

MINUTE ITEM

19. STIPULATION FOR JUDGMENT TO ESTABLISH BOUNDARY BETWEEN PATENTED SWAMP LAND SURVEY NO. 9, SAN MATEO COUNTY, AND THE BED OF REDWOOD CREEK GRANTED TO THE CITY OF REDWOOD CITY (ARCHIBALD VS. STATE AND CITY OF REDWOOD CITY, SAN MATEO COUNTY SUPERIOR COURT NO. 102476) - W.O. 503.415.

After consideration of Calendar Item 16 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE 1958 MEAN HIGH TIDE LINE AS SURVEYED BY THE COMMISSION PURSUANT TO CHAPTER 34 OF STATUTES OF 1954 (1ST E.S.), IS ACCEPTED AS THE COMMON BOUNDARY BETWEEN PATENTED SWAMP AND OVERFLOWED LANDS SURVEY NO. 9, SAN MATEO COUNTY, AND THE SOVEREIGN LANDS GRANTED TO THE CITY OF REDWOOD CITY PURSUANT TO CHAPTER 1359 OF STATUTES OF 1945, AS AMENDED, AND THE EXECUTIVE OFFICER IS AUTHORIZED TO APPROVE THE PROPOSED STIPULATION IN THE CASE OF ARCHIBALD VS. STATE (NO. 102476, SUPERIOR COURT, COUNTY OF SAN MATEO) IN THE FORM APPENDED HERETO AS ATTACHMENT NO. 1 (INCLUDING EXHIBITS "A" AND "B" THEREOF).

Attachment

Calendar Item 16 (8 pages)

CALENDAR ITEM

16.

STIPULATION FOR JUDGMENT TO ESTABLISH BOUNDARY BETWEEN PATENTED SWAMP LAND SURVEY NO. 9, SAN MATEO COUNTY, AND THE BED OF REDWOOD CREEK GRANTED TO THE CITY OF REDWOOD CITY (ARCHIBALD VS. STATE AND CITY OF REDWOOD CITY, SAN MATEO COUNTY SUPERIOR COURT NO. 102476) - V.O. 503.415.

The plaintiff in the subject action is the successor in interest to the patentee for Swamp and Overflowed Lands Survey No. 9 of San Mateo County, which survey is bounded in part by the left bank of Redwood Creek. A copy of the map attached to the complaint in the subject action is appended hereto. Pursuant to authority in Chapter 34, Statutes of 1954, 1st E.S., which amended Chapter 1359 of the Statutes of 1945, the area granted to the City of Redwood City within the bed of Redwood Creek was mapped by the Commission's staff (W.O. 2491), and such map was recorded. The survey of the Commission's staff established the limit of the granted area at the position of the mean high tide line of 1958. At the southerly portion of the area in litigation, the 1958 mean high tide line encroaches upon the area originally surveyed as a part of Survey No. 9. The plaintiff is willing to concede that the State and the City of Redwood City are the owners of this eroded area. Along the southeasterly side of the area in question, the position of the left bank of the creek, as determined by Survey No. 9, has shifted by natural accretion to the position of the 1958 mean high tide line.

By Dredging Permit P.R.C. 2659.1, dated November 7, 1960, the plaintiff was granted the right to dredge sovereign lands in the bed of Redwood Creek along the frontage involved in this litigation, and, by extension to such permit, was granted up to December 31, 1963, to conduct such dredging. The proposed plan of operation indicates that a portion of the dredging will occur landward from the 1958 mean high tide line on the property proposed to be stipulated as patented swamp lands. A small portion of the area, which will be stipulated as sovereign land, may be filled if the applicant proceeds in the manner he proposed in his original application of 1959.

IT IS RECOMMENDED THAT THE 1958 MEAN HIGH TIDE LINE AS SURVEYED BY THE COMMISSION PURSUANT TO CHAPTER 34 OF STATUTES OF 1954 (1ST E.S.), BE ACCEPTED AS THE COMMON BOUNDARY BETWEEN PATENTED SWAMP AND OVERFLOWED LANDS SURVEY NO. 9, SAN MATEO COUNTY, AND THE SOVEREIGN LANDS GRANTED TO THE CITY OF REDWOOD CITY PURSUANT TO CHAPTER 1359 OF STATUTES OF 1945, AS AMENDED, AND THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO APPROVE THE PROPOSED STIPULATION IN THE CASE OF ARCHIBALD VS. STATE (NO. 102476, SUPERIOR COURT, COUNTY OF SAN MATEO) IN THE FORM APPENDED HERETO AS ATTACHMENT NO. 1 (INCLUDING EXHIBITS "A" AND "B" THEREOF).

