

## AGENDA

### COMMITTEE OF THE WHOLE

**Meeting: 1:00 p.m., Tuesday, March 14, 2000**  
**San Jose State University**  
**Student Union Ballroom**

William Hauck, Chairman  
Joan Otomo-Corgel, Vice Chairman  
Roberta Achtenberg  
William D. Campbell  
Martha C. Fallgatter  
Debra S. Farar  
Bob Foster  
Harold Goldwhite  
Laurence K. Gould, Jr.  
Neel I. Murarka  
Dee Dee Myers  
Ralph R. Pesqueira  
Frederick W. Pierce IV  
Ali C. Razi  
Charles B. Reed, Chancellor  
Michael D. Stennis  
Anthony M. Vitti  
Stanley T. Wang

#### **Consent Items**

Approval of Minutes of Meeting of November 16, 1999

#### **Discussion Items**

1. Welcome, *Information*
2. Litigation Report No. 11, *Information*

**MINUTES OF MEETING OF  
COMMITTEE OF THE WHOLE**

**Trustees of The California State University  
Office of the Chancellor  
Glenn S. Dumke Conference Center  
401 Golden Shore  
Long Beach, California**

**November 16, 1999**

**Members Present**

William Hauck, Chairman  
Joan Otomo-Corgel, Vice Chairman  
William D. Campbell  
Martha C. Fallgatter  
Harold Goldwhite  
Laurence K. Gould, Jr.  
Dee Dee Myers  
Ralph R. Pesqueira  
Frederick W. Pierce IV  
Charles B. Reed, Chancellor  
Michael D. Stennis  
Anthony M. Vitti  
Stanley T. Wang

**Members Absent**

Bob Foster  
Ali C. Razi

**Chancellor's Office Staff**

David S. Spence, Executive Vice Chancellor and Chief Academic Officer  
Richard P. West, Executive Vice Chancellor and Chief Financial Officer  
Jackie R. McClain, Vice Chancellor, Human Resources  
Douglas X. Patiño, Vice Chancellor, University Advancement  
Christine Helwick, General Counsel

Chair Hauck called the meeting to order at 1:45 p.m.

**Approval of Minutes**

The minutes of the September 15, 1999, meeting were approved as submitted.

**Appointment of Member to the California State University Headquarters Building Commission**

With the concurrence of the committee, Chair Hauck presented Agenda Item 1 as a consent action item.

The committee recommended approval by the board of the proposed resolution (RCOW 11-99-01).

Chair Hauck reported that the Governor's Office had just issued a press release naming two new members to the board, Roberta Achtenberg from San Francisco, and Debra S. Farar from Los Angeles.

### **Advertising Campaign for CalTeach**

Chair Hauck asked Chancellor Reed to present the item.

Chancellor Reed said that CalTeach was established by the governor and the California Legislature in 1997 to recruit qualified individuals to the teaching profession in order to alleviate the shortage of credentialed teachers in California. Chancellor Reed said the program is administered in Sacramento under the Institute for Education Reform.

Chancellor Reed said that to help publicize a career in teaching and the services of CalTeach, an advertising campaign was developed through the sponsorship of Aetna Financial Services and Edison International. He asked Nancy Burnell, interim director, Institute for Education Reform, to describe the campaign.

Ms. Burnell reported that the first phase included a media campaign focusing on paid media, including print and television ads, in English and Spanish, and public service announcements in several languages encouraging people to go into teaching. She said the ads showed the website address and the 888 telephone number, and since January 1998 there had been 4,996,297 hits on the website and that over 27,000 resumes were on file.

Ms. Burnell continued that the CalTeach team was working throughout the state with local television stations to develop a new partnership called "Teacher of the Month." Local district teachers will be featured doing their jobs—working with children, trying to make a difference; the clip will highlight the positive aspects of teaching and the importance it has on the future of the state.

Ms. Burnell said that many CSU campuses were working with their local cable systems to run the CalTeach ad through their local cable stations.

