

MINUTE ITEM

The Calendar Item No. 31 was approved as Minute Item No. 31 by the State Lands Commission by a vote of 6-21-76 to 0 at its 21-76 meeting.

CALENDAR ITEM
31.

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AUTHORIZATION TO EXECUTE SETTLEMENT AGREEMENT
IN PEOPLE V. MAGOON ESTATE;
LAKE COUNTY SUPERIOR COURT NO. 12281

This is an action for Quiet Title and declaratory relief brought by the State Lands Commission against Magoon Estates, a Hawaii Corporation, concerning ownership of 17.85 acres of land in Lake County, California.

The State's Complaint alleges that:

1. The State of California, acting by and through its State Lands Commission ("State") acquired the property as an indemnity selection by virtue of List 46, San Francisco District, approved by the United States Secretary of Interior on September 28, 1878, under the Act of March 3, 1853, 10 Stat. 244.
2. The State has never patented, nor otherwise conveyed an interest in the property, and that it is therefore the owner of the property in fee simple absolute with no other interests of any kind outstanding.
3. Magoon Estate, Limited ("Magoon") has contended that it is the owner of the property by virtue of adverse possession, claiming that it has occupied the land in an open and notorious, continuous and uninterrupted manner, adversely to the true owner, and under claim of legal right, and that it has paid all taxes assessed on the property, for a period greater than the statute of limitations.
4. The State disputed that Magoon has performed all the acts necessary to acquire title by adverse possession.
5. The land, being an indemnity selection for school land, was dedicated to a public purpose and therefore not subject to adverse possession as a matter of law.
6. Magoon on the other hand has contended that notwithstanding its character the land was not dedicated to a public purpose so as to be immune from adverse possession.
7. The parties recognize that substantial uncertainties inhere in the question of whether the land was by law not subject to adverse possession.
8. Magoon has contended that there is no public access to the property.

CALENDAR ITEM NO. 31 (CONTD)

9. The State may have access to the property by virtue of an easement by necessity. Magoon disputes the factual and legal basis for this assertion.

The parties consider it expedient and necessary, and in the best interests of both the State and Magoon, to settle their conflicting claims by entering into a stipulation for judgment, thereby avoiding the time, expense and uncertainties that would attend litigation of the complex legal and factual questions of this dispute.

It is uncertain how a court would dispose of these questions, and the parties have therefore arrived at a settlement of the litigation, subject to the approval by the State Lands Commission.

Pursuant to the terms of this settlement the State will execute and deliver to Magoon a patent conveying the disputed property, for and in consideration of and upon payment to the State of \$2,500, which sum represents a compromise of the several intangible factors recited above.

This conveyance, in accordance with applicable constitutional and statutory law, will reserve to the State all mineral deposits, including but not limited to oil, gas, oil shale, coal, phosphate, alumina, silica, fossils of all geological ages, sodium, gold, silver, metals and their compounds, alkali, alkali earth, sand, clay, gravel, salts and mineral waters, and geothermal resources.

A copy of the proposed judgment and stipulation is on file in the Office of the State Lands Division and is hereby incorporated by reference. The Office of the Attorney General recommends approval of the proposed settlement as being in the best interests of the public.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO EXECUTE AN AGREEMENT IN SETTLEMENT OF LITIGATION IN PEOPLE V. MAGOON ESTATES, LIMITED, ET AL, LAKE COUNTY SUPERIOR COURT NO. 12281, IN ACCORDANCE WITH THE TERMS OF THE PROPOSED SETTLEMENT AGREEMENT PRESENTLY ON FILE IN THE OFFICE OF THE STATE LANDS DIVISION AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"