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FOIA
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Folder Title:
CA Elk Hills

Stack:	Row:	Section:	Shelf:	Position:
S	27	4	8	3

ES

TO: John Emerson

FROM: Elinor Schwartz

SUBJECT: Elk Hills

DATE: October 18, 1886

I thought that you would like to know that Governor Wilson approved the Elk Hills agreement today.

Thanks again.

ELINOR SCHWARTZ 318 South Abingdon Street Arlington, Virginia 22204 (703) 920-5389

APPROVAL OF SETTLEMENT AGREEMENT

Pursuant to Section 6107 of the Public Resources Code of the State of California, the foregoing Settlement Agreement entered into by and between the United States of America (by and through the Secretary of Energy) and the State of California (by and through the California State Lands Commission and the California State Teachers' Retirement System) is hereby approved.

DATED: 10/18/96

Pete Wilson

PETE WILSON, Governor
STATE OF CALIFORNIA

ES

Calif/Elk Hills

TO: John Emerson

FROM: Elinor Schwartz

SUBJECT: Elk hIlls

DATE: October 16, 1996

Again, thanks for your help on the Elk Hills settlement.

The LA Times article and California agency signature page of the agreement are attached. A fact sheet is also included.

ELINOR SCHWARTZ 318 South Abingdon Street Arlington, Virginia 22204 (703) 920-5389

Fight Over Elk Hills Oil Reserve Ends

■ **Energy:** Property now cleared for sale. Money will go to teachers retirement fund.

By CHRIS KRAUL
TIMES STAFF WRITER

The federal and state governments have settled a long-standing dispute over ownership of one of California's richest oil fields, paving the way for a sale of the property that could add $135 million or more to the state teachers retirement fund.

That sum would be 9% of the $1.5-billion minimum amount that the planned sale of Elk Hills Naval Petroleum Reserve in Kern County is expected to fetch at auction. Teachers are entitled to the money by virtue of a 1984 state law that envisioned a settlement.

Numerous oil companies, including Chevron Corp. and Atlantic Richfield Co., have expressed interest in making bids for Elk Hills. The government hopes to complete the sale by early 1998.

President Clinton signed a bill in February authorizing the sale of Elk Hills, part of an ongoing privatization of certain strategic oil reserves. But had the state's claim on the property gone unresolved, it could have depressed its value, said a spokesman for Lt. Gov. Gray Davis, who as state controller filed suit in the state's interest in 1987.

The state has long contended that it owned the property by virtue of statehood. As an incentive for states to join the union, the federal government customarily offered land for educational purposes, and the Kern County property was so earmarked.

But Elk Hills was never formally transferred, and when oil was discovered in the early 1900s, two presidential orders declared the land and its oil the property of the Navy. Chevron later purchased a 20% interest in the property and exclusive rights to develop oil.

The federal government's privatization policy and the rising use of nuclear power on Navy ships made the Elk Hills property expendable in the federal government's eyes.

Chevron now produces 63,000 barrels of oil daily at the 47,409-acre site, which has proven reserves of about 280 million barrels of crude. That makes it one of California's largest inland oil fields, according to Robert Hight, executive director of the State Lands Commission.

Thursday's agreement calls for payments to California in five annual installments beginning in the 1999 federal fiscal year.

LA TIMES OCTOBER 11, 1996

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the day and year last written below.

DATED: October 10, 1996

U.S. DEPARTMENT OF ENERGY

By: Hazel O'Leary

Hazel O'Leary
Secretary

DATED:

CALIFORNIA STATE LANDS COMMISSION

By: Robert C. Hight

Robert C. Hight
Executive Officer

DATED:

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

By:

James D. Mosman
Chief Executive Officer

10/9/96

FACT SHEET
ELK HILLS SCHOOL LANDS SETTLEMENT

The Settlement Agreement is fair to both sides. It would provide compensation to California for the two Elk Hills school land sections which the Federal Government granted to the State when it entered the Union. At the same time, it would maximize sale revenues to the Federal Government by allowing the removal of this cloud on title being offered to purchasers, by removing purchasers' exposure to treble damages for conversion under California statutory law, and by prohibiting the State from enjoining the sale of Elk Hills. The key specific terms are as follows:

- DOE would pay 9% of the net proceeds from the sale of Elk Hills in five equal installments (without interest) beginning in FY 1999 and ending in FY 2003. If the amount exceeds $180 million, the balance over $180 million would be paid in two equal installments in years 6 and 7 (FY 2004 and 2005).
- The obligation to pay is contingent on sale, and the obligation to pay each installment is subject to an appropriation for the purpose of making the payment.
- Payments are to be made from a contingent fund established by Congress to compensate California for its school land claims.
- If the settlement installments are appropriated and disbursed, the State releases all Elk Hills school lands claims against the United States and the purchaser(s) of Elk Hills.
- California would waive any right to enjoin the Elk Hills sale, even if Congress fails to fund some or all of the requisite payments.
- California would waive any right to seek treble damages against a purchaser for conversion, even if Congress fails to fund some or all of the requisite payments.
- California would permit the United States and the purchaser to convert the State's title claims against the purchaser to monetary claims against the United States, even if Congress fails to fund some or all of the requisite payments.

OCT 11 '96 04:22PM H & H 9W 109 FAX NO. 0000000000000000000 P.2/2/01

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TIMES STAFF WRITER

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Thursday's agreement calls for payments to California in five annual installments beginning in the 1999 federal fiscal year.

Calif / Elk Hills

LA TIMES OCTOBER 11, 1996

NEWS RELEASE

Calif/Elk Hills

STRS
State Teachers' Retirement System

California State Teachers' Retirement System
7667 Folsom Boulevard
Sacramento CA 95826-2614

October 10, 1996
NR 96-7

Contact:
Jim Mosman (916) 229-3700 • Jennifer Morrill (916) 229-3714 • Judith Burns (916) 229-3938

FOR IMMEDIATE RELEASE

Clinton Administration Agrees to Settlement of California Teachers' Longstanding Elk Hills Claim

SACRAMENTO, CA . .

The California State Teachers' Retirement System (CalSTRS) announced that Secretary of Energy Hazel O'Leary, on behalf of the Clinton Administration, today agreed to a settlement of the longstanding claim of the State of California and its over half-million active and retired teachers to the State school lands located in the Elk Hills Navel Petroleum Reserve. The settlement resolves a century-old dispute between the State and the Federal Government and clears the way for the Administration's sale of the Elk Hills oil field to private industry.

The Teachers' Retirement Board of CalSTRS and the State Lands Commission have authorized execution of the settlement agreement, which is subject to final approval by Governor Pete Wilson.

The settlement implements the Congressional direction in the Defense Authorization Act for Fiscal Year 1996 that the State and its teachers be given proper compensation for the Elk Hills school lands and permits the threat of the State's claim to be removed from the pending sale in order to maximize the revenues realized by the Federal Government. The State would receive nine (9) percent of the net sales revenues in installments over five (5) to seven (7) years, with such share yielding as much as $135 to 180 million based on recent estimates of a sale price for the Elk Hills field. The State applies the revenues from its school lands to assist retired teachers whose pensions have been most seriously eroded by inflation.

James D. Mosman, Chief Executive Officer of CalSTRS, said: "This really is an exciting day for us, one that we have been looking forward to for many years. On behalf of our membership of over half-million active and retired teachers in California, I want to laud the Administration for working hard to reach a settlement. The negotiations were sometimes difficult over these last seven (7) months. The final agreement is fair to both sides, providing proper compensation to the State and its teachers for their lands and enabling the Federal Government to maximize the sales proceeds by providing a means of removing the cloud of the State's claim in advance."

Mosman said: "The settlement ensures that the State and its teachers will receive the fair compensation for their Elk Hills claim that Congress directed when it enacted the Defense Authorization Act providing for the sale of the Elk Hills field. Our half-million active and retired teachers owe a great debt of gratitude to Congressman Bill Thomas from Bakersfield, who spearheaded the legislative effort in the Congress to provide fair compensation, and to Congressmen Ron Dellums from Oakland, Vic Fazio from here in Sacramento, and George Miller from Martinez, for their very stong and active support on the Elk Hills issue. The entire California Congressional delegation joined in a strong letter of support during our legislative effort, as did Senators Feinstein and Boxer."

The State was granted the tracts in Elk Hills along with other State school lands located throughout California by the Federal Government at the time California joined the Union in 1853, as a condition of joining the Union. However, because of a dispute dating back almost to the turn of the century between the State and the Federal Government, the State has been unable to derive any revenues from these oil rich State school lands in Elk Hills.

# # #

Fact Sheet
Elk Hills School Lands Settlement

The Settlement Agreement is fair to both sides. It would provide compensation to California for the two (2) Elk Hills school land sections which the Federal Government granted to the State when it entered the Union. At the same time, it would maximize sale revenues to the Federal Government by allowing the removal of this cloud on title being offered to purchasers, by removing purchasers' exposure to treble damages for conversion under California statutory law, and by prohibiting the State from enjoining the sale of Elk Hills. The key specific terms are as follows:

- DOE would pay nine (9) percent of the net proceeds from the sale of Elk Hills in five (5) equal installments (without interest) beginning in fiscal year 1999 and ending in fiscal year 2003. If the amount exceeds $180 million, the balance over $180 million would be paid in two (2) equal installments in years six (6) and seven (7) (fiscal years 2004 and 2005).

- The obligation to pay is contingent on sale, and the obligation to pay each installment is subject to an appropriation for the purpose of making the payment.

- Payments are to be made from a contingent fund established by Congress to compen sate California for its school land claims.

- If the settlement installments are appropriated and disbursed, the State releases all Elk Hills school lands claims against the United States and the purchasers(s) of Elk Hills.

- California would waive any right to enjoin the Elk Hills sale, even if Congress fails to fund some or all of the requisite payments.

- California would waive any right to seek treble damages against a purchaser for con version, even if Congress fails to fund some or all of the requisite payments.

- California would permit the United States and the purchaser to convert the State's title claims against the purchaser to monetary claims against the United States, even if Con gress fails to fund some or all of the requisite payments.

GRAY DAVIS
LIEUTENANT GOVERNOR

STATE OF CALIFORNIA
OFFICE OF THE LIEUTENANT GOVERNOR

FOR IMMEDIATE RELEASE
October 10, 1996

CONTACT: STEVAN ALLEN
(916) 445-8994

LIEUTENANT GOVERNOR DAVIS ANNOUNCES ELK HILLS SETTLEMENT
10-year Battle Results In Millions to State's Retired Teachers

SACRAMENTO -- Lieutenant Governor Gray Davis today announced a settlement in a longstanding dispute between the California State Lands Commission and the federal Department of Energy, which will result in millions of dollars to California's retired teachers.

The agreement concerns the sale of a parcel of land in Kern County known as the Elk Hills Naval Petroleum Reserve. That land has been owned by the federal government but the state has had a decades-old interest in the reserve. By agreeing to terms of the sale, an estimated $180 million will be paid to the state. By law, that money is earmarked for cost-of-living-adjustments owed California's retired teachers.

"This is a great victory for teachers. Today marks the successful end of a 10-year struggle through the courts and the Congress," said Davis, who as SLC chairman filed the original 1987 lawsuit demanding compensation from the federal government. "I applaud the diligent efforts of President Clinton and his administration, including Chief-of-Staff Leon Panetta and Energy Secretary Hazel O'Leary."

The settlement caps a relationship between the federal and state government going back to 1853, when land was promised to California to support education. But the federal government refused to release the Elk Hills tracts to California once oil was discovered and deemed vital to national security. Over time the oil's significance to defense diminished, and in February of this year the President signed into law a bill authorizing the sale of Elk Hills. That law made it possible for the SLC and DOE to negotiate the settlement, which was finally reached Thursday.

"This is a win-win situation," Davis said. "The feds finally get to sell the property, the state finally resolves its claims and California's retired teachers finally get the pension boost they deserve."

###

☐ State Capitol, Rm. 1114, Sacramento, CA 95814-4992 (916) 445-8994 FAX (916) 323-4998 E-Mail: Gray.Davis@ltg.ca.gov
☐ 333 South Grand Avenue, Suite 2040, Los Angeles, CA 90071-1504 (213) 620-2211 FAX (213) 620-2033

Calif/Elk Hills

~~CONFIDENTIAL~~/CONTRACT SENSITIVE

TO: KRIS BALDERSTON
FR: MELANIE KENDERDINE
RE: STATUS OF CALIFORNIA TEACHERS' SETTLEMENT
DATE: 10/04/06

Per your request, I am sending you an abbreviated proposal for an event for the signing of a settlement agreement between the DOE and the California Retired Teachers (time is extremely short) and have included the text of the previous memo I sent you on this subject back in August.

UPDATE -- 10/03/96

The Department, the Teachers and the State of California are extremely close to reaching an agreement; DOE is waiting for written concurrence from the DOJ but has already received a verbal OK from a staff counsel at Justice. The draft agreement would give the Teachers Retirement Fund nine percent of the proceeds of the sale of the DOE's Naval Petroleum Reserve. We will not know the final sale price until 1998, when we are statutorily obligated to sell the property; for budget assumption purposes, OMB and CBO estimates would place the value of the settlement at somwhere between $150 and $180 million.

The Governor and the Secretary must sign the final agreement. The teachers and the state have internal approval processes which will take, at a minimum, ten days.

Assuming we have a tentative agreement with all parties within the next 24 hours, we anticipate being ready for some kind of roll-out of an **agreement in principle** by early to mid-week next week (Oct. 8 or 9).

Several members of Congress (Fazio, Dooley, Brown, Harmon, Eshoo, Woolsey, Dellums) have expressed interest in this settlement. The Lieutenant Governor also aware that we are ready to settle.

I recommend that we have an event in California, next Wednesday or Thursday with either Charlie Curtis or Tom Grumbly, any interested members of congress, the head of the teachers association, and a crowd of retired teachers. Mr. Panetta could participate or call in, depending on his schedule, etc.

Timing will be tricky. In order to get an event together with the teachers, we will have to notify their board. As soon as we do this, it is possible that Governor Wilson will take credit for the settlement. Perhaps the California Democratic Caucus, the Senators and John Emerson can help us solve the timing problem.

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: BM DATE: 1/9/15
2014-0928-F

BACKGROUND (FROM PREVIOUS MEMO)

The Department of Energy owns and operates the Elk Hills Naval Petroleum Reserve in Bakersfield, California. Vice President Gore proposed that this facility be privatized as part of the National Performance Review in 1993.

The President's legislation to privatize the Reserve went to the Hill in the spring of 1995 and included a provision which would settle a longstanding claim by the California State Retired Teachers and the California Lands Commission against Elk Hills property. The State's ownership claim involves two tracts of land within the Elk Hills field. The State has taken the federal government to court to seek compensation for this property and loston the basis that the statute of limitations for the claim had expired.

The State maintains that when and if the property changes hands, as it would in the event of a sale, the claim would be re-activated. This has raised concerns at the Department about the possible dilatory impacts of the claim on the sale process. As such, the DOE recommended and the President included, a settlement provision in his legislation authorizing the sale of Elk Hills. This provision, based on fairness and equity as opposed to the legal validity of the claim, would have paid the State 7 percent of the proceeds from the sale over a nine year period of time.

The 1996 Defense Authorization bill includes language to sell Elk Hills and establishes a mechanism to compensate the teachers for their claim, either through settlement or a successful legal challenge. Under the Congressionally passed statute, the teachers could be provided up to 9 percent of the value of the property, with the actual amount of the compensation to be determined by an assessment of the "fair value of the claim." Funds for the settlement amount would have to be appropriated.

STATUS

The Department of Energy, with the concurrence of the White House and OMB, has initiated settlement negotiations with the California Retired Teachers, the California Attorney General's office and the State Lands Commission (all interested parties.)

On Friday, August 2, representatives of the Teachers, the CA AG's office and the CA Land Commission, met with DOE and OMB representatives. All parties were reportedly happy with the progress that was made and agreed to have a phone conference in approximately ten days to negotiate further. The group established mid-September as a target date to sign a contingent settlement agreement (any agreement must be contingent because it is necessarily based on value at sale, which will not occur until 1998; and is subject to appropriation.)

General concerns raised by the Department are calculation of fair value of the claim (since the State has lost in court, some of our lawyers view the fair legal value as "0"), timing, appropriations language that would in some way validate the settlement agreement and how to calculate the equitable value of the claim.

The Teachers have drafted a favorable article for their newsletter (circulation: 500,000) which indicates they are optimistic about settlement and that they had a very positive negotiating session with DOE.

DOE indicated that it would like to honor the nine percent amount found in the statute but needed more than preliminary numbers to validate that figure
problem.

California Independent Petroleum Association
Environmental Affairs Office
5201 Truxtun Avenue, Room 119
Bakersfield, CA 93309
Ph: (805) 633-3119
Fax: (805) 633-3191

Facsimile Transmittal

Date: OCTOBER 15, 1996

To: JOHN EMERSON

From: DAVID GILBERT, DIRECTOR OF ENVIRONMENTAL AND PUBLIC AFFAIRS

Fax Number:

Number of pages of this fax (including this cover): 3

Message:

I WANTED TO MAKE SURE YOU HAVE SEEN THE ATTACHED ARTICLE FROM SUNDAY'S WASHINGTON POST. CIPA APPRECIATES ALL THE EFFORTS BY THE CLINTON ADMINISTRATION ON BEHALF OF THE CALIFORNIA INDEPENDENT PRODUCERS. WE LOOK FORWARD TO WORKING WITH YOU IN THE FUTURE.

The Washington Post
SUNDAY, OCTOBER 13, 1996

Oil Patch Shift Worrisome for GOP

In Balancing Act, Clinton Pleases Energy Industry and Environmentalists

By Dan Morgan
Washington Post Staff Writer

One has to go back to the era of President Lyndon B. Johnson, a Texan from an oil state, to find a Democrat at the top of the national ticket who inspires much enthusiasm across the nation's oil patch.

In the 1970s and 1980s, the Democratic Party became identified with environmental regulation, price controls and higher taxes, and the oil and gas industry leaned to Republicans such as Ronald Reagan and George Bush.

That is why California oil man J.C. "Mac" McFarland's endorsement of President Clinton could be a worrisome omen for Republicans and a sign of an improving Democratic image in a major Sun Belt industry.

"I have generally voted Republican throughout my life . . . and will no doubt support many more Republicans in the future," wrote the president of the influential California Independent Petroleum Association in a letter last month to members. "However, I believe Bill Clinton is the better choice this year."

McFarland then ticked off his reasons, including the ending of a ban on export of Alaskan oil, which California producers hope will end a price-depressing glut of Alaskan crude on the West Coast; a Clinton administration order reducing royalty payments on "heavy" oil pumped from federal lands, mainly in California; and the proposed sale to private companies of the federal government's huge oil field at Elk Hills, Calif.

Whether this will translate into votes and financial support for Democrats at the end of the 1996 campaign is uncertain.

Republicans piled up a huge lead in fund-raising from the industry through the middle of 1996. As of July, Clinton's campaign had pulled in $128,460 from oil and gas interests in the current election cycle, compared with Republican Robert J. Dole's $542,340.

There were similar lopsided margins in corporate political contributions to congressional candidates and the two parties.

The Republican push for deficit reduction and budget balancing has presented GOP friends of the industry with something of a quandary. It has made it difficult for GOP lawmakers to support tax incentives or royalty concessions to the industry.

For his part, Clinton has backed legislation providing a royalty holiday for major oil companies who find oil in the deep waters of the western Gulf of Mexico, signed a "royalty fairness" bill that puts a time limit on the government's ability to collect back-royalties and helped work out differences between Rocky Mountain oil producers and environmental organizations over drilling in the upper Green River area in southwest Wyoming and northeast Colorado.

The administration also supported recently enacted changes in the Oil Pollution Act of 1990 that will reduce the financial burden on companies with offshore oil and gas facilities.

As a result, the Clinton administration appears to be making some headway in refurbishing its image in the oil and gas producing regions of California, the Rocky Mountains and the Gulf states.

"Democrats who have been inactive since the Carter administration are standing up and saying they're proud to be Democrats. And Republicans are remaining silent. They understand the tremendous amount that Clinton has done for them," said Michael Beatty, a former energy company executive who now chairs the Democratic Party in Colorado.

Beatty rounded up a bipartisan group of 100 oil and gas executives to support Clinton in 1992, but had to include "just about anybody with a mud hole."

This time around he believes he can sign up twice that number before the election.

"It's hard to see why independents or major producers would not be reasonably pleased with the actions the administration has taken," said Philip Carroll, president of Shell Oil Co.

Rep. Bill Thomas (R-Calif.), who represents oil-rich Kern County, credits the GOP Congress as much as Clinton.

"He [Clinton] was in the right place at the right time," he said. "It wasn't the fact that Clinton [illegible] there but that Republicans gained control of the House and [illegible] [The administration] swept up a number of ideas that had [illegible] around and put them together. ... But they wouldn't have made it out of the old Democratic-controlled House committee system."

But Thomas concedes the p[illegible]dent probably is reaping [illegible]s. "There are not a lot of votes directly tied to the oil patch," he said, "but [Clinton's record] neutralizes [illegible]y and potential pockets of opposition."

This record has been achieved without alienating environmentalists, something of a political high-wire act.

For example, Clinton's support of Alaskan oil exports was balanced by his opposition to drilling in the [illegible] National Wildlife Refuge, [illegible] the deep water drilling Clinton supports will be limited to the western Gulf, lessening the risks to Florida's relatively pristine west coast.

