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CALENDAR ITEM

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BOUNDARY LINE AGREEMENT
BLA NO. 132

The Staff of the State Lands Commission has negotiated a compromise settlement agreement with James and Luella Wiese, a husband and wife, for the establishment of the ordinary high water mark as the boundary of the bed of Gallinas Creek, a tidal creek in Marin County, the bed of which is owned, in trust, by the County of Marin. The proposed boundary of the parcels to be confirmed in State and private ownership is more particularly described in paragraph 1 of the boundary agreement on file in the Office of the State Lands Commission.

Title studies have uncovered the following facts:

1. The boundary agreement was occasioned by a suit brought against the State and the County of Marin by James and Luella Wiese, a husband and wife, Wiese, et al v. State of California, et al, Marin County Superior Court No. 43770. The Wiese's occupy one of a number of single family residences, in the area of the uncertain boundary line, which are part of the Gallinas Subdivision. The Wiese's sought to quiet title to the lot upon which their house was constructed.
2. The proposed boundary agreement covers approximately 1,360 feet of shoreline along Gallinas Creek, a tidal creek in Marin County, the bed of which is owned, in trust, by the County of Marin by virtue of Statutes of 1959, Chapter 497.
3. Due to past artificial influences, such as dredging, filling, and levee construction, the present-day mean high tide line cannot be accepted as the boundary between public and private ownership along the affected reach of Gallinas Creek. The last natural

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position of the ordinary high water mark is uncertain because of the lack of adequate surveys of the creek as it existed in a state of nature.

4. The proposed agreement substitutes a fixed position for the ordinary high water mark and will dispel the uncertainty as to the public/private boundary which presently exists, not only regarding the Wiese lot, but also regarding upland ownership along approximately 1,300 additional feet of shoreline adjacent to the Wiese lot, which property was acquired by the County of Marin from private owners. This additional portion of the ordinary high water mark was made a part of the boundary agreement in connection with the proposed settlement of the Wiese's suit against the State and County.

There is a bona fide and good faith dispute between the State and the private party as to the boundary of private and State ownerships.

The parties agree that the proposed ordinary high water mark is in a reasonable location.

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

A copy of the proposed boundary agreement designated as BLA No. 132 is on file in the Office of the State Lands Commission, and by reference is made a part hereof.

The staff believes it is in the best interests of the State to enter into the proposed agreement pursuant to the provisions of Division 6 of the Public Resources Code, with particular reference to Section 6357, and to define the extent, nature, location and area of public and private titles and boundary by a compromise settlement in order to avoid the costs and uncertainties of litigation.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE BOUNDARY AGREEMENT ON FILE WITH THE STATE LANDS COMMISSION IS IN THE BEST INTERESTS OF THE STATE; AUTHORIZE THE EXECUTION AND RECORDATION OF SAID AGREEMENT AND CONVEYANCES PURSUANT THERETO; AND ACCEPT THE CONVEYANCES TO THE STATE AS PROVIDED THEREIN.

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2. FIND THAT THE AGREEMENT IS NOT SUBJECT TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT BY REASON OF THE EXCEPTION CONTAINED IN SECTION 6371 OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE THE STATE LANDS COMMISSION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, IN ORDER TO IMPLEMENT AND GIVE EFFECT TO THIS AGREEMENT.