

MINUTE ITEM

4/28/69

53. PROPOSED BOUNDARY LINE AGREEMENT AND EXCHANGE OF INTERESTS IN LANDS WITH BETHLEHEM STEEL CORPORATION; CONTRA COSTA COUNTY - W.O. 503.560; B.L.A. 111.

After consideration of Calendar Item 54 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT THE EXCHANGE OF INTERESTS IN LANDS, SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 BELOW, IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF WATER AND UPLAND AND THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHT OF NAVIGATION AND FISHING IN THE WATERS INVOLVED.
2. AUTHORIZES THE EXECUTION OF THE AGREEMENT BETWEEN THE STATE AND BETHLEHEM STEEL CORPORATION, A DELAWARE CORPORATION, ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCES MADE A PART HEREOF.
3. AUTHORIZES THE EXECUTION OF A PATENT WITHOUT THE PRESERVATION OF MINERAL INTERESTS TO BETHLEHEM STEEL CORPORATION OF ANY RIGHT, TITLE AND INTEREST OF THE STATE IN THE AREA DESCRIBED IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE PURSUANT TO THE TERMS OF SAID AGREEMENT.
4. AUTHORIZES THE ACCEPTANCE OF THE CONVEYANCE FROM BETHLEHEM STEEL CORPORATION TO THE STATE PURSUANT TO THE TERMS OF THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE.
5. AUTHORIZES THE OFFICE OF THE ATTORNEY GENERAL TO TAKE WHATEVER LEGAL ACTION IS NECESSARY TO EFFECTUATE THE PROVISIONS OF THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE, AND TO INITIATE OR INSTITUTE ON BEHALF OF SAID COMMISSION ANY LEGAL ACTION WHICH MAY BE NECESSARY OR DESIRABLE IN CONNECTION WITH SAID AGREEMENT OR TO QUIET ANY INTERESTS IN LANDS RECEIVED BY THE STATE OF CALIFORNIA PURSUANT TO SAID AGREEMENT.
6. FINDS THAT UPON THE RECORDING OF THE AGREEMENT, PATENT AND DEED DESCRIBED IN PARAGRAPHS 2, 3 AND 4 ABOVE, THAT THE LANDS DESCRIBED IN THE PATENT OF THE STATE AUTHORIZED TO BE EXECUTED IN PARAGRAPH 3 ABOVE HAVE BEEN IMPROVED, FILLED, AND RECLAIMED AND THEREBY HAVE BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE AND USEFUL OR SUSCEPTIBLE FOR BEING USED FOR NAVIGATION, COMMERCE AND FISHING AND ARE NO LONGER TIDELANDS OR SUBMERGED LANDS, AND THEREFORE SHALL THEN BE FREED FROM THE PUBLIC TRUST OF NAVIGATION, COMMERCE AND FISHING.

Attachment

Calendar Item 54 (6 pages)

54.

## PROPOSED BOUNDARY LINE AGREEMENT AND EXCHANGE OF INTERESTS IN LANDS WITH BETHLEHEM STEEL CORPORATION; CONTRA COSTA COUNTY - W.O. 503.560; B.L.A. 111

On March 1, 1966, the Commission authorized entering into Boundary Line Agreement No. 73 with Atlas Chemical Industries, Inc., and Bethlehem Steel Corporation pursuant to the provisions of Section 6357 of the Public Resources Code. The purpose of the agreement was to establish the common boundary between the sovereign lands remaining in State ownership and the lands of Atlas Chemical and Bethlehem Steel Corporation, as successor in interest to a number of State tideland patents. The boundary line agreed upon represented the ordinary low water mark of the vicinity of Pinole Point on San Pablo Bay. Subsequent to the execution of the boundary line agreement, Bethlehem Steel Corporation (hereinafter sometimes referred to as Bethlehem) succeeded to the interest of Atlas Chemical Industries, Inc., and numerous other parties in the vicinity of Pinole Point. Bethlehem then proceeded to quiet title to all of the lands so acquired. In the course of this two record of surveys of the acquired Bethlehem property were prepared. The first survey, known as Parcel 1, is recorded in Book 50, page 32 of Land Surveyors Maps, Office of the County Recorder of Contra Costa County. The second, referred to as Parcel 2, was recorded in Book 51, page 31 of Land Surveyors Maps in the office of said County Recorder.

Immediately after having recorded the survey of Parcel 1, Bethlehem Steel filed an action to quiet its title to said parcel and named the State as one of a number of defendants. The Attorney General, on behalf of the State Lands Commission, filed an answer in said action agreeing to the physical location of the line described in Boundary Line Agreement No. 73, with the exception of certain landward adjustments thereof accomplished as a result of a physical survey and also alleging the State of California is the holder of an easement for commerce, navigation and fisheries over that portion of the lands included within Parcel 1 which are located between the ordinary high water mark, as the same last existed in a natural state, and the bayward boundaries of Parcel 1. Bethlehem Steel is in agreement with the State as to the existence of said easement over the portion of Parcel 1 which is currently between the present ordinary high water mark and the bayward boundaries of its property. However, it takes exception to the existence of the easement over portions of presently dry land which were formerly part of San Pablo Bay and which have been filled and reclaimed in some instances for as long as from the early 1870's.

A review of Parcel 2 has disclosed that there is a similar problem concerning the easement of commerce, navigation and fisheries over a portion thereof. Some lands in Parcel 2 also have been cut off from San Pablo Bay since the construction of Southern Pacific Railroad in the early 1870's.

Although not agreeing to the contentions of the State of California as to the existence of the easement of commerce, navigation and fisheries over the portions of Parcels 1 and 2 presently above the ordinary high water mark but which were formerly tidelands patented by the State to private parties, Bethlehem has offered to enter into an exchange of interests in lands pursuant

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to Section 6307 of the Public Resources Code in order that the claims of the State in this area may be extinguished. Bethlehem, in exchange for the State's termination of the easement of commerce, navigation and fisheries over that portion of Parcels 1 and 2 lying landward of the line of the present ordinary high water mark agreed upon by the parties, will convey approximately 161 acres of land to the State in fee simple which will give the State access to San Pablo Bay and provide a substantial area for potential public use. Bethlehem also has agreed to an ordinary high water mark along the present shoreline of San Pablo Bay which will make certain strips of the shore subject to the easement of commerce, navigation and fisheries. Finally, Bethlehem agrees that the easement of commerce, navigation and fisheries still continues to exist over that portion of Parcel 1 bayward of the agreed ordinary high water mark to the limits of its ownership. Complete terms of the transaction are set forth in the proposed agreement between Bethlehem and the State which is on file in the Office of the State Lands Commission and made a part hereof by reference.

The proposed exchange will be in the best interest of the State for improvement of navigation and the enhancement of the configuration of the shoreline for the improvement of water and upland and will enhance the right of navigation and fishing in the waters involved by providing public access to San Pablo Bay in the area in question.

In the opinion of the staff, the State will receive equal or greater value as a result of the proposed exchange of interests.

The proposed agreement has been reviewed and approved by the Office of the Attorney General.

When the exchange has been completed, Bethlehem will proceed to complete the pending quiet title action against the State and other private parties in conformity with the exchange and will also bring a quiet title action to Parcel 2. The State will file appropriate pleadings in those actions in conformity with the terms of the proposed exchange agreement.

The State has no mineral interests to retain in the area affected by the exchange.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE EXCHANGE OF INTERESTS IN LANDS, SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 BELOW, IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF WATER AND UPLAND AND THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHT OF NAVIGATION AND FISHING IN THE WATERS INVOLVED.
2. AUTHORIZE THE EXECUTION OF THE AGREEMENT BETWEEN THE STATE AND BETHLEHEM STEEL CORPORATION, A DELAWARE CORPORATION, ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCES MADE A PART HEREOF.

SUPPLEMENTAL CALENDAR ITEM 54. (CONTD.)

3. AUTHORIZE THE EXECUTION OF A PATENT WITHOUT THE RESERVATION OF MINERAL INTERESTS TO BETHLEHEM STEEL CORPORATION OF ANY RIGHT, TITLE AND INTEREST OF THE STATE IN THE AREA DESCRIBED IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE PURSUANT TO THE TERMS OF SAID AGREEMENT.
4. AUTHORIZE THE ACCEPTANCE OF THE CONVEYANCE FROM BETHLEHEM STEEL CORPORATION TO THE STATE PURSUANT TO THE TERMS OF THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE.
5. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO TAKE WHATEVER LEGAL ACTION IS NECESSARY TO EFFECTUATE THE PROVISIONS OF THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE, AND TO INITIATE OR INSTITUTE ON BEHALF OF SAID COMMISSION ANY LEGAL ACTION WHICH MAY BE NECESSARY OR DESIRABLE IN CONNECTION WITH SAID AGREEMENT OR TO QUIET ANY INTERESTS IN LANDS RECEIVED BY THE STATE OF CALIFORNIA PURSUANT TO SAID AGREEMENT.
6. FIND THAT UPON THE RECORDING OF THE AGREEMENT, PATENT AND DEED DESCRIBED IN PARAGRAPHS 2, 3 AND 4 ABOVE, THAT THE LANDS DESCRIBED IN THE PATENT OF THE STATE AUTHORIZED TO BE EXECUTED IN PARAGRAPH 3 ABOVE HAVE BEEN IMPROVED, FILLED, AND RECLAIMED AND THEREBY HAVE BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE AND USEFUL OR SUSCEPTIBLE FOR BEING USED FOR NAVIGATION, COMMERCE AND FISHING AND ARE NO LONGER TIDELANDS OR SUBMERGED LANDS, AND THEREFORE SHALL THEN BE FREED FROM THE PUBLIC TRUST OF NAVIGATION, COMMERCE AND FISHING.

