

MINUTE ITEM

CALENDAR ITEM

This Calendar Item No. 46
was approved as Minute Item
No. 46 by the State Lands
Commission by a vote of 2
to 0 at its 12-16-80
meeting.

12/80
G 09-00
Mochon
Saggese

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AUTHORIZATION FOR LITIGATION
ORANGE COUNTY - DANA POINT GRANT
EXPENDITURE OF TIDELANDS REVENUE

Tidelands and submerged lands underlying Dana Point Harbor were granted to the County of Orange (Chapter 321, Statutes of 1961) for purposes of establishment, improvement, and conduct of a harbor, for the promotion of commerce and navigation, and for recreational use thereon.

The County has taken the position that Dana Point tidelands revenue may be expended for recreational and other uses throughout the County. It is the position of the staff of the State Lands Commission and of the Attorney General's office that the use of such revenues is restricted by public trust principles and by the terms of the grant to purposes set forth in the grant in connection with the harbor at Dana Point.

It is apparent that the County has expended Dana Point revenues throughout the County for various purposes for several years. These disbursements were first revealed in a 1975-1976 Grand Jury audit. The full extent of these expenditures is uncertain as the County has failed to supply requested accounting information.

These matters and the legal position of the State are more fully developed in an informal letter of advice written by Deputy Attorney General Nancy Saggese to William F. Northrop, dated December 27, 1979, a copy of which is attached. Also attached is a copy of the response thereto of Adrian Kuyper, Orange County Counsel.

Staff has communicated and met with County officials many times in an attempt to clarify and resolve the issues regarding the propriety of the County's management of Dana Point revenues. The last such meeting was held on November 13, 1980. The County has been and continues to be unresponsive. Because of the importance of resolving the issues raised, and the lack of cooperation from the County, State Lands Commission staff and the Attorney General's office recommend the legal action be taken to assure the integrity of the Dana Point Grant.

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CALENDAR ITEM NO. 46 (CONTD)

IT IS RECOMMENDED THAT THE COMMISSION:

AUTHORIZE THE ATTORNEY GENERAL'S OFFICE AND THE STATE LANDS COMMISSION STAFF TO TAKE WHATEVER STEPS ARE NECESSARY, INCLUDING THE INITIATION OF LITIGATION, TO PROTECT THE INTEREST OF THE STATE AND THE PUBLIC IN THE PROPER ADMINISTRATION OF THE DANA POINT GRANT.

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