

33. STATUS OF MAJOR LITIGATION - W.O.s 2716, 503.521, 2400.54, 503.510, 4721, 503.527, 503.562, 1339, 503.554, 503.546, 4926, 503.456, 503.587, 1839.24, 6987, 1839.28, 503.539, 503.577, AND 503.613.

The attached Calendar Item 32 was presented to the Commission for information only, no Commission action being required.

The Executive Officer gave the following supplemental oral report:

Dietz v. King, S.F. No. 22703, and Gion v. City of Santa Cruz, S.F. No. 22560 (W.O. 503.613) -- These cases involve the implied dedication of beach areas and access roads. In compliance with the Commission's request of November 14, 1969 (Minute Item 66, page 1309), the Office of the Attorney General appeared as amicus curiae in the California Supreme Court on behalf of itself and on behalf of the Commission. The Supreme Court issued an extremely favorable opinion, greatly liberalizing the California rule on implied dedication; holding, in effect, that the only elements necessary to implied dedication are use by the public for a period of five years without asking or receiving permission from the fee owner. This decision has a direct effect upon four pending cases, and will undoubtedly have an important State-wide effect in many additional areas.

Attachment

Calendar Item 32 (5 pages)

32.

STATUS OF MAJOR LITIGATION - W.O.s 2716, 503.521, 2400.54, 503.510, 4721, 503.527, 503.562, 1339, 503.554, 503.546, 4926, 503.456, 503.587, 1839.24, 6987, 1839.28, 503.539, AND 503.577.

The following information is current as of February 9, 1970:

1. Case No. 747562 (now consolidated with Case No. 649466) W-2716
 People vs. City of Long Beach, et al.
 Los Angeles County Superior Court
 (Long Beach Boundary Determination, Chapter 2000/57)

The City and the State are in the process of finalizing the form of decree to be entered, and such decree will be filed prior to March 1, 1970. A memorandum explaining the basis for said decree and the key provisions thereof was sent by the Attorney General to the Executive Officer of the State Lands Commission and to the Office of the Auditor General for comment.

2. Case No. 903714 W-503.521
 Standard Oil Company, et al. vs. W-2400.54
 City of Carpinteria, et al.
 Los Angeles County Superior Court

(Challenge by Standard, et al. of the appraised value set by the State Lands Commission on the State's interest in tide and submerged lands proposed to be annexed by the City of Carpinteria.)

No change; i.e., Proposed settlement (see Calendar Item No. 28 of agenda for Commission meeting of April 28, 1969) requires revised annexation ordinance by the City of Carpinteria, which ordinance was upheld in a referendum election October 21, 1969.

3. Case No. 892295 W-503.510
 Miller vs. City of Santa Monica, et al.
 Los Angeles County Superior Court

(An action by private upland owners involving title to tidelands that have artificially accreted. Both the State Lands Commission and the Division of Beaches and Parks have interests to protect.)

No change; i.e., The City and the State have not filed any Demurrer or Answer as yet. However, the City and the State have entered into a Stipulation with the Plaintiffs in lieu of a preliminary injunction. The Stipulation restrains the Plaintiffs from building in the disputed area, and restrains the City and the State from removing any improvements thereon.

INFORMATIVE CALENDAR ITEM 32. (CONTD.)

4. Case No. 5 Original in the United States Supreme Court
United States vs. State of California

W-4721

(Relating to the location of the offshore boundaries between lands under the paramount jurisdiction of the United States and lands owned by the State, for such purposes as minerals. A Supplemental Decree was entered in this case, settling the principal controversies between the State and the United States, but reserving jurisdiction in the United States Supreme Court to settle any remaining controversies.)

No change; i.e., The State Lands Division is in correspondence with the Federal Government concerning the status of certain offshore rocks in the vicinity of Carpinteria as low-tide elevations. If these rocks are low-tide elevations, they will constitute base points for determining the seaward limits of State ownership and could substantially enlarge the extent of State ownership in this particular area.

5. Case No. 57239
White vs. State of California
Sonoma County Superior Court

W-503.527
W-503.562

(Quiet title action against the State to determine a property boundary along the Petaluma River, Sonoma County.)

Appeal has been taken. Attorney General's Office working on briefs. In Kullberg v. State of California, Sonoma County Superior Court Case No. 59332, which is related to the White case, Pretrial Conferences have been scheduled for February 24, 1970.

6. Case No. 48620
Alameda Conservation Association, et al. vs.
State of California, et al.
United States District Court, Northern District

W-1339
W-503.554

(Action for declaratory relief and an injunction against the State of California, certain of its officers and officials, and Leslie Salt Co., seeking to invalidate the boundary settlement and exchange of lands between the State of California and Leslie Salt Co.)

No change; i.e., Awaiting scheduling for oral arguments for submission to the Court for decision.

INFORMATIVE CALENDAR ITEM 32. (CONTD.)

