

STATE OF CALIFORNIA

Minutes of the Meeting of the
State Lands Commission
Sacramento, California

September 29, 1975

A regular meeting of the State Lands Commission was called to order by Chairman Kenneth Cory in Room 2170, State Capitol, Sacramento, California, at 10:07 a.m. on Monday, September 29, 1975.

Present: Kenneth Cory, State Controller, Chairman
Mervyn M. Dymally, Lieutenant Governor, Commissioner
Roy M. Bell, Director of Finance, Commissioner

Staff Members in Attendance:

William F. Northrop, Executive Officer
Robert C. Hight, Staff Counsel
D. J. Everitts, Manager, Energy and Mineral
Resources Development
James F. Trout, Manager, Land Operations
David K. Hayward, Assistant Manager, Long
Beach Operations
Diane Jones, Secretary

Also in Attendance:

Representing the Office of the Attorney General

N. Gregory Taylor, Deputy Attorney General
Katherine E. Stone, Deputy Attorney General

Representing the Office of the State Controller

Keith Seegmiller, Assistant Controller

Appearances:

Re Minute Item 3 - Ceding of Concurrent Jurisdiction

Ralph G. Mihan, attorney, representing the
U. S. Department of Interior, National
Parks Service

Re Minute Item 19 - Public Agency Permit; State Department
of Fish and Game

Honorable Alfred Siegler, Eighth Assembly
District, California State Legislature

Re Minute Item 38 - Authorization to Initiate Ejectment

Proceedings Against John Walsh
John Walsh, in pro per

Re Minute Item 39 - Authorization to Initiate Ejectment
Proceedings Against Joseph Russo

John Walsh, in pro per representing Joseph Russo

EXECUTIVE OFFICER'S REPORT

During the Executive Officer's report, Mr. William F. Northrop, reported on the following items:

1. U. S. DEPARTMENT OF INTERIOR OCS LEASE SALE 35:

Chairman Kenneth Cory presented a statement emphasizing that the Commission's main concern with the Department of Interior's leasing program on OCS Lease # 35 is that a publicly-owned natural resource is not given away. He stated that such questions as how the oil is going to come ashore and liability have to be answered to the satisfaction of all concerned. Mr. Cory's statement is attached as Exhibit "A".

2. GEOTHERMAL HEARINGS

Commissioner Mervyn M. Dymally reported on the recent geothermal hearings held in Los Angeles and San Francisco. He stated that three proposals were suggested:

- 1) Establish an environmental appeals board to handle appeals from agencies and the public;
- 2) Establish a lead agency to avoid duplication of effort; and
- 3) Limit the EIR requirements or negative declaration for exploratory geothermal wells, followed by a full report if wells seem promising of production

He reported that a Task Force, composed of government, industry and environmental groups, will meet early next month to discuss the above proposals and make recommendations to the Legislature and the Administration to expedite development of geothermal energy.

3. WESTERN STATES LAND COMMISSIONER'S RESOLUTION

Mr. Northrop presented a resolution passed without dissent before the Western States Lands Commissioners Association convention recently held in Hawaii. The Resolution proposes that ownership and jurisdiction of public domain lands under the management of BLM be returned to the States in which they are located, and further that management of the lands be administered by the states in accordance with the public trust. It also proposes that federal legislation be drafted to accomplish such a transfer and that the congressional delegations be contacted for support. Pursuant to Mr. Northrop's request the Commission authorized the staff to assist in drafting such legislation. In addition Mr. Northrop suggested that the Commission work with the California Congressional delegation to effect such a transfer. The Resolution is attached as Exhibit "B".

4. POLICY CHANGE ON SPOIL REMOVAL ROYALTY

5. WESTERN LNG TERMINAL APPLICATION

Pursuant to the Commission's request at the August meeting, the staff presented the information which was requested concerning Western LNG's pending application. Slides were shown which included, among other things, the proposed area to be leased. One of the questions raised by the Commission at the previous meeting was whether or not this was the first step in establishing an LNG terminal in an extremely sensitive area.

6. RECREATIONAL PIER PERMITS

Pursuant to a previous request by Commissioner Mervyn M. Dymally, the staff presented a brief report on existing trespassers which should be brought under lease with the Commission. The areas where the trespasses occurred included Lake Tahoe, Bethel Island and Donner Lake.

Mr Northrop's written comments are attached as Exhibit "C" and by reference made a part hereof.

Attachment:

Exhibit A: (3 pages)
Exhibit B: (2 pages)
Exhibit C: (5 pages)

EXHIBIT "A"

STATEMENT*

by

KENNETH CORY, Chairman
State Lands Commission

The U. S. Department of Interior has recently announced a delay in oil and gas lease sales offshore Southern California from October to December. More time, they say, is needed to consider public comment.

