

This 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 10/28/76
meeting

MINUTE ITEM

10/28/76
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40. APPROVAL OF SETTLEMENT AGREEMENT AND AUTHORIZATION OF ATTORNEY GENERAL TO ENTER STIPULATION FOR JUDGMENT IN MARIN MUNICIPAL WATER DISTRICT V. STATE OF CALIFORNIA ET AL., MARIN COUNTY SUPERIOR COURT NO. 49577, PURSUANT TO CHAPTER 1742, STATUTES OF 1971 - W 503.541.

During consideration of Calendar Item 40, attached, Mr. Dennis Eagan, Deputy Attorney General, summarized the item and read into the record a statement concerning the modification of the recommendation. The statement is on file with the office of the State Lands Division and by reference made a part hereof. This modification would authorize the execution of the settlement agreement as drafted, with the proviso that its authorization is subject to the Executive Officer and the Office of the Attorney General first having determined that the revised descriptions have described a line for the northerly line of the existing San Rafael Canal which conforms to the existing mean high tideline.

Upon motion duly made and carried the following resolution was adopted as amended by a vote of 2-0:

THE COMMISSION:

1. AUTHORIZES EXECUTION OF THE SETTLEMENT AGREEMENT BETWEEN THE COMMISSION, THE CITY OF SAN RAFAEL, AND THE MARIN MUNICIPAL WATER DISTRICT, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, SAID AUTHORIZATION BEING SUBJECT TO A PRIOR DETERMINATION BY THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL (1) THAT THE DESCRIPTION OF THE PARCEL TO BE QUITCLAIMED BY THE CITY AND STATE TO THE DISTRICT AND INCLUDED IN THE STIPULATED JUDGMENT DOES NOT INCLUDE ANY LANDS BELOW THE MEAN HIGH TIDE LINE OF THE EXISTING SAN RAFAEL CANAL, AND (2) THAT THE DESCRIPTION OF THE PARCEL TO BE QUITCLAIMED BY THE DISTRICT TO THE CITY INCLUDES ALL LANDS ^{BELOW} THE MEAN HIGH TIDE LINE OF THE EXISTING SAN RAFAEL CANAL AND LYING NORTHERLY OF THE SOUTHERLY LINE OF THE PARCEL TO BE QUITCLAIMED TO THE CITY.
2. FINDS THAT A RESERVATION OF MINERALS BY THE STATE IN THE LANDS TO BE QUITCLAIMED TO THE DISTRICT WOULD PREVENT SETTLEMENT OF A TITLE DISPUTE IN THE PUBLIC INTEREST.
3. DETERMINES THAT THE CONSIDERATION RECEIVED BY THE CITY FOR THE SETTLEMENT IS ADEQUATE.
4. AUTHORIZES THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION, INCLUDING, BUT NOT LIMITED TO, STIPULATING TO ENTRY OF JUDGMENT IN ACCORDANCE WITH

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MINUTE ITEM 40. (CONTD)

THE TERMS OF THE SETTLEMENT AGREEMENT IN MARIN MUNICIPAL
WATER DISTRICT V. STATE OF CALIFORNIA, ET AL, MARIN COUNTY
SUPERIOR COURT NO. 49577.

Attachment: Calendar Item 40 (3 pages)

APPROVAL OF SETTLEMENT AGREEMENT AND AUTHORIZATION OF ATTORNEY GENERAL TO ENTER STIPULATION FOR JUDGMENT IN MARIN MUNICIPAL WATER DISTRICT v. STATE OF CALIFORNIA, et al., MARIN COUNTY SUPERIOR COURT NO. 49577, PURSUANT TO CHAPTER 1742, STATUTES OF 1971

Background:

The Marin Municipal Water District claims title to a parcel of land at Second Street and Grand Avenue in San Rafael. In its natural condition, the parcel consisted of salt marsh traversed by the channel of San Rafael Creek and Allardt's San Rafael Canal, as said Canal was surveyed within the Creek by G. F. Allardt in 1870 for the Board of Tide Land Commissioners. The parcel was filled above the line of mean high tide many years ago, subsequent to the dredging of a cut-off channel which abuts the parcel on the south.

By virtue of legislative grants, the City of San Rafael holds title, in trust, to all right, title, and interest of the State of California, held by virtue of its sovereignty, in all filled and unfilled salt marsh, tide, and submerged land within the City of San Rafael (Stats. 1923, Ch. 83; Stats. 1967, Ch. 178; Stats. 1970, Ch. 1383).

