

ORIGINAL

OFFICIAL TRANSCRIPT
PROCEEDINGS BEFORE

THE SUPREME COURT OF THE UNITED STATES

DKT/CASE NO. 82-708

TITLE SUMMA CORPORATION, Petitioner v. STATE LANDS COMMISSION AND
CITY OF LOS ANGELES

PLACE Washington, D. C.

DATE February 29, 1984

PAGES 1 thru 48



1 IN THE SUPREME COURT OF THE UNITED STATES

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3 SUMMA CORPORATION, :

4 Petitioner, :

5 v. : No. 82-708

6 STATE LANDS COMMISSION AND CITY :

7 OF LOS ANGELES :

8 - - - - - x

9 Washington, D.C.

10 Wednesday, February 29, 1984

11 The above-entitled matter came on for oral
12 argument before the Supreme Court of the United States
13 at 11:01 o'clock a.m.

14 **A P P E A R A N C E S :**

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16 on behalf of the petitioner.

17 LCUIS F. CLAIBORNE, ESQ., Office of the Solicitor
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21 of California, Los Angeles, California; on behalf of
22 the respondents.

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1	<u>C O N T E N T S</u>	
2	<u>ORAL ARGUMENT OF</u>	<u>PAGE</u>
3	WARREN M. CHRISTOPHER, ESQ.,	
4	on behalf of the petitioner	3
5	LOUIS F. CLAIBORNE, ESQ.,	
6	on behalf of the U.S. as amicus curiae	14
7	NANCY ALVARADO SAGGESE, ESQ.,	
8	on behalf of the respondents	21
9	WARREN M. CHRISTOPHER, ESQ.,	
10	on behalf of the petitioner - rebuttal	46
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 CHIEF JUSTICE BERGER: We will hear arguments
3 next in Summa Corporation against State Lands Commission
4 and City of Los Angeles.

5 Mr. Christopher, I think you may proceed when
6 you are ready.

7 ORAL ARGUMENT OF WARREN M. CHRISTOPHER, ESQ.,

8 ON BEHALF OF THE PETITIONER

9 MR. CHRISTOPHER: Thank you, Mr. Chief
10 Justice, and may it please the Court.

11 The fundamental issue before you is whether
12 California obtained from the United States a public
13 trust property interest in Mexican rancho lands which
14 are now held by private parties under an unqualified
15 federal patent.

16 By a divided vote, the California Supreme
17 Court held that upon its admission to the union,
18 California obtained a public trust property interest.
19 The California Supreme Court recognized that never
20 before in more than 130 years since California entered
21 the union had this public trust concept been extended to
22 Mexican rancho lands, or indeed to any other lands to
23 which California had never previously had title.

24 The theory of the California Supreme Court was
25 that Mexico retained a public trust interest when it

1 conveyed this land into private ownership in 1839, that
2 the United States acquired this interest when it annexed
3 California in 1848, and that California succeeded to the
4 interest under the equal footing doctrine when it
5 entered the union in 1850.

6 Now, this public trust interest carved out by
7 California is a permanent and pervasive estate in land.
8 For example, it is so pervasive that the state can enter
9 upon and possess the land. It enables the state to
10 construct improvements on the property or, on the other
11 hand, to require that the property be held as open space
12 without compensation.

13 QUESTION: Mr. Christopher, is that a holding
14 or a statement of the California Supreme Court that you
15 are quoting from or one of the California appellate
16 courts?

17 MR. CHRISTOPHER: Mr. Justice Rehnquist, that
18 is the holding of a line of California cases. Marx v.
19 -- the Marx case cited in my brief is the principal and
20 most recent case. It begins with the California Fish
21 case in 1913, and it has marched through a long series
22 of cases.

23 The public trust interest which has been
24 marked out by the California Supreme Court is
25 independent of any exercise of police power, and it

1 based not on the present condition of the property, but
2 upon its historical character when California entered
3 the union. Thus this property interest is permanent and
4 continues to exist even where the property has been
5 lawfully filled and reclaimed by its owner.

6 Now, as the Court knows, it was settled in
7 early cases. One of the foundation cases, Knight versus
8 United States Land Association, settled that California
9 did not get ownership of tidelands within Mexican land
10 grants or ranchos when it entered the union. The reason
11 for this special treatment of rancho properties or
12 Mexican grant properties was the international duty of
13 the United States under the 1848 Treaty of Guadalupe
14 Hidalgo.

15 The rule of these cases is not directly
16 challenged here, but it is indirectly subverted through
17 the carving out of this very extensive public trust
18 property interest in rancho lands. The question before
19 the Court is whether the Court will permit and authorize
20 the erosion of private rights by denying the owner the
21 most fundamental aspects of ownership under the
22 California Supreme Court public trust doctrine.

23 In a fundamental sense, this case turns on the
24 meaning of the Act of March 3, 1851, which is known as
25 the Mexican Claims Act. This Act was the mechanism to

1 carry out the commitment of the United States under the
2 Treaty of Guadalupe Hidalgo, which of course as you
3 know ended the war between the United States and
4 Mexico.

