

MINUTE ITEM

3/30/72

19. STATUS OF MAJOR LITIGATION.

The attached Calendar Item 18 was submitted to the Commission for information only, no action thereon being necessary.

Attachment:

Calendar Item 18 (5 pages)

INFORMATIVE CALENDAR ITEM

3/72

18.

STATUS OF MAJOR LITIGATION

The following information is current as of March 6, 1972:

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 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., 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 NO. 18.(CONTD)

3. 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 Pretrial Conference has been put over for an indefinite period.

4. Case N. 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's Opening Brief was served upon the Attorney General on February 22, 1972. The Opening Brief of the Interveners is expected to be filed on March 8, 1972. The Appellants' Brief for the State Lands Commission, as real party in interest, will be due on April 8, 1972; however, it is anticipated that an extension of time will be requested from the Court. The Appellants will then have the right to file Closing Briefs, and the matter thereafter will be sent for oral argument in the Court of Appeals, 4th Appellate District. It is very likely that regardless of which party prevails in the Court of Appeals, a Petition for Hearing will be filed in the State Supreme Court. It is difficult at this time to predict any approximate date when we may expect a Final Appellate Decision in this case.

5. 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.)

The San Diego Unified Port District and the State of California have filed the Joint Respondents' Brief.

INFORMATIVE CALENDAR ITEM NO. 18. (CONTD)

6. 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".)

No change; i.e., Transcripts on Appeal have been completed. Request for corrections of the record on appeal have been filed by the Attorney General's Office.

7. 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., 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.

8. 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 v. County of San Mateo, et al., Case No. 144257 (see No. 7 above).

INFORMATIVE CALENDAR ITEM NO. 18. (CONTD)

9. Case No. SOC 21023  
City of Long Beach vs. Radford, et al.  
Los Angeles County Superior Court

W 503.609

(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: Hearing on the Motion for a New Trial was held, and the matter was submitted for the decision of the Court.

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

W 503.641

(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., The oral argument was held on December 21, 1971, and the matter is submitted.

11. Case No. 1784C1  
County of Orange vs. Chandler Sherman, et al.  
Orange County Superior Court

W 503.669

(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.

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

W 503.621

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

The Commission's action last month has been forwarded to the County, and the case should now be settled.

INFORMATIVE CALENDAR ITEM NO. 18.(CONTD)

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

Matter still under submission. Interrogatories have been filed by both sides.

14. 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.)

No change; i.e., The Federal Court has refused to take jurisdiction to determine the Mean High Tide Line, and the private parties will bring a State suit to determine the Mean High Tide Line.