Ms. Burnell concluded by saying that the CalTeach ads were running in virtually every media market in the state, and by tracking the number of phone calls and hits to the website, it is apparent the campaign is having a dramatic impact.

The trustees viewed a video of the CalTeach ad.

### **Adjournment**

The meeting adjourned at 2:10 p.m.

**BRIEF**

**Information Item**

Agenda Item 1  
March 14-15, 2000

**COMMITTEE OF THE WHOLE**

**Welcome**

**Presentation By**

Robert L. Caret, President  
San Jose State University

Leo Davilla, President  
SJSU Associated Students

Mary Jo Gorney-Moreno, Chair  
SJSU Academic Senate

**Summary**

President Caret, the chair of the San Jose State University Academic Senate, and the president of the Associated Students will welcome the Board of Trustees to San Jose State University.

## **BRIEF**

**Information Item**

Agenda Item 2  
March 14-15, 2000

### **COMMITTEE OF THE WHOLE**

#### **Litigation Report No. 11**

#### **Presentation By**

Christine Helwick  
General Counsel

#### **Summary**

This is the biannual report on the status of significant litigation confronting the CSU, which is presented for information. "Significant" for purposes of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) brought by or against another public agency; or (3) which, for other reasons, has a high profile or is likely to generate widespread publicity. *New information since the date of the last report is printed in italics.*

The cases contained in this report have been selected from over 233 active litigation files currently pending that involve the CSU.

## ITEM

2

Agenda Item 2

March 14-15, 2000

### COMMITTEE OF THE WHOLE

#### Litigation Report No. 11

##### *New Cases*

*Board of Trustees v. Blake Construction, et al.* – San Diego County Superior Court  
CSU filed this lawsuit against Blake Construction Company, the prime contractor, Richard Bundy & David Thompson, Inc., the architect, the stucco and window subcontractors, and the window manufacturer at the Chapultepec Residence Hall at San Diego State University, which has experienced significant water intrusion into some of the living units. This case is currently in the discovery phase, and will likely proceed to mediation. A trial date is set for July 28, 2000.

*Board of Trustees v. Perini Building Company* – San Francisco County Superior Court  
CSU filed this action against Perini Building Company, the design-build contractor on the Guest Center/Resident Apartments on the San Francisco campus, which has experienced significant leaks through the windows and walls as a result of the failure of the exterior insulation finish system. The case is in the initial pleading stage. A mediation is scheduled for April 17, 2000.

*Marshall v. California State Polytechnic University, Pomona* – Los Angeles County Superior Court  
The appointment for Thomas Marshall, the former head coach of the men's basketball team at Cal Poly Pomona, was not renewed after four years of service. Marshall was denied a hearing before the State Personnel Board because he was neither a permanent nor a probationary employee. Marshall filed a complaint for damages challenging the non renewal of his appointment and a Petition for Writ of Mandamus seeking a court order that the SPB must hear his claims. Both matters have been settled for \$67,300.00.

*Mora v. State of California et al.* – Los Angeles County Superior Court  
Timoteo Mora, a CSU Dominguez Hills student, received a significant electrical shock upon plugging in a microscope in his chemistry class in February of 1999. A campus investigation determined that the plug was faulty. Mora has filed this action to recover for his physical injuries. The university has confessed liability and the only remaining issue is the extent of Mora's injuries attributable to this incident. The case is in the early discovery phase. A mediation is contemplated once the medical reports are completed.

