

MINUTE ITEM NO. 24
APPROVED 12/1/75

CALENDAR ITEM

12/75
WGH
PRC 4976

24.

AUTHORIZATION TO FILE DECLARATORY RELIEF

On November 21, 1974, the State Lands Commission authorized the conversion of Leases PRC 3143, PRC 3144, PRC 3145, and PRC 3146 into one Lease PRC 4976, in compliance with the provisions of the Geothermal Resources Act of 1967. The subject proprietary lands, located in Imperial County on the eastern edge of the Salton Sea, consist of approximately 535 acres. The Fee was purchased by the Department of Fish and Game in 1948, using 75% Federal funds, and has been operated as a wildlife refuge ever since. In 1968, the Department of Fish and Game entered into a license agreement with the U. S. Fish and Wildlife Service, under which the latter was authorized to farm and produce waterfowl products on the subject parcel for a five-year period. In 1973, said license was renewed for an additional five-year term and is presently operative.

Pursuant to Section 6891 of the Public Resources Code, the State Lands Commission had originally issued prospecting permits on the subject parcel in 1960 to R. W. Cypher. Such permits were subsequently converted to four preferential mineral extraction leases in accordance with Division 6 of the Public Resources Code. The leases were assigned to the present lessee, Imperial Thermal Products, Inc., in 1967, and converted into one lease on November 21, 1974, pursuant to the provisions of the Geothermal Steam Act of 1967. Imperial Thermal Products has expended a minimum sum of \$250,000 on the subject parcel to date, including the drilling of one well and the erection of at least one supporting building. Presently, Imperial Thermal is seeking the Commission's approval to enter into an agreement with the U. S. Energy Research and Development Administration (ERDA), in which ERDA, through the Lawrence Livermore Laboratory of the University of California, will conduct a 1 to 8 year research and development project on the parcel, directed toward the assessment and utilization of geothermal resources.

In July 1975, the Division first learned that the Fish and Game Commission, at a meeting held on May 2, 1975, had authorized the Director of General Services to quitclaim to the United States, all of the Department of Fish and Game's right, title and interest in said property. The quitclaim deed failed to include existing geothermal Lease PRC 4976 to Imperial Thermal Products, Inc. Both the Department of Fish and Game and the Department of General Services have acknowledged this omission in the quitclaim deed. However, to date, neither the Department of Fish and Game nor the Department of General Services has been successful in its separate request to have this deed returned in order that the State of California's mineral and geothermal interests properly may be reserved and defined within this conveying instrument.

CALENDAR ITEM NO. 24. (CONTD)

The Division's legal staff is of the opinion that the State's failure to reserve mineral, geothermal, and other interests in conveying said property to the Federal Government has raised legal questions regarding the ownership of these interests on the parcel and in particular, the Commission's continuing jurisdiction as Lessor of Geothermal Resources Lease PRC 4976. Accordingly, unless the U. S. Fish and Wildlife Service decides to voluntarily return said deed to the State in order that this omission may be clearly modified, the Division's legal staff is of the opinion that the State Lands Commission must file a lawsuit seeking to invalidate this conveyance, in order that the State's interests in this property may be clearly established.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE DIVISION STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO USE ALL AVAILABLE METHODS, INCLUDING LITIGATION, TO PROTECT THE STATE'S INTERESTS IN LAND DESCRIBED UNDER GEOTHERMAL RESOURCES LEASE PRC 4976.