

MINUTE ITEM

4/27/72
NB

30. AUTHORIZATION FOR THE ATTORNEY GENERAL TO ENTER INTO A STIPULATION FOR ENTRY OF JUDGMENT AND JUDGMENT ON STIPULATION FOR ENTRY OF JUDGMENT IN SETTLEMENT OF LITIGATION CONCERNING THE BOUNDARY OF LAND IN SAN DIEGO BAY IN THE CASE OF WILLIAM J. THOMPSON V. SAN DIEGO UNIFIED PORT DISTRICT AND THE STATE OF CALIFORNIA, SAN DIEGO SUPERIOR COURT CASE NO. 319571, SAN DIEGO COUNTY - W 503.652.

After consideration of Calendar Item 29 attached, and upon motion duly made and carried, the following resolution was adopted:

THE STATE LANDS COMMISSION AUTHORIZES THE ATTORNEY GENERAL TO EXECUTE A PROPOSED STIPULATION FOR ENTRY OF JUDGMENT AND A JUDGMENT ON STIPULATION FOR ENTRY OF JUDGMENT IN THE MATTER OF WILLIAM J. THOMPSON V. SAN DIEGO UNIFIED PORT DISTRICT AND THE STATE OF CALIFORNIA, SAN DIEGO COUNTY SUPERIOR COURT CASE NO. 319571, WHEREBY TITLE TO A PARCEL OF REAL PROPERTY SITUATED IN THE COUNTY OF SAN DIEGO DESCRIBED AS PARCEL 1 IS VESTED IN PLAINTIFF AS OWNER IN FEE SIMPLE ABSOLUTE, EXCEPT THAT AS TO PARCEL 2 (WHICH CONSTITUTES A PORTION OF PARCEL 1) THERE SHALL BE AN EASEMENT IN FAVOR OF THE PEOPLE OF THE STATE OF CALIFORNIA FOR PURPOSES OF NAVIGATION, COMMERCE AND FISHERIES, SAID PARCELS 1 AND 2 DESCRIBED IN EXHIBIT "A" ATTACHED AND INCORPORATED BY REFERENCE HEREIN AND MADE A PART HEREOF.

Attachment:

Calendar Item 29 (3 pages)

CALENDAR ITEM

29.

4/72

NB

W 503.652

AUTHORIZATION OF ATTORNEY GENERAL TO ENTER INTO A STIPULATION FOR ENTRY OF JUDGMENT AND JUDGMENT ON STIPULATION FOR ENTRY OF JUDGMENT IN SETTLEMENT OF LITIGATION CONCERNING THE BOUNDARY OF LAND IN SAN DIEGO BAY IN THE CASE OF WILLIAM J. THOMPSON V. SAN DIEGO UNIFIED PORT DISTRICT AND THE STATE OF CALIFORNIA, SAN DIEGO SUPERIOR COURT CASE NO. 319571; SAN DIEGO COUNTY

The plaintiff filed the above action to quiet title to certain property abutting San Diego Bay northerly of McCall Street in the City of San Diego.

The tide and submerged lands abutting the private lands were granted in trust to the City of San Diego pursuant to Chapter 700, Statutes of 1911, as amended, and were subsequently granted to the San Diego Unified Port District pursuant to Chapter 67, Statutes of 1962.

The boundary between the private and public lands is the mean high tide line as it last existed in a natural state, but because said line has been affected and controlled by artificial processes there is substantial doubt as to its true location. The proposed stipulation for judgment will permanently fix the boundary in order to prevent future questions of ownership. The judgment reserves an easement in favor of the public over the proposed private lands for purposes of navigation, commerce and fisheries, with the same scope and character as defined in the recent case of Marks v. Whitney, 6 Cal. 3d 251.

The foregoing will be effected by vesting in the plaintiff as owner in fee simple absolute in Parcel 1, except that as to Parcel 2 (which constitutes a portion of Parcel 1) there will be an easement in favor of the public for commerce, navigation and fisheries, said lands being described in Exhibit "A" attached as Parcels 1 and 2.

