

MINUTE ITEM

12. APPROVAL OF A RIGHT-OF-ENTRY AGREEMENT GRANTED TO PACIFIC GAS AND ELECTRIC COMPANY IN CONNECTION WITH PACIFIC GAS AND ELECTRIC COMPANY VS. COUNTY OF SAN MATEO, ET AL., SAN MATEO SUPERIOR COURT NO. 80503 - W.O. 503.300 AND W.O. 1339, P.R.C. 2652.1.

After consideration of Calendar Item 17 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE AN AGREEMENT GRANTING TO PACIFIC GAS AND ELECTRIC COMPANY RIGHT OF ENTRY AND PERMISSION TO COMMENCE CONSTRUCTION OF AN ELECTRIC SUBSTATION UPON THE DISPUTED 0.53-ACRE PARCEL WHICH IS SUBJECT OF THE EMINENT DOMAIN ACTION, PACIFIC GAS AND ELECTRIC COMPANY VS. COUNTY OF SAN MATEO, ET AL., SAN MATEO SUPERIOR COURT NO. 80503, THE RENTAL UNDER SAID AGREEMENT TO BE \$330 ANNUALLY. ANY UNEARNED RENTAL UNDER THE AGREEMENT IS TO BE REFUNDED TO PACIFIC GAS AND ELECTRIC COMPANY. THE LANDS TO BE OCCUPIED ARE DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL TWO; THENCE ALONG THE SOUTHERLY BOUNDARY THEREOF S. 89° 54' 30" W., 320 FEET, MORE OR LESS, TO THE NATURAL LOW WATER MARK ALONG THE NORTH BANK OF STEINBERGER SLOUGH; THENCE ALONG SAID NATURAL LOW WATER MARK THE FOLLOWING COURSES:

N. 59° 30' E., 100 FEET
N. 67° 00' E., 50 FEET
N. 73° 00' E., 50 FEET
N. 83° 30' E., 100 FEET
N. 88° 30' E., 45 FEET
AND S. 78° 30' E., 22 FEET,

MORE OR LESS, TO THE EAST LINE OF SAID PARCEL TWO; THENCE ALONG THE EASTERLY LINE OF PARCEL TWO, S. 15° 42' 30" W., 100 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 0.53 ACRE, MORE OR LESS.

Attachment
Calendar Item 17 (2 pages)

CALENDAR ITEM

17.

APPROVAL OF A RIGHT-OF-ENTRY AGREEMENT GRANTED TO PACIFIC GAS AND ELECTRIC COMPANY IN CONNECTION WITH PACIFIC GAS AND ELECTRIC COMPANY VS. COUNTY OF SAN MATEO, ET AL., SAN MATEO SUPERIOR COURT NO. 80503 - W.O. 503.300 AND W.O. 1339.

An eminent domain action filed in Superior Court of San Mateo County June 16, 1958, by the Pacific Gas and Electric Company, sought to condemn, for the purpose of erecting an electric substation thereon, a certain portion of land located in the natural bed of Steinberger Slough in San Mateo County.

The area within the limits of Swamp and Overflowed Land Survey No. 112, San Mateo County (which extended into the bed of Steinberger Slough), was patented in 1869 under purported authority of the Swampland Sales Act of March 28, 1868. However, no authority to convey beds of navigable waterways under Swampland Surveys existed at the time of patent. Later curative actions, permitting tidelands within Swampland Surveys to be conveyed validly, rectified the situation partially, but the area of the bed of Steinberger Slough was left in doubt.

Accordingly, the office of the Attorney General entered an Answer in Action No. 80503 on September 22, 1958, claiming ownership of the slough area by virtue of the sovereignty of the State of California, alleging a value of \$20,000.

In June 1960, a representative of the plaintiff in the above-numbered action informed the office of the Attorney General and the State Lands Division that negotiations in the action had been successfully completed with all defendants except Leslie Salt Co., who alleged ownership of the subject area as successor to the patentee under Swamp and Overflowed Land Survey No. 112. Under the provisions of Chapter 1885, Statutes of 1959, negotiations are being carried on between Leslie Salt Co. and the State to clarify title to certain lands in the area (including the slough under consideration) by an exchange of lands. If the proposed exchange between Leslie and the State is consummated, the parcel involved here would be conveyed to Leslie. Completion of the Leslie exchange has been delayed, however, because of a legal issue involving the reservation of the right to fish.

Due to the great need for starting construction of the electric substation, a proposed Agreement has been reached between representatives of Pacific Gas and Electric Company, the office of the Attorney General, State Lands Division, and Leslie Salt Co., whereby the State would permit Pacific Gas and Electric Company immediate right of entry upon a 0.53-acre segment of the slough so that construction of a power plant may be commenced.

This Agreement, permitting such right of entry pending completion of the exchange of lands by Leslie Salt and the State, would in no way prejudice the right of Pacific Gas and Electric Company or the State to proceed in the pending condemnation action. The Agreement could not exist longer than

CALENDAR ITEM 17 (CONTD.)

January 1, 1963, which is the deadline for any exchange of lands as proposed between Leslie Salt Co. and the State. Under the provisions of Chapter 1885, Statutes of 1959, if such exchange is consummated before the statutory deadline, the State would execute a disclaimer or other suitable document indicating that the State no longer claims any interest in the involved land. Further negotiations as to the subject area would devolve upon Leslie Salt Co. and Pacific Gas and Electric Company.

Rental under the proposed Agreement between Pacific Gas and Electric Company and the State, payable in advance, would be \$330 annually, with a proportionate amount refundable after such date as Pacific Gas and Electric Company may become the occupant otherwise than pursuant to the proposed Agreement. The rental is not to be considered an index of reasonable market value of the land for any purposes outside the specific Agreement.

The office of the Attorney General has approved the form of Agreement, and the plaintiff in the action has requested approval so that work on the substation may commence.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AN AGREEMENT GRANTING TO PACIFIC GAS AND ELECTRIC COMPANY RIGHT OF ENTRY AND PERMISSION TO COMMENCE CONSTRUCTION OF AN ELECTRIC SUBSTATION UPON THE DISPUTED 0.53-ACRE PARCEL WHICH IS SUBJECT OF THE EMINENT DOMAIN ACTION, PACIFIC GAS AND ELECTRIC COMPANY VS. COUNTY OF SAN MATEO, ET AL., SAN MATEO SUPERIOR COURT NO. 80503, THE RENTAL UNDER SAID AGREEMENT TO BE \$330 ANNUALLY. ANY UNEARNED RENTAL UNDER THE AGREEMENT IS TO BE REFUNDED TO PACIFIC GAS AND ELECTRIC COMPANY. THE LANDS TO BE OCCUPIED ARE DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL TWO; THENCE ALONG THE SOUTHERLY BOUNDARY THEREOF S. 89° 54' 30" W., 320 FEET, MORE OR LESS, TO THE NATURAL LOW WATER MARK ALONG THE NORTH BANK OF STEINBERGER SLOUGH; THENCE ALONG SAID NATURAL LOW WATER MARK THE FOLLOWING COURSES:

N. 59° 30' E., 100 FEET
N. 67° 00' E., 50 FEET
N. 73° 00' E., 50 FEET
N. 83° 30' E., 100 FEET
N. 88° 30' E., 45 FEET
AND S. 78° 30' E., 22 FEET,

MORE OR LESS, TO THE EAST LINE OF SAID PARCEL TWO; THENCE ALONG THE EASTERLY LINE OF PARCEL TWO, S. 16° 42' 30" W., 100 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 0.53 ACRE, MORE OR LESS.