

MINUTE ITEM

17. (LONG BEACH BOUNDARY DETERMINATION - CHAPTER 2000/1957 - W. O. 2716.1.)

Following presentation of Calendar Item 25 attached, Deputy Attorney General Jay L. Shavelson appeared before the Commission and reviewed a memorandum of February 7, 1958, copy of which is attached as Exhibit "A".

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE OFFICE OF THE ATTORNEY GENERAL TO PROCEED WITH THE FOLLOWING LEGAL ACTION IN THE NAME OF THE STATE LANDS COMMISSION:

1. THE COMMENCEMENT OF LITIGATION AGAINST UNION PACIFIC RAILROAD CO., LOS ANGELES & SALT LAKE RAILROAD CO., SOUTHERN CALIFORNIA EDISON CO., AND THE CITY OF LONG BEACH TESTING THE VALIDITY AND BINDING EFFECT UPON THE STATE OF THE JUDGMENT IN CASE NO. 340-RJ-CIVIL IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION; DETERMINING THE LEGAL STATUS OF LANDS INVOLVED IN SAID CASE; AND SEEKING CERTAIN ADDITIONAL RELIEF IN CONNECTION WITH SAID CASE AND THE LANDS INVOLVED THEREIN.
2. THE SERVICE UPON THE CITY OF LONG BEACH OF A REQUEST TO RENDER AN ACCOUNTING FOR CERTAIN LANDS, EASEMENTS, WELL SITES AND OTHER THINGS OF VALUE RECEIVED BY THE CITY IN CONNECTION WITH THE TERMINATION OF CASE NO. 340-RJ-CIVIL MENTIONED IN (1) ABOVE, AND OTHER CONTEMPORANEOUSLY LITIGATED CASES BETWEEN THE CITY AND CERTAIN PRIVATE LAND OWNERS IN THE LONG BEACH HARBOR DISTRICT.
3. SERVICE UPON THE CITY OF LONG BEACH OF A REQUEST TO COMMENCE PROCEEDINGS AS TRUSTEE FOR THE STATE TO DETERMINE THE LEGAL STATUS OF CERTAIN SPECIFICALLY DESCRIBED PORTIONS OF LANDS CLAIMED BY THE CRAIG SHIPBUILDING CO. AND OTHERS AND TO TAKE ANY OTHER ACTION DEEMED NECESSARY FOR THE ACCOMPLISHMENT OF THE FOREGOING OR ANY ACTION CONNECTED WITH OR RELATED TO THE ACCOMPLISHMENT THEREOF.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER TO REPORT TO THE LEGISLATURE NOT LATER THAN FEBRUARY 15, 1958, THE PROGRESS OF THE COMMISSION IN CARRYING OUT THE PURPOSES OF CHAPTER 2000, STATUTES OF 1957.

Attachments

Calendar Item 25 (1 page)

Exhibit "A" (Memorandum from Office of Attorney General - 3 pages)

CALENDAR ITEM

MISCELLANEOUS

25.

(LONG BEACH BOUNDARY DETERMINATION - CHAPTER 2000/1957 - W. O. 2716.1.)

Chapter 2000, Statutes of 1957, provides as follows:

"Section 1. The State Lands Commission shall determine the boundaries of the tide and submerged lands conveyed in trust to the City of Long Beach by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, and Chapter 158, Statutes of 1935. The commission shall survey, monument, and plat the boundaries of such lands.

"The commission may bring any actions necessary to determine such boundaries, and for that purpose may employ special counsel.

"The commission shall report to the Legislature not later than February 15, 1958, its progress in carrying out the purposes of this act.

"The sum of fifty thousand dollars (\$50,000) is appropriated out of the Investment Fund to the State Lands Commission for the purposes of this act."

On September 13, 1957 (Minute Item 27, pages 3495-96), the Commission authorized proceeding with the Office of the Attorney General in determining the boundaries of the tide and submerged lands conveyed in trust to the City of Long Beach, in conformance with the requirements of Chapter 2000, Statutes of 1957.

The Attorney General's office and the State Lands Division staff have completed a detailed investigation of the origin and extent of public and private land titles along the Long Beach waterfront.

A summary report of the study results will be presented by the Office of the Attorney General, together with a request for Commission authorization to the Office of the Attorney General to commence litigation in the name of the Commission and to take other steps regarded as necessary to protect the State's interests.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO REPORT TO THE LEGISLATURE NOT LATER THAN FEBRUARY 15, 1958 THE PROGRESS OF THE COMMISSION IN CARRYING OUT THE PURPOSES OF CHAPTER 2000, STATUTES OF 1957.

EXHIBIT "A"

STATE OF CALIFORNIA
Los Angeles 12

Inter-Departmental Communication

To: State Lands Commission
Room 302, State Building
Los Angeles 12, California

Date: Febr. 7, 1958

File No.

