

MINUTE ITEM

This Calendar Item No. 44  
was approved as Minute Item  
No. 44 by the State Lands  
Commission by a vote of 3  
to 0 at its 325-76 CALENDAR ITEM  
meeting.

3/76  
WC  
W 3909

44

AUTHORIZATION TO INSTITUTE LITIGATION

The Federal General Services Administration is proceeding with disposal of Hamilton Air Force Base which has been declared surplus by the Air Force.

A search of the records shows the existence of State sovereign titles within the Base. Exhibit "A" attached, shows the approximate location of the various categories of title, as follows:

1. Parcel A: No State patents have been issued for this portion of the Base. The parcel originally consisted of tidelands of San Pablo Bay owned by the State in its sovereign capacity. This parcel was blocked off from the Bay by levee construction many years ago. The Federal Government acquired private title claims but is unable to trace its title back to its source.
2. Parcel B: State tideland patents were issued in the last century for this parcel. The Federal title claims to this parcel are based on their assertions of ownership as successors in interest to the State's tideland patents. The public trust easement was reserved in law by these tideland patents and continues to exist in the absence of its being terminated in some lawful manner. We find no such termination. The tidelands are within the Novato City limits. The California Constitution (Art. V, Sec. 3) prohibits the alienation by the State of its right, title, and interest therein.
3. Parcel C: This area was patented by the State by Swamp and Overflowed Lands patents in the last century. However, the historical maps and charts show that the parcel was interlineated with sloughs and other tidelands over which the State's tideland easement exists.
4. Parcel D: The remainder of the Base was within the confirmatory patent issued by the United States under the Treaty of Guadalupe Hidalgo for the Rancho Novato, the existence of which preceded statehood. The title review has not shown evidence of any State sovereign right, title, or interest therein.

Exhibit "B" shows the Base parcel along the northerly bank of Novato Creek. The evidence shows State ownership within this parcel as part of the natural bed of the Creek and as tidelands along said Creek.

CALENDAR ITEM NO. 44 (CONT'D)

A small portion of the Base may be held by the Federal Government by easement only and a portion may be included within real property the title to which may have been settled.

The Federal Government disputes the existence of any State titles within the Base and refuses to delay its disposition procedures. Further action may substantially jeopardize the State's titles and litigation appears to be essential to permit the dispute to be resolved according to the law and the evidence.

- EXHIBITS: A. Site Location (Main Base)  
B. Site Location (Novato Creek Parcel)  
C. Vicinity Map

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL AND/OR STAFF COUNSEL TO INSTITUTE AND PROSECUTE LITIGATION AS MAY BE NECESSARY AND APPROPRIATE TO IDENTIFY AND PROTECT THE STATE'S TITLES WITHIN THE LIMITS OF HAMILTON AIR FORCE BASE.