

behalf of the Oil Terminals Company, and William Mason and E. B. Serruys, appeared upon behalf of the Crescent City Chamber of Commerce.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER, UPON RECEIPT OF OFFICIAL NOTICE OF A PERMIT BY THE CORPS OF ENGINEERS, AND SUBJECT TO RECEIPT OF AN INFORMAL OPINION FROM THE ATTORNEY GENERAL THAT THE PROPOSED ACTION IS NOT CONTRARY TO THE TERMS OF THE LEASE P.R.C. 502 BETWEEN THE STATE AND THE CRESCENT CITY HARBOR DISTRICT, TO ISSUE AN EASEMENT TO THE OIL TERMINALS COMPANY FOR THE INSTALLATION OF TWO DOLPHINS AND FOR A NON-EXCLUSIVE RIGHT OF WAY 10 FEET IN WIDTH AND APPROXIMATELY 3,000 FEET IN LENGTH FROM A POINT AT THE SEAWARD END OF THE INNER BREAKWATER AND ON THE SAND BARRIER TO THE ORDINARY HIGH WATER MARK, AS SET BY THE COMMISSION, AT AN ANNUAL RENTAL OF \$100. EASEMENT TO BE FOR A TERM OF 15 YEARS WITH RIGHT OF RENEWAL UNDER SUCH TERMS AND CONDITIONS AS THE COMMISSION MAY THEN REQUIRE FOR ONE ADDITIONAL PERIOD OF 10 YEARS. FURTHERMORE, THE EASEMENT SHALL REQUIRE THE FILING OF A SURETY BOND IN THE AMOUNT OF \$1,000 TO GUARANTEE PERFORMANCE INCLUDING THE REMOVAL, AT EXPIRATION, OF ANY FACILITIES BUILT ON STATE LANDS; THIS EASEMENT TO BE WITHOUT PREJUDICE TO ANY RIGHTS THE CRESCENT CITY HARBOR DISTRICT MAY HAVE UNDER THE LEASE ISSUED TO IT BY THE COMMISSION UNDER DATE OF MARCH 18, 1950.

30. (UNITED STATES VS. CALIFORNIA, TIDELAND CONTROVERSY - W.O. 721) The Commission was informed of the following recent developments relating to the controversy between the United States and the State of California concerning the tide and submerged lands:

LEGISLATION

On July 20, 1950, Senator O'Mahoney introduced in the Senate S. J. Res. 195 which was referred to the Senate Committee on Interior and Insular Affairs. This resolution was referred to as an interim measure and purported to keep operations on tide and submerged lands in status quo until such time as the Congress of the United States enacted permanent legislation. As to lands in the Continental Shelf (which by definition in the resolution lie outside of inland waters) the resolution provided for:

- (1) Continued operations under leases existing as of December 21, 1948, or issued subsequently thereto with the approval of the Secretary of the Interior;
- (2) Impounding rents, royalties and other sums payable under such leases with the United States Treasury, after the effective date of the resolution;
- (3) Joint management and control by the Lessor and the Secretary of the Interior;
- (4) The issuance of new leases on submerged lands by the Secretary.

The resolution also authorized the Secretary of Interior to certify that the United States does not claim any proprietary interests in tide and submerged lands beneath inland waters in special cases. It further authorized the Secretary to negotiate an agreement respecting continuation of operations under leases of submerged lands where a controversy existed as to whether or not they were beneath inland waters or were submerged lands of the Continental Shelf.

Hearings on this resolution began the morning of August 14, 1950, and continued until 2 P.M. on August 19. Representatives of the various states, of the industry, of claimants for Federal leases, of the United States Departments of Justice and Interior, of the National Association of Attorneys General, of the Cities of Long

Beach and Los Angeles, and of the State of California, presented statements relating to the resolution. No witness favored the enactment of S. J. Res. 195 without amendment.

The Departments of Justice and Interior objected principally to the specified cut off date of December 21, 1948 (which was the date on which suits were filed against the States of Texas and Louisiana) and requested that the date be changed to June 27, 1947, the date the opinion in the California case was entered by the United States Supreme Court. This was on the grounds that a great many leases had been issued by the States of Texas and California after that time and in spite of due notice of the rights of the United States. Representatives of the State of Texas and of the National Association of Attorneys General urged that the terms of the California stipulation be written into the resolution. The State of California submitted specific amendments which would accomplish the same purpose.

