

21. STATUS OF MAJOR LITIGATION.

The attached Calendar Item 12 was submitted to the Commission for information only, no action thereon being necessary.

Attachment:

Calendar Item 12 (5 pages)

INFORMATIVE CALENDAR ITEM

10/71

12.

STATUS OF MAJOR LITIGATION

The following information is current as of October 13, 1971.

1. Case No. 892295

W 503.510

Miller vs. City of Santa Monica, et al.  
Los Angeles County Superior Court

(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.)

Plaintiffs voluntarily dismissed the case.

Thirty-four notices were mailed on September 24, 1971, to the property owners believed to be responsible for the encroachments involved in this action. The notices informed the owners that action would be taken by the State of California and the City of Santa Monica if the owners failed to voluntarily remove the encroachments within sixty days.

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.)

A proposed Stipulation was received from the U. S. Attorney's Office to the effect that the proposed 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, are without prejudice to any claims of the State of California under the Submerged Lands Act, and that this matter may be litigated at a later date. Since the Department of Fish and Game had evidenced opposition to the proposed rules and regulations, a copy of said agreement was sent to that Department for its concurrence. The Department of Fish and Game has now indicated that it has no objection to the proposed Stipulation. Therefore, the Stipulation will be signed and copies retained by the U. S. and California Attorneys General.

INFORMATIVE CALENDAR ITEM 12. (CONTD.)

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., Upon Rehearing, the Court, on July 15, 1971, rendered Judgment for the Plaintiff--a two-to-one decision against the State. The State filed its Petition for Rehearing in the District Court on July 30, 1971. Petition for Rehearing was granted. Still under submission.

4. 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.)

No change; i.e., On July 8, 1971, the Attorney General filed Complaints in Intervention in 22 pending ad valorem tax cases on behalf of the State Lands Commission. It is estimated that this litigation may affect State revenues by as much as \$180 million, and it is anticipated that the litigation will move expeditiously. On July 15, 1971, the Defendants, City of Long Beach and County of Los Angeles, filed a Motion for Summary Judgment on the ground, among others, that Plaintiff, Long Beach Oil Development Company, had failed to comply with the City's ordinances relating to the filing of claims for refund of taxes. On August 9, 1971, the Attorney General, on behalf of the State Lands Commission, filed a Memorandum of Points and Authorities in Opposition to the Motion for Summary Judgment, taking the position (1) that the Statewide provisions of the Revenue and Taxation Code, rather than the Long Beach ordinances, are the properly applicable claims provisions; and (2) that, in any event, the City is, by waiver, estoppel, or express or implied agreement, precluded from raising this issue in the litigation. It had been anticipated that a Closing Brief would be filed by Defendants on or about August 16, 1971. It is now anticipated that a Closing Brief will be filed by the City and the County at a later date than previously anticipated.

5. Case No. M-1105 (formerly Case No. 4 Civil 93/4) in the  
State Superior Court  
County of Orange, et al. vs. Heim, State of California -  
Real Party in Interest

W 4926

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

Completion of the Record on Appeal is anticipated within the next few weeks, and corrections are now being made in the Reporter's Transcript. It is anticipated that briefing will commence within the next sixty days.

INFORMATIVE CALENDAR ITEM 12. (CONTD.)

6. Case No. 283455

W 503.456

Dillon vs. Atchison, Topeka and Santa Fe Railway Company  
San Diego County Superior Court

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

No change; i.e., the State and the San Diego Unified Port District  
have received Appellant's Opening Brief, and are preparing Respond-  
ents' Brief.

7. Case No. 32824

W 1839.24

People vs. William Kent Estate Company  
Marin County Superior Court

(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".)

No change; i.e., Plaintiff filed Notice of Appeal and requested  
preparation of Clerk's and Reporter's Transcripts on Appeal.

8. Civil Case No. 144257

W 6987

W 1839.28

State of California vs. County of San Mateo, et al.  
San Mateo County Superior Court

(A declaratory relief action to determine what interests were con-  
veyed 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 comple-  
tion of factual study.

9. 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 alterna-  
tive, that the County received an easement over said lands in trust  
which permits the County to use the subject property for the pur-  
poses contemplated by the condemnation action.)

No change; i.e., Stipulation has been signed by all parties, con-  
tinuing any further proceedings in the case until there is a reso-  
lution of the issues presented in State of California vs. County  
of San Mateo, et al., Case No. 144257 (see No. 8 above).

INFORMATIVE CALENDAR ITEM 12. (CONED.)

10. Case No. SOC 21023  
City of Long Beach vs. Radford, et al.  
Los Angeles County Superior Court

W 503.609

and  
Case No. 171042  
City of Long Beach vs. Matthews, et al.  
Orange County Superior Court (transferred from Los Angeles  
County Superior Court)

W 503.610

(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 overall 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., Matter is currently being tried. Testimony on the seaward boundary and existence of a Eion easement was concluded on September 2, 1971. The matter has been submitted to the Court for a decision on these two issues. Trial on value of the parcel being condemned by the City will resume on November 1, 1971.

In the Matthews case: No change; i.e., Trial has been continued to February 28, 1972.

11. Case No. 838005  
Union Pacific Railroad Company, et al. vs. City of Long Beach  
Los Angeles County Superior Court

W 503.641

(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.)

Oral argument is set for October 26, 1971.

12. 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.



INFORMATIVE CALENDAR ITEM 12. (CONED.)

13. Case No. 178401  
County of Orange vs. Chandler Sherman, et al.  
Orange County Superior Court

W 503.669

(The County brought the action, on an implied dedication theory, to quiet title to certain beach property near Dana Point.)

No change; i.e., Chandler Sherman filed an Answer and Cross Complaint on July 1, 1971.

14. Case No. M-1164  
Sagar vs. County of Orange, et al.  
Orange County Superior Court

W 503.621

(Private parties brought an action against the County for vacating a road which provided the only access to the Salt Creek Beach.)

Negotiations between Orange County and Avco Community Developers are nearly completed to settle this case. A.B. 1668, which would confirm the agreement, is passing through the State Legislature with only minor amendments.

15. Case No. 15156  
People vs. Vincillione, et al. (People vs. Evans, et al.)  
Riverside County Superior Court

W 1839.29

(A case to quiet title and for injunctive relief concerning the Colorado River.)

The Demurrer to Counter Claim was sustained, with thirty days leave to amend.

16. Case No. 3 Civil 12936  
People vs. Ray Mack, et al.  
Court of Appeals, Third Appellate District

W 1839.21

(An action brought by the District Attorney of Shasta County, which involves the navigability of the Fall River.)

An Opinion was issued by the Court of Appeals, upholding the lower court in the State's favor. There possibly will be a Petition for Rehearing in the Supreme Court.

17. Case No. 940856  
Federalized Mortgage Investors, et al., vs. Charles Lick, et al.  
Los Angeles County Superior Court

W 503.586

(An action between private parties to determine ownership of the Lick Pier (Pacific Ocean Park), and to determine the ordinary high water mark at that point.)

No change; i.e., Parks and Recreation may be interested in acquiring the uplands, which would resolve the problem as to ownership. There have been further discussions between State Lands, Parks and Recreation, City of Los Angeles and County of Los Angeles.