

47. AD VALOREM TAX LITIGATION - W.O. 5200.400V.

The Executive Officer reported that it had been expected that someone from the City of Long Beach would be present to address the Commission in connection with Calendar Item 46 attached. However, in response to a request by the Chairman as to whether anyone desired to speak, there was no reply.

At the request of the Chairman, Assistant Attorney General Jay L. Shavelson briefly reviewed the modifications and recommendations outlined in the calendar item.

Mr. C. E. Dixon, acting for Commissioner Gordon P. Smith, noted that failure to take the action recommended could result in a loss of income to the State.

UPON MOTION DULY MADE AND CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION REAUTHORIZES THE ATTORNEY GENERAL TO FILE, ON BEHALF OF THE COMMISSION, AN AMICUS CURIAE BRIEF IN THE CONSOLIDATED CASES OF ATLANTIC OIL COMPANY, ET AL. V. COUNTY OF LOS ANGELES, ET AL., AND HUMBLE OIL & REFINING COMPANY, ET AL. V. CITY OF LONG BEACH, L.A. NUMBER 29534 IN THE SUPREME COURT OF THE STATE OF CALIFORNIA, INsofar AS THESE CASES INVOLVE CERTAIN DRILLING AND OPERATING CONTRACTS.

Attachment

Calendar Item 46 (2 pages)

46.

AD VALOREM TAX LITIGATION - W.O. 5200.400V.

At its meeting of January 26, 1968, the Commission authorized the Attorney General to file on its behalf an amicus curiae brief in presently pending ad valorem tax litigation insofar as it affects the method of valuation of taxable interests arising from drilling and operating contracts or other similar instruments for the production of oil and gas.

Pursuant to Commission instructions, the Executive Officer, accompanied by a member of the Attorney General's Office, attended a meeting of the Board of Equalization on February 8, 1968. The Executive Officer informed the Board of the Commission's resolution of January 26, and of the State's economic interest arising from the possible effect of any precedent established in this litigation upon revenues from the Long Beach tidelands. Representatives of the City of Long Beach and of the County of Los Angeles took the position before the Board that a ruling by the State Supreme Court that the De Luz principle of valuation for ad valorem tax purposes was inapplicable to drilling and operating contracts would be bad tax law and could have an adverse economic effect on a State-wide basis.

After hearing these representatives and the Executive Officer's contrary opinion as to the likely State-wide effects of a Supreme Court ruling as sought by the Commission, the Board adopted the following resolution:

State Board of Equalization
February 8, 1968

After discussion, and it appearing to the Board that (1) the issues in appeals now pending before the Supreme Court from trial court decisions involving the valuation for property tax purposes of private interests arising from oil and gas leases and from drilling and operating contracts are essentially legal; (2) both plaintiffs and defendants in the several actions are ably and adequately represented by counsel; and (3) the policy considerations as to the relative interests of State and local governments in the outcome of the litigation are not clear and involve complex problems of intergovernmental relations, it was moved by Mr. Reilly, seconded by Mr. Leake, and unanimously carried (Mr. Nevins and Mr. Flournoy absent), that the influence of the State should not be exerted in favor of either plaintiffs or defendants and that the Board, accordingly, recommends a policy of neutrality by all State agencies and requests that the Attorney General refrain from intervening in the litigation.

The Attorney General has advised that he considers that the Commission is entitled to have its legal position presented to the Court by his office. However, because of the fears of inequitable tax avoidance expressed by the Board of Equalization, he would limit his presentation to drilling and operating contracts which create rights and duties materially and substantially different from those created by the conventional oil and gas lease.

SUPPLEMENTAL CALENDAR ITEM 46. (CONTD.)

Such a presentation, if adopted by the Supreme Court, would help establish a precedent favorable to the Commission's objectives as to the Long Beach tideland contracts since these contracts are materially different from the conventional lease. It is also felt that this approach will meet many of the serious objections considered by the Board of Equalization.

IT IS RECOMMENDED THAT THE COMMISSION REAUTHORIZE THE ATTORNEY GENERAL TO FILE, ON BEHALF OF THE COMMISSION, AN AMICUS CURIAE BRIEF IN THE CONSOLIDATED CASES OF ATLANTIC OIL COMPANY, ET AL. V. COUNTY OF LOS ANGELES, ET AL., AND HUMBLE OIL & REFINING COMPANY, ET AL. V. CITY OF LONG BEACH, L.A. NUMBER 29534 IN THE SUPREME COURT OF THE STATE OF CALIFORNIA, INSOFAR AS THESE CASES INVOLVE CERTAIN DRILLING AND OPERATING CONTRACTS.