

MINUTE ITEM

38. APPROVAL OF MAP DELINEATING THE BOUNDARY OF STATE SUBMERGED LAND IN MARCONI COVE, TOMALES BAY; AND APPROVAL OF BOUNDARY AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, IN MARCONI COVE, TOMALES BAY, MARIN COUNTY - W.O. 4350, GEO.-MARIN CO.

After consideration of Calendar Item 46 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED:

1. TO APPROVE SHEET 1 OF 1 OF MAP ENTITLED "CONTOURS, MARCONI COVE, PROPOSED HARBOR SITE, MARINA DEVELOPERS", DATED APRIL 19, 1962, WHICH IS ON FILE IN THE STATE LANDS DIVISION.
2. TO RECORD SAID MAP AFTER COMPLETION OF MARINA CONSTRUCTION IN MARCONI COVE.
3. TO EXECUTE AN AGREEMENT WITH THE UPLAND OWNERS, H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, FIXING THE COMMON BOUNDARY IN MARCONI COVE AS DESCRIBED IN THE AGREEMENT, COPY OF WHICH IS ATTACHED AS EXHIBIT "A" AND HEREBY MADE A PART HEREOF, AS THE PERMANENT BOUNDARY BETWEEN THE STATE SUBMERGED LANDS AND THE SUBJECT PRIVATE LANDS ALONG TOMALES BAY, MARIN COUNTY, CALIFORNIA. THIS AGREEMENT WILL BE OF NO FORCE AND EFFECT IF CONSTRUCTION IS NOT COMMENCED PRIOR TO JULY 1, 1963, PURSUANT TO CONSTRUCTION CONTRACT AWARD.

Attachment  
Calendar Item 46 (3 pages)

CALENDAR ITEM

46.

APPROVAL OF MAP DELINEATING THE BOUNDARY OF STATE SUBMERGED LAND IN MARCONI COVE, TOMALES BAY; AND APPROVAL OF BOUNDARY AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, IN MARCONI COVE, TOMALES BAY, MARIN COUNTY - W.O. 4350.

H. Morgan Noble, David L. Fraser, Norman A. Gamble, and Blair McDonald, known as Marina Developers, are successors in interest to Tideland Survey No. 233 and Tideland Location No. 1 along Tomales Bay. Shoreline conditions in this area are in a natural state so the waterward boundary is the present line of Mean Low Water.

Marina Developers propose to construct a harbor in Marconi Cove. The jetties, when built, will destroy the natural conditions and fix the boundary along the last natural line of Mean Low Water as it existed prior to the construction.

A contour map has been prepared by Marina Developers which will be used to show the permanent boundary line (see Exhibit "B"). Agreement has been reached with Marina Developers as to the location of this boundary line on this contour map, and the Commission's form of Boundary Agreement is acceptable to Marina Developers.

The office of the Attorney General has previously approved boundary agreements in this form, and Staff Counsel has determined this Agreement to be legally sufficient.

The Boundary Agreement will contain a condition that if the harbor is not developed as proposed the agreement will be nullified and the boundary will continue to fluctuate naturally.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED:

1. TO APPROVE SHEET 1 OF 1 OF MAP ENTITLED "CONTOURS, MARCONI COVE, PROPOSED HARBOR SITE, MARINA DEVELOPERS", DATED APRIL 19, 1962, WHICH IS ON FILE IN THE STATE LANDS DIVISION.
2. TO RECORD SAID MAP AFTER COMPLETION OF MARINA CONSTRUCTION IN MARCONI COVE.
3. TO EXECUTE AN AGREEMENT WITH THE UPLAND OWNERS, H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, FIXING THE COMMON BOUNDARY IN MARCONI COVE AS DESCRIBED IN THE AGREEMENT, COPY OF WHICH IS ATTACHED AS EXHIBIT "A" AND HEREBY MADE A PART HEREOF, AS THE PERMANENT BOUNDARY BETWEEN THE STATE SUBMERGED LANDS AND THE SUBJECT PRIVATE LANDS ALONG TOMALES BAY, MARIN COUNTY, CALIFORNIA. THIS AGREEMENT WILL BE OF NO FORCE AND EFFECT IF CONSTRUCTION IS NOT COMMENCED PRIOR TO JULY 1, 1963, PURSUANT TO CONSTRUCTION CONTRACT AWARD.

Attachment  
Exhibit "A"

-1-

A 7  
S 13

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EXHIBIT "A"

## BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT, made and entered into by and between STATE OF CALIFORNIA, acting by and through the STATE LANDS COMMISSION (as Party of the First Part hereinafter referred to as "the State") and H. Morgan Noble, David L. Fraser, Norman A. Gamble and Blair McDonald (as Party of the Second Part hereinafter referred to as "Second Party").

