

MINUTE ITEM

6/6/74  
RCH

30. STATUS OF MAJOR LITIGATION.

During consideration of Informative Calendar Item 28 attached, Mr. Warren J. Abbott, Deputy Attorney General, presented a status report on the case entitled People v. William E. Simon, et al.

The attached calendar item was submitted to the Commission for information only, no action thereon being necessary.

Attachment:  
Informative Calendar Item 28 (4 pages)

INFORMATIVE CALENDAR ITEM

5/74  
RCH

28.

STATUS OF MAJOR LITIGATION

As of April 30, 1974, there were 244 litigation projects involving the Commission, down five from last month.

1. U. S. v. 1164.34 Acres W 503.696  
U. S. District Court Case No. 2274

(U. S. condemnation action for wildlife refuge of all the mud flats between the Sears Point Highway and San Pablo Bay boundary by Mare Island Navy Yard on the east and Sonoma Creek on the west.)

Tract 12 in the condemnation take is the subject of a stipulation for judgment approved by the Commission at its January 1973 meeting. Said judgment will establish the 1923 U. S. Government Land Office meander line as the permanent and fixed boundary line between the privately owned uplands and the sovereign lands of the State. The case is still under negotiation.

2. City of Albany v. State W 503.726  
Alameda Superior Court Case No. 428396

(Plaintiff seeks declaratory relief with regard to the State Lands Commission finding that the 1961 tideland grant to the City of Albany had not been substantially improved.)

The Court of Appeals modified its injunction to prohibit any further fill within the waters of San Francisco Bay. The new order, however, allows the additional piling of material on the existing fill.

On January 21, 1974, the Court of Appeals ruled on the merits of the case before it. The court ruled that the formation of the State Lands Commission at the meeting terminating the Albany grant was proper. The case is remanded to the Superior Court for trial on the issue of substantial improvement. The date of trial is not yet determined. The City of Albany petitioned the California Supreme Court for a hearing on the matter and the petition was denied.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

3. 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.)

The Attorney General's Office filed a cross-complaint in July 1973, and in October 1973 a demurrer was filed to certain answers filed by one group of plaintiffs. On December 4, 1973, the Court upheld the State demurrer, thereby eliminating three of the plaintiff's defenses in the case.

On May 1, 1974, the San Francisco Superior Court denied defendants motion for summary judgment and judgment on the pleadings. It is expected that the parties will now proceed with pre-trial discovery.

4. Union Oil of California v. Houston I. Flournoy, et al. W 503.747  
U. S. District Court, Central District  
Civil No. 732486

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

Under State Oil and Gas Lease PRC 3033.1 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 purchase 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 24, 1973, 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 application for preliminary injunction was heard and denied on December 17, 1973. A pre-trial conference is set for June 3, 1974.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

5. People v. William E. Simon, et al. W 503.766  
U. S. District Court, Central District of California  
Civil No. 74-661-JWC

(Action to declare invalid Federal Energy Office revocation of State crude oil exemption issued February 21, 1974.)

Trial court issued temporary restraining order against enforcement of FEO ruling against State, City of Long Beach, City of Newport Beach, and State of Louisiana and on April 8, 1974, issued a preliminary injunction. Final hearing on the merits was held April 22, 1974. The judge issued a ruling in plaintiff's favor. The final judgment has been submitted for the judge's signature. It is anticipated that the FEO will appeal this decision.

6. State of California v. County of San Mateo, et al. W 1839.28  
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 on 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 with the filing of a complaint in intervention by Leslie Salt Co. Pretrial and discovery proceedings are now in progress, with factual investigation, relating to substantial and complex issues, continuing.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

7. State of California v. Dart Industries, Inc., et al. W 503.743  
Nevada County Superior Court Case No. 18595

(Ejectment action to compel removal of purprestures from  
Donner Lake.)

On July 2, 1973, the State filed complaint in ejectment for damages, and to compel the removal and prevent the maintenance of purprestures which obstruct navigation and interfere with the exercise of the public trust over navigable waters of Donner Lake. The purprestures are in the form of a landfill, a concrete boat launching ramp, and a water intake pipeline which encroach waterward into the lake.

Defendants in this action have been served with summons and complaint and have been granted an indefinite extension of time in which to answer, contingent upon their application for and attainment of the appropriate leases and permits. The joint draft EIR between Tahoe Donner Public Utility District and Dart is currently being prepared. The lease applications have been received. The BLA and exchange agreement are to be considered by the Commission at its June 6 meeting.

8. People v. Alice B. Copeland Vincilione W 1839.29  
Riverside Superior Court No. 15156

Judgment was received in the above case favorable to the interests of the State of California. Briefly, the judgment stated that the islands involved in this case formed out of the Colorado River through natural accretion and therefore were property of the State of California as they existed solely within the boundaries of the Colorado River. The judgment also stated that the backwaters of the Big Hole area are also part of the Colorado River and are navigable in fact and are owned by the State of California. He specifically stated that the principles of Bonelli Cattle v. Arizona do not apply to the facts of this case.