It is extremely unlikely any such measure will be brought to a vote in the Senate that will avoid a veto or that will satisfy the Government, the States and industry. It is also believed to be unlikely that whatever measure is brought out, the Senate will act on it because of the requirement of unanimous consent.

STIPULATION

On August 16, 1950, by appointments previously made, representatives of the Departments of Justice and Interior met with those of the industry and the State of California for the purpose of renewing the existing stipulation between the Attorney General of the United States and the Attorney General of California relating to continuation of operations on tide and submerged lands off the Coast of California. The Department of Justice was represented by Solicitor General Perlman and Attorneys Raum and Vaughn. The Department of the Interior was represented by the Solicitor of the Department, Mr. White, and by a representative of the U.S.G.S., Mr. Barton. The industry was represented by Mr. William Clary and Mr. Harry March; the State of California was represented by the Attorney General, Mr. Howser and by Assistant Attorney General Mattoon; and the State Lands Commission by Messrs. Kuchel, Putnam and Watson.

Mr. White presented a draft of a new stipulation involving substantial changes over the one now in existence. These comprised:

- (a) A more complete detailed review and approval by the Secretary of Interior of leases, renewals and extensions thereof, and new drillings, and
- (b) For the payment of all rents, royalties, and other payments received by the State beginning on and subsequent to October 1, 1950, to the Treasurer of the United States for impounding.

Negotiations were resumed on August 18, during which amendments were proposed by the State. Those accepted by the United States limited the actions of the Secretary of the Interior so that any orders he gave would be restricted to activities coming within the terms of the leases and would be pursuant to State law; they also specified time limits for the Secretary's action and limited the application of the stipulation to mineral leases only. The amendments allowed administrative and operating expenses to the State, after September 30, 1950, of not to exceed \$12,000 per month to be taken out of funds already impounded by the State and

allowed the United States a maximum of \$50,000 per year for the same purpose to be taken out of funds to be impounded in the United States Treasury. A new cut-off date was adopted to facilitate accounting and the expiration of the renewed stipulation is accordingly set to include September 30, 1951.

A copy of the new stipulation was furnished for the information of the Commission.

Paragraph 4 of the Stipulation provides in part that "notwithstanding the foregoing provisions of this paragraph, the State Lands Commission of California may expend not to exceed \$12,000 per month from revenues in the special fund derived prior to October 1, 1950, from leases upon said tide and submerged lands to defray its expenses in administering the law-respecting operations under such leases, and the Secretary of the Interior may use not to exceed \$50,000 per annum of the funds paid by the State under this paragraph after September 30, 1950, to reimburse the Geological Survey and other agencies of the Department of the Interior for their expenses after September 30, 1950".

At its meeting of February 10, 1950, the Commission was advised that a contract had been entered into with the Division of Audits to make a survey and render a report on the segregation of the State's costs in administration and control of State oil and gas leases on tide and submerged lands. This report was received May 19, 1950. The report sets forth a plan whereby administrative costs may be accrued on an annual basis to be incorporated in an audited statement of such costs to be prepared by the Division of Audits and to be used as the basis for requesting the Controller to transfer from the Special Deposit Fund -- Rentals and Royalties, Tide and Submerged Land Leases, to the State Lands Act Fund the amount of the costs so accounted.