At Issue:

In 1967, the District brought an action in quiet title and declaratory relief against the City of San Rafael and the State of California, seeking judicial confirmation of its title claims. Marin Municipal Water District v. State of California, et al., Marin County Superior Court No. 49577.

The City and State responded by claiming title to those portions of the parcel within the natural creek and Allardt's Canal as sovereign lands and claiming title to portions of the remaining lands which had been natural salt marsh as unsold swamp and overflowed lands.

The District alleged that it holds record title to the parcel by virtue of a swamp and overflowed land patent and that, by virtue of various actions of the City and State over the years, it holds title to the property by virtue of adverse possession, prescription, res judicata, estoppel, and the doctrine of agreed boundary.

CALENDAR ITEM NO. 40 (CONT'D)

Specifically, the District alleged that the artificial canal was dredged in 1891; that it was subsequently redredged by the City with State and federal assistance; that the old creek channel and Allardt's Canal were subsequently filled with the acquiescence of the State and City; that the District's predecessors deeded a right of way to the City through their lands for the newly dredged channel; that the District's predecessors paid taxes on the complaint parcel; that the District made substantial improvements on the parcel; that the State treated an adjacent portion of the District's land as being in private ownership when it condemned it for highway purposes; and that the City has leased the parcel from the District for use as a parking lot.

Proposed Settlement:

In 1971, the legislature passed a statute which authorized settlement of this and similar title disputes along Allardt's San Rafael Canal and required the City to survey the location of Allardt's Canal in order to facilitate such settlements. [Stats. 1971; Ch. 1742 (hereinafter "Settlement Statute").] The Settlement Statute provides for settlement agreements by the City in which it may quitclaim land above the present mean high tide line and accept consideration in return which may include money as well as other lands. Any such settlements must be approved by the State Lands Commission.

The parties to the litigation have arrived at an agreement in settlement of their title dispute which conforms to the Settlement Statute. Under the terms of the settlement, the City and State would join in a quitclaim deed to the District for the District's upland parcel.

In return, the District would pay to the City the sum of \$10,000 to be used by the City in furtherance of the trust purposes under which it administers the lands granted to it by the State. In addition, the District would quitclaim to the City, also in trust, any remaining interest which it may have in the existing waterway which adjoins its parcel.

The agreement also provided that the City and State will stipulate to entry of judgment in open court in favor of the District, quieting its title to the parcel in accordance with the terms of the settlement agreement. A copy of the agreement is on file in the offices of the State Lands Commission.

Section 8.5 of the Settlement Statute provides that minerals are reserved to the State in any deed passing from the City to a claimant under the terms of the Settlement Statute unless

CALENDAR ITEM NO. 40 (CONTD)

such a reservation would prevent settlement of boundary or title disputes in the public interest. In this situation, because there is substantial question concerning public ownership of the lands to be quitclaimed, the State's title to any minerals in the quitclaimed parcel would be clouded. Further, the District wishes clear title to the parcel, free of any uncertain mineral claims of the State, and is unwilling to settle the dispute upon a basis which would leave its title clouded in this fashion. It is therefore the view of the Commission's staff that a mineral reservation would prevent the settlement, and that there should be no reservation of minerals.

Because the lands claimed by the City and State must be valued in their unfilled condition under Section 6 of the Settlement Statute, and because of the uncertain outcome of any litigation, the consideration for the settlement is adequate in the view of the Commission's staff and the Office of the Attorney General. The settlement secures clear title to a portion of the existing waterway, which was one of the purposes of the Settlement Statute, as well as providing the City with additional monetary consideration with which it may discharge its trust responsibilities under the legislative grant.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE EXECUTION OF THE SETTLEMENT AGREEMENT BETWEEN THE COMMISSION, THE CITY OF SAN RAFAEL, AND THE MARIN MUNICIPAL WATER DISTRICT, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
2. FIND THAT A RESERVATION OF MINERALS BY THE STATE IN THE LANDS TO BE QUITCLAIMED TO THE DISTRICT WOULD PREVENT SETTLEMENT OF A TITLE DISPUTE IN THE PUBLIC INTEREST.
3. DETERMINE THAT THE CONSIDERATION RECEIVED BY THE CITY FOR THE SETTLEMENT IS ADEQUATE.
4. AUTHORIZE THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION, INCLUDING, BUT NOT LIMITED TO, STIPULATING TO ENTRY OF JUDGMENT IN ACCORDANCE WITH THE TERMS OF THE SETTLEMENT AGREEMENT IN MARIN MUNICIPAL WATER DISTRICT V. STATE OF CALIFORNIA, et al., MARIN COUNTY SUPERIOR COURT NO. 49577.

EXHIBIT: A. Location Map.