

MINUTE ITEM

4/29/71

27. 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, 503.609, 503.610, 503.641, AND 503.534.

The attached Calendar Item 26 was submitted to the Commission for information only, no action thereon being necessary.

Attachment:

Calendar Item 26 (5 pages)

26.

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, 503.609, 503.610, 503.641, AND 503.534.

The following information is current as of April 6, 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.)

No change; i.e., 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.)

No change; i.e., 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 26. (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.)

Petition for a Rehearing filed by White has been granted. The case is now submitted for that Rehearing.

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 Court of Appeals for the Ninth Circuit affirmed the Decision of the District Court dismissing the State and State officials as parties, but reversed the Decision as to Leslie Salt as to an asserted cause of action based upon the Rivers and Harbors Act. Leslie Salt has filed a Petition for Certiorari with the United States Supreme Court. The Court has not ruled on whether Certiorari will be granted.

5. Ad Valorem Tax Litigation

W 503.546

(Various actions by oil companies to recover ad valorem taxes. The potential fiscal impact upon the State of this litigation is substantially in excess of \$100 million.)

The Attorney General is preparing Complaints in Intervention in pending litigation involving ad valorem taxes imposed upon contractors under the Drilling and Operating Contracts both in the offshore portion of the East Wilmington Oil Field and in the Harbor District. A meeting was held on March 16, 1971, with the Assistant Presiding Judge of the Los Angeles County Superior Court to discuss the possibility of assigning a single judge to hear all pending cases. The Judge tentatively agreed to assign a single judge acceptable to all parties to hear all of these related cases.

INFORMATIONAL CALENDAR ITEM 26. (CONTD.)

6. Case No. M-1105 (formerly Case No. 4 Civil 9344) in the State Superior 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.)

The Orange County Superior Court entered a Judgment, Findings and Conclusions substantially in accord with those advocated by the Attorney General. The Interveners in this case have filed a Motion for a New Trial. This matter is set for hearing on April 16, 1971, in Department 7 of the Orange County Superior Court.

7. 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., Clerk's and Reporter's Transcripts on Appeal have been filed with the Court of Appeals, and the State is awaiting appellants' Opening Brief.

8. 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.")

The People's (the State and the County of Marin) Objections to Proposed Findings and Conclusions as well as Proposed Counter Findings and Conclusions have been filed, and a hearing is set for April 16, 1971.

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.

INFORMATIVE CALENDAR ITEM 26. (CONTD.)

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. Case No. SOC 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: No change; i.e., Scheduled for Trial on June 1, 1971.

In the Matthews case: No change; i.e., Trial has been continued to July 26, 1971.

12. 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., Amicus Curiae Brief on behalf of the State Lands Commission was filed on February 17, 1971.

INFORMATIVE CALENDAR ITEM 26. (CONTD.)

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

W 503.534

(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.)

No change; i.e., Awaiting decision of the California Supreme Court.