

MINUTE ITEM

This Calendar Item No. C52 was approved as Minute Item No. 52 by the California State Lands Commission by a vote of 3 to 0 at its 12/7/95 meeting.

CALENDAR ITEM

C52

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**CONSIDER SETTLEMENT AGREEMENT AND MUTUAL RELEASE
IN CASE OF MCKENZIE ET AL. V. STATE OF CALIFORNIA, ET AL.,
SAN MATEO SUPERIOR COURT NO. 392038**

PARTIES: McKenzie, et al.
Stephen Rosenfield
Coblentz, Cahen, McCabe & Breyer
222 Kearny Street, 7th Floor
San Francisco, California 94108

State of California

The Office of the Attorney General, acting on behalf of the State, has tentatively, subject to Commission approval, entered into a settlement of quiet title litigation involving certain lands near the Pigeon Point Lighthouse in San Mateo County. The principal issue in the litigation is whether any portion of the McKenzie property has been impliedly dedicated to public use by virtue of past public use of the property. A condition of the settlement calls for the State Lands Commission to accept a parcel of land referred to in the settlement agreement as the "beach property". The beach property extends along the entire length of the McKenzie property and is generally bounded by the toe of bluff line and the ordinary high tide line. The Commission would accept the beach property as sovereign lands and subject to a covenant and condition subsequent designed to ensure that the parcel continues to be administered as sovereign lands subject to the public trust.

AB 884:
N/A

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**OTHER PERTINENT
INFORMATION:**

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project to Public Resources Code Section 21080.11, settlement of title and boundary problems.

Authority: Public Resources Code 21065.

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code Section 6370, et seq. but will not affect those significant lands.

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 PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE IN THE CASE OF MCKENZIE ET AL. V. STATE OF CALIFORNIA, ET AL., SAN MATEO SUPERIOR COURT NO. 392038, IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE COMMISSION.
3. AUTHORIZE THE EXECUTIVE OFFICER TO ACCEPT, ON BEHALF OF THE COMMISSION, A QUITCLAIM DEED TO THE BEACH AREA IDENTIFIED IN THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE IN MCKENZIE, ET AL. V. STATE OF CALIFORNIA, ET AL., SAN MATEO SUPERIOR COURT NO. 392038.
4. AGREE TO HOLD TITLE TO THE BEACH AREA SUBJECT TO THE PUBLIC

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TRUST, WITH A RIGHT OF ENTRY IN MCKENZIE IF THE PUBLIC TRUST IS EVER EXTINGUISHED OVER THE PROPERTY.

5. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING ANY REQUIRED COURT APPEARANCES, TO IMPLEMENT THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE.