

MINUTE ITEM

1/28/71

17. STATUS OF MAJOR LITIGATION - W.O.s 503.510, 4721, 503.527, 503.562, 1339, 503.554, 503.546, 4926, 503.456, 1839.24, 6987, 1839.28, 503.539, 503.577, 503.609, 503.610, 503.641, and 503.534.

The attached Calendar Item 12 was presented to the Commission for information only, no action thereon being necessary.

Attachment:

Calendar Item 12 (5 pages)

INFORMATIVE CALENDAR ITEM

1/71

12.

STATUS OF MAJOR LITIGATION - W.O.s 503.510, 4721, 503.527, 503.562, 1339, 503.554, 503.546, 4926, 503.456, 1839.24, 6987, 1839.28, 503.539, 503.577, 503.609, 503.610, 503.641, and 503.534.

The following information is current as of January 8, 1971:

1. 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.)

The case is being reactivated, and the State and the City have taken a number of depositions that tend to show that the area in controversy is subject to the doctrine of implied dedication to the public. Other issues receiving close study are the questions of artificial accretion and the effect of a boundary line agreement entered into several decades ago.

2. Case No. 5 Original in the United States Supreme Court W 4721
United States vs. State of California

(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.)

The Department of the Interior proposes to issue certain rules and regulations relating to the Channel Islands National Monument, which includes a one-mile strip around Anacapa and Santa Clara Islands. The State claims three-mile strips around each of these islands under the Submerged Lands Act of 1953. However, with one exception, the rules and regulations appear to be within the powers of the Federal Government under the Commerce Clause of the United States Constitution and therefore not inconsistent with any rights the State may have under the Submerged Lands Act. Therefore, it was proposed to suggest to the Solicitor General a joint procedure for granting salvage permits in the area in question and otherwise to interpose no objection to the proposed rules and regulations. With the approval of the Executive Officer of the Lands Commission, the Attorney General mailed a proposal to the Solicitor General, implementing the aforesaid suggestion.

INFORMATIVE CALENDAR ITEM 12. (CONTD.)

3. 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.)

No change; i.e., Respondent's Supplemental Brief has been filed. Awaiting a date for Oral Argument by the Court.

4. 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., The matter was argued before the United States Court of Appeals for the Ninth Circuit in San Francisco on April 14, 1970. The matter is now submitted, and we are awaiting a decision.

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

W 503.546

(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.)

It is anticipated that legal proceedings involving the ad valorem taxation of THUMS, LBOD, Tract No. 2, and the Atlantic Richfield Drilling and Operating Contracts will be reactivated during the month of February 1971. The Office of the Attorney General will represent the interests of the State in these matters. At present approximately 21 cases are pending.

INFORMATIVE CALENDAR ITEM 12. (CONTD.)

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

W 4926

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

On December 18, 1970, Judge Claude Owens issued a Memorandum Opinion upholding the position of the State, the County, and The Irvine Company in the subject case. This Opinion upheld the constitutionality of the enabling legislation as well as the particular transaction consummated thereunder and approved by the State Lands Commission. The action of the State Lands Commission was held to be neither arbitrary nor capricious, and was held to be amply supported by the evidence. The attorneys for Petitioners and for the State are presently working on Proposed Findings of Fact, Conclusions of Law, and Judgment in this matter. On January 6, 1971, the Board of Supervisors of Orange County instructed the County Counsel to attempt to rescind the contract. This action raises certain questions of policy concerning the future course of the litigation.

7. Case No. 283455
Dillon vs. Atchison, Topeka and Santa Fe Railway Company
San Diego County Superior Court

W 503.456

(To determine whether or not Tideland Survey No. 17 is valid, based upon Patent from the Governor of about 1871.)

No change; i.e., Clerk's and Reporter's Transcripts on Appeal have been completed.

8. Case No. 32824
People vs. William Kent Estate Company
Marin County Superior Court

W 1839.24

(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.")

The matter is under submission in the Marin County Superior Court. A precise estimate as to when a Decision may be issued is not possible at this time.

INFORMATIVE CALENDAR ITEM 12. (CONTD.)

9. 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.

10. 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., Stipulation has been signed by all parties, continuing any further proceedings in the case until there is a resolution of the issues presented in State of California vs. County of San Mateo, et al., Case No. 144257 (see No. 9 above).

11. 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.)

FINAL REPORT: On December 10, 1970, John R. Mansell, City Manager of the City of Long Beach, executed the Alamitos Bay Settlement Agreements pursuant to Court action. The Agreements for the settlement of said title and boundary problems became effective on December 14, 1970. It is anticipated that the escrow will run from 30 to 90 days before completion of this transaction.

INFORMATIVE CALENDAR ITEM 12. (CONTD.)

12. Case No. SO3 21023 W 503.609
City of Long Beach vs. Radford, et al.
Los Angeles County Superior Court
and
Case No. 171042 W 503.610
City of Long Beach vs. Matthews, et al.
Orange County Superior Court (transferred from Los Angeles
County Superior Court)

(These are two condemnation actions filed by the City of Long Beach to obtain title to parcels of property lying between Ocean Boulevard in Long Beach and the public beach, as a part of the City's over-all acquisition program to obtain substantially all waterfront property in public ownership. The State of California has been named as a defendant because the seaward boundary of the affected parcels may be the landward boundary of sovereign lands granted by the State to the City of Long Beach in trust.)

In the Radford case: Pretrial Conference is scheduled for January 14, 1971.

In the Matthews case: No change; i.e., Going to Trial on January 18, 1971.

13. Case No. 838005 W 503.641
Union Pacific Railroad Company, et al. vs. City of Long Beach
Los Angeles County Superior Court

(Suit attacking the City of Long Beach business license tax for oil production. That portion of the ordinance providing for revenues from unitized tideland operations was declared unconstitutional.)

No change; i.e., Opening Briefs due October 29, 1970.

14. First Appellate District, Case No. 24883 W 503.534
California Supreme Court, Case No. SF-22566
Marks vs. Whitney

(A quiet title action between two private land owners, primarily concerning the ownership of a tideland patent on Tomales Bay. The seaward boundary of said tideland patent is the landward boundary of State submerged lands.)

The Attorney General, on behalf of the State Lands Commission and other State agencies, filed an Amicus Curiae Brief, seeking a hearing before the Supreme Court, pointing out the possible harmful effect of the Opinion of the District Court of Appeals on the boundaries to State lands along water courses, and asserting that an easement for commerce, navigation, and fisheries exists over tidelands patented by the Surveyor General. The Appellant and the Sierra Club sought a hearing before the Supreme Court on the grounds that a private party has standing to assert the existence of the easement for commerce, navigation, and fisheries over patented tidelands. The State took no position on the question of standing. A hearing was granted by the Supreme Court on December 14, 1970. The matter will be orally argued before the Supreme Court on February 2, 1971.