

MINUTE ITEM
The Calendar Item No. 40
was approved as Minute Item
No. 40 by the State Lands
Commission by a vote of 2
to 0 at its 12/12/89
meeting.

CALENDAR ITEM

A 2
S 2

40

12/12/89
W 24376
BLA 262
Bancroft
Fossum
Levinson

APPROVAL AND AUTHORIZATION FOR THE EXECUTION
OF A BOUNDARY LINE AGREEMENT AND AN AGREEMENT
TO SETTLE TITLE DISPUTES AND FOR PROPERTY
ACQUISITION, REGARDING LANDS IN AND ADJACENT
TO TEN-MILE RIVER, MENDOCINO COUNTY.

PARTIES:

William Blinn
State of California
(acting by and through the)
State Lands Commission;
Department of Parks and
Recreation;
Public Works Board;
Department of General Services; and
Office of the Attorney General

BACKGROUND

This calendar item involves a recommendation for a proposed settlement of title claims between the record title owner (Blinn) and the State Lands Commission, by way of a Boundary Line Agreement involving the bed of Ten-Mile River, and an additional agreement involving the acquisition of property by the Department of Parks and Recreation of an area of sand dunes southwesterly of Ten-Mile River and adjacent to the existing beach within MacKerricher State Park.

CALENDAR ITEM NO. 40 (CONT'D)

Blinn claims a clear title to the subject area (including the bluff, river, and dunes (see Exhibit "A") as successor in interest to federal patents for the area issued in 1870 and 1871.

The State asserts that Ten-Mile River is and was at the time of California's admission to the Union sovereign owned tide and submerged public trust lands.

The State also asserts that the sand dunes have been extensively used by the general public for access to the Pacific Ocean and Ten-Mile River and recreational use in conjunction therewith and that the actions of the property owners of the dunes for many years has indicated their implied dedication of the dunes for these uses.

The resolution of these contrary contentions regarding title, boundaries and public prescriptive rights would require protracted and costly litigation by both the public and private parties if a settlement could not be reached.

The negotiations conducted between the parties have finally resulted in a proposed settlement of the dispute which will establish a fixed boundary line (Agreed Ordinary High Water Mark Exhibit "B") separating the bluff (remaining in Blinn's ownership) from the bed of Ten-Mile River (to be quitclaimed to the State Lands Commission) and the conveyance of the dunes to the Department of Parks and Recreation (for \$25,000). The SLC and California Attorney General agree to waive any additional fee or implied dedication claims, respectively, to Blinn's property.

This proposed settlement is a result of independent studies and analysis by the parties of the available evidence regarding the natural location of the ordinary high water mark along the northeasterly bank of Ten-Mile River and historic use of the dunes by the public. The southwesterly bank (ordinary high water mark) separating the river from the dunes (both to be in state ownership) will not be permanently fixed by this agreement.

Blinn, in order to effectuate the boundary line agreement with the SLC and sale to Parks of the sand dunes, will issue separate deeds for the bed of Ten-Mile River to the SLC and dunes to Parks.

CALENDAR ITEM NO. 40 (CONT'D)

Blinn desires to subdivide his property into three parcels reflecting the three existing residences located on the bluff. Staff of the SLC has objected to any subdivision of Blinn's property by Mendocino County until an agreement regarding the state's interest has been reached. The proposed agreement will provide for the staff's withdrawal of its objection.

The Mendocino County Planning Department and staff of the Coastal Commission as well as the local public interest group "Friends of Ten-Mile River" have been informed of the proposed settlement.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3;
Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

- 1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Site Map.
- B. Description of Agreed Boundary Line of Ordinary High Water Mark.

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 UNDER THE STATUTORY EXEMPTION FOR SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS, PURSUANT TO P.R.C. 21080.11.

