

17. APPROVAL OF BOUNDARY LINE AGREEMENT, ACCEPTANCE OF QUIT CLAIM DEEDS, AND RATIFICATION OF STIPULATIONS; PEOPLE (DEPARTMENT OF PUBLIC WORKS) V. OWENS, ET AL., BUTTE COUNTY SUPERIOR COURT NO. 37,390; STATE (DEPARTMENT OF WATER RESOURCES) V. SHASTA PIPE & SUPPLY COMPANY, BUTTE COUNTY SUPERIOR COURT NO. 37,786 - W 1839.15, BLA 138.

After consideration of Calendar Item 15 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. RATIFIES AND CONFIRMS THE STIPULATIONS FOR JUDGMENTS IN CONDEMNATION IN THE CASES OF PEOPLE (DEPARTMENT OF PUBLIC WORKS) V. OWENS, ET AL., BUTTE COUNTY SUPERIOR COURT, ACTION NO. 37,390, AND STATE (DEPARTMENT OF WATER RESOURCES) V. SHASTA PIPE & SUPPLY COMPANY, BUTTE COUNTY SUPERIOR COURT, ACTION NO. 37,786, WITH RESPECT TO THE RESOLUTION OF TITLES AND BOUNDARY DISPUTES RELATING TO THE STATE'S OWNERSHIP IN ITS SOVEREIGN CAPACITY OF THE BED OF THE FEATHER RIVER.
2. APPROVES AND ACCEPTS THE BOUNDARY LINE AGREEMENT (BLA 138) ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
3. ACCEPTS THE QUIT CLAIM DEED FROM SHASTA PIPE & SUPPLY COMPANY, A CORPORATION, TO THE STATE OF THE LANDS DESCRIBED IN EXHIBIT "C" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
4. ACCEPTS THE QUIT CLAIM DEED FROM FEATHER RIVER INVESTMENT COMPANY, A CORPORATION, DAVID LIVINGSTON AND LOIS LIVINGSTON, AS TRUSTEES UNDER A DEED OF TRUST DATED FEBRUARY 23, 1962, AND DALLMAN CO., A CORPORATION, TO THE STATE, OF THE LANDS DESCRIBED IN EXHIBIT "B" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
5. AUTHORIZES THE EXECUTION AND ACKNOWLEDGMENT, FOR AND ON ITS BEHALF, OF THE SAID BOUNDARY LINE AGREEMENT; THE CERTIFICATES OF ACCEPTANCE OF SAID QUIT CLAIM DEEDS; AND TO CAUSE SAID DOCUMENTS TO BE RECORDED; AND TO TAKE SUCH FURTHER ACTIONS AS MAY BE REASONABLE AND NECESSARY TO CARRY OUT THE PROVISIONS OF THE AGREEMENT.

Attachment:

Calendar Item 15 (3 pages)

CALENDAR ITEM

15.

2/73  
WDC  
W 1839.15  
BLA 138

APPROVAL OF BOUNDARY LINE AGREEMENT;  
ACCEPTANCE OF QUIT CLAIM DEEDS;  
AND RATIFICATION OF STIPULATIONS

This matter arose out of the above two consolidated cases in eminent domain involving land on the north or right bank of the Feather River across from Oroville, the majority of which lies between the old upstream State Highway Bridge and the new downstream State Highway Bridge. One case was brought by the Department of Public Works for freeway purposes (the new bridge and approach), and the other by the Department of Water Resources for fish hatchery and temporary haul road purposes. The cases were tried, appealed, and again partially tried. For the purposes of avoiding the uncertainties and financial burdens of further litigation, the parties agreed to a compromise settlement. With respect to the resolution of disputes concerning State sovereign titles in the bed of the Feather River, the State Lands Commission was represented by the Attorney General with the assistance of the State Lands Division staff. The settlement is recommended by the Attorney General and the State Lands Division as being in the best interests of the State.

The case included issues respecting the location of the last natural boundary of the river as well as its navigability. The works of man (placer mining) artificially moved the location of the river southerly in the last century. The natural river boundary was obliterated and its location has been the subject of uncertainty and dispute. The northerly bank of the present artificial river bed is entirely southerly of the agreed boundary. In addition to settlement of the issues involved in the taking by the other State agencies, the settlement includes the establishment of a fixed and permanent boundary of the State's ownership of the river bed, and provides for an 80-foot public right-of-way for foot access to the river. The total settlement includes: a boundary line agreement; two quit claim deeds, and a stipulation in each case upon which final judgments of the court have been made, as follows:

A Boundary Line Agreement between the State and Feather River Investment Company, a corporation (the successor in interest of Shasta Pipe and Supply Company); Dallman Co., a corporation; and David Livingston and Lois Livingston, as Trustees under a Deed of Trust dated February 23, 1962; executed by said Feather River Investment Company of which the Dallman Co. is the beneficiary, has been executed by the private parties and delivered to the State Lands Division, the same being on file in the records of the Division and is incorporated herein by reference.

The Boundary Line Agreement establishes the location of the last natural north or right bank line of the Feather River, and establishes such line as the permanent and fixed boundary between State as owner of the bed of the Feather River southerly of such line, and the adjoining lands northerly of

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such line owned by the other parties to the Agreement. The boundary line is generally shown on Exhibit A-1 on file in the office of the State Lands Commission and by reference made a part hereof.

As written the Boundary Line Agreement incorporates a quit claim by the private parties to the State of lands lying adjacent to and southerly of such agreed boundary, as well as their grant to the State of an 80-foot public foot access right-of-way from Oroview Drive to the river, without the requirement of maintenance by State. The lands quit claimed to the State and the 80-foot right-of-way are also generally shown on Exhibit A-1.

In turn, the Boundary Line Agreement incorporates a quit claim by the State of lands lying adjacent to and northerly of such boundary line to the private parties. In addition, the private parties retain their riparian rights and a non-exclusive 80-foot right-of-way across the State's land to the present artificial bank of the Feather River.

In addition to the quit claim contained in the Boundary Line Agreement, Feather River Investment Company, et al. has executed and delivered to the State Lands Commission, their Quit Claim Deed to the State, a copy of which is on file with the Division, the lands being quit claimed to the State thereby being generally depicted on Exhibit B-1 on file in the office of the State Lands Commission and by reference made a part hereof.

Shasta Pipe & Supply Company, a corporation, a predecessor in interest of Feather River Investment Company, has executed and delivered to the State Lands Commission its Quit Claim Deed to the State, a copy of which is on file with the Division, the land being quit claimed to the State thereby being generally depicted on Exhibit C-1 on file in the office of the State Lands Commission and by reference made a part hereof.

In the case of People (Department of Public Works) v. Owens, et al., Butte County Superior Court No. 37,390 (No. 1 in above Summary), pursuant to Stipulation between defendants, Butte County, and the State, a Judgment and a Final Order of Condemnation have been filed, condemning a parcel of land for freeway purposes, and establishing the boundary of the north or right bank of the Feather River in T. 19 N., R. 4 E., M.D.M., Sections 7 and 8, between private upland claims and the State's ownership in its sovereign capacity of lands in the natural bed of the Feather River, and is generally depicted on Exhibit D-1 on file in the office of the State Lands Commission and by reference made a part hereof.

In the case of State (Department of Water Resources) v. Shasta Pipe & Supply Company, Butte County Superior Court No. 37,786 (No. 2 in the above Summary), pursuant to Stipulation between defendants, Butte County, and the State, a Judgment and a Final Order of Condemnation have been filed, condemning a parcel of land for a fish hatchery, together with a temporary haul road for use in the construction of Oroville Dam. This land is northerly of and bounded by the line determined by the Judgment and Order to constitute the boundary of the State's lands owned in its sovereign capacity, adjoining and lying southerly thereof in the natural bed of the Feather River. It is generally shown on Exhibit D-1.

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EXHIBITS:

- A-1. Agreement-Sketch.
- B-1. Quit Claim Deed-Sketch.
- C-1. Quit Claim Deed-Sketch.
- D-1. Boundary in Stipulations-Sketch.
- E. Site & Vicinity Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. RATIFY AND CONFIRM THE STIPULATIONS FOR JUDGMENTS IN CONDEMNATION IN THE CASES OF PEOPLE (DEPARTMENT OF PUBLIC WORKS) V. OWENS, ET AL, BUTTE COUNTY SUPERIOR COURT, ACTION NO. 37,390, AND STATE (DEPARTMENT OF WATER RESOURCES) V. SHASTA PIPE & SUPPLY COMPANY, BUTTE COUNTY SUPERIOR COURT, ACTION NO. 37,786, WITH RESPECT TO THE RESOLUTION OF TITLES AND BOUNDARY DISPUTES RELATING TO THE STATE'S OWNERSHIP IN ITS SOVEREIGN CAPACITY OF THE BED OF THE FEATHER RIVER.
2. APPROVE AND ACCEPT THE BOUNDARY LINE AGREEMENT (BLA 138) ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
3. ACCEPT THE QUIT CLAIM DEED FROM SHASTA PIPE & SUPPLY COMPANY, A CORPORATION, TO THE STATE OF THE LANDS DESCRIBED IN EXHIBIT "C" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
4. ACCEPT THE QUIT CLAIM DEED FROM FEATHER RIVER INVESTMENT COMPANY, A CORPORATION, DAVID LIVINGSTON AND LOIS LIVINGSTON, AS TRUSTEES UNDER A DEED OF TRUST DATED FEBRUARY 23, 1962, AND DALLMAN CO., A CORPORATION, TO THE STATE, OF THE LANDS DESCRIBED IN EXHIBIT "B" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
5. AUTHORIZE THE EXECUTION AND ACKNOWLEDGMENT, FOR AND ON ITS BEHALF, OF THE SAID BOUNDARY LINE AGREEMENT; THE CERTIFICATES OF ACCEPTANCE OF SAID QUIT CLAIM DEEDS; AND TO CAUSE SAID DOCUMENTS TO BE RECORDED; AND TO TAKE SUCH FURTHER ACTIONS AS MAY BE REASONABLE AND NECESSARY TO CARRY OUT THE PROVISIONS OF THE AGREEMENT.