

MINUTE ITEM

This Calendar Item No. C68
was approved as Minute Item
No. 68 by the State Land
Commission by a vote of 3
to 0 at its 7/6/95
meeting.

CALENDAR ITEM

C68

A 11
S 7

07/06/95

W 503.1778

Kiley

Rusconi

Plummer

CONSIDER SETTLEMENT OF LITIGATION IN CASE OF
TIDEWATER SAND AND GRAVEL V. STATE OF CALIFORNIA, ET AL.,
CONTRA COSTA COUNTY SUPERIOR COURT NO. C93-03427

PARTY:

State Lands Commission

Tidewater Sand and Gravel brought a quiet title action against the State and other parties, seeking to quiet title to certain lands near the City of Martinez in Contra Costa County. The Office of the Attorney General and the staff have conducted lengthy negotiations with Tidewater and the other parties to the suit. As a result, the parties have arrived at a proposed settlement which staff believes will satisfy the legitimate interests of all of the parties. The Commission approved of the settlement in concept in August, 1994. The precise terms of the settlement are set forth in an agreement entitled "BOUNDARY LINE AGREEMENT AND SETTLEMENT OF CLAIMS BETWEEN THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, MARITIME BUSINESS PARK, A CALIFORNIA GENERAL PARTNERSHIP, AND TIDEWATER SAND AND GRAVEL COMPANY, A CALIFORNIA CORPORATION", which agreement is on file in the office of the Commission. The terms of the proposed settlement are as follows:

1. Tidewater and Maritime Business Park would convey about twenty acres of filled area near the Bay to the State. The State would then quitclaim approximately half of the filled area to Tidewater, reserving the public trust easement. The State would quitclaim the remaining half of the area to Tidewater without reserving the public trust easement. The conveyances would provide for access to both parcels.

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2. Tidewater would convey all of a marsh parcel waterward of the parcels described in paragraph (1), above, in fee to the State. Maritime Business Park would quitclaim any interest it may have in the marsh parcel to the State. The State would enter into a lease with Tidewater for that portion of the marsh parcel that is currently being used by Tidewater for pipeline purposes.
3. Tidewater would convey a public access easement over the two parcels quitclaimed to it by the State as described in paragraph (1). The access easement would be open to the public from the east up to the pipeline; the remainder of the easement would be opened to the public only after Tidewater ceases the current industrial use, to protect the public from possible injury.
4. The State would quitclaim any fee or easement interest it may have in two more landward filled parcels to Maritime Business Park.
5. Maritime would convey parcels extending along Pacheco Creek and along the southwestern edge of the property, including a large marshy area, to the State as sovereign lands subject to the public trust for commerce, navigation and fisheries.
6. Maritime would convey to the State a public access easement from Waterfront Road to the lands along the southwestern edge of the property.
7. The result of these conveyances will be the establishment of permanent boundary lines between Tidewater's parcels and the sovereign tide and submerged lands of the State of California and between Tidewater's parcels and Maritime's parcels as described in the Agreement.
8. As the entire area at issue in the litigation is listed by BCDC as potential dredge spoils disposal site, provisions are included in the Agreement to allow Maritime to cross both parcels that are to be transferred to the State to lay

a surface pipe for the transfer of dredge spoils from a barge to Maritime's upland parcels described in the agreement.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2, Div. 13.

B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

AB 884:

N/A

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT THE BOUNDARY LINE AGREEMENT AND SETTLEMENT OF CLAIMS PROPOSED HEREIN IS AUTHORIZED BY AND IN CONFORMANCE WITH THE REQUIREMENTS OF P.R.C. SECTION 6357.
3. FIND THAT THE PROPOSED AGREEMENT IS IN THE BEST INTEREST OF THE STATE.
4. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE THE BOUNDARY LINE AGREEMENT AND SETTLEMENT OF CLAIMS BETWEEN THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, MARITIME BUSINESS PARK, A CALIFORNIA LIMITED PARTNERSHIP, AND TIDEWATER SAND AND GRAVEL COMPANY, A CALIFORNIA CORPORATION, IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE COMMISSION.
5. AUTHORIZE THE STAFF TO TAKE ALL FURTHER STEPS NECESSARY TO CONCLUDE THE AGREEMENT INCLUDING BUT NOT LIMITED TO RECORDATION OF DOCUMENTS AND APPEARANCE IN ANY JUDICIAL PROCEEDING BROUGHT TO CONFIRM THE VALIDITY OF THE AGREEMENT.