Attachment
Attachment No. 1

ATTACHMENT NO. 1

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

JAMES O. ARCHIBALD,

Plaintiff,

vs.

THE CITY OF REDWOOD CITY,
a Municipal corporation, and
THE STATE OF CALIFORNIA,

Defendants.

No. 102476

S T I P U L A T I O N

IT IS HEREBY STIPULATED by and between the parties to the above-entitled action, through their respective attorneys, as follows:

I

Plaintiff claims title to the land described in Exhibit A attached to the complaint herein and depicted on the map marked Exhibit B and attached to said complaint as the successor in interest of W. C. R. Smith, by virtue of a swamp and overflowed lands patent by the State of California to said W. C. R. Smith dated July 26, 1861, and recorded in Book 1 of Patents at page 40, which patent covered swamp and overflowed land survey No. 9, San Mateo County.

II

That after the date of said patent and in excess of twenty-five years ago, the waters of Redwood Creek naturally and imperceptibly eroded that part of the land so patented to said W. C. R. Smith that is described in Exhibit 2 attached to the Answer of the defendant, The State of California, in this action, and the land so described in said Exhibit 2 ever since said time has been and now is a part of the natural bed of Redwood Creek, a navigable waterway within the State of California.

III

That by Statutes of 1945, Chapter 1359, Statutes of 1947, Chapter 1394, and by Statutes of 1954, First Extraordinary Session, Chapter 34, the State of California granted the land described in Exhibit 2 annexed to the Answer of the State of California herein subject to certain trusts, conditions and

restrictions, which land together with other lands so granted by said Statutes is depicted upon a map of said grant recorded in Volume 4 of Licensed Land Surveyors Maps, at pages 69 through 73, in the office of the County Recorder of San Mateo County.

IV

The claim of the City of Redwood City in the land described in Exhibit 2 annexed to the Answer of the State of California is derived from said legislative grants from the State of California; the State of California claims the said lands described in said Exhibit 2 as a part of the bed of a navigable stream, to-wit: Redwood Creek, within the State of California, and the said State of California claims to be the owner of the said land described in Exhibit 2, subject to the rights therein of the defendant City of Redwood City.

V

Plaintiff is the owner and entitled to the possession of the land described in Exhibit 1 attached to the Answer of the State of California.

VI

The City of Redwood City, subject to the trusts, conditions and restrictions in said legislative grants, is the owner of the real property described in Exhibit 2 annexed to the Answer of the State of California and entitled to the possession of said real property. The State of California is the owner of the said real property described in Exhibit 2 annexed to the Answer of the State of California herein, subject to the rights therein of the City of Redwood City.

VII

The boundary line between the property so owned by the plaintiff and described in Exhibit 1 annexed to the Answer of the State of California and the property so owned by the City of Redwood City and the State of California and described in Exhibit 2 annexed to the Answer of the defendant, The State of California, is the line described in Exhibit 3 annexed to the Answer of the defendant, The State of California.

VIII

The parties hereto hereby waive the making or filing of findings of fact and conclusions of law, waive notice of the time and place of trial, consent to the immediate trial of the above-entitled action, waive notice of entry of judgment, and hereby consent to the making and entering of judgment herein in the form attached hereto, marked Exhibit A and incorporated herein as fully as if set forth at length at this place.

Dated: December , 1962.

APPROVED December , 1962.

/s/ James O. Archibald

JAMES O. ARCHIBALD

James O. Archibald

APPROVED December , 1962

THE CITY OF REDWOOD CITY

By _____

8615

APPROVED December , 1962

THE STATE OF CALIFORNIA

By _____
Executive Officer
State Lands Commission

CURRIE, LEBSACK, HANNIG & FERRARI

By /s/ Gerald B. Ferrari
Attorneys for Plaintiff

City Attorney
Attorney for Defendant
City of Redwood City

STANLEY MOSK
Attorney General

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Redwood City, California
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EXHIBIT A

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

JAMES O. ARCHIBALD,

Plaintiff,

vs.

THE CITY OF REDWOOD CITY, a
municipal corporation, and THE
STATE OF CALIFORNIA,

Defendants.

