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Folder Title:
Elk Hills Settlement

Stack:	Row:	Section:	Shelf:	Position:
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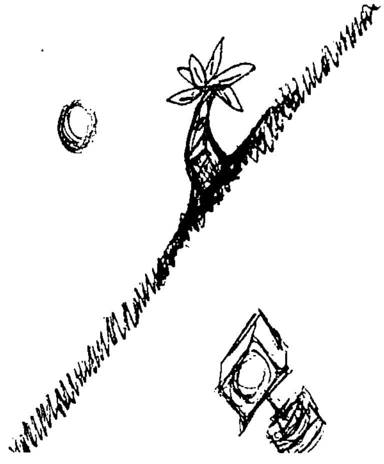

PHOTOCOPY
PRESERVATION

PHOTOCOPY PRESERVATION

① Request as an emergency

② Fazio + Cong. Bill Thomas

TJ — 54561 David Bernal

MEMORANDUM OF CALL

Previous editions usable

TO: Karen

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Maria Peterson

OF (Organization) Rep. Fazio

☐ PLEASE PHONE ▶ *(Enter area code, if necessary)* ☐ DSN

225-5716

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

re: Elk Hills

RECEIVED BY	DATE	TIME
B-VM	9/14	11:30

NSN 7540-00-634-4018
50363-111
UNICOR FPI-SST

OPTIONAL FORM 363 (Rev. 7-94)
General Services Administration

MEMORANDUM

TO: John Podesta
Karen Tramontano

FROM: Karen Skelton

DATE: September 29, 1998

RE: Elk Hills Settlement

The FY 1999 Defense Authorization Bill Conference dropped the House provision which would have provided direct spending for the Elk Hills School Lands Fund. Neither the House nor Senate Interior Appropriations bills include funding.

The President's FY 1999 budget requested $36 million a year through FY 2003 for a total of $298 million over seven years. (This is the full payment agreed to in the Settlement Agreement by the Department of Energy and the State of California.)

Last week, staff from the offices of Congressman Fazio and Congressman Thomas called OMB to ask for assistance in securing funding for Elk Hills. The Congressional staffers expressed support for an agreement between Congressman Fazio and Chairman Livingston of the Appropriations Committee. Chairman Livingston agreed to fund the $36 million if the Administration requested it as an emergency supplemental appropriation. OMB opposes the request because it does not constitute an "emergency" as the term has been used.

OMB says the Administration is actively seeking to get an appropriation for the payments, but not as an emergency. OMB says the payment is a priority for "end game" appropriations negotiations with Congress.

Please advise.

MEMORANDUM

TO: JOHN PODESTA
LARRY STEIN
SYLVIA MATHEWS
JANET MURGUIA
KAREN TRAMONTANO

FROM: KAREN SKELTON KS

SUBJECT: ELK HILLS SETTLEMENT

DATE: AUGUST 14, 1998

As you recall, I forwarded the attached memo to you on July 28 setting forth a request by the California Congressional delegation for White House support of $324 million due California from the sale of the Elk Hills Naval Petroleum Reserve. The State of California will apply these funds to supplement the pensions of its most elderly teacher retirees.

OMB reports that there are two tracks for obtaining funding of this settlement:

1. **The FY 99 Budget**:

   Per the agreement with California, the Administration requested $36 million in the FY 99 Budget for payment to California. This request represents the first of what would be an annual request over seven years.

   Status: Neither the House nor the Senate have provided funding for the payment in the appropriations bills. The Administration has included language urging the appropriators to include funding for this payment in letters and SAPs.

2. **The 1998 Defense Authorization Act:**

   The House included a provision in the Defense Authorization Act to make the payments to California mandatory as direct spending. The Senate has not acted on this provision.

   Status: The Administration has not stated a view on the direct spending provision in this year's Defense Authorization bill, but in 1996 the Administration did support the use of direct spending for this purpose. The California Delegation's letter requests our help in urging the Senate to adopt the same direct spending provision adopted by the House. OMB takes the position that if acceptable spending offsets could be identified, it wold likely support the use of direct spending to fund the payments to California, but OMB reports that they have not been able to identify acceptable offsets.

Please advise on next steps, including a meeting or further research. I expect the California delegation will renew their request for assistance after the summer break. Thanks.

MEMORANDUM

TO: ERSKINE BOWLES
JOHN PODESTA
LARRY STEIN
TRACY THORNTON
KAREN TRAMONTANO

CC: CRAIG SMITH

FROM: KAREN SKELTON KES

SUBJECT: ELK HILLS SETTLEMENT TO CALIFORNIA

DATE: JULY 28, 1998

I received the attached letter requesting the White House's help on a matter supported by the entire California Congressional delegation. The matter involves compensating the state of California $324 million for its interest in the sale of the Elk Hills Naval Petroleum Reserve. Under a settlement agreement, California will apply these funds to supplement the pensions of its most elderly teacher retirees. The letter requests that the White House call Senators Carl Levin and Frank Lautenberg to express support for funding the $324 million as part of the FY 1999 Defense Authorization Act.

Background

In the mid-1990s, the Administration proposed to sell off the Elk Hills Reserve, an oil field located near Bakersfield, California, to private industry. At the time, Leon Panetta and John Emerson assisted the state of California in reaching a settlement that provided a percentage of the sale proceeds be allocated to the state and be used to supplement retired teachers' pensions. Under the Defense Authorization Act of 1996 directing the land sale, 9 percent was to be held in escrow for the state of California. Congress subsequently directed the State of California and the Administration to seek a settlement of the state's claim. Accordingly, the President's budget for FY 1999 sets aside $324 million in an escrow fund for payment to California and its teachers (9% of the $3.65 billion total sale).

