

A meeting of the State Lands Commission was held in the office of the Governor, State Building, Los Angeles, California, at 11 o'clock A. M., January 8, 1940.

Present were:

John R. Richards, Chairman  
Ellis E. Patterson, Member

Absent was:

Harry B. Riley, Member

The Executive Officer presented to the Commission a letter to the State Lands Commission from the Attorney General dated December 30, 1939, with reference to intervention by the Attorney General for a hearing in the matter of Standard Oil Company of California, a corporation, et al., vs. United States of America, which said communication is hereinafter set forth in following resolution.

By motion of Mr. Patterson, seconded by Mr. Richards, and unanimously carried, a resolution was adopted in words and figures as follows, to wit:

#### RECITAL

The State Lands Commission is in receipt of a communication from the Attorney General dated December 30, 1939, as follows:

"There has come to the attention of this office an action entitled Standard Oil Company of California, a corporation, Henry Fairbank et al., Petitioners, vs. United States of America, this being a petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit, said petition pending in the Supreme Court of the United States.

"The object of the proceeding in the United States Supreme Court is to review a decision of the U. S. Circuit Court of Appeals which, in turn, had accepted as conclusive a decision of the Secretary of the Interior, to the effect that a section 36 in the Elk Hills District was known mineral land on the date of the approval of the survey and hence had not passed from the Federal government by the School Grant of March 3, 1853.

"It has been represented to this office that the decision of the Circuit Court of Appeals, if permitted to stand, will seriously affect the rights of the State of California in relation to a great number of its school lands, and it has been suggested that in the interests of this State this office should either file a brief as amicus curiae before the

Supreme Court or in some other way intervene in the action, at least to the extent of requesting the United States Supreme Court to entertain the proceeding. Before doing so we felt that we would desire an expression of view on the part of the State Lands Commission as to whether it entertained a like view of the seriousness of such decision and the desirability of having the State's interests represented therein.

"I enclose herewith a copy of the decision in question. You will observe therefrom that it in effect holds that in such matters the decision of the Secretary of the Interior, upon the facts, is conclusive. This means that the question whether the State holds title to any sixteenth or thirty-sixth section under such grant is one to be determined by the Secretary of the Interior on such facts as he finds and is not one, the determination of which may be tested by the State in any judicial proceeding. I also enclose a copy of the Petition for Writ of Certiorari and a copy of Brief of California Land Title Association as Amici Curiae.

"I would thank you to advise me as to your views at your very earliest convenience as the time within which this office must act, if it is to act at all, is extremely limited."

In said letter the Attorney General expresses the opinion that the decision of the Circuit Court of Appeals, affirming a decision of the U. S. District Court, holds in effect that the decision of the Secretary of the Interior, upon such facts, is conclusive in determination whether minerals contained in school lands heretofore surveyed and listed or conveyed to the State are now the property of this State or the United States of America.

The State of California now owns approximately 800,000 acres of school lands and lands in lieu thereof. At the special session of the Legislature in 1938, the Legislature reserved to the State one hundred percent of all minerals contained in such lands. Under the present opinion as construed by the Attorney General of this State, the Secretary of the Interior, acting in an administrative capacity, would, therefore, be empowered to determine whether minerals contained in such lands heretofore surveyed and listed or conveyed to the State, are the property of the United States Government or the State of California.

NOW THEREFORE BE IT RESOLVED, That the Executive Officer be and he is hereby empowered and directed to request the Attorney General of this State to take such action in the matter of Standard Oil Company of California, et al., vs. U. S. of America, now pending in the Circuit Court of Appeals in and for the 9th District, as he may deem proper to protect the interests of the State in lands heretofore surveyed and listed or conveyed to the State.

There being no further business to come before the Commission, the meeting was adjourned.