## LEGAL DESCRIPTION

Those two parcels of land situated in Contra Costa County, State of California, being more particularly described as follows:

### PARCEL 1

BEGINNING at the most northwesterly corner of the Parchester Village Unit 1 as shown on Record of Survey filed in Book 51, page 31 of Licensed Surveyors Maps of said County, and marked with a concrete monument with Bethlehem Steel Corp. disc, said point having grid coordinates  $Y = 547,295.196$  and  $X = 1,465,233.046$ ; thence easterly along the northerly line of Parchester Village Unit 1, N.  $82^{\circ} 34' 40''$  E. 1027.97 feet to a concrete monument with Bethlehem Steel Corp. disc as shown on said Record of Survey, said point being the point of intersection with the westerly line of Giant Highway as shown on said Record of Survey; thence northerly along said westerly line of Giant Highway N.  $22^{\circ} 10' 24''$  W. 103.41 feet; thence westerly, and parallel with, the northerly line of said Parchester Village Unit 1, S.  $82^{\circ} 34' 40''$  W. 979.23 feet to the easterly line of the Southern Pacific Railroad as shown on said Record of Survey; thence southerly along said easterly line of the Southern Pacific Railroad S.  $5^{\circ} 12' 36''$  W. 102.48 feet to the point of beginning. Containing 2.304 acres.

### PARCEL 2

BEGINNING at a point on the westerly line of the Southern Pacific Railroad, said point being marked by a concrete monument with Bethlehem Steel Corps. disc as shown on Record of Survey filed in Book 50, page 32 of Licensed Surveyors Maps of said County, said monument having grid coordinates  $Y = 547,160.85$  and  $X = 1,465,070.18$ ; thence from said point of beginning and following the boundaries of Parcel 1, as shown on said Record of Survey S.  $87^{\circ} 50' 06''$  W. 1450.68 feet; thence S.  $19^{\circ} 20' 06''$  W. 555.11 feet; thence S.  $30^{\circ} 20' 06''$  W. 705.73 feet; thence S.  $1^{\circ} 10' 05''$  W. 141.77 feet; thence N.  $89^{\circ} 00' 05''$  W. 4827.86 feet; thence N.  $46^{\circ} 03' 25''$  E. 1928.27 feet; thence leaving said boundary N.  $87^{\circ} 40' 15''$  E. 3977.10 feet; thence N.  $87^{\circ} 50' 06''$  E. 1489.51 feet to the westerly line of the Southern Pacific Railroad as shown on said Record of Survey; thence southerly along said westerly line of the Southern Pacific Railroad S.  $5^{\circ} 12' 36''$  W. 302.50 feet to the point of beginning. Containing 158.935 acres.

The basis of bearings of this description is the California Coordinate System, Zone III.

