

A meeting of the State Lands Commission was called by the Chairman at 10 o'clock A. M., April 4, 1941, in the office of the Director of Finance, State Capitol, Sacramento.

Present were:

George Killion, Chairman,
Harry B. Riley, Member.

Absent was:

Ellis E. Patterson, Member.

In accordance with earlier direction of the Commission, notice was given to grantees of nine agreements for easements at Huntington Beach whose wells would probably be within 200 feet of the course of the well proposed to be redrilled by the grantee of Agreement for Easement No. 290, Huntington Beach, the M. M. McCallen Corporation. The Executive Officer reported to the Commission that one protest in writing had been received, to wit: the protest of Centralia Oil Company, and Joseph J. Rifkind, Esq., Attorney at Law, representing the trustee and others, as grantee in Agreement for Easement No. 309, Huntington Beach. Thomas W. Simmons, President of the Bolsa Chica Oil Corporation appeared upon behalf of the M. M. McCallen Corporation.

Mr. Rifkind objected to the approval of the proposal to re-drill the well described in Agreement for Easement No. 290, Huntington Beach, upon the ground that damage would probably result to the well under the jurisdiction of the trustee whom he represented. In support of this position, Mr. Rifkind read at length from transcript which he subsequently stated he would file with the Commission for further reference, and at the conclusion of his statement, filed with the Commission certified copies of certificate of contempt in the matter of Jack D. Sterling, Bankrupt, District Court of the United States, Southern District of California, Central Division No. 26685-Y, and of amended complaint for damages, Superior Court, County of Los Angeles, No. 456167, the matter of Hubert F. Laugharn, the trustee, etc., Plaintiff, vs. Bolsa Chica, et al., defendants.

The Commission then heard from members of the staff, and following a general discussion, the Commission advised it would take the matter under consideration.

The Executive Officer stated that two bills had been introduced in the Legislature - S. B. 131 and S. B. 420, designed to enlarge grants heretofore made by the State Legislature of tide and submerged lands to municipalities and one county. Roland Thompson, Esq., Attorney for the City of Newport Beach, and Senator Thomas H. Kuchel appeared to discuss the problems which brought about the introduction of these bills. The proponents of the measures stated the County of Orange and City of Newport desired to straighten an arm of the ocean which projects some distance landward from Newport Beach, and sought legislative authority either to sell the existing channel for cash and with the proceeds purchase land through which a straight channel could be dredged, or as an alternative, to trade the existing channel for other suitable lands. It was finally

suggested to the Commission that the Legislature could authorize the State Lands Commission to determine when the lands in the existing channel were no longer suitable for navigation or fishing. Upon such determination, the State Lands Commission could approve the sale or trade of such lands. Mr. Thompson stated he would confer with the title company in his county and with officials of the City of Newport, and report to the Commission upon the suggested program.

At this point the Commission took a recess until April 8, 1941, at 10 o'clock A. M.

A recessed meeting of the Commission was held in the office of the Department of Finance, State Capitol, Sacramento, at 10 o'clock A. M., April 8, 1941.

Present were:

George Killion, Chairman
Harry B. Riley, Member,
Ellis E. Patterson, Member

The Executive Officer asked that the minutes of the meeting held February 17 and the recessed meeting of March 12 be confirmed and approved. Upon motion of Mr. Riley, seconded by Mr. Patterson and unanimously carried, said minutes were approved as submitted.

Shelley J. Higgins, Esq., City Attorney for Coronado, appeared before the Commission to discuss A. B. 891 by Senator Stream. This bill contains a description of the tidelands and submerged lands desired by the City of Coronado. The act of 1923 which purported to convey such lands to this city contains a vague description. In 1939 a bill passed by the Legislature purporting to correct the description was vetoed by the Governor and in lieu thereof another act was passed and approved by the Governor. This latter act directed the State Lands Commission to correct the description insofar as possible but not to include in any corrected description lands not already granted to the City of Coronado. During the interim between 1939 and 1941 a study made upon behalf of the State Lands Commission showed that the description contained in the granting act of 1923 was fundamentally faulty and incapable of describing a definite area as subject to the grant, thus the State Lands Commission was unable to act under the authority contained in the act of 1939.

