

29. STATUS OF MAJOR LITIGATION.

The attached Calendar Item 28 was submitted to the Commission for information only, no action thereon being necessary.

Attachment: Calendar Item 28 (5 pages)

INFORMATIVE CALENDAR ITEM

8/73

28.

STATUS OF MAJOR LITIGATION

As of July 31, 1973, there were 249 litigation projects involving the Commission, up 4 from last month.

1. 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.

2. 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 south-easterly 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.

3. 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 some discovery on the part of the plaintiff, with trial setting conference reset for October 1, 1973.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

4. 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.)

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). Matador failed to pay taxes and the property was sold to the State. Matador declared bankruptcy to preserve its right of redemption. General Services is currently negotiating with Matador to purchase the land for a State park.

5. City of Long Beach v. Frank Butler, et al. W 503.649
Los Angeles Superior Court Case No. SOC 23014

(Ejectment action brought by the City to eject all defendants except the State of California from certain tide and submerged lands granted to the City.)

The case was bifurcated and the court issued an intended decision holding in the plaintiff's favor in regard to the boundary between public and private lands. The remaining issues have yet to be tried.

6. Thompson v. San Diego Unified Port District and State of California W 503.652
San Diego Superior Court Case No. 31957

(Plaintiff brought a quiet title action to determine the bayward boundary of his property.)

The State entered into a stipulated judgment. Defendant Port District's motion to set aside the judgment was granted. Whether or not Plaintiff Thompson will appeal is still in question.

7. 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. An agreement as to the boundary between public and private lands has been reached. The amount of compensation to be paid by the Division of Highways for private lands condemned is yet to be determined.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

8. U.S. v. 1164.34 Acres
U.S. District Court Case No. 2274

W 503.696

(U.S. condemnation action for wildlife refuge of all the mud flats between the Sears Point Highway and San Pablo Bay boundary 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. The case is still under negotiation.

9. City of Albany v. State
Alameda Superior Court Case No. 428396

W 503.726

(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 Office of the Attorney General has filed its appeal with the First Appellate District in San Francisco. The judges hearing the matter have issued an injunction prohibiting the plaintiffs from continuing to fill the tidelands pending the outcome of the case.

10. Pariani v. State of California
San Francisco Superior Court Case No. 657291

W 503.737

(Plaintiff seeks to quiet title to three parcels of land in Sonoma and Lake Counties. State patented said land into private ownership in 1953, reserving all mineral rights. Plaintiff now seeks to determine whether geothermal energy was reserved to the State under the 1953 patent.)

On July 6, 1973, the Attorney General's office responded in this case on behalf of the State by filing an answer and cross-complaint.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

11. People v. William Kent Estate Company
Marin Superior Court Case No. 32824

W 1839.24

(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 with Appellant's (State's) and Respondent's (William Kent Estate Co.) briefs having been filed. On June 18, 1973, Respondent filed a Motion for Order to Dismiss the Appeal. The State filed its Opposition to Motion for Order to Dismiss Appeal on July 5, 1973. On July 17, 1973, Respondent filed its reply Memorandum to appellant's Memorandum of Points and Authorities in opposition to Motion for Order to Dismiss Appeal. The California Land Title Association on July 27, 1973, filed its amicus curiae Memorandum of Points and Authorities in support of Motion to Dismiss Appeal. Thereafter, amici curiae, the Sierra Club, the Environmental Defense Club, the law firm of Nossaman, Waters, Scott, Krueger & Riordan, and the Chairman of the California Coastal Zone Conservation Commission wrote letters to the court in opposition to Respondent's Motion to Dismiss. On August 13, 1973, State filed closing Memorandum of Points and Authorities in opposition to Motion for Order to Dismiss Appeal.

12. State of California v. County of San Mateo, et al.
San Mateo Superior Court Case No. 144257

W 1839.28
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 approximately 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. Pretrial and Discovery proceedings are now in progress, with factual investigation relating to substantial and complex issues continuing.

INFORMATIVE CALENDAR ITEM NO. 28. (CONTD)

13. 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. Title questions to be resolved. Matter set for trial in October 1973.

14. State of California v. Dart Industries, Inc., et al. W 503.743
Nevada County Superior Court Case No. 18595

(Ejectment act_on to compel removal of purprestures from Donner Lake)

On July 2, 1973, State filed complaint in ejectment for damages, and to compel the removal and prevent the maintenance of purprestures which obstruct navigation and interfere with the exercise of the public trust over navigable waters of Donner Lake. The purprestures are in the form of a landfill, a concrete boat launching ramp, and a water intake pipeline which encroach waterward into the lake.

Defendants in this action have been served with summons and complaint and have been granted an indefinite extension of time in which to answer, contingent upon their application for and attainment of the appropriate leases and permits.