

(MR. EVERETT W. MATTOON, AT THE TIME THE COMMISSION WAS CONSIDERING ADOPTION OF RULES AND REGULATIONS PERTINENT TO OIL AND GAS OPERATION, SUGGESTED THAT SUCH A VALIDATION ACT BE INTRODUCED.)

(W.O. 2115.3) HAVE INTRODUCED A BILL OR BILLS, WITH THE CONCURRENCE OF THE ATTORNEY GENERAL AND OF THE COUNTY BOARDS OF SUPERVISORS, THAT WOULD COORDINATE COUNTY BOUNDARIES WITH THE SEAWARD STATE BOUNDARY AS SET FORTH IN SECTIONS 170 AND 171 OF THE GOVERNMENT CODE. (THIS IS ANOTHER LEGISLATIVE PROBLEM THAT MR. MATTOON SUGGESTED SHOULD BE CONSIDERED.)

10. (DEFERMENT OF OPERATING REQUIREMENTS, MINERAL EXTRACTION LEASE P.R.C. 1314.2, ARGUS DEVELOPMENT COMPANY, INYO COUNTY.) The following report was presented to the Commission:

"On July 28, 1954 (Minute Item 8, page 2109) the Commission authorized the Executive Officer to grant a deferment of the operating requirements specified in Section 10 of Mineral Extraction Lease P.R.C. 1314.2 for the lease year ending May 21, 1954, all other terms, conditions, and performance requirements under the subject lease to remain unchanged. Lease P.R.C. 1314.2 requires, in part, that the lessee shall complete at least 100 shifts of work during each year of the term of the lease. Ten shifts were completed during the lease year ending 1955 and eight shifts have been completed during the lease year ending 1956. The lessee has reported extreme difficulty in obtaining mining personnel for the desert area in which the lease is located, but that it can now reasonably be anticipated that development under the lease can proceed. In consideration of the lack of competition in bidding at the time of the lease offer and the annual rental prepayments which have been made,"

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED AS FOLLOWS:

THE EXECUTIVE OFFICER IS AUTHORIZED TO GRANT A DEFERMENT OF THE OPERATING REQUIREMENTS SPECIFIED IN SECTION 10 OF MINERAL EXTRACTION LEASE P.R.C. 1314.2 FOR THE LEASE YEARS ENDING MAY 21, 1955 AND MAY 21, 1956, ALL OTHER TERMS, CONDITIONS, AND PERFORMANCE REQUIREMENTS UNDER THE LEASE TO REMAIN UNCHANGED.

11. (LOCATION OF BOUNDARY LINE BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS AND TUOLUMNE COUNTIES - W. O. 710.) The following report was presented to the Commission:

"At the meeting of the State Lands Commission of December 17, 1954 (Item No. 35, Minute pages 2226-2229) the Commission made a finding as to the location of the boundary between Alpine County and the counties of Amador, Calaveras and Tuolumne. In addition to the finding as to the location of the boundary, the Commission also stated:

'FURTHER, THE EXECUTIVE OFFICER IS DIRECTED TO ADVISE THE COUNTIES AT INTEREST OF THIS FINDING. BEFORE UNDERTAKING TO "SURVEY AND MARK" SAID BOUNDARY, HE SHALL REPORT TO THE COMMISSION AS TO THE DECISION RENDERED IN THE NOW PENDING CASE, COUNTY OF ALPINE VS. COUNTY OF TUOLUMNE, COUNTY OF CALAVERAS AND COUNTY OF AMADOR, SUPERIOR COURT, COUNTY OF STANISLAUS, NO. 52559, AND AWAIT THE INSTRUCTIONS OF THE COMMISSION.'

"Subsequently the Superior Court of the County of Stanislaus, under Case No. 52559, rendered a decision as follows:

'The Demurrers to the First Amended Complaint in the above-entitled case having been heretofore submitted to the Court on the 28th day of February, 1955, and after due consideration thereof, it is ordered that the Demurrers will be sustained upon the ground of lack of jurisdiction in the Court, without leave to amend.

'DATED: June 13, 1955.

'(Opinion filed herewith.)

'H. L. CHAMBERLAIN
JUDGE OF SAID SUPERIOR COURT'

"Alpine County appealed this decision, and action by the Third District Court of Appeals in Sacramento is now being awaited.

"Recently a Mr. John P. Ryan, who was a witness in the hearings conducted by the Executive Officer in 1952 and 1953, has been writing to the members of the Commission and to the Attorney General's office, urging that action be taken to the effect that the Commission had no jurisdiction in the matter. Mr. Ryan requested that he be permitted to appear before the Commission, and it is understood that he proposes to do so at this meeting.

"This matter is still in the hands of the courts, and, upon advice by the office of the Attorney General, it appears that the Commission might properly adhere to the position it took at the meeting of December 17, 1954.

"IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER CONTINUE TO CONFORM TO THE INSTRUCTIONS GIVEN BY THE COMMISSION AT ITS MEETING OF DECEMBER 17, 1954."

Mr. John P. Ryan appeared before the Commission, stating that he was doing so at the request of the Board of Supervisors of Alpine County. He proceeded to review the background on the case, and then stated that there appears to be a stalemate, whereupon it was pointed out by the Executive Officer that the matter of jurisdiction is up for a decision by the Third District Court of

Appeals in Sacramento, and that until that court makes a ruling the Commission cannot act.

Mr. Ryan then went on to say that on behalf of the Board of Supervisors he was taking exception to every finding of the Executive Officer; that not one finding is supported by evidence; that there is a rule of court that the examining officer is limited to the facts before him.

The Executive Officer suggested that the Appellate Court unquestionably would take action on Judge Chamberlain's ruling, and indicated that he felt it would be presumptuous of the Commission at the present time to anticipate what action that court might take.

Mr. Jay Shavelson of the Attorney General's office stated that the matter is pending in the District Court of Appeals, and that to the best of his knowledge there has been no Writ of Supersedeas; that it would be best to see whether the Superior Court's decision is upheld before the State Lands Commission proceeds further on this problem. He believes that the court's opinion as to which agency has jurisdiction would be much better than an opinion of the Attorney General.

Mr. Ryan contended that the Commission erred in accepting as facts certain evidence presented, whereupon Mr. Kirkwood indicated that an opinion of the Attorney General might be requested on this point.

Mr. JOHN E. Blakeley, Consulting Engineer for the County of Alpine, called to the attention of the Commission that there is a tax problem involved which vitally affects the County of Alpine. In addition, the Forest Service representative from the Stanislaus and the Calaveras National Forests has indicated that logging is going to take place soon within the controversial areas and that money from this operation will go to the counties. A further complication is that the boundaries and acreage upon which the tax split will be made are based upon the statements of the Forest Service, and they agree that there is no good acreage figure for the County of Alpine because the boundary lines have never been properly set.

Mr. Shavelson indicated that on the basis of the Court's having taken judicial notice of all proceedings of the State Lands Commission in this matter, there would be no basis for an opinion of the Attorney General.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED THAT THE EXECUTIVE OFFICER SHOULD REQUEST THE OFFICE OF THE ATTORNEY GENERAL FOR AN OPINION AS TO WHETHER THE STATE LANDS COMMISSION HAS JURISDICTION IN THE MATTER OF SETTLING THE CONTROVERSY AS TO THE LOCATION OF THE BOUNDARY LINE BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS AND TUOLUMNE COUNTIES.

12. (SMALL CRAFT HARBOR PLANNING - W. O. 2111.) The following report was presented to the Commission:

"Pursuant to Chapter 1850 of the Statutes of 1955, and as a preliminary step to the requirements for a report by the State Lands Commission, the Executive Officer of the State Lands