

MINUTE ITEM

This Calendar Item No. 18
was approved as Minute Item
No. 18 by the State Lands
Commission by a vote of 3 MINUTE ITEM
to 0 at its 7/26/77
meeting.

7/26/77

WC
BLA 159

18. PARTIAL SETTLEMENT, STATE V. SAN MATEO COUNTY, WESTBAY
COMMUNITY ASSOCIATES ET AL. - W 1839.28, Study File #37.

PRC 5362

PRC 5363

Mr. James F. Trout, Manager, Land Operations, explained the compromise settlement referred to in the attached Calendar Item 18, and described the actions taken to inform and obtain the comments of the public. His presentation included the statement that the proposal would establish three major state objectives consisting of: 1) the establishment of the location of the ordinary low water mark; 2) a determination that the old State patents were invalid to divest the State of title to the submerged lands below the ordinary low water mark; and 3) the application of the tidelands trust easement to valid conveyances into private ownership of tidelands above the ordinary low water mark.

The following documents were submitted as a part of the record, on file in the office of the State Lands Commission:

1. Summary of Proposed Partial Settlement;
2. Proposed Settlement Agreement;
3. Two survey maps: 1) Proposed Settlement Map; and 2) Proposed County Grant Map;
4. Summary and transcript of two staff public hearings of July 7, 1977;
5. Display exhibits; and
6. San Francisco Bay Conservation and Development Commission Resolution No. 49, July 21, 1977.

Mr. Trout pointed out two corrections to the proposed settlement: 1) On page 3, line 17 of "Summary of Proposed Partial Settlement", "900 acres" should read "750 acres". 2) The terms of the two access leases should read: "66 years" instead of "49 years".

After consideration of the proposal, and after the opportunity given at this meeting for public comment, and upon no such comment being made, the proposal and resolution presented in Calendar Item 18 was approved by a vote of 3-0.

Attachment: Calendar Item 18, (2 pages)

A 19, 20, 21

S 8, 10

CALENDAR ITEM

7/77

WC

W 1839.28

Study File #37

18.

PARTIAL SETTLEMENT
STATE V. SAN MATEO COUNTY,
WESTBAY COMMUNITY ASSOCIATES, ET AL.

The State Lands Division and Office of the Attorney General recommend approval of the proposed agreement (copy on file in the office of the State Lands Commission) between the State, County of San Mateo, City of San Mateo, City of Burlingame, and Westbay Community Associates, resolving the title dispute raised by this case to almost all of the 10,000 acres of bay front, the unencumbered fee title to which is claimed by Westbay Community Associates by reason of State patents issued to their predecessors in the last century.

The title dispute has been the subject of the above active lawsuit since 1969 (expanded in 1972). A part of the area near Coyote Point has been included within a County condemnation action against Ideal Cement Co., a partner of Westbay Community Associates since 1966.

The Commission, at its public meeting of June 30, 1977, authorized the State Lands Division and the Office of the Attorney General to conduct hearings on the proposal. After notice, the hearings were held at the San Mateo City Hall on July 7, 1977. Copies of a written summary of partial settlement, together with the proposed records of survey (copies of which are on file in the office of the State Lands Commission) were supplied to the public for its consideration at the hearings. Display photographs, maps, charts, and other documentary information of the State Lands Division were displayed at the hearings. The proposed agreement was also available for inspection at the hearings.

The proposal was explained at the hearings, responses were made to questions, and public comments were received. Hearing transcripts have been prepared, together with a summary of the proceedings, which are on file in the office of the State Lands Commission.

If approved by the Commission, the proposal will be submitted to the Governor for signature, and thereafter to the court for its consideration, and it will become effective only upon its approval by judgment of the court. The agreement and surveys will be recorded with the San Mateo County Recorder.

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Authority for the settlement is set forth in Division 6 of the Public Resources Code, as well as the inherent authority of the State in conjunction with the Attorney General to resolve litigation by compromise settlement.

The survey of the real property within the settlement with Westbay Community Associates (Exhibit "A" of the Agreement) and of the real property within the San Mateo County grant (Chapter 1857, Statutes of 1965) (Exhibit "B" of the Agreement) have been approved by the State Lands Division engineering staff and will be recorded pursuant to the settlement agreement (pages 21-22), the maps of both surveys being deemed to be maps of the State Lands Commission.

The Agreement provides for the State to issue access permits to Westbay between Third Avenue in Foster City and Parcel B-8, and between Parcels B-5 and B-8. To the extent the access between Parcels B-5 and B-8 is within the City of San Mateo, the City will issue the permit with approval by the State Lands Commission pursuant to Public Resources Code Sections 6701 through 6706.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE WESTBAY TITLE AND BOUNDARY SETTLEMENT AGREEMENT (BLA 159) IN PARTIAL SETTLEMENT OF SAID LITIGATION.
2. APPROVE THE MAPS OF THE TWO SURVEYS SET FORTH AS EXHIBITS "A" AND "B" TO SAID AGREEMENT.
3. APPROVE THE SAID RIGHTS OF WAY (EXHIBITS "F" AND "G" TO SAID AGREEMENT) AND FIND THAT THEIR TERM OF 66 YEARS IS IN THE BEST INTERESTS OF THE STATE IN SETTLEMENT OF LITIGATION.
4. AUTHORIZE THE EXECUTIVE OFFICER, ASSISTANT EXECUTIVE OFFICER, OR THE MANAGER, LANDS PROGRAM, TO EXECUTE THE AGREEMENT, SURVEY MAPS, AND PERMITS ON BEHALF OF THE COMMISSION.
5. AUTHORIZE THE STATE LANDS DIVISION AND/OR THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL FURTHER ACTIONS WHICH MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PROVISIONS OF SAID AGREEMENT.
6. FIND THAT THIS AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ARE INAPPLICABLE AND THAT THERE IS NO SIGNIFICANT EFFECT UPON THE ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1 ET SEQ., OF THE PUBLIC RESOURCES CODE AND CALIFORNIA ADMINISTRATIVE CODE, TITLE 2, ARTICLE 11.