

MINUTE ITEM

This Calendar Item No. 30  
was approved as Minute Item  
No. 30 by the State Lands  
Commission by a vote of 2  
to 0 at its 11/30/77  
meeting.

CALENDAR ITEM

30.

11/77  
G 18-00  
Bousseloub

DETERMINATION OF SUBSTANTIAL COMPLIANCE  
COUNTY OF SONOMA

TRUSTEE:

County of Sonoma  
Department of Regional Parks  
2403 Professional Drive, Suite 100  
Santa Rosa, California 95401

LOCATION:

Granted tide and submerged lands at Bodega  
Bay, County of Sonoma.

PURPOSE:

To determine whether the County of Sonoma  
substantially improved the tidelands granted  
by Chapter 1064, Statutes of 1959, as amended.

BACKGROUND:

Chapter 1064, Statutes of 1959, amending  
Chapter 1406, Statutes of 1951, granted  
tide and submerged lands within Bodega  
Bay to the County of Sonoma. The grant  
was made subject to the condition, "That  
within 10 years from the effective date  
of this act said lands shall be substantially  
improved by said county without expense  
to the State and if the State Lands Commission  
determines that the county has failed to  
improve said lands as herein required,  
all right, title and interest of said county  
in and to all lands granted by this act  
shall cease and said lands shall revert  
and rest in the State".

The 1959 statute also provided that the  
County may present a development plan to  
the Commission which, when approved and  
implemented, would constitute a conclusive  
determination that the lands had been substan-  
tially improved.

In 1972, a staff investigation was initiated  
to determine whether the approved plan  
had been completed. It had not. Staff then  
began to work with the County to draft  
legislation to amend the grant. Agreement  
on the terms of the legislation was not  
reached, however, and the grant bill was

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dropped. Staff prepared a Calendar Item for the July 22, 1976 meeting of the Commission recommending that the lands revert to the State.

At the request of the County, the Item was deferred to allow for further discussion between County and Division staff.

In particular, the County requested that the Division obtain a legal opinion as to whether failure to implement the approved plan constituted sufficient grounds for a reversion of the tidelands. The County maintained that a determination of substantial improvement was not conditional upon carrying out a plan.

It was the opinion of the Commission's legal unit that the provision for submission of a plan was discretionary and not mandatory. The grant does mandate, however, that if the Commission determines (after a good faith investigation) that substantial improvements have not been made that the grant revert to the State.

If the staff was able to find that there had been sufficient improvements made on the grant to constitute substantial compliance, regardless of the plan submitted, then there would be no need for a revocation of the grant. It was agreed that the prior investigation would be reviewed and up-dated, based on the usual criteria of the Division for determining substantial improvement.

REPORT OF INVESTIGATION:

A determination of substantial improvement is generally based upon a study of the number and types of leases issued and the capital improvements authorized or made by the trustee which enhance the value and/or the public's enjoyment of the granted lands.

In response to the request of the Division for photographs, maps and detailed statements showing the extent of the improvements made between 1961 and 1971, the County

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submitted a report of June 8, 1972 which generally contained the information requested. An on-site investigation was conducted on September 8, 1972. Subsequent contacts with the County and a follow-up visit to Bodega Bay on September 19, 1977 confirmed that there have not been any major changes that would affect the conclusions of this report.

FACTS SUPPORTING DETERMINATION:

During the period 1961-1971, the County issued or renegotiated tidelands leases which generated a total of approximately \$45,000. Expenditures by the lessees for improvement were reported at \$277,816.86. County expenditures on Bodega Bay improvements were \$570,341.72, of which \$126,000 was obtained through a grant from the Department of Navigation and Ocean Development. Examples of improvements made included: dykes and spillways, boat ramp, camping area, parking facilities, an airstrip and a road. Pacific Gas & Electric Company spent \$775,400 to provide public access to the tidelands and certain public facilities, while the Bodega Bay Public Utilities District spent \$985,000 in building a much needed sewage treatment area.

Bodega Bay offers facilities for commercial fishing, recreational boating, camping, and general tourism. Marine research is carried on by the University of California in a Biological Reserve on the west side of the bay.

EXHIBIT: A. Grant Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE COUNTY OF SONOMA HAS SUBSTANTIALLY IMPROVED ITS GRANTED TIDE AND SUBMERGED LANDS AND HAS FULFILLED THE CONDITIONS OF SUBSECTION (g) OF CHAPTER 1064, STATUTES OF 1959, AS AMENDED.
2. AUTHORIZE THE EXECUTIVE OFFICER TO NOTIFY THE COUNTY OF SONOMA, THE SECRETARY OF THE SENATE, AND THE CHIEF CLERK OF THE ASSEMBLY THAT THE COMMISSION HAS MADE AN INVESTIGATION OF SUBSTANTIAL IMPROVEMENT, AS REQUIRED

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BY THE GRANT STATUTE, AND HAS FOUND THAT THE COUNTY OF SONOMA HAS SUBSTANTIALLY IMPROVED THE LANDS WITHIN THE TERMS OF SUBSECTION (g) OF CHAPTER 1064, STATUTES OF 1959 AS AMENDED.