

68. AUTHORIZATION FOR STATE LANDS DIVISION STAFF AND ATTORNEY GENERAL'S OFFICE TO COOPERATE AND NEGOTIATE WITH UNITED STATES DEPARTMENT OF THE INTERIOR AND OTHER STATE DEPARTMENTS CONCERNING PROBLEMS OF MUTUAL INTEREST IN SAN FRANCISCO BAY; ALAMEDA, MARIN, SAN MATEO, SANTA CLARA, CONTRA COSTA, AND SAN FRANCISCO COUNTIES - W.O. 7093.

After consideration of Calendar Item 24 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE STATE LANDS DIVISION STAFF AND THE ATTORNEY GENERAL'S OFFICE TO COOPERATE AND NEGOTIATE WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR AND OTHER STATE AND FEDERAL AGENCIES CONCERNING PROBLEMS OF MUTUAL INTEREST IN SAN FRANCISCO BAY AND TO TAKE THE NECESSARY STEPS TO ACQUIRE FACTUAL DATA CONCERNING THE FUTURE DEVELOPMENT OF THE BAY.

Attachment

Calendar Item 24 (2 pages)

AUTHORIZATION FOR STATE LANDS DIVISION STAFF AND ATTORNEY GENERAL'S OFFICE TO COOPERATE AND NEGOTIATE WITH UNITED STATES DEPARTMENT OF THE INTERIOR AND OTHER STATE DEPARTMENTS CONCERNING PROBLEMS OF MUTUAL INTEREST IN SAN FRANCISCO BAY; ALAMEDA, MARIN, SAN MATEO, SANTA CLARA, CONTRA COSTA, AND SAN FRANCISCO COUNTIES - W.O. 7093.

The future of San Francisco Bay has become a matter of national interest as well as of regional and State concern. Plans have been announced by a number of companies for the filling of certain areas in the Bay for development. The Bay Conservation and Development Commission is concluding a proposed master plan for use of the Bay. Many conservation groups have expressed a desire that the Bay be preserved in its present state. Federal legislation, over the past few years, has been passed which pertains to certain problems encountered in San Francisco Bay concerning water pollution (33 U.S.C. Sec. 466 et seq.), fish and wildlife (16 U.S.C. Sec. 661 et seq.), land and water conservation (78 U.S. Stat. 897), and shore erosion (33 U.S.C. 426); in addition, there is existing Federal authority over the waters of the Bay vested in the United States Army Corps of Engineers (33 U.S.C. Secs. 540, 541, 545). The foregoing statutes provide for Federal-State cooperation. Also, there is pending in Congress at the present time a bill (H.R. 25) which would authorize the Secretary of Interior to consult and cooperate with the states in conducting an inventory and study of the nation's estuaries and other natural resources. The scope of the pending bill is seen from a reading of Section 2 thereof as passed by the House of Representatives, which provides as follows:

"Sec. 2. (a) The Secretary of the Interior, in consultation and in cooperation with the States, the Secretary of the Army, and other Federal agencies, shall conduct directly or by contract a study and inventory of the Nation's estuaries, including without limitation coastal marshlands, bays, sounds, seaward areas, lagoons, and land and waters of the Great Lakes. For the purpose of this study, the Secretary shall consider, among other matters, (1) their wildlife and recreational potential, their ecology, their value to the marine, anadromous, and shell fisheries and their esthetic value, (2) their importance to navigation, their value for flood, hurricane, and erosion control, their mineral value, and the value of submerged lands underlying the waters of the estuaries, and (3) the value of such areas for more intensive development for economic use as part of urban developments and for commercial and industrial developments. This study and inventory shall be carried out in conjunction with the comprehensive estuarine pollution study authorized by section 5(g) of the Federal Water Pollution Control Act, as amended, and other applicable studies."

and Section 3 provides in part as follows:

"Sec. 3. After the completion of the general study authorized by section 2 of this Act, the Secretary of the Interior, with the approval of the President, may enter into an agreement, containing such terms and conditions as are mutually acceptable, with any State...for the permanent management, development, and administration of any area, land, or interests therein within an estuary...."

CALENDAR ITEM 24 (CONTD.)

Title to the bed of San Francisco Bay originally was vested in the State in 1850 by virtue of its sovereignty. Private parties claim title to certain portions of the Bay based upon patents from the State issued primarily prior to 1900. The validity of those patents is currently under study by the staff. Additionally, an easement for commerce, navigation, and fisheries appears to exist over certain of the lands in question as well as over those portions of the Bay clearly in State ownership.

Basic research and development of facts is proceeding by the staff and by the Attorney General's Office to guide Commission action as problems arise. This work can best be accomplished by the assistance of and coordination with other affected State and Federal agencies. Therefore, it would best serve the State's interest to have representatives of the Attorney General's Office and of the Division's staff meet with the Secretary of the Interior and his staff to develop the factual information required to reach proper agreements concerning the problems presented in San Francisco Bay which may be anticipated. Since the Commission has exclusive jurisdiction under Public Resources Code Section 6301 over all ungranted tidelands and submerged lands, it is essential that it participate in plans for San Francisco Bay.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE STATE LANDS DIVISION STAFF AND THE ATTORNEY GENERAL'S OFFICE TO COOPERATE AND NEGOTIATE WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR AND OTHER STATE AND FEDERAL AGENCIES CONCERNING PROBLEMS OF MUTUAL INTEREST IN SAN FRANCISCO BAY AND TO TAKE THE NECESSARY STEPS TO ACQUIRE FACTUAL DATA CONCERNING THE FUTURE DEVELOPMENT OF THE BAY.