Current Status

Congressman Bill Thomas (CA-21), working with Congressman Vic Fazio (CA-03), negotiated into the House version of the FY 1999 Defense Authorization Act a provision that allows the State and its teachers to be paid out of the escrow fund in installments over seven years, as provided in the settlement. The Defense Authorization Act is now in Conference with the Senate.

The White House is now being asked to express its support for the House version of the Elk Hills compensation settlement for California and its teachers. Senators Feinstein and Boxer have both contacted the Senate Conferees in support of the House version.

Options

_____Call Sen. Carl Levin, ranking minority member of the Senate Armed Services Committee, to express support for the House version of the Elk Hills settlement.

_____Call Sen. Frank Lautenberg, ranking minority member of the Senate Budget Committee, to express support for the House version of the Elk Hills settlement.

_____Draft a letter of support to both Senators Levin and Lautenberg.

_____Do nothing pending further discussion.

5-3496

Adrienne C. Erbach

08/11/98 09:10:06 AM

Record Type: Record

To: Karen E. Skelton/WHO/EOP

cc: See the distribution list at the bottom of this message

Subject: Elk Hills status

Here is the latest as we know it. Per the agreement with California, the Administration requested $36 million in the Budget for the FY 1999 payment for CA. The FY 1999 request is the first of seven years of payments to California that DOE agreed to request as part of the settlement between California and DOE during the sale of Elk Hills. Neither the House nor the Senate have provided funding for the payment in the appropriations bills. The Administration has included language urging the appropriators to include funding for this payment in the letters and SAPs (Statement of Administration Position) that have been sent.

On a different track, the House has included a provision in the Defense Authorization Act to make the payments to California mandatory. The Senate has not acted on this provision (however, during the debate on the sale of Elk Hills in 1996, the Senate specifically rejected using direct spending for the payments to CA). The Administration has not stated a view on the direct spending provision in this years Defense Authorization bill, but in 1996 the Administration did support the use of direct spending for this purpose. If acceptable spending offsets could be identified, we would likely support the use of direct spending to fund the payments to CA. However, we have not been able to identify acceptable offsets.

Let me know if there is any additional information that you need.

Message Copied To:

Sylvia M. Mathews/OMB/EOP
Lawrence J. Stein/WHO/EOP
Charles E. Kieffer/OMB/EOP
T J. Glauthier/OMB/EOP
David A. Bernell/OMB/EOP
Jessica L. Gibson/WHO/EOP

Karen E. Skelton 08/11/98 10:08:26 AM

Record Type: Record

To: Adrienne C. Erbach/OMB/EOP

cc: See the distribution list at the bottom of this message

Subject: Re: Elk Hills status

Thanks for getting back. Just so I understand, there are two tracks, neither of which look too promising from your point of view:

1. FY 99 Budget: we've asked for $36 Million. Neither Sen nor House support. We'd have to ask for $36 million each year for 7 years.

2. Defense Authorization Act: requests manadatory payment of the $~~243~~ 298 million over 7 years. There are no offsets identified, so we are not now supporting inclusion of the House provision in the Senate version of the Act.

Is this the jist of the situation?

Thanks

Message Copied To:

Sylvia M. Mathews/OMB/EOP
Lawrence J. Stein/WHO/EOP
Charles E. Kieffer/OMB/EOP
T J. Glauthier/OMB/EOP
David A. Bernell/OMB/EOP
Jessica L. Gibson/WHO/EOP

Adrienne C. Erbach

08/11/98 10:20:56 AM

Record Type: Record

To: Karen E. Skelton/WHO/EOP

cc: See the distribution list at the bottom of this message

Subject: Re: Elk Hills status

The total payment over seven years is actually $298 million ($36 million for FY 1999-2003 and $59 million for FY 2004-2005).

Other than that, your message is correct.

Message Copied To:

sylvia m. mathews/omb/eop
lawrence j. stein/who/eop
charles e. kieffer/omb/eop
t j. glauthier/omb/eop
david a. bernell/omb/eop
jessica l. gibson/who/eop

Washington DC 20515

KS —
Original

March 27, 1998

The Hon. Bob Livingston
Chairman
House Committee on Appropriations
2406 RHOB
Washington, DC 20515

Dear ~~Mr. Chairman:~~ Bob

We are writing to remind you that the State of California should be paid the first installment of $36 million needed to compensate the State for yielding its claims to lands within the Naval Petroleum Reserves at Elk Hills as part of this year's Interior appropriations bill. It is essential that the House Budget and Appropriations Committees aid us in delivering those funds to the State.

The money exists. $324 million have been set aside for California as part of the $3.65 billion sale of Elk Hills. As the 1996 authorization of sale provided, the funds owed by the federal government must now be appropriated.

We are sure you recognize that the authorization bill created a process through which the federal government and State of California were to deal with outstanding California claims to two valuable sections of land within Elk Hills. Those claims muddied the title to Elk Hills the government wished to convey.

Our State yielded valuable legal rights as part of this settlement. Those rights are no longer available to the State. What is clear is that the federal government would have received lower bids for Elk Hills had the State's outstanding claims remained to cloud ownership and management of the field.

