

Construction

9. (EXCHANGE OF TIDE AND SUBMERGED LANDS IN CORTE MADERA CANAL, MARIN COUNTY, FOR OTHER LAND, SCHULTZ CO. - W.O. 394.) By Chapter 18, Statutes of 1952, approved April 16, 1952, the Commission was authorized to grant certain lands in Marin County in exchange for other lands of equal or greater value, the Commission being authorized to accept cash in lieu of land for the purpose of equalizing values. Section 6307, Public Resources Code, amended by Chapter 433, Statutes of 1949, provides for the exchange of lands of equal value for the improvement of navigation, aid in reclamation, and for flood control protection on navigable waters, the land so acquired to have the same status as to administration, control and disposition as the lands for which it is exchanged.

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Pg. 1802

Pursuant to the above acts, the Schultz Co., real estate operators in Marin County, has applied for the exchange of certain lands adjacent to Corte Madera Canal for tide and submerged lands in that canal. Some of the lands within the Canal are unquestionably State lands; title to other lands in the Canal may be clouded. Mr. Walter S. Ries of Oakland has appraised the lands subject to the proposed exchange at a valuation of \$220 per acre. The Staff has calculated the value of the State's interest in the land with a possible clouded title at one-half the appraised value, or \$110 per acre. The area of State land in the Canal for which application has been received amounts to approximately 25.3 acres, 12.6 acres of which may be clouded. Value of this land, 12.7 acres at \$220 per acre and 12.6 acres at \$110 per acre, amounts to \$4,180. In exchange for this land the Schultz Co. offers approximately 6.0 acres, valued at \$220 per acre, or \$1,320, and \$2,860 in cash to equalize values. The land received by the State and the dredged channel to be constructed thereon will have the same status of navigability, administration, control, and disposition as the land in the Canal granted by the State. The purpose of the exchange is to straighten the channel, improve navigation, and aid reclamation.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER TO PREPARE AND EXECUTE AN AGREEMENT WITH THE SCHULTZ CO. PROVIDING FOR THE EXCHANGE OF ALL RIGHT, TITLE AND INTEREST OF THE STATE COVERING APPROXIMATELY 25.3 ACRES OF TIDE AND SUBMERGED LANDS IN CORTE MADERA CANAL, MARIN COUNTY, FOR ALL RIGHT, TITLE AND INTEREST OF THE SCHULTZ CO. COVERING APPROXIMATELY 6.0 ACRES OF LAND NEAR AND ADJACENT TO CORTE MADERA CANAL, PLUS A SUM OF \$2,860.

10. (PROPOSED LEGISLATION FOR 1953 REGULAR SESSION - W.O. 1141.) In addition to the items presented to the Commission at its meetings of October 24, 1952, and December 5, 1952, the following items were presented for consideration:

(1) COLORADO RIVER BOUNDARY COMMISSION

Preliminary informal discussions have been held with representatives of Arizona with respect to legislation by each State setting up a board of three State officials for each State, this board to investigate jointly and report to the respective Governors and Legislatures on procedures for establishing the boundary and the advisability of a boundary compact between California and Arizona. The report is to be made prior to the 1955 Session of the Legislature. A bill was drafted in Phoenix, Arizona, on December 29, 1952 (copy of which is quoted following this minute item). Californians present were: State Engineer A. D. Edmonston, Assistant Attorney General Arvin H. Shaw, Deputy Attorney General Gilbert Nelson,

and J. Stuart Watson of the State Lands Commission. Arizonans present were: J. H. Moeur, Messrs. Aiken and Sutter of the Arizona Intra Stream Commission, Perry Ling representing the present Attorney General of Arizona, and Mr. W. W. Lane, the Arizona Land Commissioner. Governor Howard Pyle of Arizona went over the bill precursoryly and advised that counterpart legislation would be introduced in the Arizona Legislature. State Engineer Edmonston stated that he had earlier discussed the proposal with Governor Warren and now would discuss it in greater detail.

In connection with this proposed legislation it is suggested that Chapter 99 of the Statutes of 1923 be repealed. This act provided for a similar boundary commission to be appointed by the Governor, but none was ever appointed and the act is probably not now effective.

(2) AMENDMENT OF PUBLIC RESOURCES CODE, SECTION 6218

Under Section 6218 of the Public Resources Code the Commission may charge and collect reasonable fees, not exceeding the actual cost to the Commission, for services performed by it. In any case where the Commission, either pursuant to law or rule, requires applicants to deposit monies with the State to reimburse the State for costs, or for publication, for leases or sales of land, there is no definite provision in the Public Resources Code stating how such reimbursements for costs shall be applied.

