

MINUTE ITEM

20. OFFER OF STIPULATION TO QUIET TITLE TO LANDS ADJACENT TO MOKELUMNE RIVER, SACRAMENTO COUNTY (MENDES VS. STATE, BOSS, ET AL., SACRAMENTO SUPERIOR COURT NO. 133,534) - W.O. 503.382.

After consideration of Calendar Item 13 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO REQUEST THE ATTORNEY GENERAL TO ENTER INTO A COMPROMISE SETTLEMENT IN THE CASE OF MENDES ET AL. VS. BOSS ET AL., SACRAMENTO COUNTY SUPERIOR COURT CASE NO. 133,534, PROVIDING FOR A PAYMENT OF \$1,000 TO THE STATE IN CONSIDERATION FOR THE STATE DISCLAIMING ITS RIGHT, TITLE AND INTEREST, IF ANY, IN THE AREA WHICH IS THE SUBJECT OF THE ACTION AND IS MORE PARTICULARLY DESCRIBED IN THE COMPLAINT.

Attachment

Calendar Item 13 (1 page)

CALENDAR ITEM

13.

OFFER OF STIPULATION TO QUIET TITLE TO LANDS ADJACENT TO MOKELUMNE RIVER, SACRAMENTO COUNTY (MENDES VS. STATE, BOSS, ET AL., SACRAMENTO SUPERIOR COURT NO. 133,534) - W.O. 503.382.

In a quiet title action involving a parcel of land within the floodway of the Mokelumne River adjacent to Andrus Island, the plaintiffs, Mendes, et al., have offered a payment for compromise of the State's interest, if any, in the lands which are the subject of the quiet title action. The office of the Attorney General has recommended that the Commission approve the acceptance of a compromise in the amount of \$1,000 for such interest as the State may claim in the lands involved.

The subject area contains 4.096 acres and is just downstream from the southerly end of Georgiana Slough at its junction with the Mokelumne River. It consists primarily of the north-central portion of an island which is traversed by the Division of Highways' bridge. The plaintiffs are the owners of the area on Andrus Island and hold record title out to the waterward toe of the main island levee. Their contention is that their title runs to the Mokelumne River and that they are therefore entitled to the area described in the complaint as a part of their holdings. By way of precedent for the acceptance of a compromise payment, there is the case of Perry vs. State, Sacramento County Superior Court No. 82,058, which, upon appeal, was remanded to the lower court for hearing on additional scientific facts, but which was settled by compromise as authorized by State Lands Commission action of March 11, 1957 (Minute Item 8, page 3028) rather than incur the costs of additional litigation. The compromise in the Perry case may be considered as a precedent for settling the subject action in a similar manner. Judgment in the Perry case was in favor of Perry. Since the Perry portion of the island referred to lies immediately downstream from the highway right-of-way and the instant area lies immediately adjacent upstream from the highway right-of-way, it would appear that the two areas can be consistently treated in the same manner in order to clarify the claim of title or interest in the land.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO REQUEST THE ATTORNEY GENERAL TO ENTER INTO A COMPROMISE SETTLEMENT IN THE CASE OF MENDES ET AL. VS. BOSS ET AL., SACRAMENTO COUNTY SUPERIOR COURT CASE NO. 133,534, PROVIDING FOR A PAYMENT OF \$1,000 TO THE STATE IN CONSIDERATION FOR THE STATE DISCLAIMING ITS RIGHT, TITLE AND INTEREST, IF ANY, IN THE AREA WHICH IS THE SUBJECT OF THE ACTION AND IS MORE PARTICULARLY DESCRIBED IN THE COMPLAINT.