Further, selling Elk Hills has substantially reduced pressures for Interior appropriations. Last year, over $110 million was spent for operations at Elk Hills. Even after paying the installments required by the State and federal agreement, the federal government will still enjoy a net cut in spending on Naval Petroleum Reserves as a result of this sale in each and every year in which an installment is due to the State under the terms of the agreement.

PRINTED ON RECYCLED PAPER

Our people are frustrated by the lack of progress in resolving this issue. It seems to our constituents that an accounting issue is preventing California from receiving the benefits of a bargain it attained under settlement procedures directed by federal law that included the setting aside of funds in an escrow account for the express purpose of compensating the State. Your assurance that the funds will be provided would be welcomed by our constituents and by us.

Best regards,

VIC FAZIO, MC

BILL THOMAS, MC

LYNN WOOLSEY, MC

HOWARD P. "BUCK" McKEON, MC

LUCILLE ROYBAL_ALLARD, MC

TOM CAMPBELL, MC

GEORGE BROWN, MC

KEN CALVERT, MC

GARY CONDIT, MC

FRANK RIGGS, MC

CALVIN DOOLEY, MC

BRIAN BILBRAY, MC

SAM FARR, MC

CHRIS COX, MC

ROBERT T. MATSUI, MC

DANA ROHRABACHER, MC

HENRY WAXMAN, MC

ED ROYCE, MC

TOM LANTOS, MC

GEORGE MILLER, MC

JUANITA MILLENDER-MCDONALD, MC

BRAD SHERMAN, MC

FORTNEY "PETE" STARK, MC

JANE HARMAN, MC

BOB FILNER, MC

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HOWARD BERMAN, MC

RICHARD POMBO, MC

GEORGE RADANOVICH, MC

ANNA ESHOO, MC

MATTHEW G. MARTINEZ, MC

JULIAN DIXON, MC

ESTEBAN TORRES, MC

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NANCY PELOSI, MC

STEPHEN HORN, MC

RANDY "DUKE" CUNNINGHAM, MC

JOHN T. DOOLITTLE, MC

LORETTA SANCHEZ, MC

ELTON GALLEGLY, MC

ELLEN TAUSCHER, MC

DAVID DREIER, MC

XAVIER BECERRA, MC

WALLY HERGER, MC

DUNCAN HUNTER, MC

LOIS CAPPS, MC

JAY KIM, MC

transmitted @ 12:00 noon

THE WHITE HOUSE
OFFICE OF POLITICAL AFFAIRS

Karen Skelton

Deputy Assistant to the President
for Political Affairs

Phone (202) 456-6257
Fax (202) 456-7929

To: Sherry Greenberg

Date: 9/3

FAX #: 226-0350

# of Pages (including cover) 4

••••••••COMMENTS••••••••

HOGAN & HARTSON L.L.P.

COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004-1109

Tel.: (202) 637-5600
Fax: (202) 637-5910

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IMPORTANT NOTICE

TELECOPY/FACSIMILE COVER LETTER

TO: Karen Skelton
White House Political Affairs Office

DATE: 07/23/98

FROM: John Stanton
(202/637-5704)

TIME: 7:13 PM

TOTAL NO. OF PAGES, INCLUDING COVER: [redacted]

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MESSAGE:

~~Kime~~ Michael Kelly
3602010922
0918

HOGAN & HARTSON
L.L.P.

JOHN S. STANTON
PARTNER
DIRECT DIAL (202) 637-5704

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

MEMORANDUM

July 23, 1998

TO: Karen E. Skelton
Deputy Assistant to the President
and Deputy Director for Political Affairs
Political Affairs Office
Executive Office of the President

FROM: John S. Stanton

RE: **Funding of $324 Million Settlement Reached Between Administration and the California Teachers**

On behalf of the 577,000 active and retired teacher members of the California State Teachers' Retirement System, I am writing in follow-up to a project in which we worked very closely with John Emerson and in which Leon Panetta took a very active interest. We would very much appreciate your office's help in implementing a settlement that Messrs. Emerson and Panetta helped the Administration to reach with the State and its teachers. The matter enjoys the strong support of the California delegation, with the entire House delegation having signed a letter of support, and the Governor and State Attorney General having written letters of support. Rep. Vic Fazio has taken the lead on the Democratic side in the House on the issue.

The matter involves compensation to the State of California and its teachers for the State's interest in the Elk Hills Naval Petroleum Reserve. The matter began with the Administration's proposal to sell off the Elk Hills Reserve — an oil field operated by the Federal Government — to private industry. Under the Defense Authorization Act of 1996 directing the sale, 9 percent of the sales proceeds were to be held in escrow, and the State and the Administration were directed by Congress to seek a settlement of the State's claim.

With the assistance of Messrs. Emerson and Panetta, that settlement was finally reached in advance of the sale, with the State to be paid 9 percent of the sales proceeds in installments over seven years. Without the cloud of the State's claim hanging over the sale, the Elk Hills Reserve was sold for $3.65 billion, far more than anticipated. The State's share under the settlement agreement is $324 million. California applies these funds to supplement the pensions of the most elderly of its teacher retirees whose pensions have been most seriously eroded by inflation. Not unexpectedly, the Elk Hills compensation issue has very high visibility among the 577,000 active and retired teachers in California.