Apparently the Governor's objections, the protests from citizen groups, the threat of a lawsuit from the Mayor of Los Angeles, and this Commission's criticism of inadequate Environmental Impact Statements have combined to get the attention of the Federal mule.

We must now keep that attention and use these next two months in concert rather than in conflict. This delay could give us all a chance for real communication with the Department of Interior rather than the counter monologues the Department has been offering for these last two years.

The State Lands Commission is not opposed to oil exploration or to oil drilling as a valuable energy source. During the next two months, however, we will continue to insist on California's right to know the full extent of a public resource off its shores before that resource is bargained away to a private corporation. We will also continue to insist that

*Presented at State Lands Commission meeting, Sacramento, California, September 29, 1975.

environmental safeguards be paramount in any contract that involves public property. This Commission is responsible only to the people of California and will protect the public trust and public easement in this State at all times.

The Environmental Impact Statements which the Department of Interior has prepared and distributed concerning OCS Lease Sale #35 have been extensive. They have failed, however, to give adequate consideration to areas which are vital to the public welfare, and which we hope will be answered within the next two months.

For example: Neither the programmatic nor the site specific EIS describes the extent of the oil and gas supply available on Outer Continental Shelf lands which the Federal Government proposes to lease. What are we leasing? What are we selling? If we don't have the answers to those questions, how do we know how much to charge? Let's do some exploration before we give away the store. And, let's bring the coastal states into the game as partners -- not as stepchildren.

Another question not answered in the EIS: How is the oil going to be brought ashore? Will the successful bidder use tankers? If so, where will they dock? Will pipelines be used instead of tankers? How big will those pipelines be? How long? Where will the refineries be? An oil company can pump all day long 100 miles from shore. But, sooner or later, that crude has to come to town in a form that the public can use -- because the public is going to have to pay for it.

And liability. The Federal EIS has not mentioned liability. In the event of an oil spill, or any other public damage, who pays the bill? Will California have to do its own cleanup job once again, and spend another five years in court to be repaid? We feel that liability is vital to any lease sale, and that it should be established before any more commitments are made.

These are a few of the points that we will be communicating to the Department of the Interior in the two months that are now available to us. We sincerely hope that the Department will consider these comments and will provide California with information and answers. Without them, there is no dialogue; there is no communication; and this delay will have been no more than a stall prepared by a public relations staff. We hope it is more than that, but our optimism is understandably cautious.

EXHIBIT "B"

BEFORE THE WESTERN STATES
LAND COMMISSIONERS ASSOCIATION

IN THE MATTER OF THE TRANSFER)
OF THE UNAPPROPRIATED AND UN-)
RESERVED PUBLIC DOMAIN MANAGED)
BY THE BUREAU OF LAND MANAGEMENT)
TO THE MEMBER STATES OF THE)
WESTERN STATES LAND COMMISSIONERS)
ASSOCIATION)

RESOLUTION

WHEREAS, within the borders of the Western States which comprise the Western States Land Commissioners Association are large amounts of unappropriated and unreserved public domain under the jurisdiction of the United States Bureau of Land Management; and

WHEREAS, the administration by the Bureau of Land Management of such lands has been costly and burdensome to the public and to the Western States which have such lands within their borders; and

WHEREAS, the individual states have an inherent right and are better qualified to manage such lands within their borders and can do so more efficiently and with less cost than the Bureau of Land Management; and

WHEREAS, in numerous instances the Bureau of Land Management has violated the intent of Congress in its administration of such lands to the detriment of such states; and

WHEREAS, the Bureau of Land Management has failed to cooperate and inform the Western States concerning the development, management and utilization of such lands and their resources within such states and their outer continental shelf border lands; and

WHEREAS, the Bureau of Land Management has failed to act in a timely and proper manner on the selection of lieu lands by the Western States and has failed to promptly respond to the offer by the Western States of land exchanges beneficial to the public;

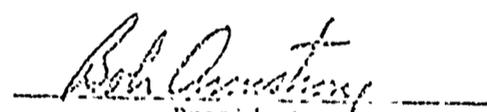
NOW, THEREFORE, be it resolved by this Association as follows:

1. It is the sense of this Association that the ownership of such public lands administered by the Bureau of Land Management should be transferred to the states within which such lands are located to be administered by such states in accordance with the public trust now applicable to such lands;

