

MINUTE ITEM

This Calendar Item No. 22  
was adopted as a MINUTE Item  
by the State Lands  
Commission by a vote of 3  
to 0 at its 1/26/78 MINUTE ITEM  
meeting.

1/26/78  
Trout

22. HUMBOLDT BAY GRANT SURVEY; HUMBOLDT BAY HARBOR, RECREATION,  
AND CONSERVATION DISTRICT; G 04-03.2.

During consideration of Calendar Item 22 attached, Senator Peter  
Behr and Assemblyman Barry Keene appeared supporting the staff's  
recommendation.

Upon motion duly made and carried, the Commission adopted the  
following resolution by a vote of 3-0:

THE COMMISSION AUTHORIZES THE REVIEW OF THE DISTRICT'S SURVEY  
OF SAMOA PENINSULA AND FIELDS LANDING WITHOUT COST TO THE DISTRICT,  
AND THAT THE COMMISSION REQUESTS WHATEVER BUDGET AUGMENTATION  
IS NECESSARY IN CONNECTION WITH SUCH REVIEW, ON THE CONDITION  
THAT THIS IS AN INDIVIDUAL CASE AND THAT THIS AUTHORIZATION DOES  
NOT SET A PRECEDENT FOR FUTURE SURVEYS DONE BY THE DISTRICT.

Attachment: Calendar Item 22 (2 pages.)

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CALENDAR ITEM

22.

1/78  
G 04-03.2  
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HUMBOLDT BAY GRANT SURVEY

APPLICANT: Humboldt Bay Harbor, Recreation,  
and Conservation District  
P. O. Box 134  
Eureka, California 95501

Pursuant to the Humboldt Bay Harbor, Recreation, and Conservation Act, Stats. 1970, ch. 1283, as amended by Stats. 1974, ch. 1191, approximately 22,400 acres of state-owned tide and submerged lands located in Humboldt Bay were granted in trust to the Humboldt Bay Harbor, Recreation, and Conservation District ("District"). Section 78(i) of the Act requires that the State Lands Commission, at the cost of the District, survey and monument the granted lands and record a description and plat thereof in the Humboldt County records. In 1975, staff submitted to the District a cost estimate in the amount of \$630,000 for the survey of the entire grant, including tidelands granted to Arcata and Eureka should such lands be transferred to the District. The District responded that it had insufficient funds to enable it to proceed with a survey of the entire grant and negotiations between staff and the District followed regarding the surveying of the grant in stages.

During this same period, the District initiated litigation in the case of an alleged encroachment on District lands in Samoa Peninsula. The Superior Court of Humboldt County also ordered the District joined as a necessary party in a second lawsuit involving the ownership of District lands in the Fields Landing area. In both of these actions, the preparation of the District's case required that a survey of the affected lands be conducted promptly. The District requested estimates for such surveying work from both the staff and a local engineering firm. At that time it appeared that the bid submitted by the local firm was lowest. The District awarded the contract to it and it proceeded to do the surveys. While staff felt that the District's use of private surveyors was not consistent with Section 78(i) of the Act, it agreed to permit the District to do so in view of the time demands of the litigation, the interests of effecting an apparent economy for the District and in light of the common interest of the State and the District in protecting trust lands against encroachment.

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CALENDAR ITEM NO. 22. (CONTD)

The District's survey work is now completed, although done at a cost which may have been in excess of that proposed by staff, and the District intends to use it in an attempt to settle the two litigation matters before they come to trial this summer. Since the approval of the State Lands Commission is required in connection with any such settlement, the District has submitted its survey to staff for review, preparatory to approval by the Commission. Upon submission of the District's survey, staff advised the District that it would seek reimbursement for its costs incurred in connection with its review. The District responded that, in its view, such review was part of the statutory duty of the Commission to review and approve settlements and that there should be no charge. Discussions between staff and the District did not result in a resolution to the matter and the District advised staff of its intention to seek legislation clarifying the issue and relieving the District of its obligation to survey open-space lands as long as they remain undeveloped or are not involved in boundary-line litigation.

The impending trial dates on the 2 litigation matters require an immediate review of the District's survey and which may be hampered by the lack of a resolution of the issue to the detriment of the public rights at issue in the 2 actions. Accordingly, staff recommends that the Commission waive the assessment of any such costs to the District for the review of the survey in the Samoa Peninsula and Fields Landing areas.

Such waiver would be reasonable in light of the overriding common interest of the State and the District in the litigation as well as the fact that the issue may be rendered moot by the District's proposed legislation.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE REVIEW OF THE DISTRICT'S SURVEY OF SAMOA PENINSULA AND FIELDS LANDING WITHOUT COST TO THE DISTRICT, AND THAT THE COMMISSION REQUEST WHATEVER BUDGET AUGMENTATION IS NECESSARY IN CONNECTION WITH SUCH REVIEW.