

18. APPROVAL OF BOUNDARY SETTLEMENT AND LAND EXCHANGE AGREEMENT WITH THE COMMISSION, GULF OIL CORPORATION, AND THOSE OTHER PARTIES WHICH EXECUTE SAID AGREEMENT; ORANGE COUNTY - W 9294, PRC 4733.9, PRC 4737.1.

After consideration of Calendar Item 16 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 SHORELINE OF SUNSET (ANAHEIM) BAY AND BOLSA INLET FOR THE IMPROVEMENT OF THE WATERS THEREOF AND THE ADJACENT UPLANDS; 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 FOR TRUST PURPOSES OF NAVIGATION, COMMERCE, AND FISHERIES; AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY SUCH LANDS OR INTERESTS RELINQUISHED BY THE STATE PURSUANT TO SAID AGREEMENT.
2. AUTHORIZES THE EXECUTION OF THE BOUNDARY AND EXCHANGE AGREEMENT (BLA 139) BETWEEN THE COMMISSION, GULF OIL CORPORATION, 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 TO GULF OIL CORPORATION AND OTHER PRIVATE PARTIES AS THEIR INTERESTS MAY APPEAR OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE 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 AS PROVIDED IN SAID BOUNDARY AND LAND EXCHANGE AGREEMENT.
5. FINDS AND DECLARES 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 ORANGE COUNTY, THE PORTION OF THE REAL PROPERTY DESCRIBED IN SAID PATENT WHICH PRESENTLY HAS A SURFACE ELEVATION ABOVE THE ORDINARY HIGH WATER MARK AS SPECIFICALLY DESCRIBED IN SAID AGREEMENT:
 - A. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, FILLED, AND RECLAIMED BY GULF OIL CORPORATION AND THEIR PREDECESSORS IN INTEREST;
 - 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 AND DECLARES THAT UPON THE DELIVERY OF THE PATENT TO THE PARTIES REFERRED TO IN PARAGRAPH 3 ABOVE, THE RECORDATION THEREOF IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, AND THE FILLING TO AN ELEVATION ABOVE THE ORDINARY HIGH WATER MARK WITHIN 15 YEARS OF THE EFFECTIVE DATE OF SAID AGREEMENT OF ANY PORTION OF THE REAL PROPERTY DESCRIBED IN SAID PATENT NOT AFFECTED BY THE FINDING IN PARAGRAPH 5 ABOVE, SUCH PORTION OF SAID REAL PROPERTY SO FILLED:
 - A. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, FILLED, AND RECLAIMED BY GULF OIL CORPORATION AND THEIR PREDECESSORS IN INTEREST;
 - 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.
7. AUTHORIZES THE EXECUTIVE OFFICER TO FROM TIME TO TIME EXECUTE AN APPROPRIATE CERTIFICATE REFLECTING THE PORTIONS OF REAL PROPERTY AS TO WHICH THE FINDING SET FORTH IN PARAGRAPH 6 ABOVE IS APPLICABLE, PROVIDED SUCH CERTIFICATES SHALL BE EXECUTED WITHIN THE 15 YEAR PERIOD REFERRED TO IN SAID PARAGRAPH 6.
8. AUTHORIZES THE EXECUTION OF A COMMERCIAL LEASE TO GULF OIL CORPORATION OF THE 40-FOOT AND 50-FOOT WHARFAGE AREA ACCORDING TO THE TERMS AND IN THE FORM OF SAID LEASE ATTACHED AS AN EXHIBIT TO THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE.
9. AUTHORIZES THE ACCEPTANCE BY THE STATE OF A QUITCLAIM DEED FROM GULF OIL CORPORATION TO THE STATE OF ALL GULF'S RIGHT, TITLE AND INTEREST IN THE 400-FOOT WATERWAY CHANNEL EXCEPTING AND RESERVING A PERPETUAL RIGHT OF WHARFAGE IN THE TWO 40-FOOT STRIPS ALL AS MORE SPECIFICALLY DESCRIBED IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE.
10. AUTHORIZES THE EXECUTION OF AN APPROPRIATE DOCUMENT AUTHORIZING GULF OIL CORPORATION OR ITS SUCCESSORS IN INTEREST TO DREDGE AND/OR FILL ALL OR ANY OF THE REAL PROPERTY REFERRED TO IN PARAGRAPH 3 ABOVE WHICH IS NOT PRESENTLY ABOVE THE ORDINARY HIGH WATER MARK AND CONFIRMS AND AGREES THAT ANY UNFILLED PORTIONS OF SAID REAL PROPERTY MAY BE USED AT ALL TIMES FOR THE INSTALLATION, MAINTENANCE AND REPLACEMENT OF WHARVES, PIERS, SLIPS AND OTHER MOORING FACILITIES OR INSTALLATIONS WITHOUT PAYMENT OR SURCHARGE TO THE STATE OF CALIFORNIA.
11. FINDS THAT THE ISSUANCE OF THE LEASE FOR TERM OF 66 YEARS TO THE DEPARTMENT OF FISH AND GAME FOR PURPOSES SET FORTH IN THE AFOREMENTIONED RESOURCES AGENCY CONCEPTUAL PLAN IS IN THE BEST INTERESTS OF THE STATE IN THAT SUCH TERM IS NECESSARY FOR THE PROTECTION AND PRESERVATION OF THE LEASED LAND AND TO INSURE AMORTIZATION OF CAPITAL INVESTMENT, AND AUTHORIZES THE ISSUANCE OF SAID 66-YEAR LEASE.

12. AUTHORIZES THE STATE LANDS DIVISION 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.

Attachment:

Calendar Item 16 (6 pages)

Minute item 18, meeting of 2/22/73 AMENDED
page 147
by minute item 5, meeting of 7/26/73. dj
page 550 (initials)

CALENDAR ITEM

16.

2/73
LHG
W 9294

BOUNDARY SETTLEMENT AND LAND EXCHANGE
AGREEMENT WITH GULF OIL CORPORATION; ORANGE COUNTY

At the January 26, 1973, meeting of the State Lands Commission a boundary settlement and exchange agreement with the Signal Companies was approved which will allow the creation of an Ecological Reserve and compatible recreational facilities at what was formerly Bolsa Bay, in Orange County. That transaction has enabled the necessary steps to be taken for the full implementation of the Resources Agency's Conceptual Plan for Resources and Recreation in Bolsa Bay.

Concurrently with the Signal negotiations, the State Lands Division has been conducting studies and negotiations concerning certain lands claimed by the Gulf Oil Corporation within two miles of the Bolsa Chica (Bay) area. The area claimed by the Gulf Oil Corporation is located between Pacific Coast Highway and Sunset (Anaheim) Bay in the Huntington Harbour portion of Huntington Beach. It is composed of 35.85 acres of which all but 7.75 acres is presently filled to an elevation above the mean high water mark. The 7.75 acre portion was formerly dredged and used as Merrill's Marina with a narrow sliver thereof being along the edge of the main channel to Huntington Harbour. (The marina operation was abandoned several years ago.)

The source of Gulf Oil Corporation's title claim is the State Patent issued in 1903 to R. J. Northam pursuant to Orange County Tide Land Location 221. As a result of prior agreement between the State and a predecessor in interest of Gulf Oil Corporation, .92 acre of submerged lands within the area is in State ownership. In addition, the State contends that it retains an easement for purposes of commerce, navigation and fisheries over the remaining portions of the area claimed by Gulf Oil Corporation. Gulf denies the latter claim of the State on a number of asserted grounds. One of Gulf's grounds is that if the State's easement exists, the landward boundary of the portion subject to such easement is so located that most of the area is not subject to the easement by reason of being upland of that boundary. Another ground is that the State is estopped to assert any such claim because the property was the subject of an earlier Land Exchange Agreement.

During the course of the State-Gulf negotiations a number of settlement proposals were considered for the recognition of State rights to a portion of the subject area which could be meaningfully utilized for public trust uses of commerce, navigation and fisheries. These were considered by the staff and certain public agencies which might succeed to the administration of such rights. It was concluded that the portions of the subject lands which Gulf was willing to offer were not suitable for such public use.

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At the same time, the Inter-agency Task Force of the Resources Agency in developing the Conceptual Plan for public use of the State lands in the adjacent Bolsa Chica Area recognized that substantial public benefits would arise in the Sunset (Anaheim) Bay area from a full implementation of that Conceptual Plan. Such benefits would result from re-opening Bolsa Bay directly to the Pacific Ocean which would cause improved water quality, natural water habitat, and recreational boating facilities in Sunset Bay since the two areas are connected by a channel. Even without such a re-opening of Bolsa Bay, the State recognized that the relocation of the State's interests in the Gulf area by means of an exchange would augment and enhance the State's ownership interests in the Bolsa Chica area and permit a greater public utilization of such interests than would be possible if such interests remained in the Gulf Area, due to the isolated nature and relatively smaller size of the State's interest at the Gulf location. A further difficulty with the Gulf area is the adjacent private development which does not afford the same type of open space as that which would be provided by the relocation of the State's interests at the adjacent Bolsa Chica Area. By reason of the foregoing the State concluded that such an exchange would maximize public use and enjoyment of the State's interests by making them a part of a large consolidated parcel for which the State is taking immediate steps to provide for public use through the implementation of the aforementioned Conceptual Plan.

