

MINUTE ITEM

This Calendar Item No. 34  
was approved as Minute Item  
No. 34 by the State Lands  
Commission by a vote of 2  
to 0 at its 9/29/77  
meeting.

CALENDAR ITEM

34.

9/77  
W 503.898  
Hadley

AUTHORIZATION FOR DISCLAIMER

The State Lands Commission is a party to a condemnation action brought by the United States, entitled United States v. 440 Acres of Land, More or Less, filed in the United States District Court, Eastern District of California, Civil No. S-77-364-PCW, involving land in Calaveras County. A temporary easement for the purpose of surveying the location of an access road to Federal lands is the interest being condemned.

Upon examination of the Commission's records pertinent to the area, it was ascertained that the proposed easement concerns a parcel of land, 440 acres, more or less, located within the East half of the Southeast quarter of Section 21; the North half of the Southwest quarter of Section 21; the Southeast quarter of Section 22; the North half of the Northeast quarter of Section 22; the North half of the Northeast quarter of the Northeast quarter of Section 28 all in Township 6 North, Range 14 East, Mount Diablo Base and Meridian. The Licking Fork of the Mokelumne River crosses through the subject parcel at a point well above the statutory head of navigation but further research and an on site field investigation would be necessary before a definitive judgment on the issue of state ownership could be made.

Because the interest to be taken in this instance is only a temporary easement for which compensation would be minimal (assuming that a fee interest in the State were found), the expense of additional investigation necessary for an informed determination on navigability would not appear to be justified.

Accordingly, it is proposed that the Commission disclaim any right to compensation without disclaiming any ownership interest which it may have in a portion of the land subject to the temporary easement.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE ATTORNEY GENERAL TO FILE A DISCLAIMER OF THE RIGHT TO COMPENSATION BUT NOT OF ANY OWNERSHIP

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CALENDAR ITEM NO. 34. (CONTD)

INTEREST IN THE 440 ACRES, MORE OR LESS, ON BEHALF  
OF THE STATE LANDS COMMISSION IN THE CASE OF UNITED  
STATES V. 440 ACRES OF LAND, MORE OR LESS, GALAVÉRAS  
COUNTY, CIVIL NO. S-77-364-PCW, FILED IN UNITED STATES  
DISTRICT COURT, EASTERN DISTRICT.

2. AFFIRM THAT THE DISCLAIMER RATIFIED ABOVE IS WITHOUT  
PREJUDICE TO ANY CLAIM OR OWNERSHIP INTEREST WHICH  
THE STATE MAY HAVE IN THE 400 ACRES.