

MINUTE ITEM

This Calendar Item No. C20
was approved as Minute Item
No. 20 by the State Lands
Commission by a vote of 3 CALENDAR ITEM
to 0 at its 6/30/77
meeting. C20.

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SCL(DME)

RAFFIPLICATION OF STIPULATION FOR ENTRY OF JUDGMENT ENTERED INTO
BY OFFICE OF THE ATTORNEY GENERAL IN U.S. v. 3.66 ACRES OF LAND,
ETC., U.S.D.C. (N.D. CAL.), NO. C-75-0863

As part of its land acquisition program for the Golden Gate National Recreation Area, the federal government has brought a condemnation action involving property which includes land occupied by the Cliff House in San Francisco, entitled U.S. v. 3.66 Acres of Land, etc., San Francisco County; Cliff House Properties, et al; United States District Court (Northern District, California) No. C-75-0863. The State of California was joined as a defendant because of delinquent taxes on the property and also because three of the condemnation parcels abut State-owned sovereign lands lying waterward of the ordinary high water mark of the Pacific Ocean.

The descriptions of two of the parcels abutting the ocean are ambiguous, in that they can be read as running to the existing mean high tide line, even though certain land above the existing mean high tide line was formed due to artificial accretion and is therefore still in State ownership. The statute authorizing land acquisition for the Golden Gate National Recreation Area does not authorize condemnation of State land by the Federal Government. Accordingly, the State, the federal government, and the private condemnees wish to re-describe the parcels affected to substitute, where appropriate, the last natural position of the ordinary high water mark for the existing mean high tide line, thereby accurately delineating the boundary between State and private ownership and the limits of the parcels being condemned by the federal government.

The position of the ordinary high water mark before the onset of artificial influence is uncertain. Assisted by extensive engineering work by the State Lands Division, the parties have determined that approximately 160 feet of the ocean frontage of the subject parcels was affected by artificial accretion and have arrived at a compromise position for the last natural position of the ordinary high water mark. Revised parcel descriptions have been prepared by the State Lands Division. The Division and the Office of the Attorney General are satisfied that the positioning of the ordinary high water mark is a satisfactory compromise of the State-private boundary claims and is in the best interests of the public.

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Before the compensation agreed to between the federal government and the private condemnee can be paid out of escrow, it is necessary that a revised final judgment of condemnation be filed with the court, incorporating the revised descriptions. A significant delay in the closing of escrow could subject the federal government to a claim for interest by the private condemnee on the amount of the agreed compensation, which is substantial. Accordingly, the United States Attorney's Office requested that if possible, the State stipulate to revision of the descriptions prior to formal calendaring of the item before the Commission, which calendaring could take place, at the earliest, at the Commission's meeting in the last week in June.

Accordingly, the matter was formally brought to the attention of each member of the Commission last month, and no objection having been voiced to settlement of this litigation in accordance with the recommendation of the staff and the Office of the Attorney General, the requested stipulation for entry of judgment was entered into. The item is now placed before the Commission for formal ratification.

IT IS RECOMMENDED THAT THE COMMISSION:

1. RAFFIFY THE ACTION OF THE OFFICE OF THE ATTORNEY GENERAL IN STIPULATING TO ENTRY OF A JUDGMENT INCORPORATING REVISED PARCEL DESCRIPTIONS, COPIES OF WHICH ARE ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND ARE HEREBY INCORPORATED BY REFERENCE, IN U.S. V. 3.66 ACRES OF LAND, ETC., UNITED STATES DISTRICT COURT (NORTHERN DISTRICT OF CALIFORNIA), NO. C-75-0863.
2. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS WHICH MAY BE NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION.

EXHIBIT: A. Location Map.