A. B. 891 would grant a surface easement to the City of Coronado and require it to reconvey any of the lands which the State conveyed to the city in 1923. Mr. Higgins took exception to the proposal to transfer a surface easement and to the reconveyance requirement. At the suggestion of the Commission, the matter was reserved for consideration at a subsequent meeting.

W. Reginald Jones, Esq., Attorney at Law, representing the City of Oakland, appeared to discuss the provisions contained in S. B. 558 by Senator Breed. This measure would grant to the City of Oakland a parcel of submerged real property along the Oakland Estuary. Following discussion, the Commission agreed that Mr. Jones might proceed with the bill, reserving, however, to the Commission the right to oppose the bill at any subsequent time.

At this point the Commission took a recess until April 9, 1941, at 10 o'clock A. M.

A recessed meeting of the Commission was held in the office of the Department of Finance, State Capitol, Sacramento, at 10 o'clock A. M., April 9, 1941.

Present were:

George Killion, Chairman,
Harry B. Riley, Member,
Ellis E. Patterson, Member.

Shelley J. Higgins, Esq., again appeared before the Commission for further discussion with respect to A. B. 891 by Assemblyman Stream. After considerable discussion the Commission suggested that Mr. Higgins confer with members of the staff of the Commission and to endeavor to draft legislation for further consideration of the Commission.

At this point the Chairman of the Commission withdrew and the other members of the Commission proceeded with the calendar.

The Executive Officer advised that Dr. Edward O. Morgan, lessee of Lease No. 557, Fish Canyon, requested the Commission to reconsider its earlier action advancing the rental to \$30.00 per year. After discussion, Mr. Patterson moved, Mr. Riley seconded, and motion was unanimously carried, that lessee be advised the rental would be \$30.00 per year.

The Executive Officer requested confirmation of the assignment of Fish Canyon Lease No. 693 from E. W. McKinney to Robert M. Sherwood. Upon motion made by Mr. Riley, seconded by Mr. Patterson, and unanimously carried, the resolution was adopted confirming such adoption.

The Executive Officer advised that Arthur G. Lindell, lessee of Fish Canyon Lease No. 683 was more than six months delinquent. Upon motion made by Mr. Riley, seconded by Mr. Patterson and unanimously carried, a resolution was adopted directing that said lease be cancelled.

Letter from the State Controller dated March 11, 1941, was read, in which he advised that the sum total of \$45,000.00 should be transferred from the State Lands Act Fund to the General Fund and State Park Maintenance and Acquisition Fund in percents of 70 and 30, respectively.

Upon motion of Mr. Riley, seconded by Mr. Patterson, and unanimously carried, a resolution was adopted directing the transfer from the State Lands Act Fund in accordance with the suggestion of the State Controller.

The Executive Officer advised of an application of the Commanding Officer, U. S. Naval Air Station, Alameda, for consent of the State Lands Commission to utilize Abbot's Lagoon an indenture of the Pacific Ocean adjoining the Rancho Punta de Los Reyes Sobrante for bombing practice. Executive Officer further stated that records in the Public Lands Office

disclosed the State of California as the owner and recommended that consent be given. Upon motion made by Mr. Patterson, seconded by Mr. Riley, and unanimously carried, a resolution was adopted authorizing and directing the Executive Officer to give such consent upon behalf of the State of California.

The Executive Officer reported that the State Mineralogist is now prepared to assign a deputy to examine State lands to determine their mineral possibilities, but that the Ways and Means Committee of the Assembly, deleted from the budget an appropriation to pay for such services. The Commission directed the Executive Officer to advise the State Mineralogist to go forward with performance under the contract, notwithstanding such action by said committee.

The Commission directed the Executive Officer to subscribe for California Oil World News Service at \$100.00 per annum. This service was authorized at an earlier meeting, but at that time it was reported that the service could probably be obtained for \$50.00, although the Commission authorized a maximum of \$100.00.