The President's Budget for FY 1999 sets aside the $324 million in an escrow fund for payment to the State and makes a request for an appropriation for the first $36 million installment due under the settlement. The entire California House delegation signed a letter to the Chairman of the Appropriations Committee seeking fulfillment of this appropriations request. However, because of the stringency of the budget spending caps as applied to the Interior appropriations bill, the escrow fund for compensating California could only be tapped if there were an offsetting spending cut in some ongoing program. (These stringent budget caps were put in place under the 1997 budget agreement, a year after the State's settlement had been reached.) Accordingly, the appropriation for compensating California proved politically unfeasible, despite the best efforts of the California delegation.

Faced with this appropriations problem, Rep. Bill Thomas secured inclusion in the House version of the Defense Authorization Act for FY 1999 of a provision that struck the appropriations requirement, with the State and its teachers simply being paid out of the escrow fund in installments over seven years as provided in the settlement.

The Defense Authorization Act is now in Conference with the Senate. Governor Wilson and the State Attorney General have sent letters of support for the Elk Hills compensation provision to the majority members of the Conference, and Rep. Thomas has taken the lead in dealing with both House and Senate Conferees on the majority side. We have been in touch with the California Senators regarding assistance with Senate Conferees.

We would very much appreciate it if the White House would consider making a strong expression of support for the House Elk Hills compensation provision to Sen. Carl Levin, the ranking minority member of the Senate Armed Services Committee, and request that he accept the House provision in Conference. This would help the Administration's settlement with California to come to fruition for the State's 577,000 active and retired teachers.

We appreciate your consideration of this request.

Governor Pete Wilson

July 14, 1998

The Honorable Strom Thurmond
Chairman
Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As the Defense Authorization conference committee begins deliberations, I urge your support for the provision in the House-passed bill that would fulfill the federal government's obligations to the State of California stemming from the sale of the Elk Hills Petroleum Reserve.

The federal legislation authorizing the sale of the Elk Hills Reserve acknowledged the State of California's longstanding claims to revenues from certain lands within the Reserve. The legislation set aside a portion of the proceeds from the sale to settle state claims and directed the Secretary of Energy to negotiate a settlement with the state.

A settlement agreement was reached and the federal government made a commitment to pay the state $324 million over seven years. The first installment of $36 million is due in federal fiscal year 1999. Any delay in the payment of these funds would be a breach of trust. The sale of the Elk Hills Reserve will bring $3.65 billion into the federal treasury. The State of California has abided by the agreement and not interfered, in any way, with the sale. It is time for the federal government to begin fulfilling its commitment.

I urge the conference committee to include in the final Defense Authorization Act the House-passed language providing payments due the State of California in accordance with the settlement agreement.

Sincerely,

Pete Wilson

State Capitol • Sacramento, California 95814 • (916) 445-2841

JUL-23-98 19:57 From:HOGAN & HARTSON 9W 109 1111111111111111 T-112 P.06/17 Job-760

when they voted not to bring it to the floor, but they admitted their mistake and saw to it that it could be voted on. It takes a big man to admit he made a mistake.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. TAYLOR).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider the amendment of the gentleman from California (Mr. THOMAS) considered as amendment number 41 printed in part D of House Report 105-544.

AMENDMENT NO. 41 OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part D amendment No. 41 made in order by an order of the House of May 21, 1998, offered by Mr. THOMAS:

At the end of title XXXIV (page 373, after line 2), insert the following new section:

SEC. 3408. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3415(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note) is amended by striking out the first sentence and inserting in lieu thereof the following: "Amounts in the contingent fund shall be available for paying a claim described in subsection (a) in accordance with the terms of, and the payment schedule contained in, the Settlement Agreement entered into between the State of California and the Department of Energy, dated October 11, 1996, and supplemented on December 10, 1997. The Secretary shall modify the Settlement Agreement to negate the requirements of the Settlement Agreement with respect to the request for and appropriation of funds.".

The CHAIRMAN. Pursuant to House Resolution 441, the gentleman from California (Mr. THOMAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly do want to thank the chairman of the Committee on National Security and the ranking member, respectively the gentleman from South Carolina (Mr. SPENCE) and the gentleman from Missouri (Mr. SKELTON), first of all for their courtesy in allowing me to discuss the amendment at this time. Actually, I have to go back. The original genesis of this amendment is once again thanking them; only at that time they were known as the Armed Services Committee and the subcommittee that consists of the gentleman from Virginia (Mr. BATEMAN) and the gentleman from Virginia (Mr. SISISKY).

It involved the sale of the naval petroleum reserve known as Elk Hills. In 1974 President Ford ordered oil produced at this naval petroleum reserve at its maximum efficient rate. For more than two decades, oil was produced commercially, but it was a government-held property. We always wanted to try to sell it if it was going to be used to simply produce oil to sell. But as I was wont to say at one time, you can shear a sheep every year, and you can slaughter it only once.

It was producing more than $1 billion a year of revenue for more than a decade. But the gentleman from Virginia put together a sale and bidding procedure which not only succeeded in reaching the CBO's estimate of a $2.6 billion sale, but, in fact, sold for $3.65 billion.

One of the reasons we think it sold at that price was that a lien on land held by State teachers, given to the teachers during the land grant college period, and the tracts of land being incorporated in the Elk Hills area, they never received a penny off the land. It was a Federal Reserve. But when it was going to be released for sale, they certainly were going to claim a revenue stream from that land.

The solution put in the legislation in the then Armed Services bill was to take 9 percent of the sales price, whatever it was, and provide it to the State Teachers Retirement Fund. It was put in language that said pursuant to an appropriation.