Clinton, who served as attorney general and governor of a major [illegible]ural gas producing state, entered office better informed about the intricacies of the energy business than any recent predecessor. Northwest Arkansas sits astride part of the Arkoma basin, a huge reservoir of natural gas extending into Oklahoma and Kansas.

In his 1992 campaign, he promised to increase use of domestic [illegible]ural gas relative to impor[illegible] oil and "dirtier" fuels such as coal. It [illegible] a position that fit well with the environmental message of Vice President Gore.

The energy tax proposed in his first weeks in office would have taxed fuels based on their Btu (British thermal units), a formula that gave the edge to natural gas [illegible] oil and coal, although a number of natural gas companies opposed it.

Clinton's first chief of staff was his boyhood friend, Thomas F. "Mack" McLarty, former chief executive of Arkla, a Little Rock-based natural gas company.

Another friend, Garry Mauro

See OIL PATCH, A38, Col. 1

Clinton Gains Adherents in Oil Industry

OIL PATCH, From A20

who as Texas land commissioner oversees public lands where about 1 ,000 crude oil and natural gas wells operate, ran Clinton's campaign in Texas.

The administration's oil and gas initiative, unveiled in December 1993, sought to slow the nation's growing dependence on oil imports. It had political implications as well.

Thousands of small oil wells across the Sun Belt had shut down over the previous decade, as oil prices sank.

A few days before the 1992 presidential election, the California Independent Petroleum Association launched an all-out effort to end the on export of Alaskan oil, backed by a $113,000 war chest. "We repeated it like a mantra: ANS [Alaskan North Slope] ban, ANS ban, ANS ban," said Dan Kramer, the association's executive director.

California producers protested Alaskan oil was being dumped into refineries in their state, reducing incentives to pump and forcing some wells to shut down.

Allowing Alaskan oil to be exported to Asia would alleviate the problem, they argued.

Soon, the mantra was taken up as a bipartisan cause in California and Congress, and the Clinton administration formally embraced it as part of its oil initiative.

The impact of the 1995 legislation lifting the ban is still unclear, and many of California's traditionally rock-ribbed Republican oil men still support Dole.

But Kramer credits the Clinton administration for its efforts on behalf of small producers.

Edwin S. Rothschild of the Washington consumer organization Citizen Action is skeptical, however. He contends "the primary beneficiaries [of the Clinton energy policy] have been the largest companies, not the smallest ones."

In the case of Alaskan oil exports, a major winner was BP America Inc., a subsidiary of the giant British Petroleum Corp. and the largest exporter from the North Slope.

BP America, which was represented in Washington by a former aide to Sen. Ted Stevens (R-Alaska), lobbied hard for lifting the restrictions.

Chevron, which already has a 20 percent interest in the government's petroleum reserves in Elk Hills, could expand holdings as a result of the proposed sale, Rothschild said.

And a number of major oil companies, including Shell and Marathon, which have major investments in offshore exploration in the Gulf of Mexico, will benefit from the royalty holiday provided under the deep water royalty relief legislation backed by Clinton and the Republican Congress.

That does not bother Democrats, who say benefits of the new policies will spread through the whole economy of the Sun Belt.

As former deputy energy secretary William White sees it, there is a "belief within the energy business that President Clinton [is] a new Democrat who does not have a knee-jerk commitment to Democratic policies of 20 years ago."

Many energy company executives have not forgiven Clinton for his failed effort to impose an energy in 1993, and others still view the president as a closet environmentalist whose policies on Superfund, the Clean Air Act, the Endangered Species Act and global warming pose additional regulatory burdens over the next four years.

Enid, Okla., oil man Lew O. Ward, a lifelong Republican who chairs the Independent Petroleum Association of America, contends the administration has yet "to provide a policy that makes government a friend." There is more to be done, he said, in policy and access to drilling rights federal lands.

But the Dole camp has had trouble capitalizing on that discontent. Dole has generally supported legislation backed by oil and gas interests, and his home state of Kansas the Hugoton gas field, one of the oldest in the country. But he is better known for his work in maintaining subsidies for the grain-based e[illegible]l industry.

"Although Dole long was a senator from Kansas, the eighth-largest producing state, he has never been a particular friend of the industry," according to the Sept. 30 issue of Oil & Gas Journal.

"During his tenure as Senate Finance Committee chairman in the early 1980s, he was not reluctant to target the industry for tax increases," the article said.

Calif || Base Closure / Tustin

THE WHITE HOUSE

WASHINGTON

October 16, 1996

MEMORANDUM FOR JENNIFER PALMIERI

FROM: Dorothy Robyn

SUBJ: Heads Up on Mayor of Tustin

The President will likely be seeing the Mayor of Tustin, Tracy Worley, tomorrow at his event in Orange County. Mayor Worley is a Republican who supports the President. This is a heads up about a base closure issue she may raise.

Tustin Marine Corps Air Station was a BRAC 1993 closure. As part of the federal screening process, the Department of Transportation requested that DoD transfer the 274 units of family housing, Tustin Villas, to the Coast Guard. The City of Tustin is opposed to the transfer because it wants to sell the housing to finance its reuse plan for the air station. What's more, subsequent to DOT's request for Tustin Villas, two Navy housing areas in Los Angeles became available as a result of BRAC 1995; L.A. would welcome the Coast Guard and has proposed to upgrade the housing for Coast Guard use.

DoD has done a detailed assessment and concluded that the Los Angeles housing can fully meet the Coast Guard's needs -- and in fact is preferable to Tustin Villas in terms of costs and other criteria. And under the law, DoD can deny the proposed transfer of the housing to the Coast Guard. However, DoD has held back in order to give the Coast Guard every opportunity to come up with a privatization proposal that Tustin would accept.

So far the Coast Guard has failed to satisfy Tustin, and it doesn't appear that things are going to change. DoD is prepared to deny the transfer, based on its written assessment. However, because the Coast Guard is so "hard over," DoD wants to wait until after the election, so as not to create the appearance of a political decision.

cc: Tom Vellenga
John Emerson

Calif / Elk Hills

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

16-Jul-1996 06:18pm

TO: BALDERSTON_K

FROM: CN=Lori A. Krauss/OU=OMB/O=EOP

CC: palmieri_j
CC: martinez_r
CC: emerson_j

SUBJECT: Re: Elk Hills

Message Creation Date was at 16-JUL-1996 18:16:00

As we understand the current status of this issue, the Department of Energy(DOE), at OMB's request, talked with Jennifer Morrill (Director of Governmental Affairs, California State Teachers' Retirement System) in late June or early July, and told her that the Administration could not agree to an expedited settlement on Elk Hills. It was felt that the high degree of visibility of the Elk Hills sale necessitated methodic analytical review of the hydrocarbon reserves underlying the sections of land California is claiming.

In conjunction with the sale of Elk Hills, as required by statute, an Elk Hills Reserve Report is being prepared by an independent expert. We checked with DOE to determine whether or not the two sections of land involved in the California settlement could be "studied" at the beginning of this independent effort. DOE said that because of the complicated geologic nature of the reserves in question, it would not be possible to study them before extensive work had been done on the producing zones they cross. DOE then conveyed this information to Jennifer Morrill.

At the same time, we've seen James Mosman's June 27th letter to John Emerson. We asked DOE a few weeks ago, what Secretary O'leary's position regarding an expedited settlement was. We have not heard back yet.

The statute authorizing divestiture of Elk Hills has specific provisions regarding the California settlement. If you would like more information on these provisions, please let me know.

Create: ___

Elk Hills Naval

Petroleum Reserve

title

THE WHITE HOUSE
WASHINGTON

White House Intergovernmental Affairs
Washington, D.C. 20500
telephone (202) 456-7060
facsimile (202) 456-6220

Facsimile Transmission Cover Sheet

Date March 17 95

To: John Emerson

Fax Number: 65558

From: Aimee at (202) 456-7060.

Message: I think you got a copy of this, but Maria wrote you a note on this one.

Number of pages with cover:

TJ's Mike will get back to us re: backup or sending someone — in the meantime here is some backup Shale
T.

CALIFORNIA STATE LANDS COMMISSION

FACT SHEET

ELK HILLS NAVAL PETROLEUM RESERVE NO. 1
(Obligations to California Schools)

File

SUMMARY:

The Administration (Department of Energy) as part of the Fiscal Year 1996 Budget proposes to privatize the Elk Hills Naval Petroleum Reserve No. 1 (NPR-1). The proposal, **if amended to compensate California for it's State school land interest within NPR-1,** offers the opportunity to resolve a long standing dispute between the Administration and the State of California. Both the Federal Treasury and the retired school teachers of California will benefit from the adoption of an amended proposal.

HISTORY:

As part of its statehood entitlement, California was granted two sections of federal land in what would later become the Elk Hills Naval Petroleum Reserve No. 1. These two sections of school lands contain about 7% of the total oil reserves within the field. Those sections are dedicated by State law to the California State Teachers Retirement System. The State's right to them arose from the 1853 Act of Congress, which designated two sections in each surveyed township as a grant to the State to support public schools. This school land grant is similar to those given every public land state since 1804. The Supreme Court has characterized the grant as a "solemn agreement." *Andrus v. Utah*, 446 U.S. 500, 507 (1980). The United States agreed to give these lands to the states. In exchange, the states agreed to disclaim any taxing authority over federal lands, and to use land grants to support public schools. *Andrus* at 522-523.

The State would have perfected its title to the two sections within the Elk Hills oil field, but for presidential orders in 1909 and 1912, withdrawing the entire area as a Naval Petroleum Reserve. Initially, however, Federal efforts to carry out the President's intention to preserve the Elk Hills oil for Navy needs were largely unavailing. The oil reservoirs were being exhausted by production from wells on the privately owned lands within the reserve which tapped the same formations. Also, the Secretary of the Interior decided in the 1920's to lease the remaining Reserve lands to private companies. Most of these leases were subsequently voided because of fraud and corruption -- part of the "Teapot Dome" scandal.

Thereafter, the Reserve was organized as a common unit, combining both public and private wells in a single operation whose production rate was controlled by the Navy at a level considered sufficient to keep the wells in operation, prevent drainage, and to compensate the private owners. Then, in 1976, Congress approved termination of the restricted rate, and authorized production at the maximum efficient rate, with sales on the open market. The Administration's current legislative proposals would finally relinquish federal control and ownership of the fields.

Although recognition of the school land grants would not have affected the Navy's control over public and private production, no Federal action was taken to recognize the State title or to give reasonable compensation. While federal law provides that States may select similar federal lands in place of unsatisfied school land grants, available public lands within the State offered nothing of comparable value. And the Departments of Energy and Interior both rejected California's proposal that the State would accept title to the land in place subject to the same control over production that is applied to the private owners.

The situation became urgent in 1986, when the Administration first proposed the sale of Elk Hills as an element of emergency budget-balancing action without providing for the State's claim. The House Budget Resolution for fiscal 1987 directed the Secretary of Energy to negotiate and settle the State school land claim. During the Senate consideration of the Interior Appropriations bill, then Senator Pete Wilson obtained assurances that the provision would be made in conference committee to deal with California's rights, even if Elk Hills were not sold. However, those assurances were never spelled out in the appropriation as enacted, which gave $500,000 to the Department of Energy to study the feasibility of sale.

Without prior notice to the State, however, the DOE recommended legislation which would relegate the handling of California's school land title rights to claims litigation in the Court of Claims. The State then filed a quiet title suit against the United States. California asserted that production at the maximum efficient rate amounted to a revocation of the Reserve by implication. Although that lawsuit was dismissed in 1992, apparently on the ground that increased production was insufficient to give California a title claim, a new claim would arise if actual divestiture occurs without recognition of California's interests.

Both equity and good sense, however, have suggested a less confrontational method of settlement. The State's right is an obstacle to the Federal leasing or sale, but, equally clearly, involves a long and expensive process of litigation. Moreover, failure to fulfill the State's claim in Elk Hills, given the national promise to provide a representative portion of the public lands for State schools, sharply questions the Administration's commitment to the principles of federalism.

During the long period when the United States was seeking to establish and maintain a Naval Petroleum Reserve, California did not challenge the continued possession of the land by the United States. But when it has become clear, as the President acknowledged in 1986, that

Elk Hills was no longer a "Reserve" but simply a public land asset, whose oil reserves were being produced and sold for Treasury revenue purposes, the withholding of State title had no shadow of justification.

CONCLUSION:

In short, until recently the United States had been treating Elk Hills like other tracts of public land held by the Bureau of Land Management, with two major exceptions. It did not yet recognize that this changed status required the Administration to acknowledge the State's title to the school lands within that tract, as with the school grants on public lands in other States. At the same time, it did not yet acknowledge that mineral revenues from the remainder of these public lands should be shared with the State under the Mineral Leasing Act.

However, as part of the Administration's National Energy Strategy, as contained in the Fiscal Year 1992 Budget, the President for the first time recommended to the Congress that the Naval Petroleum Reserve No. 1 be competitively leased and that the retired teachers of California share in its revenue stream. Under that proposal California would have received seven percent of the bonus payment, and one-half of the lease royalty. The California State Lands Commission, the Office of the California Attorney General, the State Teachers' Retirement System and the California Governor's Office have been working with the Office of Management and Budget to resolve this long standing dispute. The Administration's proposal in the Fiscal Year 1996 Budget for privatizing the Elk Hills Naval Petroleum Reserve No. 1 **(if amended to compensate California for its school land interest)** offers an opportunity to resolve this longstanding dispute. Both the Federal Treasury and the retired school teachers of California will benefit from the adoption of an amended proposal.

For more information contact:

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CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM (CalSTRS)

State of California Should Receive Proper Compensation for State School Lands under Any Proposed Lease or "Privatization" of the Elk Hills Naval Petroleum Reserve Numbered 1

Background Regarding California State School Lands

The Elk Hills Naval Petroleum Reserve Numbered 1 contains two tracts that constitute State school lands of the State of California. Upon admission to the Union, California and other western States were granted by Congress certain sections of public land located within the State's borders. The revenues from State school lands are to be used to further public education.

The State of California applies the revenues from its State school lands to assist retired teachers whose pensions have been seriously eroded by inflation. California teachers are ineligible for Social Security and often must rely on this State pension as the principal source of retirement income. According to a State study released last year, California teachers who retired prior to 1979 are now receiving pensions that represent less than 60 percent of the purchasing power of their original benefit -- which was quite modest to begin with. State school lands revenues are badly needed to fill this gap.

As described below, because of a decades-long dispute between the State of California and the Federal Government over rights to these State school lands that happen to be located in the Elk Hills reserve, the State has been unable to derive any revenues from these school lands tracts.

There are 490,000 active and retired teachers under the California State Teachers' Retirement System (CalSTRS) who have a keen interest in receiving fair-compensation for these State school lands located in the Elk Hills Naval Petroleum Reserve Numbered 1.

We understand that one or more proposals may be considered by Congress this year to lease or otherwise "privatize" the Elk Hills Naval Petroleum Reserve Numbered 1 as part of the overall effort to pare the Federal budget.

The Long-Running Controversy with the Federal Government
Over Elk Hills School Lands and the Need for Legislative Relief

The fact that the State school lands in the Elk Hills Reserve possess valuable oil resources has led to a dispute over ownership and proper compensation between the State of California and the Federal Government that has dragged on for almost 80 years. These State school lands are agreed by the Federal Government to comprise seven percent of the oil and gas resources of the Reserve.

After many years of seeking to resolve this dispute, in 1987 the State filed a quiet title action against the Federal Government to recover possession of the two tracts. The federal district court ruled that because of the long-running nature of the dispute, the statute of limitations period had expired on California's quiet title claim.

In light of the clearly-stated Congressional policies of proper compensation for State school lands, CalSTRS strongly believes that California remains entitled to appropriate compensation for the Elk Hills school lands. This is particularly so because for years the Federal Government has not even utilized Elk Hills as a military reserve, but rather as a commercial field in which the oil supplies have been produced by a cost-plus contractor and sold to generate revenues for the U.S. Treasury general fund.

As the then-House Interior and Insular Affairs Committee noted in a 1990 report describing the need for compensation by legislative means for these Elk Hills State school lands:

> "Congress on a number of occasions has expressed its intention that states be compensation for disputed school section lands originally granted as part of the terms of their admission to the Union."
>
> * * *
>
> "To date, with respect to the State of California, to some extent this policy of providing compensation and sharing mineral receipts has been frustrated by a dispute that began over 76 years ago with the ineptitude of the General Land Office (the precursor of the Bureau of Land Management), the graft and corruption that plagued President Harding's Interior Secretary, Albert Fall, which gave rise to what is known as the Teapot Dome Scandal, and the fact that there simply are no in lieu selections of land in California to compensate the state for the original school section grants located in [the Elk Hills Reserve]."
>
> [H.R. Rep. No. 101-670, 101st Cong., 2d Sess. (1990), at 3-4].

Legislative relief providing for a sharing of revenues from the Elk Hills school lands, the 1990 House Committee Report concluded, "not only keeps faith with Congressional intent that California be compensated for the two lost school sections, but, moreover, is in furtherance of the policy of the United States to share with the states receipts generated from the production of minerals such as oil and gas from public domain lands." [Id., at 4].

Fair Compensation for Elk Hills School Lands

In the context of proposals by the Reagan-Bush Administrations to lease Elk Hills to private industry, California had been able to reach agreement with the Administrations on a compromise to resolve the long-running dispute by sharing with the State a very modest portion of the revenues resulting from leasing Elk Hills.

Under the current operation of Elk Hills by a cost-plus contractor, the Federal Government had been spending approximately $200 million each year to produce approximately $500 million in annual receipts. Under the compromise lease proposal of the previous Administration, the Federal Government would receive the great bulk of the lease proceeds, then estimated to be $2.6 billion of lease bonus payments and $55-75 million of annual royalty payments. The State of California would receive a very modest share of these revenues in compensation for its State school lands interests. California would receive a seven percent share of the upfront lease bonus revenue. While the Federal Government would realize these bonus proceeds upfront, California's share would be paid out by the Federal Government over the extended term of seven years -- without any interest. California also would receive 50 percent of the subsequent production royalties from the Federal portion of the Reserve. In the end, the overall Elk Hills leasing proposal was not enacted by Congress, and hence, California still has received no compensation for the Elk Hills lands.

CalSTRS continues to strongly believe that this very modest share of the revenues to be derived from the leasing or other "privatization" of the Elk Hills Reserve by the Federal Government constitutes a fair and appropriate approach to compensation for the State school lands. Such a compensation approach:

- Resolves once and for all the decades-long dispute between the State of California and the Federal Government over these State school lands;

- Provides badly-needed funds for retired California teachers whose pensions have been seriously eroded by inflation;

- Provides a self-funding mechanism for California's compensation out of the stream of new revenue (and outlay savings) generated from leasing or otherwise "privatizing" Elk Hills.

Conclusion

CalSTRS, along with the California State Lands Commission and California Retired Teachers Association, strongly urges that fair compensation for the State school lands in the form of very modest sharing of revenues with the State be made part of any proposal by the Federal Government to lease or otherwise "privatize" the Elk Hills Naval Petroleum Reserve Numbered 1.