No. 102476

J U D G M E N T

The above entitled action came on regularly to be heard on the _____ day of December, 1962, before the above entitled Court, sitting without a jury, plaintiff appearing by his attorney, GERALD B. FERRARI, and no one appearing on behalf of defendant, CITY OF REDWOOD CITY, or defendant, STATE OF CALIFORNIA, each of said defendants having appeared by answer and by stipulation consenting to the entry of judgment herein, findings of fact, conclusions of law, notice of time and place of trial having been expressly waived, and the said cause having been argued and submitted to the Court for its decision,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That at the time of commencement of this action, to wit, on the _____ day of December, 1962, the said plaintiff, JAMES O. ARCHIBALD, was the owner in fee simple absolute and in the actual and exclusive possession of all of the real property situate in the City of Redwood City, County of San Mateo, State of California, described as follows:

BEGINNING at a point on the Southerly boundary of the Northwest quarter of Section 17, Township 5 South, Range 3 West M.D.B. & M., distant thereon South 88° 40' 20" East 76.49 feet from an iron pipe monument capped and set in concrete, which stands at the quarter-corner common to Sections 17 and 18; thence from said point of beginning along the Easterly and Southeasterly line of

a certain strip of land 70 feet wide, commonly known as Bair Island Road, as described in various Deeds of record, on a curve to the right from a tangent bearing South $8^{\circ} 23' 45''$ West, with a radius of 556.44 feet, an arc distance of 437.96 feet; thence continuing along the Southeasterly line of Bair Island Road, and tangent to said last named curve, South $53^{\circ} 29' 31''$ West 1046.75 feet to the Northeasterly line of property conveyed by James O. Archibald and wife, to State of California, by Deed recorded March 23, 1953 in Book 2385 of Official Records at page 647, Records of San Mateo County, California; thence along said line South $36^{\circ} 27' 39''$ East 126.12 feet to the Northeasterly line of the Bayshore Freeway (State Highway Route 68) as described in Deed from James O. Archibald and wife, to State of California, recorded June 16, 1958 in Book 3409 of Official Records at page 647, Records of San Mateo County, California; thence along said line of Bayshore Freeway on a curve to the right from a tangent bearing South $68^{\circ} 25' 27''$ East with a radius of 9115 feet, through a central angle of $0^{\circ} 54' 48''$ an arc distance of 145.30 feet to the Mean High Tide Line in Redwood Creek, as said Tide Line is shown on "Map of the Grant to the City of Redwood City, Chapter 34, Statutes of 1954, (1st E.S.) Vicinity of Redwood Creek, San Mateo County, California", recorded in the office of the County Recorder of San Mateo County at the request of State Lands Commission on January 7, 1960 in Volume 4 of Licensed Land Surveyors Maps at pages 69 to 73 inclusive, thence along said Mean High Tide Line, North $60^{\circ} 35' 04''$ East 36.39 feet to Station 122 as shown on said map; thence North $74^{\circ} 33' 37''$ East 108.93 feet to Station 123; thence South $82^{\circ} 28' 27''$ East 549.74 feet to Station 124; thence North $79^{\circ} 32' 24''$ East 66.10 feet to Station 125; thence North $68^{\circ} 33' 39''$ East 440.48 feet to Station 126; thence North $59^{\circ} 20' 08''$ East 525.48 feet to Station 127; thence North $47^{\circ} 26' 02''$ East 316.36 feet to Station 128; thence North $14^{\circ} 02' 10''$ East 504.08 feet to said Southerly boundary of the Northwest quarter of Section 17; thence leaving said Mean High Tide Line, and running along said Southerly boundary, North $88^{\circ} 40' 20''$ West 1113.12 feet to the point of beginning.

All bearings shown herein conform with California Coordinate System, Zone 3.

2. That at the time of the commencement of said action, none of said defendants had any right, title, estate, lien or interest in or to said real property, or any part thereof.

3. That said title of said plaintiff in and to said real property be, and the same hereby is, quieted in the manner above decreed as of the _____ day of December, 1962, against any and all claims of each and all of said defendants.