Elk Hills has been sold, $3.65 billion. Almost $328 million is held in reserve to be doled out over the years. In the wisdom of a number of people around here, we came to the conclusion of why not just give it to them. The money is sitting there. There is no reason to dole it out. Certainly $1 billion more than was planned would cover the cost of moving these dollars.

So I am indebted, once again, to the now Committee on National Security for their willingness to accommodate the ability to pay the State teachers once out of a fund that is now reserved. That is the sum and substance of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, as there is no Member to claim the time in opposition, I ask unanimous consent to claim the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, I hereby yield back the balance of my time.

Mr. THOMAS. Mr. Chairman, after having once again thanked the Committee on National Security, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. THOMAS).

The amendment was agreed to.

AMENDMENT D-19 OFFERED BY MR. GILMAN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. GILMAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 9, not voting 19, as follows:

[Roll No. 181]

AYES—405

Abercrombie	Davis (IL)	Horn
Ackerman	Davis (VA)	Hostettler
Aderholt	Deal	Houghton
Allen	DeFazio	Hoyer
Andrews	DeGette	Hulshof
Archer	Delahunt	Hunter
Armey	DeLauro	Hutchinson
Bachus	DeLay	Hyde
Baesler	Deutsch	Inglis
Baker	Diaz-Balart	Istook
Baldacci	Dickey	Jackson (IL)
Ballenger	Dicks	Jackson-Lee (TX)
Barcia	Dingell	Jefferson
Barr	Doggett	Jenkins
Barrett (NE)	Doolittle	John
Barrett (WI)	Doyle	Johnson (CT)
Bartlett	Dreier	Johnson (WI)
Barton	Duncan	Johnson, E. B.
Bass	Dunn	Jones
Becerra	Edwards	Kanjorski
Bentsen	Ehlers	Kaptur
Bereuter	Ehrlich	Kasich
Berman	Emerson	Kelly
Berry	Engel	Kennedy (MA)
Bilbray	English	Kennedy (RI)
Bilirakis	Ensign	Kennelly
Bishop	Eshoo	Kildee
Blagojevich	Etheridge	Kilpatrick
Bliley	Evans	Kim
Blunt	Everett	Kind (WI)
Boehlert	Ewing	King (NY)
Boehner	Farr	Kingston
Bonilla	Fattah	Kleczka
Bonior	Fawell	Klink
Bono	Filner	Klug
Borski	Forbes	Knollenberg
Boswell	Ford	Kolbe
Boucher	Fossella	Kucinich
Boyd	Fowler	LaFalce
Brady (PA)	Fox	LaHood
Brady (TX)	Franks (NJ)	Lampson
Brown (FL)	Frelinghuysen	Lantos
Brown (OH)	Frost	Largent
Bryant	Furse	Latham
Bunning	Gallegly	LaTourette
Burr	Ganske	Lazio
Burton	Gejdenson	Leach
Buyer	Gekas	Lee
Callahan	Gephardt	Levin
Calvert	Gibbons	Lewis (CA)
Camp	Gilchrest	Lewis (GA)
Campbell	Gillmor	Lewis (KY)
Canady	Gilman	Linder
Cannon	Goode	Lipinski
Capps	Goodlatte	Livingston
Cardin	Goodling	LoBiondo
Carson	Gordon	Lofgren
Castle	Goss	Lowey
Chabot	Graham	Lucas
Chambliss	Granger	Luther
Chenoweth	Green	Maloney (CT)
Christensen	Greenwood	Maloney (NY)
Clay	Gutierrez	Manton
Clayton	Gutknecht	Manzullo
Clement	Hall (OH)	Markey
Clyburn	Hall (TX)	Martinez
Coble	Hamilton	Mascara
Coburn	Hansen	Matsui
Collins	Hastert	McCarthy (MO)
Combest	Hastings (FL)	McCarthy (NY)
Condit	Hastings (WA)	McCollum
Conyers	Hayworth	McCrery
Cook	Hefley	McDermott
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Costello	Herger	McHale
Cox	Hill	McHugh
Cramer	Hilleary	McInnis
Crane	Hilliard	McIntosh
Crapo	Hinchey	McKeon
Cubin	Hinojosa	McKinney
Cummings	Hobson	McNulty
Cunningham	Hoekstra	Meehan
Danner	Holden	Meek (FL)
Davis (FL)	Hooley	

State of California
Office of the Attorney General
Daniel E. Lungren
Attorney General

July 13, 1998

Honorable James M. Inhofe
Chairman, Subcommittee on Readiness
Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, D.C. 20510-6050

Dear Senator Inhofe:

I am writing to ask for your assistance in fulfilling the federal government's obligations under the terms of the State of California's Settlement Agreement with the United States Department of Energy with respect to the state school lands located in the Elk Hills Naval Petroleum Reserve. Copies of that Settlement Agreement (executed on October 11, 1996) and the supplement to the agreement (executed on December 10, 1997) are attached.

The Settlement Agreement provides compensation to the State of California for the two Elk Hills school land sections (1,332 acres) which the federal government granted to the State when it entered the Union. By executing the Settlement Agreement, the State enabled the federal government to sell Elk Hills for $3.65 billion. Specifically, the Settlement Agreement helped maximize federal revenues by removing the State's cloud on title, by removing a purchaser's exposure to treble damages for conversion under California statutory law, and by prohibiting the State from enjoining the sale of Elk Hills. In exchange, the State of California is to be compensated for its lands.

