

MINUTE ITEM

This Calendar Item No 19
was approved as Minute Item
No 19 by the State Lands
Commission by a vote of 3
to 0 at its 3/3/77
meeting.

CALENDAR ITEM

19.

3/77
W 20725.4
JRT
PRC 52385328 - JRT

APPROVAL OF AGREEMENT FOR SETTLEMENT OF TITLE CLAIMS, BLA 158
PURCHASE OF UPLAND PROPERTY BY THE
WILDLIFE CONSERVATION BOARD, AND
66-YEAR PUBLIC AGENCY PERMIT TO
WILDLIFE CONSERVATION BOARD AND/OR COUNTY OF SAN DIEGO

On February 26, 1976, the State Lands Commission approved for distribution the Boundary Study Report concerning San Elijo Lagoon. In that report, the staff concluded that the natural bed of the lagoon has from historical times been subject to tidal influence. The State, therefore, claims title to the lagoon as sovereign tidelands.

Between 1887 and 1907, the State issued Swamp and Overflow Patents to the portion of San Elijo Lagoon and surrounding areas. United California Bank (UCB) is the successor in interest to these patents. The State contends these patents were ineffective in passing title to sovereign lands located within the perimeter of the lands described in the patents. On February 17, 1977, UCB filed a claim against the State for inverse condemnation of said property in the amount of \$2,653,870.

Pursuant to stipulation preserving the rights and claims of all parties, the staff of the State Lands Commission, the Office of the Attorney General and the Wildlife Conservation Board (WCB) have entered into negotiations with representatives of UCB. These negotiations have culminated in a proposed agreement, a copy which is on file in the offices of the State Lands Division. The agreement provides that:

1. UCB will grant to the State of California all its right, title and interest in the area involved except for a 2.3 acre parcel in the south west corner;
2. The State Lands Commission will issue a Public Agency Permit to the WCB of the area below the 2.5 foot elevation contour;
3. The State Lands Commission and Wildlife Conservation Board will enter into a boundary line agreement that the area leased to WCB is sovereign tide and submerged land;
4. The Commission will disclaim any interest in the 2.3 acre parcel, since the parcel is above the 2.5 foot elevation contour.

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OTHER PERTINENT INFORMATION:

1. An environmental document is not required. The public agency permit is within the purview of Section 15104, of the Resources Agency Guidelines, which exempts actions taken by regulatory agencies to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

2. This project is situated on land identified as possessing environmental values in that the State Lands Commission stated all waterways under the Commission's jurisdiction have environmental significance. San Elijo Lagoon, however, was not specifically nominated as possessing significant environmental values, nor classified for land use.

Pursuant to Section 2956, of the California Administrative Code, staff recommends that San Elijo Lagoon be added to the significant land list as the result of communications with the State Department of Fish and Game and the Wildlife Conservation Board.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THE PUBLIC AGENCY PERMIT AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRG 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. FIND THAT GRANTING OF THE PERMIT WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE PUBLIC RESOURCES CODE.
3. ADD SAN ELIJO LAGOON TO THE "INVENTORY OF UNCONVEYED STATE SCHOOL LANDS AND TIDE AND SUBMERGED LANDS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES".
4. IDENTIFY SAN ELIJO LAGOON AS POSSESSING THE FOLLOWING VALUES:

BIOLOGICAL
CRITICAL ECOSYSTEM
FISHERY OR WILDLIFE
WILDLIFE SUPPORT;

CLASSIFY IT INTO A RESTRICTED USE CLASSIFICATION; AND REQUIRE STAFF TO CHANGE THE APPROPRIATE INDICES.

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5. FIND THAT THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND IN FURTHERANCE OF THE TRUST FOR COMMERCE, NAVIGATION, AND FISHERIES.
6. FIND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LAND RELINQUISHED OR OTHER CONSIDERATION PAID BY THE STATE.
7. FIND THAT THE 2.3 ACRE PARCEL WAS NOT TIDE OR SUBMERGED LANDS IN ITS LAST NATURAL CONDITION, HOWEVER, IF ANY PORTION OF IT EVER WAS TIDE OR SUBMERGED LANDS, IT HAS NOW BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, FILLED AND RECLAIMED BY UCB AND ITS PREDECESSORS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING MADE AVAILABLE OR USEFUL FOR THE TRUST PURPOSES OF COMMERCE, NAVIGATION, AND FISHERIES, AND IS THEREFORE FREED FROM THE PUBLIC TRUST.
8. APPROVE THE ISSUANCE OF A PUBLIC AGENCY PERMIT, EFFECTIVE APRIL 1, 1977, TO THE WILDLIFE CONSERVATION BOARD AND/OR THE COUNTY OF SAN DIEGO FOR THE PURPOSES OF WILDLIFE HABITAT, ENVIRONMENTAL PROTECTION AND MANAGEMENT, AND COASTAL WETLANDS RESTORATION; AND FIND THAT THE ISSUANCE OF SAID PERMIT FOR A TERM OF 66 YEARS IS IN THE BEST INTERESTS OF THE STATE IN THAT SUCH TERM IS NECESSARY FOR THE PROTECTION AND PRESERVATION OF THE SOVEREIGN LANDS AND AMORTIZATION OF CAPITAL INVESTMENT.
9. FIND THAT THE ORDINARY HIGH WATER MARK WITHIN THE PORTION OF SAN ELIJO LAGOON, WHICH IS THE SUBJECT OF THIS ACTION, IS AS DESCRIBED IN THE AFOREMENTIONED PUBLIC AGENCY PERMIT.
10. AUTHORIZE THE STATE LANDS DIVISION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO EXECUTE THE AGREEMENT AND TAKE ALL NECESSARY STEPS, INCLUDING, BUT NOT LIMITED TO LEGAL ACTION, TO CARRY OUT AND FULFILL THE PROVISIONS OF THE AGREEMENT.