

**CALENDAR ITEM
01**

A	Statewide	04/04/17 503.2096
S	Statewide	S. Blackmon M. Meier

**CONSIDER WHETHER TO DISCUSS PENDING LITIGATION
IN CLOSED SESSION**

PARTY:

California State Lands Commission

BACKGROUND:

Pursuant to section 11125.4 of the Government Code, the Commission may hold a special meeting to consider pending litigation when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest.

Under section 11126, subdivision (e)(1), of the Government Code, the Commission may hold a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. Government Code section 11126, subdivision (e)(2)(B)(i), provides that, for purposes of section 11126, litigation shall be considered pending when a point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

It is the opinion of the Commission's legal counsel that pending litigation as it is defined under section 11126 of the Government Code exists and that discussion of matters pertaining to the pending litigation in open session would prejudice the Commission's position in that litigation. Staff therefore recommends that the Commission discuss the matter in closed session.

STATUTORY REFERENCES:

Government Code sections 11125.4 and 11126; Public Resources Code section 6301.

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RECOMMENDATION:

It is recommended that the Commission:

1. Find that the delay necessitated by providing notice 10 days prior to a meeting as required by Government Code section 11125 would cause a substantial hardship on the Commission and that immediate action is required to protect the public interest.
2. Find that a point has been reached where, in the opinion of the Commission on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation and liability against the State of California, acting by and through the Commission.
3. Find that discussion of matters pertaining to the pending litigation would prejudice the position of the State of California and the Commission and that such prejudice would be avoided if the pending litigation is discussed in closed session.
4. Approve discussion in closed session of matters pertaining to the pending litigation.