

STATE OF CALIFORNIA
Minutes of the Meeting of the
State Lands Commission
Sacramento, California

APPEARANCES

Commissioners Present:

Kenneth Cory, State Controller, Chairman
Betty Jo Smith, Staff Counsel to the
Lieutenant Governor, Alternate to the
Lieutenant Governor, Mervyn M. Dymally,
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
Richard S. Golden, Assistant Executive Officer
James F. Trout, Manager, Land Operations
W. M. Thompson, Manager, Long Beach Operations
A. D. Willard, Supervising Mineral Resources
Engineer
L. H. Grimes, Assistant Manager, Land
Operations
Robert C. Hight, Chief Counsel
Stephen Mills, Staff Counsel
Diane Jones, Secretary

Representing the Office of the Attorney General:

N. Gregory Taylor, Assistant Attorney General
Allan Goodman, Deputy Attorney General
Jan Stevens, Assistant Attorney General
Margaret Rodda, Deputy Attorney General
Katherine E. Stone, Deputy Attorney General
Dennis Eagan, Deputy Attorney General

Re Minute Item 18: Review Status of Los Angeles Harbor Fund

Larry Hoffman, Chief Assistant Attorney,
Representing the City of Los Angeles
Assemblyman Vincent Thomas, Representing 52nd
District, California State Legislature

MINUTES OF THE STATE LANDS COMMISSION
MEETING OF
FEBRUARY 24, 1977

Chairman Kenneth Cory, State Controller, called the regular meeting of the State Lands Commission to order at 10:07 a.m., in Room 2117, State Capitol, Sacramento. Other members present included Commission-alternate Sid McCausland, Deputy Director of Finance, representing Commissioner Roy M. Bell, Director of Finance; and Betty Jo Smith, Staff Counsel, representing Commissioner Mervyn M. Dymally, Lieutenant Governor.

The minutes of the meeting of January 26, 1977 were approved as written.

EXECUTIVE OFFICER'S REPORT

W 9777

The Commission expressed its support for S 682 amending the Ports and Waterways Safety Act of 1972 entitled "The Tanker Safety Act of 1977". In addition, they directed the staff to advise Senator Magnuson of Washington State of this support and that the staff of the Division would be available to provide assistance.

With regard to the public hearings concerning subsidence costs at Gas Department Plant No. 1, Long Beach, Mr. Northrop advised that staff had met individually with Assemblymen Fred Chel and Mike Cullen and Senator George Deukmejian on this matter.

W 10312

Mr. Northrop's written statement is attached as Exhibit "A".

W 5762

ASSISTANT EXECUTIVE OFFICER'S REPORT

W 9601

During Mr. R. S. Golden's report, he pointed out a potential conflict which may arise with the Coastal Commission, S.F. Bay Conservation and Development Commission, and the State Lands Commission concerning the determination of a project's consistency with the public trust. Each representative from the Attorney General's office representing these Commissions have advised their clients that they are responsible. Mr. McCausland asked if the staff had any suggestions as to how the State Lands Commission could encourage the other two entities to respect its responsibility in terms of the trust. Mr. Golden stated that State Lands and BCDC had signed a resolution indicating mutual cooperation. He indicated the same type of arrangement would probably be made with the Coastal Commission.

Another problem pointed out by Mr. Golden was that the Coastal Commission has not included State Lands in its new regulations. Mr. McCausland suggested that the staff continue to evaluate the situation. However, if it is concluded that this Commission should address a resolution to the other two organizations expressing its interest in working with them and protecting the primary role of State Lands with regard to the public trust, the staff could present it to the Commission at a later date.

Mr. Golden's report is attached as Exhibit "B"

Attachments: Exhibits "A" and "B"

EXHIBIT "A"

EXECUTIVE OFFICER'S REPORT

BY

WILLIAM F. NORTHROP
EXECUTIVE OFFICER

FEBRUARY 24, 1977

W 9714.1
W 9777

CONGRESSIONAL TANKER SAFETY BILL

On February 10, 1977, Senator Warren Magnuson introduced in Congress a bill to amend the Ports and Waterways Safety Act of 1972 (S 682), entitled "The Tanker Safety Act of 1977".

Staff has been reviewing the bill and finds that many of the provisions of this bill are worthy of support from the Commission.

Briefly, the bill:

- A) Creates a new 200-mile "Maritime Safety Zone" wherein all oily discharges are prohibited;
- B) Establishes minimum tanker requirements including dual radar, collision avoidance systems, latest navigation systems, retrofitting of segregated ballast, gas inerting systems, double bottoms on hulls for new tankers, back-up boiler, etc.;
- C) Establishes a program to prevent substandard vessels from entering or leaving U.S. ports;
- D) Provides for improved inspection and enforcement; and A cargo preference feature (30% oil cargoes in U.S. vessels).

While the bill will undoubtedly be subject to substantial revision, staff recommends that the Commission support the bill in principle, and inform Senator Magnuson that the Commission's staff would be available to provide assistance.

SUBSIDENCE COSTS HEARING -
GAS DEPARTMENT PLANT NO. 1

W 10312

At its January meeting, the Commission resolved that the Executive Officer shall notice and conduct hearings on the application for prior approval of subsidence remedial costs at the Gas Department Plant No. 1, Long Beach. The matter was scheduled to be heard during the first week in March. The City has now requested that the hearings be taken off calendar until the Master Plan for the Port of Long Beach has been accepted by the Coastal Commission.

The City has indicated it will keep the State Lands Division advised of its progress in the preparation of its Master Plan for the Port and seek appropriate comments from the Commission.

Mr. James McJunkin, the new General Manager of the Port of Long Beach, has indicated that the Port's position is that it is entitled to approximately \$100 million from tideland revenues as subsidence costs under Chapter 138 to fill the land area in the Harbor District to a uniform elevation. The reason for calling this to the Commission's attention is that if the Port is correct in this position, there would be a substantial decrease in State tideland oil revenues from Long Beach. The tentative staff position is that while each application must be individually reviewed to determine whether proper subsidence costs are claimed, the cost of filling all the land in the Harbor District to a uniform elevation does not appear to be justified as a subsidence expense, in light of Chapter 138.

EXHIBIT "B"

February 24, 1977

REPORT OF ASSISTANT EXECUTIVE OFFICER
ON STATE COASTAL COMMISSION AND BAY
CONSERVATION AND DEVELOPMENT
COMMISSION REPRESENTATION

W 5762
W 9601

For approximately five years, I have represented the Commission as a voting delegate on the San Francisco Bay Conservation and Development Commission. With the enactment of the Coastal Act of 1976, I currently sit as a nonvoting member of the State Coastal Commission as an alternate for the Chairperson of the State Lands Commission.

By provision of the Coastal Act of 1976, BCDC and the Coastal Commission must jointly determine how they will interrelate and present recommendations to the Legislature by July 1, 1978. Since both of these agencies have regulatory jurisdiction over lands managed by the State Lands Commission, there are areas where policy conflict may arise between these various Commissions.

I will quickly summarize some of the major areas in which our operations are being impacted by policies of these other Commissions.

One of the principal areas where there is potential for conflict is in determination of a project's consistency with the public trust and the exercise of that trust. Various spokesmen for the Attorney General, each representing a different agency, have been advising their clients that each of the agencies is responsible for this function. Obviously some resolution of this matter by the Attorney General is essential if the State is to avoid conflicting findings. BCDC has recently begun making public trust findings on projects in their area.

More recently BCDC approved the construction and use of a

dike at Martinez Marina for protecting the marina and alleviating erosion, and the construction of a breakwater and other remedial work at the Vallejo Municipal Marina. In both cases they made findings that these projects were consistent with the public trust. There is no discussion offered to members of BCDC as to how these findings are substantiated. I questioned the procedure and requested that if they insisted on making these findings they should at least coordinate with this Commission so that divergent interpretations can be avoided.

With respect to BCDC, Mr. Taylor has advised me that he will seek a resolution of this matter in their office at an early date.

A meeting has been set for March 4 with the Coastal Commission staff, our staff and representatives of the Attorney General's staff to attempt to arrive at mutually acceptable procedures relative to public trust determinations.

Another matter which is being considered currently by all three Commissions is the matter of tanker safety. Largely through the instigation of Supervisor Quentin K. Kopp of San Francisco, BCDC is being projected into considering proposing legislation to give themselves power to restrict tankers in the Bay by issuing permits to each tanker. In the alternative, Supervisor Kopp is seeking to have BCDC institute a legal mandamus action to compel the Coast Guard to enforce Federal tanker regulations.

Since the problem is statewide, it would seem inappropriate to designate an agency such as BCDC which has only limited jurisdiction.

The State Coastal Commission has been monitoring the actions of other agencies but at this point no recommendations have been made.

Staff of the Coastal Commission recently reviewed this Commission's proposed Coastal Management Regulations (on Calendar for adoption today - Item 20) which included several sections dealing with tanker technology and terminal operation within the coastal zone. Those regulations specified that this Commission would take a much more aggressive position in terms of controlling this hazardous activity. The Coastal Commission's staff indicated that they supported our adoption of these regulations which would complement the Coastal Commission's responsibilities.

Since the new Coastal Commission took office on January 1, 1977, I have attended three out of four of the meetings held. Most of the time consumed at these meetings, which last from ten to twelve hours over a two-day period twice a month, is relate to hearing permit appeals from the regional commissions. These appeals are largely involving residence units and lot splits. Less than a handful have had a direct or indirect connection with lands under our jurisdiction although under the Coastal Act all of our lands along the coast are encompassed by the Coastal Commission's land use regulations. The primary benefit so far of our attendance at the meetings is that it gives our staff advance notification of problems which should be resolved in both of our jurisdictions before inconsistent actions take place. This working relationship will be especially important when we get into reviewing local coastal plans and port master plans.

STATE LANDS COMMISSION

AT ITS MEETING OF FEBRUARY 24, 1977

During the meeting, the recommendations of the staff relative to Calendar Item C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11, C12, C13, C14, C15, C16, C17, 22, 23, 24, 26, 27, 28, 29, 30, 31, 33, and 34 were adopted as resolutions of the Commission by unanimous vote.

Commission action on Calendar Item 18, 19, 20, 21, 25 and 32 are set forth on pages 181, 187, 194, 196, 211, and 225.

Status of major litigation is set forth on page 231.