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COMMENCING at a 6-inch concrete monument with a Bethlehem Steel Corporation disc marking the southeast corner of the parcel of land located in the City of Richmond, County of Contra Costa, State of California, as shown on the Record of Survey Map filed on January 31, 1968, in the office of the County Recorder, in Book 50 of Licensed Surveyor's Maps, page 32, said monument having grid coordinates  $Y = 547,160.85$  and  $X = 1,465,070.18$ ; thence along the southeast line of said parcel  $S. 87^{\circ} 50' 06'' W.$ , 252.09 feet to the TRUE POINT OF BEGINNING of this line; thence  $N. 5^{\circ} 12' 36'' E.$ , 1,125.51 feet; thence along the arc of a tangent curve to the left, having a radius of 900.00 feet, through a central angle of  $43^{\circ} 28' 30''$ , an arc distance of 682.90 feet; thence tangent to said curve  $N. 38^{\circ} 15' 54'' W.$ , 921.75 feet; thence  $N. 27^{\circ} 52' 00'' W.$ , 348.94 feet; thence along the arc of a tangent curve to the left, having a radius of 500.00 feet, through a central angle of  $31^{\circ} 57' 00''$ , an arc distance of 278.82 feet; thence tangent to said curve,  $N. 59^{\circ} 49' 00'' W.$ , 599.13 feet; thence along the arc of a tangent curve to the right, having a radius of 1000.00 feet, through a central angle of  $42^{\circ} 45' 00''$ , an arc distance of 746.13 feet; thence  $N. 17^{\circ} 04' 00'' W.$ , 698.24 feet; thence  $N. 1^{\circ} 26' 00'' W.$ , 408.50 feet; thence  $N. 9^{\circ} 27' 45'' W.$ , 547.50 feet; thence  $N. 18^{\circ} 33' 30'' W.$ , 722.60 feet; thence  $N. 9^{\circ} 19' 00'' W.$ , 309.00 feet; thence  $N. 18^{\circ} 19' 00'' W.$ , 172.50 feet; thence along the arc of a tangent curve to the right, having a radius of 1,400.00 feet, through a central angle of  $41^{\circ} 19' 00''$ , an arc distance of 1,009.56 feet; thence tangent to said curve  $N. 23^{\circ} 00' 00'' E.$ , 93.75 feet; thence along the arc of a tangent curve to the left, having a radius of 1,800.00 feet, through a central angle of  $19^{\circ} 43' 00''$ , an arc distance of 619.42 feet; thence tangent to said curve  $N. 3^{\circ} 17' 00'' E.$ , 210.83 feet; thence along the arc of a tangent curve to the right, having a radius of 400.00 feet, through a central angle of  $24^{\circ} 40' 00''$ , an arc distance of 172.21 feet; thence tangent to said curve,  $N. 27^{\circ} 57' 00'' E.$ , 101.09 feet; thence along the arc of a tangent curve to the right, having a radius of 200.00 feet, through a central angle of  $39^{\circ} 28' 00''$ , an arc distance of 137.76 feet; thence tangent to said curve,  $N. 67^{\circ} 25' 00'' E.$ , 103.71 feet; thence along the arc of a tangent curve to the right, having a radius of 550.00 feet, through a central angle of  $17^{\circ} 01' 00''$ , an arc distance of 163.35 feet; thence tangent to said curve,  $N. 84^{\circ} 26' 00'' E.$ , 243.87 feet; thence along the arc of a tangent curve to the right, having a radius of 100.00 feet, through a central angle of  $66^{\circ} 39' 00''$ , an arc distance of 116.33 feet; thence tangent to said curve,  $S. 28^{\circ} 55' 00'' E.$ , 205.05 feet; thence along the arc of a tangent curve to the right, having a radius of 500.00 feet, through a central angle of  $31^{\circ} 53' 00''$ , an arc distance of 278.24 feet; thence tangent to said curve,  $S. 2^{\circ} 58' 00'' W.$ , 28.32 feet; thence along the arc of a tangent curve to the left having a radius of 400.00 feet, through a central angle of  $33^{\circ} 11' 00''$ , an arc distance of 231.66 feet; thence tangent to said curve  $S. 30^{\circ} 13' 00'' E.$ , 265.56 feet; thence along the arc of a tangent curve to the left, having a radius of 700.00 feet, through a central angle of  $22^{\circ} 55' 00''$ , an arc distance of 279.98 feet; thence tangent to said curve  $S. 53^{\circ} 08' 00'' E.$ , 358.00 feet; thence  $S. 45^{\circ} 58' 00'' E.$ , 105.29 feet; thence along the arc of a tangent curve to the left, having a radius of 500.00 feet, through a central angle of  $23^{\circ} 20' 00''$ , an arc distance of 203.62 feet; thence tangent to said curve

S.  $69^{\circ} 18' 00''$  E., 81.00 feet; thence along the arc of a tangent curve to the left, having a radius of 1,500.00 feet, through a central angle of  $22^{\circ} 22' 00''$ , an arc distance of 585.56 feet; thence tangent to said curve N.  $88^{\circ} 20' 00''$  E., 1,074.00 feet; thence S.  $64^{\circ} 02' 00''$  E., 1,085.00 feet; thence S.  $43^{\circ} 51' 00''$  E., 353.00 feet; thence S.  $62^{\circ} 15' 00''$  E., 644.00 feet; thence S.  $77^{\circ} 32' 00''$  E., 711.50 feet; thence along the arc of a tangent curve to the right, having a radius of 500.00 feet, through a central angle of  $37^{\circ} 28' 00''$ , an arc distance of 326.96 feet; thence tangent to said curve, S.  $40^{\circ} 04' 00''$  E., 146.68 feet; thence along the arc of a tangent curve to the left, having a radius of 2,000.00 feet, through a central angle of  $28^{\circ} 28' 12''$ , an arc distance of 993.79 feet; thence tangent to said curve S.  $68^{\circ} 32' 12''$  E., 1,151.57 feet; thence along a tangent curve to the left, having a radius of 2,614.78 feet, through a central angle of  $51^{\circ} 10' 44''$ , an arc distance of 2,335.59 feet to a point on the most easterly line of said record of survey (50 L. S. M. 32), said point bearing N.  $33^{\circ} 17' 30''$  W., 66.00 feet and N.  $60^{\circ} 27' 30''$  E., 39.60 feet, and N.  $18^{\circ} 47' 30''$  W., 136.05 feet from a 6-inch concrete monument with a Bethlehem Steel Corp. disc as shown on said record of survey as the most easterly corner of parcel one.

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