

MINUTE ITEM

10/2/69

33. AUTHORIZATION FOR ATTORNEY GENERAL TO ENTER INTO A STIPULATED JUDGMENT CONCERNING OWNERSHIP OF LAND ALONG THE COLORADO RIVER IN THE MATTER OF BERYLWOOD INVESTMENT COMPANY V. STATE OF CALIFORNIA, ET AL., IMPERIAL COUNTY SUPERIOR COURT CASE NO. 40,535; IMPERIAL COUNTY - W-503.581.

After consideration of Calendar Item 3 attached, and upon motion duly made and carried, the following resolution was adopted:

THE STATE LANDS COMMISSION AUTHORIZES THE ATTORNEY GENERAL TO EXECUTE AN APPROPRIATE STIPULATED JUDGMENT IN THE MATTER OF BERYLWOOD INVESTMENT COMPANY V. STATE OF CALIFORNIA, ET AL., IMPERIAL COUNTY SUPERIOR COURT CASE NO. 40,535, WHEREIN THE STATE OF CALIFORNIA WILL DISCLAIM ANY INTEREST IN UPLANDS ABUTTING THE FORMER STATE-OWNED BED OF THE COLORADO RIVER, CONFIRM THE STATE'S TITLE TO CERTAIN PORTIONS OF THE BED OF THE COLORADO RIVER AS SET FORTH IN EXHIBIT "A" ATTACHED AND INCORPORATED BY REFERENCE HEREIN, AND ESTABLISH PUBLIC OWNERSHIP OF AN EASEMENT FOR PURPOSES OF COMMERCE, NAVIGATION AND FISHERIES, OVER SO MUCH OF, AND FOR SO LONG A TIME AS, THE REAL PROPERTY DESCRIBED IN EXHIBIT "A" OF THE PLAINTIFF'S COMPLAINT IS COVERED BY THE NAVIGABLE WATERS OF THE COLORADO RIVER.

Attachment

Calendar Item 3 (4 pages)

3.

AUTHORIZATION FOR ATTORNEY GENERAL TO ENTER INTO A STIPULATED JUDGMENT CONCERNING OWNERSHIP OF LAND ALONG THE COLORADO RIVER IN THE MATTER OF BERYLWOOD INVESTMENT COMPANY V. STATE OF CALIFORNIA, ET AL., IMPERIAL COUNTY SUPERIOR COURT CASE NO. 40,535; IMPERIAL COUNTY - W-503.581.

The United States, on behalf of the Bureau of Reclamation, has instituted a series of condemnation actions to acquire land for the purpose of creating the Cibola Cut along the Colorado River in the Palo Verde Valley area. In the case of U.S.A. v. 33.09 Acres, United States District Court, Southern District of California, Southern Division, No. 3137SDK-Civ., the State of California claimed a portion of Parcel 1 as sovereign lands of the State, being the former bed of the Colorado River as it existed in 1930. The portion claimed by the State, amounting to approximately 8.5 acres of Parcel 1, was part of the land that was also the subject of a boundary line agreement between the State of California and Berylwood Investment Company, authorized by the State Lands Commission on May 26, 1966 (Minute Item 34, pp. 12,710-8), and which executed boundary line agreement is designated on the records of the State Lands Division as B.L.A. 75. The agreed boundary line follows the low water line along the right bank of the 1930 channel of the Colorado River. The Attorney General, pursuant to resolution adopted by the State Lands Commission on October 26, 1967 (Minute Item 49, pp. 1202-3), entered into a judgment and stipulation with the U. S. wherein the State received compensation of \$1,125 for the taking of sovereign land within the 1930 channel of the Colorado River and revesting title in the State to sovereign lands in said channel that were not finally condemned by the United States in the action.

At the request of a title insurance company representing Berylwood Investment Company, the company filed an action against the State to quiet title and confirm the boundary line agreement previously entered into between the State and Berylwood Investment Company. The State has filed an answer, claiming an easement for commerce, navigation and fisheries over whatever part of the plaintiff's land is under the navigable waters of the Colorado River, and a counterclaim setting up the State's claim to ownership of the 1930 bed of the river. It is now proposed that the Commission authorize the Office of the Attorney General to enter into an appropriate stipulated judgment in this action that will confirm the boundary line agreement heretofore entered into between the parties, confirm the ownership of the State of California in the former bed of the Colorado River (1930 channel), and impose the easement for commerce, navigation and fisheries, over so much of, and for so long as a time as, the real property described in Exhibit "A" of the plaintiff's complaint is covered by navigable waters of the Colorado River. These latter lands, although now covered by navigable waters of the Colorado River, were artificially created, and the fee interest therein is not in the State of California. The river now runs through the Cibola Cut, and the water covering a portion of the plaintiff's land probably will dry up.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE THE ATTORNEY GENERAL TO EXECUTE AN APPROPRIATE STIPULATED JUDGMENT IN THE MATTER OF

CALENDAR ITEM 3. (CONTD.)

BERYLWOOD INVESTMENT COMPANY V. STATE OF CALIFORNIA, ET AL., IMPERIAL COUNTY SUPERIOR COURT CASE NO. 40,535, WHEREIN THE STATE OF CALIFORNIA WILL DISCLAIM ANY INTEREST IN UPLANDS ABUTTING THE FORMER STATE-OWNED BED OF THE COLORADO RIVER, CONFIRM THE STATE'S TITLE TO CERTAIN PORTIONS OF THE BED OF THE COLORADO RIVER AS SET FORTH IN EXHIBIT "A" ATTACHED AND INCORPORATED BY REFERENCE HEREIN, AND ESTABLISH PUBLIC OWNERSHIP OF AN EASEMENT FOR PURPOSES OF COMMERCE, NAVIGATION AND FISHERIES, OVER SO MUCH OF, AND FOR SO LONG A TIME AS, THE REAL PROPERTY DESCRIBED IN EXHIBIT "A" OF THE PLAINTIFF'S COMPLAINT IS COVERED BY THE NAVIGABLE WATERS OF THE COLORADO RIVER.

Attachment: Exhibit "A"

EXHIBIT "A"

A tract of land in the unsurveyed fractional Section 7, T. 9 S., R. 22 E., and Sections 12 and 13, T. 9 S., R. 21 E., San Bernardino Meridian, California, more particularly described as follows:

COMMENCING at the section corner common to Sections 1, 12, 6, 7, T. 9 S., R. 21 and R. 22 E., S.B.M.; thence south, along the range line between R. 21 E. and R. 22 E., 1,988.95 feet to a point on the right bank of the 1930 channel of the Colorado River, and the TRUE POINT OF BEGINNING: thence leaving said range line and along said right bank,

N. 83° 30' W. 1,600 feet; thence
 S. 85° 10' W. 1,325 feet; thence
 S. 68° 20' W. 500 feet; thence
 S. 55° 46' W. 1,010 feet; thence
 S. 34° 10' W. 400 feet; thence
 S. 15° 30' W. 1,200 feet; thence
 S. 08° 30' E. 1,090 feet to a point on the south

line of Section 12 from which the section corner common to Sections 11, 12, 13, 14, T. 9 S., R. 21 E. bears West 520 feet; thence continuing along said right bank,

S. 08° 30' E. 130 feet; thence
 S. 16° 04' E. 1,140 feet; thence
 S. 14° 05' E. 1,410 feet; thence
 S. 09° 59' E. 1,135 feet; thence
 S. 19° 15' E. 1,670 feet to a point from which the

section corner common to Sections 13, 14, 23, 24, T. 9 S., R. 21 E. bears West 2,020 feet; thence leaving said right bank East along said section line 440 feet to the center line of the 1930 channel of the Colorado River; thence along said center line,

N. 19° 40' W. 1,500 feet; thence
 N. 10° 05' W. 1,845 feet; thence
 N. 13° 50' W. 1,140 feet; thence
 N. 09° 30' W. 1,150 feet; thence
 N. 07° 00' E. 610 feet; thence
 N. 12° 16' E. 565 feet; thence
 N. 31° 45' E. 1,100 feet; thence
 N. 41° 30' E. 460 feet; thence
 N. 84° 10' E. 1,160 feet; thence
 N. 89° 15' E. 840 feet; thence
 S. 83° 45' E. 940 feet, to a point on the range

line between R. 21 E. and R. 22 E.; thence continuing along said center line,

S. 74° 30' E. 392.00 feet; thence
 S. 77° 00' E. 675.00 feet; thence leaving said
 center line N. 67° 21' E. 560 feet to a point on said right bank,
 said point being hereafter referred to as "Zorba"; thence along a
 line agreed to as part of State Lands Commission Boundary Line
 Agreement Number 75, executed on September 26, 1966, said line
 having the following courses:

- 1) N. 58° 30' W. 760 feet
- 2) N. 77° 00' W. 928 feet to the true point of beginning.

EXCEPTING therefrom Parcel A, as said parcel is shown on "Plat of a
 Portion of the 1930 Channel of the Colorado River", which is filed
 in the Sacramento Office of the State Lands Division, number
 CB 1484, said parcel being more particularly described as follows:

BEGINNING at the aforementioned point "Zorba"; thence N. 58° 30' W.
 760 feet along a line agreed to in the aforementioned boundary
 agreement; thence along the following courses:

- 1) S. 48° 43' W. 700 feet
- 2) S. 77° 00' E. 675 feet
- 3) N. 67° 21' E. 560 feet to point "Zorba" and the true point
 of beginning.