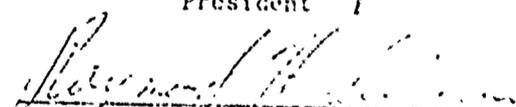
2. A Committee of this Association be appointed to draft an appropriate bill to accomplish such transfer;
3. Upon completion of such bill the secretary transmit a copy to every Senator and Congressman of each member of the Association with an appropriate letter of explanation requesting support for the bill;
4. A second Committee of the Association be appointed to contact each Senator and Congressman by telephone requesting support for such bill;
5. It is also the sense of this Association that the pending Bureau of Land Management enabling bill in Congress should be tabled for the same reasons prompting this Association's proposed bill and that the letter of explanation for the Association's proposed bill as well as the follow-up telephone calls each include a request that the Senators or Congressmen vote to table the Bureau of Land Management's enabling bill;
6. A copy of this resolution accompany the mailing mentioned above.

ADOPTED this 7th day of August, 1975

For the Association:



President



Secretary

EXHIBIT "C"

STATE LANDS COMMISSION MEETING

September 29, 1975

EXECUTIVE OFFICER'S REPORT

by
William F. Northrop

1. RECENT ENERGY DEVELOPMENTS

Within the last week, Mr. Chairman, there have been some significant developments in the energy field which will affect and intensify the Commission's programs:

A. GEOHERMAL RESOURCES

As Chairman of the Commission's Subcommittee on Alternate Energy Sources, the Lieutenant Governor has recently conducted geothermal conferences in San Francisco and Los Angeles. It would be helpful to the staff if the Lieutenant Governor would review some of the items discussed at these sessions.

B. OFFSHORE OIL DRILLING

The U. S. Department of Interior has just rescheduled its leasing program on OCS Lease Sale #35 offshore Southern California from October to December. We would be pleased if the Chairman would care to comment on these developments for the staff at this time.

2. WESTERN STATES LAND COMMISSIONERS RESOLUTION

I have provided each of the Commissioners with a copy of the resolution recently passed by the

Western States Land Commissioners Association in regard to public domain lands. The resolution proposes that ownership and jurisdiction of such lands be transferred from the Bureau of Land Management to the States within which these lands are located; and, further, that management of the lands be administered by the States in accordance with the public trust.

The resolution also proposes that Federal legislation be drafted to accomplish such a transfer and that Congressional Delegations be contacted for support.

If the Commissioners agree, I would propose that the staff be authorized to assist in drafting such legislation and that the Commissioners work with the California Delegation to accomplish the return of California's public lands to State jurisdiction.

3. POLICY CHANGE ON SPOIL REMOVAL ROYALTY

Staff proposes that the Commission consider a change in policy to apply royalty fees for the removal of silt, sand, and gravels which are located on tide and submerged lands, or on any state-owned lands wherein the mineral rights are reserved to the State.

This material is a valuable mineral resource and a possible source of revenue to the State which has never before been realized. Historically, for

example, no royalty fee has been charged if such spoils are removed from and deposited on state lands.

However, staff feels that private parties who remove the accreted material in the process of performing maintenance dredging, or construction of new facilities, are receiving benefit to themselves. Furthermore, depositing such material in deep disposal sites -- even if they are state-owned -- prevents any possible recovery for revenue or future beneficial use.

Therefore, staff feels that the State's mineral rights are being denied or subverted under the present policy and that some royalty consideration is due the State.

4. WESTERN LNG TERMINAL APPLICATION

At the August meeting, Mr. Chairman, the calendar contained an application from Western LNG Terminal Company to lease two parcels of submerged land offshore Point Conception for the deployment and maintenance of monitoring buoys.

The Commissioners put over this item, requesting more information as to what the lands would be used for, and whether or not this was the first step in establishing an LNG terminal in an extremely sensitive area.

We have developed the information the Commission requested, and I will ask Mr. Trout to make a presentation to the Commission on this subject.

5. WITHDRAWAL OF ITEM 6(A)

Item 6(A) concerns application by the Department of Transportation for a public agency permit to construct and maintain a bridge on state-owned land. However, the Department at this time has not completed its CEQA responsibilities in providing the Commission with a Notice of Determination. Therefore, it will be necessary to withdraw the Calendar Item for today's meeting, and to allow CALTRANS to resubmit the application at a time when all requirements have been met.

6. CHANGES IN ITEM 4(A)

Item 4(A) concerning the ceding of concurrent jurisdiction has been changed -- and we wish to bring this to your attention.

The staff is now recommending that the item be deferred for an indefinite period of time pending a change in the statute governing the procedures for authorization of such sessions.

This is being done on the advice of Staff Counsel and the Office of the Attorney General. The action is being based upon their research, which indicates that the statute, in its present form, is not

sufficient to protect the State's interest and that it is not broad enough to allow the Commission to act in regard to the National Park Service request.