Based upon the foregoing determinations and conclusions, the State proposed to Gulf Oil Corporation that the present dispute concerning title and boundaries in the Gulf Area be resolved by Gulf purchasing and delivering to the State a parcel of property of approximately six (6) acres within the adjacent Bolsa Chica Area located at the corner of Pacific Coast Highway and Warner Avenue. The six-acre parcel is encircled on two sides by the 300-acre parcel of property to be confirmed or received in State ownership as a result of the aforementioned Signal agreement. It also is an integral part of the area needed for full implementation of the State's Conceptual Plan. In exchange for Gulf's delivery to the State of said parcel, the State proposed to quitclaim all of its right, title and interest within the Gulf area; to terminate the easement of commerce, navigation and fisheries (to the extent it exists within said areas) to all lands which presently have a surface elevation above the ordinary high water mark, and to agree to record a certificate making a similar finding as to any remaining lands which are subsequently filled to such an elevation within 15 years after the effective date of such an agreement. The proposal also included a commercial lease from the State to Gulf of a forty-foot (and in a limited area a fifty-foot) strip for wharfage around portions of the waterway boundary of the Gulf Area for a period of 49 years. Gulf development of the leased area will be subject to appropriate governmental regulations including applicable provisions of the California Coastal Zone Conservation Act of 1972.

Excepted from the proposed State lease area would be two strips in the waterway, fee title to which is in Gulf ownership. Gulf, under the proposal, would quitclaim to the State all its right, title and interest in

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the 400-foot waterway channel, excepting and reserving a perpetual right of wharfage in the aforementioned 40-foot strips excluded from the proposed State lease. The proposal also would authorize the dredging and filling of all or any portion of the 7.75-acre area and recognize the right of Gulf to install wharfs, piers, slips and other mooring facilities therein.

The State Lands Division also proposed a 66-year lease of the six-acre parcel to the Department of Fish and Game so that there would be an immediate integration of the parcel with the abutting State lands presently agreed to be leased to said Department for the implementation of the Bolsa Bay Conceptual Plan. The proposed lease to the Department of Fish and Game would specifically provide that before the commencement of any development of the subject lands, the Department will prepare and distribute appropriate environmental impact statements as required by Public Resources Code Section 21000, et seq., as amended, and obtain such permits as required by any governmental agency having jurisdiction over such lands.

Although not agreeing with the State's contentions regarding said title and boundary problems, Gulf Oil Corporation accepted the State proposal and has acquired an option to purchase the aforementioned six-acre parcel for delivery to the State.

Copies of all documents necessary to accomplish the above transaction are on file in the Office of the State Lands Commission and are incorporated herein by reference thereto.

Pursuant to Sections 6301, 6307 and 6357 of the Public Resources Code, the State Lands Commission is authorized to enter into such boundary settlement and exchange agreement regarding sovereign lands.

The 66-year term of the leases to the Department of Fish and Game is considered necessary because of the capital expenditure which will be required for implementation of the Conceptual Plan and desire that the six-acre parcel be preserved for the purposes set forth in said plan. Section 2004 of the California Administrative Code allows the issuance of leases for such a term where the Commission finds that the same is in the best interests of the State.

The proposed boundary settlement and exchange agreement is exempt from the provisions of Section 6371 of the Public Resources Code relating to Environmental Impact Reports; despite that fact, an analysis of the environmental considerations involved in the areas affected by this transaction have been considered, discussed and taken into account in the negotiations which have been discussed above. The Conceptual Plan indicates the proposed use of the six-acre parcel is environmentally positive. As previously noted, such reports must be filed by the Department of Fish and Game prior to the use of said six-acre parcel to be leased to Fish and Game pursuant to said Conceptual Plan.

An appraisal and evaluation has been made by the Division which indicates that the State will receive lands and interests in lands equal or greater in

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value to those lands and interests claimed by the State and to be surrendered as a result of this exchange.

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

EXHIBIT: A. 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 SHORELINE OF SUNSET (ANAHEIM) BAY AND BOLSA INLET FOR THE IMPROVEMENT OF THE WATERS THEREOF AND THE ADJACENT UPLANDS; 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 FOR TRUST PURPOSES OF NAVIGATION, COMMERCE, AND FISHERIES; AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY SUCH LANDS OR INTERESTS RELINQUISHED BY THE STATE PURSUANT TO SAID AGREEMENT;
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