

63. MARIN YACHT CLUB, BOUNDARY LINE AGREEMENT, SAN RAFAEL CREEK, MARIN COUNTY - W.O. S-8294.

Calendar Item 66 attached was placed on the agenda for the purpose of giving the Marin Yacht Club an opportunity to be heard by the Commission on certain problems with which it is confronted.

Assemblyman William T. Bagley, Seventh District, California State Legislature, appeared on behalf of the Marin Yacht Club to request early settlement of the boundary line agreement. He pointed out that the Club is having to move its location, that settlement of the boundary line is pertinent to locating its new quarters, indicated that the Club was amenable to an exchange of lands with the State in an effort to settle the matter, and called attention to the fact that a case of emergency exists.

The Executive Officer noted that the area in question is subject to a grant to the City of San Rafael, that the required survey, costs of which are to be paid by San Rafael, has not yet been made, and that positive identification of ownerships of certain lands in the area, including a portion of the area where the Yacht Club is to be relocated, require a survey. Also, there is a law suit involving another segment of the same area, and it has not been determined what precedential effect any proposed agreement might have. He indicated that the Commission might wish to consider, for priority action, the resolution of the Yacht Club problem alone.

Deputy Attorney General Paul M. Joseph called attention to the duty of the Commission to have a survey made, and stated that negotiations for the survey had just started and until the survey is completed it cannot be known where the boundary is; that the present settlement proposed by the Yacht Club could be dangerous to the State in that the area could turn out to be somebody else's land; and that the primary negotiation should be with the City of San Rafael. However, he indicated that the problem should be settled as soon as possible.

The Chairman pointed out that on any exchange of lands contemplated, the State would have to have at least equal value, in order to meet certain legal criteria.

The Executive Officer, upon being questioned by the Chairman, indicated that development of a basis for an agreement probably would require 60 days.

Upon motion duly made, seconded, and carried unanimously, the following resolution was adopted:

THE COMMISSION EXPRESSES A SPECIAL DESIRE THAT THE SAN RAFAEL CREEK BOUNDARY LINE AGREEMENT, AS RELATED TO THE MARIN YACHT CLUB MATTER, BE SETTLED AS QUICKLY AS POSSIBLE. TO THIS END, THE EXECUTIVE OFFICER IS DIRECTED TO GIVE THE MARIN YACHT CLUB AN ANSWER WITHIN FIVE DAYS AS TO WHETHER OR NOT THE MARIN YACHT CLUB PROBLEM CAN BE SETTLED WITHOUT A FURTHER PHYSICAL SURVEY BEING MADE, BASED ON THE MAP PRESENTED. THE COMMISSION FURTHER DIRECTS THAT THE STAFF PROCEED WITH ALL ACTIONS AS A PRIORITY ASSIGNMENT AND MAKE A PROGRESS REPORT ON THE MATTER AT THE NEXT MEETING OF THE COMMISSION.

Attachment
Calendar Item 66 (2 pages)

MARIN YACHT CLUB, BOUNDARY LINE AGREEMENT
REPORT TO COMMISSION ON PROBLEMS IN SAN RAFAEL CREEK, MARIN COUNTYBackground

The Marin Yacht Club has requested that the State Lands Commission enter into a Boundary Line Agreement with them to establish the location of the boundary between yacht club lands and sovereign lands of the State in San Rafael Creek. Preliminary investigation has shown that the area of concern to the yacht club is within a larger area which has been the subject of review by the Division for some period of time.

Chronology

- 6-21-67 Conference with Ronald Schenck, Attorney, and Ralph Croker, President, Marin Yacht Club. The yacht club requested State Lands assistance in resolving title and boundary problems. State Lands requested the yacht club to locate their property with relation to sovereign lands.
- 1-23-68 Sample boundary line agreement sent to Mr. Schenck.
- 1-25-68 Meeting with yacht club at which they presented a survey and requested a boundary agreement. Yacht club was advised that City of San Rafael is the grantee of the affected lands, in trust, and has primary jurisdiction. State Lands requested copy of source of yacht club title and a preliminary title report. (Not received to date.)
- 4-9-68 Received proposed boundary line agreement from the yacht club.
- 5-15-68 Meeting with Mr. Kramer, yacht club member. Mr. Kramer inquired as to the status of the proposed boundary agreement. Mr. Kramer was advised that the agreement was under engineering and legal review.
- 5-21-68 Copy of apparent compromise of canal line sent to Mr. Schenck. It appears to fix the boundary between State and private lands along the canal.
- 7-22-68 Copy of engineers staff report forwarded to Mr. Schenck.
- 7-31-68 Meeting with yacht club representatives. Remaining problems discussed. Yacht club to submit revised boundary agreement as basis for compromise.
- 8-2-68 Received revised boundary line agreement proposing that the State and the City of San Rafael quitclaim interests in certain lands in exchange for the yacht club quitclaiming interest in certain other lands.

INFORMATIVE CALENDAR ITEM 66. (CONTD.)

Discussion

San Rafael Creek is a navigable waterway and thus is subject to the trust for navigation. Statutes of 1868 and 1870 provided for the establishment of a canal reservation in the general area now known as San Rafael Creek. A number of problems exist on the lands within and immediately adjacent to San Rafael Creek between the bay and the City of San Rafael. Some of these problems are:

1. The area is subject to a grant to the City of San Rafael. Recent statutes amended the boundaries of the grant, provided for an exchange of lands within the grant, and required a survey of the granted lands. The survey has not been made at this time, and, when done, will be made at the expense of the City.
2. It appears that encroachments exist in the area reserved for the canal and that there may be a number of parties encroaching on State land. Also, positive identification of State ownership will require a survey.
3. The area is the subject of a lawsuit, and a survey of the State interest in the canal area may be necessary to resolve the matter.
4. Private parties are contending that their ownership overlaps areas believed to be sovereign lands within the canal reservation. Again this can only be determined by a survey of the ground.

Conclusion

Because of these problems the staff has been unable to make a recommendation with regard to a boundary agreement with the yacht club. Further research will be needed in the area of land title records and maps. Legal review of the title status is also necessary before a final engineering report can be completed.