

MINUTE ITEM

8/21/75
RCH

28. STATUS OF MAJOR LITIGATION.

The attached Informative Calendar Item 28 was submitted to the Commission for information only, no action thereon being necessary.

Attachment:

Informative Calendar Item 28 (5 pages)

STATUS OF MAJOR LITIGATION

As of July 31, 1975, there were 262 litigation projects involving the Commission, up 3 from last month.

1. Pariani v. State of California W 503.737
San Francisco Superior Court Case No. 657291

(Plaintiff seeks to quiet title to three parcels of land in Sonoma and Lake Counties. State patented said land into private ownership in 1953, reserving all mineral rights. Plaintiff now seeks to determine whether geothermal energy was reserved to the State under the 1953 patent.)

A trial date has been set for November 24, 1975.

2. Union Oil Company of California v. Houston I. Flournoy, et al. W 503.747
U. S. District Court, Central District

(An action by Union Oil Company to prevent the State from selling royalty oil.)

Under State Oil and Gas Lease PRC 3033 entered into with Union Oil Company, the Commission had the right to receive royalty payments in kind. At its July 1973 meeting, the Commission announced its intention to receive bids for this royalty oil and for royalty oil for other Orange and Los Angeles County leases. Bids were subsequently received for this royalty oil. The contract for the purpose of this oil was to be awarded at the October 25, 1973, Commission meeting, but this award was prevented by Union's filing and obtaining on October 4, 1974, an order to show cause and temporary restraining order. Union alleged that the sale was in violation of the Federal Government "Phase IV" price controls and was hence illegal. On November 5, 1973, the preliminary injunction obtained by Union was denied and the temporary restraining order was dissolved. On November 29, 1973, the Commission awarded the contract to purchase the oil. That same day, Plaintiff applied for another temporary restraining order to prevent the sale, which order was denied. Plaintiff's second

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2. Union Oil Company of California v. Houston I. Flournoy, et al. W 503.747
U. S. District Court, Central District
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application for preliminary injunction was heard and denied on June 3, 1974, at which time Union indicated they would hold the case in abeyance pending the outcome of People v. Simon. A pretrial hearing was set for December 9, but upon Union's motion, the hearing was postponed. Union now indicates that they will file a motion for summary judgment, but to date no motion has been filed.

3. State of California v. County of San Mateo, et al. W 1839.38
San Mateo Superior Court Case No. 144257 W 6987

Suit seeking Declaratory Judgment to protect the public property rights in land covered by the open waters of South San Francisco Bay westerly of the deep draught ship channel, the area of which has been substantially increased with the filing of a cross-complaint by Westbay Community Associates to be an approximate 10,000 acres and 21 miles of shoreline including most of the westerly portion of the Bay between the San Francisco International Airport and the southerly San Mateo County line. Titles to other adjacent substantial areas of salt ponds have been brought into the case by Leslie Salt Company. Pretrial and discovery proceedings are now in progress, with factual investigation, relating to substantial and complex issues, continuing.

The parties have been participating in settlement negotiations but have not yet arrived at any compromise which could be recommended to the Commission.

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4. People v. Jonathan Club, et al. W 503.773
Los Angeles Superior Court No. 35486

(Complaint to quiet title 4.5 acres of artificially filled tidelands in the City of Santa Monica.)

In 1921, the Legislature granted tidelands to the City of Santa Monica. Since that time, the area granted has been artificially filled, resulting in an additional 4.5 acres of beach. Plaintiffs -- the City of Santa Monica, the Department of Parks and Recreation, and the State Lands Commission -- contend that this artificially filled area is State owned. Defendant's demurrer to the State's complaint was overruled. The parties will now proceed with pretrial procedures.

5. Cory v. State W 503.780
Sacramento Superior Court Case No. 252295

(Complaint to vacate the approval of PRC 4977 offshore El Capitan, Santa Barbara County).

On December 19, 1974, the State Lands Commission authorized the issuance of a lease to Exxon Corporation and Exxon Pipeline Company. In so doing, the Commission adopted an environmental statement prepared pursuant to the National Environmental Policy Act. The Complaint alleges that the project, as approved by the Commission, differs significantly from the project as described in the environmental statement and that the Commission's approval was an abuse of discretion. Plaintiff, now represented by the Office of the Attorney General, asks that the approval of the lease be set aside. A court hearing was held on March 19, 1975, but to date the court has not issued a decision.

Exxon obtained a preliminary injunction to prohibit the Commission from terminating the lease with Exxon. A hearing on the preliminary injunction was held on July 10.

6. People v. Halvor G. Schultz, et al. W 503.785
Yolo County Superior Court Case No. 32197

(Ejectment action to compel removal of trespassing marina from the Sacramento River, and damages therefor.)

On February 13, 1975, the State Lands Commission filed a Complaint in ejectment and for damages for trespass to compel the removal and to prevent the continuing trespass and maintenance of a marina situated on the Sacramento River in Yolo County at the confluence of the American River. Defendants in this action have been served with a Summons and Complaint and meetings have been held with the Division to discuss settlement of the matter and leasing arrangements. It is anticipated a settlement will be reached in the near future.

7. People v. Patricia Avila, et al. W 503.787
Yolo County Superior Court Case No. 32249

(Ejectment action to compel removal of trespassing marina and restaurant from the Sacramento River, and damages therefor.)

On February 25, 1975, the State Lands Commission filed a Complaint in ejectment and for damages therefor to compel the removal and to prevent the continuing trespass and maintenance of a marina and restaurant situated on the Sacramento River in Yolo County at the confluence of the American River. Defendants in this action have been served with a Summons and Complaint, and have entered into settlement negotiations with the Division.

8. People v. Zarb, et al. W 503.788
U. S. District Court, Central District
CV #75-854 WMB

(Complaint for injunction and declaratory relief.)

The State Lands Commission has filed an action against the Federal Energy Administration and the Burmah Oil Company, challenging the validity of a determination by the FEA that Burmah is entitled to the State's royalty oil despite sell-off agreements to World Oil Company and U.S.A. Petroleum Company. A hearing on a preliminary injunction was scheduled for April 21 in the U. S. District Court in Los Angeles. That hearing was put over and Burmah has stipulated

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8. People v. Zarb, et al. W 503.788
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to discontinuing the Supplier-Purchaser Agreement. A motion to dismiss the case was denied on the condition that USA present its contentions to the FEA prior to presentation to the court.

9. California State Lands Commission, et al. v. W 503.802
Standard Oil Company, et al.
U. S. District Court, Central District

(Complaint for breach of contract and violation of Federal and State antitrust law.)

At the June 27, 1975, special meeting of the State Lands Commission, the Commission approved the employment by the City of Long Beach of the law firm of Blecher, Collins & Hoecker to institute litigation on behalf of the Commission and the City to recover damages arising from the actions of the City of Long Beach tideland contractors.

A complaint on behalf of the Commission and the City was filed on June 27, 1975. By stipulation the defendants have until September 29, 1975, to answer the complaint.