For more information contact:

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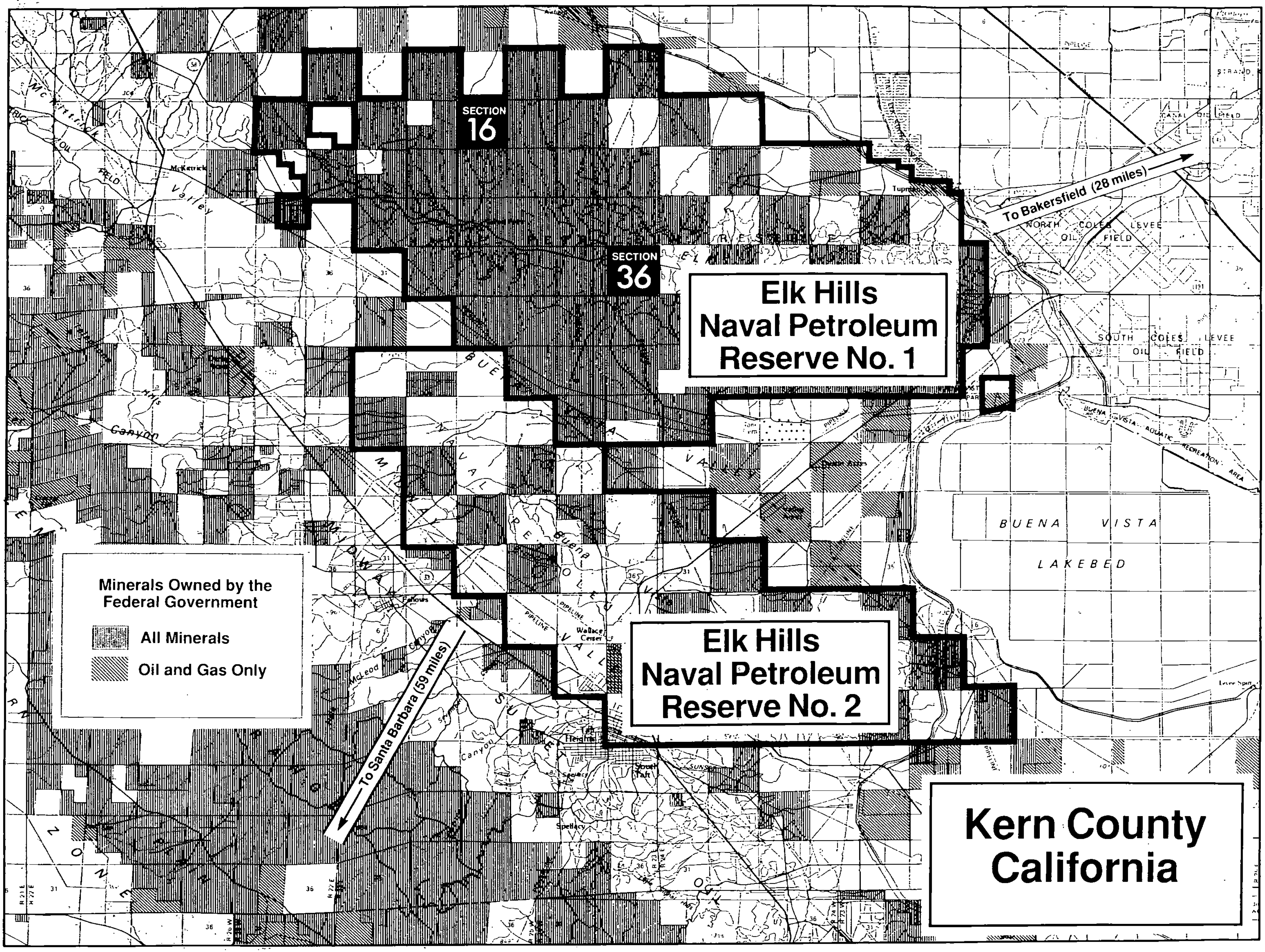

SECTION 16
SECTION 36
Elk Hills Naval Petroleum Reserve No. 1
Elk Hills Naval Petroleum Reserve No. 2
To Bakersfield (28 miles)
To Santa Barbara (59 miles)
NORTH COLES LEVEE OIL FIELD
SOUTH COLES LEVEE OIL FIELD
BUENA VISTA AQUATIC RECREATION AREA
BUENA VISTA LAKEBED
Minerals Owned by the Federal Government
All Minerals
Oil and Gas Only
Kern County California

SENT VIA FACSIMILE

STATE OF CALIFORNIA PETE WILSON, *Governor*

STATE LANDS COMMISSION

GRAY DAVIS, *Lieutenant Governor*
KATHLEEN CONNELL, *Controller*
RUSSELL S. GOULD, *Director of Finance*

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Executive Officer
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March 17, 1995

The Honorable Herbert H. Bateman
Chairman, Subcommittee on Military Readiness
House National Security Committee
2120 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Your subcommittee will be considering a proposal to create a government corporation that may sell or lease Naval Petroleum and Oil Shale Reserves including Elk Hills Naval Petroleum Reserve Numbered 1. The State of California's retired teachers have a vital interest in what happens at Elk Hills. Whatever the will of Congress may be regarding Elk Hills, as managers of state school lands, we ask that you allow California's retired teachers to receive pension funds from the two school land sections within Elk Hills.

There are 490,000 active and retired teachers who are the beneficiaries of income from school lands in California. The funds are used to provide cost of living adjustments to retired teacher pensions so that their purchasing power is not eroded by inflation. Continuation of the Reserve when no longer justified deprives these former teachers of badly needed funds for this adjustment.

Elk Hills contains two sections of land (1332 acres) which under the provisions of 1927 legislation (44 Stat. 1026) were to have been granted to the state. The state's right to these sections originally arose from the 1853 Act of Congress which granted them to the state to support public schools. Creation of the Reserve prior to the passage of the legislation prevented the state from receiving the land as well as the proceeds from its mineral development. This did not concern the state while the Reserve was operated at a minimum production level. At the current level of production at the Maximum Efficient Rate (MER), the consequences of not receiving these parcels are significant.

The Department of Defense no longer requires Elk Hills since it has access to the Strategic Petroleum Reserves. Its status as a Reserve has for all intents and purposes been terminated. In 1986, the President acknowledged that Elk Hills was no longer a reserve but a public land asset. Subsequently, the Administration proposed the sale of Elk Hills. The proposed FY '96 federal budget again proposes sale or lease of Elk Hills. This budget indicates that "...the federal government no longer needs to own and operate such oil and gas fields."

On February 21 of this year, before the House Appropriations Committee, the Department of Energy testified that the Reserve no longer performed a federal function. It was also indicated that the mission of the Reserve has changed from the 1970's. Given this clear evidence that Elk Hills' status as a Reserve has been terminated, the state should immediately receive the school lands which have been withheld from it.

It is our request that the Congress by statute recognize termination of the Reserve and remove any doubt about state ownership of the two school land sections by confirming title in the state. The state recognizes the ongoing nature of the development of the field. We would cooperate with the federal government or any future owner or operator of the field to continue efficient production of Elk Hills' mineral resources. California's retired teachers have waited for the federal government to fulfill its obligation and complete the school lands grant; you now have the opportunity to end this delay.

Sincerely,

Robert C. Hight

ROBERT C. HIGHT
Executive Officer

cc: Hon. Ronald V. Dellums
Ranking Minority Member
House National Security Committee

Members, Subcommittee on Military Readiness

Andrew K. Ellis
Staff Director
House National Security Committee

Marilyn A. Elrod
Minority Staff Director
House National Security Committee

Pete Steffes
Professional Staff Member
House Subcommittee on Military Readiness

COMMITTEE ON NATIONAL SECURITY

U. [illegible] ouse of Representatives

Washington, DC 20515–6035

ONE HUNDRED FOURTH CONGRESS

FLOYD D. SPENCE, SOUTH CAROLINA, CHAIRMAN

March 21, 1995

The Honorable Herbert Bateman
2350 Rayburn House Office Building
Washington, DC 20515

Dear Herb:

The Readiness Subcommittee of the House National Security Committee will be conducting a hearing on the Naval Petroleum and Oil Shale Reserves including Elk Hills Naval Petroleum Reserve Numbered 1 on 22 March 1995. The primary focus of this hearing is on exploring the process for disposing the Reserve. I bring it to your attention in that it is a matter of concern to me.

The Department of Defense has reiterated that it no longer requires Elk Hills. In February 1995, the Department of Energy testified that the Reserves no longer performed a federal function. The proposed FY 1996 federal budget proposes sale or lease of Elk Hills stating that "the federal government no longer needs to own and operate such oil and gas fields." Congressional action is required to acknowledge the termination of the Reserve status and to determine disposition of the public land asset.

The attached material will more fully explain my desire that the concerns of the State of California retired teachers be addressed in any disposition.

Thank you for your assistance with this matter.

Sincerely,

Ronald Dellums
Ranking Member, National Security Committee

RVD/dlt
Enc

DIANNE FEINSTEIN
CALIFORNIA

United States Senate

WASHINGTON, DC 20510-0504

February 17, 1993

Honorable Leon Panetta
Director
Office of Management and Budget
243 Old Executive Office Building
Washington, D.C. 20503

Dear Mr. Director,

We are writing to bring to your attention and solicit your support of legislation to lease the Elk Hills Naval Petroleum Reserve No. 1 and share a portion of the revenues with the State of California. A copy of the legislation is enclosed.

As you know, as part of its statehood entitlement, California was granted two sections of federal land which are now part of the Elk Hills Naval Petroleum Reserve. These lands are incredibly valuable as they contain seven percent of the total oil in the reserves. However, California did not receive title to these lands because they were withdrawn for the Naval Petroleum Reserve. After many years, in 1987 the state filed a quiet title suit against the federal government to recover possession of the two sections. The case was decided against the state's interests based on the statute of limitations having expired. Nonetheless, California continues to assert claim to two sections at the Elk Hills Naval Petroleum Reserve based on the equities. The federal government has not been operating Elk Hills as a reserve, but as a public asset whose oil reserves have been produced and sold to generate revenues for the U.S Treasury. Therefore the basis for denying California the two sections has been invalidated.

California retired teachers, the beneficiaries of any revenues generated from state school lands, are seeking legislation which would resolve this longstanding dispute to the benefit of both the state and the federal government. Under the proposed legislation, Elk Hills Naval Petroleum Reserve No. 1 would be leased to private industry using competitive bidding procedures. A portion of the revenues from the lease would be used to establish a 10 million barrel emergency supply of oil for the U.S. military. A modest portion of the revenue would be shared with the State of California in settlement of the dispute over the rights to these lands.

The state believes leasing of Elk Hills would generate substantially more revenues for the U.S. Treasury than the current arrangement under which Elk Hills Naval Petroleum Reserve is operated by a private engineering firm under contract to the federal government. It's our understanding the federal government now spends about $200 million a year for Elk Hills production and receives approximately $500 million in revenues, for a net gain of $300 million annually. The state estimates the leasing proposal would generate $2.6 billion over the first five years.

We would appreciate your assessment of the budgetary impact of this legislative proposal and your consideration of it in the context of President Clinton's forthcoming budget package. Thank you for your careful attention to this important matter.

Sincerely,

Barbara Boxer
Barbara Boxer
Unites States Senator

Dianne Feinstein
Dianne Feinstein
United States Senator

enclosure

DF:kfl

LEON E. PANETTA
16TH DISTRICT, CALIFORNIA

CHAIRMAN
HOUSE BUDGET COMMITTEE

COMMITTEES:
AGRICULTURE
HOUSE ADMINISTRATION
SELECT COMMITTEE ON HUNGER
STEERING AND POLICY

MAJORITY WHIP
FOR THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515

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December 20, 1990

Ms. Jennifer Morrill
State Teachers Retirement System
7667 Folsom Boulevard
Sacramento, California 95826

Dear Ms. Morrill:

Thank you for meeting with me to let me know of your support for legislation to recognize the right of the State of California to two sections of school lands at Elk Hills Petroleum Reserve that were promised to it by the Federal government over 135 years ago. I appreciate hearing from you.

As we discussed at our meeting, this issue is one of great concern to me. I feel strongly that the State's claim over these lands must be recognized and compensated for before there is any sale or lease of the lands by the Federal government. As Chairman of the House Budget Committee, I have helped to further a resolution to this issue by directing the Department of Energy, as part of the budget resolution, to work with the State of California towards a fair agreement with regard to the Elk Hills Petroleum Reserve.

Furthermore, I have co-sponsored legislation here in the House, H.R. 245, to resolve this long-standing dispute that would recognize the right of the California to the two sections of lands at the Reserve. I believe it is critical that such legislation is passed to fulfill the original intent of Congress that the State be compensated for these lands and that the teachers of the State of California receive their fair due.

As you may know, there was discussion here in Congress about including legislation to lease the Elk Hills Petroleum Reserve in the deficit reduction package passed by Congress in October. This proposal was met with some serious opposition in the Congress and was not included in the deficit reduction bill for a number of reasons.

First, for a provision to be included in the deficit reduction package it must be determined by the Congressional Budget Office (CBO) that the provision will result in real savings to the United States federal government. According to CBO the Elk Hills legislation, which mandates the leasing of the Elk Hills reserve, is not a "savings" but a "one time asset sale" and will not result in a true savings to the federal government. Thus, as a procedural matter, the deficit reduction package bill was an inappropriate vehicle for the Elk Hills legislation.

Ms. Jennifer Morrill
Page 2
December 20, 1990

In addition to the procedural problems encountered, you should also be aware that many Members of Congress are strongly opposed to the substance of the Elk Hills legislation, as well.

For instance, the leasing of Elk Hills is opposed by Congressman Sidney Yates, who is the Chairman of the Subcommittee on Interior Appropriations which has jurisdiction over the funding for our federal petroleum reserves. The measure is also opposed by the Chairman of the House Energy and Commerce Committee, Congressman John Dingell, whose Committee has jurisdiction over authorizing our federal petroleum reserves.

Even if there had not been any procedural problems with incorporating the Elk Hills legislation in the deficit reduction package, as Chairman of the authorizing Committee with jurisdiction over the issue, Congressman Dingell would have had to approve the Elk Hills legislation, and considering his opposition to the proposal, it is unlikely that he would have done so.

As I indicated earlier, I feel strongly that this issue be resolved and that the California teachers be compensated for the revenue long overdue to them by the federal government. Please be assured that I will continue my work in the 102nd Congress to achieve a fair and equitable solution to this issue for the State of California and our retired teachers.

Once again, thank you for contacting my office. Please let me know if I can be of assistance in the future.

Sincerely,

LEON E. PANETTA
Member of Congress

LEP/jmp

State of California

Department of Justice
1515 K Street, Suite 511
P.O. Box 944255
Sacramento, CA 94244-2550

Memorandum

To : Robert Hight
Executive Officer
State Lands Commission
1807 13th Street
Sacramento, CA 95814

Date : February 17, 1995

Telephone: ATSS (8) 467-7853
(916) 327-7853
FACSIMILE (916) 324-5205

From : Jan S. Stevens
Assistant Attorney General
Public Rights, Land Law Section
Office of the Attorney General - Sacramento

Subject: The State's legal claim to Elk Hills

You have asked for clarification of the State's legal claims to school lands within Naval Petroleum Reserve No. 1 (Elk Hills) in light of the federal district court's decision in State v. Watkins, No. CV F-87-665 (EDP). It is our conclusion that should the Naval Petroleum Reserve be divested by sale or lease, the State would have a claim to its school land entitlement and the earlier decision would be no bar to its assertion.

Analysis

The Watkins case was based on a de facto breach of what the Supreme Court has characterized as a "solemn compact," under which the states relinquished their claims to the public lands within their border for a representative portion of those lands. Andrus v. Utah, 446 U.S. 500, 507 (1980). California's school lands grant consisted of the 16th and 36th section of each township--a random sample calculated to give the state's school lands representative of all the public lands.

In the event that the school land sections designated were included within federal reservations before survey and final vesting in the State, the State was to have the right to select other lands "equal in quantity, and as near as may be in quality." Heydenfelt v. Daney Gold & Silver Mining Co., 93 U.S. 634, 639-40 (1877). This principle, embodied in statute (43 U.S.C. §§ 851-852, 870-871), is particularly important in light of the large federal reservations made for military, national forest, park, or other purposes.

By far the most valuable school lands within California were included within the Elk Hills Naval Petroleum Reserve and thus denied to the State. Their inclusion was not challenged by the State during the years in which Elk Hills was actually operated as a naval petroleum reserve. In the late nineteen eighties, however, the Department of Energy, which by then operated the reserve, reexamined its functions. It found that Elk Hills was no longer necessary for the national defense, and that in fact it was being operated as a "cash cow" to produce revenues for the federal treasury. It recommended that Elk Hills be sold or leased to the private sector. The President's recommended budget provided for such a disposition.

California treated these admissions of the executive branch as tantamount to revocation of the reservation. The State demanded recognition of its interest in the two school land sections or, absent their direct transfer, the provision of other federal lands comparable in value. When the federal government declined to recognize the State's interest, it filed suit.

The federal district court "reluctantly" concluded that the State's title claims were precluded by the statute of limitations set forth in the Federal Quiet Title Act, 28 U.S.C. section 2409a(f). This holding was apparently based on the federal government's argument that the State knew or should have known of its claim at the time the school lands were included within the reserve in 1912, and should have brought its action then. Under this assumption, the 12 year statute of limitations in the Quiet Title Act would bar any state action.

This holding should have no effect on an actual divestiture of Elk Hills, which we understand is now proposed. A sale of Elk Hills would amount to an actual revocation of the federal reservation. The school lands within Elk Hills would no longer be withdrawn, and thus the State's claim would be revived. We do not believe that the Watkins decision would bar such a claim.

Should a sale occur, the State's claim to the school land sections would be different in nature than its claim in Watkins. There, the State based its claim on implied revocation arising from actions inconsistent with the nature of the reserve. Should a sale take place, the State would be able to assert a claim on actual termination of the reserve.

Jan Stevens

JAN S. STEVENS
Assistant Attorney General

JSS:pkf

cc: √James Trout
Jack Rump
Bill Morrison

CALIFORNIA STATE LANDS COMMISSION

FACT SHEET

ELK HILLS NAVAL PETROLEUM RESERVE NO. 1
(Obligations to California Schools)

SUMMARY:

The Administration (Department of Energy) as part of the Fiscal Year 1996 Budget proposes to privatize the Elk Hills Naval Petroleum Reserve No. 1 (NPR-1). The proposal, **if amended to compensate California for it's State school land interest within NPR-1,** offers the opportunity to resolve a long standing dispute between the Administration and the State of California. Both the Federal Treasury and the retired school teachers of California will benefit from the adoption of an amended proposal.

HISTORY:

As part of its statehood entitlement, California was granted two sections of federal land in what would later become the Elk Hills Naval Petroleum Reserve No. 1. These two sections of school lands contain about 7% of the total oil reserves within the field. Those sections are dedicated by State law to the California State Teachers Retirement System. The State's right to them arose from the 1853 Act of Congress, which designated two sections in each surveyed township as a grant to the State to support public schools. This school land grant is similar to those given every public land state since 1804. The Supreme Court has characterized the grant as a "solemn agreement." *Andrus v. Utah,* 446 U.S. 500, 507 (1980). The United States agreed to give these lands to the states. In exchange, the states agreed to disclaim any taxing authority over federal lands, and to use land grants to support public schools. *Andrus* at 522-523.

The State would have perfected its title to the two sections within the Elk Hills oil field, but for presidential orders in 1909 and 1912, withdrawing the entire area as a Naval Petroleum Reserve. Initially, however, Federal efforts to carry out the President's intention to preserve the Elk Hills oil for Navy needs were largely unavailing. The oil reservoirs were being exhausted by production from wells on the privately owned lands within the reserve which tapped the same formations. Also, the Secretary of the Interior decided in the 1920's to lease the remaining Reserve lands to private companies. Most of these leases were subsequently voided because of fraud and corruption -- part of the "Teapot Dome" scandal.

Thereafter, the Reserve was organized as a common unit, combining both public and private wells in a single operation whose production rate was controlled by the Navy at a level considered sufficient to keep the wells in operation, prevent drainage, and to compensate the private owners. Then, in 1976, Congress approved termination of the restricted rate, and authorized production at the maximum efficient rate, with sales on the open market. The Administration's current legislative proposals would finally relinquish federal control and ownership of the fields.

Although recognition of the school land grants would not have affected the Navy's control over public and private production, no Federal action was taken to recognize the State title or to give reasonable compensation. While federal law provides that States may select similar federal lands in place of unsatisfied school land grants, available public lands within the State offered nothing of comparable value. And the Departments of Energy and Interior both rejected California's proposal that the State would accept title to the land in place subject to the same control over production that is applied to the private owners.

The situation became urgent in 1986, when the Administration first proposed the sale of Elk Hills as an element of emergency budget-balancing action without providing for the State's claim. The House Budget Resolution for fiscal 1987 directed the Secretary of Energy to negotiate and settle the State school land claim. During the Senate consideration of the Interior Appropriations bill, then Senator Pete Wilson obtained assurances that the provision would be made in conference committee to deal with California's rights, even if Elk Hills were not sold. However, those assurances were never spelled out in the appropriation as enacted, which gave $500,000 to the Department of Energy to study the feasibility of sale.

Without prior notice to the State, the DOE then recommended legislation which would relegate the handling of California's school land title rights to claims litigation in the Court of Claims. The State responded by filing a quiet title suit against the United States. California asserted that production at the maximum efficient rate amounted to a revocation of the Reserve by implication. Although that lawsuit was dismissed in 1992, on the ground that increased production was insufficient to give California a title claim, a new claim would arise if actual divestiture occurs without recognition of California's interests.

Both equity and good sense, however, have suggested a less confrontational method of settlement. The State's right is an obstacle to the Federal leasing or sale, but, equally clearly, involves a long and expensive process of litigation. Moreover, failure to fulfill the State's claim in Elk Hills, given the national promise to provide a representative portion of the public lands for State schools, sharply questions the Administration's commitment to the principles of federalism.

During the long period when the United States was seeking to establish and maintain a Naval Petroleum Reserve, California did not challenge the continued possession of the land by the United States. But when it has become clear, as the President acknowledged in 1986, that

Elk Hills was no longer a "Reserve" but simply a public land asset, whose oil reserves were being produced and sold for Treasury revenue purposes, the withholding of State title had no shadow of justification.

CONCLUSION:

In short, until recently the United States had been treating Elk Hills like other tracts of public land held by the Bureau of Land Management, with two major exceptions. It did not yet recognize that this changed status required the Administration to acknowledge the State's title to the school lands within that tract, as with the school grants on public lands in other States. At the same time, it did not yet acknowledge that mineral revenues from the remainder of these public lands should be shared with the State under the Mineral Leasing Act.

However, as part of the Administration's National Energy Strategy, as contained in the Fiscal Year 1992 Budget, the President for the first time recommended to the Congress that the Naval Petroleum Reserve No. 1 be competitively leased and that the retired teachers of California share in its revenue stream. Under that proposal California would have received seven percent of the bonus payment, and one-half of the lease royalty. The California State Lands Commission, the Office of the California Attorney General, the State Teachers' Retirement System and the California Governor's Office have been working with the Office of Management and Budget to resolve this long standing dispute. The Administration's proposal in the Fiscal Year 1996 Budget for privatizing the Elk Hills Naval Petroleum Reserve No. 1 **(if amended to compensate California for its school land interest)** offers an opportunity to resolve this longstanding dispute. Both the Federal Treasury and the retired school teachers of California will benefit from the adoption of an amended proposal.

