

MINUTE ITEM

1/29/70
WDC

24. AUTHORIZATION FOR THE ATTORNEY GENERAL TO FILE A DISCLAIMER OF INTEREST OF THE STATE LANDS COMMISSION IN THE CASE OF UNITED STATES OF AMERICA, PLAINTIFF v. 141.47 ACRES OF LAND, ETC., UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION OF CALIFORNIA, CIVIL NO. S-1343 - W-503.617.

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

THE COMMISSION AUTHORIZES THE ATTORNEY GENERAL TO FILE A DISCLAIMER OF INTEREST ON BEHALF OF THE STATE LANDS COMMISSION IN THE CASE OF UNITED STATES OF AMERICA, PLAINTIFF v. 141.47 ACRES OF LAND, ETC., FILED IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION OF CALIFORNIA CIV. NO. S-1343, TO ANY COMPENSABLE RIGHT, TITLE, OR INTEREST, SOLELY AND EXCLUSIVELY AGAINST THE UNITED STATES, EXPRESSLY RESERVING THE STATE'S SOVEREIGN CLAIM AGAINST ALL OTHERS, AND TO FIND THAT SUCH DISCLAIMER IS IN THE PUBLIC INTEREST.

Attachment

Calendar Item 24 (1 page)

24.

PROPOSED DISCLAIMER, COSUMNES RIVER, SACRAMENTO COUNTY - W-503.617

The State is a party to a Federal condemnation action in the United States District Court, Eastern Division of California, Civ. No. S-1343, entitled United States of America v. 141.47 Acres of Land, etc., more or less, in the County of Sacramento, State of California, et al.

Insofar as the jurisdiction of the Commission is involved, the suit seeks to condemn certain lands for the Folsom-South Canal crossing of the Cosumnes River for construction purposes in connection with the Central Valley Project of the Bureau of Reclamation. The suit also involves the possibility of tax-deeded uplands; however, this issue is being handled separately by the Attorney General and is not relevant here. The jurisdiction of the Commission concerns only the submerged lands within the bed of the river.

Private defendants claim ownership, by deeds of record, of the full bed of the river at this crossing.

In the event the river meets the requirements of navigability in the area in question, the bed of the river will constitute sovereign land of the State. However, the question of navigability and the location of the State's boundary if the river is found to be navigable have not been fully studied nor resolved to the satisfaction of the Division. Unless it is deemed essential to make such a study at this time, the staff and the available funds that would be required for the study could be well assigned to numerous other high priority matters.

The Attorney General's Office has recommended that a Disclaimer be filed on behalf of the State Lands Commission, disclaiming any compensable right, title or interest solely and exclusively as against the United States, and expressly reserving the State's sovereign claim against all other persons; and advises that such action will protect the State adequately from estoppel or adverse precedent and possible loss of other sections of the river in the event navigability can be established later. It therefore appears that the study required to resolve the matter is not essential at this time.

The Federal project, of which the condemnation action is a part, appears to constitute a matter of State-wide benefit complementary to the State Water Project. It therefore appears prudent to postpone any study of the river at this time, and to consent to the recommended qualified Disclaimer.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ATTORNEY GENERAL TO FILE A DISCLAIMER OF INTEREST ON BEHALF OF THE STATE LANDS COMMISSION IN THE CASE OF UNITED STATES OF AMERICA, PLAINTIFF, v. 141.47 ACRES OF LAND, ETC., FILED IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DIVISION OF CALIFORNIA CIV. NO. S-1343, TO ANY COMPENSABLE RIGHT, TITLE, OR INTEREST, SOLELY AND EXCLUSIVELY AGAINST THE UNITED STATES, EXPRESSLY RESERVING THE STATE'S SOVEREIGN CLAIM AGAINST ALL OTHERS, AND TO FIND THAT SUCH DISCLAIMER IS IN THE PUBLIC INTEREST.