Difficulties have been encountered by the Accounting Officer of the Commission under existing interpretations of law and procedure in that the State Lands Commission is denied the use of the major portion of reimbursements made by applicants for costs defrayed from support appropriations. Expense deposits to cover costs of the Commission are usually received at the outset; however, they are held in suspense until the transaction is completed. In more than fifty per cent of the transactions which result in the collection of such fees, the costs have been paid from support appropriations from one to three or four years prior to the closing of the transaction. At the time of completion of the transaction these costs are recovered from the applicants' deposits, but under present procedure these recovered costs must be remitted to prior or lapsed appropriations. This procedure not only denies the use of reimbursements when received, but also causes difficulties in estimating reimbursements for budget purposes in that part of the money appropriated for Support consists of reimbursements and may, because of inability to estimate properly, cause requests for augmentations from emergency funds for financing of current support operations.

It is therefore suggested that Section 6218 of the Public Resources Code be amended to provide that all monies received under this section shall be remitted monthly to the State Treasurer and credited by the State Controller to the current appropriation for the support of the Commission. Such enactment will (1) provide definite authority for the deposit of reimbursements of costs received, which does not exist under present law; (2) eliminate the necessity of reopening prior years' books to account for such monies, and thus avoid unnecessary expenditure of State funds in accounting; and (3) avoid requests for augmentations from emergency funds for financing current support operations, and thus again avoid unnecessary expenditure of State funds in accounting.

(3) AMENDMENT OF SECTION 126 OF THE GOVERNMENT CODE

There are a number of situations that have developed in discussions over consent to acquisition of land by the United States (Section 126 of the Government Code) that could be cleared up by setting forth what is meant by "acquisition" of lands for forts, magazines, etc.

It would probably be in the interest of the State to add a paragraph (g) to Section 126 of the Government Code to define acquisition to mean (1) lands acquired in fee by purchase or condemnation, (2) lands owned by the United States (public domain) that are included in the military reservation by Presidential Proclamation or Act of Congress, and (3) leaseholds acquired by the United States over private lands or State-owned lands.

Item (3) is particularly in the interest of the State, as it keeps private lands on the tax roll and makes it possible for retention by the State of ownership in school lands. The latter lands may ultimately be released from the military installation or could be used as base for indemnity selection of other Federal lands.

This amendment is in accordance with suggestions made by the Office of the Attorney General.

(4) REMOVAL OF TRUST FOR NAVIGATION - HUNTERS TRACT, BLACK POINT

For a number of years the Staff of the Commission have been involved in attempting removal of purprestures or requiring leasing of certain occupied tide and submerged lands seaward of the original high-water mark (Allardt line) in this location. The present location of the ordinary high-water mark is bayward of the old line because of accretion, some natural and some artificial.

Years ago a portion of the upland was subdivided into lots, and the subdivider included some of these accreted lands. These lots have been sold and title companies have guaranteed title. The State is challenging this, and the title companies are now considering such settlement.

In order to dispose of the question as to whether artificial or natural accretion exists, it is proposed to have the Legislature remove the trust for navigation over all the accreted lands in the locality and thereafter to make settlement through quiet title action in order that good title to the lands may prevail. It is proposed that legislation to accomplish this removal of trust for navigation be sponsored in the present session by the State Lands Commission.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER AND THE STAFF OF THE DIVISION OF STATE LANDS TO SUPPORT LEGISLATION EMBODIED IN ITEMS (1), (2), (3), AND (4) WITH THE UNDERSTANDING THAT ITEM (2) SHOULD FIRST BE SUBMITTED TO THE DIVISION OF BUDGETS AND ACCOUNTS FOR CONSIDERATION, AND TO HAVE LEGISLATION INTRODUCED EMBODIED IN ITEMS (2), (3), AND (4) THROUGH THE RULES COMMITTEE OF THE SENATE.

DRAFT OF BILL RE COLORADO RIVER BOUNDARY COMMISSION

AN ACT TO PROVIDE FOR THE CREATION OF A COLORADO RIVER BOUNDARY COMMISSION TO CONFER WITH REPRESENTATIVES OF THE STATE OF ARIZONA WITH RESPECT TO THE DEFINITION OR RELOCATION OF THE COMMON BOUNDARY OF SAID STATES, AND TO REPORT CONCERNING THE SAME AND CONCERNING A COMPACT BETWEEN SAID STATES RELATIVE TO THE SAID BOUNDARY, AND TO PROVIDE AN APPROPRIATION FOR THE JOINT INVESTIGATION OF SAID BOUNDARY AND FOR EXPENSES OF SAID COMMISSION.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

Section 1. A Colorado River Boundary Commission is hereby created for the purposes hereinafter set out. Said Commission shall consist of the Attorney General, State Engineer and the Executive Officer of the State Lands Commission, who shall serve without additional compensation and each of whom may from time to time serve by and through any member of his staff designated by him in writing for the purpose. The Governor of California is empowered and directed to forward a copy of this act to the Governor of the State of Arizona and to request that the Governor or Legislature of that State appoint representatives of the State of Arizona to confer and act in conjunction with said Commission for the purposes hereinafter specified, upon the understanding that each State will pay all expenses and charges of its representatives.

