

MINUTE ITEM

This Calendar Item No. 34
was approved as Minute Item
No. 34 by the State Lands
Commission by a vote of 3
0 at its 1-26-81
meeting.

CALENDAR ITEM

34

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W 503.944
Ludlow
BLA 197

APPROVAL OF LAND EXCHANGE IN COMPROMISE AND
SETTLEMENT OF LITIGATION INVOLVING FILLED TIDE AND
SUBMERGED LANDS IN THE CITY OF STOCKTON, SAN JOAQUIN COUNTY,
DARRAH V. STATE OF CALIFORNIA, ET AL., SAN JOAQUIN COUNTY
SUPERIOR COURT NO. 137481

In April of 1978, litigation was instituted against the State of California, State Lands Commission, by Guard C. Darrah, to quiet title to a parcel of land containing the filled old channel of the Calaveras River, San Joaquin County. In June of 1979, Lois Darrah was joined as a party plaintiff.

At its December, 1979 meeting, the Commission approved settlement of this litigation based upon a proposed exchange agreement. Following the December, 1979 Commission meeting, it became apparent that some unresolved issues still remained and that the terms of the settlement would have to be modified.

An exchange agreement has now been reached which will result in settlement of this litigation. Basically, the agreement calls for the State to release its interest in a portion of the filled section of the old channel of the Calaveras River. In return, the Darrahs will convey to the State fee title in Darrah Island and their access rights from the upland, subject to a life estate in Mr. Darrah. Darrah Island is approximately one acre in size and located downstream in the Calaveras River from the complaint parcel. It is surrounded by water with access from the nearby upland. Darrah Island is more suitable for public use and ownership than the filled old channel of the Calaveras River located within the complaint parcel. The State is also receiving quitclaims from the Darrahs to any interest which they may have in the present channel of the Calaveras River.

In addition, the state will quitclaim to the Darrahs its interest to a narrow access strip which borders on the eastern edge of the disputed parcel, grant the Darrahs a use permit on another small access strip and lease back to them a narrow strip of the present channel of the Calaveras River on a rent-free basis for 10 years or until Mr. Darrah's death, whichever period is shorter. The lease will then convert to the commercial rates existing at that time.

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IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE SETTLEMENT OF THE ABOVE LITIGATION AND THE EXCHANGE AGREEMENT BETWEEN THE STATE OF CALIFORNIA, STATE LANDS COMMISSION, AND GUARD C. AND LOIS DARRAH SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.
2. DETERMINE AND DECLARE THAT THE STATE HAS IDENTIFIED THE LANDS DESCRIBED IN EXHIBIT "B" OF THE EXCHANGE AGREEMENT AS LANDS THAT MEET THE REQUIREMENTS OF THE NATURE, QUALITY AND VALUE PRESCRIBED IN SECTION 6307 OF THE PUBLIC RESOURCES CODE AND AGREE TO ACCEPT CONVEYANCE OF THE LANDS.
3. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 6307 OF THE PUBLIC RESOURCES CODE THAT THE SUBJECT EXCHANGE OF STATE AND PRIVATE TITLES IS IN THE BEST INTERESTS OF THE STATE AND THAT THE PARCEL OF LAND DESCRIBED IN EXHIBIT "A" OF THE EXCHANGE AGREEMENT HAS BEEN FILLED AND RECLAIMED AND HAS THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OR BEING USED FOR COMMERCE, NAVIGATION AND FISHING, IS NO LONGER, IN FACT, TIDELANDS OR SUBMERGED LANDS AND UPON RECORDATION OF THE STATE'S CONVEYANCE PURSUANT TO THE SUBJECT EXCHANGE AGREEMENT SHALL BE FREE FROM THE PUBLIC TRUST FOR COMMERCE, NAVIGATION AND FISHERIES.
4. DECLARE AND DETERMINE THAT THE VALUE OF THE PRIVATE INTERESTS IT IS RECEIVING IN DARRAH ISLAND IS EQUAL TO OR GREATER THAN THE VALUE OF THE STATE'S INTEREST BEING GIVEN UP IN THAT AREA DESCRIBED IN EXHIBIT "A" OF THE EXCHANGE AGREEMENT.
5. AUTHORIZE EXECUTION ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, OF THE PROPOSED EXCHANGE AGREEMENT AND OTHER APPROPRIATE TITLE DOCUMENTS, AND DELIVERY OF SAID AGREEMENT AND OTHER DOCUMENTS INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN JOAQUIN.
6. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE, IN ANY PENDING ACTION TO QUIET TITLE BROUGHT BY THE DARRAH'S, OR IN ANY FUTURE ACTION TO QUIET TITLE BROUGHT BY THE DARRAH'S PURSUANT TO THE PROPOSED EXCHANGE AGREEMENT,

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A DISCLAIMER BY THE STATE OF CALIFORNIA ON BEHALF OF THE STATE LANDS COMMISSION OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LAND DESCRIBED IN EXHIBIT "A" TO SAID AGREEMENT.

7. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO EFFECTUATE THE PROPOSED SETTLEMENT.
8. FIND THAT THE PROPOSED EXCHANGE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND PROVISIONS OF CEQA ARE INAPPLICABLE.

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