

MINUTE ITEM

30. APPROVAL OF BOUNDARY AGREEMENT, BETWEEN THE STATE OF CALIFORNIA AND MAC DONALD & DORSA, A PARTNERSHIP, ALONG THE BANK OF STEAMBOAT SLOUGH, VICINITY OF ALVISO, SANTA CLARA COUNTY - W.O. 4669, B.L.A. 41, GEO.-SANTA CLARA CO.

After consideration of Calendar Item 20 attached, and upon motion duly made and carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE AN AGREEMENT WITH MAC DONALD AND DORSA FIXING THE ORDINARY LOW WATER MARK ALONG STEAMBOAT SLOUGH, A TIDAL WATERWAY IN THE VICINITY OF ALVISO, SANTA CLARA COUNTY, AS DESCRIBED IN THE BOUNDARY AGREEMENT, W.O. 4669, ATTACHED AS EXHIBIT "A" AND HEREBY MADE A PART HEREOF, AS THE PERMANENT BOUNDARY BETWEEN STATE SUBMERGED LAND AND SUBJECT PRIVATE LANDS ALONG THIS TIDAL WATERWAY.

Attachments

Exhibit "A" (3 pages)

Calendar Item 20 (5 pages)

EXHIBIT "A"

BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT, made and entered into by and between

STATE OF CALIFORNIA

(as Party of the First Part hereinafter referred to as "the State") and

MacDONALD AND DORSA, A PARTNERSHIP

(as Parties of the Second Part)

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, MacDonald and Dorsa, a Partnership, appear of record as owners of certain land fronting on the tide and submerged lands in Steamboat Slough, a tidal, navigable waterway in the vicinity of Alviso, Santa Clara County, California; and

WHEREAS, the State of California by virtue of its sovereignty is the owner of certain tide and submerged lands in Steamboat Slough in the vicinity of Alviso, Santa Clara County, California; and

WHEREAS, the ordinary low water mark or the ordinary high water mark as each may have existed in its last natural state has been affected by artificial and natural processes or a combination of both; and

WHEREAS, the State Lands Commission and MacDonald and Dorsa consider it expedient and necessary and in the best interests of the State and the public to permanently fix and describe the boundary between State lands

EXHIBIT "A" (CONTD.)

and MacDonald and Dorsa property, 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:

The true and correct boundary line between the State and MacDonald and Dorsa along Steamboat Slough is and shall be located and established along the following line:

Commencing at a point on the westerly line of the one hundred foot (100 foot) right-of-way of the South Pacific Coast Railway Company (now called the Southern Pacific Railroad Co.) and distant fifty feet (50 feet) westerly measured at right angles from the centerline of the existing main tract of said railway company, said point of commencement being at the intersection of said westerly line with the centerline of Wentworth Avenue, New Chicago, a map of said New Chicago being shown and recorded in Volume "D" of Maps at Page 185, records of said Santa Clara County; thence from said point of commencement S.  $0^{\circ} 21' 51''$  E. 104.21 feet, S.  $59^{\circ} 14' 31''$  E. 44.71 feet, South 53.05 feet to a point on the south bank of Steamboat Slough, thence along Steamboat Slough N.  $59^{\circ} 14' 31''$  W. 134.60 feet, N.  $38^{\circ} 07' 33''$  W. 115.20 feet, N.  $82^{\circ} 35' 30''$  W. 215.00 feet, West 423.13 feet and N.  $54^{\circ} 12' 54''$  W. 70.10 feet to a point on the western property line of the lands now or formerly owned by the City of Alviso, which point is the True Point of Beginning of this portion of the boundary line along Steamboat Slough; thence from said True Point of Beginning, N.  $54^{\circ} 12' 54''$  W. 99.99 feet, N.  $72^{\circ} 25' 30''$  W. 160 feet and S.  $71^{\circ} 26' 30''$  W. 55.00 feet to a point on the western property line of lands now owned by MacDonald and Dorsa, which point is the end of this portion of the boundary line along Steamboat Slough. The above described boundary line is shown on Amended Record of Survey Map, dated May 1963, recorded July 18, 1963 and filed in Book 163 of Maps at Page 19, Records of Santa Clara County.

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 on the dates hereafter written.

MacDONALD AND DORSA

By \_\_\_\_\_

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

By \_\_\_\_\_

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

EXHIBIT "A" (CONTD.)

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ ) ss

On \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, with principal office in \_\_\_\_\_ County, personally appeared \_\_\_\_\_ and \_\_\_\_\_

known to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name (Typed or Printed)  
NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

STATE OF CALIFORNIA  
acting by and through  
STATE LANDS COMMISSION

By \_\_\_\_\_  
F. J. HORTIG  
Executive Officer

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

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ ) ss

On \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, with principal office in \_\_\_\_\_ County, personally appeared F. J. HORTIG, known to me to be the Executive Officer of the STATE LANDS COMMISSION, STATE OF CALIFORNIA, the Commission that executed the within Instrument, known to me to be the person who executed the within Instrument, on behalf of the Commission therein named, and acknowledged to me that such Commission executed the within Instrument pursuant to a resolution of its Commissioners.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name (Typed or Printed)  
NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

CALENDAR ITEM

20.

APPROVAL OF BOUNDARY AGREEMENT, BETWEEN THE STATE OF CALIFORNIA AND MAC DONALD & DORSA, A PARTNERSHIP, ALONG THE BANK OF STEAMBOAT SLOUGH, VICINITY OF ALVISO, SANTA CLARA COUNTY - W.O. 4669.

