

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 126
SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 21, 2006
2:04 P.M.

KATHRYN S. KENYON, CSR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 13061

APPEARANCES

COMMISSION MEMBERS

Mr. Steve Westly, State Controller, Chairperson, also represented by Cindy Aronberg

Mr. Cruz M. Bustamante, Lieutenant Governor, represented by Mr. Kevin McCarty

Mr. Michael C. Genest, Director of Finance, represented by Ms. Anne Sheehan

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Assistant Legal Counsel

Mr. Alan Hager, Assistant Attorney General

Ms. Lynda Smallwood, Executive Assistant

Mr. Paul Mount, Chief, Mineral Resources Management Division

ALSO PRESENT

Mr. David King, Slawson Exploration Company, Inc.

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1 Executive Officer's Report.

2 Mr. Thayer, may we have your report?

3 EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

4 And good afternoon, members of the Commission.

5 I have three items I wanted to report on:

6 First, at the August meeting, we had an assignment
7 of a pipeline in the offshore from Plains Dcor. Dcor is a
8 fairly new company, and the Commission had some concerns
9 about its experience and financial ability to operate
10 these leases. And the Chair asked staff to develop a
11 condition, which would require a five-year review, to make
12 sure, to double check, that they were appropriately
13 carrying out the terms of the lease.

14 This was supported by all of the commissioners,
15 and we've worked with your staff to develop the language
16 on that condition.

17 But the lieutenant governor at that meeting asked
18 staff to report back as to the feasibility of imposing the
19 same sort of condition on other leases and under what
20 circumstances we do that.

21 Staff notes that the oil facilities, which were
22 the subject of the condition in the August hearing, are in
23 the process -- there's a trend for them being turned over
24 to smaller and smaller operators. So we see of this
25 concern, that we're having to pay much closer attention to

1 the capabilities of the new companies or the new assignees
2 on these new leases.

3 These oil facilities are routinely audited for
4 compliance with Health and Safety and Clean Operations
5 every five years, so we have an opportunity to, in fact,
6 do that sort of thing. And as the staff, what we're
7 really doing is attaching that condition whenever the same
8 circumstances show up. We are not going to operate
9 unfairly with respect to Dcor. And that same concern that
10 led to that condition being attached to the assignment to
11 Dcor will cause us to recommend the same condition for
12 future leases.

13 So I think that responds to the lieutenant
14 governor's concern. We will be using that condition.

15 CHAIRPERSON WESTLY: Thank you.

16 Ms. Sheehan?

17 ACTING COMMISSIONER SHEEHAN: So will we attach it
18 when the leases come up for renewal or simply on top of --
19 will we have to reopen it for recommendations on that, or
20 on top of what we already have there?

21 EXECUTIVE OFFICER THAYER: It would be a new
22 condition attached to the leases. And in some
23 circumstances, we would do that whenever there's an
24 assignment. There aren't that many new leases involving
25 an assignment like this, where it's going from a larger

1 company to a smaller company. But that's where we are.

2 ACTING COMMISSIONER SHEEHAN: Thanks.

3 EXECUTIVE OFFICER THAYER: The second item that I
4 wanted to note is that I had the pleasure of being down in
5 San Diego on October 7th. The San Diego Coastkeeper had
6 its annual fundraising and awards dinner. And in
7 appreciation for all of its work on being a good steward
8 of California's coastline and inland waters, especially in
9 San Diego Bay, the State Lands Commission was honored with
10 a Coastal Champion Award. And that award is right in
11 front of the Chair.

12 We're in good company. The other awardee was the
13 Natural Resources Defense Counsel. We will display this
14 award in the public lobby so that anybody coming into the
15 Commission can see that. And I'm sure the commissioners
16 would agree that this is an honor which everyone here
17 appreciates all of the work, that all of us worked
18 together on, as well as being very representative of the
19 goals of particularly these commissioners. And I wanted
20 to make sure you had an opportunity to see that.

21 CHAIRPERSON WESTLY: Great. Thank you, Paul.

22 EXECUTIVE OFFICER THAYER: The third issue --
23 slightly less happy issue is that the -- you will recall
24 that the Commission adopted a resolution expressing
25 concerns over the once-through cooling issue for --

1 predominantly for power plants along the coast.

