

MINUTE ITEM

This Calendar Item No. 217
was approved as Minute Item
No. 24 by the State Lands
Commission by a vote of 3
to 0 at its 6/30/77
meeting.

CALENDAR ITEM

24.

6/77
W 20532
FG
JR
PRC 5327

BOUNDARY LINE AGREEMENT
BLA NO. 157

The State Lands Division has negotiated a compromise settle-
ment of the Ordinary High Water Mark boundary with the State
Department of Transportation (Caltrans), as the boundary of
State-owned sovereign tide or submerged lands of San Francisco
Bay at Foster City in San Mateo County, and an adjacent upland
parcel.

The proposed boundary and respective quitclaims for the parcels
to be confirmed in State sovereign and proprietary ownership
are more particularly described in Exhibits A through C of the
boundary agreement on file in the office of the State Lands
Commission.

Title studies show the following facts:

1. Caltrans claims as the successor in interest to E. B. Pond
and A. L. Whitney, and C. W. Rand, patentees under Swamp
and Overflowed Land Patents 69 and 10 respectively, being
dated March 28, 1899, and September 26, 1856, and being
recorded in the office of the County Recorder of San Mateo
County in Book 2 Patents at page 469 and Book 1 Patents at
page 184.
2. The upland parcel was included within the perimeter des-
cription of the Federal Swamp and Overflowed Patent to the
State on October 6, 1919, numbered 191, San Francisco.
3. The upland parcel has been declared excess property by
Caltrans and it is anticipated it will be disposed of after
completion of this agreement.
4. There is a bona fide and good faith dispute between State
Lands Commission and Caltrans as to the location of the
common boundary between parcels of the respective agencies.

Included in the agreement is a 66-year public agency permit to
Caltrans for maintenance of the existing levee. Caltrans is
given permission to assign the permit to either the City of
Foster City or the Estero Municipal Improvement District without
further action of the State Lands Commission. Notice must be
given to the Commission, however.

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Upon completion of this transaction, it is anticipated that Caltrans will transfer certain portions of the upland property to the County of San Mateo for public parking to serve the County Fishing Pier. Other parcels may go to the City of Foster City and Estero Municipal Improvement District and any remainder will be sold as surplus property.

The staff believes it is in the best interests of the State to enter into the proposed agreement pursuant to the provisions of Division 6 of the Public Resources Code, with particular reference to Section 6357, to define the extent, nature, location, and area of public and private titles and boundary by a compromise settlement in order to avoid the costs and uncertainties of litigation.

Accordingly, the Boundary Line Agreement is not subject to the requirements of the California Environmental Quality Act pursuant to the exception in Section 6371 of the Public Resources Code and that pursuant to Public Resources Code 21085; implemented by 14 Cal. Adm. Code 15100 et seq.; 2 Cal. Adm. Code 2900; and 2 Cal. Adm. Code Art. 11; the permit is for an existing structure or facility, it is thereby categorically exempt from the environmental impact report requirements.

EXHIBITS: A. Estuary Plat. B. Air Photo Plat.
C. Parcel Map

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED BOUNDARY AGREEMENT, ON FILE WITH THE STATE LANDS DIVISION, IS IN THE BEST INTERESTS OF THE STATE; AUTHORIZE THE EXECUTION AND RECORDATION OF SAID AGREEMENT AND CONVEYANCES PURSUANT THERETO, AND ACCEPT THE CONVEYANCES TO THE STATE AS PROVIDED THEREIN.
2. FIND THAT THE AGREEMENT IS NOT SUBJECT TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT BY REASON OF THE EXCEPTION CONTAINED IN SECTION 6371, OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE THE ISSUANCE TO THE STATE DEPARTMENT OF TRANSPORTATION OF A 66-YEAR PUBLIC AGENCY PERMIT FOR LEBEE MAINTENANCE PURPOSES FROM JUNE 30, 1977 WITH THE RIGHT TO ASSIGN THE PERMIT TO EITHER THE CITY OF FOSTER CITY OR ESTERO MUNICIPAL IMPROVEMENT DISTRICT, IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF SUCH ACTION IS FOUND TO BE IN THE STATE'S BEST INTEREST; AND FIND, PURSUANT TO 2 CAL. ADMINISTRATIVE CODE 2004, THAT THE PERMIT TERM OF 66 YEARS, WHICH IS IN EXCESS OF THE REGULAR 49 YEAR TERM, IS IN THE BEST INTEREST OF THE STATE; AND

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DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., 2 CAL. ADM. CODE 2907 AND 2 CAL. ADM. CODE ART. 11.

4. AUTHORIZE THE STATE LANDS DIVISION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, IN ORDER TO IMPLEMENT AND GIVE EFFECT TO THIS AGREEMENT.