

MINUTE ITEM

7/6/72
LHG

26. BOUNDARY AGREEMENT AND LAND EXCHANGE WITH ANZA PACIFIC CORP., TRANS-AMERICA TITLE INSURANCE COMPANY, AND OTHER AFFECTED PARTIES; AUTHORIZATION FOR TWELVE 66-YEAR LEASE-PERMITS TO ANZA PACIFIC CORP., SAN MATEO COUNTY - W 8747, PRCs 4680.9, 4681.9, 4682.9, 4683.1, 4684.1, 4685.1, 4686.1, 4687.1, 4688.1, 4689.1, 4690.1, AND 4691.1; BLA 131.

After consideration of Calendar Item 24 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT THE EXCHANGE OF LANDS AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 BELOW IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION AND TO ENHANCE THE CONFIGURATION OF THE SHORE LINE OF SAN FRANCISCO BAY FOR THE IMPROVEMENT OF THE WATERS THEREOF AND THE ADJACENT UPLANDS, AND THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED AND IN FACT WILL ENHANCE AND ENLARGE PUBLIC RIGHTS AND UTILIZATION OF SAID WATERWAYS.
2. AUTHORIZES THE EXECUTION OF THE BOUNDARY AND EXCHANGE AGREEMENT BETWEEN THE COMMISSION, ANZA PACIFIC CORP., TRANSAMERICA TITLE INSURANCE COMPANY, AND THOSE OTHER PARTIES WHICH EXECUTE SAID AGREEMENT, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
3. AUTHORIZES THE EXECUTION OF A STATE PATENT WITHOUT THE RESERVATION OF MINERAL INTERESTS TO ANZA PACIFIC CORP. AND OTHER PRIVATE PARTIES WITHIN SAID AGREEMENT AREA AS THEIR INTERESTS MAY APPEAR OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY TO THE PARCELS OF REAL PROPERTY DESCRIBED IN SAID AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE, PURSUANT TO THE TERMS OF SAID AGREEMENT.
4. AUTHORIZES THE ACCEPTANCE AND RECORDATION OF CONVEYANCES TO THE STATE PROVIDED IN SAID BOUNDARY AGREEMENT AND LAND EXCHANGE.
5. FINDS THAT UPON THE DELIVERY OF THE PATENT TO THE PARTIES REFERRED TO IN PARAGRAPH 3 ABOVE, AND THE RECORDATION THEREOF IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, THAT THE REAL PROPERTY DESCRIBED IN SAID PATENT, EXCEPTING THEREFROM THE PORTIONS OF SAID REAL PROPERTY WHICH HAVE BEEN DEDICATED FOR STREETS, PARK, ACCESS, OR OTHER PUBLIC PURPOSE, OR WHICH ARE CURRENTLY LEASED TO THE CITY OF BURLINGAME:
 - A. HAS BEEN IMPROVED, FILLED, AND RECLAIMED BY SAID RECLAMATION DISTRICT NO. 2097, AND THE PRIVATE PARTIES REFERRED TO IN SAID PATENT;
 - B. HAS THEREBY BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION, AND FISHING, AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL BE FREED FROM SUCH PUBLIC TRUST.

6. FINDS THAT THE ISSUANCE OF TWELVE 66-YEAR LEASE-PERMITS TO ANZA PACIFIC CORP. FOR THE PARCELS OF PROPERTY DESCRIBED IN SAID AGREEMENT REFERRED TO IN PARAGRAPH 2 IS IN THE BEST INTERESTS OF THE STATE IN THAT IT PROVIDES FOR THE GUARANTEED REPAYMENT OF BONDED INDEBTEDNESS, OUTSTANDING TRUST DEED OBLIGATIONS, AND DEVELOPMENT OF THE PROPERTY FOR TRUST PURPOSES, AND FOR THE CONTINUATION OF PUBLIC USES OF CERTAIN OF SAID PARCELS TO BE AFFECTED BY SAID LEASE-PERMITS; AND AUTHORIZES THE ISSUANCE OF SAID 66-YEAR LEASE-PERMITS.
7. AUTHORIZES THE EXECUTIVE OFFICER OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION INCLUDING, BUT NOT LIMITED TO, APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.

Attachment:

Calendar Item 24 (5 pages)

CALENDAR ITEM

6/72
LHG
W 8747

24.

BOUNDARY AGREEMENT AND LAND EXCHANGE WITH
ANZA PACIFIC CORP., TRANSAMERICA TITLE
INSURANCE COMPANY AND OTHER AFFECTED PARTIES;
SAN MATEO COUNTY

Recognizing that the future of San Francisco Bay is a matter of national, State and local concern, the Commission in August 1968 authorized the State Lands Division and the Attorney General's office jointly to begin a study regarding the extent and nature of State ownership in San Francisco Bay. This joint study revealed the title and boundary problems which are the subject matter of the proposed transaction.

Since 1969, the State Lands Division and Office of the Attorney General have been conducting negotiations with Anza Pacific Corporation and Transamerica Title Insurance Company concerning the extent and nature of State ownership within the Anza Airport Park subdivisions located in the City of Burlingame near San Francisco airport.

The area in question is a 146-acre site which Anza Pacific Corporation has been endeavoring to develop as commercial, hotel, restaurant, and light industrial tracts.

In the course of this development program, Anza Pacific successfully petitioned the Burlingame City Council for the formation of Reclamation District No. 2097 in 1962. This District encompasses all of the 146 acres claimed by Anza.

A discussion of indebtedness within the area is essential to a full understanding of the transaction. The Reclamation District has issued bonds in the amount of \$1,964,000. The total bond service charge is now \$2,598,968. These bonds are scheduled for complete retirement in 1983. Two additional series of bonds have been authorized and substantially issued. The first is \$1,207,627 of 1915 Improvement Act bonds authorized (\$947,627 actually issued, \$885,000 unpaid) against approximately 94 of the 146 acres. An additional \$94,500 is outstanding in 1911 Improvement Act bonds against the remaining acreage. These bonds will be completely repaid by 1988.

In addition to the bonded indebtedness, there are trust deed liens against the property in the amount of \$2,910,000.

During the negotiations leading to this proposal, all parties agreed that to the extent possible further development would be halted. Any development actually required was to be made without prejudice to the claims of any party including the State, thus preserving the State interests during the negotiation period.

Anza has dedicated a 25-foot wide strip around the perimeter of the lands which it has filled for public use. Substantial portions of these strips are used on a daily basis for public fishing. Anza and the County of San Mateo have also established a small park on the southeasterly corner of the area.

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Anza Pacific asserts that it has fee simple absolute title to the subject area as successor in interest to such rights as were conveyed by a State Tide Land Patent. The patent they rely on was issued as a result of San Mateo County Tide Land Survey No. 9 which was made on March 20, 1868. The original Certificate of Purchase was issued by the State Surveyor General later in that same year. The patent was issued on October 24, 1875. The area claimed by Anza is rectangular in shape and is located along the landward portion of the area included within the perimeter description of the survey notes and patent and is adjacent to the boundary of Rancho San Mateo. Anza's alleged area of ownership constitutes approximately 26 percent of the lands located within the perimeter description of the survey and patent.

In addition to its claim of absolute title, Anza and Transamerica Title Insurance Company have contended that the State is estopped to deny Anza's title as of 1969 and further, that any exercise of the State's easement for purposes of commerce, navigation and fisheries would first require the State to reimburse Anza for all improvements placed on the subject area.

The State has contended that certain portions of the area claimed by Anza Pacific may, in fact, be submerged lands, as opposed to tidelands, and that no statutory authority existed for the State Surveyor General to convey such lands. Consequently, the State has questioned the existence of title in Anza Pacific to portions of the lands which Anza claims. Additionally, the State contends that it has an easement for purposes of commerce, navigation and fisheries over any tidelands claimed by Anza Pacific.

As a result of extended negotiations, the proposed agreement for the compromise and settlement of all outstanding title and boundary problems has been reached.

The agreement (a copy of which is on file in the Office of the State Lands Commission and incorporated herein by reference) provides, in general terms, as follows:

1. In compromise and settlement of the title and boundary dispute, Anza Pacific will convey all of its right, title and interest to the State in approximately 46 acres located within the 146-acre tract in consideration for the State recognizing Anza's title to the remaining tract acreage and in exchange for the State terminating the easement of commerce, navigation and fisheries over the lands confirmed or recognized in Anza's ownership which are not subject to any dedication for street or other public purposes.
2. Anza will obtain the cancellation and termination of all authorized but unsold 1915 Improvement Act bonds. The amount of such unissued bonds is approximately \$280,000. As to the remaining 1915 Improvement bonds assessed against parcels agreed to be in

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State ownership, Anza will have the bonds reassessed against the leasehold interests to be issued by the State to Anza.

3. The State will grant 66-year lease-permits to Anza Pacific of Parcel 1 and Parcels 6-13, inclusively, with the obligation of Anza to pay all bond payments, assessments and taxes levied against these parcels as well as trust deed indebtedness and paying the State the annual rental specified. The aggregate annual rental to be received from these parcels is \$18,376 during the initial period which is to 1988. In 1988, the lease rentals will be adjusted with a subsequent adjustment to be made on the 35th anniversary of said leases. These lease-permits specifically provide that the parcels may be used only for purposes of commerce, navigation and fisheries. There is a further requirement that Anza Pacific construct and maintain a 12-acre lagoon within Parcels 9, 10 and 11 to increase the open space within the subject area. (A similar lease-permit between the State and Anza will be continued for Parcel 5 for a different term and consideration than mentioned above but for the same purposes. This lease of Parcel 5 was approved by the Commission on March 1, 1971, as a part of an interim agreement.)
4. The State will grant 66-year lease-permits to Anza Pacific of Parcels 2, 3 and 4 which are currently used for public purposes such as a park, roads and channel. The consideration for these lease-permits shall be Anza's payment of all taxes, bonds, assessments, trust deed obligations and any other charges against said parcels. There is a provision that should any of these three parcels be used for any other purpose the State may set a reasonable rental rate.
5. Transamerica Title Insurance Company agrees to guarantee and underwrite the repayment of all Reclamation District bonds assessed against the parcels to be quieted in the State as well as undertaking the same obligation with regard to certain indebtedness outstanding against the State's parcels.
6. Transamerica will also issue to the State title insurance policies guaranteeing the State's title in the parcels to be quieted in State ownership.
7. The State will have all mineral interests in the parcels of lands to be quieted in it, confirmed and quitclaimed to it, therefore, no reservation of mineral rights is required in the patent to be issued by the State.

Based upon an analysis of the complex factual situation, the Division has concluded that the State will receive equal or greater value by virtue of the compromise and settlement agreement.

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

This entire transaction is exempt from the provisions of Section 6371 of the Public Resources Code relating to environmental reports.

EXHIBITS: A. Location Map. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE EXCHANGE OF LANDS AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 BELOW, IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION AND TO ENHANCE THE CONFIGURATION OF THE SHORE LINE OF SAN FRANCISCO BAY FOR THE IMPROVEMENT OF THE WATERS THEREOF AND THE ADJACENT UPLANDS, AND THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED AND IN FACT WILL ENHANCE AND ENLARGE PUBLIC RIGHTS AND UTILIZATION OF SAID WATERWAYS.
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CALENDAR ITEM NO. 24. (CONTD)

6. FIND THAT THE ISSUANCE OF 66-YEAR LEASE-PERMITS TO ANZA PACIFIC CORP., WITH THE PARCELS OF PROPERTY DESCRIBED IN SAID AGREEMENT REFERRED TO IN PARAGRAPH 2 ARE IN THE BEST INTERESTS OF THE STATE IN THAT IT PROVIDES FOR THE GUARANTEED REPAYMENT OF BONDED INDEBTEDNESS, OUTSTANDING TRUST DEED OBLIGATIONS, AND DEVELOPMENT OF THE PROPERTY FOR TRUST PURPOSES, AND FOR THE CONTINUATION OF PUBLIC USES OF CERTAIN OF SAID PARCELS TO BE AFFECTED BY SAID LEASE-PERMITS AND AUTHORIZE THE ISSUANCE OF SAID 66-YEAR LEASE-PERMITS.
7. AUTHORIZE THE EXECUTIVE OFFICER OF THE STATE LANDS COMMISSION AND OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION INCLUDING, BUT NOT LIMITED TO, APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.