

MINUTE ITEM

12/21/71

18. STATUS OF MAJOR LITIGATION.

The attached Calendar Item 15 was submitted to the Commission for information only, no action thereon being necessary.

Attachment:

Calendar Item 15 (5 pages)

15.

STATUS OF MAJOR LITIGATION

The following information is current as of December 2, 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.)

Plaintiffs voluntarily dismissed the case.

No change; i.e., Second notices were mailed on October 28, 1971, to the 34 property owners believed to be responsible for the encroachments involved in this action, informing the owners that action would be taken by the State of California and the City of Santa Monica if they failed to voluntarily remove the encroachments within sixty days.

2. 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., A proposed Stipulation was received from the U. S. Attorney's Office to the effect that the proposed regulations relating to the Channel Islands National Monument, including the lands within one mile of Anacapa Island which are in dispute between the State and the United States, are without prejudice to any claims of the State of California under the Submerged Lands Act, and that this matter may be litigated at a later date. Since the Department of Fish and Game had evidenced opposition to the proposed rules and regulations, a copy of said agreement was sent to that Department for its concurrence. The Department of Fish and Game has now indicated that it has no objection to the proposed stipulation. Therefore, the Stipulation will be signed and copies retained by the U. S. and California Attorneys General.

INFORMATIVE CALENDAR ITEM 15. (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., Upon Rehearing, the Court, on July 15, 1971, rendered Judgment for the Plaintiff--a two to one decision against the State. The State filed its Petition for Rehearing in the District Court on July 30, 1971. Petition for Rehearing was granted. Still under submission.

4. 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.)

A Pretrial Conference in these cases has been set for January 17, 1972.

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

Appellant Heim has requested a 60-day extension of time within which to file his Opening Brief in this matter. It is anticipated that this brief will be filed in early March of 1972. The Irvine Company has filed an Action for Declaratory Relief against the County of Orange, seeking to test the validity of the County's Notice to Terminate the Exchange Agreements. A Motion was made by the Defendant to join the State as a necessary party to said litigation, which Motion was denied. The State has not participated in these proceedings.

6. 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., The State and the San Diego Unified Port District have received Appellant's Opening Brief, and are preparing Respondents' Brief.

INFORMATIVE CALENDAR ITEM 15. (CONTD.)

7. 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".)

Transcripts on Appeal have been completed. Request for corrections of the record on appeal being prepared by Attorney General's Office.

8. 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.)

First Amended Complaint for Declaratory Relief and to Quiet Title was filed on November 15, 1971. The Answer of West Bay Community Associates is expected to be filed within the next six weeks.

9. 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 statutes (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. 8 above).

INFORMATIVE CALENDAR ITEM 15. (CONTD.)

10. 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 overall 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: The Court rendered an Opinion sustaining the State's contention that the Chapter 138 line is the common boundary between the City of Long Beach trust lands and abutting private property. The Court also recognized a Eion easement over the seaward 58 feet of the private property. A jury found the fair market value of the property to be \$175,000. Findings of Fact, Conclusions of Law, and the Judgment are being drafted. It is contemplated that the City of Long Beach will move for a new trial on the question of value.

In the Matthews case: No change; i.e., Trial has been continued to February 28, 1972.

11. Case No. 36989, 2nd Civ. W 503.641
Union Pacific Railroad Company, et al. vs. City of Long Beach
Court of Appeals

(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., Oral argument has been reset for December 21, 1971.

12. 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.)

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

INFORMATIVE CALENDAR ITEM 15. (CONTD.)

13. Case No. 178401 W 503.669
County of Orange vs. Chandler Sherman, et al.
Orange County Superior Court

(The County brought the action, on an implied dedication theory, to quiet title to certain beach property near Dana Point.)

No change; i.e., Chandler Sherman filed an Answer and Cross Complaint on July 1, 1971.

14. Case No. M-1164 W 503.621
Sagar vs. County of Orange, et al.
Orange County Superior Court

(Private parties brought an action against the County for vacating a road which provided the only access to the Salt Creek Beach.)

No change; i.e., A. B. 1668, confirming the agreement to settle this case, has been signed by the Governor. State Lands Commission to submit a report, pursuant to the bill.

15. Case No. 15156 W 1839.29
People vs. Vincilione, et al. (People vs. Evans, et al.)
Riverside County Superior Court

The State is Demurring to Vincilione's First Amended Cross Complaint, and the case should be set for trial in April 1972.

16. Case No. 3 Civil 12936 W 1839.21
People vs. Ray Mack, et al.
Court of Appeals, Third Appellate District

(An action brought by the District Attorney of Shasta County, which involves the navigability of the Fall River.)

No change; i.e., An Opinion was issued by the Court of Appeals, upholding the lower court in the State's favor. There possibly will be a Petition for Rehearing in the Supreme Court.

17. Case No. 940856 W 503.586
Federated Mortgage Investors, et al., vs. Charles Lick, et al.
Los Angeles County Superior Court.

(An action between private parties to determine ownership of the Lick Pier (Pacific Ocean Park), and to determine the ordinary high water mark at that point.)

Mr. Moore Hart has sold his rights in the property to Matador Land Company, which has filed bankruptcy. The matter is pending before the Bankruptcy Court.