*Valero v. San Francisco State University, et al.* – San Francisco Superior Court  
Christina Valero, a former Administrative Office Coordinator in the Department of Administrative and Interdisciplinary Studies in the College of Education at SFSU, claims that as a result of her efforts to prevent grade changes, forgery of faculty signatures and other unauthorized changes in student status by the former department chair, she became the victim of harassment, retaliation, sex discrimination, and an assault. The campus conducted a prompt investigation that concluded that

*the former chair had engaged in some, but not all, of the alleged improper conduct. He is being provided a separate defense at CSU expense pursuant to a reservation of the right to disclaim responsibility for his conduct. The lawsuit is in the early stages of discovery. The parties are exploring the possibility of mediation. Trial is set for May 22, 2000.*

*Viboolpanth v. CSU San Bernardino* – San Bernardino County Superior Court

*Kanokpun Viboolpanth, a CSU San Bernardino student, claims that the campus was negligent in not warning her about, and keeping her safe from, the high winds on the campus. As she left a classroom building in December 1998, she was allegedly swept off her feet and thrown into a concrete pillar causing severe head trauma. This case is in the early pleading stages.*

***Previously Unreported Cases***

*Serviss, et al. v. Trustees, et al.* – Humboldt County Superior Court

*Four Humboldt State students brought this class action on behalf of all students in campus housing during the 1996-97 academic year, for breach of contract and nuisance, because of construction noise and denial of access to amenities, such as the computer and weight rooms, during seismic correction work that was being performed on campus. Defense of the case was tendered to the insurance company for the contractor that named the CSU as an additional insured. After a two-week trial in August 1999, the jury returned a verdict for the plaintiffs; the entire student class (approximately 1,300 students) was awarded \$75 each, and subclass (of approximately 600 students) was also awarded 75 percent of the value of their dormitory contracts. The total value of jury award is approximately \$1.35 million.*

*Subsequent to the jury award, the insurer attempted to deny coverage. A very recent California Supreme Court opinion substantially undermines their position. A settlement conference is set for February 25, 2000, and a hearing before final entry of the judgment is scheduled for March 3, 2000. The insurance company has committed to fund an appeal, notwithstanding the coverage issues.*

*Smith, et al. v. CSU San Bernardino, et al.* – San Bernardino County Superior Court

*Bob Smith and Robert Flint, the former coach and assistant coach of the CSU San Bernardino golf team, filed suit when their appointments were not renewed after four years of service. Smith is 74. Flint is 72. They sued for age discrimination, wrongful termination, emotional distress, and defamation. The defamation charge was premised on comments made during the course of an investigation and self-report to the NCAA of, among other things, the two coaches' having provided cash rewards to members of the golf team in violation of NCAA rules.*

*The case was tried in November 1999. The jury found for the plaintiffs in the amount of \$1.2 million. CSU's post-trial motions resulted in a reduction of the award to \$120,000. Plaintiffs have not yet indicated whether they will pursue an appeal.*

### Employment Cases

Ali v. California State University, Northridge, et al. – United States District Court - Los Angeles and Los Angeles County Superior Court

Amir Ali, a former campus architect with responsibility to oversee earthquake repairs at CSUN, filed two lawsuits claiming that the campus misused FEMA funds. His federal action alleges violation of the False Claims Act. The case is in the discovery phase. His state court action was dismissed for failure to exhaust administrative remedies.

Brown v. California State University – Fresno County Superior Court

Horsford, et al. v. California State University – Fresno County Superior Court

Auwana Brown, a former employee in the CSU Fresno Police Department, filed a lawsuit claiming to have been sexually harassed by the former chief of police, Willie Shell. Daniel Horsford and five other employees or former employees in the CSU Fresno Police Department filed a separate lawsuit claiming that a variety of actions in the CSU Fresno Police Department while Shell was chief constituted reverse discrimination. The plaintiffs in the second action are white, Hispanic and Asian; Shell is black. Plaintiffs in both lawsuits are represented by the same attorney. Shell resigned his employment at CSU Fresno before either lawsuit was filed, and later pled no contest to felony charges of misconduct while he was chief of police at CSU Bakersfield before coming to Fresno. Brown was settled in December 1998. Discovery in Horsford is nearing completion. CSU filed motions for summary judgment against all six plaintiffs. Three were granted. *The other three were granted in part, leaving significant but narrowed issues for trial. The trial judge who was formerly assigned to this case retired. The new trial judge is expected to assign a new date for trial soon.*

California State Employees' Association, CSU Division, SEIU Local 1000, AFL-CIO v. Public Employment Relations Board – California Court of Appeal, 2d Appellate District

CSEA, the exclusive bargaining representative for units 2, 5, 7, and 9 of the California State University, filed a petition for writ of review requesting the California Court of Appeal to overturn a decision of the Public Employment Relations Board (PERB). The challenged decision determined that CSU had not committed an unfair labor practice when it suspended Merit Salary Adjustments in 1992 before completion of PERB-administered impasse procedures. On December 17, 1996, the Court of Appeal reversed the PERB decision, ruling that it was improper for the CSU unilaterally to change the terms of the collective bargaining agreement before any impasse was declared, and that the CSU had no special statutory protection which permitted it to do so. The court returned the case to PERB for an order that restores the salary adjustments, with interest, to all affected employees from the date of contract expiration until the successor agreement was negotiated (a one-year period). Payments to employees have been made. *The parties have now worked out the final issue by coming to agreement on how to pay interpreters under their unique compensation plan.*

Losco v. CSU Fullerton, et al. – Orange County Superior Court

Melsheimer v. CSU Fullerton, et al. – Orange County Superior Court

Pamela Losco, an Administrative Service Manager in the Student Health and Counseling Center at CSU Fullerton, claims to have been sexually harassed by her supervisor, Dr. Charles Darke, the former Director of the Center, and then retaliated against for complaining of the harassment. Debbie Melsheimer, who is Losco's secretary, also claims to have been sexually harassed, and retaliated against, by Dr. Darke. Dr. Darke has been transferred out of his position as Director of the Student Health Center. He is being provided a defense under a reservation of rights.

*Melshiemer's case settled for \$100,000. Losco's case was settled for \$150,000, but before finalization, Losco fired her counsel and refused to sign the settlement agreement. In the initial discovery phase, Losco for the first time came forward with credible evidence to establish her claims. They were also corroborated by other non-CSU witnesses. In a subsequent mediation, the case was settled for \$447,000. Dr. Darke will contribute \$1,000 toward this amount. Under the agreement Losco will leave the university and not seek reemployment, which was not a part of the original agreement.*

McNeir v. CSU – San Francisco Superior Court and United States District Court – San Francisco  
Plaintiff is a Lecturer in the Accounting and Management Departments who claimed reverse discrimination because he was not interviewed for a tenure-track position in the Hospitality Management Department. He filed in both state and federal courts. After a three-week trial in the state court, the jury awarded plaintiff \$2.75 million for discrimination and \$2.3 million for retaliation. By agreement of the parties, only the larger award was entered. The court subsequently reduced it to \$1.9 million. Plaintiff was also awarded \$315,000 in attorneys' fees. The university has appealed. *Its brief was filed on February 3, 2000. The federal court case has been set for trial on May 1, 2000.*

Rios v. Trustees, et al. – Santa Clara County Superior Court

Bartz v. Trustees – Santa Clara County Superior Court

Lidia La Garda Rios, director of the Office of Equal Opportunity at San Jose State University, was disappointed by a change in her reporting relationship as a result of organizational changes, and her failure to achieve certain high level positions in the department of Human Relations. She claims in this lawsuit to have been the victim of race, national origin and sex discrimination; a hostile work environment; sexual harassment; and retaliation. *The case is in the discovery phase. The parties have been ordered to mediation or arbitration. Rios has been non-retained and is on a paid administrative leave until May 31, 2000.*

Steve Bartz, director of Employee Relations at San Jose State University, was also disappointed when he was not appointed associate vice president for Human Resources, one of the positions to which Rios at one time aspired. The position was filled by a male Hispanic candidate, which Bartz claims in his lawsuit to have been reverse discrimination. This case was mediated unsuccessfully. *It is now set for trial on July 24, 2000.*

Tillinghast v. Humboldt State University, et al. – United States District Court, San Francisco and Sacramento County Superior Court

Professor Tillinghast brought this action in federal court after he forfeited an offer for a lectureship in the Religion Department at Humboldt State University because he would not sign the loyalty oath required of all state employees by the California Constitution. He alleged that the oath interfered with his religious beliefs in violation of the Religious Freedom Restoration Act. Professor Tillinghast subsequently filed a separate lawsuit in state court on these same issues.

On June 25, 1997, the United States Supreme Court invalidated the Religious Freedom Restoration Act on constitutional grounds. CSU then filed a motion for summary judgment in the federal action, which was granted on September 4, 1997. Professor Tillinghast has not continued to press his state court claim.

### **Personal Injury Cases**

Smith et al. v. State of California – *San Luis Obispo* County Superior Court

Plaintiffs are a former Cal Poly San Luis Obispo student and her mother. The student suffered a massive stroke, and the lawsuit claims that it was a consequence of her use of birth control pills prescribed by the Student Health Center. She is now mentally and physically incapacitated. Plaintiffs claim professional malpractice.

*As a result of mediation in November and December of 1999, this case has been settled for a total payment of \$1.5 million. The settlement has been approved by the court and the action dismissed.*

### **Student Cases**

Bailey-Shimizu v. Brotherton, et al. – United States District Court, Los Angeles

Hernandez v. Brotherton, et al. – United States District Court, Los Angeles

Pamelalee Bailey-Shimizu, a disabled Native American student at CSU San Bernardino, filed this action alleging various civil rights violations because negative comments were made about her attire which included various symbols of her political and religious affiliation, at a mock counseling session. She earlier pursued an unsuccessful student grievance of this claim and now is suing several university employees, including the president. *CSU's motion for summary judgment is scheduled for hearing on April 24, 2000. Trial has been rescheduled for July 2000.*

Phyllis Hernandez, a former graduate at CSU San Bernardino, claims to have been targeted and driven out of the psychology and counseling program because she is an outspoken woman of color. She is represented by the same lawyer. This case is in the early pleading stage.

California National Organization for Women, et al. v. Board of Trustees – San Francisco County Superior Court

Plaintiffs in this case claimed that CSU was in violation of the law because proportionally fewer female students than male students were participating in NCAA sports. In 1993, a Consent Decree

was signed which requires each campus within the CSU to achieve gender equity in athletics by the 1998-99 academic year. *The final report issued in February 2000 reflects an 81 percent systemwide increase in the participation of women athletes (and addition of 38 new sports), a 266 percent increase in the funding for women's athletic programs, and a 184 percent increase in grants available to women athletes. While not every campus is in full compliance in all three areas, those that are not have specific plans to reach full compliance within the next several years. The plaintiffs publicly expressed their satisfaction with CSU's achievement under the Consent Decree and participated in a joint press conference announcing the results. They will continue monitoring the progress of those campuses that have not reached full compliance on a less formal basis.*

Campos, et al. v. San Francisco State University, et al. – United States District Court, San Francisco Elizabeth Campos, a disabled San Francisco State student, and STARS, an unincorporated association of 20 other disabled students at SFSU, filed this action alleging various civil rights violations and a denial of educational opportunity based on the alleged existence of multiple, although unspecified, architectural barriers throughout the campus. The plaintiffs sought to represent a class of disabled CSU students. The California Faculty Association is also named as a plaintiff in the action claiming injury on behalf of disabled SFSU faculty. The CFA, however, expressly did not seek certification of any class. The plaintiffs are collectively represented by Disability Rights Advocates, an organization that has gained some publicity in the past for pursuing similar litigation against other organizations involving these issues.

A class of mobility disabled and/or visually impaired students who have been denied access to university programs, services and/or activities due to the existence of physical barriers was certified. *Following extensive mediation, a tentative settlement was reached in October of 1999, which, among other things, commits SFSU to \$5 million over seven years for various construction projects to improve campus access. The settlement has not been finalized, however, because of a dispute between the plaintiffs and their lawyers.*

Doe, et al. v. Regents, et al. – San Francisco County Superior Court

This is a class action challenging the legal validity of the higher education components of Proposition 187. The case was filed against CSU, the University of California and the California Community Colleges. A preliminary injunction was entered on February 8, 1995, barring implementation of the new law before trial. On November 21, 1997, the court issued a tentative decision dismissing this lawsuit because of the unconstitutionality ruling in the companion federal court action described below, which rendered moot any need to reach the issues in the state court suit. With the entry of a final judgment barring enforcement of the law in the companion federal action, it is likely this case will be dismissed as moot.