Discussion was held relative to the many complexities of this situation.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER TO ENTER INTO AN AGREEMENT WITH THE DIVISION OF AUDITS TO PROVIDE FOR THE PREPARATION OF AN ANNUAL STATEMENT OF THE COMMISSION'S COSTS INCURRED IN CONNECTION WITH THE ADMINISTRATION AND CONTROL OF TIDE AND SUBMERGED LAND LEASES FOR THE PERIOD, OCTOBER 1, 1950, THROUGH SEPTEMBER 30, 1951, AND IN ACCORDANCE WITH THE TERMS OF THE STIPULATION ENTERED INTO BETWEEN THE STATE AND THE FEDERAL GOVERNMENT AUGUST 21, 1950, THE EXECUTIVE OFFICER BE EMPOWERED TO DIRECT THE STATE CONTROLLER TO TRANSFER FROM THE SPECIAL DEPOSIT FUND FOR RENTALS AND ROYALTIES, TIDE AND SUBMERGED LAND LEASES TO THE STATE LANDS ACT FUND AN AMOUNT EQUAL TO THE COSTS AS REPRESENTED BY SUCH STATEMENT, PLUS THE CHARGES OF THE DIVISION OF AUDITS FOR THE PREPARATION OF THE STATEMENT; PROVIDED THAT SUCH COSTS SHALL NOT EXCEED THE SUM OF \$12,000 PER MONTH FOR THE PERIOD INVOLVED AS SET FORTH IN SAID STIPULATION. THE EXECUTIVE OFFICER WAS FURTHER AUTHORIZED TO CONSULT WITH THE ATTORNEY GENERAL'S OFFICE, (1) WITH RESPECT TO PLACING THE IMPOUNDED FUNDS OUT AT INTEREST, (2) ON THE LEGAL METHOD TO BE EMPLOYED IN MAKING PAYMENT TO THE UNITED STATES, (3) ON THE CLEARANCE OF RENTALS OTHER THAN FROM MINERAL LEASES DIRECTLY TO STATE LANDS ACT FUND, AND (4) ANY OTHER PERTINENT PROCEDURE.

The Stipulation entered into on August 21, 1950 follows:

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1950

No. 11, Original

UNITED STATES OF AMERICA, Plaintiff)
)
 v.) Original
)
 STATE OF CALIFORNIA)

STIPULATION

WHEREAS, on July 26, 1947, the parties to this cause, through their respective counsel, entered into a stipulation which provided for the continuation of all operations within or upon tide and submerged lands lying along the coast of California, and in which the State of California agreed to segregate and hold in a special fund all rentals, royalties and other payments received from such operations subsequent to June 23, 1947, for ultimate distribution pursuant to agreement of the parties or final judicial order or decree, and

WHEREAS, on July 28, 1948, pursuant to the provisions of paragraph numbered 9 of said stipulation, the parties thereto again entered into a stipulation whereby the stipulation of July 26, 1947, was extended and continued in effect until the expiration of sixty days subsequent to July 31, 1949, and

WHEREAS, on August 2, 1949, pursuant to the provisions of paragraph numbered 2 of the said stipulation of July 28, 1948, the parties thereto again entered into a stipulation whereby the stipulation of July 26, 1947, as extended by the stipulation of July 28, 1948, was extended and continued in effect until the expiration of sixty days subsequent to July 31, 1950, and

WHEREAS, pursuant to the stipulation of July 26, 1947, as extended, the operations therein provided for have been continued and are presently being conducted, and the State of California has from time to time reported to the United States concerning the amounts received and segregated by the State as rentals, royalties and other payments, and

WHEREAS, in paragraph numbered 2 of the stipulation of August 2, 1949, it is provided that the parties shall meet within thirty days after July 31, 1950, to consider the stipulation of July 26, 1947, as extended, and the effect thereon of any further proceedings or determinations in this cause, and to determine whether the said stipulation, as extended, or a revision thereof, should be continued for a further period, and

WHEREAS, the parties, through their respective counsel have met for the purposes contemplated by said paragraph numbered 2, and, as a result of such meeting, it is the opinion of the parties that the mutual interest of the parties and of the general public would best be served by a continuation of the stipulation of July 26, 1947, as extended, for a further period, provided it be revised as herein set forth.

NOW, THEREFORE, it is stipulated and agreed by the parties through their respective counsel that:

1. The stipulation entered into by the parties to this cause on July 26, 1947, as extended by the stipulations of July 28, 1948, and August 2, 1949, and as hereinafter revised, providing for a continuation of operations within or upon tide and submerged lands lying along the coast of California, be and the same is hereby extended and continued in effect until October 1, 1951. The provisions of this paragraph are not intended to preclude other arrangements adopted prior to the expiration date of this stipulation by reason of an order of the Supreme Court or an Act of Congress.