For more information contact:

Bill Morrison
Legislative Liaison
California State
Lands Commission
(916) 445-5303
(916) 322-3568 FAX

Jennifer Morrill
Director of Legislation
California State Teachers'
Retirement System
(916) 387-3714
(916) 387-3704 FAX

Elinor Schwartz
Washington Representative
California State
Lands Commission
(703) 920-5389
(703) 920-5402 FAX

John S. Stanton
Hogan & Hartson L.L.P.
Washington Representative
California State Teachers'
Retirement System
(202) 637-5704
(202) 637-5910 FAX

ES

Calif/Energy - Elk Hills

TO: Tim Flynn

FROM: Elinor Schwartz

SUBJECT: Elk Hills Naval Petroleum Reserve

DATE: May 2, 1995

I understand that DOE is attempting to clear legislation for the Hill this week concerning Elk Hills. We are concerned about whether it will actually provide more than the appearance of some potential compensation. We would like your assistance in obtaining actual compensation in line with the 7% produced from California school land sections.

I thought that you might like to see some recent correspondance on the subject.

Please let me know the status of the proposed legislation.

Thanks!

ELINOR SCHWARTZ 318 South Abingdon Street Arlington, Virginia 22204 (703) 920-5389

VIC FAZIO
THIRD DISTRICT
CALIFORNIA

DEMOCRATIC CAUCUS-VICE CHAIR
DEMOCRATIC STEERING AND POLICY COMMITTEE
APPROPRIATIONS COMMITTEE
SUBCOMMITTEES:
ENERGY AND WATER DEVELOPMENT
LEGISLATIVE
MILITARY CONSTRUCTION

Congress of the United States
House of Representatives
Washington, DC 20515-0503

PLEASE RESPOND TO:
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WASHINGTON, DC 20515-0503
(202) 225-5716
☐ 722B MAIN STREET
WOODLAND, CA 95695-3407
(916) 666-5521
☐ 332 PINE STREET, 3RD
RED BLUFF, CA 96080-3312
(916) 529-5629
☐ 951 LIVE OAK BLVD., #11
YUBA CITY, CA 95991-3446
(916) 673-6696

April 12, 1995

Hon. Leon Panetta
Chief of Staff
Executive Office of the President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Leon,

I am writing regarding a proposal currently under development by the Administration to restructure and then dispose of the Elk Hills Naval Petroleum Reserve in California.

As you know from your days in Congress, the State of California and its teachers have a direct interest in the Elk Hills issue in the form of the State's claim for compensation for the two State school land tracts that fall within the Elk Hills Reserve. The State of California applies the revenues from its State school lands to assist retired teachers whose pensions have been seriously eroded by inflation. California teachers are ineligible for Social Security and often must rely on this State pension as the principal source of their retirement income. Accordingly, the 490,000 active and retired teachers who participate in the California State Teachers' Retirement System have a keen interest in receiving fair compensation for these State school lands in the Elk Hills Reserve.

[illegible] Federal Government dispute over rights between the State of California and the Federal Government over school lands that happen to be located in the Elk Hills Reserve. In a prior lawsuit filed by the State against the Federal Government asserting that the Reserve status that overrides the State's rights in the school lands had been implicitly revoked by reason of commercial production at the Reserve, the federal district court ruled against the State on statute of limitation grounds, holding that the State should have filed its suit decades earlier. I have been informed that the Office of the California Attorney General has determined that upon actual termination of the military reserve status of Elk Hills in order to sell off, lease, or otherwise transfer the Elk Hills field to a government-owned corporation, the State could assert a new claim of entitlement to the two State school land tracts located in Elk Hills and that the earlier federal district court decision would pose no bar to the assertion of such a new claim.

As the Administration formulates its proposal on Elk Hills, I would ask that you and your staff work actively with us to ensure that the State's claim for compensation for the two State school land tracts in the Elk Hills Reserve is properly addressed in the Administration's proposal before the proposal is presented to the House National Security Committee. In the context of proposals by past Administrations to dispose of Elk Hills, the State had been able to negotiate a compromise with the Office of Management and Budget to receive as compensation seven percent of the up-front lease bonus payment paid to the State in annual installments over seven years without interest, together with a share of the production royalties.

I understand that representatives of the State have met with John Emerson of your staff and T.J. Glauthier of OMB to brief them on the Elk Hills issue.

I would very much appreciate your active support in working to resolve this very important issue.

Sincerely,

Vic

Vic Fazio
Member of Congress

cc: John Emerson
Deputy Assistant to the President and
Deputy Director for Intergovernmental Affairs
149 Old Executive Office Building

COMMITTEE ON NATIONAL SECURITY

U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED FOURTH CONGRESS

FLOYD D. SPENCE, SOUTH CAROLINA, CHAIRMAN

March 21, 1995

The Honorable Herbert Bateman
2350 Rayburn House Office Building
Washington, DC 20515

Dear Herb:

The Readiness Subcommittee of the House National Security Committee will be conducting a hearing on the Naval Petroleum and Oil Shale Reserves including Elk Hills Naval Petroleum Reserve Numbered 1 on 22 March 1995. The primary focus of this hearing is on exploring the process for disposing the Reserve. I bring it to your attention in that it is a matter of concern to me.

The Department of Defense has reiterated that it no longer requires Elk Hills. In February 1995, the Department of Energy testified that the Reserves no longer performed a federal function. The proposed FY 1996 federal budget proposes sale or lease of Elk Hills stating that "the federal government no longer needs to own and operate such oil and gas fields." Congressional action is required to acknowledge the termination of the Reserve status and to determine disposition of the public land asset.

The attached material will more fully explain my desire that the concerns of the State of California retired teachers be addressed in any disposition.

Thank you for your assistance with this matter.

Sincerely,

Ronald Dellums
Ranking Member, National Security Committee

RVD/dlt
Enc

GEORGE MILLER
7TH DISTRICT, CALIFORNIA
2205 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0507
(202) 225-2095
DANIEL WEISS
ADMINISTRATIVE ASSISTANT

COMMITTEE ON RESOURCES

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

VICE CHAIR
DEMOCRATIC POLICY COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-0507

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RICHMOND, CA 94806
(510) 262-6500

1407 TENNESSEE ST.
VALLEJO, CA 94590
(707) 645-1888

TTY (202) 225-1904

April 6, 1995

The Honorable Leon Panetta
Chief of Staff
The White House
Washington, D.C. 20500

Dear Leon

I am writing to solicit your support for recognition of the State of California's entitlement to two sections of land in the Elk Hills Naval Petroleum Reserve.

I know you are well aware of the issue, and in the past as a Member of Congress, have been sympathetic to the State's position, so I will not go into the long history associated with this issue so important to the State of California and our retired teachers.

However, as I am informed that the Department of Energy is developing a legislative proposal to "privatize" all of the reserves, I ask that you personally review the legislation prior to its transmittal to the National Security Committee. I am concerned due to reports that officials from the Department of Energy in meetings last week with representatives from the State and the retired teachers were less than optimistic that the State's rights would be recognized in such a proposal.

In advance, thank you for your careful consideration of this matter.

Sincerely,

George Miller

GEORGE MILLER
Member of Congress

T D Borah L

GEORGE MILLER
7TH DISTRICT, CALIFORNIA

2205 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0507
(202) 225-2095

DANIEL WEISS
ADMINISTRATIVE ASSISTANT

COMMITTEE ON RESOURCES

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

VICE CHAIR
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Congress of the United States
House of Representatives
Washington, DC 20515–0507

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(510) 262-6500

1407 TENNESSEE ST.
VALLEJO, CA 94550
(707) 645-1888

TTY (202) 225-1904

April 6, 1995

The Honorable Floyd Spence
Chairman
Committee on National Security
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to add my support to the comments made by National Security Committee Senior Democrat Ron Dellums in his remarks before the Readiness Subcommittee last month during a hearing on privatizing the petroleum reserves.

As you may know, as part of its statehood entitlement, California was granted two sections of federal land which are now part of the Elk Hills Naval Petroleum Reserve (NPR). These lands are quite valuable as they contain seven percent of the total amount in the reserves.

California's retired teachers, the beneficiaries of any revenues generated from state school lands, are seeking legislation which would resolve the longstanding dispute between the federal and state governments. I support their claim to a portion of any revenues that would be generated under a new management structure.

I would appreciate your careful consideration of this matter.

Sincerely,

George Miller

GEORGE MILLER
Member of Congress

State of California

Department of Justice
1515 K Street, Suite 511
P.O. Box 944255
Sacramento, CA 94244-2550

Memorandum

To : Robert Hight
Executive Officer
State Lands Commission
1807 13th Street
Sacramento, CA 95814

Date : April 6, 1995

Telephone: ATSS (8) 473-9259
(916) 323-9259
FACSIMILE (916) 327-2319

From : Daniel L. Siegel
Deputy Attorney General
Public Rights, Land Law Section
Office of the Attorney General - Sacramento

Subject: The State's legal claim to Elk Hills

You have asked for clarification of the State's legal claims to school lands within Naval Petroleum Reserve No. 1 (Elk Hills) in light of the federal district court's decision in State v. Watkins, No. CV F-87-665 (EDP). It is our conclusion that should the Naval Petroleum Reserve be divested by sale or otherwise, the State would have a claim to its school land entitlement and the earlier decision would be no bar to its assertion. The earlier decision was based upon a technical ground: the failure to file a timely lawsuit. The merits were never reached. Divestiture, however, would trigger a new claim. A new suit would be timely as long as it is filed within 12 years of divestiture.

ANALYSIS

Watkins was based on a de facto breach of what the Supreme Court has characterized as a "solemn compact," under which the states relinquished their claims to the public lands within their border for a representative portion of those lands. Andrus v. Utah, 446 U.S. 500, 507 (1980). California's school lands grant consisted of the 16th and 36th section of each township--a random sample calculated to give the state's school lands representative of all the public lands.

In the event that the school land sections designated were included within federal reservations before survey and final vesting in the State, the State was to have the right to select other lands "equal in quantity, and as near as may be in quality." Heydenfelt v. Daney Gold & Silver Mining Co., 93 U.S. 634, 639-40 (1877). This principle, embodied in statute (43 U.S.C. §§ 851-852, 870-871), is particularly important in light of the large federal reservations made for military, national forest, park, or other purposes.

By far the most valuable school lands within California were included within the Elk Hills Naval Petroleum Reserve and thus denied to the State. Their inclusion was not challenged by the State during the years in which Elk Hills was actually operated as a naval petroleum reserve. In the late nineteen eighties, however, the Department of Energy, which by then operated the reserve, reexamined its functions. It found that Elk Hills was no longer necessary for the national defense, and that in fact it was being operated as a "cash cow" to produce revenues for the federal treasury. It recommended that Elk Hills be sold or leased to the private sector. The President's recommended budget provided for such a disposition.

California treated these admissions of the executive branch as tantamount to revocation of the reservation. The State demanded recognition of its interest in the two school land sections or, absent their direct transfer, the provision of other federal lands comparable in value. When the federal government declined to recognize the State's interest, it filed suit.

The federal district court never reached the merits of California's title claims. The State's title interests were not addressed. Rather, the court "reluctantly" concluded that the lawsuit was stale; it was barred by the applicable statute of limitations. The court indicated that any underlying title claims should have been filed at the time the school lands were included within the reserve in 1912, and any claims based upon the production of oil should have brought when production began in the 1940's. Since suit was filed in 1987, the court held that it was barred by the Quiet Title Act's 12 year statute of limitations.

This technical holding would have no effect on an actual divestiture of Elk Hills, which we understand is now proposed. Sale or other forms of divestiture would amount to an actual revocation of the federal reservation. The school lands within Elk Hills would no longer be withdrawn, and thus the State's claim would be revived. We do not believe that the <u>Watkins</u> decision would bar such a claim.

Should divestiture occur, the State's claim to the school land sections would be different in nature than its claim in Watkins. There, the State based its claim on implied revocation arising from actions inconsistent with the nature of the reserve. Should an actual transfer take place, the State would be able to assert a claim based on actual termination.

Daniel L. Siegel

DANIEL L. SIEGEL
Deputy Attorney General

DLS:mf

cc: James Trout
Jack Rump
Bill Morrison
Jan Stevens
Rick Frank

OFFICE OF THE DEPUTY SECRETARY

FACSIMILE TRANSMITTAL SHEET

NUMBER OF PAGES (including cover sheet): 3

DATE: 4/6/95

FAX NUMBER: 456-5558

TO: John Emerson

FROM: Kyle Simpson

COMMENTS:

If you experience difficulty in the transmittal of this fax please call ________ at 586-5500. Our fax number is 586-0148.

Thank You!

The Deputy Secretary of Energy
1000 Independence Avenue., S.W.
Washington, D.C. 20585
(202) 586-5500 • FAX (202) 586-0148

Calif / CalSTRS – Elk Hills
~~Elk Hills~~ – EA

cc: TJ Glauthier

April 6, 1995

MEMORANDUM TO: THE PRESIDENT

FROM: BILL WHITE BW
DEPUTY SECRETARY OF ENERGY

RE: NAVAL PETROLEUM AND OIL SHALE RESERVES – CALIFORNIA SCHOOL LANDS

The Administration has proposed to sell the Naval Petroleum and Oil Shale Reserves. A California oil field accounts for most of the value. The State of California claims an interest in certain parts of the Reserves known as the "School Sections Grants" in the portion of the Reserves known as Elk Hills Petroleum Reserve.

Over a century ago, Congress granted to California certain sections in all townships within the state for the support of the public schools. The transfer was not made, and the federal government took the land for military purposes during World War I.

Now that we are contemplating the sale of the lands contained in the resources including sections once designated for California, the State of California and the California Retired Teachers Association claim that the sale should cause those properties to revert to the State. California seeks a 7% interest in reserves underlying two tracts in the Elk Hills Field. Under California law, income from these lands would accrue to the benefit of the California State Teachers Retirement Fund.

In 1987 the Solicitor of the Department of Interior opined that: "California has no such vested interest accruing from the school lands grant, and that the Congress may therefore authorize disposal of these lands or permit them to vest in the State, as it chooses."

Our 1996 budget projections estimate the receipt of $2.6 billion in fiscal year 1997 from the sale of reserves. Scoring rules may need to be stretched to allow this amount to score. We need to get Congressional approval to hire investment bankers to obtain more reliable estimates of the market value of the Reserves. The budget estimate does not assume reversion of any interest to the State. Encumbrance of the property with California's claim would reduce the market value of the Reserves by as much as $316 million based on our estimate of the total value of the Reserves.

If we gave an interest to California in the fiscal year 1997 budget, and if that reduced scoreable revenue, we would need to make offsetting cuts <u>or</u> have some basis for revising upwards our estimated revenues from sale.

CAL/CALSTRS - Elk Hills

OFFICE OF THE DEPUTY SECRETARY

FACSIMILE TRANSMITTAL SHEET

NUMBER OF PAGES (including cover sheet): 3

DATE: 5.5.95

FAX NUMBER: 456.5558

TO: JOHN EMERSON

FROM: Kyle Simpson

COMMENTS:

If you experience difficulty in the transmittal of this fax please call ______ at 586-5500. Our fax number is 586-0148.

Thank You!

NEWS RELEASE

California State Teachers' Retirement System
7667 Folsom Boulevard
Sacramento CA 95826-2614

FOR IMMEDIATE RELEASE
May 4, 1995
NR 95-1

Contact:
James Mosman (916) 387-3700 • Jennifer Morrill (916) 387-3714 • Judith Burns (916) 387-3938
Chief Executive Officer • Director, Governmental Affairs • Public Information Officer

California State Teachers' Retirement System - Clinton Administration Reach Accord on Elk Hills Naval Petroleum Reserve

SACRAMENTO, CA... A compensation arrangement that potentially impacts many of California's half-million public school teachers and retired teachers was announced today by the California State Teachers' Retirement System (CalSTRS). The accord between CalSTRS and President Clinton's Administration provides for approximately $180 million in compensation to CalSTRS for state schools lands as part of a broader legislative proposal to sell the federal Elk Hills Naval Petroleum Reserve. The legislation was expected to be presented to Congress today. The revenue from the proceeds of the sale of the land will be paid over a ten-year period and used to provide cost-of-living increases to CalSTRS retirees.

The agreement was reached after lengthy negotiations with CalSTRS and other California state representatives, the White House, Office of Management and Budget, and the Department of Energy (DOE).

According to Jennifer Morrill, CalSTRS Director of Governmental Affairs, resolution of the issue has been the subject of years of lobbying and negotiations.

"Timing and a remarkable bipartisan effort by the California Congressional delegation has been critical to the successful turn of events. It's a win-win situation," Morrill said. "Although the agreement is dependent upon passage of legislation, the Administration's proposal itself is an important acknowledgment of CalSTRS' claim. Representatives from the State of California are prepared to work with DOE in the passage of this legislation, including a few agreed-upon refinements."

If approved by Congress, the accord resolves a 78-year long dispute over ownership and unsettled claims for compensation between federal and state interests. About seven percent of

--more--

the Elk Hills Naval Petroleum Reserve, located about 28 miles west of Bakersfield, is designated as "school lands" under an 1853 Act of Congress, granting properties to states to provide revenue sources for public schools. Under the Act or by means of an exemption, the federal government retained many designated sections of school lands throughout the country, including Elk Hills in California, to be used for national forests, the military, or because of known mineral or oil reserves. In exchange for retention of lands, the federal government is required to compensate the affected state with other land or revenue.

The Elk Hills Naval Petroleum Reserve, managed by the Department of Energy, was at the center of a controversy over payment of equitable compensation to CalSTRS for almost 1,300 oil-rich acres of school lands.

Morrill said that the original intention of the federal law was taken a step further in 1984, when the California State Legislature passed a law specifying that school lands revenue be directed to the State Teachers' Retirement Fund, to be used for cost-of-living increases for California public school retired teachers. California presently has almost one-half million acres in state school lands, generating approximately five million dollars annually for cost-of-living increases.

CalSTRS is the nation's fourth largest public pension fund with assets of over $49 billion. The System administers a retirement plan for more than 500,000 members and benefit recipients. Members include public school teachers and administrators, kindergarten through community college.

For more information contact Jennifer Morrill, Director, Governmental Affairs (916) 387-3714, or Public Information Officer, Judith Burns (916) 387-3938.

# # #

ES

CALIF / CALSTATE
ELK HILLS

TO: John Emerson, Tim Flynn

FROM: Elinor Schwartz

SUBJECT: Elk Hills

DATE: April 11, 1995

I thought that you might like to see our update on the legal situation at Elk Hills. It will be interesting to see the approach that DOE takes in its current legislative drafting effort.

ELINOR SCHWARTZ 318 South Abingdon Street Arlington, Virginia 22204 (703) 920-5389

State of California

Department of Justice
1515 K Street, Suite 511
P.O. Box 944255
Sacramento, CA 94244-2550

Memorandum

To : Robert Hight
Executive Officer
State Lands Commission
1807 13th Street
Sacramento, CA 95814

Date : April 6, 1995

Telephone: ATSS (8) 473-9259
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Public Rights, Land Law Section
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Daniel L. Siegel

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Deputy Attorney General

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Rick Frank

VIC FAZIO
THIRD DISTRICT
CALIFORNIA

DEMOCRATIC CAUCUS-VICE CHAIR
DEMOCRATIC STEERING AND POLICY COMMITTEE
APPROPRIATIONS COMMITTEE
SUBCOMMITTEES:
ENERGY AND WATER DEVELOPMENT
LEGISLATIVE
MILITARY CONSTRUCTION

Congress of the United States
House of Representatives
Washington, DC 20515-0503

PLEASE RESPOND TO:

☐ 2113 RAYBURN BUILDING
WASHINGTON, DC 20515-0503
(202) 225-5716

☐ 722B MAIN STREET
WOODLAND, CA 95695-3407
(916) 666-5521

☐ 332 PINE STREET, #F
RED BLUFF, CA 96080-3312
(916) 529-5629

☐ 951 LIVE OAK BLVD., #11
YUBA CITY, CA 95991-3446
(916) 673-5596

April 12, 1995

TO: BILL WHITE - DOE
- 8y i - JQ
cc: Files Calif/CalSTRS - Elk Hills

Hon. Leon Panetta
Chief of Staff
Executive Office of the President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Leon,

I am writing regarding a proposal currently under development by the Administration to restructure and then dispose of the Elk Hills Naval Petroleum Reserve in California.

As you know from your days in Congress, the State of California and its teachers have a direct interest in the Elk Hills issue in the form of the State's claim for compensation for the two State school land tracts that fall within the Elk Hills Reserve. The State of California applies the revenues from its State school lands to assist retired teachers whose pensions have been seriously eroded by inflation. California teachers are ineligible for Social Security and often must rely on this State pension as the principal source of their retirement income. Accordingly, the 490,000 active and retired teachers who participate in the California State Teachers' Retirement System have a keen interest in receiving fair compensation for these State school lands in the Elk Hills Reserve.

There has been a decades-long dispute between the State of California and the Federal Government over rights to these State school lands that happen to be located in the Elk Hills Reserve. In a prior lawsuit filed by the State against the Federal Government asserting that the Reserve status that overrides the State's rights in the school lands had been implicitly revoked by reason of commercial production at the Reserve, the federal district court ruled against the State on statute of limitation grounds, holding that the State should have filed its suit decades earlier. I have been informed that the Office of the California Attorney General has determined that upon actual termination of the military reserve status of Elk Hills in order to sell off, lease, or otherwise transfer the Elk Hills field to a government-owned corporation, the State could assert a new claim of entitlement to the two State school land tracts located in Elk Hills and that the earlier federal district court decision would pose no bar to the assertion of such a new claim.

