

MINUTE ITEM

This Calendar Item No 41
was approved as Minute Item
No. 41 by the State Lands
Commission by a vote of 3
0 at its 9-29-81
meeting.

MINUTE ITEM

9/29/81
W 503.890
Rump
Judson

41. APPROVAL OF PROPOSED STIPULATED JUDGEMENT LINE REGARDING
MALINOWSKI V. STATE, SACRAMENTO COUNTY SUPERIOR COURT
NO. 267318

During consideration of Calendar Item 41 attached, Robert
C. Hight, Chief Counsel, submitted for the record a revised
legal description as set forth in Exhibit "E" attached
hereto.

Upon motion duly made and carried, the resolution as presented
in Calendar Item 41 was approved by a vote of 3-0.

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CALENDAR ITEM

41

9/29/81
W 503.890
Rump/Judson

APPROVAL OF PROPOSED STIPULATED
JUDGMENT LINE RE MALINOWSKI V. STATE,
SACRAMENTO COUNTY SUPERIOR COURT NO. 267318

Casimer and Etta Malinowski sued the State Lands Commission in 1977 to quiet title to a portion of an island in the Sacramento River near the town of Isleton. They claim that a 1948 stipulated judgment from a quiet title action between their predecessors and the State, which established a boundary between the privately owned portion of the island and the State-owned bed of the river, was a meander line and that the land which exists today between that boundary line and the mean high tide line of the river belongs to them. The State claims that the prior stipulated judgment permanently fixed the boundary between State and private interests and, thus, the land in question, being waterward of the agreed line, belongs to the State. The Sacramento County Superior Court granted partial summary judgment in favor of the Malinowski's on this issue and the State will appeal that ruling upon entry of final judgment.

The remaining issue in the case involves the causes of the formation of land on the island waterward of the 1948 stipulated judgment line. Because of the difficulty and expense involved in attempting to prove how the island acquired its present dimensions, the parties have stipulated to a compromise boundary line which would take effect only if the Malinowski's prevail on the issue of the interpretation of the 1948 stipulated judgment line at the conclusion of all appeals. This compromise line, which has been jointly surveyed and described by the parties, will resolve this issue through a stipulated judgment and facilitate the State's appeal of the primary issue relating to the 1948 judgment.

The stipulation and the compromise boundary line as surveyed and described have been approved by staff and the Attorney General's Office.

AB 884: N/A.

EXHIBITS: A. Site Map.
B. Land Description.

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CALENDAR ITEM NO. 41 (CONTD)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND, THEREFORE, NO ENVIRONMENTAL DOCUMENT IS REQUIRED.
2. APPROVE THE STIPULATION AND BOUNDARY AS DESCRIBED IN EXHIBIT B.
3. AUTHORIZE THE STAFF AND OFFICE OF THE ATTORNEY GENERAL TO TAKE SUCH ACTION AS IS NECESSARY TO EXECUTE THE STIPULATED JUDGMENT.

DESCRIPTION

COMMENCING at a point on the south line of a Dredger Cut located N 26° 31' 17" E 26.27 feet, N 56° 36' 43" W 52.37 feet, N 75° 04' 43" W 53.08 feet, N 62° 12' 43" W 59.00 feet, N 59° 17' 43" W 115.61 feet, and N 57° 57' 43" W 59.43 feet from a 3/4 inch iron bolt set in the westerly line of that certain tract of land shown on the survey entitled "Survey for J. A. & A. C. La Montagne of a Portion of Long Island", filed in the office of the County Recorder of Sacramento County on October 4, 1953, in Book 11 of Surveys, Map No. 3, said 3/4 inch iron bolt being located S 26° 31' 17" W 6.50 feet and N 63° 28' 43" W 200.00 feet from an iron pipe at the most northerly corner of Lot 12, as said lot is shown on the survey entitled "Plat of Survey of Long Island Tract No. 1", filed in the office of the County Recorder of Sacramento County on February 21, 1950, in Book 8 of Surveys, Map No. 5; thence from said Point of Commencement N 57° 57' 43" W, 59.44 feet to the most northwesterly corner of that certain parcel conveyed by James A. La Montagne and Alta C. La Montagne, his wife, to Melvin H. Wright and Elmer Wright, by deed recorded November 28, 1956, in Book 3200 Page 543, Official Records; thence S 26° 31' 17" W 42.28 feet along the northwesterly line of said parcel; thence continuing S 26° 31' 17" W, 162.80 feet to the POINT OF BEGINNING of the herein described line. Thence, generally northwesterly the following eleven courses:

- 1) N 39° 28' 42" W 55.37 feet;
- 2) N 61° 03' 00" W 36.07 feet;
- 3) N 49° 52' 50" W 123.26 feet;
- 4) N 42° 21' 58" W 219.49 feet;
- 5) N 88° 29' 46" W 30.40 feet;
- 6) N 51° 53' 27" W 63.92 feet;
- 7) N 37° 51' 35" W 96.15 feet;
- 8) N 47° 10' 42" W 31.43 feet;
- 9) N 21° 26' 45" E, 28.69 feet to a 1 1/2" iron pipe with a California State Lands Commission Brass Cap stamped "BLA POINT NO. 2 LS 4333, 1981";
- 10) N 21° 26' 45" E, 36.69 feet to a 1 1/2" iron pipe with a California State Lands Commission Brass Cap stamped "BLA POINT NO. 1 LS 4333, 1981";
- 11) N 21° 26' 45" E, 50.91 feet to a point on that line, course N 49° 05' 05" W, 768.41 feet, described as N 49° 04' W, 767.76 in Paragraph 1 of that Judgment Quieting Title and Fixing Boundaries recorded in Book 660112 Page 356 of Official Records of Sacramento County and the end of the herein described line, said point being distant thereon 220.13 feet from the southeasterly terminus of said course;

thence, S 49° 05' 05" E, 203.22 feet to a point on the northerly line of the lands of J. A. & A. C. La Montagne as shown on that "Record of Survey of a Portion of Long Island" filed September 28, 1956, Book 12 of Surveys, Map No. 35, Sacramento County Recorder's Office; thence along the northerly line of said La Montagne lands, S 63° 41' 43" E, 23.49 feet, S 57° 54' 43" E, 125.47 feet, S 56° 49' 43" E, 163.96 feet, and S 57° 57' 43" E, 180.42 feet to said Point of Commencement.

The Basis of Bearings of the herein described line is that certain course N 00° 05' E, 3119.1 feet on the westerly boundary of that 234.36 acre tract of the lands of Charles W. and Andrew G. Griffin shown on the Plat of Survey filed December 30, 1946, in Book 5 of Surveys, Map No. 23 in the office of the County Recorder of Sacramento County.

(Revised 9/29/81)

END OF DESCRIPTION

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