2 The California Council for Environmental and
3 Economic Balance challenged that resolution as being a
4 regulation and appealed to the Office of Administrative
5 Law to so determine and a couple weeks ago, OAL came back,
6 in fact, affirming the request of CEQA.

7 The Coastal Commission attorneys as well as Allen
8 Hager from the Attorney General's Office reviewed that
9 determination. And our conclusion is, first, that no
10 additional action is necessary by the Commission; we don't
11 have to take any action to actually repeal that
12 resolution. And that we have several different options on
13 a go-forward basis. I would like to review those, but
14 it's not set as an action item today, and I would only do
15 that if you wanted to do something differently from what
16 you think the best place to go would be.

17 The options would include redrafting that
18 resolution. I have some concerns that if it were
19 redrafted, we would have to take careful note of OAL
20 concerns and cause us, perhaps, to be more cautious than
21 we want to be on this subject. This is a subject that, I
22 know, is of great concern to the commissioners.

23 Another option would be to take some of the same
24 policies that's in that resolution and put it into
25 regulations. Again, I have some concerns about that,

1 because it would begin to get us involved in water quality
2 issues that we don't really have the expertise for. You
3 will recall that that resolution relied predominantly on
4 carrying out the requirements of other agencies. And it
5 would seem to me that it would be best if those other
6 agencies continued to have primary responsibility over
7 those sorts of issues.

8 The third option, and the one that, in some
9 respects, this Commission is going to do right along,
10 anyway, is to very carefully analyze each project that
11 came before the Commission. So we would be looking at all
12 the impacts that caused the concern to the Commission,
13 from once-through cooling and make sure that those are
14 fully analyzed before they come to the Commission, so the
15 Commission will have the benefit of knowing what the
16 impacts are going to be.

17 We'll also analyze any alternatives and any
18 mitigation so that the Commission, on a case-by-case
19 basis, can continue to review projects with respect to the
20 concerns that it had when it adopted the resolution.

21 Thank you.

22 CHAIRPERSON WESTLY: Thank you, Mr. Thayer.

23 On that last point, I just want to reiterate, I
24 think that the State Lands Commission should continue to
25 stand firm on making sure that we address the

1 environmental damage caused by once-through cooling. This
2 is an important issue. I know, Secretary Chrisman shares
3 my concerns, but we had passed a very similar motion on
4 the Oceans Commission. And I'm proud to be a leader in
5 that area. And I hope we will continue to be a leader in
6 that area.

7 Any other comments from my colleagues?

8 Ms. Sheehan?

9 ACTING COMMISSIONER SHEEHAN: I guess, in terms
10 of, you know, the last option, will the staff come back
11 with a recommendation or -- on any of them, I guess, or in
12 terms of what direction you feel the Commission would want
13 to go?

14 EXECUTIVE OFFICER THAYER: I guess it's my intent
15 to go forward with the last option. And I guess if the --
16 if the commissioners would prefer to go in a different
17 direction, we could calendar that or discuss it further.

18 ACTING COMMISSIONER SHEEHAN: I'm very
19 comfortable. I think the statement was made in terms of
20 the policy of the Commission. You know, it would be very
21 preferable for them to come up with some alternatives
22 before they come back to us. I think that was clear. And
23 the Water Board has to do their thing.

24 And I think that's the proper regulatory way. It
25 will be a little torturous for us to have to go through

1 some regulations, and I think the problem belongs at the
2 Board.

3 So -- okay.

4 EXECUTIVE OFFICER THAYER: Yeah. And to
5 editorialize just for 30 seconds here, in going through
6 the process and reviewing OAL's review and its authority
7 and jurisdiction, I have some concerns. Because I think,
8 in some respects, this Commission did a service to the
9 industry, through adopting this resolution, and gave their
10 notice of its concern. And certainly, this Commission has
11 the jurisdiction over this issue. It has the jurisdiction
12 over any issue with impacts to Public Trust lands.

13 And I'm concerned where, in effect, there's a
14 chill cast over the Commission's ability to kind of give
15 some advance warning on issues like this, because that
16 advance warning is then deemed to be regulation.

17 But having said all of that, I think at this point
18 we're at a -- in a situation where industry is aware of
19 the Commission's concern for how this issue will turn out.

