMOND LONG WHARF; 43,000 CU. YDS; 10 CENTS/YD)

SPOILS ARE TO BE DISPOSED OF AT THE U. S. ARMY CORPS OF ENGINEERS APPROVED SAN FRANCISCO BAY DISPOSAL SITE SOUTH OF ALCATRAZ ISLAND.

THE DIVISION HAS A LARGE NUMBER OF OTHER DREDGING APPLICATIONS IN VARIOUS STAGES OF PROCESSING. BECAUSE OF THE MAGNITUDE OF THE EVER-INCREASING SEDIMENT LOAD, IT APPEARS NECESSARY TO CONSIDER THE POTENTIAL IMPACT ON STATE LANDS OF ALL APPLICATIONS, AND IT IS SUGGESTED THAT THE STAFF BE GIVEN PERMISSION TO HOLD PUBLIC HEARINGS, AND TO CONDUCT A STUDY OF THE PROBLEM.

GRAVITY DIFFERENTIAL

THERE IS SOME QUESTION AS TO THE PAYMENT OF MAXIMUM CEILING PRICE FOR STATE-OWNED CRUDE OIL AS REFLECTED IN THE RECENT FEA RULING ON GRAVITY DIFFERENTIAL. STAFF FEELS SUCH NON-PAYMENT PLACES THE CONTRACTOR IN DEFAULT AND RECOMMENDS TO THE COMMISSION THAT STAFF BE DIRECTED TO TAKE ALL STEPS FOR LEGAL REMEDY ON THIS MATTER. IN THIS CONNECTION, ON DECEMBER 3, 1976, LETTEPS WERE SENT TO ALL OF THE STATE'S LESSEES DEMANDING THAT THE MAXIMUM CEILING PRICE FOR LOWER TIER OIL BE PAID TO THE STATE PURSUANT TO THEIR RESPECTIVE LEASES, COMMENCING OCTOBER 1. A COPY OF THE LETTER WHICH WAS SENT TO EACH OF THE OIL COMPANIES IS BEFORE YOU. THE STATE'S POSITION IS THAT STRIPPER OIL PRICE POSTING IS THE BEST INDICATION OF FAIR MARKET VALUE, AND THE STATE IS ENTITLED TO BE PAID THAT AMOUNT UNLESS RESTRICTED BY FEDERAL REGULATIONS SUCH AS MAXIMUM CEILING PRICES ON UPPER AND LOWER TIER CRUDE. IT IS REQUESTED THAT YOU RATIFY THIS ACTION AND FIND THAT THE STAFF'S POSITION WITH REGARD TO THE FAIR MARKET VALUE OF OIL IS AS STATED IN THIS LETTER.

RECORD OF ACTION TAKEN BY THE
STATE LANDS COMMISSION
AT ITS MEETING OF DECEMBER 15, 1976

During the meeting, the recommendations of the staff relative to Calendar Items C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, C12, C13, C14, C15, C16, C17, C18, C19, C20, C21, C22, C23, 25, 30, 33, 34, 35, 37, 38, 42, 43, 44, 45, 46, 47, 49, 50, 51, and 52 were adopted as resolutions of the Commission by unanimous vote.

Commission action on Calendar Items 26, 27, 28, 29, 31, 32, 36, 39, 40, and 48 are set forth on pages 1561, 1567, 1570, 1576, 1592, 1596, 1612, 1627, 1629 and 1646.

Calendar items 24 and 41 were withdrawn from the agenda.

Status of major litigation is set forth on page 1659.