According to the Executive Officer, Everett Mattoon, Esq., Assistant Attorney General, recommended that the Commission institute a conference with the firm of Messrs. Athearn and Chandler, San Francisco, in an endeavor to establish a more uniform flow of Owens River into Owens Lake. It appeared from the recommendation of Mr. Mattoon, as reported to the Commission, that Mr. Chandler of this firm is counsel to the Department of Water and Power at Los Angeles and should be in a position to discuss the problem and recommend constructive action. Upon motion made by Mr. Patterson, seconded by Mr. Riley, and unanimously carried, a resolution was adopted authorizing and directing the Executive Officer to proceed with such conferences.

Upon motion of Mr. Patterson, seconded by Mr. Riley, and unanimously carried, a resolution was adopted authorizing and directing the Executive Officer to approve the application of the Department of Public Works under Section 101.5 of the Streets and Highways Code, for crossings over parcels of submerged lands, Sections 23 and 24, T. 5 N., R. 1, W. H. M., in accordance with a map submitted by the Department of Public Works.

The Executive Officer made reference to an agreement made by the Standard Oil Company of California at the time of execution of Agreement for Easement No. 338, Huntington Beach, in which the grantee agreed to match any higher royalties which the State might receive from any well or wells drilled within certain parcels of submerged lands in which one or more of the wells described in said easement are located. Earlier the Commission approved the action. The Commission was advised that the amount of additional royalty to the State of California on account of all production from P. E. Well No. 1 amounts to approximately \$50.00 per month from October 1, 1940. Upon motion made by Mr. Patterson, seconded by Mr. Riley and unanimously carried, a resolution was adopted authorizing the Executive Officer to accept upon behalf of the State of California the proposal of the grantee of Easement No. 338 to pay such amount and such additional royalty thereafter.

The Commission was advised that Paul Kraft and Harold Tripp to whom leases were awarded for the extraction of manganese from State lands in Stanislaus County February 17, 1941, had not furnished the bonds and other information as required by the law and rules of the Commission. Upon motion made by Mr. Riley, seconded by Mr. Patterson, and unanimously carried, a resolution was adopted extending the time for the filing of bonds and other required information for a period of thirty days from April 9, 1941.

At this point a recess was taken until ten o'clock A. M., April 10, 1941.

A recessed meeting of the Commission was held in the office of the Department of Finance, State Capitol, Sacramento, at ten o'clock A. M., April 10, 1941.

Present were:

George Killion, Chairman,
Harry B. Riley, Member,
Ellis E. Patterson, Member.

Shelley J. Higgins, Esq., City Attorney of Coronado, again appeared before the Commission to further discuss an amendment to A. B. 891 by Assemblyman Stream.

The proposal as submitted would correct the description of the lands conveyed to the City of Coronado in 1923 and would contain a legislative declaration that there is not now and was not in 1923 or any subsequent time an intention of the State of California to transfer either minerals or oil or gas to the City of Coronado. After discussion, the Commission directed the Executive Officer to appear before the appropriate committee and present all of the facts in connection with statutes and proposed legislation.

The Executive Officer presented for consideration to the Commission the report prepared by J. S. Watson, Petroleum Production Auditor of the Commission, with respect to royalty upon minerals extracted from Owens Lake. In this memorandum Mr. Watson recommended that the royalty to the State be set at ten percent of the reasonable value of the minerals extracted as established by the Commission. The Chairman directed that Mr. Ernest Aroustein, Accountant in the Department of Finance, give study to the memorandum and report to the Commission at a subsequent meeting.

A report was made to the Commission of a request of Charles McWaters, Globe, Arizona, that legislation be introduced to authorize the extraction of minerals from submerged lands of the State. According to Mr. McWaters, deposits of chrome exist in submerged lands in San Luis Obispo County. The Executive Officer reported that the office of Production Management, Washington, D. C., has suggested Mr. McWaters write to the United States Geological Survey giving a description of the deposits, but Mr. McWaters questions whether he should make this information generally available. The Executive Officer reported that A. B. 2272 had been introduced by Assemblyman Carlson, which would empower the State Lands

Commission to authorize the extraction of minerals other than oil and gas from submerged lands. The Commission instructed the Executive Officer not to oppose the bill and to advise the author the Commission has no objection to it.