The basis of the State's right to the Elk Hills school lands is rooted in basic notions of federalism. Like every state admitted to the Union since 1803, California was promised two sections of public land in each township for the support of its public schools. The grant of school lands was part of what the courts have called a "solemn agreement." *Andrus v. Utah* (1980) 446 U.S. 500.

1300 I Street • Suite 1740 • Sacramento, California 95814

Honorable James M. Inhofe
Page 2
July 13, 1998

In the Defense Authorization Act of 1996, Congress specified a mechanism for resolving California's claims by reserving 9% of the net sale proceeds to compensate the State for its Elk Hills school lands and by directing the Secretary to offer to settle the State's claims. Following protracted negotiations with my office over the course of nearly a year, the Secretary ultimately reached a Settlement Agreement with the State, which was approved by Governor Pete Wilson. The Settlement Agreement is fair to both sides, enabling the federal government to maximize the sales revenues for the benefit of federal taxpayers, by removing the threat of the State's claims in advance of the sale; in addition, the Settlement Agreement precludes the State from interfering with the sale, and properly compensates the State for lands that were granted to it at the time of its admission to the Union. Under the terms of the Settlement Agreement, the federal government, through the Department of Energy, is obligated to make installment payments over a seven-year period. Due to the lack of interest payments over the seven-year term, the installments have a net present value of 6.4% of sale proceeds.

The State of California has kept its part of the agreement by removing the cloud of State claims, which enabled the federal government to sell Elk Hills for $3.65 billion, substantially more than had been anticipated. It is now time for the federal government to keep its part of the bargain by compensating the State for its interest in the lands. The funds necessary to compensate the State have already been collected from the purchase, and are now being held in escrow for the expressed purpose of compensating the State. We ask that the Senate, in the House-Senate Conference on the Defense Authorization Act, accept the House provision that provides for payment to the State, in accordance with the installment schedule under the Settlement Agreement, out of the funds set aside from the sales proceeds for that purpose.

Thank you for your consideration of these concerns.

Thanks for your personal attention to this matter!

Sincerely,

DANIEL E. LUNGREN
Attorney General

~~Attachments~~

cc: Sen. Charles Robb
Ranking Minority Member

Jerry Lewis

JERRY LEWIS, MC

RON PACKARD, MC

APPENDIX

BUDGET OF THE UNITED STATES GOVERNMENT

Fiscal Year 1999

JUL-23-98 20:00 From:HOGAN & HARTSON 9W 109 11111111111111111 T-112 P.14/17 Job-780

General and special funds—Continued

CLEAN COAL TECHNOLOGY—Continued

[(RESCISSION)] *(DEFERRAL)*—Continued

Personnel Summary

Identification code 89–0235–0–1–271	1997 actual	1998 est.	1999 est.
1001 Total compensable workyears: Full-time equivalent employment	70	68	67

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Moneys received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, [1997,] *1998* shall be deposited in this account and immediately transferred to the general fund of the Treasury. Moneys received as revenue sharing from operation of the Great Plains Gasification Plant shall be immediately transferred to the general fund of the Treasury. *(Department of the Interior and Related Agencies Appropriations Act, 1998.)*

Program and Financing (in millions of dollars)

Identification code 89–5180–0–2–271	1997 actual	1998 est.	1999 est.
Budgetary resources available for obligation:			
21.40 Unobligated balance available, start of year: Uninvested	5	3	3
22.00 New budget authority (gross)	–3		
23.90 Total budgetary resources available for obligation	2	3	3
24.40 Unobligated balance available, end of year: Uninvested	3	3	3
New budget authority (gross), detail:			
Current:			
40.36 Unobligated balance rescinded	–3		
Permanent:			
Spending authority from offsetting collections:			
68.00 Offsetting collections (cash)	1	2	1
68.27 Capital transfer to general fund	–1	–2	–1
68.90 Spending authority from offsetting collections (total)			
70.00 Total new budget authority (gross)	–3		
Change in unpaid obligations:			
72.40 Unpaid obligations, start of year: Obligated balance: Uninvested	10	10	10
74.40 Unpaid obligations, end of year: Obligated balance: Uninvested	10	10	10
Offsets:			
Against gross budget authority and outlays:			
88.40 Offsetting collections (cash) from: Interest from principal in the Great Plains Project Trust	–1	–2	–1
Net budget authority and outlays:			
89.00 Budget authority	–4	–2	–1
90.00 Outlays		–2	–1

This program was established in 1980 for the purpose of expediting the development and production of alternative fuels.

When the Synthetic Fuels Corporation was declared to be operational in 1982, the uncommitted and unobligated funds remaining in the program were transferred to the Energy Security Reserve for use by the Synthetic Fuels Corporation, with the exception of the loan guarantee for the Great Plains Gasification Project, which remained under the jurisdiction of the Department of Energy. The Department exercised its authority to borrow from the Treasury to repay the Federal Financing Bank upon default of the borrower in 1985. This loan was repaid, along with accrued interest, by a Supplemental appropriation in 1986. The Department acquired ownership of the Great Plains plant by foreclosure, which was completed on July 14, 1986, and continued operation of the plant without the expenditure of appropriated funds. On October 31, 1988, the Department completed the process of establishing an asset purchase agreement for the Great Plains Gasification Plant by settlement with Basin Electric Power Cooperative Association. Responsibilities for other related agreements—Trust Agreement, Gas Transportation Agreement, Gas Purchase Agreement—were also settled. Under the terms of the asset purchase agreement a check for $85 million was provided to the Government as an initial payment. These agreements are currently the subject of litigation between the Department, Dakota Gasification Company and the four pipeline companies which purchase the synthetic gas from the plant. Future revenue sharing payments to the Department are dependent upon the outcome of this litigation as well as natural gas prices.

