

MINUTE ITEM

3/26/70
NB

22. SAN LUIS OBISPO BAY BOUNDARY LINE AGREEMENT, B.L.A. 119, AND SETTLEMENT OF LITIGATION IN THE MATTER OF SAN MIGUELITO PARK CO. V. PORT SAN LUIS HARBOR DISTRICT AND STATE OF CALIFORNIA, SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NO. 33953; SAN LUIS OBISPO COUNTY - W-503.533, B.L.A. 119.

After consideration of Calendar Item 14 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. AUTHORIZES THE EXECUTION OF SAN LUIS OBISPO BAY BOUNDARY LINE AGREEMENT, B.L.A. NO. 119, WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, BETWEEN THE STATE OF CALIFORNIA, PORT SAN LUIS HARBOR DISTRICT, AND OTHER PARTIES SET FORTH THEREIN.
2. AUTHORIZES THE OFFICE OF THE ATTORNEY GENERAL TO APPEAR ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, IN THE CASE OF SAN MIGUELITO PARK CO. V. PORT SAN LUIS HARBOR DISTRICT AND THE STATE OF CALIFORNIA, SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NO. 33953, AND TO ENTER INTO AN APPROPRIATE STIPULATION FOR JUDGMENT THEREIN OR TO TAKE ANY OTHER NECESSARY LEGAL ACTION TO EFFECTUATE THE PROVISIONS OF SAN LUIS OBISPO BAY BOUNDARY LINE AGREEMENT, B.L.A. NO. 119, REFERRED TO IN PARAGRAPH 1 ABOVE.

Attachment

Calendar Item 14 (2 pages)

14.

PROPOSED SAN LUIS OBISPO BAY BOUNDARY LINE AGREEMENT, B.L.A. 119, AND SETTLEMENT OF LITIGATION IN THE MATTER OF SAN MIGUELITO PARK CO. V. PORT SAN LUIS HARBOR DISTRICT AND STATE OF CALIFORNIA, SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NO. 33953; SAN LUIS OBISPO COUNTY - W-503,533, B.L.A. 119.

The San Miguelito Park Co. filed a quiet title action against the Port San Luis Harbor District and the State of California to establish ownership to uplands abutting San Luis Obispo Bay and parts of San Luis Obispo Creek.

The plaintiff derails title as a successor in interest to Rancho San Miguelito, which Rancho boundaries specifically traverse the mouths of creeks and streams as they may have existed in their last natural state, including San Luis Obispo Creek. The State of California, pursuant to Chapter 647, Statutes of 1955, as amended by Chapter 302, Statutes of 1957, granted in trust to the Port San Luis Harbor District tide and submerged lands in San Luis Obispo Bay, including part of San Luis Obispo Creek. Pursuant to said statutes, the State Lands Commission surveyed the boundaries of the sovereign lands granted in trust to the District, including a portion of San Luis Obispo Creek, without any notation as to the quality or extent of the State's title. The plaintiffs have challenged the existence of any right, title, or interest of the State or the District in a portion of San Luis Obispo Creek shown on said survey, and have sued the State and the District to quiet title in them as against the State and the District.

The United States Supreme Court has held that where specific calls in a Spanish or Mexican land grant cross a creek or a stream, title to the bed within the description of the land grant passed to the grantee, and consequently the State would hold no fee title to the bed of such stream. Public rights arise in the waters of such streams that become navigable but are located on privately owned lands, subject, however, to the right of the land owner to reclaim such lands. The State and the District find it desirable to recognize the respective interests of the plaintiffs in San Luis Obispo Creek, subject to the proviso that if the waters of said creek become navigable and there is public access thereto, the jurisdiction of the District shall extend to such waters, subject to the underlying ownership of the plaintiffs and subject to any rights the plaintiffs have to make the creek nonnavigable by reclamation. However, the agreement does not permit any party to interfere substantially with presently existing fish and other marine life in San Luis Obispo Creek for purposes of breeding and habitation, nor does it relieve any party of any existing duty to provide access to the creek to fish and other marine life.

In order to avoid complex lengthy and expensive litigation, the State, the District, and the plaintiffs consider it expedient and necessary and in the best interests of all the parties to fix the boundary permanently between the parties and settle the litigation thereby.

The Office of the Attorney General has approved the proposed boundary line agreement and settlement, and the staff of the State Lands Division concurs.

CALENDAR ITEM 14. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTION OF SAN LUIS OBISPO BAY BOUNDARY LINE AGREEMENT, B.L.A. NO. 119, WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, BETWEEN THE STATE OF CALIFORNIA, PORT SAN LUIS HARBOR DISTRICT, AND OTHER PARTIES SET FORTH THEREIN.
2. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO APPEAR ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, IN THE CASE OF SAN MIGUELITO PARK CO. V. PORT SAN LUIS HARBOR DISTRICT AND THE STATE OF CALIFORNIA, SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NO. 33953, AND TO ENTER INTO AN APPROPRIATE STIPULATION FOR JUDGMENT THEREIN OR TO TAKE ANY OTHER NECESSARY LEGAL ACTION TO EFFECTUATE THE PROVISIONS OF SAN LUIS OBISPO BAY BOUNDARY LINE AGREEMENT, B.L.A. NO. 119, REFERRED TO IN PARAGRAPH 1 ABOVE.