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**In the Supreme Court**

OF THE  
**United States**

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OCTOBER TERM, 1978

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**No. 5, Original**

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UNITED STATES OF AMERICA,  
*Plaintiff,*

VS.

STATE OF CALIFORNIA,  
*Defendant.*

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**PROPOSED THIRD SUPPLEMENTAL DECREE  
IN ACCORDANCE WITH DECISION  
OF MAY 15, 1978**

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**PROPOSED THIRD SUPPLEMENTAL DECREE**  
**IN ACCORDANCE WITH DECISION**  
**OF MAY 15, 1978**

In accordance with this Court's decision herein of May 15, 1978, ..... U.S. ...., 98 S.Ct. 1662, and with its request that the parties submit an appropriate decree within 90 days, the State of California submits its proposed Third Supplemental Decree in the form set forth below. (The proposed decree recites a brief history of the decisions and decrees in this litigation. The span of years and the many acts of this Court in this case perhaps make such a recital appropriate.)

**EVELLE J. YOUNGER,**

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**N. GREGORY TAYLOR,**

Assistant Attorney General,

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*State of California.*

August, 1978

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**In the Supreme Court**  
OF THE  
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OCTOBER TERM, 1978

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No. 5, Original

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UNITED STATES OF AMERICA,  
*Plaintiff,*

vs.

STATE OF CALIFORNIA,  
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**PROPOSED THIRD SUPPLEMENTAL DECREE**

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This decree implements this Court's decision of May 15, 1978, wherein it was determined that the State of California and not the United States is entitled to the tidelands and submerged lands within the Channel Islands National Monument off the coast of California.

This Court on October 27, 1947, entered the original decree in this action, 332 U.S. 804, which implemented the first decision herein, which was reported at 332 U.S. 19 (1947). That decision held that as between the United States and the State of California, the

United States was possessed of paramount rights in the lands lying seaward of the ordinary low water mark on the coast of California and beyond the limits of California's inland waters. In response to that and other consistent decisions of this Court, Congress in 1953 enacted the Submerged Lands Act, 67 Stat. 29-33, 43 U.S.C. §§ 1301-15. By that Act Congress granted to California the lands lying seaward a distance of three geographic miles from the "coast line" of California, and the natural resources within such lands and superjacent waters. Excepted from the operation of the Act among other things were "any rights the United States has in lands presently and actually occupied by the United States under claim of right." 43 U.S.C. § 1313 (a).

Thereafter this Court was called upon to define more precisely the "coast line" from which the grant made by the Submerged Lands Act was to be measured. Following the decision of May 17, 1965, 381 U.S. 139, the Court on January 31, 1966 entered the Supplemental Decree herein, which modified the original decree to read as set forth in the Supplemental Decree, 382 U.S. 448.

On June 13, 1977, the Court entered its Second Supplemental Decree, 432 U.S. 40, identifying with greater particularity certain portions of the boundary line as defined by the Supplemental Decree of January 31, 1966.

By cross-petitions filed in 1976 the parties began the present stage of this litigation to determine whether Congress had reserved from the operation of



the Submerged Lands Act, by virtue of the "claim of right" exception of section 1313 referred to above, the tidelands, submerged lands and resources within the Channel Islands National Monument, as said Monument was established by Presidential Proclamation No. 2281, 52 Stat. 1541 (April 26, 1938) and enlarged by Presidential Proclamation No. 2825, 63 Stat. 1258 (February 9, 1949). By decision dated May 15, 1978, this Court held that the United States had not so reserved those lands and resources within the Channel Islands National Monument, and that "the Government's proprietary and administrative interests in those areas passed to the State of California in 1953." ..... U.S. ...., 98 S. Ct. 1662, 1667. Accordingly, it is ORDERED, ADJUDGED AND DECREED that this Court's Supplemental Decree of January 31, 1966, be, and the same is hereby, supplemented as follows:

1. The United States has no right, title or interest by virtue of the claim-of-right exception of section 5 of the Submerged Lands Act, 67 Stat. 32, 43 U.S.C. § 1313, in the tidelands (that is, lands lying between the lines of mean high water and mean lower low water) and submerged lands (that is, lands lying seaward of the line of mean lower low water) within the Channel Islands National Monument, as said Monument was established by Presidential Proclamation No. 2281, 52 Stat. 1541 (April 26, 1938) and enlarged by Presidential Proclamation No. 2825, 63 Stat. 1258 (February 9, 1949) to encompass "the areas within one nautical mile of the shoreline of Anacapa and

Santa Barbara Islands. . . .” In all other respects, the terms of the Supplemental Decree entered herein on January 31, 1966, 382 U.S. 448, apply fully to the tidelands and submerged lands within the Channel Islands National Monument.

2. Subject to the provisions of paragraph 1 hereof, the terms of said Supplemental Decree of January 31, 1966, as supplemented by the Second Supplemental Decree of June 13, 1977, remain in full force and effect.

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