

MINUTE ITEM

37. PROPOSED LEGAL ACTION TO QUIET TITLE, AND FOR TRESPASS, DAMAGES, AND INJUNCTIVE RELIEF AGAINST ROBERT E. MacDONALD, ROBERT E. MacDONALD, III, AND BLAIR MacDONALD, d.b.a. MONTEREY SAND COMPANY AND MONTEREY SAND COMPANY, A CALIFORNIA CORPORATION, RELATING TO UNAUTHORIZED REMOVAL OF SAND FROM TIDE AND SUBMERGED LANDS IN MONTEREY BAY IN THE VICINITY OF SEASIDE AND MARINA, MONTEREY COUNTY - W.O. 3506 AND W.O. 3520.

After consideration of Calendar Item 9 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO REQUEST THE OFFICE OF THE ATTORNEY GENERAL TO TAKE LEGAL ACTION TO QUIET TITLE, AND FOR TRESPASS, DAMAGES, AND INJUNCTIVE RELIEF AGAINST ROBERT E. MacDONALD, ROBERT E. MacDONALD, III, AND BLAIR MacDONALD, d.b.a. MONTEREY SAND COMPANY, AND MONTEREY SAND COMPANY, A CALIFORNIA CORPORATION, RELATING TO REMOVAL BY THEM OF SAND FROM TIDE AND SUBMERGED LANDS IN MONTEREY BAY FRONTING THEIR PROPERTY IN THE VICINITY OF SEASIDE AND MARINA. MONTEREY COUNTY.

Attachment

Calendar Item 9 (1 page)

CALENDAR ITEM

9.

PROPOSED LEGAL ACTION TO QUIET TITLE, AND FOR TRESPASS, DAMAGES, AND INJUNCTIVE RELIEF AGAINST ROBERT E. MacDONALD, ROBERT E. MacDONALD, III, AND BLAIR MacDONALD, d.b.a. MONTEREY SAND COMPANY AND MONTEREY SAND COMPANY, A CALIFORNIA CORPORATION, RELATING TO UNAUTHORIZED REMOVAL OF SAND FROM TIDE AND SUBMERGED LANDS IN MONTEREY BAY IN THE VICINITY OF SEASIDE AND MARINA, MONTEREY COUNTY - W.O. 3506 AND W.O. 3520.

Monterey Sand Company, without authorization, has been removing sand for past years from State-owned tide and submerged lands in Monterey Bay fronting its upland properties. Although Monterey Sand Company has made application for mineral extraction leases for the involved tide and submerged lands, it has failed to execute such leases. Other companies in the immediate vicinity have entered into leases with the State and are paying royalty for sand extracted from tide and submerged lands in Monterey Bay.

The Company contends that the boundaries of its lands extend some 200 feet into Monterey Bay because the landward movement of the mean high tide line was the result of avulsive changes caused by severe winter storms. Surveys over a period of years of the mean high tide line in Monterey Bay do not bear out this contention. The shoreline appears to be receding gradually. The State is the owner of all land below the mean high tide line in Monterey Bay, and removal of sand waterward of that line constitutes a trespass. Legal action appears necessary to protect the interests of the State.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO REQUEST THE OFFICE OF THE ATTORNEY GENERAL TO TAKE LEGAL ACTION TO QUIET TITLE, AND FOR TRESPASS, DAMAGES, AND INJUNCTIVE RELIEF AGAINST ROBERT E. MacDONALD, ROBERT E. MacDONALD, III, AND BLAIR MacDONALD, d.b.a. MONTEREY SAND COMPANY, AND MONTEREY SAND COMPANY, A CALIFORNIA CORPORATION, RELATING TO REMOVAL BY THEM OF SAND FROM TIDE AND SUBMERGED LANDS IN MONTEREY BAY FRONTING THEIR PROPERTY IN THE VICINITY OF SEASIDE AND MARINA, MONTEREY COUNTY.