The Executive Officer reported receipt of a letter from the Port Director, City of San Diego, requesting the Commission to apply for an opinion from the Attorney General to determine whether the State of California has jurisdiction over certain lands upon which the city would construct a recreational pier, and that the Port Director stated the city would not agree to be bound by any opinion of the Attorney General contrary to the position of the city. The Commission directed the Executive Officer not to apply for the opinion and to so advise the City of San Diego.

A discussion was had of Assembly Bills 1249, 1327 and 689, relating to the establishment of agencies in various departments of the State to undertake the construction of structures upon tide lands and submerged lands of the State. Because the State Lands Commission already has jurisdiction over construction of structures upon ungranted lands of the State, the Executive Officer was directed to oppose A. B. 1249, 1327 and 689. The Commission also instructed the Executive Officer to oppose S. B. 859 by Senator Fletcher designed to restore powers to the State Board of Harbor Commissioners at San Diego. The State Lands Commission is presently engaged in consolidating under the Commission all ungranted tide lands and submerged lands and has caused to be introduced A. B. 952 by Assemblyman Robertson to repeal certain sections of the Harbor and Navigation Code.

A further discussion was had of the application of the grantee in Agreement for Easement No. 290, Huntington Beach, to redrill the well described in that easement. Upon motion of Mr. Patterson, seconded by Mr. Riley and unanimously carried, a resolution was adopted declining approval of the application to redrill said well for the reason that such redrilling operations would violate a rule adopted by the Commission on December 30, 1938.

A report was made to the Commission that the grantee of Agreement for Easement No. 325 has refused to pay to the State a minimum royalty of ten percent based upon a rule of the Chief of the division, which required any grantee redrilling a well or changing liners to pay a minimum royalty of ten per cent. The work on the Tide Petroleum well conducted sometime ago consisted of perforating the liner at a position higher in the oil sand. The State Lands Commission was cited to appear before the Referee to explain the basis of the demand. Appearance was made upon behalf of the Commission but an objection was taken to the jurisdiction of the Referee to hear the matter and to construe a contract to which the State is a party. The Referee overruled the objection and assumed jurisdiction. It now appears that the Referee will decide that the grantee of this easement is not required to pay the minimum ten per cent royalty. There is some question whether the chief of the division had the power to promulgate such a ruling since the agreement specifically forbids the extraction of a higher royalty for redrilling. In the first place, this was

not redrilling since the work was done in the hole and had it been redrilling, then, of course, provision of the contract is contrary. Upon motion of Mr. Patterson, seconded by Mr. Riley and unanimously carried, a resolution was adopted directing that the matter be brought to the attention of the Attorney General with the request that he institute suit against the Tide Petroleum Company, if in his judgment such action is justified.

A. B. 1219 and A. B. 1629, designed to empower the Director of Finance to sell abandoned river channels of Petaluma Creek and the American River, were brought to the attention of the Commission. The question before the Commission was whether the sale should be conducted by the Director of Finance with the approval of the Commission, or by the Commission with the approval of the Director of Finance, or by either. After discussion, motion was made by Mr. Patterson, seconded by Mr. Riley, upon resolution as follows: "That A. B. 1219 and A. B. 1629 be amended to empower and authorize the State Lands Commission to dispose of real properties therein mentioned and in accordance with the terms of the act." The vote was as follows:

Mr. Patterson - Aye
Mr. Riley - Aye
Mr. Killion - Not voting.

Report was made by Mr. Hortig upon a controversy which has arisen over title to certain lands the subject matter of mineral Leases Nos. 420, 421, 422 and 423 of W. A. Leeper, Grace Leeper, Margie Word and S. A. Leeper, respectively. Mr. Hortig pointed out that J. O. and J. M. Dorr had filed mining claims upon certain of the premises and had removed at least two shipments of mineral, and that it would be necessary to conduct an investigation to determine whether, on account of the existence of mineral in the lands, the State of California or the Federal Government is the owner of these lands. Mr. Hortig was directed by the Commission to make such investigation.

The Executive Officer reported receipt of a letter from the State Board of Control requesting that J. S. Watson, Petroleum Production Auditor of the Commission, be assigned to hear any additional evidence which certain claimants, grantees of easements of Huntington Beach, might care to present. The Executive Officer reported that in his opinion these claimants have no additional evidences to add. Mr. Hortig advised the Commission that the amounts of the claims had been calculated on three different occasions. The Executive Officer added that deductions of approximately \$6,000 might be made from the claims on account of excessive gas extraction costs charged against the State. The Chairman directed that Mr. Watson be not assigned to this work.

The Executive Officer reported the Personnel Board had approved a promotional examination for F. J. Hortig and had denied the same to Mrs. Geneva Harvey.

The Executive Officer reported that the California Maritime Academy made application to the Commission for an easement to construct a

wharf and two dolphins in Morrow Cove, in the vicinity of Carquinez Bridge. Upon motion made by Mr. Riley, seconded by Mr. Patterson, and unanimously carried, a resolution was adopted directing the Executive Officer to issue consent of the State Lands Commission upon behalf of the State to the applicant and for the purpose for which the application is made.

A report of J. S. Watson, Petroleum Production Auditor of the Commission, was read with respect to gas production costs and sales price of natural gasoline. Mr. Watson's report contains recommendations as follows:

"It is recommended that the State Lands Commission establish the following minimum prices and maximum costs for control of gas and gasoline under the pertinent provision of the leases and easements now in force as follows:

1. Price for Gasoline

The gasoline price shall be the average of the current postings for like quality gasoline in the field where produced of the published schedules of the Standard Oil Co., Union Oil Co., General Petroleum Corp., Texas Co., Richfield Oil Co., and Associated Oil Co., or as many of these companies as publish schedules for natural gasoline. Should no published schedule be available in a particular field, the average of those companies publishing prices for like quality gasoline in the nearest field shall be used after making due allowance for State of California Railroad Commission minimum rates from the field in question to the field where published schedules are available.

A processor or manufacturer's reasonable cost allowance shall be deducted from the posted price as determined above not to exceed 1.75 cents per gallon in making settlement for State's gasoline royalty. This maximum cost allowance shall be upon 100% of the gasoline produced from gas from State's land.

2. Price of Dry Gas

The price for dry gas sold from gas production from State's lands shall be the actual price received from sale of such gas but in no event shall the price be less than a minimum of 7 ½ cents per M.C.F.

From the actual sale price or minimum price, as the case may be, an allowance for sale or compression service, shall be allowed on 100% of dry gas sold from State Land production consisting of the actual cost but not to exceed a maximum of 2.5 cents per M.C.F."

Mr. Aronstein expressed the opinion that the analysis made by Mr. Watson and his conclusions were correct in the circumstances. Upon motion of Mr. Patterson, seconded by Mr. Riley and unanimously carried, a resolution was adopted authorizing and instructing the Executive Officer

to proceed in accordance with the recommendation of Mr. Watson.

From the foregoing, discussion arose as to an alternative means for disposition of the State's royalty share of the wet gas produced from wells at Huntington Beach. Mr. Aronstein mentioned that the O. C. Field Company at Huntington Beach might be willing to take all of the State's royalty gas in Huntington Beach field and return to the State an amount which would probably be substantially greater than the amount now being received. Procedures to obtain such a contract were discussed, among them being direct negotiation and an invitation to bid. On account of the lack of time, it was decided to have a later discussion upon the problem.

The Executive Officer mentioned that the Reclamation Board had advised that a contract is now being held in the Board's office, executed upon behalf of the Reclamation Board, to transfer drilling sites on the Sacramento River to the State Lands Commission. The Chairman asked that Mr. Frank Clark and others be requested to attend the next meeting of the Commission to discuss reasons for the issuance of consent to use drilling sites in 1941, when, according to representation made to the Chairman, drilling sites were needed by the Commission in 1939 and the Spring of 1940.

At the last meeting the overage and underage clauses contained in the Agreement for Easement No. 415, Rio Vista, were discussed.

Engineers of the Commission explained that the Pacific Gas & Electric Company had ample time prior to the floods within which to lay the gas line from the well described in this easement, but that the Pacific Gas and Electric Company delayed in doing this work until floods prevented it. The engineers also explained to the Commission that the gas from the State well is less than 1100 B.T.U. content, and for that reason a further delay has resulted in actual production of gas from the State well.

The Commission decided that the grantee of the easement should be permitted to take credit only within the respective six months periods.

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