

MINUTE ITEM NO. 34
APPROVED 1-15-76

CALENDAR ITEM

1/76
WC
W 5414

34.

AUTHORIZATION TO INSTITUTE LITIGATION

The State Board of Tideland Commissioners (B.T.L.C.) entered into a contract on March 8, 1873, to sell certain tide lots of San Pablo Bay to M. J. Scanlan, with payment to be made in installments.

The deed to the lots was never delivered, and remains in the custody of the State Lands Commission to this date. A search of the records fails to show that the last installment was paid.

The lots are now claimed by Richmond Sanitary Service, who allege that they are the successors in interest to said M. J. Scanlan, on the grounds that a certified copy of the deed was recorded, and on the basis of certain acts of the State which they claim raise an estoppel against the State's assertion of its title.

The private parties have been using the lots as part of a garbage dump, some portions having been filled and some portions consist of open water. The lots are located in Contra Costa County, California (a portion lying within the limits of the City of Richmond), between Point San Pablo and Pinole Point in the San Pablo Bay Estuary, and are more particularly described hereafter.

The private claimants and the State Lands Division have been negotiating a 49-year lease for a number of years; however, the private parties insist that the lease be entered into, reserving the right of either party to later assert their titles. The effect of such lease would be to further postpone a resolution of the title questions.

It is believed that such postponement of a problem, that must be resolved some time, is not in the State's interest, in that, delay can only lead to a deterioration in the State's ability to prove its titles, both because of possible loss of evidence upon which the State's titles are based, and upon the difficulty which could be encountered by State officials in approaching the problem at some remote future date.

EXHIBIT: A. Location Map (2 pages)

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE STAFF COUNSEL OF THE STATE LANDS DIVISION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO PROCEED WITH THE ENFORCEMENT OF THE STATE'S LEGAL REMEDIES BY LITIGATION OR OTHER APPROPRIATE ACTION FOR THE PROTECTION AND DEFENSE OF THE STATE'S RIGHTS, TITLES, OR INTERESTS IN THAT CERTAIN REAL PROPERTY IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 15
S 0

Revised
1-14-76

CALENDAR ITEM NO. 34. (CONTD)

Lots 1, 2, 3, 4, 5, 13, 14, 15, and part of 16, in Section 3 of T 1 N, R 5 W, and Lot 32 in Section 34 of T 2 N, R 5 W, and containing an area of 178.88 acres, as shown on Map No. 1 of Salt Marsh and Tidelands situated in the County of Contra Costa, State of California, 1872, prepared by order of the Board of Tideland Commissioners, pursuant to Statutes approved April 1, 1870 (Stats. 1870, p. 541, Ch. 388), State of California.