As the Administration formulates its proposal on Elk Hills, I would ask that you and your staff work actively with us to ensure that the State's claim for compensation for the two State school land tracts in the Elk Hills Reserve is properly addressed in the Administration's proposal before the proposal is presented to the House National Security Committee. In the context of proposals by past Administrations to dispose of Elk Hills, the State had been able to negotiate a compromise with the Office of Management and Budget to receive as compensation seven percent of the up-front lease bonus payment paid to the State in annual installments over seven years without interest, together with a share of the production royalties.

I understand that representatives of the State have met with John Emerson of your staff and T.J. Glauthier of OMB to brief them on the Elk Hills issue.

I would very much appreciate your active support in working to resolve this very important issue.

Sincerely,

Vic

Vic Fazio
Member of Congress

cc: John Emerson
Deputy Assistant to the President and
Deputy Director for Intergovernmental Affairs
149 Old Executive Office Building

File
Calif/Elk Hills

October 18, 1995

MEMORANDUM

TO: John Emerson

FROM: David Ifshin, Phil Cavanaugh

RE: **Elk Hills/California**

The administration's proposal to sell the Elk Hills Naval Petroleum Reserve Number One in California's Kern County carries a provision that is vitally important to the California education community and, in particular, the California Teachers Association, one of the largest labor unions in the state. The legislation calls for the California teachers pension fund to receive 7% of the proceeds of the sale, estimated to be more than $100 million dollars, in recognition of a legal claim on the land.

The Elks Hills provision has passed the House and Senate but there are two reasons why this sale, and its financial benefit to California teachers may not happen.

- The Energy Department is advocating that the sale be delayed beyond FY '96 to allow additional time to value the asset. Experts in the oil and gas field have testified that these kind of asset sales can easily take place within a 6 to 9 month time frame.

- The Bingaman amendment may derail the sale even if the legislation is passed. The amendment gives the Energy Secretary authority to call off the sale at any time for any reason. This will discourage companies from putting in their best, highest bids, resulting in low-ball bids and the likelihood that the asset will be withdrawn.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

OFFICE OF INTERGOVERNMENTAL AFFAIRS
FAX: 202/208-1821 PHONE: 202/208-5336

TO: John Emerson/Sky Gallegos
Office of Intergovernmental Affairs
The White House

FAX: 456-2889

FM: Jay Ziegler

DATE: 4/1/96

MESSAGE: I understand John is meeting with a delegation from STRS and California State Lands Commission tomorrow. Please note that the Elk Hills 9% return is a huge issue and John should ask how meeting with DOE went today.

Also, there is an issue regarding DOI and California concerns about oil pricing that I may need some help on (clip attached).

Please call.

(4 pages)

Calif / Elk Hills

STATE OF CALIFORNIA PETE WILSON, Governor

STATE TEACHERS' RETIREMENT SYSTEM
POST OFFICE BOX 15275
SACRAMENTO, CA 95851-0275

(916) 229-3700

March 26, 1996

Honorable Hazel O'Leary
Secretary of Energy
Department of Energy
Forrestal Building 1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary O'Leary:

I would like to thank you again for your assistance in securing language protecting the State of California's interest in the school lands contained within the Elk Hills Naval Petroleum Reserve. It was certainly a great day when President Clinton signed the Defense Authorization Bill (Bill) into law.

A meeting has been scheduled with Kyle Simpson and Rob Task from your staff for April 1, 1996 at 1:30 to discuss the school lands provisions in the Bill and pursue a prompt resolution of this matter. Although we met you through the telephone press conference call in which you announced the signing of the Bill and the benefit to California's retired teachers, we would very much enjoy the opportunity to meet you personally. I know you have a busy schedule and would not expect you to attend the meeting in its entirety; however, it would be a pleasure if you could stop by to formally meet the representatives from California who have been so instrumental in advancing this issue in Congress over the years.

The participants from California who will be attending the meeting and their representatives include the following:

James D. Mosman, Chief Executive Officer, State Teachers' Retirement System
Jennifer D. Morrill, Director of Governmental Affairs, State Teachers' Retirement System
Robert C. Hight, Executive Officer, State Lands Commission
Daniel L. Siegel, Deputy Attorney General
Theresa Parker, Deputy Director, State Department of Finance
John Stanton, representing the State Teachers' Retirement System in Washington, D.C.
Elinor Schwartz, representing the State Lands Commission in Washington, D.C.

Thank you for your interest in California's retired teachers. We look forward to the possibility of meeting you when we are in Washington next week.

Sincerely,

JAMES D. MOSMAN
Chief Executive Officer

cc: Kyle Simpson
Rob Task

Los Angeles Times FRIDAY, MARCH 29, 1996

Oil Firms Owe Millions to U.S., Report Charges

By ROBERT A. ROSENBLATT
TIMES STAFF WRITER

WASHINGTON—Oil companies owe the federal government as much as $856 million in royalties and interest because they undervalued the price of crude oil produced in California between 1978 and 1993, according to a report released Thursday based on internal government documents.

California, which uses its oil royalties for education, would reap $165 million as the state's share of the uncollected funds—enough to educate 35,000 students for a year, by one estimate.

"California's delinquent oil companies are stealing money from California's schoolchildren," said Rep. Carolyn Maloney (D-N.Y.), who has pushed to improve the collection of debts owed the federal government.

The report was done by the Project on Government Oversight, a self-described watchdog group.

The $856-million figure, an estimate of potential undercharges developed by a government task force investigating the royalty question, is the biggest estimate to date in a long-running argument over whether the oil industry imposed unfairly low prices for California crude.

The dispute has a long court history. In 1991, in their own case alleging the similar underpayment of royalties, the state of California and city of Long Beach won a settlement of $320 million from six oil companies after a 16-year court battle.

A year ago, in an earlier phase of the federal task force investigation, the Interior Department indicated potential federal losses of $30 million for the years 1990 through 1993.

But some officials participating in

Please see OIL, A9

OIL: Report Charges Oil Firms Owe the U.S. up to $856 Million

Continued from A1

the inquiry insisted that the federal government obtain documents used by the state of California during its royalty investigation, sources said Thursday. This additional information, dating back as far as 1975, provided enough detail about industry pricing practices to send the estimate of underpayments of royalties ballooning to more than $800 million.

The essential complaint of the government inquiry is that the oil companies, which are net buyers of crude in California, kept the price artificially low. This reduced what they would pay for oil at the wellhead—and thus what they would pay in royalties to the federal and state governments.

Maloney said the Interior Department memorandum indicates that the money is owed by 10 companies: Texaco, Shell, Arco, Mobil, Chevron, Exxon, Unocal, Phillips, Santa Fe and Oryx.

The state's proposed share of the money would pay for a year's education for all the children in a mid-size city or the salaries of 4,100 teachers, according to Danielle Brian of the Project on Government Oversight. "Why is the Department of the Interior more comfortable running a corporate welfare program for the oil industry than doing its job and collecting what is due to the American people?" the organization asked.

The American Petroleum Institute, which represents the oil industry, said its officials had not yet seen the report issued by Maloney's office and would not have any immediate comment. Spokespersons for Los Angeles-based Arco and Unocal said Thursday that they were unaware of the report and could not comment.

The federal task force, including officials from the Interior, Energy and Commerce departments, is supposed to issue its report in April, said Mary Helen Thompson, a spokeswoman for the Interior Department. The report released Thursday by the watchdog group was based on documents it obtained from the task force.

Rep. Steve Horn (R-Long Beach), whose district is a major source of oil royalties from offshore production, is glad that Maloney and the watchdog organization "brought this issue to his attention," said Russell George, staff director of Horn's subcommittee on government management and information. The subcommittee will "take a closer look at the issue," George said.

Horn has sponsored a bill to allow the federal government to collect past-due money from delinquent payers. The bill would authorize the government to subtract the overdue debts from any government funds being paid to the delinquent parties. This would mean, for example, that if a decision is made to collect the money from the oil companies, it would be debited against any government contracts they have.

The state's proposed share of the money would pay for a year's education for all the children in a mid-size city or the salaries of 4,100 teachers, said Danielle Brian, executive director of the Project on Government Oversight. The organization describes itself as a nonpartisan watchdog involved in exposing government mismanagement and waste.

"Why is the Department of the Interior more comfortable running a corporate welfare program for the oil industry than doing its job and collecting what is due to the American people?" the organization asked in its report, which included draft memorandums from the Interior Department.

One document said there are "many possible permutations" for calculating the oil royalty underpayments in California. The 10 companies involved account for 90% of the royalty oil produced in California, the document noted.

Using market prices for Alaska North Slope oil delivered to Los Angeles as a benchmark would yield a figure of $856 million for unpaid royalties and accrued interest for the period between 1978 and 1993, the Interior Department document said.

OPENING STATEMENT OF JAMES D. MOSMAN, CHIEF EXECUTIVE OFFICER OF CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM REGARDING ELK HILLS COMPENSATION

I am pleased to be here today to meet with representatives of Secretary O'Leary to finalize our agreement with the Secretary and the Administration on Elk Hills compensation.

At our joint press conference on February 10, Secretary O'Leary stated: "The most important part of this legislation to a very significant population, that is our teachers in the State of California, is that 9% of the net of the sales price will go to the Teachers' Retirement Fund in what has been a very longstanding dispute between the Federal Government and the State of California.***And finally, really great for the half million retired and working teachers in California because they will get 9% of the net sale of the Elk Hills Reserve."

Secretary O'Leary concluded: "From the Clinton Administration's perspective. . .signing this bill, and ensuring that this section of the bill stayed in and was passed with lots of help from the California delegation, simply puts down our marker about education and its value, the benefit to the nation and to California from its teachers, and to recognize our obligation as a nation simply to live up to our commitments, and this especially true for teachers who will provide the education base for our youngsters to make them competitive in the 21st Century. We did it because it was the right thing to do."

We are here today, as the Secretary said in her closing remarks, to "work out the details". I am pleased to present our proposed outline of a final agreement on compensation. We believe that it fairly implements the principles articulated by the Secretary at our joint press conference, while at the same time accommodating the federal budget constraints.

We look forward to working with you in a cooperative spirit to finalize this agreement.

STATE OF CALIFORNIA

Calif/Elk Hills

4/1/96

IMPLEMENTATION OF AGREEMENT
ON ELK HILLS SCHOOL LANDS COMPENSATION

O'Leary stmt.

- Payment to State of California for its Teachers' Retirement Fund:
  * 9% of net proceeds from sale
  * 5 equal annual payments beginning in fiscal year 1999

DOE-Director Qs re These are [illegible] they should resolve now?

- Appropriation:
  * Administration shall submit as part of its annual budget message a request for an appropriation for each year of the pay-out schedule (and for any additional years necessary to secure appropriation of the full compensation)
  * Administration to use best efforts to seek enactment of each required appropriation, together with active legislative efforts of representatives of State

It's agreed on [illegible], implement appropriations but must [illegible] it so respect to the appropriations act

- California's Claims to Elk Hills School Lands:
  * Abated during receipt of payments
  * Extinguished upon receipt of last payment
  * Right to sue to enforce payment if appropriated but not paid
- Statute of Limitations:
  * Tolled from execution of agreement until receipt of last payment.

DRAFT SETTLEMENT AGREEMENT
(3/28/96 Draft)

This Settlement Agreement is entered into by and between the United States of America (by and through the Secretary of Energy) and the State of California (by and through the California State Lands Commission and the California State Teachers' Retirement System), as follows:

ARTICLE 1
Definitions

1.1 AGREEMENT shall mean this settlement agreement.

1.2 STATE shall mean the State of California, by and through the California State Lands Commission and the California State Teachers' Retirement System.

1.3 SECRETARY shall mean the Secretary of the Department of Energy.

1.4 UNITED STATES shall mean the United States of America, by and through the SECRETARY.

1.5 PARTIES shall mean the UNITED STATES and the STATE.

1.6 FEDERAL ELK HILLS INTERESTS shall mean all right, title, and interest of the United States in and to all lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1. (Naval Petroleum Reserve Numbered 1 is commonly referred to as the Elk Hills Unit, is located in Kern County, California, and was established by Executive Order of the President, dated September 2, 1912.)

1.7 ELK HILLS SCHOOL LANDS shall mean sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, which are located in the ELK HILLS RESERVE.

1.8 DEFENSE AUTHORIZATION ACT shall mean the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. No. 104-106, 110 Stat. 186).

ARTICLE 2
Recitals

2.1 WHEREAS, on February 10, 1996, the President of the United States signed the DEFENSE AUTHORIZATION ACT, which directs that the FEDERAL ELK HILLS INTERESTS be sold;

2.2 WHEREAS, the DEFENSE AUTHORIZATION ACT requires that, after deducting costs incurred to conduct such sale of the FEDERAL ELK HILLS INTERESTS, nine percent of the proceeds from such sale shall be reserved in a contingent fund for the resolution of the claims of the STATE with respect to the ELK HILLS SCHOOL LANDS, and said ACT further requires the SECRETARY to offer to settle all such claims of the STATE by means of a settlement payment from the contingent fund in an amount equal to the fair value for the STATE'S claims, including the mineral estate;

2.3 WHEREAS, the STATE claims that under its Enabling Act (Act of March 3, 1853, 10 Stat. at L., 244), enacted in connection with the STATES entrance into the Union of the United States, and the Jones Act (43 U.S.C. § 870), the ELK HILLS SCHOOL LANDS vest in the STATE upon sale of the FEDERAL ELK HILLS INTERESTS;

2.4 WHEREAS, the ELK HILLS SCHOOL LANDS account for nine percent of the mineral revenues from the FEDERAL ELK HILLS INTERESTS;

2.5 WHEREAS, the PARTIES wish to resolve any and all claims of the STATE, including any and all claims of the State Lands Commission and of the State Teachers' Retirement System, against the UNITED STATES with respect to the ELK HILLS SCHOOL LANDS, and production or proceeds of sale from the FEDERAL ELK HILLS INTERESTS;

2.6 WHEREAS, the PARTIES wish to avoid the expensive and complex litigation that would have otherwise ensued absent this AGREEMENT;

NOW THEREFORE, in consideration of the mutual promises of the PARTIES and the mutual benefits arising therefrom, the PARTIES agree as follows:

ARTICLE 3
Settlement

3.1 After deducting the costs incurred in the conduct of the sale of the FEDERAL ELK HILLS INTERESTS under section 3412 of the DEFENSE AUTHORIZATION ACT, the UNITED STATES shall pay to the STATE for the State Teachers' Retirement System's Teachers' Retirement Fund of the STATE, nine percent of the remaining proceeds from the sale of the FEDERAL ELK HILLS INTERESTS. Payment of such nine percent share shall be in five equal annual installments in each of the fiscal years 1999 through 2003 and shall be made not later than the 60th day of each such fiscal year.

ARTICLE 4
Appropriation

4.1 The PARTIES recognize that the enactment into law of annual appropriations will be required before the payments specified in ARTICLE 3 (Settlement) may be made. The SECRETARY shall cause to be included in the Budget of the United States Government as transmitted by the President of the United States to the Congress a request for an appropriation for and in the amount of each of the payments specified in ARTICLE 3. Each such appropriations request shall be submitted to Congress as part of the Budget for the fiscal year in which the payment is due as specified in ARTICLE 3 (and if necessary, annually thereafter until the requisite appropriation for such payment has been enacted into law.) The PARTIES agree to use their best efforts to actively seek, and to assist each other in seeking, the enactment into law of requisite appropriations.

ARTICLE 5
Release of Claims

5.1 Any claims which the STATE has against the UNITED STATES with respect to the FEDERAL ELK HILLS INTERESTS, including claims regarding the ELK HILLS SCHOOL LANDS, or production or proceeds of sale from the FEDERAL ELK HILLS INTERESTS, shall be:

a. abated during such time as the STATE is receiving the payments specified in ARTICLE 3 (Settlement), above, and

b. extinguished in full upon the receipt by the STATE of the final payment specified in ARTICLE 3 (Settlement).

5.2 If the UNITED STATES fails to make any of the payments specified in ARTICLE 3 (Settlement) even though an appropriation has been enacted into law for that payment, the STATE shall have the right to seek and obtain that payment through an action filed in the United States Court of Federal Claims.

ARTICLE 6
Tolling of Statute of Limitations

6.1 During the period beginning with the date that this AGREEMENT is executed and ending upon the date that the STATE receives the last payment specified in ARTICLE 3 (Settlement), above, the limitation periods under any statutes of limitations applicable to claims which the STATE has against the UNITED STATES with respect to the FEDERAL ELK HILLS INTERESTS, including claims regarding the ELK HILLS SCHOOL LANDS, or production or proceeds of sale from the FEDERAL ELK HILLS INTERESTS, shall be tolled; <u>provided</u>, <u>however</u>, that nothing in this ARTICLE shall be construed as affecting during the period prior to the date of execution of this AGREEMENT any limitations period under any statute of limitations applicable to actions in respect of the rights of the STATE.

ARTICLE 7
Miscellaneous Provisions

7.1 Effectiveness of AGREEMENT

This AGREEMENT shall be effective upon the execution of this AGREEMENT by all PARTIES.

7.2 Gender

As used herein, whenever the context so requires, the neuter gender includes the masculine and the feminine, and the singular includes the plural and vice versa. Defined terms are to have their defined meaning regardless of the grammatical form, number or tense of such terms.

7.3 Headings

The title headings of the respective articles and sections of this AGREEMENT are inserted for convenience only, and shall not be deemed to be part of this AGREEMENT or considered in construing this AGREEMENT.

7.4 Amendments

All amendments and supplements to this AGREEMENT must be in writing and executed by each of the PARTIES or their successors in interest. However, such execution may be in counterparts and, when so executed, shall be deemed to constitute one document.

7.5 Execution

This AGREEMENT may be signed in any number of counterparts and each signed counterpart shall have the same force and effect as an original and as if all of the PARTIES to the aggregate counterparts had signed the same instrument.

7.6 Authorization

Each person signing this AGREEMENT or any other documents pursuant to this AGREEMENT as an agent or on behalf of any of the PARTIES warrants that he or she is authorized by the respective party to execute and deliver this AGREEMENT and that this AGREEMENT will become binding on that party.

7.7 Successor and Assigns

The AGREEMENT is entered into for the benefit of the PARTIES hereto and shall be for the benefit of, and be binding upon, the PARTIES hereto, their successors and assigns, except that this AGREEMENT shall not apply to any purchaser of any portion of the FEDERAL ELK HILLS INTERESTS.

7.8 Final AGREEMENT

This AGREEMENT contains the entire AGREEMENT and understanding concerning the subject matter between the PARTIES to this AGREEMENT and supersedes and replaces all prior negotiations and proposed agreements between the parties, written and oral. Each of the PARTIES hereto acknowledges that no other party, or the agents or attorneys of any other party, has made any promise, representation, or warranty whatsoever, express or implied, not contained herein to induce the execution of this AGREEMENT, and acknowledges that this AGREEMENT has not been executed in reliance upon a promise, representation, or warranty whatsoever, express or implied, not contained herein to induce the execution of this AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the day and year last written below.

DATED:

HAZEL O'LEARY, SECRETARY, UNITED STATES DEPARTMENT OF ENERGY

By: ________________________
Hazel O'Leary

DATED:

CALIFORNIA STATE LANDS COMMISSION

By: ________________________
Robert C. Hight
Executive Officer

DATED:

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

By: ________________________
James D. Mosman
Chief Executive Officer

CALIFORNIA STATE LANDS COMMISSION

GRAY DAVIS, *Lieutenant Governor*
KATHLEEN CONNELL, *Controller*
RUSSELL GOULD, *Director of Finance*
CRAIG L. BROWN

EXECUTIVE OFFICE
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

ROBERT C. HIGHT, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service from TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

May 31, 1996

Calif / Elk Hills

Mr. John Emerson
Deputy Assistant to the President &
Deputy Director for Intergovernmental Affairs
106 Old Executive Office Building
Washington, DC 20500

Dear Mr. Emerson:

It was a pleasure to meet you and to begin the settlement process on California's School Land claim in the Elk Hills field. We appreciate your commitment to resolve this issue and look forward to working with you on finalizing the settlement in the near future. I know that T.J. Glauthier, Gary Bennethum and Lori Krauss have also worked hard to get to this point.

As promised, enclosed is an evaluation of the history of this issue produced by Dexter Yen, one of the Petroleum Reservoir Engineers on our staff. Yen concludes that there is a strong argument in favor of our claim to 9% of the Department of Energy's portion of the proceeds from the sale. Since we did not share at all in the first $16 billion of production from the field, it would seem that even a small variation in the equity share would be overwhelmed by this consideration.

We remain ready to provide any information on the California oil market or our bidding process that may be of assistance.

Very truly yours,

Robert C. Hight

ROBERT C. HIGHT
Executive Officer

Enclosure

State of California

State Lands Commission

MEMORANDUM

TO: Marina Voskanian
Chief Reservoir Engineer

April 29, 1996

File: W40351

FROM: Dexter L. Yuen Dexter L. Yuen
Petroleum Reservoir Engineer

SUBJECT: School Lands Share of Elk Hills Sales

As you know, the Act authorizing the sale of the Elk Hills Naval Petroleum Reserve provides that "up to 9%" of the DOE's net proceeds go to the State Teachers Retirement System. The 9% share is well-supported by work done by the DOE and Chevron. The following points should be noted:

- Though the "9%" figure is a negotiated number, it is solidly rooted in the Elk Hills Unit Contract. This is the contract between Chevron and the DOE that specifies how the Unit is operated and shared.
- The changes to the Shallow Zone equity shares that were recently recommended by an independent arbitrator reinforce our claim to a 9% share.
- It is unlikely that any future changes in the School Land's share would be significant.