20 ACTING COMMISSIONER SHEEHAN: And I guess -- I
21 guess what I want to say is, your final point is sort of
22 the critical one: That people are on notice about the
23 summary of the Commission in coming forward. So whether
24 it be done, you know, even though the resolution, OAL
25 found, I guess, just a couple of clauses insufficient in

1 terms of from a legal determination; I think the message
2 has been sent.

3 EXECUTIVE OFFICER THAYER: Absolutely.

4 ACTING COMMISSIONER SHEEHAN: Thanks.

5 EXECUTIVE OFFICER THAYER: That would conclude the
6 Executive Officer's report.

7 CHAIRPERSON WESTLY: Great. I just want to
8 reaffirm the Commission's direction to fully analyze the
9 impacts on global warming. I think this whole issue of
10 climate change is more important than ever. We have
11 talked about it repeatedly. But we have been a leader
12 here to look at areas that can address what we can do to
13 reduce the impacts of global warming.

14 Paul, you and the staff have done a great job on
15 that. I urge you to continue. Having just seen the movie
16 *An Inconvenient Truth*, it raised questions on what the
17 impacts of our coast will be. And I would love it if you
18 have any other thoughts on that area, which we should be
19 proactively looking at.

20 EXECUTIVE OFFICER THAYER: In discussions with
21 your staff on this issue, and I understand it's of great
22 concern to the Chair, just the thought that a lot of --
23 well, a lot of our property is defined by the mean high
24 tideline. And as the ocean rises, that line is going to
25 move inland. So it raises questions.

1 If we approve the seawall, does that mean that our
2 future right to land behind that seawall is extinguished,
3 because the water doesn't go there? There are a whole
4 variety of issues like that, that are important to how the
5 Commission does its business. So I think the
6 Commission -- or the Chair and Commission are entirely on
7 point to be concerned about this issue. And it's
8 something we'll look at and bring it back to the
9 Commission.

10 CHAIRPERSON WESTLY: That would be great, because
11 it obviously impacts the state's coastline. I'm very
12 pleased that the governor assigned AB 32 and wanted to
13 give both sides of the aisle and the legislature credit
14 for doing that. But every state agency needs to be
15 thinking: What we can do to mitigate the impacts of
16 global warming to reduce the carbon footprint of the
17 state?

18 I would like to direct you and the other staff to
19 come back with concrete suggestions on what the State
20 Lands Commission could do to reduce our carbon footprint
21 and to prepare appropriately, if that is fair.

22 Are there are any other comments from the other
23 commissioners?

24 If not, the next order of business will be the
25 Adoption of the Consent Calendar.

1 And I would like to call on our Executive Officer,
2 Mr. Thayer, to indicate which items have been removed from
3 the consent calendar.

4 EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

5 Those items would be 4, 14, 49. We won't hear
6 those items today, but bring them back probably on the
7 consent calendar, again, at a future meeting.

8 CHAIRPERSON WESTLY: That's items 4, 14, and 49?

9 EXECUTIVE OFFICER THAYER: Correct.

10 CHAIRPERSON WESTLY: Got it.

11 EXECUTIVE OFFICER THAYER: And I believe
12 Commissioner McCarty had one other issue that he wanted to
13 raise with respect to voting.

14 ACTING COMMISSIONER McCARTY: I can probably do
15 that during the votes, after the -- I can abstain on those
16 measures. I would move the consent calendar to pull Item
17 54 for discussion.

18 ACTING COMMISSIONER SHEEHAN: I will second that
19 motion.

20 CHAIRPERSON WESTLY: Great. All in favor -- let's
21 move the approval of the consent items with the exception
22 of items 4, 14, and 49, which would be addressed at a
23 future meeting, and Item 54, that we will discuss today.

24 Is that the motion?

25 All in favor, please say "aye."

1 (Ayes.)

2 ACTING COMMISSIONER McCARTY: And one note for the
3 record, I would like to abstain Item No. 17.

4 CHAIRPERSON WESTLY: Okay. Terrific. Mr. Thayer,
5 would you like to provide a summary of Item 54?

6 EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

7 I would like to call on Paul Mount, chief of our
8 Resources Management Division, to present that item.

9 MR. MOUNT: Good afternoon, Commissioners.

10 My name is Paul Mount. I'm the Chief of Mineral
11 Resource Management Division. Item 54 is consideration of
12 an application for negotiated subsurface use by Slawson
13 Exploration.

14 What they plan on doing is to drill a well from
15 west to east. In order to reach their target, they need
16 to drill this well underneath the Sacramento River, which
17 the State Lands have the rights to.

18 They have a Rec Board lease to the east of the
19 river, and they do have that lease. They have had it
20 since April. And they want to build this well, from the
21 west, where they have surface use lease. And they want to
22 drill it under the Sacramento River to try to recover or
23 explore for natural gas in that area.

24 The State would receive approximately 22 percent
25 royalty on the unit. And we would have to lease about

1 80.3 acres to Slawson Exploration.

2 They would like to begin as soon as possible
3 because of the weather -- in the winter, it makes it very
4 difficult for them to drill in that area. And so we're
5 here today -- they are requesting to drill this well as
6 soon as possible.

7 A representative of Slawson is here to answer any
8 questions you may have.

9 CHAIRPERSON WESTLY: What I would like to do now,
10 unless there are any immediate questions from the
11 commissioners, is ask William Barbour, the general counsel
12 at Spanos Corporation to come forward.

13 ASSISTANT LEGAL COUNSEL FOSSUM: Mr. Chairman,
14 that individual was prepared to speak on another item that
15 you have already approved.

16 CHAIRPERSON WESTLY: Forgive me. When you said
17 there was a member of the public, who may wish to speak --

18 EXECUTIVE OFFICER THAYER: Yes, sir. He just had
19 put in a speaker's request, but I imagine, given the turn
20 of events, he may want to address the Commission.

21 CHAIRPERSON WESTLY: This is the time when we like
22 to invite members of the public to come forward. And if
23 you could come up to the microphone here, and please
24 identify yourself, we would be appreciative.

25 MR. KING: Thank you. I'm David King. I'm the

1 land manager for Slawson Exploration.

2 CHAIRPERSON WESTLY: Great.

3 And would you like to speak for or against?

4 MR. KING: Yes. Our operations here will be
5 drilled on private property, which we've obtained a
6 surface use agreement from Mr. Durst. We would be
7 approximately 150 feet from the river, to the west of the
8 river. We would drill a vertical well to approximately
9 2700 feet. At such time we would put a mud motor, which
10 is a directional drilling tool, and then we would drill at
11 approximately a 20-degree angle to encounter the Forbes
12 sand, which is a gas-producing sand, at approximately
13 around 700 feet of sand. We would be drilling this
14 well -- as I said, it's a directional well, so we could
15 encounter several sand intervals that we expect to contain
16 carbon.

17 CHAIRPERSON WESTLY: Okay. Thank you very much.

18 Why don't you hold on there for a minute in case
19 there are any questions.

20 Are there any other members of the public who
21 would like to speak?

22 Okay. At this point, let me just voice my view.
23 I am going to vote no on this issue. I've consistently
24 voting no against new oil leases for drilling. And in the
25 state of California -- and I have concerns about whether

1 this is the best stewardship to use public lands for oil
2 extraction. I think our public lands -- Trust lands
3 should be used and kept to water-related uses, open space,
4 and recreation whenever possible.

5 But what I would like to do is ask other members
6 of the Commission if they would like to speak on this
7 issue.

8 Member McCarty, you would like to refer to Ms.
9 Sheehan.

10 ACTING COMMISSIONER SHEEHAN: Yeah. Just in
11 terms -- I certainly understand the Chair's view in terms
12 of his interpretation. But staff has found this
13 consistent with the Public Trust -- our historic and
14 precedential finding of the Trust.

15 Is that correct, Mr. Thayer?

16 EXECUTIVE OFFICER THAYER: Absolutely. And
17 perhaps Paul Mount may have some experience in terms of
18 the Commission approving other projects very similar to
19 the slant drilling underneath the river and that kind of
20 thing. I think, it's something that we've done before.

21 This is a new lease, which differentiates it from
22 some of the other projects that have come before the
23 Commission, where there was an expectation and a right of
24 development. That doesn't exist in this circumstance.

25 ACTING COMMISSIONER SHEEHAN: Okay.

1 MR. MOUNT: Traditionally, the Commission has
2 approved these projects, because, in fact, they were
3 natural gas. So there was very little controversy
4 surrounding these.

5 It would be underneath the river, and almost every
6 well that I can think of, up there, is at a depth
7 considerably deeper than 500 feet and at a very little
8 environmental impact.

9 In fact, we leased, historically, to Slawson, one
10 lease in the general area where they are now, in fact,
11 about ten years ago.

12 ACTING COMMISSIONER SHEEHAN: I guess I would ask
13 the representative from Slawson: What are your
14 alternatives if the Commission does not approve this
15 today?

16 MR. KING: As I indicated, we are looking to drill
17 a deviated well, because we cannot set up in the bypass
18 and we cannot set up in the river.

19 The objectives are such that we need to encounter
20 the Forbes sand, at around 7,000 feet, from a west-east,
21 direction to see these zones. To go north of the bypass,
22 we would be not able to see all of the zones in
23 directional drilling.

24 The mechanism of drilling is, it's better to drill
25 at -- even though you are drilling at an angle, it's in

1 one direction.

2 If you have to corkscrew the well, then it gets
3 much more complicated, and the depths that we're talking
4 about do not permit corkscrewing to get such a shallow
5 depth at 7,000 feet. More like 10,000, 12,000 feet, you
6 have the ability to corkscrew around. We would not be
7 able to see potentially three zones we're looking for.
8 And the economics are such that it would make it very
9 difficult, if not impossible. We have no surface use
10 agreements with the people to the north. We have them
11 with the west -- west of the river.

12 ACTING COMMISSIONER SHEEHAN: So if I understand
13 you correctly, you wouldn't have many alternatives;
14 correct?

15 MR. KING: That's correct.

16 CHAIRPERSON WESTLY: Mr. McCarty.

17 ACTING COMMISSIONER McCARTY: Thank you, Chair
18 Westly.

19 And I will also be supporting the Chair on this
20 measure. This is my first time serving on this Board, but
21 my understanding is that Mr. Bustamante held similar views
22 in the past along with the Controller.

23 So I will be supporting your position and also
24 voting no on this measure.

25 CHAIRPERSON WESTLY: Thank you.

1 I think if there are no other members of the
2 public who would like to speak, or no other questions from
3 my colleagues, what I would like to do is call for a roll
4 call vote, if I could.

5 ACTING COMMISSIONER SHEEHAN: We need a motion.

6 CHAIRPERSON WESTLY: Forgive me.

7 The motion, I meant to make more clearly, in my
8 initial statement, was to vote against approving the
9 particular request.

10 ACTING COMMISSIONER McCARTY: Second that motion
11 to vote no.

12 CHAIRPERSON WESTLY: All in that favor, please say
13 "aye."

14 (Ayes.)

15 EXECUTIVE OFFICER THAYER: Opposed?

16 ACTING COMMISSIONER SHEEHAN: Opposed.

17 CHAIRPERSON WESTLY: Okay. Thank you very much.
18 Thank you for being here today.

19 That brings us to the next issue. That concludes
20 the regular calendar.

21 EXECUTIVE OFFICER THAYER: That concludes the
22 regular calendar. We just have public comment left.

23 CHAIRPERSON WESTLY: Terrific.

24 At this point, are there any speakers who wish to
25 address the Commission during this public period?

1 I know there are -- just to be clear on this,
2 there was one member of the public who wanted to speak on
3 Item C20. But this was approved on the consent calendar.

4 Anything else, members from the public?

5 All right. That concludes the open meeting.

6 I note for the record that there is not a closed
7 session today. And therefore, the meeting is now
8 adjourned. And I would like to thank all of the staff and
9 the members of the public being here today.

10 Thank you.

11 (The State Lands Commission meeting
12 adjourned at 2:27 p.m.)

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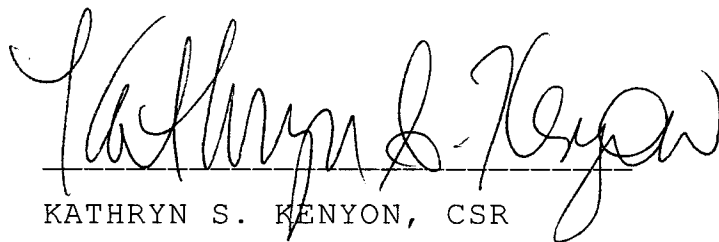
1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing California State Lands Commission meeting was
6 reported in shorthand by me, Kathryn S. Kenyon, a
7 Certified Shorthand Reporter of the State of California,
8 and thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said meeting nor in any
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 2nd day of December, 2006.

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22 KATHRYN S. KENYON, CSR

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