7. Case No. LA 29534 W-503.546
Atlantic Oil Company, et al. vs. County of Los Angeles,
et al. and Humble Oil & Refining Company, et al. vs.
City of Los Angeles
Supreme Court of the State of California

(An action by various oil companies to recover ad valorem taxes. It is anticipated that this case may constitute a significant precedent which could affect State revenues from the Long Beach tidelands in excess of \$100 million.)

No change; i.e., The Attorney General's Office is in contact with attorneys for the County of Los Angeles and the City of Long Beach regarding a possible Stipulation that the State Lands Commission may intervene in thirteen pending ad valorem cases affecting the Long Beach tidelands revenues, without opposition.

8. Case No. 4 Civil 9344 in the State Supreme Court W-4926
County of Orange, et al. vs. Heim, State of California -
Real Party in Interest

(Petition for Writ of Mandate involving the legality of the Upper Newport Bay Exchange approved by the State Lands Commission.)

On January 14, 1970, the Orange County Superior Court denied a Motion for Judgment on the Pleadings, based upon allegations by the Interveners that the form of the State Lands Commission resolution was technically improper. By agreement of all parties, the Honorable Claude M. Owens will hear all future matters in this litigation. On February 25, 1970, another Motion for Judgment on the Pleadings will be argued before the Orange County Superior Court. This Motion will be based upon a contention by the Respondent and the Interveners that an Amendatory Agreement, executed between the County and The Irvine Company subsequent to the Commission's resolution of September 1967, invalidated said resolution. The Court will be informed that the Office of the Attorney General informally advised the State Lands Commission that the Amendatory Agreement did not invalidate the Commission's resolution; however, that office also stated that this was a litigable question which should be presented to the Court for determination. The Court will also be informed that the Commission considers itself bound to support the resolution of September 1967 to the extent that said resolution is unaffected by the subsequent agreement. On the other hand, the Court will be informed that if it should be determined that the subsequent agreement did invalidate the Commission's resolution of September 1967, the Commission will abide by said adjudication and take whatever future action required by law that is deemed to be in the best interests of the State.

INFORMATIVE CALENDAR ITEM 32. (CONTD.)

9. Case No. 283455 W-503.456
Dillon vs. Atchison, Topeka and Santa Fe Railway Company
San Diego County Superior Court
- (To determine whether or not Tideland Survey No. 17 is valid, based upon Patent from the Governor of about 1871.)
- No change; i.e., Plaintiffs have filed a Notice of Appeal and Request for Preparation of Clerk's and Reporter's Transcripts.
10. Case No. 47729 W-503.587
State vs. Clyde
Solano County Superior Court
- (Quiet title, filed at the request of the Commission, on Swamp and Overflow Survey No. 131, Ryer Island, Solano County.)
- The Plaintiff's Motion for Summary Judgment was granted by the Court, subject to an express stipulation that the case does not adjudicate the rights of the public to access to the navigable waters within or adjacent to the lands in litigation. Judgment has been entered for the Defendants. Findings of Fact and Conclusions are being prepared.
11. Case No. 32824 W-1839.24
People vs. William Kent Estate Company
Marin County Superior Court
- (Retrial of an action to abate a public nuisance (a fence erected and maintained perpendicular to the shoreline) on the Pacific Ocean side of the Bolinas Lagoon Sandspit. The case involved a judicial interpretation of the statutory phrase "Ordinary High Water Mark.")
- Retrial is scheduled to resume on May 11, 1970.
12. Civil Case No. 144257 W-6987
State of California vs. County of San Mateo, et al. W-1839.28
San Mateo County Superior Court
- (A declaratory relief action to determine what interests were conveyed in trust to the County of San Mateo by Chapter 1857, Statutes of 1965.)
- No change; i.e., The Superior Court granted the Motion of the Sierra Club and the Save San Francisco Bay Association to intervene as party, subject to their limiting the issues to those raised in the State's original Complaint. Further developments await completion of factual study.

INFORMATIVE CALENDAR ITEM 32. (CONTD.)

13. Civil Case No. 125379 (companion case to No. 144257 above) W-503.539
County of San Mateo vs. Ideal Cement Company, et al.
San Mateo County Superior Court

(In order to obtain uniformity of decision, the State has filed an Answer to the Complaint. This action is a condemnation matter, brought by the County of San Mateo, concerning lands located within the aforementioned statute (Ch. 1857/65). The State contends that said lands were granted in trust to the County or, in the alternative, that the County received an easement over said lands in trust which permits the County to use the subject property for the purposes contemplated by the condemnation action.)

No change; i.e., The matter is awaiting pretrial developments.

14. California State Supreme Court Case LA-29700, W-503.577
City of Long Beach vs. Mansell, et al.
(The State of California, acting by and through the State Lands Commission, is one of the real parties in interest.)

(This is an action to approve Settlement Agreements between the City, the State, and affected private parties, for the resolution of complex title problems in the Alamitos Bay area of the City of Long Beach. The purpose of the lawsuit is to test the constitutionality of the statute under which the Agreements were negotiated.)

Alternative Writ of Mandate has been issued by the Supreme Court, and response thereto has been filed by Respondents. The matter will be argued before the Court during the week of April 5, 1970, in Los Angeles.