The Division believes that the proposed settlement is in the best interests of the State. The line to be agreed to is the most favorable which could be obtained through negotiation and compromise. It has the advantages of avoiding litigation, of fixing a firm line and of preserving an additional area as an easement for public use.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE THE ATTORNEY GENERAL TO EXECUTE A PROPOSED STIPULATION FOR ENTRY OF JUDGMENT AND A JUDGMENT ON STIPULATION FOR ENTRY OF JUDGMENT IN THE MATTER OF WILLIAM J. THOMPSON V. SAN DIEGO UNIFIED PORT DISTRICT AND STATE OF CALIFORNIA, SAN DIEGO COUNTY SUPERIOR COURT CASE NO. 319571, WHEREBY TITLE TO A PARCEL OF REAL PROPERTY SITUATED IN THE COUNTY OF SAN DIEGO DESCRIBED AS PARCEL 1 IS VESTED IN PLAINTIFF AS OWNER IN FEE SIMPLE ABSOLUTE, EXCEPT THAT AS TO PARCEL 2 (WHICH CONSTITUTES A PORTION OF PARCEL 1) THERE SHALL BE AN EASEMENT IN FAVOR OF THE PEOPLE OF THE STATE OF CALIFORNIA FOR PURPOSES OF NAVIGATION, COMMERCE AND FISHERIES, SAID PARCELS 1 AND 2 DESCRIBED IN EXHIBIT "A" ATTACHED AND INCORPORATED BY REFERENCE HEREIN AND MADE A PART HEREOF.

Attachment: Exhibit "A"

A 76, 77, 78, 79, 80
S 38, 39, 40

EXHIBIT "A"

W 503.652

PARCEL 1:

Lot 1 in Block 23 of the Beach Lot of San Diego, ALSO that portion of the easterly 25 feet of San Antonio Avenue adjoining said Lot 1 on the west, as closed to public use May 25, 1914, by Resolution No. 17359 of the Common Council of the City of San Diego, according to Map thereof made by Lt. Cave J. Coutts in 1849 (also known as Lot 1 in Block 136 of La Playa), said land being more particularly described as follows:

BEGINNING at the point of intersection of the centerline of San Antonio Street and McCall Street; thence along the centerline of McCall Street S. $77^{\circ} 23' 40''$ E., 25.00 feet; thence parallel with the centerline of San Antonio Street N. $12^{\circ} 36' 20''$ E., 25.00 feet to the True Point of Beginning of the herein described land; thence continuing N. $12^{\circ} 36' 20''$ E., 93.65 feet to the Mean High Tide Line of the Bay of San Diego; thence along said Mean High Tide Line the following courses:

S. $48^{\circ} 23' 32''$ E., 49.27 feet;
S. $2^{\circ} 38' 50''$ E., 31.41 feet;
S. $13^{\circ} 29' 38''$ W., 30.92 feet; and
S. $21^{\circ} 08' 01''$ W., 8.64 feet to a point 25 feet

northerly of the centerline of McCall Street; thence leaving said Mean High Tide Line N. $77^{\circ} 23' 40''$ W., 49.59 feet to the True Point of Beginning.

PARCEL 2:

Lot 1 in Block 23 of the Beach Lot of San Diego, ALSO that portion of the easterly 25 feet of San Antonio Avenue adjoining said Lot 1 on the west, as closed to public use May 25, 1914, by Resolution No. 17359 of the Common Council of the City of San Diego, according to map thereof made by Lt. Cave J. Coutts in 1849 (also known as Lot 1 in Block 136 of La Playa), said land being more particularly described as follows:

BEGINNING at the point of intersection of the centerline of San Antonio Street and McCall Street; thence along the centerline of McCall Street S. $77^{\circ} 23' 40''$ E., 25.00 feet; thence parallel with the centerline of San Antonio Street N. $12^{\circ} 36' 20''$ E., 118.65 feet to the Mean High Tide Line of the Bay of San Diego; thence along said Mean High Tide Line S. $48^{\circ} 23' 32''$ E., 47.50 feet to a point which is distant 66.50 feet easterly at right angles from the said centerline of San Antonio Street, said point being the True Point of Beginning; thence continuing along said Mean High Tide Line the following courses:

S. 48° 23' 32" E., 1.77 feet;
S. 2° 38' 50" E., 31.41 feet;
S. 13° 29' 38" W., 30.92 feet; and
S. 21° 08' 01" W., 8.64 feet to a point 25 feet

northerly of the said centerline of McCall Street; thence leaving said Mean High Tide Line and parallel with the said centerline of McCall Street N. 77° 23' 40" W., 8.05 feet to a point which is distant 66.50 feet easterly at right angles from the said centerline of San Antonio Street; thence parallel with said centerline of San Antonio Street N. 12° 36' 20" E., 70.62 feet to the true point of beginning containing 542 square feet.