The parties to litigation negotiated settlement agreements in principle in December 1993. Settlement agreements dated February 16, 1994, have been signed. These settlement agreements resolve all past disputes as well as restructure the Gas Purchase Agreements pricing provisions. The settlement agreements are contingent upon final Federal Energy Regulatory Commission (FERC) approval.

One of the four pipeline companies, which purchases 20 percent of the plant's output of synthetic natural gas received Federal Energy Regulatory Commission final approval in December 1994 for its settlement agreement. On December 18, 1996 initial FERC approval was granted for the remaining three pipeline companies in FERC Opinion 410.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling the first installment payment under the Settlement Agreement entered into by the United States and the State of California on October 18, 1996, as authorized by section 3415 of Public Law 104–106, $36,000,000 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Land Fund.

Unavailable Collections (in millions of dollars)

Identification code 89–5428–0–2–271	1997 actual	1998 est.	1999 est.
Balance, start of year:			
01.99 Balance, start of year			324
Receipts:			
02.01 Elk Hills school lands fund		324	
04.00 Total: Balances and collections		324	324
Appropriation:			
05.01 Elk Hills school lands fund			–36
07.99 Total balance, end of year		324	288

Program and Financing (in millions of dollars)

Identification code 89–5428–0–2–271	1997 actual	1998 est.	1999 est.
Obligations by program activity:			
00.01 Direct program			36
10.00 Total obligations (object class 41.0)			36
Budgetary resources available for obligation:			
22.00 New budget authority (gross)			36
23.95 New obligations			–36
New budget authority (gross), detail:			
40.20 Appropriation (special fund, definite)			36
Change in unpaid obligations:			
73.10 New obligations			36
73.20 Total outlays (gross)			–36
Outlays (gross), detail:			
86.90 Outlays from new current authority			36

Net budget authority and outlays:			
89.00 Budget authority			36
90.00 Outlays			36

Title XXXIV, Subtitle B of Public Law 104–106 requires the Department to sell government's interest in Naval Petroleum Reserve No. 1 (Elk Hills) pursuant to the terms of the Act. The sale is scheduled to occur in February 1998, following a statutorily-required 31-day congressional review period.

Section 3415 of the Act requires, among other things, that the Department make an offer of settlement based on the fair value of the State of California's longstanding claims to two parcels of land ("school lands") within the Reserve. Under the Act, as is provided for in appropriation acts, nine percent of the net proceeds is to be reserved in contingent fund in the Treasury for payment to the State. In compliance with the Act and in order to remove any cloud over title which could diminish the sales value of the Reserve, the Department entered into a Settlement Agreement with the State on October 18, 1996. That Agreement calls for payment to the State, subject to appropriations, of nine percent of the net proceeds of sale, payable over a seven-year period (without interest), commencing in Fiscal Year 1999. Under the Settlement Agreement and provided that funds are appropriated, the first five installments are for $36,000,000 each year, and the remaining balance is to be paid in two equal installments in years six and seven, FY 2004 and FY 2005.

Payments to States Under Federal Power Act

Unavailable Collections (in millions of dollars)

Identification code 89–5105–0–2–806	1997 actual	1998 est.	1999 est.
Balance, start of year:			
01.99 Balance, start of year			
Receipts:			
02.01 Licenses under Federal Power Act from public lands and national forests, payment to States (37 1/2%), Energy	3	3	3
Appropriation:			
05.01 Payments to States under Federal Power Act	–3	–3	–3
07.99 Total balance, end of year			

Program and Financing (in millions of dollars)

Identification code 89–5105–0–2–806	1997 actual	1998 est.	1999 est.
Obligations by program activity:			
10.00 Total obligations (object class 41.0)	3	3	3
Budgetary resources available for obligation:			
21.40 Unobligated balance available, start of year: Uninvested	3	3	3
22.00 New budget authority (gross)	3	3	3
23.90 Total budgetary resources available for obligation	6	6	6
23.95 New obligations	–3	–3	–3
24.40 Unobligated balance available, end of year: Uninvested	3	3	3
New budget authority (gross), detail:			
60.25 Appropriation (special fund, indefinite)	3	3	3
Change in unpaid obligations:			
73.10 New obligations	3	3	3
73.20 Total outlays (gross)	–3	–3	–3
Outlays (gross), detail:			
86.97 Outlays from new permanent authority	3	3	3
Net budget authority and outlays:			
89.00 Budget authority	3	3	3
90.00 Outlays	3	3	3

The States are paid 37.5 percent of the receipts from licenses for occupancy and use of national forests and public lands within their boundaries issued by the Federal Energy Regulatory Commission (16 U.S.C. 810).

