

MINUTE ITEM

5/27/71

24. STATUS OF MAJOR LITIGATION - W.O.s 503.510, 4721, 503.527, 503.562, 1339, 503.554, 503.546, 4926, 503.456, 1839.24, 6987, 1839.28, 503.539, 503.609, 503.610, 503.641, AND 503.534.

The attached Calendar Item 21 was submitted for information only; no action thereon being necessary.

Attachment:

Calendar Item 21 (4 pages)

INFORMATIVE CALENDAR ITEM

5/71

21.

STATUS OF MAJOR LITIGATION - W.O.s 503.510, 4721, 503.527, 503.562, 1339, 503.554, 503.546, 4926, 503.456, 1839.24, 6987, 1839.28, 503.539, 503.609, 503.610, 503.641, AND 503.534.

The following information is current as of May 14, 1971.

1. Case No. 892295
Miller vs. City of Santa Monica, et al.
Los Angeles County Superior Court

W 503.510

(An action by private upland owners involving title to tidelands that have artificially accreted. Both the State Lands Commission and the Division of Beaches and Parks have interests to protect.)

No change; i.e., The case is being reactivated, and the State and the City have taken a number of depositions that tend to show that the area in controversy is subject to the doctrine of implied dedication to the public. Other issues receiving close study are the questions of artificial accretion and the effect of a boundary line agreement entered into several decades ago.

2. Case No. 5 Original in the United States Supreme Court
United States vs. State of California

W 4721

(Relating to the location of the offshore boundaries between lands under the paramount jurisdiction of the United States and lands owned by the State, for such purposes as minerals. A Supplemental Decree was entered in this case, settling the principal controversies between the State and the United States, but reserving jurisdiction in the United States Supreme Court to settle any remaining controversies.)

The Department of the Interior has sent a copy of revised regulations relating to the Channel Islands National Monument, including the lands within one mile of Anacapa Island which are in dispute between the State and the United States. The regulations have been revised so as to exclude any reference to salvage operations and, with this change, the Attorney General's Office does not consider that these regulations impinge upon any rights claimed by the State of California.

3. Case No. 57239
White vs. State of California
Sonoma County Superior Court

W 503.527

W 503.562

(Quiet title action against the State to determine a property boundary along the Petaluma River, Sonoma County.)

No change; i.e., Petition for a Rehearing filed by White has been granted. The case is now submitted for that Rehearing.

INFORMATIVE CALENDAR ITEM 21. (CONTD.)

4. Case No. 48620

Alameda Conservation Association, et al. vs.

State of California, et al.

United States District Court, Northern District

W 1339
W 503.554

(Action for declaratory relief and an injunction against the State of California, certain of its officers and officials, and Leslie Salt Co., seeking to invalidate the boundary settlement and exchange of lands between the State of California and Leslie Salt Co.)

Leslie Salt's Petition for Certiorari was denied by the United States Supreme Court. The case now will be transferred back to the Ninth Circuit, and then to the District Court for further proceedings. It is expected that the State will be dismissed from the action at that time.

5. Ad Valorem Tax Litigation

W 503.546

(Various actions by oil companies to recover ad valorem taxes. The potential fiscal impact upon the State of this litigation is substantially in excess of \$100 million.)

A meeting was held on March 16, 1971, with the Assistant Presiding Judge of the Los Angeles County Superior Court to discuss the possibility of assigning a single judge to hear all pending cases, and the Honorable William H. Levitt has been assigned to hear all of these cases. A time schedule has been set up for proceeding therewith. The Attorney General hopes to have Complaints in Intervention filed by June 1, 1971, for all pending litigation involving ad valorem taxes imposed upon contractors under the Drilling and Operating Contracts both in the offshore portion of the East Wilmington Oil Field and in the Harbor District. Discussions are going on between the City of Long Beach and the Attorney General concerning the deductibility from oil royalties otherwise payable to the City and the State of attorneys' fees incurred by the various oil companies in litigating the propriety of the imposition of ad valorem taxes upon the various drilling and operating contracts. As the Commission has been informed previously, the State, and the City as Trustee for the State, will bear approximately 96% of the total burden of these taxes.

6. Case No. M-1105 (formerly Case No. 4 Civil 9344) in the State Superior Court

W 4926

County of Orange, et al. vs. Heim, State of California - Real Party in Interest

(Petition for Writ of Mandate involving the legality of the Upper Newport Bay Exchange approved by the State Lands Commission.)

