

16. PROPOSED LAND EXCHANGE WITH SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT, SANTA CLARA COUNTY; AND AUTHORIZATION FOR ISSUANCE OF PERMIT TO SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT TO DEPOSIT FILL AND IMPROVE PROPERTY IN THE BED OF THE GUADALUPE RIVER, SANTA CLARA COUNTY - N 0331, PRC 4563.9.

After consideration of Calendar Item 13 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT THE EXCHANGE OF LAND SET FORTH IN THE AGREEMENT REFERRED TO IN RECOMMENDATION 2(A) BELOW AS EXHIBIT "1" IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION, FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE OF THE GUADALUPE RIVER FOR THE IMPROVEMENT OF THE WATERS THEREOF AND OF THE UPLANDS.
2. AUTHORIZES:
 - (A) THE EXECUTION OF THE STATE-SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT 1971 AGREEMENT, IDENTIFIED AS EXHIBIT "1", WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
 - (B) THE EXECUTION OF A PATENT WITHOUT THE RESERVATION OF MINERAL INTERESTS TO SAID DISTRICT OF THE PARCELS OF LAND DESCRIBED IN EXHIBITS "D" AND "E" TO SAID AGREEMENT REFERRED TO ABOVE PURSUANT TO THE TERMS OF SAID AGREEMENT.
 - (C) THE ACCEPTANCE OF CONVEYANCES FROM SAID DISTRICT TO THE STATE OF THOSE LANDS AND RIGHT-OF-WAYS DESCRIBED IN THE AGREEMENT REFERRED TO ABOVE PURSUANT TO THE TERMS OF SAID AGREEMENT.
 - (D) THE ISSUANCE OF A PERMIT TO THE DISTRICT TO IMPROVE CERTAIN PROPERTY OF THE STATE DESCRIBED IN EXHIBIT "C" TO THE AGREEMENT REFERRED TO ABOVE.
 - (E) THE ACCEPTANCE OF THE WITHDRAWAL OF THE APPLICATION OF THE PRIVATE PARTY FOR THE PURCHASE OF SWAMP AND OVERFLOWED LAND LOCATION NO. 4291, UPON THE DELIVERY OF SUCH A WITHDRAWAL REQUEST TO THE STATE LANDS COMMISSION, AND THE REFUNDING OF ANY MONEY DEPOSITED WITH THE STATE IN CONNECTION WITH SAID APPLICATION.
3. FINDS THAT UPON THE DELIVERY OF THE PATENT TO THE DISTRICT, AS REQUIRED BY THE PROVISIONS OF THE AGREEMENT AS SET FORTH IN RECOMMENDATIONS 2(A) AND (B) ABOVE, THE PARCELS OF REAL PROPERTY SO PATENTED BY THE STATE TO THE DISTRICT HAVE BEEN IMPROVED, FILLED, AND RECLAIMED BY THE DISTRICT AND HAVE THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING, AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL THEN BE FREED FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.

MINUTE ITEM 16. (CONTD.)

4. AUTHORIZES ALL OTHER ACTS NECESSARY TO ACCOMPLISH THE PROPOSED LAND EXCHANGE PURSUANT TO THE AGREEMENT REFERRED TO IN RECOMMENDATION 2(A) ABOVE.

Attachment:

Calendar Item 13 (2 pages)

13.

PROPOSED LAND EXCHANGE WITH SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT; SANTA CLARA COUNTY - N 0331.

For the past several years, the Santa Clara County Flood Control and Water District has been straightening and deepening the Guadalupe River for flood control protection. At the May 23, 1968, meeting of the Commission, a 49-year life-of-structure permit to the District was approved, giving the District the right to use those portions of State lands within the realigned river channel.

As a result of the realignment work, a number of small parcels have been cut off from the new channel and are no longer used in connection with the waterway. The location of these parcels also prevents the effective utilization of adjacent private property. The proposed transaction would aggregate the cut-off portions of the Guadalupe River that belong to the State into a single parcel of land abutting the realigned channel, with access being provided to the State. In exchange for such a consolidated parcel, the State would convey to the Flood Control District title to the aforementioned cut-off parcels. In addition, the District desires to clear the title to a portion of land occupied by another of its flood control channels that traverses unpatented swamp and overflowed lands. The District proposes to add additional land to the consolidated parcel mentioned above and to convey it to the State in exchange for the State's relinquishing its title to the swamp and overflowed lands. In the agreement accomplishing this transaction (identified as Exhibit "1" on file in the office of the State Lands Commission), the State also will receive access to a parcel of property acquired through a previous exchange with the District, and the District also agrees to fill a parcel of sovereign lands abutting the realigned channel to the grade of adjacent dry land. The State would receive any minerals in the aggregate parcel it will acquire, and therefore would convey to the District any minerals in those lands that the District is to receive in accordance with the provisions of Section 6307 of the Public Resources Code. The result of this transaction would be to give the State dry-land parcels abutting the realigned channel of the Guadalupe River that will provide the State with means of utilizing the river.

An appraisal has been made by the Division that indicates that the State would receive equal or greater value as a result of the exchange.

The entire matter has been reviewed and approved by the Office of the Attorney General.

As a part of the aforementioned agreement, the District is required first to obtain the withdrawal of a previous application by a private party to purchase certain of the swamp and overflowed lands affected by this transaction, and the Commission is requested to authorize the approval of said withdrawal and to refund the deposit previously made by said private party.

EXHIBITS: A. Location map. 1. Agreement.

CALENDAR ITEM 13. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE EXCHANGE OF LAND SET FORTH IN THE AGREEMENT REFERRED TO IN RECOMMENDATION 2(A) BELOW AS EXHIBIT "1" IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION, FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE OF THE GUADALUPE RIVER FOR THE IMPROVEMENT OF THE WATERS THEREOF AND OF THE UPLANDS.
2. AUTHORIZE:
 - (A) THE EXECUTION OF THE STATE-SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT 1971 AGREEMENT, IDENTIFIED AS EXHIBIT "1", WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
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 - (E) THE ACCEPTANCE OF THE WITHDRAWAL OF THE APPLICATION OF THE PRIVATE PARTY FOR THE PURCHASE OF SWAMP AND OVERFLOWED LAND LOCATION NO. 4291, UPON THE DELIVERY OF SUCH A WITHDRAWAL REQUEST TO THE STATE LANDS COMMISSION, AND THE REFUNDING OF ANY MONEY DEPOSITED WITH THE STATE IN CONNECTION WITH SAID APPLICATION.
3. FIND THAT UPON THE DELIVERY OF THE PATENT TO THE DISTRICT, AS REQUIRED BY THE PROVISIONS OF THE AGREEMENT AS SET FORTH IN RECOMMENDATIONS 2(A) AND (B) ABOVE, THE PARCELS OF REAL PROPERTY SO PATENTED BY THE STATE TO THE DISTRICT HAVE BEEN IMPROVED, FILLED, AND RECLAIMED BY THE DISTRICT AND HAVE THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING, AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL THEN BE FREED FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.
4. AUTHORIZE ALL OTHER ACTS NECESSARY TO ACCOMPLISH THE PROPOSED LAND EXCHANGE PURSUANT TO THE AGREEMENT REFERRED TO IN RECOMMENDATION 2(A) ABOVE.