Attention: Francis J. Hortig,
Executive Officer

Subject: Long Beach Boundary
Problem and Chapter
2000, Stats. 1957

From: Department of Justice

The purpose of this memorandum is to outline to you in general terms the progress that has been made upon this question and our proposals for future action. It is hoped that this outline may be of use to you in connection with your forthcoming report to the Legislature due February 15, 1958, under the terms of the subject statute. We wish also to request authorization from the Commission to commence litigation in its name and take other steps which we regard as necessary to protect the State's interests.

A. Summary of Progress to Date.

Our progress to date may be summarized as follows:

1. Members of the Attorney General's office, in cooperation with members of the State Lands Division staff, have completed a detailed investigation of the origin and extent of public and private land titles along the Long Beach water front, with special emphasis upon the Long Beach Harbor District which is the area of greatest oil production. This investigation has included the following:

(a) A study of the terms of and legal proceedings accompanying grants to private individuals by the Mexican government prior to 1846.

(b) A study and legal analysis of United States patents confirming grants by the Mexican and Spanish governments, and proceedings accompanying the issuance of these patents.

(c) A study of the acts of private land claimants and public agencies since 1850 and an analysis of the legal effect of these acts in relation to such doctrines as adverse possession, estoppel, limitation of actions, agreed boundaries and substitution.

(d) A study of the legal effect of changes in coastal configuration upon original titles.

2. Members of the Attorney General's office have made a study and legal analysis for the purpose of determining the present effect of litigation from 1938 to 1941 involving the status of and title to large parcels of oil bearing lands within the Long Beach Harbor District. Special emphasis has been laid upon methods of avoiding the possible binding effect of said litigation upon the State.

3. Members of the Attorney General's office, in cooperation with engineers James W. Dunham and Charles T. Leeds, and with the State Lands Division staff, have made an extensive study of the nature and causes of coastal changes in the Long Beach area between 1855 and the present date. Special emphasis has been laid upon determining whether or not certain coastal accretions in the latter half of the nineteenth century might be attributable to artificial agencies so that the State and the City as trustee for the State may have some claim to the lands formed by such accretions and the oil and gas produced from such lands.

4. On November 13, 1957, the City of Long Beach commenced proceedings in the Los Angeles County Superior Court for the perpetuation of testimony relating to the line of mean high tide in the Long Beach area. A hearing took place on December 18, 1957, which was attended by a representative of the Attorney General's office who cross-examined witnesses for the City.

B. Proposals for Future Action.

It has been the position of the Attorney General that no litigation should be commenced until such time as sufficient investigation has been made to determine what claims may be prosecuted with reasonable prospects of success. Any other course might result in the unfair harassment of private land owners, the casting of clouds upon private titles without adequate cause, and the incurring of heavy litigation expenses by the State, the City of Long Beach, and private land owners in fruitless litigation. On the other hand, we wish to avoid delays which might result in permanent loss of revenues to the State. We feel that the course of action proposed herein will best reconcile these opposing considerations.

As a result of the aforesaid studies, the Attorney General has reached certain definite conclusions as to appropriate courses of action. We wish to emphasize, however, that this inquiry is in the highly specialized and technical field of land title law and involves legal questions which are in many instances unique and which are based upon engineering and historical data of unusual complexity. It is proposed, therefore, that our conclusions be examined by a private law firm having special qualifications in the field of land titles and free of ties with any interests represented in the Long Beach area. If such an examination results in any suggested modifications of our presently proposed courses

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of action, these suggestions will be followed to the extent we regard them as valid.

The Attorney General regards as necessary for protection of the State's interests, the early accomplishment of the following:

- (1) The commencement of litigation against Union Pacific Railroad Co., Los Angeles and Salt Lake Railroad Co., Southern California Edison Co. and the City of Long Beach testing the validity and binding effect upon the State of the Judgment in case number 340-RJ-Civil in the District Court of the United States in and for the Southern District of California, Central Division; determining the legal status of lands involved in said case; and seeking certain additional relief in connection with said case and the lands involved therein.
- (2) The service upon the City of Long Beach of a request to render an accounting for certain lands, easements, well sites and other things of value received by the City in connection with the termination of said case and other contemporaneously litigated cases between the City and certain private land owners in the Long Beach Harbor District.
- (3) Service upon the City of a request to commence proceedings as trustee for the State to determine the legal status of certain portions of lands claimed by the Craig Shipbuilding Co.

The Attorney General, in cooperation with the State Lands Division staff, is continuing legal and factual studies preparatory to filing additional proceedings. It is proposed, therefore, that the State Lands Commission authorize the Attorney General to commence proceedings and issue notices forthwith and take any other legal action in the Commission's name which he deems necessary in relation to the determination of the boundaries of the Long Beach tidelands.

JAY L. SHAVELSON
Deputy Attorney General

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