Sec. 2. It shall be the duty of said Commission to confer and act in conjunction with said representatives to be appointed on behalf of the State of Arizona for the following purposes:

(a) To make a joint investigation at the joint expense of said two States as to the location of the common boundary between the two States with respect to the present channel of the Colorado River from the southern boundary of the State of Nevada to the international boundary between the State of California and the United Mexican States;

(b) To investigate, negotiate and report as to the necessity and advisability of a compact between said two States defining or relocating said common boundary;

(c) To investigate and report as to the necessity and advisability of provisions in any such compact relating to the straightening, control, improvement or relocation of the channel of said river and as to the effect upon such interstate boundary of the performance of any such works;

(d) To hold such hearings and conferences in either of said two States as may be requisite in the premises and to do such other acts and things, either separately or in cooperation with the State of Arizona or the United States, or both, as may be necessary or convenient to accomplish the purposes of this Act.

(e) To report to the Governor of this State and to the Legislature prior to the session of the Legislature in the year 1955 the findings and recommendations of said Commission concerning joint action by this State and the State of Arizona in the premises.

Sec. 3. There is hereby appropriated out of any money in the State Treasury, not otherwise appropriated, the sum of \$150,000.00 to be used upon order of said Commission for the payment of the expenses and charges of such joint investigation and for the expenses of said Commission. This appropriation shall remain available for expenditure until June 30, 1955.

Sec. 4. The President and the Congress of the United States are respectfully requested to provide for the appointment of a representative of the United States to meet and confer with the said Commission and said representatives of the State of Arizona, and to assist in carrying out the purposes of this Act.

Sec. 5. This Act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution, and shall go into immediate effect. The facts constituting such necessity are:

Owing to the meandering of the Colorado River since the adoption of the Constitution of California in 1849 and since the adoption of the Arizona Constitution in 1912, doubts exist as to where the true boundary line between the two states may be. Conflicts which may lead to violence, exist between private claimants of title to the same land under the laws of Arizona and under the laws of California. Uncertainties exist as to the right of public officials of California to assess, tax and police certain lands, which uncertainties affect the public revenues of California. Because of said facts it is necessary that this Act go into effect immediately.

11. (ANNEXATION OF TIDE AND SUBMERGED LANDS, CITY OF HUNTINGTON BEACH, RESOLUTION NO. 1099, JANUARY 16, 1950 - GEO., ORANGE CO.) The Commission will recall that on December 5, 1952, it was informed that the Executive Officer had transmitted a letter dated February 6, 1950, to the City Council of the City of Huntington Beach, which included the following statement with respect to the annexation proposed under Resolution No. 1099:

"Assuming that no questions of ownership are involved in this procedure, this office interposes no objection to the proposed annexation."

Thereupon the Commission, upon motion duly made and unanimously carried, adopted a resolution authorizing and confirming the sending of the letter dated February 6, 1950. (Minute Item 29, Pages 1675-77.)

It has developed in the course of the quo warranto proceedings now pending to test the validity of said annexation that the motive of the City of Huntington Beach in commencing the annexation proceedings may have been to further the City's application to the Secretary of the Interior for title to said lands by its filing of a certain certificate of Gerard Scrip. Said Gerard Scrip has been applied to lands now under lease by the State Lands Commission and under the jurisdiction of the State Lands Commission.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED DISAPPROVING THE ANNEXATION PROCEEDINGS UNDERTAKEN BY THE CITY OF HUNTINGTON BEACH UNDER RESOLUTION NO. 1099 IF, IN THE COURSE OF THE QUO WARRANTO PROCEEDINGS FILED TO TEST THE VALIDITY OF THE ANNEXATION, THE ATTORNEY GENERAL ADVISES THAT ONE OF THE MOTIVES OF THE CITY OF HUNTINGTON BEACH IN SAID ANNEXATION PROCEEDINGS WAS TO FURTHER A GERARD SCRIP APPLICATION.

There being no further business to come before the Commission, the meeting was adjourned.