9% Share Consistent with Current Unit Contract

The Unit Contract specifies the equity share of each section in the Unit, including the two School Land sections. These equity shares have been revised periodically since the Unit was formed in 1942. Using the Unit Contract figures currently in effect for the Stevens and Shallow Oil Zones (which constitute almost all of the Unit's value[1]), we find that the School Land sections make up 9.2% of the DOE's share of the Unit. This is illustrated on the table below.

	School Lands Volumes (Sections 16R & 36R) - ac-ft	Total DOE Volumes - ac-ft	Total Field Volumes - ac-ft
Stevens Zone	123,182	1,155,593	1,456,536
Shallow Oil Zone	6,503	253,544	362,144
Total	129,685	1,409,137	1,818,680

School Lands Equity as a % of DOE's share: 129,685 / 1,409,137 = **9.2%**

[1] The Stevens and Shallow Oil Zones account for about 95% of the Unit's value. The remaining 5% comes from the Dry Gas and Carneros Zones. School Lands has a 14.9% share of the total Dry Gas Zone; this equates to 17.7% of the DOE's share of that zone. The Dry Gas Zone constitutes about 3% of the Unit's value. School Lands has no share of the Carneros Zone, which is a gas condensate reservoir that constitutes about 2% of the Unit's value.

Proposed Changes to Unit Contract Increase School Lands Share Slightly

Last year, Chevron suggested hiring an independent arbitrator to help resolve the dispute they were having with the DOE over the Shallow Oil Zone equity figures. The DOE recommended using Mr. James Dietrich, a consulting petroleum engineer. Chevron agreed, and Mr. Dietrich was hired by the Unit to conduct an independent evaluation. He completed his study in November and proposed changes that would lower the DOE's overall share of the Shallow Oil Zone. His recommendations have not yet been accepted by the DOE. Mr. Dietrich's proposed changes would also increase the School Lands share slightly, strengthening our claim to 9% of the DOE's net proceeds. His proposed revised figures are shown below.

	School Lands Volumes (Sections 16R & 36R) - ac-ft	**Total DOE Volumes - ac-ft**	**Total Field Volumes - ac-ft**
Stevens Zone	123,182	1,155,593	1,456,536
Shallow Oil Zone based on Dietrich's values	8,485	211,124	320,962
Total	131,667	1,366,717	1,777,498

School Lands Equity as a % of DOE's share: 131,667 / 1,366,717 = **9.6%**

School Lands Share Unlikely to be Significantly Impacted by Future Changes to Unit Contract

To prepare for the sale, the DOE and Chevron have been directed by Congress to finalize all equity figures by October 1996. As with the Shallow Zone, revisions will probably be considered for the Stevens Zone equities. But there are good reasons to expect the revisions, if any, to be small:

- The Shallow Zone equity shares had not been revised since 1957, but the Stevens Zone shares were last revised in 1980. Since a much shorter time has passed (16 years vs. 38 years), the Stevens Zone shares should require less adjustment than the Shallow Zone shares.

- Chevron has advised that no new extensions to the Stevens Zone have been found since 1980. Thus, the areal extent is essentially unchanged from the time the Stevens equity shares were last revised. This suggests that the equity shares should not significantly change.

cc: Bob Hight

STATE OF CALIFORNIA PETE WILSON, Governor

STRS

P.O. BOX 15275-C
SACRAMENTO, CA 95851

working on it w/ Don Eberle 5075
John - see me on this.
file: Calif/Elk Hills

June 27, 1996

John B. Emerson
Deputy Assistant to the President
and Deputy Director for Intergovernmental Affairs
Executive Office of the President
Old Executive Office Building, Room 148
17th Street and Pennsylvania Avenue NW
Washington, DC 20500

Re: <u>State of California Teachers – Elk Hills Compensation</u>

Dear Mr. Emerson:

On behalf of the 500,000 active and retired teacher members of the California State Teachers' Retirement System (CalSTRS), I am writing to express our concern that the Administration is not proceeding with due dispatch to finalize the settlement agreement with the State that is necessary to implement the commitment made by Secretary of Energy O'Leary on February 10 that the State and its teachers would receive 9 percent of the net proceeds of sale from the Elk Hills Naval Petroleum Reserve as compensation for the State's longstanding claim.

In announcing the President's signing of the FY 1996 Defense Authorization legislation containing the Elk Hills sale and compensation provision at a joint press conference with the State on February 10, Secretary O'Leary -- the Administrative representative directed by the legislation to settle the State's claim -- stated: "The most important part of this legislation to a very significant population, that is our teachers in the State of California, is that 9% of the net of the sales price will go to the Teachers' Retirement Fund in what has been a very longstanding dispute between the Federal Government and the State of California.* * *And finally, really great for the half million retired and working teachers in California because they will get 9% of the net sale of the Elk Hills Reserve." (Copy of complete transcript of February 10, 1996 Press Conference attached for reference.)

Secretary O'Leary concluded on behalf of the Administration: "From the Clinton Administration's perspective. . . signing this bill, and ensuring that this section of the bill stayed in and was passed with lots of help from the California delegation, simply puts down our marker about education and its value, the benefit to the nation and to California from its teachers, and to recognize our obligation as a nation simply to live up to our commitments, and this is especially true for teachers who will provide the education base for our youngsters to make them competitive in the 21st Century. We did it because it was the right thing to do."

As you will recall from our April 2 meeting with you, we met with Secretary O'Leary's representatives on April 1 to finalize this agreement with the Administration as articulated by Secretary O'Leary, who had been directed by the statute to settle the State's claim. At that time, we presented the Secretary's representatives with what we regard as a very fair draft settlement agreement under which the State would agree to accept its 9 percent share of the net sales proceeds over an extended period of five years not beginning until fiscal year 1999. Implementation of this settlement with the State is relatively simple and does not involve complex legal issues. We believe it is very much in the Administration's interest of maximizing value for the federal taxpayers to remove the cloud of the State's claim in advance of the sale.

In the intervening three months, we have received no substantive response to the State's proposal to finalize its agreement with the Administration. The Elk Hills compensation issue continues to have high visibility among our 500,000 active and retired teachers. My staff receives calls almost daily from around the State asking about the status of the Administration's settlement with the State and its teachers. The California State legislature is in the process of adopting the enclosed joint resolution urging the Administration to expeditiously resolve the State's claim. Our membership is growing restive at the apparent lack of resolve on the part of the Administration to follow through on the public commitment made by the Secretary of Energy.

We understand that the President will be speaking before the California Teachers Association, the State's largest teacher employee group during their meeting August 4-9 in Los Angeles. In light of the clear public commitment made by the Secretary almost five months ago, the teachers are expecting an announcement from the President that the Elk Hills compensation issue has been settled.

We continue to believe that a prompt settlement of the State's claim will provide the Administration with an opportunity to visibly demonstrate its commitment to provide fair Elk Hills compensation to the 500,000 active and retired teachers in California.

We very much appreciate the help you provided us during our legislative effort and would welcome your active assistance in promptly finalizing the settlement of the State's claim.

Sincerely,

James D. Mosman
Chief Executive Officer

cc (w/att.): Jennifer Palmieri
Special Assistant to
the Chief of Staff
to the President

MINUTES FROM
TELEPHONE PRESS CONFERENCE CALL
REGARDING
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 96 PROVISION COMPENSATING STATE OF CALIFORNIA TEACHERS' CLAIM TO ELK HILLS NAVAL PETROLEUM RESERVE
SATURDAY, FEBRUARY 10, 1996
11 a.m.

Hazel R. O'Leary, Secretary, U.S. Department of Energy
Jim Mosman, Chief Executive Officer, California State Teachers' Retirement
Jennifer Morrill, Director, Governmental Affairs, California State Teachers' Retirement
Dave Walrath, spokesperson for California Retired Teachers' Association
Robert Hight, Executive Director, California State Lands Commission
Kyle Simpson, Attorney for U.S. Department of Energy
Dan Siegel, California Attorney General's Office
Carmen McDugal, Press Secretary
Senali Paul, Rueters News Agency
David Bird, Dow Jones News Service
Rhonda Rundle, Biotechnology
Dorcy Griffith, Sacramento Bee
John Bolero, Press Reporter

Morrill: Thank you for the explanation Bill, this is Jennifer from the Teachers' Retirement System and we have all of the parties in California ready.

O'Leary: Hello...

McDugal: Secretary O'Leary.

O'Leary: Yes, Hi, how are you doing?

McDugal: Hi. Good, this is Carmen McDugal from Department of Energy, the secretary is on the line and I understand the California Teacher's folks are on the line.

O'Leary: Terrific, why don't we introduce each other, I'm Hazel O'Leary.

McDugal: Mr. Mosman are you on?

Mosman: Yes, I'm here. Jim Mosman, I'm the Executive Officer for the State Teachers' Retirement System, and we have a number of California people here, I'd like them to introduce themselves.

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O'Leary: Super, thank you.

Walrath: Secretary O'Leary. My name is Dave Walrath, I'm representing the California Retired Teachers' Association.

O'Leary: Wonderful.

Hight: Robert Hight, the Executive Officer of the California State Lands' Commission.

O'Leary: Hello, how are you?

Hight: Good.

Siegel: Dan Siegel, with the California Attorney General's Office.

O'Leary: Great. Hello.

Morrill: Hi. I'm Jennifer Morrill, the Director of Governmental Affairs for the Teachers' Retirement System, it is nice to meet you.

O'Leary: It's nice to meet you too, Jennifer. Is that it for the California folks? O.K. Carmen, how do you want to manage us?

McDugal: What I'd like to do is start off with a roll call of reporters who are on the line, and then the secretary will have a few words, followed by Mr. Mosman and Mr. Walrath, and then we will go to Q & A from the media. If the reporters could just identify themselves and their news organization before they ask the question, we'd appreciate it. So roll call first and anybody can start, we'll just talk until folks are done. Are there media folks on the line?

Bird: Yes, I'm here. David Bird from Dow Jones.

McDugal: Anyone else? O.K. David, you'll perhaps be joined by others. Secretary O'Leary, do you want to start?

O'Leary: Yes, I will indeed. If you have been watching the wires on the early morning news out on the West Coast, you know that today the President signed into the law the Defense Authorization Act. The piece of it that has a real California connection, of course, is that provision within the Act which authorizes the sale of the Naval Petroleum Reserves at Elk Hills in California. If I was looking for a sound bite, I think I would say that back in 1995, when President Clinton submitted his budget, he put down the mark then to indicate that the era of big government is over, and especially in the case of Elk Hills, is that so compelling. Quite frankly, the government is not the best producer of petroleum, not because the people who work for the government don't do a great job, but quite frankly, because the rules and the laws set by the Congress don't permit the government to manage that Reserve as one would in the private sector. This is good news for Californians generally, because it adds back to the tax base some 20 million dollars in taxes once this property is privatized, at both the local level for schools, and of course the State taxes. More especially, there is an interest on behalf of the teachers of California, those now working and those retired. I am not going to go into great detail on the California School Lands because I know that my colleague in California will do that. But suffice it to say, the President's bill, when it went forward last year, had some language in it trying finally, after many decades, I think eight, to settle what was clearly the right of California teachers to have payment into their retirement funds coming from the sale of Elk Hills. So, good news all around. Good for the American tax payer because you will get a much more productive resource once it is privatized. Good for California taxpayers because 20 million dollars in taxes per year will flow into California. And finally, really great for the half million retired and working teachers in California because they will get 9% of the net sale of the Elk Hills Reserve.

McDugal: Thank you. Mr. Mosman.

Mosman: Thank you, I am Jim Mosman again, Executive Officer of the Teachers' Retirement System and it really is an exciting day for us. One that we have been looking forward to for many years. On behalf of our membership, nearly 500,000 active and retired teachers in California, I want to laud the President for signing into law today legislation that mandates fair compensation for a longstanding claim of the State, California, and its teachers to the school lands located in what is now the Elk Hills Naval Petroleum Reserve. The Legislation resolves a decades-long dispute between the State and the Federal Government. The State of California currently applies revenues from its school lands to assist retired teachers whose pensions have been most seriously eroded by inflation. The State was granted tracts in Elk Hills along with other school lands located throughout California by the Federal Government at the time California joined the Union in 1853, as a condition of joining the Union. However, because of this dispute dating back more than 80 years between the State and the Federal Government over rights to these school lands that happen to be located in the Elk Hills Reserve, the State has been unable to derive any revenues from these Elk Hills tracts. We're pleased that at long last this dispute can draw to a close, and the State and its teachers can now receive fair compensation for their longstanding claim. I'm going to call particular attention to the leadership of Congressman Bill Thomas from Bakersfield who really spearheaded this legislative effort in the Congress to ensure fair compensation, and I would also like to thank, in particular, Congressman Ron Dellums from Oakland and Congressman Vic Fazio from here in Sacramento for their very strong and active support on the Elk Hills issue. We look forward to finalizing our Agreement with the Administration and Secretary O'Leary in the next few months to ensure that the State and its teachers receive fair compensation for the Elk Hills claim that Congress directed when it enacted the defense authorization legislation signed into law by the President. Thank you and we would certainly be glad to answer any questions you might have regarding our participation in this effort.

McDugal: Great. Does Mr. Walrath need to say anything or should we go to Q & A?

Walrath: I would like to make a brief comment.

McDugal: Great.

Walrath: Also a thanks to Secretary O'Leary and the President for their leadership in this effort, along with Congressmen, and in particular a Congressman who is no longer in the Congress, who retired, Bob Largomarsino, who had raised this issue for a number of years. Core retired teachers and soon to be retired teachers. This is the most important effort we have had and we thank you because it means so much to those who have lost the value of their pension. The money will go to those who need to meet escalating health care costs, who have not had the ability to meet those costs. This is very important to us and we thank you and we hope that we can reach the final agreements on the process of the allocation of the funds once the sale is completed and we hope that we can reach those final agreements within the next few months. Thank you very much for your support, we look forward to continue working with you.

McDugal: Thank you. Does anybody have any questions? Questions from the media?

Griffith: I just called in. Have we missed statements?

McDugal: Yes.

Bolero: This is John Bolero, Secretary O'Leary might want to recap her opening remarks for those who have just joined us.

Griffith: I'm sorry. I just got on.

McDugal: Secretary O'Leary...

O'Leary: Yes, how are you? That happens to me all of the time, not to worry.

Griffith: I got caught behind a funeral motorcade in Sacramento. Sorry about that.

O'Leary: O.K. I understand. We will do it quickly and maybe everyone will benefit. I began quite simply by addressing the obvious which was that the President did sign the Defense Authorization Act this morning. It contains a provision authorizing the sale of Naval Petroleum Reserves at Elk Hills and, in my view, back in 1995 when President Clinton submitted the budget to the Congress, he then threw down the gauntlet indicating that the era of big government was over. The sale of this resource which has been in the hands of the Federal Government now since 1912, clearly cannot reach its full potential within the hands of the government.

Griffith: Why is that?

O'Leary: Not because government workers are not great, but it is simply because the way the Congress has passed the laws and then the government has established the regulations to interpret those laws, we are not allowed to run this property as one would in the private sector. Putting money back to improve production and improve the productability of the wells, the money simply goes into the treasury. So, it has not been managed as one would in a prudent business. Giving this back to the private sector, not giving it, but opening it up for sale, has many benefits. First of all, the money can be reinvested in the reserves so that it might produce more efficiently, meaning cheaply, and of course, it has a potential then to produce more. More importantly, they'll be returned to the American public, one with a value of the sale, which some of us think is about 2.6 billion dollars, but estimates have come in from 1 to 4 billion dollars. There is a process to narrow that down on a good due diligence examination.

Griffith: That is a pretty big difference.

O'Leary: It is indeed. But for the citizens in California, it means an annual tax income to them of 20 million dollars spreading both through State taxes and to local and county levels.

Griffith: And what can that money be used for?

O'Leary: Well, you know, some of it will go to the State, some of it will go to counties and cities. As I understand it, some of it will go to schools. The most important part of this legislation is to a very significant population, that is our teachers in the State of California. It is that 9% of the net of the sale price will go to the Teachers' Retirement Fund in what has been a very longstanding dispute between the Federal Government and the State of California. Long overdue. So what we are doing here is a benefit to the American public generally, benefit to California taxpayers, and finally according to retired and now working teachers in California, funds that should have been made available to them but for this dispute between the Federal Government and the State of California.

Griffith: Can you describe a little bit more in detail the dispute?

O'Leary: I think it might be more appropriate for my colleague, James Mosman who is the CEO of the California Teachers' Retirement System to go through that dispute, and I know that he is there in California.

Mosman: Thank you Secretary O'Leary. Yes, this is really a long standing dispute that we have had with the Federal Government going back many years. There has been a number of occasions in the past where we have thought that we had agreement with the Federal Government only to find out that one thing or another didn't work out. Just to kind of sum it up, the State was granted tracts in Elk Hills along with other school lands way back in the mid-1800's and at a point in the early part of this century the Federal Government took a couple of tracts in what is called Elk Hills Reserves and made them Federal Naval Petroleum Reserve and essentially said that because of that the State was no longer entitled to revenues from those particular tracts.

Griffith: Had the State been getting revenues from those?

Mosman: No. That was kind of a moot issue until oil was discovered in the early 1900's.

Griffith: There were no benefits coming from the land?

Mosman: Yes. We currently own some 350,000 other acres of land in California in the school lands program, but these particular lands just happen to be the most valuable because of the petroleum rights.

Griffith: When was the petroleum discovered.

O'Leary: Well, the petroleum was discovered just before 1912 when the Naval Petroleum Reserve was created and that was at the time when: (1) we knew that we could use the diesel to power our Navy; (2) and it was felt by those, then in

Congress, that there needed to be a certain and available supply discreetly for the Navy, so as to protect our National Defense.

Griffith: O.K. And when did that end...

O'Leary: With the passing of that legislation which the President signed today, and long overdue. This is something that has been discussed now for the past ten years.

Mosman: This dispute actually started in about the mid-1970's when the Federal Government started putting the petroleum on the open market and wasn't dedicating it to the petroleum reserve and at that point in time, we thought that the original rationale for not providing State revenues pretty much had ended and then we started to assert our rights.

Griffith: I am confused about the teacher connection here.

O'Leary: I think I can help and not because I am so knowledgeable, but because I was up very early this morning and read everything.

Griffith: And I haven't done that yet.

O'Leary: What I understand is that as an inducement to bring western states into the Union, the United States often ceded back to State Government land that was already under Federal claim. And this was the case with California as it is with other states. Other inducements were used to get states into the Union and so that is how the land was set-aside.

Mosman: And I might add, that much later actually, ten years ago or so, the State Legislature here in California decided to dedicate revenues from all school lands in California, not just the tracts we are talking about here, to benefits for retired teachers who over a period of time their benefits erode fairly significantly with the passage of time and with inflation. So, currently under State law, any revenues from any school lands go to this purchasing power protection for retired school teachers, so obviously they are very interested in these additional revenues that would come from Elk Hills and we have...

Griffith: What does this do for the teachers in particular?

Mosman: It is dedicated specifically to supplemental pension benefits for retired school teachers.

Griffith: Supplemental, what does that mean?

Mosman: There is a basic formula in State law that provides a retirement benefit, but it is a fixed formula and over time, as with any fixed benefit, the value of that erodes. So some years ago, the Legislature decided that one way of kind of enhancing that benefit over time, as these benefits erode, would be to dedicate the revenues from these school lands. So what we do, is we have a separate account where these revenues come in to and then they are pro-rated out to the most senior retired teachers. The ones whose retirement incomes have eroded the most and there is a complicated formula to determine that which I won't get into.

O'Leary: From the Clinton Administration's perspective, this is simply one of signing this bill, and ensuring that this section of the bill stayed in and was passed with lots of help from the California delegation, simply puts down our marker about education and its value, the benefit to the nation and to California from its teachers, and to recognize our obligation as a nation to simply live up to our commitments, and this is especially true for teachers who will provide the education base for our youngsters to make them competitive in the 21st Century. We did it because it was the right thing to do.

Griffith: Does this benefit any teachers who are not retired at this point? Obviously, they have concerns too, being married to one, I can tell you that. In terms of funding for salaries, and that kind of thing, it doesn't go that far...

O'Leary: As I understand it, and I'm not the expert here, it goes into the Retirement Fund and like any annuity, those who have a right to the annuity, will accrue some of the benefit over time.

Walrath: It also benefits current teachers. This is Dave Walrath.

O'Leary: I was struggling to get to that end...

Walrath: There are two pieces that you must be aware of...

Griffith: Can you spell your last name for me?

Walrath: W-A-L-R-A-T-H.

Griffith: And who are you?

Walrath: I represent the California Retired Teachers' Association.

Griffith: O.K.

Walrath: One piece is the 9% of the sale price going to the Teachers Retirement Fund for the supplemental benefits. The other piece is this land will now go on the tax rolls and under California property taxes do go to the school systems, approximately half. In many cases this will supplement the taxes which should extend the ability to meet Proposition 98, guaranteed levels of funding.

Griffith: Say that again. You said it should extend the possibility of ...

Walrath: If you want to get into the technical aspects of Proposition 98, if you start rolling back into test one, or you are into the test two maintenance factor, this money can go to school districts. I'm not sure if you want to get that far into Propositions 98 and 111.

