

MINUTE ITEM

This Calendar Item No. 47
was approved by the Board
No. 47 on 12/15/76
at its 12/15/76
meeting.

12/76
W 503 664
CBB

AUTHORIZATION TO FILE DISCLAIMER OF INTEREST

The State Lands Commission is opposed to United States condemnation action brought by the United States Attorney entitled United States v. 217.47 acres of land, more or less, et al., Stanislaus County, et al. filed in the United States District Court, Eastern District of California, Civil No. S-1357, involving land in Stanislaus County, to wit: Parcels S-51 and S-69 located in T2N, R2E, MDM, and Parcels S-78 and S-80, located in T6S, R9E, MDM.

The original complaint sought to grant temporary easements ending September 1, 1972, for the conduct of surveys and the drilling of test holes. In response to the original complaint, the Attorney General filed a disclaimer on behalf of the Commission on October 19, 1970. By an amended complaint, the Federal Government has sought to extend the term of the easements on parcels S-51, S-78 and S-80.

Upon examination of the Commission's records pertinent to the area, it was confirmed that there is no interest held by the State Lands Commission in parcels S-51 and S-80 and that a disclaimer should be filed as to these parcels.

Regarding parcel S-78, however, the existence of a State claim is uncertain. There is a possibility that extensive investigation and research could develop a claim to all or a portion of said parcel based upon the conclusion that it is sovereign land in the bed of a navigable river. Because the estimated compensation for the temporary easement sought is only \$150, however, the staff and the Attorney General's office have concluded that the cost of such an extensive investigation would not be warranted. Because a motion for an order entering the State's default had been noticed for December 15, 1976, it was necessary for the Attorney General to file a disclaimer only as to the right to compensation, specifically not disclaiming the existence of any possible State Lands Commission interest in the parcel. Ratification by the Commission of this action is now sought.

IT IS RECOMMENDED THAT THE COMMISSION

1. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE A DISCLAIMER ON BEHALF OF THE COMMISSION AS TO PARCELS S-51 AND S-80 IN UNITED STATES V. 217.47 ACRES OF LAND, MORE OR LESS, ETC., ET AL., STANISLAUS COUNTY, CIVIL NO. S-1357, AND
2. RATIFY THE DISCLAIMER FILED ON BEHALF OF THE COMMISSION BY THE ATTORNEY GENERAL OF THE RIGHT TO COMPENSATION ONLY FOR THE TAKING OF AN EXTENDED TEMPORARY EASEMENT IN PARCEL NO. S-78 IN SAID ACTION.

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