The Orange County Superior Court entered a Judgment, Findings and Conclusions substantially in accord with those advocated by the Attorney General. The Interveners filed a Motion for a New Trial.

This Motion (which was joined in by Respondent) was denied by the Honorable Judge Claude Owens, and Notices of Appeal have been filed by the Respondent and Interveners. Orange County has served Notices of Cancellation of the Operative Contracts relating to this proposed exchange upon the Irvine Company. The Irvine Company contests the legal effect of these Notices and has filed an Action for Declaratory Relief in the Orange County Superior Court.

INFORMATIVE CALENDAR ITEM 21. (CONTD.)

7. Case No. 283455
Dillon vs. Atchison, Topeka and Santa Fe Railway Company
San Diego County Superior Court

W 503.456

(To determine whether or not Tideland Survey No. 17 is valid, based upon Patent from the Governor of about 1871.)

No change; i.e., Clerk's and Reporter's Transcripts on Appeal have been filed with the Court of Appeals, and the State is awaiting appellants' Opening Brief.

8. Case No. 32824
Peorie vs. William Kent Estate Company
Marin County Superior Court

W 1839.24

(Retrial of an action to abate a public nuisance (a fence erected and maintained perpendicular to the shoreline) on the Pacific Ocean side of the Bolinas Lagoon Sandspit. The case involved a judicial interpretation of the Statutory phrase "Ordinary High Water Mark.")

The State's Objections to the Proposed Findings by the Defendant, as well as the State's Proposed Court Findings and Conclusions, were substantially rejected by the Court.

9. Civil Case No. 144257
State of California vs. County of San Mateo, et al.
San Mateo County Superior Court

W 6987
W 1839.28

(A declaratory relief action to determine what interests were conveyed in trust to the County of San Mateo by Chapter 1857, Statutes of 1965.)

No change; i.e., The Superior Court granted the Motion of the Sierra Club and the Save San Francisco Bay Association to intervene as party, subject to their limiting the issues to those raised in the State's original Complaint. Further developments await completion of factual study.

10. Civil Case No. 125379 (companion case to No. 144257 above)
County of San Mateo vs. Ideal Cement Company, et al.
San Mateo County Superior Court

W 503.539

(In order to obtain uniformity of decision, the State has filed an Answer to the Complaint. This action is a condemnation matter brought by the County of San Mateo, concerning lands located within the aforementioned statutes (Ch. 1857/65). The State contends that said lands were granted in trust to the County, or in the alternative, that the County received an easement over said lands in trust which permits the County to use the subject property for the purposes contemplated by the condemnation action.)

No change; i.e., Stipulation has been signed by all parties, continuing any further proceedings in the case until there is a resolution of the issues presented in State of California vs. County of San Mateo, et al., Case No. 144257 (see No. 9 above).

INFORMATIVE CALENDAR ITEM 21. (CONTD.)

11. Case No. SOC 21023

W 503.609

City of Long Beach vs. Radford, et al.

Los Angeles County Superior Court

and

W 503.610

Case No. 171042

City of Long Beach vs. Matthews, et al.

Orange County Superior Court (transferred from Los Angeles
County Superior Court)

(These are two condemnation actions filed by the City of Long Beach to obtain title to parcels of property lying between Ocean Boulevard in Long Beach and the public beach, as a part of the City's over-all acquisition program to obtain substantially all waterfront property in public ownership. The State of California has been named as a defendant because the seaward boundary of the affected parcels may be the landward boundary of sovereign lands granted by the State to the City of Long Beach in trust.)

In the Radford case: No change; i.e., Scheduled for Trial on June 1, 1971.

In the Matthews case: No change; i.e., Trial has been continued to July 26, 1971.

12. Case No. 838005

W 503.641

Union Pacific Railroad Company, et al. vs. City of Long Beach
Los Angeles County Superior Court

(Suit attacking the City of Long Beach business license tax for oil production. That portion of the ordinance providing for revenues from unitized tideland operations was declared unconstitutional.)

No change; i.e., Amicus Curiae Brief on behalf of the State Lands Commission was filed on February 17, 1971.

13. First Appellate District, Case No. 24883
California Supreme Court, Case No. SF-22566
Marks vs. Whitney

W 503.534

(A quiet title action between two private land owners, primarily concerning the ownership of a tideland patent on Tomales Bay. The seaward boundary of said tideland patent is the landward boundary of State submerged Lands.)

No change; i.e., Awaiting decision of the California Supreme Court.