2. Paragraphs 1, 3, 4, 5, and 9 of the stipulation of July 26, 1947, are superseded by the provisions of this stipulation,

3. (a) With the advance approval or upon the request of the Secretary of the Interior, the State shall, during the period covered by this stipulation, and to the extent permissible under State law, call for bids for, and, with the additional advance approval of the Secretary of the Interior, enter into, new leases in cases where it is necessary to do so in order to prevent drainage of oil or gas from tide or submerged lands by wells drilled in other lands, or to protect the respective interests of the parties hereto. During such time, the State may, and at the request of the Secretary of the Interior will, require any of its lessees to drill new wells or approve their drilling, in accordance with their leases and pursuant to state law, for the purposes described in this paragraph, provided that it gives the Secretary of the Interior notice of its action at least 15 days before drilling is to commence and that, unless the Secretary has initially requested such action, the said Secretary shall during the said fifteen days have the right to disapprove such drilling.

(b) No change in the provisions of any lease subject to this stipulation, no acceptance of surrender, renewal, extension, or modification of any such lease, and no compromise or settlement of any controversy between the State and any lessee relating to any such lease, shall be made unless the State gives the Secretary of the Interior at least 45 days' notice thereof; and the Secretary shall have the power during said period to disapprove such action. The Secretary of the Interior shall have the right to examine and inspect the area of, all operations under, and all records pertaining to any lease subject to this stipulation. Whenever requested by the Secretary of the Interior, the State shall take any action which it is required to take with respect to any lease subject to this stipulation or the parties thereto or any operations thereunder.

4. The State of California agrees to segregate and hold in a special fund all rentals, royalties, and other payments received from said lessees or under said leases beginning on, and subsequent to, October 1, 1950, and to pay the amount of such receipts to the United States quarterly, commencing three months thereafter by the check of the State drawn to the order of the Treasurer

of the United States and delivered to the Secretary of the Interior. The United States agrees to segregate and hold the moneys so paid in a special fund. The State agrees to continue to segregate and hold in a special fund all the rentals, royalties, and other payments received from said lessees or under said leases in the period between June 23, 1947, and September 30, 1950, inclusive. It is further agreed that, notwithstanding the foregoing provisions of this paragraph, the State Lands Commission of California may expend not to exceed \$12,000 per month from revenues in the special fund derived prior to October 1, 1950, from leases upon said tide and submerged lands to defray its expenses in administering the law respecting operations under such leases, and the Secretary of the Interior may use not to exceed \$50,000 per annum of the funds paid by the State under this paragraph after September 30, 1950, to reimburse the Geological Survey and other agencies of the Department of the Interior for their expenses after September 30, 1950, under this stipulation; and, upon the distribution of the special funds pursuant to section 5 hereof, there shall be an accounting with respect to the money so expended or used, based upon the same percentages applicable to such distribution. The State also agrees (1) to report oil and gas production under said leases to the Secretary of the Interior monthly, commencing one month after such date, and (2) to furnish the Secretary of the Interior with complete well records for all oil and gas wells subject to this stipulation. With respect to existing wells, such records shall be furnished within 30 days after the effective date of this stipulation; with respect to wells hereafter drilled pursuant to the terms of this stipulation, such records shall be furnished within 30 days after the completion of each well.

5. At such time as any particular area shall be finally judicially determined, or shall be agreed by the parties hereto, to be within or without the "three-mile marginal belt," the moneys segregated and held in the special funds referred to in paragraph 4 of this stipulation shall be distributed and paid over pursuant to the agreement of the parties, or in the absence of agreement pursuant to a final judicial order or decree. The above provisions of this paragraph are not intended to preclude any other proper disposition by reason of an order of the Supreme Court of the United States or of an Act of Congress.

6. The first sentence of paragraph 8 of the stipulation of July 26, 1947, is amended by inserting the word "mineral" immediately before the word "rights".

7. The parties hereto shall meet within thirty days after July 31, 1951, to consider the stipulation of July 26, 1947, as herein extended and revised, and the effect thereon of any further proceedings or determinations in this cause, and to determine whether the said stipulation as extended and revised, or a revision thereof, should be continued for a further period.

Recommended:

/s/ J. HOWARD McGRATH
ATTORNEY GENERAL of the United States

/s/ OSCAR L. CHAPMAN
SECRETARY OF THE INTERIOR
of the United States

/s/ FRED N. HOWSER
ATTORNEY GENERAL of California.

Dated this 21st day of August, 1950.

There being no further business to come before the Commission, the meeting was adjourned.