Gregorio T., et al. v. Wilson, et al. – United States District Court, Los Angeles

This is one of several class actions filed in the Los Angeles Federal District Court challenging Proposition 187. The cases were consolidated before Judge Mariana Pfaelzer, who ruled in November of 1995, among other things, that the reporting requirements of the higher education components of Proposition 187 are unconstitutional. On November 14, 1997, Judge Pfaelzer ruled the balance of the claims were preempted by the Personal Responsibility and Work Opportunity (Welfare Reform) Act. Final judgment was entered in March of 1998. The state (not including the CSU or UC) filed an appeal. Following a mediation at the direction of the governor, the parties participating in this appeal agreed on July 29, 1999, to dismiss the appeal and allow the lower court ruling to stand (with some minor modifications). The plaintiffs' entitlement to attorneys' fees has yet to be resolved by the lower court.

Hollander v Munitz, et al. – Sonoma County Superior Court

Lynne Hollander, the widow of 1960s Free Speech activist Mario Savio, sought unsuccessfully in this lawsuit to halt a Sonoma State campus referendum on a proposed student fee increase. The complaint alleged unfair election practices and noncompliance with Trustee policy. A limited temporary restraining order was entered before the election; the court refused to halt the election but stayed implementation of the results pending a subsequent hearing. The referendum was thereafter defeated. Hence, a fee increase is not currently planned for the Sonoma campus, and the parties stipulated that the issue in the subsequently scheduled hearing had become moot. The plaintiff's counsel has nonetheless refused to dismiss this case and indicated his intent to amend the complaint to challenge fee election procedures systemwide.

Muenzberg v. Barnes, et al. – United States District Court, Sacramento

Darrin Muenzberg, a former California Maritime Academy student, claims various civil rights violations because he was allegedly "singled out" and retaliated against for supporting a fellow student who filed a race discrimination complaint against then-Vice President for Student Services Stephen Barnes. (Barnes has since left the academy and filed his own lawsuit against the CSU.) The retaliation included, among other things, being subjected to an unauthorized drug test. Barnes is being provided a separate defense at CSU expense pursuant to a reservation of the right to disclaim responsibility for his conduct.

*The CSU filed a motion for summary judgment, and before hearing, the plaintiff voluntarily dismissed this case.*

Neal, et al. v. Board of Trustees of the CSU, et al. – United States District Court, Fresno

Members of the CSU Bakersfield wrestling team, both men and women, filed this lawsuit to enjoin the elimination of wrestling, or the placement of any cap on the male membership of the team, in order to comply with the Consent Decree in the Cal NOW litigation described above. The plaintiffs argue that both the Consent Decree and the federal regulations implementing Title IX are discriminatory.

In December of 1997, the court ruled that achieving proportionality in male and female participation in athletics is not a “safe harbor” against claims of (reverse) discrimination. The opinion acknowledges its inconsistency with five federal appellate opinions that have considered this same issue. It follows instead a lone Louisiana district court opinion. The court has not foreclosed the CSU from justifying its actions with respect to the Bakersfield wrestling team, but has determined that achieving proportionality is not, by itself, a sufficient justification.

In February 1999, the court granted plaintiffs’ request for a preliminary injunction, stating that capping men’s teams is a quota in violation of Title IX. CSU appealed. *In December 1999, the Ninth Circuit Court of Appeals reversed the lower court, ruling that the capping of men’s teams is not a violation of Title IX. The plaintiffs have announced their intent to petition for rehearing and/or to take this matter to the United States Supreme Court.*

Smallen v. Sacramento State, et al. – Sacramento Superior Court

Darren Smallen, who is white, claims that he was denied admission to the graduate program in Social Work at CSU Sacramento, in violation of Prop. 209 and federal law, because the university secretly considered race in its admission decisions. The case is in the discovery phase. *Arbitration is set for April 2000.*

**Other Cases**

Board of Trustees v. Bello’s Sporting Goods – San Luis Obispo Superior Court

This lawsuit seeks a permanent injunction to prevent Bello’s Sporting goods, a store in San Luis Obispo, from engaging in further sales of clothing and other merchandise bearing the “Cal Poly” name. Bello’s contends that it has a right to do so because: (1) it sold clothing with the “Cal Poly” name before CSU began doing so; and (2) CSU waived its rights by not filing suit earlier. On April 29, 1999, the court denied CSU’s request for a preliminary injunction.

*The court subsequently granted CSU’s request to amend its complaint to include claims against Bello’s based upon state and federal trademark, unfair competition and anti-dilution laws. Bello’s has filed a cross complaint for damages against CSU and the Cal Poly Foundation. A hearing to dismiss Bello’s claims against the CSU on legal grounds is scheduled for hearing on March 1, 2000. A motion for a summary judgment in favor of the CSU on the entire case is set for hearing on March 30, 2000. The case is in the discovery phase.*

Casmalia Resources Site Steering Committee v. State of California, et al. – Los Angeles County Superior Court

Plaintiff, Casmalia Resources Site Steering Committee, is an association of large corporations and other affiliates which have disposed of toxic substances at a now-inactive waste treatment, storage and disposal facility in northern Santa Barbara County. Pursuant to a Consent Decree entered into with the Environmental Protection Agency, Casmalia has paid considerable sums to clean up that

site and is now seeking reimbursement from the state on the theory that the state had a duty under a number of statutes to monitor the site, and to pay for the clean-up of wastes it contributed to the site. The CSU is named as a defendant in this lawsuit along with 30 other agencies of the state that purportedly disposed of toxic wastes at this facility. The attorney general is representing the CSU in this litigation without charge and has determined that there is no insurance that covers these claims. This case was suspended in January 1999 by a demand from the EPA to approximately 800 entities that used this site, including the state.

*The case was dismissed in December 1999, because of a next-to-final settlement between the state and the EPA, which is anticipated to be finalized by May 2000. There are no state funds to cover this exposure, and each CSU campus which contributed waste to this site will therefore be required to contribute in proportion to its use.*

City of Marina v. CSU, et al. – Monterey County Superior Court

Fort Ord Reuse Authority v. CSU, et al. – Monterey County Superior Court

Plaintiffs in these two lawsuits are challenging the adequacy of the final environmental impact report prepared for CSU Monterey Bay's Physical Master Plan. They allege that the city and FORA will suffer unmitigated adverse impacts if the plan is implemented and that the CSU improperly fails to recognize the jurisdiction of FORA over campus development that does not involve education or research. *After settlement discussions failed, the court issued an intended decision in favor of the City of Marina and FORA. A proposed order prepared by plaintiffs, and CSU's objections to it, will be heard by the court before a final decision is issued. An appeal is being considered.*

Native American Heritage Commission, et al. v. Board of Trustees – Los Angeles County Superior Court

In this action the Native American Heritage Commission and 29 individuals claimed that a 22-acre site on the CSU Long Beach campus should not be developed because it is the location of the ancient Native American village of Puvungna and the only public land suitable as a customary place of worship for certain Native American religions. In April 1995, the CSU's motion for summary judgment was granted. Plaintiffs appealed. In December 1996, the California Court of Appeal overturned the trial court opinion, ruling that because it is a part of the state, the CSU lacks standing to challenge the constitutionality of the statute which permitted the plaintiffs to file this suit. The CSU's petition to the California Supreme Court was denied. The parties are engaged in settlement discussions. Plaintiffs' counsel has not responded to a CSU proposal for many months. The trial court has not resumed its jurisdiction over the remaining claim.