

MINUTE ITEM

32. PROPOSED DISMISSAL WITHOUT PREJUDICE BY STATE IN LAWSUIT, CITY OF HERMOSA BEACH VS. STATE OF CALIFORNIA, STATE LANDS COMMISSION, ET AL.; LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 757030 - W.O. 3863.

Mr. Howard S. Goldin, Assistant Attorney General, reviewed the background of Calendar Item 29 attached for the benefit of the Commission, and stated that the City of Hermosa Beach is now desirous of dismissing its complaint for declaratory relief in an action in which the State was the defendant.

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

THE EXECUTIVE OFFICER IS AUTHORIZED TO INFORM THE OFFICE OF THE ATTORNEY GENERAL THAT A DISMISSAL WITHOUT PREJUDICE BE ENTERED ON BEHALF OF THE STATE IN THE MATTER OF CITY OF HERMOSA BEACH VS. STATE OF CALIFORNIA, ET AL., LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 757030.

Attachment

Calendar Item 29 (2 pages)

CALENDAR ITEM

29.

PROPOSED DISMISSAL WITHOUT PREJUDICE BY STATE IN LAWSUIT, CITY OF HERMOSA BEACH VS. STATE OF CALIFORNIA, STATE LANDS COMMISSION, ET AL; LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 757030 - W.O. 3863.

In 1960 the City of Hermosa Beach filed suit against the State of California to obtain judicial determination of the propriety of proposed City Expenditures from its "Offshore Oil Contracts Fund" and its "Uplands Oil Contracts Fund." The City at that time had approximately \$500,000 in these funds, which had been received as bonus for the execution by the City of a "Tidelands Contract" and an "Uplands Rights Agreement." It was possible under these agreements that the City might receive a further \$10,600,000 by way of bonus, and in addition would receive royalties on oil and gas production. The office of the Attorney General on behalf of the State answered the complaint filed by the City alleging that the \$500,000 in the City's "Offshore Oil Contracts Fund" and "Uplands Oil Contracts Fund" and all monies due or to become due under the contracts were subject to the City's tidelands trust for the benefit to the State. By way of Cross-Complaint, the State asserted that a municipal ordinance of the City that prevented development of the City's trust lands was unconstitutional and invalid as applied to those lands. The State granted the tide and submerged lands to the City in trust for commerce and navigation, pursuant to provisions of Ch. 479, Stats. 1919. Minerals were not reserved by the State.

The City of Hermosa Beach has now advised the State that it proposes to use the entire amount of funds in the "Offshore Oil Contracts Fund" and "Uplands Oil Contracts Fund" for a fishing pier, in cooperation with the State Wild Life Conservation Board. The State of California Wild Life Conservation Board will allocate matching funds not to exceed \$300,000 for the construction of a public fishing pier, which under the City agreement with the Department of Fish and Game, will be a free public fishing pier. The plan includes a small facility for restrooms, for storage, and for the sale of bait, tackle and refreshments. Any revenues derived from the facility are to be accounted for to the Department of Fish and Game and are to be expended only upon the project facilities. With the completion of the proposed fishing pier, no further funds will remain in the oil contract funds. The City has requested that the parties dismiss the lawsuit without prejudice.

A report was prepared on June 17, 1963, by Kemmize and Diepenbrock, geologists and petroleum engineers, which concluded that under current conditions it would not be economically feasible to develop a possible reservoir under the tide and submerged lands granted to the City of Hermosa Beach. Since the City of Hermosa Beach, by going forward with the construction of the fishing pier, is expending the oil contract revenues for trust purposes, and since it is not likely that there will be any leasing of the tide and submerged lands for extraction of oil and gas in view of the unfavorable report by the geologists, the question of the validity of the anti-drilling ordinance is moot in this case. Thus, it would appear that the City's request for dismissal of the lawsuit is in the best interest of the State.

CALENDAR ITEM 29. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO INFORM THE OFFICE OF THE ATTORNEY GENERAL THAT A DISMISSAL WITHOUT PREJUDICE BE ENTERED ON BEHALF OF THE STATE IN THE MATTER OF CITY OF HERMOSA BEACH VS. STATE OF CALIFORNIA, ET AL, LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 757030.