MINUTE ITEM 3/29/73

17. STATUS OF MAJOR LITIGATION.

The attached Calendar Item 16 was submitted to the Commission for information only, no action thereon being necessary.

Attachment:
Calendar Item 16 (7 pages)

INFORMATIVE CALENDAR ITEM 3/73

16.

STATUS OF MAJOR LITIGATION

As of February 28, 1973, there were 215 litigation projects involving the Commission, up two from last month.

1. Boyd v. State W 503.470
Contra Costa Superior Court Case No. 95769

(Plaintiff seeks to quiet title to several alleged berms of approximately one acre within Piper Slough between Bethel Island and Frank's Tract on the basis of adverse possession.)

Trial has been postponed pending settlement negotiations.

2. Napa Sanitation District v. State, et al. W 503.498
Napa Superior Court Case No. 22114

(Condemnation action by plaintiff for lands adjacent to Napa River several miles below the City of Napa for use as settling ponds.)

The matter was taken off the trial calendar as plaintiff has now settled with all defendants other than the State. The Attorney General and State Lands Division staff are in the process of completing a proposed settlement between the State and the plaintiff for the consideration of the Commission and the Board of Plaintiff District.

3. Miller v. City of Santa Monica, et al. W 503.510
Los Angeles Superior Court Case No. 892295

(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. State and City may file new action if the parties do not remove the encroachments.

Notices by City and Attorney General mailed September 24, 1971, and October 28, 1971, to the 34 property owners believed to be responsible for the encroachments involved in this matter, 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. A public meeting was held April 6, 1972, for general exchange of views to explore possibility of settlement. Landowners were requested to respond within thirty days to City and State proposals. The State Department of Parks and Recreation will handle the bulk of the research work as they have been vested with the tideland portion of the grant.

4. County of San Mateo v. Ideal Cement Company, et al. W 503.539
San Mateo Superior Court Case No. 125379 (companion case to No. 144257)

(Action in condemnation for lands for park and recreational facilities including a small craft harbor, lying southeasterly of Coyote Point, which land is included within an area subject to the conflicting claims of the public and Westbay Community Associates in the Westbay case (W 1839.28).)

The State is a party and proceedings are being postponed pending resolution of the Westbay case, except efforts to enter into stipulations permitting the County to proceed with its improvements pending outcome of the Westbay case.

5. Marin Municipal Water District v. State W 503.541
Marin Superior Court Case No. 49577

(Plaintiff seeks to quiet title to lands alleged by the State to be located within the former bed of the State-owned San Rafael Canal consisting of a tidal navigable waterway reserved by the former Board of Tide Land Commissioners.)

The case is at issue. No current action pending completion of the survey by the City (Trust Grantee) pursuant to Chapter 1742, Statutes of 1971.

6. County of Orange, et al. v. Heim, State of California Real Party in Interest — W 4926, W 503.576
Orange Superior Court Case No. M-1105 (formerly Case No. 4 Civil 9344)

(Petition for Writ of Mandate involving the legality of the Upper Newport Bay Exchange approved by the State Lands Commission.)

On February 21, 1973, the District Court of Appeal, Fourth District, Second Division, reversed the trial court and declared that the Upper Newport Bay Exchange violated Article XV, Section 3 of the California Constitution. This provision prohibits the grant or sale to private persons, partnerships, or corporations, any tidelands within two miles of any incorporated city. The Court stated that the exception found in City of Long Beach v. Mansell, 3 Cal. 3d 462, did not apply to the facts of this case. The court ordered the judgment reversed and directed the trial court to deny the peremptory writ of mandate. A petition for a rehearing was filed by the Office of the Attorney General and denied by the court.

7. Simpson v. State — W 503.578
Sonoma Superior Court Case No. 60178

(Plaintiff seeks to quiet title to a portion of Bodega Bay as successor to a State Tideland Patent.)

State and County (Trust Grantee) claim public ownership by reason of the tidal-navigable character of the waterway in its natural location. Settlement negotiations are in process.

8. Delta Farms Reclamation District v. State — W 503.585
San Joaquin Superior Court Case No. 97183

(Plaintiff seeks to quiet title to an alleged berm of about 80 acres in San Joaquin (Old River) west of Stockton at Bacon Island as the claimed successor to a State Swamp and Overflowed Patent.)

Have had discovery; pre-trial conference is anticipated in the spring of 1973.

9. Federated Mortgage Investors, et al. v. Charles Lick, et al. W 503.586
Los Angeles Superior Court Case No. 940856
USDC-CDC No. 99379 EAC

(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.)

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. On May 26, 1972, the State was sued in Declaratory Relief by Matador Land Co. to determine the location of the Mean High Tide Line (L.A. Superior Court Case No. 30527) (W 503.711).

10. Donnell v. Bisso W 503.607
Sonoma Superior Court Case No. 62402

(Plaintiff seeks to quiet title to about two miles of the bed of Bihler Slough located immediately north of Tubbs Island.)

A State response will not be required until plaintiff amends his complaint. A probable defense of the State will be that lands within the Slough are State-owned tidal-navigable waters.

11. U.S. v. 1119.992 Acres (Solano) 1418 W 503.625
U.S. v. 1393.464 Acres (Contra Costa 369) W 503.628

(These are omnibus U.S. condemnations for the Port Chicago buffer zone. Numerous parcels are included with questions involving disputed boundaries of the State's ownership of the bed of the tidal-navigable waters of Suisun Bay and adjacent waterways.)

The different parcels are in various stages of litigation. Settlement negotiations are under way with respect to several parcels.

12. Southern Pacific Transportation v. Evers W 503.631
Solano Superior Court Case No. 49386

(Plaintiff seeks to quiet title to lands along the Vallejo Waterfront as successor to a Railroad Grant and a Tideland Patent.)

The boundaries and the existence and extent of any private interests are disputed by State. Judgment taken against Defendants other than City of Vallejo and State. Further action against City of Vallejo and State is pending due to settlement negotiations.

13. Westward Properties v. State — W 503.642
Butte Superior Court Case No. 50579

(Plaintiff seeks to quiet title to lands claimed by the State to be located within the former bed of the State-owned Feather River in Butte County just north of the Sutter County line.)

Settlement negotiations are now in progress.

14. Marin Yacht Club v. State — W 503.667
Marin Superior Court Case No. 58068

(Plaintiff seeks to quiet title to lands claimed by the State to be located within the bed of the State-owned San Rafael Canal, consisting of a tidal-navigable waterway reserved by the former Board of Tide Land Commissioners.)

The State's response to the complaint has not been filed and there is no current action in the case pending the survey by the City (Trust Grantee) pursuant to Chapter 1742, Statutes of 1971.

15. Sebastiani v. State — W 503.677
Sonoma Superior Court Case No. 66440

(Plaintiffs seek to quiet title to half the bed of Sonoma Creek adjacent to its right or westerly bank upstream for about one mile from the Highway 121 Bridge a short distance below the City of Sonoma.)

The State claims the creek is a tidal-navigable waterway with the issue raised of State fee title in the lower meandered portion and a public easement over the upper portion. The case is at issue with settlement negotiations in process. Trial has been postponed and will be rescheduled.

16. People v. Robinson — W 503.694
Humboldt Superior Court Case No. 44736

(Condemnation for that portion of the State Highway Bridge in Humboldt Bay between Eureka and Samoa Peninsula which crosses Woodley Island.)

The State and City of Eureka (Trust Grantee) are seeking to establish the boundary between the private lands of the Island and the State-owned tidal-navigable waters of the bay. The case is at the pleading stage, with the responsive pleadings of the State and the City only recently having been filed.

17. U.S. v. 1164.34 Acres W 503.696
U.S. District Court Case No. 2274

(U.S. condemnation action for wildlife refuge of all the mud flats between the Sears Point Highway and San Pablo Bay bounded by Mare Island Navy Yard on the east and Sonoma Creek on the west.)

Tract 12 in the condemnation take is the subject of a stipulation for judgment approved by the Commission at its January 1973 meeting. Said judgment will establish the 1923 U.S. Government Land Office meander line as the permanent and fixed boundary line between the privately-owned uplands and the sovereign lands of the State.

18. City of Albany v. State W 503.726
Alameda Superior Court Case No. 428396

(Plaintiff seeks declaratory relief with regard to the State Lands Commission finding that the 1961 tideland grant to the City of Albany had not been substantially improved.)

The Motion to Strike was heard on February 13, 1973. The judge refused to issue a formal ruling in the motion. He stated that the issues presented should be ruled upon by the trial judge. In effect, he denied the motion and left the entire case in toto for the trial judge to handle. An answer to the complaint and the Complaint in Intervention will be filed shortly by the Office of the Attorney General.

19. People v. William Kent Estate Company W 1839.24
Marin Superior Court Case No. 32824

(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 have been filed by the Attorney General's Office. Hearing was held April 24, 1972, on State's request for corrections. Request for corrections were denied except as to 6 items. Request for transcript has been filed with the Court of Appeal. Appellate Court will be requested to augment the record. Appellate's (State) Opening Brief was filed December 4, 1972.

20. State of California v. County of San Mateo, et al. W 1839.28
San Mateo Superior Court Case No. 144257 W 6987

Suit seeking Declaratory Judgment to protect the public property rights in land covered by the open waters of South San Francisco Bay westerly of the deep draught ship channel, the area of which has been substantially increased with the filing of a cross-complaint by Westbay Community Associates to be an approximate 10,000 acres and twenty-one miles of shoreline including most of the westerly portion of the Bay between the San Francisco International Airport and the southerly San Mateo County line. Titles to other adjacent substantial areas of salt ponds have been brought into the case with the filing of a Complaint in Intervention by Leslie Salt Co. Pre-trial and Discovery proceedings are now in progress, with factual investigation relating to substantial and complex issues continuing.

21. People v. Vincilione, et al. (People v. Evans, et al.) W 1839.29
Riverside Superior Court Case No. 15156

(An action to protect fishing rights in the Colorado River.)

Matter still under submission. Interrogatories have been filed by both sides. Title to the natural bed of the river is in question. Settlement of fishing rights pending. Title questions to be resolved.

22. People v. Clarita Valley Salvage, Inc., et al. W 1839.30
Ventura Superior Court Case No. 54428

(An action for relief under the Harbors and Navigation Code Section 552; injunction; trespass and for damages.)

Complaint will be amended to include recovery of all costs of removal and to seek permanent injunction and default against the major parties. No funds have yet been recovered from Federal bankruptcy proceedings against former owner, Western Steamship Company.