4. That at the time of the commencement of this action, to-wit: on December 10, 1962, the following-described land was a part of the natural bed of Redwood Creek, a navigable waterway within the State of California and while being such natural bed of said creek and owned by the defendant, The State of California, the same was granted by Statutes of 1945, Chapter 1359, Statutes

of 1947, Chapter 1394, and Statutes of 1954, First Extraordinary Session, Chapter 34 to the City of Redwood City, the map of which grant was filed in the Office of the County Recorder of San Mateo County on January 7, 1960, in Volume 4 of Licensed Land Surveyors Maps at pages 69, 70, 71, 72 and 73; that at the said time of the commencement of this action, the City of Redwood City was the owner of the following-described land subject to the trusts, conditions and restrictions in said legislative grants and, subject to the rights of the City of Redwood City in the following described land, the defendant, The State of California, was the owner of the said land; the land described in this paragraph of this Judgment as being owned by the City of Redwood City and by the State of California is all the real property situate in the City of Redwood City, County of San Mateo, State of California, particularly described as follows:

BEGINNING at the intersection of the Mean High Tide Line in Redwood Creek, as said Tide Line is shown on "Map of the Grant to the City of Redwood City, Chapter 34, Statutes of 1954 (1st E.S.) vicinity of Redwood Creek, San Mateo County, California", recorded in the Office of the County Recorder of San Mateo County at the request of State Lands Commission on January 7, 1960 in Volume 4 of Licensed Land Surveyors Maps at pages 69 to 73, inclusive, with the north-easterly line of Bayshore Freeway (State Highway Route 68) as described in Deed from James O. Archibald and wife, to State of California, recorded June 16, 1958 in Book 3409 of Official Records at page 647, Records of San Mateo County, California; thence along said Mean High Tide Line, North $60^{\circ} 35' 04''$ East 36.39 feet to Station 122 as shown on said Map; thence North $74^{\circ} 33' 37''$ East 108.93 feet to Station 123; thence South $82^{\circ} 28' 27''$ East 486.57 feet; thence South $68^{\circ} 34' 29''$ West 57.14 feet; thence South $89^{\circ} 19' 29''$ West 463.37 feet to said Northeasterly line of Bayshore Freeway; thence along said line of Bayshore Freeway on a curve to the left from a tangent bearing North $66^{\circ} 48' 41''$ West with a radius of 9115 feet through a central angle of $0^{\circ} 41' 58''$, an arc distance of 111.27 feet to the point of beginning.

5. That the boundary line between the lands of plaintiff and the lands of defendant, CITY OF REDWOOD CITY, and defendant, STATE OF CALIFORNIA, is hereby determined to be:

BEGINNING at the intersection of the Mean High Tide Line in Redwood Creek, as said Tide Line is shown on "Map of the Grant to the City of Redwood City, Chapter 34, Statutes of 1954, (1st E.S.) Vicinity of Redwood Creek, San Mateo County, California", recorded in the Office of the County Recorder of San Mateo County at the request of State Lands Commission on January 7, 1960 in Volume 4 of Licensed Land Surveyors Maps at pages 69 to 73 inclusive, with the north-easterly line of Bayshore Freeway (State Highway Route 68) as described in Deed from James O. Archibald and wife, to State of California, recorded June 16, 1958 in Book 3409 of Official Records at page 647, Records of San Mateo County, California; thence along said Mean High Tide Line, north $60^{\circ} 35' 04''$ East 36.39 feet to Station 122 as shown on said Map; thence North $74^{\circ} 33' 37''$ East 108.93 feet to Station 123; thence South $82^{\circ} 28' 27''$ East 549.74 feet to Station 124; thence North $79^{\circ} 32' 24''$ East 66.10 feet to

Station 125; thence North $68^{\circ} 33' 39''$ East 440.48 feet to Station 126; thence North $59^{\circ} 20' 08''$ East 525.48 feet to Station 127; thence North $47^{\circ} 26' 02''$ East 316.36 feet to Station 128; thence North $14^{\circ} 02' 10''$ East 504.08 feet to the southerly boundary of the northwest quarter of Section 17, Township 5 South, Range 3 West, Mt. Diablo Base and Meridian.

All bearings shown herein conform with California Coordinate System, Zone 3.,

and that each and all of said defendants be, and they each and all are hereby perpetually enjoined and restrained from asserting any right, title, estate, lien or interest in or to the real property of plaintiff and that plaintiff is hereby perpetually enjoined and restrained from asserting any right, title, estate, lien or interest in or to the real property of defendant, CITY OF REDWOOD CITY, or defendant, STATE OF CALIFORNIA, herein described.

DATED:

Judge of the Superior Court

