

MINUTE ITEM

29. APPROVAL OF AMENDMENT TO BOUNDARY AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, IN MARCONI COVE, TOMALES BAY, MARIN COUNTY - W.O. 4350, B.L.A. 55, GEO.-MARIN CO.

After consideration of Calendar Item 2 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION:

1. RESCINDS ITS ACTION OF JUNE 28, 1962 (MINUTE ITEM 38, PAGES 8125-28).
2. AUTHORIZES THE EXECUTIVE OFFICER:
  - a. TO APPROVE SHEET ONE OF ONE OF MAP ENTITLED "CONTOURS, MARCONI COVE, PROPOSED HARBOR SITE, MARINA DEVELOPERS", DATED APRIL 19, 1962, WHICH MAP IS ON FILE IN THE OFFICES OF THE STATE LANDS DIVISION.
  - b. TO RECORD SAID MAP AFTER COMPLETION OF MARINA CONSTRUCTION IN MARCONI COVE.
  - c. TO EXECUTE AN AGREEMENT WITH THE UPLAND OWNERS, H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, FIXING THE COMMON BOUNDARY IN MARCONI COVE AS DESCRIBED IN AN AGREEMENT, COPY OF WHICH IS ATTACHED AS EXHIBIT "A", AND HEREBY MADE A PART HEREOF, AS THE PERMANENT BOUNDARY BETWEEN THE STATE SUBMERGED LANDS AND THE SUBJECT PRIVATE LANDS ALONG TOMALES BAY, MARIN COUNTY, CALIFORNIA.

THE EFFECTIVENESS OF SAID AGREEMENT IS SUBJECT TO THE PROVISIONS OF PARAGRAPH 2 OF THE SAID AGREEMENT.

Attachments

Exhibit "A" (4 pages)  
Calendar Item 2 (6 pages)

EXHIBIT "A"

BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT, made and entered into by and between STATE OF CALIFORNIA, acting by and through the STATE LANDS COMMISSION (as Party of the First Part hereinafter referred to as "the State") and H. Morgan Noble, David L. Fraser, Norman A. Gamble and Blair McDonald (as Party of the Second Part hereinafter referred to as "Second Party").

W I T N E S S E T H

WHEREAS, the State acting through the State Lands Commission is authorized by Section 6357 of the Public Resources Code to establish by agreement the ordinary high water mark or the ordinary low water mark of the swamp, overflowed, marsh, tide or submerged lands of this State, whenever it is deemed expedient or necessary; and

WHEREAS, the Second Party appears of record as owner of certain lands along Tomales Bay in the vicinity of Marconi Cove, Marin County, California; and

WHEREAS, the State of California by virtue of its sovereignty is owner of certain submerged lands in Tomales Bay, in the vicinity of Marconi Cove, Marin County, California; and

WHEREAS, the Mean Low Water Mark is fluctuating naturally and is not presently affected by artificial processes; and

WHEREAS, the Second Party proposes to develop a harbor in Marconi Cove and construct breakwaters and/or jetties which will create artificial conditions and thus fix the Mean Low Water Mark in its last natural position

EXHIBIT "A" (CONTD.)

prior to the construction; and

WHEREAS, the State Lands Commission and the Second Party consider it expedient and necessary and in the best interests of the State and the Public to describe and fix permanently the boundary of the lands belonging to the State and Second Party, and forever set at rest any and all questions relating to the location of said boundary line;

NOW, THEREFORE, in order to locate, describe and permanently establish a common boundary, the parties hereto mutually agree on behalf of themselves and their successors in interest as follows:

1. That the ordinary low water mark along Tomales Bay and the true and correct boundary line between the State and Second Party is and shall be located and established as follows:

Commencing at Point "V", which is described in the deed from Marin County Abstract and Title Company to H. Morgan Noble, recorded in Book 1537, Page 355, Marin County Records; thence from said point of commencement S. 75° 45' W. 244 feet to Station 1 which is the True Point of Beginning of the boundary line between State submerged land and private tidelands; thence from said Point of Beginning along the following courses on the ordinary low water mark of 1962: N. 21° 05' 17" E. 18.97 feet, N. 26° 05' 42" E. 45.94 feet, N. 24° 15' 34" E. 75.89 feet, N. 22° 05' 22" E. 65.90 feet, N. 20° 05' 11" E. 48.93 feet, N. 15° 34' 47" E. 106.82 feet, N. 18° 40' 04" E. 67.89 feet, N. 25° 50' 42" E. 111.85 feet, N. 20° 35' 16" E. 41.94 feet, N. 09° 44' 10" E. 24.96 feet, N. 10° 58' 12" W. 14.97 feet, N. 33° 31' 02" W. 11.98 feet, N. 58° 04' 04" W. 37.93 feet, N. 63° 34' 38" W. 78.87 feet, N. 55° 48' 50" W. 89.84 feet, N. 43° 47' 27" W. 37.92 feet, N. 27° 15' 20" W. 21.95 feet, N. 13° 13' 33" W. 39.92 feet, N. 06° 27' 42" W. 78.84 feet, N. 05° 27' 35" W. 219.56 feet, N. 11° 58' 25" W. 38.92 feet, N. 29° 30' 38" W. 31.93 feet, N. 40° 01' 56" W. 40.92 feet, N. 48° 33' 00" W. 61.88 feet, N. 55° 18' 46" W. 96.82 feet, N. 76° 20' 48" W. 34.95 feet to Sta. 27 which is the end of said boundary line and which Station 27 bears S. 59° 45' W. 78 feet from a concrete monument (L.S. No. 2535).

EXHIBIT "A" (CONTD.)

2. In the event that harbor construction in Marconi Cove is not commenced pursuant to an award of construction contract, before December 31, 1964, this agreement will be of no force and effect. The map which delineates the permanent boundary will not be recorded until construction is completed. If construction is started after December 31, 1964, the State Lands Commission will inspect the shoreline conditions at that time and if they are found to be substantially the same as those described in the boundary agreement the Commission may proceed with the execution of this agreement.

3. This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year hereafter written.

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
H. Morgan Noble

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
David L. Fraser

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Norman A. Gamble

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Blair McDonald

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared H. Morgan Noble, David L. Fraser, Norman A. Gamble, and Blair McDonald known to me to be the persons whose names subscribed to the within instrument and acknowledged to me that they executed the same.

\_\_\_\_\_

\_\_\_\_\_  
Name (Typed or Printed)  
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

EXHIBIT "A" (CONTD.)

STATE OF CALIFORNIA, acting by and  
through the STATE LANDS COMMISSION

By: F. J. HORTIG, Executive Officer

\_\_\_\_\_  
Date of Signature

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_,  
before me, \_\_\_\_\_ a Notary Public  
in and for said County and State, personally appeared F. J. HORTIG, known  
to me to be the Executive Officer of the State Lands Commission, and known  
to me to be the person who executed the within Instrument on behalf of said  
agency, and acknowledged to me that such agency executed the same.

\_\_\_\_\_

\_\_\_\_\_  
Name (Typed or Printed)  
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

CALENDAR ITEM

2.

APPROVAL OF AMENDMENT TO BOUNDARY AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND H. MORGAN NOBLE, DAVID L. FRASER, NORMAN A. GAMBLE, AND BLAIR McDONALD, IN MARCONI COVE, TOMALES BAY, MARIN COUNTY - W.O. 4350.

The State Lands Commission, on June 28, 1962, approved a map delineating the boundary of State submerged land in Marconi Cove, Tomales Bay, and a Boundary Agreement between the State of California and H. Morgan Noble, David L. Fraser, Norman A. Gamble, and Blair McDonald, in Marconi Cove, Tomales Bay, Marin County. However, the Boundary Agreement was not executed, and the map was not signed and recorded.

The Boundary Agreement contained the following condition:

"2. In the event that harbor construction in Marconi Cove is not completed, pursuant to award of construction contract, before July 1, 1963, this agreement will be of no force and effect".

Construction was not started prior to July 1, 1963. The partners are now preparing to go ahead with their harbor in Marconi Cove, and it is in the best interests of the State to enter into a Boundary Agreement which will establish a permanent boundary prior to construction. An inspection of shore line conditions in Marconi Cove was made by the State Lands Division on April 23, 1964, and it was determined that no appreciable change has taken place since April 1962.

The current status of this transaction is:

1. In 1962, the Commission authorized:
  - (a) Approval of a map establishing a boundary.
  - (b) The recording of said map after the completion of construction in Marconi Cove.
  - (c) The execution of a boundary agreement by the State and certain private individuals.
2. Of the foregoing, 1(a) was accomplished; 1(b) and 1(c) were not accomplished because one of the conditions of the agreement could not be met. Therefore, the authorization previously granted is null and void.
3. Since it now appears that the transaction may be completed, and it is in the State's interest to do so, it is proposed to issue an agreement in the same form as that previously authorized, except that Paragraph 2 will be amended to read:

CALENDAR ITEM 2. (CONTD.)

"2. In the event that harbor construction in Marconi Cove is not commenced, pursuant to an award of construction contract, before December 31, 1964, this agreement will be of no force and effect. The map which delineates the permanent boundary will not be recorded until construction is completed. If construction is started after December 31, 1964, the State Lands Commission will inspect the shoreline conditions at that time and if they are found to be substantially the same as those described in the boundary agreement the Commission may proceed with the execution of this agreement."

IT IS RECOMMENDED THAT THE COMMISSION:

1. RESCIND ITS ACTION OF JUNE 28, 1962 (MINUTE ITEM 38, PAGES 8125-28).
2. AUTHORIZE THE EXECUTIVE OFFICER:
  - a. TO APPROVE SHEET ONE OF ONE OF MAP ENTITLED "CONTOURS, MARCONI COVE, PROPOSED HARBOR SITE, MARINA DEVELOPERS", DATED APRIL 19, 1962, WHICH MAP IS ON FILE IN THE OFFICES OF THE STATE LANDS DIVISION.
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\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Norman A. Gamble

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Blair McDonald

STATE OF CALIFORNIA }  
COUNTY OF \_\_\_\_\_ }

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\_\_\_\_\_  
Name (Typed or Printed)

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

EXHIBIT "A" (CONTD.)

STATE OF CALIFORNIA, acting by and  
through the STATE LANDS COMMISSION

By: F. J. HORTIG, Executive Officer

\_\_\_\_\_  
Date of Signature

STATE OF CALIFORNIA )  
                                  )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_,  
before me, \_\_\_\_\_, a Notary Public  
in and for said County and State, personally appeared F. J. HORTIG, known  
to me to be the Executive Officer of the State Lands Commission, and known  
to me to be the person who executed the within Instrument on behalf of said  
agency, and acknowledged to me that such agency executed the same.

\_\_\_\_\_  
\_\_\_\_\_  
Name (Typed or Printed);  
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE