

49. BOUNDARY LINE AGREEMENT BETWEEN THE STATE OF CALIFORNIA, WALTER F. KIECKHEFER, JR., ET UX., AND GOLDEN EAGLE MILLING CO., ET AL., UPLAND OWNERS ADJACENT TO PORTIONS OF SOVEREIGN LANDS IN THE BED OF PETALUMA RIVER, IN THE CITY OF PETALUMA, SONOMA COUNTY - N-0067, B.L.A. 116.

After consideration of Calendar Item 48 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION ADOPTS THE FOLLOWING RESOLUTION:

1. AUTHORIZES THE EXECUTION OF A BOUNDARY LINE AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE GOLDEN EAGLE MILLING CO., A CORPORATION, ET AL., FOR THE PURPOSE OF PERMANENTLY FIXING THE COMMON BOUNDARY BETWEEN THE UNGRANTED TIDE AND SUBMERGED LANDS WITHIN PETALUMA CREEK IN SONOMA COUNTY AND THE UPLANDS ADJOINING AND COMMON TO SAID BOUNDARY. THE BOUNDARY LINE AGREED UPON IS DESCRIBED IN THAT SURVEY MADE BY J. N. DOWDEN, L.A. 3133, SAID SURVEY BEING ON FILE WITH THE STATE LANDS COMMISSION, ENTITLED "RECORD OF SURVEY OF A PORTION OF EAST PETALUMA LYING IMMEDIATELY ADJACENT TO A PORTION OF THE PETALUMA RIVER SITUATED IN THE CITY OF PETALUMA, COUNTY OF SONOMA, STATE OF CALIFORNIA".
2. AUTHORIZES THE FILING OF SAID SURVEY WITH THE SONOMA COUNTY RECORDER, PURSUANT TO LAW, AS A RECORD OF SURVEY.
3. AUTHORIZES THE EXECUTIVE OFFICER OR ASSISTANT EXECUTIVE OFFICER OF THE COMMISSION TO COMPLETE AND EXECUTE SAID AGREEMENT AND SAID SURVEY ON BEHALF OF THE STATE LANDS COMMISSION, AND TO EXECUTE SAID DOCUMENTS AND PERFORM SUCH OTHER ACTS AS MAY BE REASONABLY NECESSARY OR CONVENIENT TO PROVIDE FOR THE COMPLETION, RECORDING AND EFFECTIVENESS THEREOF.

Attachment

Calendar Item 48 (2 pages)

BOUNDARY LINE AGREEMENT BETWEEN THE STATE OF CALIFORNIA, WALTER F. KIECKHEFER, JR., ET UX., AND GOLDEN EAGLE MILLING CO., ET AL., UPLAND OWNERS ADJACENT TO PORTIONS OF SOVEREIGN LANDS IN THE BED OF PETALUMA RIVER, IN THE CITY OF PETALUMA, SONOMA COUNTY - N-0067, B.L.A. 116.

- (1) The applicants claim title to the uplands common to the ordinary high water mark to be agreed upon along the left bank of the Petaluma River, in the City of Petaluma, Sonoma County.
- (2) Following extensive engineering and legal research by applicants and by State, it has been determined that, due to artificial realignment and other artificial influences and conflicting historical surveys, the last natural location of the sovereign boundary is the subject to substantial uncertainty and dispute, and is not now known and cannot be established without agreement or court action by all parties of interest.
- (3) It is expedient and necessary and in the best interests of the parties to fix permanently and to establish the ordinary high water mark by agreement that will define the common boundary between the State and the upland owners, as provided by Section 6357 of the Public Resources Code, without the necessity of litigation, the result of which is uncertain.
- (4) The Division and the applicants have arrived at a mutually acceptable common boundary line, as generally set forth in the attached Exhibit "A".
- (5) The Division, on behalf of the State Lands Commission, has prepared a survey (dated October 1969), of the agreed common boundary. A copy of the plat thereof is on file with the Commission records. The said plat of such survey is to be filed as a Record of Survey in the Office of the Sonoma County Recorder as a condition to the recording of the Boundary Line Agreement.
- (6) The applicants will provide the State with suitable title insurance, and will also pay all expenses of escrow.
- (7) A previous survey of the Ordinary High Water Mark along the Petaluma Creek was prepared under W.O. 4157, and was approved by the Commission by Minute Item No. 35 of September 26, 1966. Said survey did not legally establish the State's boundary and, to the extent the presently agreed boundary is inconsistent therewith, said prior survey will be rescinded.
- (8) The Agreement is to become effective upon its recordation after the said Record of Survey has been duly filed with the County Recorder.
- (9) The parties acknowledge in the proposed agreement that the line between dimensional points H and J constitutes the southerly boundary of applicants' upland. The land southerly of such line is owned by the U.S. Corps of Engineers. Exhibit "A" shows a sketch of such land; however, the Corps' ownership extends to the ordinary high water mark, which, however, has

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not been located by agreement or judgment for the Petaluma Creek Boundary of the Corps' parcel. The proposed agreement is intended to establish the Creek boundary for all the land of applicant, but not for the said Corps' parcel.

IT IS RECOMMENDED THAT THE COMMISSION ADOPT THE FOLLOWING RESOLUTION:

- (1) AUTHORIZE THE EXECUTION OF A BOUNDARY LINE AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE GOLDEN EAGLE MILLING CO., A CORPORATION, ET AL., FOR THE PURPOSE OF PERMANENTLY FIXING THE COMMON BOUNDARY BETWEEN THE UNGRANTED TIDE AND SUBMERGED LANDS WITHIN PETALUMA CREEK IN SOMOMA COUNTY AND THE UPLANDS ADJOINING AND COMMON TO SAID BOUNDARY. THE BOUNDARY LINE AGREED UPON IS DESCRIBED IN THAT SURVEY MADE BY J. N. DOWDEN, L.A. 3133, SAID SURVEY BEING ON FILE WITH THE STATE LANDS COMMISSION, ENTITLED "RECORD OF SURVEY OF A PORTION OF EAST PETALUMA LYING IMMEDIATELY ADJACENT TO A PORTION OF THE PETALUMA RIVER SITUATED IN THE CITY OF PETALUMA, COUNTY OF SONOMA, STATE OF CALIFORNIA".
- (2) AUTHORIZE THE FILING OF SAID SURVEY WITH THE SONOMA COUNTY RECORDER, PURSUANT TO LAW, AS A RECORD OF SURVEY.
- (3) AUTHORIZE THE EXECUTIVE OFFICER OR ASSISTANT EXECUTIVE OFFICER OF THE COMMISSION TO COMPLETE AND EXECUTE SAID AGREEMENT AND SAID SURVEY ON BEHALF OF THE STATE LANDS COMMISSION, AND TO EXECUTE SAID DOCUMENTS AND PERFORM SUCH OTHER ACTS AS MAY BE REASONABLY NECESSARY OR CONVENIENT TO PROVIDE FOR THE COMPLETION, RECORDING AND EFFECTIVENESS THEREOF.