Griffith: We all know that money can be shifted around, that has obviously happened with the property taxes in California.

Walrath: Under test one and under test two maintenance factor, the property taxes ought to end up as a supplement in additional revenue.

Griffith: Is there a possibility, though, that that would not happen because of legislative changes or political shifts.

Walrath: Once again, you would have to get back to a question of whether there were the votes to suspend Proposition 98, and I doubt that those votes are there.

Griffith: Is it Proposition 98 that made the property tax shift to schools?

Walrath: No, that was under the statute, but it was statute to meet the Proposition 98 guarantees.

Griffith: I see. The Prop 98 guarantee is...

Walrath: Constitutional.

Griffith: So this is a big day for California School Teachers?

Walrath: Yes. A very big thing.

Griffith: Secretary O'Leary is this use part of the defense bill?

O'Leary: That's right. Part of the Defense Authorization Bill. The President signed it this morning.

Griffith: O.K. There was a lot of news out this morning.

O'Leary: There are lots of things to be peeled away. This unique California piece is something that many people have labored a long time to get and many people are to be congratulated. It puts the government, both the Federal Government and the State Government in its proper role and brings private sector where it belongs.

Griffith: What? Does this hurt our national deficit problem?

O'Leary: I think not. Over the years past, as I have been in and out of this oil business, there has been some discussion about whether or not the government over the long run inures a bigger benefit by maintaining the property. The answer to that is no, not the way the government is run. Simply because we are not allowed to take the property and reinvest it in the resource. So this makes good common sense and quite frankly, the government pays someone to manage this property, so you've got workers being paid, you've got contractors being paid, and finally a profit to be earned. A bigger benefit now comes to California taxpayers, simply because this goes on the tax rolls for California as has just been expressed.

Griffith: Who will manage it now?

O'Leary: We have to go through a very sophisticated process to offer this property for sale. We are being given two years to offer it for sale and I think that is appropriate because you heard the wild swing of a billion to 4 billion dollars in the assessment of the property made by people, who quite frankly have not looked at the reservoirs and assessed it. So that is the first thing that will happen.

Griffith: The State would be the property owner, but then someone else would...

O'Leary: No. The government will be the property owner until the property is sold to a private [illegible]. In that interim period, we will work out our details with California [illegible] Teachers' Retirement Fund, but more importantly, to California teachers and California taxpayers we'll get an investment expert and we will go through [illegible] diligence that insures that the American taxpayer first of all gets a fair shake, and finally that California and California teachers get a fair shake.

Paul: Secretary O'Leary?

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O'Leary: Yes?

Paul: This is Senali Paul with Reuters. There was some controversy about the estimates that were done for you by a consultant out in Bakersfield of the reserves in the field. Was that ever resolved?

O'Leary: No. In the language in the Appropriation Act in the section takes care of that dispute. I was trying to explain early on that before you put a property for sale like this, you really need the best or maybe four or five, two or three people to take a look at the field and give you estimates on what remains in the reserves, because that will set the basic value for the property. Finally then, one wants to make some assumptions about reinvestment in the property to try and quantify what are the provable reserves. That is another basis that goes into setting the price, so those things will happen and then those disputes which were honest and I believe appropriate will be settled just the way they would be in the private sector, by bringing geologists and experts in to give us a real estimate.

Paul: So right now, you have not decided on a reapportionment of the shares in the shallow oil zone between the government and Chevron.

O'Leary: No. Actually these details are way below my pay grade...Is somebody around, Kyle around or one of our geologists who can talk to you very intelligently about this?

Simpson: I'm here. This is Kyle Simpson.

O'Leary: Oh God. You are a lawyer, not a geologist. He's a very smart lawyer.

Simpson: That's true. That I'm not a geologist. The agreement on the reapportionment of interests in those zones will have to be done before we can make the sale. We have not come to any final agreement on that and those estimates that were in dispute are being evaluated now and will have to be completed before we could go into the final sale.

Paul: Do you have any estimate on when you will be able to reach an agreement on that?

Simpson: No. The statute requires that we give them, I am looking through it, I will give you the answer during the conversation of when it says we have to get it done.

McDugal: Are there any other questions?

Paul: One other question. The earliest that the California teachers will see any of this money will be more than two years from now.

O'Leary: Well, we have a time line of two years under the statute to get this work done. This administration has shown that it can stick to its time lines. The legislation provides for just the kind of help that we need. I have already mentioned the requirement for petroleum engineers and the like to prepare recommendations and of course the use of investment bankers so that we are certain that the due diligence passes scrutiny against the private sector norm. So we will get this done within the two years required and the two years begins to meter as my recollection this morning.

Griffith: I have a question for James, I need your last name.

Mosman: It is M-O-S-M-A-N.

Griffith: M-O-S-N-A-N. And your title?

Mosman: Is Chief Executive Officer.

Griffith: M-O-S-M-A-N.

Mosman: M-O-S-M-A-N, yes.

Griffith: M-O-S, M as in Mary?

Mosman: M as in Mary, yes.

Griffith: Chief Executive Officer of...

Mosman: California State Teachers' Retirement System.

Simpson: Would the reporter from Sacramento please, be so kind as to identify herself.

Griffith: Yes, I'm sorry about that I'm Dorcy Griffith, Sacramento Bee.

Simpson: Senali, we'll have to get all of the equity redeterminants done within 8 months of the signing.

c:\[illegible]

Senali: Great.

Griffith: I'm curious if any of the folks from the Retirement Association would be available any time later today if I have any further questions. I'm afraid I called in at the last minute, sorry I wasn't prepared.

Morrill: This is Jennifer Morrill with the State Teachers' Retirement System and we are available at 229-3714, in Sacramento for a little while after this conference call.

Griffith: Great. I appreciate that.

Morrill: No problem.

Griffith: Thank you all.

McDugal: Anyone else? O.K. Thank you very much everybody.

Goodbye.

AMENDED IN ASSEMBLY APRIL 17, 1996

Senate Joint Resolution No. 27

Introduced by Senator Costa

May 26, 1995

Senate Joint Resolution No. 27—Relative to school lands.

LEGISLATIVE COUNSEL'S DIGEST

SJR 27, as amended, Costa. School lands.

This measure would memorialize the President and the Congress of the United States ~~to sell the Elk Hills Naval Petroleum Reserve Numbered 1 while~~ *to expedite the agreement by the Department of Energy for* recognizing the state's valid claim to ~~two~~ *2* school land sections within the ~~reserve~~ *Elk Hills Naval Petroleum Reserve Numbered 1*, and to compensate California's retired teachers for their ~~7 percent~~ *9%* interest in the reserve upon its sale.

Fiscal committee: yes.

WHEREAS, In 1853, the United States Congress granted to the State of California the 16th and 36th sections of every township of public land to support the public education system in California, a grant long held by the courts to create a "solemn agreement" between the federal government and the state; and

WHEREAS, In California, the State Teachers' Retirement System is the beneficiary of revenues derived from those school lands; and

WHEREAS, Those revenues are a significant source of income to the retired teachers of the state; and

WHEREAS, Elk Hills Naval Petroleum Reserve Numbered 1 contains two school land sections rich in oil reserves and constituting the two most valuable school land sections in the state; and

WHEREAS, The inclusion of these school lands within the petroleum reserve in 1912 made them unavailable to the state, with the result being that the State Teachers' Retirement System is deprived of substantial income; and

WHEREAS, Ever since 1976, the federal government has been producing oil and gas from the naval petroleum reserves at the maximum efficient rate and selling its production to gain further general revenues for the United States Treasury; and

WHEREAS, The federal government has stated that the role of the national petroleum reserves "has evolved over time from an emergency source of oil to an income-generating federal business asset," and that "federal ownership and operation of the reserves is not essential to the national energy policy goals and objectives"; and

WHEREAS, The Department of Energy proposes to sell Elk Hills Naval Petroleum Reserve Numbered 1, as part of the President's 1996 Budget submission to Congress calling for the privatization of the naval petroleum reserves, and ~~for the first time the department~~ has earmarked ~~7~~ *9* percent of the anticipated proceeds from privatization to be paid to the State of California to benefit the Teachers' Retirement Fund; ~~now, therefore,~~ *and*

WHEREAS, Congress has passed, and the President has signed, legislation to compensate California after the sale of Elk Hills Naval Petroleum Reserve Numbered 1; and

WHEREAS, That compensation will be based on an agreement between the State of California and the Department of Energy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and ~~the Congress of the United States to sell Elk Hills Naval Petroleum Reserve Numbered 1 while recognizing the~~

the Congress to expedite the agreement by the Department of Energy for recognizing the valid claim of this state to the two school land sections within the reserve, and to compensate California's retired teachers for their ~~7~~ *9* percent interest in the reserve upon it's sale; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representatives from California in the Congress of the United States, and to the Secretary of the Interior, the Secretary of Energy, and the Secretary of Defense.

O

Calif / Elk Hills

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

28-Jun-1996 01:10pm

TO: Jennifer Palmieri

FROM: T J Glauthier
Office of Mgmt and Budget, NRES

CC: Kris Balderston
CC: John B. Emerson

SUBJECT: RE: Elk Hills

I have talked to Kyle Simpson and to my staff about it this morning.

The official answer is that the Calif Teachers' share of the proceeds cannot be decided until two analyses are completed: the "reserve determination" that has been contracted out to Rider-Scott, an expert in the industry, and the "equity determination" which is sorting out the DOE vs. Chevron interests. The reserve determination is the most important because it actually determines how much oil and gas there is, and will cover the two sections of land held by the Teachers along with all the other sections. This won't be completed until next Spring, however.

It may be possible to either make the decision on the Teachers' share earlier or to at least make very strong statements about out intention. Kyle is looking into this now for me and will be back to us in a couple of days.

Kyle tells me that the President has just accepted an invitation to speak to one of the California teachers groups on August 6th, so obviously it would be desirable for him to be able to make the announcement at that time. We'll work toward that goal.

STATE OF CALIFORNIA PETE WILSON, Governor

STRS
CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM
P.O. BOX 15275-C
SACRAMENTO, CA 95851

June 27, 1996

Calif/Elk Hills

John B. Emerson
Deputy Assistant to the President
and Deputy Director for Intergovernmental Affairs
Executive Office of the President
Old Executive Office Building, Room 148
17th Street and Pennsylvania Avenue NW
Washington, DC 20500

Re: **State of California Teachers – Elk Hills Compensation**

Dear Mr. Emerson:

On behalf of the 500,000 active and retired teacher members of the California State Teachers' Retirement System (CalSTRS), I am writing to express our concern that the Administration is not proceeding with due dispatch to finalize the settlement agreement with the State that is necessary to implement the commitment made by Secretary of Energy O'Leary on February 10 that the State and its teachers would receive 9 percent of the net proceeds of sale from the Elk Hills Naval Petroleum Reserve as compensation for the State's longstanding claim.

In announcing the President's signing of the FY 1996 Defense Authorization legislation containing the Elk Hills sale and compensation provision at a joint press conference with the State on February 10, Secretary O'Leary -- the Administrative representative directed by the legislation to settle the State's claim -- stated: "The most important part of this legislation to a very significant population, that is our teachers in the State of California, is that 9% of the net of the sales price will go to the Teachers' Retirement Fund in what has been a very longstanding dispute between the Federal Government and the State of California.* * *And finally, really great for the half million retired and working teachers in California because they will get 9% of the net sale of the Elk Hills Reserve." (Copy of complete transcript of February 10, 1996 Press Conference attached for reference.)

Secretary O'Leary concluded on behalf of the Administration: "From the Clinton Administration's perspective. . . signing this bill, and ensuring that this section of the bill stayed in and was passed with lots of help from the California delegation, simply puts down our marker about education and its value, the benefit to the nation and to California from its teachers, and to recognize our obligation as a nation simply to live up to our commitments, and this is especially true for teachers who will provide the education base for our youngsters to make them competitive in the 21st Century. We did it because it was the right thing to do."

As you will recall from our April 2 meeting with you, we met with Secretary O'Leary's representatives on April 1 to finalize this agreement with the Administration as articulated by Secretary O'Leary, who had been directed by the statute to settle the State's claim. At that time, we presented the Secretary's representatives with what we regard as a very fair draft settlement agreement under which the State would agree to accept its 9 percent share of the net sales proceeds over an extended period of five years not beginning until fiscal year 1999. Implementation of this settlement with the State is relatively simple and does not involve complex legal issues. We believe it is very much in the Administration's interest of maximizing value for the federal taxpayers to remove the cloud of the State's claim in advance of the sale.

In the intervening three months, we have received no substantive response to the State's proposal to finalize its agreement with the Administration. The Elk Hills compensation issue continues to have high visibility among our 500,000 active and retired teachers. My staff receives calls almost daily from around the State asking about the status of the Administration's settlement with the State and its teachers. The California State legislature is in the process of adopting the enclosed joint resolution urging the Administration to expeditiously resolve the State's claim. Our membership is growing restive at the apparent lack of resolve on the part of the Administration to follow through on the public commitment made by the Secretary of Energy.

We understand that the President will be speaking before the California Teachers Association, the State's largest teacher employee group during their meeting August 4-9 in Los Angeles. In light of the clear public commitment made by the Secretary almost five months ago, the teachers are expecting an announcement from the President that the Elk Hills compensation issue has been settled.

We continue to believe that a prompt settlement of the State's claim will provide the Administration with an opportunity to visibly demonstrate its commitment to provide fair Elk Hills compensation to the 500,000 active and retired teachers in California.

We very much appreciate the help you provided us during our legislative effort and would welcome your active assistance in promptly finalizing the settlement of the State's claim.

Sincerely,

James D. Mosman
Chief Executive Officer

cc (w/att.): Jennifer Palmieri
Special Assistant to
the Chief of Staff
to the President

MINUTES FROM
TELEPHONE PRESS CONFERENCE CALL
REGARDING
NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 96 PROVISION
COMPENSATING STATE OF CALIFORNIA TEACHERS' CLAIM TO
ELK HILLS NAVAL PETROLEUM RESERVE
SATURDAY, FEBRUARY 10, 1996
11 a.m.

Hazel R. O'Leary, Secretary, U.S. Department of Energy
Jim Mosman, Chief Executive Officer, California State Teachers' Retirement
Jennifer Morrill, Director, Governmental Affairs, California State Teachers' Retirement
Dave Walrath, spokesperson for California Retired Teachers' Association
Robert Hight, Executive Director, California State Lands Commission
Kyle Simpson, Attorney for U.S. Department of Energy
Dan Siegel, California Attorney General's Office
Carmen McDugal, Press Secretary
Senali Paul, Rueters News Agency
David Bird, Dow Jones News Service
Rhonda Rundle, Biotechnology
Dorcy Griffith, Sacramento Bee
John Bolero, Press Reporter

Morrill: Thank you for the explanation Bill, this is Jennifer from the Teachers' Retirement System and we have all of the parties in California ready.

O'Leary: Hello...

McDugal: Secretary O'Leary.

O'Leary: Yes, Hi, how are you doing?

McDugal: Hi. Good, this is Carmen McDugal from Department of Energy, the secretary is on the line and I understand the California Teacher's folks are on the line.

O'Leary: Terrific, why don't we introduce each other, I'm Hazel O'Leary.

McDugal: Mr. Mosman are you on?

Mosman: Yes, I'm here. Jim Mosman, I'm the Executive Officer for the State Teachers' Retirement System, and we have a number of California people here, I'd like them to introduce themselves.

O'Leary: Super, thank you.

Walrath: Secretary O'Leary. My name is Dave Walrath, I'm representing the California Retired Teachers' Association.

O'Leary: Wonderful.

Hight: Robert Hight, the Executive Officer of the California State Lands' Commission.

O'Leary: Hello, how are you?

Hight: Good.

Siegel: Dan Siegel, with the California Attorney General's Office.

O'Leary: Great. Hello.

Morrill: Hi. I'm Jennifer Morrill, the Director of Governmental Affairs for the Teachers' Retirement System, it is nice to meet you.

O'Leary: It's nice to meet you too, Jennifer. Is that it for the California folks? O.K. Carmen, how do you want to manage us?

McDugal: What I'd like to do is start off with a roll call of reporters who are on the line, and then the secretary will have a few words, followed by Mr. Mosman and Mr. Walrath, and then we will go to Q & A from the media. If the reporters could just identify themselves and their news organization before they ask the question, we'd appreciate it. So roll call first and anybody can start, we'll just talk until folks are done. Are there media folks on the line?

Bird: Yes, I'm here, David Bird from Dow Jones.

McDugal: Anyone else? O.K. David, you'll perhaps be joined by others. Secretary O'Leary, do you want to start?

O'Leary: Yes, I will indeed. If you have been watching the wires on the early morning news out on the West Coast, you know that today the President signed into the law the Defense Authorization Act. The piece of it that has a real California connection, of course, is that provision within the Act which authorizes the sale of the Naval Petroleum Reserves at Elk Hills in California. If I was looking for a sound bite, I think I would say that back in 1995, when President Clinton submitted his budget, he put down the mark then to indicate that the era of big government is over, and especially in the case of Elk Hills, is that so compelling. Quite frankly, the government is not the best producer of petroleum, not because the people who work for the government don't do a great job, but quite frankly, because the rules and the laws set by the Congress don't permit the government to manage that Reserve as one would in the private sector. This is good news for Californians generally, because it adds back to the tax base some 20 million dollars in taxes once this property is privatized, at both the local level for schools, and of course the State taxes. More especially, there is an interest on behalf of the teachers of California, those now working and those retired. I am not going to go into great detail on the California School Lands because I know that my colleague in California will do that. But suffice it to say, the President's bill, when it went forward last year, had some language in it trying finally, after many decades, I think eight, to settle what was clearly the right of California teachers to have payment into their retirement funds coming from the sale of Elk Hills. So, good news all around. Good for the American tax payer because you will get a much more productive resource once it is privatized. Good for California taxpayers because 20 million dollars in taxes per year will flow into California. And finally, really great for the half million retired and working teachers in California because they will get 9% of the net sale of the Elk Hills Reserve.

McDugal: Thank you. Mr. Mosman.

Mosman: Thank you, I am Jim Mosman again, Executive Officer of the Teachers' Retirement System and it really is an exciting day for us. One that we have been looking forward to for many years. On behalf of our membership, nearly 500,000 active and retired teachers in California, I want to laud the President for signing into law today legislation that mandates fair compensation for a longstanding claim of the State, California, and its teachers to the school lands located in what is now the Elk Hills Naval Petroleum Reserve. The Legislation resolves a decades-long dispute between the State and the Federal Government. The State of California currently applies revenues from its school lands to assist retired teachers whose pensions have been most seriously eroded by inflation. The State was granted tracts in Elk Hills along with other school lands located throughout California by the Federal Government at the time California joined the Union in 1853, as a condition of joining the Union. However, because of this dispute dating back more than 80 years between the State and the Federal Government over rights to these school lands that happen to be located in the Elk Hills Reserve, the State has been unable to derive any revenues from these Elk Hills tracts. We're pleased that at long last this dispute can draw to a close, and the State and its teachers can now receive fair compensation for their longstanding claim. I'm going to call particular attention to the leadership of Congressman Bill Thomas from Bakersfield who really spearheaded this legislative effort in the Congress to ensure fair compensation, and I would also like to thank, in particular, Congressman Ron Dellums from Oakland and Congressman Vic Fazio from here in Sacramento for their very strong and active support on the Elk Hills issue. We look forward to finalizing our Agreement with the Administration and Secretary O'Leary in the next few months to ensure that the State and its teachers receive fair compensation for the Elk Hills claim that Congress directed when it enacted the defense authorization legislation signed into law by the President. Thank you and we would certainly be glad to answer any questions you might have regarding our participation in this effort.

McDugal: Great. Does Mr. Walrath need to say anything or should we go to Q & A?

Walrath: I would like to make a brief comment.

McDugal: Great.

Walrath: Also a thanks to Secretary O'Leary and the President for their leadership in this effort, along with Congressmen, and in particular a Congressman who is no longer in the Congress, who retired, Bob Largomarsino, who had raised this issue for a number of years. Core retired teachers and soon to be retired teachers. This is the most important effort we have had and we thank you because it means so much to those who have lost the value of their pension. The money will go to those who need to meet escalating health care costs, who have not had the ability to meet those costs. This is very important to us and we thank you and we hope that we can reach the final agreements on the process of the allocation of the funds once the sale is completed and we hope that we can reach those final agreements within the next few months. Thank you very much for your support, we look forward to continue working with you.

McDugal: Thank you. Does anybody have any questions? Questions from the media?

Griffith: I just called in. Have we missed statements?

McDugal: Yes.

Bolero: This is John Bolero, Secretary O'Leary might want to recap her opening remarks for those who have just joined us.

Griffith: I'm sorry, I just got on.

McDugal: Secretary O'Leary...

O'Leary: Yes, how are you? That happens to me all of the time, not to worry.

Griffith: I got caught behind a funeral motorcade in Sacramento. Sorry about that.

O'Leary: O.K. I understand. We will do it quickly and maybe everyone will benefit. I began quite simply by addressing the obvious which was that the President did sign the Defense Authorization Act this morning. It contains a provision authorizing the sale of Naval Petroleum Reserves at Elk Hills and, in my view, back in 1995 when President Clinton submitted the budget to the Congress, he then threw down the gauntlet indicating that the era of big government was over. The sale of this resource which has been in the hands of the Federal Government now since 1912, clearly cannot reach its full potential within the hands of the government.

Griffith: Why is that?

O'Leary: Not because government workers are not great, but it is simply because the way the Congress has passed the laws and then the government has established the regulations to interpret those laws, we are not allowed to run this property as one would in the private sector. Putting money back to improve production and improve the productability of the wells, the money simply goes into the treasury. So, it has not been managed as one would in a prudent business. Giving this back to the private sector, not giving it, but opening it up for sale, has many benefits. First of all, the money can be reinvested in the reserves so that it might produce more efficiently, meaning cheaply, and of course, it has a potential then to produce more. More importantly, they'll be returned to the American public, one with a value of the sale, which some of us think is about 2.6 billion dollars, but estimates have come in from 1 to 4 billion dollars. There is a process to narrow that down on a good due diligence examination.

Griffith: That is a pretty big difference.

O'Leary: It is indeed. But for the citizens in California, it means an annual tax income to them of 20 million dollars spreading both through State taxes and to local and county levels.

Griffith: And what can that money be used for?

O'Leary: Well, you know, some of it will go to the State, some of it will go to counties and cities. As I understand it, some of it will go to schools. The most

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important part of this legislation is to a very significant population, that is our teachers in the State of California. It is that 9% of the net of the sale price will go to the Teachers' Retirement Fund in what has been a very longstanding dispute between the Federal Government and the State of California. Long overdue. So what we are doing here is a benefit to the American public generally, benefit to California taxpayers, and finally according to retired and now working teachers in California, funds that should have been made available to them but for this dispute between the Federal Government and the State of California.

Griffith: Can you describe a little bit more in detail the dispute?

O'Leary: I think it might be more appropriate for my colleague, James Mosman who is the CEO of the California Teachers' Retirement System to go through that dispute, and I know that he is there in California.

Mosman: Thank you Secretary O'Leary. Yes, this is really a long standing dispute that we have had with the Federal Government going back many years. There has been a number of occasions in the past where we have thought that we had agreement with the Federal Government only to find out that one thing or another didn't work out. Just to kind of sum it up, the State was granted tracts in Elk Hills along with other school lands way back in the mid-1800's and at a point in the early part of this century the Federal Government took a couple of tracts in what is called Elk Hills Reserves and made them Federal Naval Petroleum Reserve and essentially said that because of that the State was no longer entitled to revenues from those particular tracts.

Griffith: Had the State been getting revenues from those?

Mosman: No. That was kind of a moot issue until oil was discovered in the early 1900's.

Griffith: There were no benefits coming from the land?

Mosman: Yes. We currently own some 350,000 other acres of land in California in the school lands program, but these particular lands just happen to be the most valuable because of the petroleum rights.

Griffith: When was the petroleum discovered.

O'Leary: Well, the petroleum was discovered just before 1912 when the Naval Petroleum Reserve was created and that was at the time when: (1) we knew that we could use the diesel to power our Navy; (2) and it was felt by those, then in

Congress, that there needed to be a certain and available supply discreetly for the Navy, so as to protect our National Defense.

Griffith: O.K. And when did that end...

O'Leary: With the passing of that legislation which the President signed today, and long overdue. This is something that has been discussed now for the past ten years.

Mosman: This dispute actually started in about the mid-1970's when the Federal Government started putting the petroleum on the open market and wasn't dedicating it to the petroleum reserve and at that point in time, we thought that the original rationale for not providing State revenues pretty much had ended and then we started to assert our rights.

Griffith: I am confused about the teacher connection here.

O'Leary: I think I can help and not because I am so knowledgeable, but because I was up very early this morning and read everything.

Griffith: And I haven't done that yet.

O'Leary: What I understand is that as an inducement to bring western states into the Union, the United States often ceded back to State Government land that was already under Federal claim. And this was the case with California as it is with other states. Other inducements were used to get states into the Union and so that is how the land was set-aside.

Mosman: And I might add, that much later actually, ten years ago or so, the State Legislature here in California decided to dedicate revenues from all school lands in California, not just the tracts we are talking about here, to benefits for retired teachers who over a period of time their benefits erode fairly significantly with the passage of time and with inflation. So, currently under State law, any revenues from any school lands go to this purchasing power protection for retired school teachers, so obviously they are very interested in these additional revenues that would come from Elk Hills and we have...

Griffith: What does this do for the teachers in particular?

Mosman: It is dedicated specifically to supplemental pension benefits for retired school teachers.

Griffith: Supplemental, what does that mean?

Mosman: There is a basic formula in State law that provides a retirement benefit, but it is a fixed formula and over time, as with any fixed benefit, the value of that erodes. So some years ago, the Legislature decided that one way of kind of enhancing that benefit over time, as these benefits erode, would be to dedicate the revenues from these school lands. So what we do, is we have a separate account where these revenues come in to and then they are pro-rated out to the most senior retired teachers. The ones whose retirement incomes have eroded the most and there is a complicated formula to determine that which I won't get into.

O'Leary: From the Clinton Administration's perspective, this is simply one of signing this bill, and ensuring that this section of the bill stayed in and was passed with lots of help from the California delegation, simply puts down our marker about education and its value, the benefit to the nation and to California from its teachers, and to recognize our obligation as a nation to simply live up to our commitments, and this is especially true for teachers who will provide the education base for our youngsters to make them competitive in the 21st Century. We did it because it was the right thing to do.

Griffith: Does this benefit any teachers who are not retired at this point? Obviously, they have concerns too, being married to one, I can tell you that. In terms of funding for salaries, and that kind of thing, it doesn't go that far...

O'Leary: As I understand it, and I'm not the expert here, it goes into the Retirement Fund and like any annuity, those who have a right to the annuity, will accrue some of the benefit over time.

Walrath: It also benefits current teachers. This is Dave Walrath.

O'Leary: I was struggling to get to that end...

Walrath: There are two pieces that you must be aware of...

Griffith: Can you spell your last name for me?

Walrath: W-A-L-R-A-T-H.

Griffith: And who are you?

Walrath: I represent the California Retired Teachers' Association.

Griffith: O.K.

Walrath: One piece is the 9% of the sale price going to the Teachers Retirement Fund for the supplemental benefits. The other piece is this land will now go on the tax rolls and under California property taxes do go to the school systems, approximately half. In many cases this will supplement the taxes which should extend the ability to meet Proposition 98, guaranteed levels of funding.

Griffith: Say that again. You said it should extend the possibility of ...

Walrath: If you want to get into the technical aspects of Proposition 98, if you start rolling back into test one, or you are into the test two maintenance factor, this money can go to school districts. I'm not sure if you want to get that far into Propositions 98 and 111.

Griffith: We all know that money can be shifted around, that has obviously happened with the property taxes in California.

Walrath: Under test one and under test two maintenance factor, the property taxes ought to end up as a supplement in additional revenue.

Griffith: Is there a possibility, though, that that would not happen because of legislative changes or political shifts.

Walrath: Once again, you would have to get back to a question of whether there were the votes to suspend Proposition 98, and I doubt that those votes are there.

Griffith: Is it Proposition 98 that made the property tax shift to schools?

Walrath: No, that was under the statute, but it was statute to meet the Proposition 98 guarantees.

Griffith: I see. The Prop 98 guarantee is...

Walrath: Constitutional.

Griffith: So this is a big day for California School Teachers?

Walrath: Yes. A very big thing.

Griffith: Secretary O'Leary is this use part of the defense bill?

O'Leary: That's right. Part of the Defense Authorization Bill. The President signed it this morning.

Griffith: O.K. There was a lot of news out this morning.

O'Leary: There are lots of things to be peeled away. This unique California piece is something that many people have labored a long time to get and many people are to be congratulated. It puts the government, both the Federal Government and the State Government in its proper role and brings private sector where it belongs.

Griffith: What? Does this hurt our national deficit problem?

O'Leary: I think not. Over the years past, as I have been in and out of this oil business, there has been some discussion about whether or not the government over the long run inures a bigger benefit by maintaining the property. The answer to that is no, not the way the government is run. Simply because we are not allowed to take the property and reinvest it in the resource. So this makes good common sense and quite frankly, the government pays someone to manage this property, so you've got workers being paid, you've got contractors being paid, and finally a profit to be earned. A bigger benefit now comes to California taxpayers, simply because this goes on the tax rolls for California as has just been expressed.

Griffith: Who will manage it now?

O'Leary: We have to go through a very sophisticated process to offer this property for sale. We are being given two years to offer it for sale and I think that is appropriate because you heard the wild swing of a billion to 4 billion dollars in the assessment of the property made by people, who quite frankly have not looked at the reservoirs and assessed it. So that is the first thing that will happen.

Griffith: The State would be the property owner, but then someone else would...

O'Leary: No. The government will be the property owner until the property is sold to a private concern. In that interim period, we will work out our details with California State Teachers' Retirement Fund, but more importantly, to California teachers and California taxpayers we'll get an investment expert and we will go through the due diligence that insures that the American taxpayer first of all gets a fair shake, and finally that California and California teachers get a fair shake.

Paul: Secretary O'Leary?

O'Leary: Yes?

Paul: This is Senali Paul with Reuters. There was some controversy about the estimates that were done for you by a consultant out in Bakersfield of the reserves in the field. Was that ever resolved?

O'Leary: No. In the language in the Appropriation Act in the section takes care of that dispute. I was trying to explain early on that before you put a property for sale like this, you really need the best or maybe four or five, two or three people to take a look at the field and give you estimates on what remains in the reserves, because that will set the basic value for the property. Finally then, one wants to make some assumptions about reinvestment in the property to try and quantify what are the provable reserves. That is another basis that goes into setting the price, so those things will happen and then those disputes which were honest and I believe appropriate will be settled just the way they would be in the private sector, by bringing geologists and experts in to give us a real estimate.

Paul: So right now, you have not decided on a reapportionment of the shares in the shallow oil zone between the government and Chevron.

O'Leary: No. Actually these details are way below my pay grade...Is somebody around, Kyle around or one of our geologists who can talk to you very intelligently about this?

Simpson: I'm here. This is Kyle Simpson.

O'Leary: Oh God. You are a lawyer, not a geologist. He's a very smart lawyer.

Simpson: That's true. That I'm not a geologist. The agreement on the reapportionment of interests in those zones will have to be done before we can make the sale. We have not come to any final agreement on that and those estimates that were in dispute are being evaluated now and will have to be completed before we could go into the final sale.

Paul: Do you have any estimate on when you will be able to reach an agreement on that?

Simpson: No. The statute requires that we give them, I am looking through it, I will give you the answer during the conversation of when it says we have to get it done.

McDugal: Are there any other questions?

Paul: One other question. The earliest that the California teachers will see any of this money will be more than two years from now.

O'Leary: Well, we have a time line of two years under the statute to get this work done. This administration has shown that it can stick to its time lines. The legislation provides for just the kind of help that we need. I have already mentioned the requirement for petroleum engineers and the like to prepare recommendations and of course the use of investment bankers so that we are certain that the due diligence passes scrutiny against the private sector norm. So we will get this done within the two years required and the two years begins to meter as my recollection this morning.

Griffith: I have a question for James, I need your last name.

Mosman: It is M-O-S-M-A-N.

Griffith: M-O-S-N-A-N. And your title?

Mosman: Is Chief Executive Officer.

Griffith: M-O-S-M-A-N.

Mosman: M-O-S-M-A-N, yes.

Griffith: M-O-S, M as in Mary?

Mosman: M as in Mary, yes.

Griffith: Chief Executive Officer of...

Mosman: California State Teachers' Retirement System.

Simpson: Would the reporter from Sacramento please, be so kind as to identify herself.

Griffith: Yes, I'm sorry about that I'm Dorcy Griffith, Sacramento Bee.

Simpson: Senali, we'll have to get all of the equity redeterminants done within 8 months of the signing.

Senali: Great.

Griffith: I'm curious if any of the folks from the Retirement Association would be available any time later today if I have any further questions. I'm afraid I called in at the last minute, sorry I wasn't prepared.

Morrill: This is Jennifer Morrill with the State Teachers' Retirement System and we are available at 229-3714, in Sacramento for a little while after this conference call.

Griffith: Great. I appreciate that.

Morrill: No problem.

Griffith: Thank you all.

McDugal: Anyone else? O.K. Thank you very much everybody.

Goodbye.

AMENDED IN ASSEMBLY APRIL 17, 1996

Senate Joint Resolution No. 27

Introduced by Senator Costa

May 26, 1995

Senate Joint Resolution No. 27—Relative to school lands.

LEGISLATIVE COUNSEL'S DIGEST

SJR 27, as amended, Costa. School lands.

This measure would memorialize the President and the Congress of the United States ~~to sell the Elk Hills Naval Petroleum Reserve Numbered 1 while~~ *to expedite the agreement by the Department of Energy for* recognizing the state's valid claim to ~~two~~ *2* school land sections within the ~~reserve~~ *Elk Hills Naval Petroleum Reserve Numbered 1*, and to compensate California's retired teachers for their ~~7 percent~~ *9%* interest in the reserve upon its sale.

Fiscal committee: yes.

WHEREAS, In 1853, the United States Congress granted to the State of California the 16th and 36th sections of every township of public land to support the public education system in California, a grant long held by the courts to create a "solemn agreement" between the federal government and the state; and

WHEREAS, In California, the State Teachers' Retirement System is the beneficiary of revenues derived from those school lands; and

WHEREAS, Those revenues are a significant source of income to the retired teachers of the state; and

WHEREAS, Elk Hills Naval Petroleum Reserve Numbered 1 contains two school land sections rich in oil reserves and constituting the two most valuable school land sections in the state; and

WHEREAS, The inclusion of these school lands within the petroleum reserve in 1912 made them unavailable to the state, with the result being that the State Teachers' Retirement System is deprived of substantial income; and

WHEREAS, Ever since 1976, the federal government has been producing oil and gas from the naval petroleum reserves at the maximum efficient rate and selling its production to gain further general revenues for the United States Treasury; and

WHEREAS, The federal government has stated that the role of the national petroleum reserves "has evolved over time from an emergency source of oil to an income-generating federal business asset," and that "federal ownership and operation of the reserves is not essential to the national energy policy goals and objectives"; and

WHEREAS, The Department of Energy proposes to sell Elk Hills Naval Petroleum Reserve Numbered 1, as part of the President's 1996 Budget submission to Congress calling for the privatization of the naval petroleum reserves, and ~~for the first time the department~~ has earmarked ~~7~~ *9* percent of the anticipated proceeds from privatization to be paid to the State of California to benefit the Teachers' Retirement Fund; ~~now, therefore,~~ *and*

WHEREAS, Congress has passed, and the President has signed, legislation to compensate California after the sale of Elk Hills Naval Petroleum Reserve Numbered 1; and

WHEREAS, That compensation will be based on an agreement between the State of California and the Department of Energy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and ~~the Congress of the United States to sell Elk Hills Naval Petroleum Reserve Numbered 1 while recognizing the~~

the Congress to expedite the agreement by the Department of Energy for recognizing the valid claim of this state to the two school land sections within the reserve, and to compensate California's retired teachers for their ~~7~~ *9* percent interest in the reserve upon it's sale; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representatives from California in the Congress of the United States, and to the Secretary of the Interior, the Secretary of Energy, and the Secretary of Defense.

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July 19, 1996

MEMORANDUM FOR: JEN PALMIERI
HELEN HOWELL
JOHN EMERSON

FROM: KRIS BALDERSTON

SUBJECT: California State Teachers Retirement

As per your request, attached is the faxed information from the Department of Energy regarding the California State Teachers Retirement.

Department of Energy

Washington, DC 20585

OFFICE OF THE
DEPUTY SECRETARY

July 19, 1996

To: Chris Balderston

From: Kyle Simpson

Re: Settlement of claims by the California State Teachers Retirement System (CSTRS).

Attached is a memo that describes the statutory framework requiring an offer of settlement of the Teacher's claim to a portion of the proceeds from the potential sale of the Elk Hills Naval Petroleum Reserves in California, a history of the claim, and our proposed approach to resolving the claim.

We will engage the CSTR in an effort to reach agreement on this approach to achieving a settlement. The requirements of the statute that governs the sale restrict our ability to effectively settle the claim at this time. We propose to determine the fair value of the State's claim over the next 18 months, so that it can be resolved promptly after sale, as required by the statute.

Privileged & ~~Confidential~~

PROCESS FOR SETTLING CALIFORNIA TEACHERS' CLAIM FOR PORTION OF ELK HILLS SALES PROCEEDS

I. Statutory Framework

The Administration's 1995 legislative proposal for the sale of the United States' interest in the Elk Hills Reserve in California (Naval Petroleum Reserve No. 1) provided that 7 percent of the proceeds of sale would be paid to the State of California for the Teachers' Retirement Fund (State). The Congress refused to accede to this approach, and instead provided in the 1996 statute that 9 percent of the net proceeds of the sale would be placed in a contingent fund in the Treasury for up to 10 years after the effective date of the Act, to be available in such amounts as may be appropriated to cover any settlement between the United States and the State or any judgment the State obtains against the United States. The Secretary is required within 30 days after the sale of Elk Hills (scheduled for February 1998) to make an offer of settlement to the State, based on the "fair value for the State's claim, including the mineral estate, not to exceed the amount reserved in the contingent fund." The statute did not affect the merits of the State's claim or recognize the validity of any claim.

II. History of Claim[1]

Although there presently is no pending formal "claim" by the State, the State's historical claims have been based on the California School Lands Grant Act of March 3, 1853, 10 Stat. 244, as amended. Pursuant to Section 6 of that Act, Congress granted to the State sections 16 and 36 of each township for public schools with the exception, inter alia, of lands previously appropriated and mineral lands. In 1927, Congress extended the grant to mineral lands, but continued to except any lands included within the limits of an existing reservation. Act of January 25, 1927, 44 Stat.1026 (codified at 43 U.S.C. 870).

The 1853 Lands Grant Act did not grant the State mineral lands and did not vest title to any school lands immediately. The State took title to school lands only after a survey was approved by the Commissioner of General Land Office ("GLO") (United States v. Morrison, 240 U.S. 192 (1916)), and, until the survey was approved, the United States could dispose of the lands as it wished (see Minnesota v. Hitchcock, 185 U.S. 373, 400 (1901)). Lands that were determined to be mineral lands by an approved survey did not vest in the State. To compensate the State for lands reserved for public uses or taken by private claims, Congress provided that

The following history borrows heavily from the Findings of Fact filed by the U.S. District Court in 1992 in State of California, ex rel. v. Watkins, et al., No. CV F-87-665 EDP.

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2014-0708-F

other lands could be selected in lieu thereof by the State subject to approval of the Secretary of the Interior. Act of March 3, 1853, sec. 7, 10 Stat. 244.

The Elk Hills school lands were not surveyed until 1901 and they were determined to be mineral in character. United States v. State of California, 55 I.D. 121, 122 (1935). The survey was accepted and approved by the Commission of the GLO in 1903. Because the lands were mineral in nature, title to these lands did not vest in the State, and the lands were reserved from entry under all applicable statutes. Since the Elk Hills Naval Petroleum Reserve had been established in 1912, title to the Elk Hills school sections remained in the United States even after the Act of January 25, 1927 allowed school land grants to apply to mineral lands.

Despite the creation of the Elk Hills Reserve and the exceptions in the 1927 Act, the State claimed title to the sections within Elk Hills, and sold section 36 to Standard Oil Company of California. In the late 1920s and early 1930s, the United States brought a series of successful actions to quiet title to the lands within the Elk Hills Reserve, including the school lands issue. Title to section 36 was quieted in the United States as a result of this litigation. The dispute over section 16 was settled by consent decree.

Following further unsuccessful attempts in the 1980s to resolve the matter to its favor administratively, the State of California filed suit in 1987 to, inter alia, quiet title to Elk Hills school sections and to claim entitlement to fifty percent of all moneys received by the United States from sales, bonuses, royalties and rentals from Elk Hills. In 1992, the U.S. District Court for the Eastern District of California entered judgment in favor of the United States on all counts, and dismissed the case with prejudice. The State's motion for reconsideration was denied.

In 1987, the Department of the Interior Solicitor issued an opinion to the Energy Department General Counsel stating, inter alia, that: California had no vested rights in the lands so as to prevent their sale; Congress was free to vest title in the State (but was not obliged to) and could do so by revoking the withdrawal of the lands; and, if the lands are not restored to the public domain prior to sale, the buyer(s) would acquire title superior to the State's expectancy interest. The 1996 sale legislation did not revoke or terminate the reservation, although both the Administration and the State had requested that Congress take action to give the State a claim to the lands or to the proceeds of sale.

III. Proposed Approach: Consider merits of State's claim during next 18 months so that it can be resolved promptly after sale, as contemplated in the sale statute

Under this proposal, the State and the Department of Energy would pursue a form of administrative dispute resolution known as a "neutral evaluation". This process would entail the informal presentation of positions by each party to an independent, mutually agreeable neutral who, at the end of the process, would recommend to the Secretary of Energy the "fair value of the State's claim" as specified in the statute. After consideration of the neutral's recommendation, the Secretary would make an offer of settlement to the State. If settlement was not achieved, the State would be free to pursue whatever legal avenues were available. The basic steps in the process would cover:

A.	Parties' agreement on process	August 1996
B.	Selection of neutral	November 1996
C.	Written and oral presentations to neutral	January - June 1997
D.	Neutral recommends "fair value" (in terms of a percentage of proceeds of sale)	October 1997
E.	Secretarial decision to accept or modify recommendation	December 1997
F.	Secretarial offer of settlement	February 1998