

42. REPORT ON APPLICATION FOR TERMINATION OF LEASES ON CORTE MADERA CREEK IN MARIN COUNTY - W.O. 5754.

During consideration of Calendar Item 40 attached, appearances were made by the following:

Mrs. Phyllis Heath, who stated that she had been designated as spokesman for the group of arksite dwellers whose leases were to be terminated. She raised a question, directed specifically to the City of Larkspur, as to responsibility for a sewer line that would be cut off, and of the possibility of compensation being paid to the arksite dwellers for the resulting loss to them. She asked that, where possible, the lessees be given additional time before abandoning their leased areas, indicating, however, that they did not want to stop the proposed flood-control program, but merely were asking to be allowed to remain in the area until abandonment was actually necessary.

The Executive Officer noted that, based on the statement made this date by Mrs. Heath, it appears that at least discussions are under way as to the possibility of compensation being paid by the local authorities.

A question was raised as to whether there was any resemblance between the subject situation and condemnation.

Assistant Attorney General Jay L. Shavelson reported that the question of compensation had not heretofore been referred to the Office of the Attorney General, and that he did not want to make any statement without more study of the matter. However, he was of the opinion that, as far as the State Lands Commission is concerned, no compensation could be paid because there is no such obligation under the leases and the State is restricted by its Constitution from making gifts of money.

Hugo Fisher, Administrator of the State Resources Agency, asked that the State defer action until all project requirements including removal of the property by the local jurisdiction and the relocation of the sewer line had been paid for or contracted for by the City of Larkspur, after which these items would be reimbursable under the State contributions.

The Executive Officer pointed out the need for early action if a 60-day notice to vacate was to be issued, as the County of Marin and the U. S. Corps of Engineers have reported the need to be assured not later than June 30, 1966, that the area will be available to them.

UPON MOTION DULY MADE AND CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE 60-DAY NOTICES OF TERMINATION TO ALL LESSEES OF ARKSITES IN CORTE MADERA CREEK, MARIN COUNTY, WITH THE SPECIFIC UNDERSTANDING, HOWEVER, THAT SUCH NOTICES ARE INTENDED ONLY TO

CLEAR THE WAY FOR NECESSARY ACTION FOR THE PROPOSED FLOOD CONTROL PROJECT. ALL ARKSITE LESSEES WILL BE PERMITTED TO REMAIN ON THEIR LEASED AREAS SO LONG AS THEIR OCCUPANCY DOES NOT INTERFERE WITH THE SCHEDULE OF THE FLOOD CONTROL PROJECT, BUT WITH THE UNDERSTANDING AND SUBJECT TO THE CONDITION THAT THEY MUST BE PREPARED TO ABANDON SAME PROMPTLY. FURTHER, THE EXECUTIVE OFFICER IS DIRECTED TO CONFER WITH THE OFFICE OF THE ATTORNEY GENERAL TO WORK OUT THE LEGAL ASPECTS OF THE ACTION REQUIRED TO PUT THIS RESOLUTION INTO EFFECT, AND TO TAKE FINAL ACTION IN CONJUNCTION WITH THE OFFICE OF THE ATTORNEY GENERAL, WITH NO FURTHER APPROVAL FROM THE COMMISSION BEING REQUIRED.

Attachment:

Supplemental Calendar Item 40 (1 page)

40.

REPORT ON APPLICATION FOR TERMINATION OF LEASES ON CORTE MADERA CREEK IN MARIN COUNTY - W.O. 5754.

On October 21, 1965 (Minute Item 36, page 11,852), the State Lands Commission directed the Executive Officer to investigate the total regional requirements in the matter of a proposed termination of ark-site leases on Corte Madera Creek, including the conduct of a public hearing on the matter in Marin County, and to report the conclusions of the investigation to the Commission for consideration and action.

Pending completion of the investigation and report, the Commission further authorized and directed the Executive Officer to issue month-to-month extensions of expired ark-site leases, where such extensions were requested, with provision for a 60-day notice of termination in the event of such final determination.

Pursuant to the Commission's directive, the investigation has been completed. After appropriate notification to all whose interest in the subject matter was known to the Division, a public hearing was held on April 21, 1966, at the Civic Center in San Rafael.

Two issues emerged at the hearing: (1) The lessees of the ark sites desire to remain in occupancy as long as possible, even though construction of the channel would begin in the near future, but must begin prior to June 30, 1966. In this connection, although the reach of Corte Madera Creek scheduled for the earliest dredging contains only Ark Sites 13, 14, 16, 17, 19, 20, 28 and 31, all ark sites will be uninhabitable because the initial dredging would render sewer facilities inoperable for ark sites 1 to 12 inclusive; (2) the lessees wish to be compensated for their improvements. It was brought out that such compensation would not be within the purview of the State Lands Commission. Finally, it was indicated that affected county and city officials and certain of the ark site lessees, or their representatives, will appear at the meeting of the Commission for the purpose of making representations as to their respective interests and requirements in the matter.

The U. S. Army Corps of Engineers and the Marin County Flood Control and Water Conservation District, in conjunction with the State Department of Water Resources, have determined that implementation of the Corte Madera Creek Flood Control Project is in the public interest and required for the protection of public safety. The project is now ready to go forward, and Marin County has officially requested that the ark sites located on State lands which are required for the project be vacated.

IF IT IS FOUND TO BE IN THE BEST PUBLIC INTEREST TO APPROVE THE REQUEST OF THE COUNTY OF MARIN FOR TERMINATION OF ARK SITE LEASES 1 TO 12, INCLUSIVE, AND ARK SITE LEASES 13, 14, 16, 17, 19, 20, 28, AND 31, THEN THE EXECUTIVE OFFICER MUST BE AUTHORIZED TO:

1. NOTIFY THE ARK SITE LESSEES THAT THEIR LEASES WILL BE TERMINATED WITHIN SIXTY DAYS;
2. ISSUE RIGHT-OF-WAY EASEMENT AS DETAILED IN CALENDAR ITEM 41 FOLLOWING; AND
3. ISSUE DREDGING PERMIT AS DETAILED IN CALENDAR ITEM 42 FOLLOWING.