CALENDAR ITEM NO. 9 (CONT'D)

2. FIND THAT THE LOCATION OF THE AGREED ORDINARY HIGH WATER MARK SHALL BE PERMANENTLY FIXED AT THE LOCATION AS DESCRIBED IN EXHIBIT "B".
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE, AND RECORDATION ON BEHALF OF THE COMMISSION OF THE BOUNDARY LINE AGREEMENT (262) AND AGREEMENT TO SETTLE TITLE DISPUTES AND FOR PROPERTY ACQUISITION REGARDING TEN-MILE RIVER, SUBSTANTIALLY IN THE FORM OF THE COPY OF SUCH AGREEMENTS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
4. AUTHORIZE AND DIRECT STAFF OF THE STATE LANDS COMMISSION AND OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS, AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE SETTLEMENT AND BOUNDARY LINE AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

LOT 2

(Parcel No. 2)

N.E. Corner
Lot 3

bluff

LOT 3

(Parcel No. 1)

Agreed Ordinary
High Water Mark

Right Bank

TEN

PACIFIC OCEAN

sand dunes

Approximate
Location
of OHWM
Left Bank

MILE
RIVER



Exhibit A
W 24376



Portions of
Lot 2 (Parcel 2)
and Lot 3 (Parcel 1)
Section 33, T20N, R17W, MDM
Mendocino County, California

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MINUTE PAGE 4284

EXHIBIT B

Ten Mile River Agreement Line - Description

An *Agreed Ordinary High Water Mark* along the right (northeasterly) bank of Ten Mile River, Mendocino County, California, being situated in Lots 2 & 3, Section 33, Township 20 North, Range 17 West, MDM described as follows:

BEGINNING at a standard 2 inch California State Lands Commission (CSLC) aluminum cap set on 3/4 inch rebar, stamped TMR 5 which bears S 01° 35' 43" W, 1160.10 feet from the northeast corner of above the mentioned Lot 3, as said corner is shown on that Record of Survey Map filed June 18, 1962, in Map Case 2, Drawer 1, Page 147, Mendocino County Records; thence along the *Agreed Ordinary High Water Mark* of Ten Mile River the following 30 courses:

1.	N 36° 35' 53" W,	44.42 Feet ;
2.	N 08° 14' 22" W,	40.20 Feet ;
3.	N 71° 50' 50" E,	31.44 Feet ;
4.	N 06° 24' 13" E,	16.92 Feet ;
5.	N 65° 32' 40" W,	54.84 Feet ;
6.	N 81° 46' 14" W,	32.58 Feet ;
7.	N 79° 51' 59" W,	74.71 Feet ;
8.	N 46° 47' 05" W,	111.47 Feet ;
9.	N 18° 21' 17" W,	61.16 Feet ;
10.	N 46° 33' 26" W,	51.38 Feet to a standard 2" CSLC aluminum cap stamped TMR 4
11.	N 82° 25' 52" W,	26.65 Feet ;
12.	N 89° 05' 19" W,	68.49 Feet ;
13.	N 70° 48' 02" W,	87.66 Feet ;
14.	N 41° 58' 43" W,	38.61 Feet ;
15.	N 22° 51' 53" W,	50.07 Feet ;
16.	N 10° 51' 40" W,	70.51 Feet to a standard 2" CSLC aluminum cap stamped TMR 3
17.	N 24° 12' 49" W,	17.36 Feet ;
18.	N 41° 13' 08" W,	114.17 Feet ;
19.	N 29° 42' 54" W,	75.02 Feet ;
20.	N 48° 04' 02" E,	65.78 Feet ;
21.	N 12° 04' 13" W,	31.43 Feet ;
22.	N 07° 28' 51" W,	128.87 Feet ;
23.	N 45° 13' 46" W,	38.83 Feet ;
24.	N 16° 16' 40" E,	86.36 Feet ;
25.	N 38° 58' 20" W,	66.39 Feet ;
26.	N 08° 50' 17" E,	124.71 Feet to a standard 2" CSLC aluminum cap stamped TMR 2

continued from page one

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| 27. | N 83° 32' 19" W, | 60.98 Feet ; |
| 28. | N 47° 38' 08" W, | 69.40 Feet ; |
| 29. | N 51° 46' 42" W, | 75.25 Feet ; |
| 30. | N 72° 20' 22" W, | 37.52 Feet ; |

to a point on the northerly line of Parcel Two situated S 85°00'48" W, 862.81 feet from the northeasterly corner of said Parcel Two as described in the Corporation Grant Deed to William J. Bliann from Kinglet Equity Exchange, Inc., recorded May 6, 1987, in Book 1622, page 8, Official Records of Mendocino County, and the end of the *Agreed Ordinary High Water Mark*; said point also bears S 41° 56' 58" E, 114.22 feet from a 2" standard CSLC aluminum cap stamped TMR 1.

The bases of bearing being the above mentioned record of survey.

END OF DESCRIPTION