W I T N E S S E T H

WHEREAS, the State acting through the State Lands Commission is authorized by Section 6357 of the Public Resources Code to establish by agreement the ordinary high water mark or the ordinary low water mark of the swamp, overflowed, marsh, tide or submerged lands of this State, whenever it is deemed expedient or necessary; and

WHEREAS, the Second Party appears of record as owner of certain lands along Tomales Bay in the vicinity of Marconi Cove, Marin County, California; and

WHEREAS, the State of California by virtue of its sovereignty is the owner of certain submerged lands in Tomales Bay, in the vicinity of Marconi Cove, Marin County, California; and

WHEREAS, the Mean Low Water Mark is fluctuating naturally and is not presently affected by artificial processes; and

WHEREAS, the Second Party proposes to develop a harbor in Marconi Cove and construct breakwaters and/or jetties which will create artificial conditions and thus fix the Mean Low Water Mark in its last natural position prior to the construction; and

WHEREAS, the State Lands Commission and the Second Party consider it expedient and necessary and in the best interests of the State and the public to describe and fix permanently the boundary of the lands belonging to the State and Second Party, and forever set at rest any and all questions relating to the location of said boundary line;

NOW, THEREFORE, in order to locate, describe and permanently establish a common boundary, the parties hereto mutually agree on behalf of themselves and their successors in interest as follows:

1. That the ordinary low water mark along Tomales Bay and the true and correct boundary line between the State and Second Party is and shall be located and established as follows:

Commencing at Point "V", which is described in the deed from Marin County Abstract and Title Company to H. Morgan Noble, recorded in Book 1537, Page 355, Marin County Records; thence from said point of commencement S. 75° 45' W. 244 feet to Station 1 which is the True Point of Beginning of the boundary line between State submerged land and private tidelands; thence

EXHIBIT "A" (CONTD.)

from said Point of Beginning along the following courses on the ordinary low water mark of 1962: N. 21° 05' 17" E. 18.97 feet, N. 26° 05' 41" E. 45.94 feet, N. 24° 15' 34" E. 75.89 feet, N. 22° 05' 22" E. 65.90 feet, N. 20° 05' 11" E. 48.93 feet, N. 15° 34' 47" E. 106.82 feet, N. 18° 40' 04" E. 67.89 feet, N. 25° 50' 42" E. 111.85 feet, N. 20° 35' 16" E. 41.94 feet, N. 09° 44' 10" E. 24.96 feet, N. 10° 58' 12" W. 14.97 feet, N. 33° 31' 02" W. 11.98 feet, N. 58° 04' 04" W. 37.93 feet, N. 63° 34' 38" W. 78.87 feet, N. 55° 48' 50" W. 89.84 feet, N. 43° 47' 27" W. 37.92 feet, N. 27° 15' 20" W. 21.95 feet, N. 13° 13' 33" W. 39.92 feet, N. 06° 27' 42" W. 78.84 feet, N. 05° 27' 35" W. 219.56 feet, N. 11° 58' 25" W. 38.92 feet, N. 29° 30' 38" W. 31.93 feet, N. 40° 01' 56" W. 40.92 feet, N. 48° 33' 00" W. 61.88 feet, N. 55° 18' 46" W. 96.82 feet, N. 76° 20' 48" W. 34.95 feet to Sta. 27 which is the end of said boundary line and which Station 27 bears S. 59° 45' W. 78 feet from a concrete monument (L.S. No. 2535).

2. In the event that harbor construction in Marconi Cove is not commenced, pursuant to award of construction contract, before July 1, 1963, this agreement will be of no force and effect.

3. This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year hereafter written.

\_\_\_\_\_  
Date of Signature  
  
\_\_\_\_\_  
Date of Signature  
  
\_\_\_\_\_  
Date of Signature  
  
\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
H. Morgan Noble  
  
\_\_\_\_\_  
David L. Fraser  
  
\_\_\_\_\_  
Norman A. Gamble  
  
\_\_\_\_\_  
Blair McDonald

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_ } ss

On \_\_\_\_\_, 1962, before me, the undersigned, a Notary Public in and for said County and State, personally appeared H. Morgan Noble, David L. Fraser, Norman A. Gamble, and Blair McDonald known to me to be the persons whose names subscribed to the within instrument and acknowledged to me that they executed the same.

\_\_\_\_\_  
Name (Typed or Printed)  
Notary Public in and for said County  
and State.

STATE OF CALIFORNIA, acting by and  
through the STATE LANDS COMMISSION  
By: \_\_\_\_\_  
F. J. HORTIG, Executive Officer

\_\_\_\_\_  
Date of Signature