

MINUTE ITEM

This Calendar Item No. 41  
was approved as Minute Item  
No. 41 by the State Lands  
Commission by a vote of 3  
to 0 at its 3-25-76  
meeting.

MINUTE ITEM

3/25/76  
WC  
DC  
GH

41. BOUNDARY LINE AGREEMENT; SAN MATEO COUNTY - W 21046.

During consideration of Calendar Item 41, Mr. N. Gregory Taylor, Assistant Attorney General, clarified for the record that the real party in interest in the subject agreement is Security Savings and Loan Association. He explained that Mr. Berryman, mentioned in the Calendar Item, has an option to acquire the property. Whether it is actually an interest which will require a signature on the agreement will be dependent on a title report which is being prepared. Mr. Taylor disclosed that there may be several other parties in addition to Security Savings and Loan. He also advised that if the subject transaction is closed and title to the property is acquired, an interagency lease of this area will come before the Commission at the next meeting.

The Commission unanimously approved the resolution as presented in Calendar Item 41 attached.

Attachment:  
Calendar Item 41 (3 pages)

## CALENDAR ITEM

41

## BOUNDARY LINE AGREEMENT

3/76  
WC  
DC  
GH  
W 21046

The State Lands Division has negotiated a recommended compromise settlement of the common ordinary high water mark boundary with Mr. Robert P. Berryman, et al, between the State-owned bed of Marina Lagoon (formerly called Seal Slough), a navigable and tidal waterway in San Mateo County, California, and a number of subdivided lots claimed to be owned by the private parties. The proposed boundary for each lot, and the parcels to be confirmed in State and private ownership are more particulatly described in Exhibits A, B, D, and E on file in the office of the State Lands Commission and by reference made a part hereof.

Title studies show that the entire parcels involved, including the bed of Marina Lagoon and the uplands, were included within the perimeter of the State's S/O Lands Patent of Survey No. 67, to Joseph L. Moody, which was recorded on August 17, 1892, in Volume 2, Page 388, San Mateo County Recorder; that they were also included within the perimeter descriptions of the Federal S/O Lands patent to the State of October 6, 1919, Number 191 SF; that the present high water line of Marina Lagoon, at these parcels, (elevation 3.3 MLLW), is at substantially the same location as the historic (1857) edge of vegetation of the slough; that the evidence of any tidelands within the uplands adjacent to these parcels is uncertain; that this portion of Marina Lagoon was included within the Deed of Dedication from Schilling Estate, to the City of San Mateo recorded on October 14, 1954, in Volume 2668, Page 589, San Mateo Recorder; that Marina Lagoon below the edge of vegetation was and remains a navigable-tidal waterway, except that it is now leveed and dammed at its mouth and its elevation is now controlled; the State contends that it acquired title to the tidelands and submerged lands within said patent of Survey No. 67, by reason of its sovereignty and that it remains the owner thereof; that these lots were subdivided by map dated June 1965, and recorded on March 4, 1966, in Volume 64 Maps, Pages 31-35, San Mateo Recorder; that the lots extend into the present open waters of Marina Lagoon; that the private parties' plans for improvements on these lots include portions of structures extending onto the said present open waters but not beyond the waterward boundaries of said lots as subdivided.

There is a bona fide and good faith dispute between the State and the private parties as to the extent of private and State ownership of Marina Lagoon within the claimed lots; the existence of tidelands above the historic edge of vegetation; the claimed good faith reliance to the detriment of the private parties, and the legal effect thereof; the precise location of the State-private boundary; the present elevation and line of mean high water; the private parties' rights to construct the planned

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CALENDAR ITEM NO. 41 (CONTD)

improvements; and that 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 0357; to define the extent, nature, location, and area of such public and private titles and boundary by compromise settlement, and to avoid the costs and uncertainties of litigation.

EXHIBITS: 1. Parcel Map. 2. Vicinity Map.

IT IS THEREFORE RECOMMENDED THAT THE STATE LANDS COMMISSION:

1. FIND THAT THE PROPOSED AGREEMENT IS IN THE BEST INTERESTS OF THE STATE, AND AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE THE PROPOSED AGREEMENT ON BEHALF OF THE COMMISSION TO PROVIDE:
  - A) THE LOCATION OF THE ORDINARY HIGH WATER MARK FIXED AND PERMANENT BOUNDARY FOR SAID LOTS BE ESTABLISHED AS DESCRIBED IN EXHIBITS "A" & "B".
  - B) THE ACCEPTANCE OF THE PRIVATE PARTIES' QUITCLAIM TO THE STATE OF THE PORTIONS OF THE LOTS LYING WATERWARD OF THE AGREED BOUNDARY, SAID PORTIONS BEING DESCRIBED IN EXHIBIT "D", SUBJECT TO THE EXCEPTION AND THE RESERVATION TO THE PRIVATE PARTIES OF AN EASEMENT TO CONSTRUCT, RECONSTRUCT, USE, MAINTAIN AND REPAIR THE PROPOSED STRUCTURES EXTENDING INTO THE PARCELS SO QUITCLAIMED TO THE STATE, SUBJECT TO ALL LAWFUL REQUIREMENTS OF ANY OTHER PUBLIC AGENCY HAVING JURISDICTION OF THE PARCELS IN THE FORM AND AT THE LOCATION DESCRIBED IN EXHIBIT "E".
  - C) THE STATE'S QUITCLAIM OR PATENT OF ALL RIGHT, TITLE, AND INTEREST, OF THE STATE IN THE PORTIONS OF THE LOTS LYING LANDWARD OF THE AGREED BOUNDARY, SAID PORTIONS BEING DESCRIBED IN EXHIBIT "G".
  - D) THE SAID AGREEMENT TO BE SUBJECT TO ANY CLAIMS OF THE CITY OF SAN MATEO.
  - E) THE AGREEMENT IS FOR THE SOLE PURPOSE OF COMPROMISING AND SETTLING A BONA FIDE DISPUTE IN LIEU OF LITIGATION WITH RESPECT TO THE SPECIFIC REAL PROPERTY INVOLVED, AND IT SHALL NOT CONSTITUTE ANY EXPRESSION ON THE PART OF THE STATE AS TO THE EXTENT OR LOCATION OF ANY RIGHT, TITLE, OR INTEREST OF THE STATE IN REAL PROPERTY, THE TITLE OF WHICH IS NOT RESOLVED BY THE AGREEMENT.
  - F) SAID EXHIBITS "A", "B", "C", "D" & "E" ARE ON FILE WITH THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.

CALENDAR ITEM NO. 41 (CONTD)

2. FIND THAT THE AGREEMENT IS NOT SUBJECT TO THE REQUIREMENTS OF CEQA BY REASON OF THE EXEMPTION CONTAINED IN SECTION 6371 OF THE PUBLIC RESOURCES CODE.
3. FIND THAT WITHIN ACTION DOES NOT CONSTITUTE A SUBDIVISION, BUT RATHER, A RECOGNITION OF PRE-EXISTING TITLES AND THE ESTABLISHMENT OF THE BOUNDARY THEREOF.
4. AUTHORIZE THE STATE LANDS DIVISION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, IN ORDER TO GIVE EFFECT TO THIS AGREEMENT.