

MINUTE ITEM

This Calendar Item No. 23

was approved at the meeting

on 10-27-77

at 10-27-77

meeting

CALENDAR ITEM

23.

NEW CHICAGO

10/77

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PRC 5403

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At the August 1977, meeting, the Commission considered and approved calendar item No. 35 which provided for a compromise agreement for certain parcels to be acquired by the U.S. Fish and Wildlife Service at New Chicago, Santa Clara County. The agreement was to resolve questions of title within an area of historic marsh and sloughs. The parcels were to be acquired for the San Francisco Bay National Wildlife Refuge.

Although the present agreement was satisfactory to the Fish and Wildlife Service and the State, upon a delayed final review by the U.S. Attorney General in Washington, objections were made to the nature of the agreement as it would affect portions of the property where permanent improvements or structures are to be built. Under the U.S. Land and Natural Resources Division Directive No. 10-68, regarding acceptability of defeasible fee titles under 40 U.S.C. 255, the U.S. Attorney advises that structures may not be built on areas subject to State titles. As a result a 5 acre portion of the total 232 acres must be cleared of any possible State interest. Within the 5 acre parcel to be quitclaimed, there are no known historic sloughs.

The site is to be used as a major Environmental Education Center for the Refuge. The title resolution is of extreme urgency to allow the timely solicitation of bids for construction of the Center.

The State of California has supported the Refuge from the initial stages as is reflected by Assembly Joint Resolution No. 49 of October 1971:

"WHEREAS, The proposed national refuge, carefully managed for the protection of wildlife, would also provide the people of the San Francisco Bay area and of the nation with access to the bay and its wildlife for observation and enjoyment, offering opportunity for picnicking, photography, fishing, and other recreational activities compatible with the primary purpose of the refuge, and would enable students of all ages from elementary school to college to use the refuge as an outdoor laboratory for the study of biology, ecology, history, and sociology; now, therefore, be it

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Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to establish a national wildlife refuge for the southern portion of San Francisco Bay."

On the basis of the extreme urgency of the matter and the overall public benefit to be derived from the Center the following is proposed:

1. That the title to the physical site needed for the Center and a Right-of-Way to a public road be cleared of any State claims by delivery of the State's quitclaim deed. Staff review indicates that the site has been previously filled to 6 feet or more in height. The deed description on the slope of the fill has been located so as to be above any historic elevation of mean high water.
2. That the title to a small portion of the road Right-of-Way which was traversed by Water Slough be cleared in fee title in the State. The U.S. has agreed to quitclaim to the State any interest in the slough they may have acquired through their acquisitions.
3. That the portion of the road right-of-Way crossing Water Slough be leased to the U.S. for 66 years, and that a similar permit be issued for an existing road to the project site.

Although the Division recommends the resolution of the problem at hand in the manner described above, it is recommended also that the record reflect that this agreement shall only apply to the lands in question and shall not constitute any expression by the Commission as to boundaries or the character of title to any other lands not subject to this understanding.

EXHIBITS: A. Estuary Plot. B. NASA Air Photo.
 C. Site Plot.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTION AND DELIVERY TO THE U.S. OF A QUITCLAIM DEED FOR A PARCEL OF LAND, THE DESCRIPTION OF WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.

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2. AUTHORIZE THE ACCEPTANCE AND RECORDING OF A QUITCLAIM DEED FROM THE U.S. TO THE STATE FOR A PARCEL, COMMONLY KNOWN AS WATER SLOUGH, THE DESCRIPTION OF WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
3. AUTHORIZE THE ISSUANCE OF A 66-YEAR PUBLIC AGENCY PERMIT TO THE FISH AND WILDLIFE SERVICE FOR ACCESS PURPOSES FOR THE LANDS DESCRIBED IN PARAGRAPH 2 ABOVE TOGETHER WITH A NO-PREJUDICE PERMIT FOR AN EXISTING ROADWAY, THE DESCRIPTION OF WHICH IS ON FILE WITH THE COMMISSION, AND FIND THAT THE 66-YEAR TERM OF THE PROPOSED PERMITS IS IN THE BEST INTERESTS OF THE STATE BECAUSE THE FISH AND WILDLIFE VALUES TO BE PRESERVED REQUIRE LONG TERM MANAGEMENT AND PROTECTION.
4. 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 THE SETTLEMENT, INCLUDING EXECUTION, ACKNOWLEDGMENT AND RECORDING OF SUCH DOCUMENTS OF TITLE, AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE TERMS AND CONDITIONS OF AGREEMENT.
5. FIND THAT THE PROPOSED SETTLEMENT IS IN COMPROMISE SETTLEMENT OF DISPUTED TITLES IN LIEU OF LITIGATION AND THE PROVISIONS OF THE 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 CAL. ADM. CODE TITLE 2, ART. 11.