Steamboat Slough is a tidal, navigable waterway which drained into Alviso Slough in the vicinity of the Town of Alviso; its natural condition was destroyed many years ago when levees were built along both sides. The Slough was originally sold within Swamp and Overflow Survey No. 40.

The County of Santa Clara proposes to use Steamboat Slough as part of a marina. It is necessary to establish permanent boundaries along the State-owned waterway before the State Lands Commission can issue a permit to Santa Clara County for construction of the marina.

Amended Record of Survey Map, prepared in May 1963 by George S. Nolte, Consulting Civil Engineers, Inc., and filed on Page 19, Book 163 of Maps, Records of Santa Clara County, shows a boundary line which is agreeable to all parties as a permanent boundary. It is proposed to enter into an agreement with Mac Donald & Dorsa to fix the common property boundary along a portion of Steamboat Slough as it is shown on said Record of Survey Map (Exhibit "B" following Calendar Item 18).

The office of the Attorney General previously approved boundary agreements in the subject form; Staff Counsel has determined that the agreement is legally sufficient.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO ENTER INTO AN AGREEMENT WITH MAC DONALD AND DORSA FIXING THE ORDINARY LOW WATER MARK ALONG STEAMBOAT SLOUGH, A TIDAL WATERWAY IN THE VICINITY OF ALVISO, SANTA CLARA COUNTY, AS DESCRIBED IN THE BOUNDARY AGREEMENT, W.O. 4669, ATTACHED AS EXHIBIT "A" AND HEREBY MADE A PART HEREOF, AS THE PERMANENT BOUNDARY BETWEEN STATE SUBMERGED LAND AND SUBJECT PRIVATE LANDS ALONG THIS TIDAL WATERWAY.

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(as Parties of the Second Part)

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, MacDonald and Dorsa, a Partnership, appear of record as owners of certain lands fronting on the tide and submerged lands in Steamboat Slough, a tidal, navigable waterway in the vicinity of Alviso, Santa Clara County, California; and

WHEREAS, the State of California by virtue of its sovereignty is the owner of certain tide and submerged lands in Steamboat Slough in the vicinity of Alviso, Santa Clara County, California; and

WHEREAS, the ordinary low water mark or the ordinary high water mark as each may have existed in its last natural state has been affected by artificial and natural processes or a combination of both; and

WHEREAS, the State Lands Commission and MacDonald and Dorsa consider it expedient and necessary and in the best interests of the State and the public to permanently fix and describe the boundary between State lands

and MacDonald and Dorsa property, 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 hereunto mutually agree on behalf of themselves and their successors in interest as follows:

The true and correct boundary line between the State and MacDonald and Dorsa along Steamboat Slough is and shall be located and established along the following line:

Commencing at a point on the westerly line of the one hundred foot (100 foot) right-of-way of the South Pacific Coast Railway Company (now called the Southern Pacific Railroad Co.) and distant fifty feet (50 feet) westerly measured at right angles from the centerline of the existing main tract of said railway company, said point of commencement being at the intersection of said westerly line with the centerline of Wentworth Avenue, New Chicago, a map of said New Chicago being shown and recorded in Volume "D" of Maps at Page 185, records of said Santa Clara County; thence from said point of commencement S.  $0^{\circ} 21' 51''$  E. 104.21 feet, S.  $59^{\circ} 14' 31''$  E. 44.71 feet, South 53.05 feet to a point on the south bank of Steamboat Slough, thence along Steamboat Slough N.  $59^{\circ} 14' 31''$  W. 134.60 feet, N.  $38^{\circ} 07' 33''$  W. 115.20 feet, N.  $82^{\circ} 35' 30''$  W. 215.00 feet, West 423.13 feet and N.  $54^{\circ} 12' 54''$  W. 70.10 feet to a point on the western property line of the lands now or formerly owned by the City of Alviso, which point is the True Point of Beginning of this portion of the boundary line along Steamboat Slough; thence from said True Point of Beginning, N.  $54^{\circ} 12' 54''$  W. 99.99 feet,

N. 72° 25' 30" W. 160 feet and S. 71° 26' 30" W. 55.00 feet to a point on the western property line of lands now owned by MacDonald and Dorsa, which point is the end of this portion of the boundary line along Steamboat Slough. The above described boundary line is shown on Amended Record of Survey Map, dated May 1963, recorded July 18, 1963 and filed in Book 163 of Maps at Page 19, Records of Santa Clara County.

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 on the dates hereafter written.

MacDONALD AND DORSA

By \_\_\_\_\_

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

By \_\_\_\_\_

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

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ ) ss

On \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, with principal office in \_\_\_\_\_ County, personally appeared \_\_\_\_\_ and \_\_\_\_\_ known to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
\_\_\_\_\_  
Name (Typed or Printed)  
NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA



STATE OF CALIFORNIA  
acting by and through  
STATE LANDS COMMISSION

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

\_\_\_\_\_  
F. J. HORTIG  
Executive Officer

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

On \_\_\_\_\_ 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, with principal office in \_\_\_\_\_ County, personally appeared F. J. HORTIG, known to me to be the Executive Officer of the STATE LANDS COMMISSION, STATE OF CALIFORNIA, the Commission that executed the within Instrument, known to me to be the person who executed the within Instrument, on behalf of the Commission therein named, and acknowledged to me that such Commission executed the within Instrument pursuant to a resolution of its Commissioners.

WITNESS my hand and official seal.

\_\_\_\_\_  
\_\_\_\_\_  
Name (Typed or Printed)  
NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA