

MINUTE ITEM

17. (CONSIDERATION OF SUBSIDENCE COSTS - L.B. W.O. 10,037.)

Following presentation of Calendar Item No. 24 attached, Mr. Harold A. Lingle, City Attorney for Long Beach, appeared and indicated that the item had been discussed extensively and that he was not in accord with the views expressed, as it had been believed by Long Beach that the entire amount requested would be allowed as subsidence. He indicated that his office wanted to retain the right to disagree with the recommendation of the Commission's staff, and pointed out that it was not their idea to buy the lands in question because they wanted to but because they felt that they had to buy them to protect themselves. Mr. Lingle went on to say that notice had not been received about this item until Monday, May 6, which gave them a very short time to act. They want to maintain their position that they are entitled to these costs, and would like to get this problem ironed out as rapidly as possible. They had planned to make expenditures of \$410,000, and on May 6 were told they could not make these; however, on some contracts they are already in a position where they could not back out and they are going to have to make payment whether or not they get State approval because they are legally liable. They would like to get together with the Commission and talk the problem over so that necessary plans can be made.

The Executive Officer reported that it was the plan of the staff to work out the problem as rapidly as possible, and that it might be necessary to request an interim meeting of the Commission for about May 25 to take care of this item, together with the water pressurization problem.

Deputy Attorney General Jay L. Shavelson asked if the reason for the staff's recommendation had been made clear; in other words, that the Attorney General was apprised that the lands being purchased have a definite value for purposes other than for protection from subsidence; that the land, although purchased for that purpose, does, once it is purchased, have other value. His office was also told that final evaluation of the lands could not in some cases be made for a period of one or two years, which was the reason for the action taken. Mr. Shavelson further stated that it was felt that the State is entitled to a credit for the lands for their value other than for subsidence; that on final engineering and audit review it may be found that they should not be given a 100% deduction, and that for that reason it has been felt that the amounts allowed to be withheld should not greatly exceed the amounts that are going to be ultimately allowed.

See Minute Item No. 18 following for comments made by Mr. Philip J. Brady of Long Beach.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION APPROVES THE COSTS PROPOSED TO BE EXPENDED BY THE CITY OF LONG BEACH, INCLUDING SUBSIDENCE REMEDIAL WORK, IN THE TOTAL AMOUNT OF \$709,993 AS SHOWN ON EXHIBIT "A" HEREOF, AND THE ESTIMATED EXPENDITURES IN THE MONTH OF JUNE, 1957 IN THE AMOUNT OF \$50,000 TO COVER COSTS OF "FORCE ACCOUNTS AND VOUCHERS OTHER THAN CONSTRUCTION"; SUBJECT TO THE CONDITION, HOWEVER, THAT THE AMOUNT, IF ANY, OF EACH OF THE ITEMS TO BE ALLOWED

ULTIMATELY AS SUBSIDENCE COSTS, DEDUCTIBLE UNDER SECTION 5(a) OF CHAPTER 29, STATUTES OF 1956, 1ST E.S., WILL BE DETERMINED BY THE COMMISSION UPON AN ENGINEERING REVIEW AND FINAL AUDIT SUBSEQUENT TO THE TIME WHEN THE WORK UNDER ANY OF THESE ITEMS IS COMPLETED; PROVIDED THAT NO ESTIMATE SHALL BE PRESENTLY MADE OF THE AMOUNT OF THE SUBSIDENCE DEDUCTION ULTIMATELY TO BE ALLOWED BY VIRTUE OF THE SPECIFIED PROPERTY PURCHASE, AND THE CITY OF LONG BEACH IS NOT AUTHORIZED TO WITHHOLD FROM REVENUES DUE TO THE STATE ANY PORTION OF THE COSTS OF SUCH PROPERTY PURCHASE UNTIL FURTHER ACTION BY THE COMMISSION; AND THE EXECUTIVE OFFICER OR THE ASSISTANT EXECUTIVE OFFICER OR THE MINERAL RESOURCES ENGINEER ARE AUTHORIZED TO EXECUTE APPROPRIATE WRITTEN INSTRUMENTS REFLECTING THE COMMISSION'S CONDITIONAL APPROVAL.

Attachment

Calendar Item 24 (2 pages)

CALENDAR ITEM

SUPPLEMENTAL

24.

(CONSIDERATION OF SUBSIDENCE COSTS - L.B. W.O. 10,037.)

On April 8, 1957 (Minute Item 7, page 3047), the Commission approved the costs proposed to be expended by the City of Long Beach, including subsidence remedial work, during April, 1957 and estimated expenditures in the first portion of May, 1957 for payrolls and similar items.