Nuclear Waste Disposal Fund

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, [$160,000,000] *$190,000,000*, to remain available until expended, to be derived from the Nuclear Waste Fund; of which [$4,000,000 shall be available to the Nuclear Regulatory Commission to license a multi-purpose canister design; and of which not to exceed $5,000,000] *not to exceed $4,875,000 may be provided to the State of Nevada solely to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, and of which not to exceed $5,540,000* may be provided to affected local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: *Provided*, That the distribution of the funds [to] *as determined by* the units of local government shall be *approved by* the Department of Energy: *Provided further*, That the funds shall be made available to the *State and* units of local government by direct payment: *Provided further*, That within ninety days of the completion of each Federal fiscal year, *The State and* each local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97–425. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropria may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act[: *Provided further*, That none of the funds provided herein shall be distributed to the State of Nevada by direct payment, grant, or other means, for financial assistance under section 116 of the Nuclear Waste Policy Act of 1982, as amended: *Provided further*, That the foregoing proviso shall not apply to payments in lieu of taxes under section 116(c)(3)(A) of the Nuclear Waste Policy Act of 1982, as amended]. *(Energy and Water Development Appropriations Act, 1998.)*

Unavailable Collections (in millions of dollars)

Identification code 89–5227–0–2–271	1997 actual	1998 est.	1999 est.
Balance, start of year:			
01.99 Balance, start of year	5,201	6,072	6,95[illegible]
Receipts:			
02.01 Receipts from nuclear powered electric utilities	596	602	62[illegible]
02.02 Net earnings on investments	471	450	50[illegible]
02.99 Total receipts	1,067	1,052	1,132
04.00 Total: Balances and collections	6,268	7,124	8,082
Appropriation:			
05.01 Nuclear Waste Fund	–182	–156	–190
05.02 Nuclear Regulatory Commission	–11	–15	–19
05.04 Nuclear Waste Technical Review Board	–3	–3	–3
05.99 Subtotal appropriation	–196	–174	–212
07.99 Total balance, end of year	6,072	6,950	7,870

Program and Financing (in millions of dollars)

Identification code 89–5227–0–2–271	1997 actual	1998 est.	1999 est.
Obligations by program activity:			
10.00 Total obligations	179	178	190
Budgetary resources available for obligation:			
21.41 Unobligated balance available, start of year: U.S. Securities: Par value	19	22	
22.00 New budget authority (gross)	182	156	190
23.90 Total budgetary resources available for obligation	201	178	190
23.95 New obligations	–179	–178	–190

10/10/96 11:44

DOE NEWS

JOHN STANTON 637-5910

NEWS MEDIA CONTACT:
Bill Wicker, 202/586-5827

FOR IMMEDIATE RELEASE
October 10, 1996

Energy Department Resolves Long-Time California Lands Dispute; Action Will Increase Teacher Pension Funds

The U.S. Department of Energy (DOE) today agreed to a settlement of a long-standing dispute between the State of California and the federal government over certain "school lands" within the Elk Hills Naval Petroleum Reserve near Bakersfield. The agreement could yield up to $200 million to the California State Teachers' Retirement System, money which can be used for cost-of-living increases for the retirees.

"We are delighted to finally be able to resolve this century-old dispute," said Energy Secretary Hazel R. O'Leary. "This settlement delivers on a commitment we made to California teachers when we proposed legislation to sell the Elk Hills oil field. As a result, California teachers can be confident that the agreement will strengthen their retirement system."

The Energy Department in 1995 proposed legislation calling for the sale of Elk Hills Naval Petroleum Reserve. Privatizing Elk Hills, which is scheduled to be sold in 1998, is a big step toward taking the federal government out of the business of producing oil and natural gas.

The Elk Hills sales process was set in motion in February when the President signed the Defense Authorization Act of 1996, which also includes a provision that provided for settling the disagreement over school lands. That provision provided an avenue for the state to address its claims by setting aside a percentage (9 percent) of the net proceeds from the Elk Hills sale to benefit the State Teachers' Retirement System. (Using Congressional Budget Office estimates of a $1.5 billion sales price for Elk Hills, about $135 million -- 9 percent of the net proceeds from the sale -- could be available for retired public school teachers in California.)

- MORE -

L-96-039

Once Elk Hills is sold, the Department of Energy will pay the 9 percent in five equal installments (without interest) beginning in 1999 and ending in 2003. If the amount exceeds $180 million, the balance over $180 million would be paid in two equal installments in the years 2004 and 2005. The DOE's obligation to pay is contingent on sale, and the obligation to pay each installment is subject to appropriations from Congress. DOE is obligated to ask the President to seek appropriations necessary to fund the agreement.

If the settlement installments are appropriated and disbursed, the State of California will release all Elk Hills school lands claims against the United States and the purchasers of Elk Hills. If Congress does not fund the settlement, or funds only part of the settlement, the state may terminate the agreement and sue DOE or the purchasers for damages. However, whether or not Congress funds the settlement, the agreement would preclude the state from seeking to enjoin the Elk Hills sale and rule out treble damage claims against the purchasers under state law.

Settlement talks had been under way for several months. Representatives from the California Attorney General's Office, the California State Teachers' Retirement System, the California Lands Commission and the U.S. Department of Energy participated in negotiations. The agreement now must be signed on behalf of the State Teachers Retirement System and the State Lands Commission before it is sent to the governor for final approval.

The story of how the California State Teachers Retirement Fund wound up with an interest in the mineral-rich Elk Hills land begins with statehood in 1853. To encourage California to join the Union, the United States agreed that a portion of the Federal lands in the state would be dedicated to support education in the state.

At the time, no one could have known that some of these lands would later be included in the Elk Hills Naval Petroleum Reserve, set aside for decades as a guarantee that the nation would always be able to fuel its fleet around the world. The reserve is no longer needed by the Navy as a fuel reserve and has been in commercial production since Congress authorized its development in 1976. (The country's emergency oil supplies are now held in the Strategic Petroleum Reserve.)

- DOE -

L-96-039