The same elements of subsidence costs expenditures which are to be paid during May, 1957, accountable under subsidence costs not included in projects approved heretofore by the Commission, will require approval by the Commission if credit is to be received by the City of Long Beach for such costs under the provisions of Section 5(a), Chapter 29, Statutes of 1956, 1st E.S. The staff of the State Lands Division has reviewed statements made by the City of Long Beach with respect to such expenditures during May, 1957. These amounts are tabulated in Exhibit "A" attached hereto. From a review with the office of the Attorney General relative to costs proposed to be expended in the amount of \$410,000 to cover costs of property purchase (final item Exhibit "A"), it has been concluded that the estimates of the subsidence element in this item should be withheld and that no current approval should be given to further withholding of funds for property purchases. The amounts previously withheld for this purpose by the City of Long Beach as tentative subsidence deductions may substantially exceed the amounts which will be ultimately allowable. Since Chapter 29 makes no provision for interest on amounts returned to the State because of excessive estimates of subsidence costs, such estimates should approximate as closely as possible the amounts ultimately to be allowed. Pending an administrative solution of this problem with the City of Long Beach, it is suggested that there be no current approval for tentative subsidence deductions to prevent swelling the amounts already withheld. The City is, nevertheless, entitled to prior Commission approval of expenditures so as to preserve its right to subsidence deductions to the extent they are found to be legally allowable. In addition, the Long Beach Harbor Department has requested prior approval by the Commission of an amount of \$50,000 estimated to be expended during the month of June, 1957 for payroll force account and voucher payment other than construction. The subsidence portion of this amount is estimated by the Harbor Department to be 89%.

IT IS RECOMMENDED THAT THE COMMISSION APPROVE THE COSTS PROPOSED TO BE EXPENDED BY THE CITY OF LONG BEACH, INCLUDING SUBSIDENCE REMEDIAL WORK, IN THE TOTAL AMOUNT OF \$709,393 AS SHOWN ON EXHIBIT "A" HEREOF, AND THE ESTIMATED EXPENDITURES IN THE MONTH OF JUNE, 1957 IN THE AMOUNT OF \$50,000 TO COVER COSTS OF "FORCE ACCOUNTS AND VOUCHERS OTHER THAN CONSTRUCTION"; SUBJECT TO THE CONDITION, HOWEVER, THAT THE AMOUNT, IF ANY, OF EACH OF THE ITEMS TO BE ALLOWED ULTIMATELY AS SUBSIDENCE COSTS, DEDUCTIBLE UNDER SECTION 5(a) OF CHAPTER 29, STATUTES OF 1956, 1ST E.S., WILL BE DETERMINED BY THE COMMISSION UPON AN ENGINEERING REVIEW AND FINAL AUDIT SUBSEQUENT TO THE TIME WHEN THE WORK UNDER ANY OF THESE ITEMS IS COMPLETED; PROVIDED THAT NO ESTIMATE SHALL BE PRESENTLY MADE OF THE AMOUNT OF THE SUBSIDENCE DEDUCTION ULTIMATELY TO BE ALLOWED BY VIRTUE OF THE SPECIFIED PROPERTY PURCHASE, AND THE CITY OF LONG BEACH IS NOT AUTHORIZED TO WITHHOLD FROM REVENUES DUE TO THE STATE ANY PORTION OF THE COSTS OF SUCH PROPERTY PURCHASE UNTIL FURTHER ACTION BY THE COMMISSION; AND THAT THE EXECUTIVE OFFICER OR THE ASSISTANT EXECUTIVE OFFICER OR THE MINERAL RESOURCES ENGINEER BE AUTHORIZED TO EXECUTE APPROPRIATE WRITTEN INSTRUMENTS REFLECTING THE COMMISSION'S CONDITIONAL APPROVAL.

Attachment: Exhibit "A"

EXHIBIT "A"

TABULATION OF COSTS PROPOSED TO BE EXPENDED BY CITY OF LONG BEACH
DURING MAY 1957 INCLUDING "SUBSIDENCE COSTS"
ESTIMATED BY LONG BEACH HARBOR DEPARTMENT

<u>WORK ITEM</u>	<u>LOCATION</u>	<u>STATUS % COMPLETE</u>	<u>COSTS PROPOSED TO BE EXPENDED BY CITY OF LONG BEACH DURING MAY 1957 FOR WHICH COMMISSION APPROVAL HAS BEEN REQUESTED</u>	<u>HARBOR DEPT. ESTIMATED % SUBSIDENCE COSTS</u>
9th St. Bridge Approach Area	9th Street	9%	\$275,000*	1%
Santa Cruz Detour Bridge Approach Area	Santa Cruz & Pico	90%	20,000*	64%
Building Removal Items 5 and 8	Areas 4 and 7		3,625	100%
Building Removal Item 2	Areas 4 and 7		768	100%
Property Purchase	Areas 4 and 7		410,000* \$709,393	**

* Estimated Amounts.

** No estimate to be made currently.