5 To heal the wounds of that war, the United
6 States made a commitment that the property rights of
7 former Mexican citizens would be inviolably respected,
8 inviolably respected. The title to the 1851 Act sends
9 an important message. The title is An Act to Ascertain
10 and Settle Private Land Claims in California. Thus the
11 purpose of the Act was to determine once and for all the
12 validity and scope of land claims in California, to
13 issue patents to those that proved their claims, and to
14 identify the remainder as public domain.

15 It was a jurisdiction, as this Court has said,
16 to decide rightly or wrongly, and whatever decided is
17 now foreclosed. This is the line of cases O'Donnell in
18 303 U.S., earlier Title Insurance, and Thompson Land
19 Company, all cited in my brief.

20 The crucial point is that between the
21 claimants and the United States the 1851 Act proceedings
22 were tantamount to a quiet title action. Decisions in
23 favor of the claimants are conclusive against the United
24 States, and anyone claiming under the United States, as
25 California is here.

1 QUESTION: Mr. Christopher, may I interrupt
2 you and ask you one question? I understand that you
3 don't in your brief argue the point that the government
4 does in the first point of their brief about what
5 happened with the actual original conveyance. If you
6 assume that the trust was reserved in the original
7 conveyance, contrary to the government's position, what
8 is your view as to the status of the title to the trust
9 interest the day after California was admitted to the
10 union and before the 1851 Act was passed?

11 MR. CHRISTOPHER: Well, my view of that is
12 that at that time, that issue was an unsettled issue. I
13 will take your assumption for the moment, Mr. Justice
14 Stevens, that such a right did exist. It was within the
15 power of the Board of Land Commissioners under the 1851
16 Act to determine questions exactly like that.

17 The Board of Land Commissioners was set up to
18 separate the public domain from private property, and in
19 accordance with that jurisdiction, the Board of Land
20 Commissioners passed on such questions as whether or not
21 there was such a right under Mexican law. Indeed, the
22 land commissioners were specifically chosen for their
23 knowledge of Mexican law.

24 So, until the Act of 1851 exercised its power
25 to determine these rights, that question was an

1 uncertain question, but it was well within the power of
2 the Board of Land Commissioners under the 1851 Act to
3 resolve exactly that kind of a question.

4 QUESTION: I don't think that answers my
5 question, Mr. Christopher. I am assuming that before it
6 was answered, that the correct answer would have been
7 that it was something other than what happened in 1851.
8 You are saying that the activity pursuant to the 1851
9 statute conveyed that interest regardless of what its
10 status was before, as I understand it.

11 You say that even though that would have
12 enlarged the rights of your clients.

13 MR. CHRISTOPHER: Mr. Justice Stevens, on your
14 question, I would say that after California entered the
15 union, and before the 1851 Act proceedings, and taking
16 your assumption that such a right did exist --

17 QUESTION: Right.

18 MR. CHRISTOPHER: -- then that right may have
19 passed to California under the equal footing clause,
20 although there is a subsidiary question there, and that
21 is whether or not the equal footing clause covered such
22 partial rights, a question also addressed in the brief.

23 QUESTION: Mr. Christopher, I am interested in
24 just how this is a federal question. Supposing this
25 happened, that your client had a confirmed patent from

1 the Mexican land grant that had been authorized by the
2 Claims Commission, and so forth, and adjoining your
3 client's property was another property which didn't come
4 under the Treaty of Guadalupe Hidalgo, and there was
5 just a classic surveying dispute, say, as to 20 feet of
6 their property.

7 The Mexican patent showed that your client
8 owned it. The deed under the authority of the state of
9 California showed that the other people owned it. And
10 that is litigated in the California courts, and the
11 California Supreme Court applies its rule as to how you
12 solve these surveying ambiguity disputes, and rules
13 against your client, saying that the Mexican patent
14 description doesn't prevail.

15 Do you think your client could come here on
16 the grounds that it is a federal question because the
17 full latitude of the description in the confirmed
18 Mexican patent wasn't confirmed by the Supreme Court of
19 California?

20 MR. CHRISTOPHER: I think that is a much
21 different case than the case here, Mr. Justice
22 Rehnquist. The clearest cut federal question before
23 this Court is whether the state of California received
24 anything pursuant to the equal footing clause when
25 California entered the union.

1 The California Supreme Court deliberately put
2 this decision on the basis of the fact that title -- I'm
3 sorry, this property interest passed from Mexico to the
4 United States, and then from the United States to
5 California under the equal footing clause.

6 One of the things that is clearest under this
7 Court's decisions is that what a state initially
8 receives under the equal footing clause is a federal
9 question. The decision of this Court in what I call the
10 Humboldt Light Case, California Land Commission, Justice
11 White's opinion in a footnote, I think, says
12 specifically that what a state received initially under
13 the equal footing clause is a federal question.

14 Now, there are other possible federal
15 questions, but I think there can be no doubt at all as
16 to whether that is a federal question. Other possible
17 federal questions relate to the Treaty of Guadalupe
18 Hidalgo and the construction of the 1851 Act, but on
19 that question I think there is no doubt.

20 QUESTION: Can this case be decided without
21 passing on the treaty problems that you mentioned?

22 MR. CHRISTOPHER: Mr. Chief Justice, the
23 treaty is the background for the 1851 Act, and the 1851
24 Act is the crucial basis for decision here. The 1851
25 Act provides that the Board of Land Commissioners'

1 ruling is conclusive. The treaty questions are only
2 important background for both the 1851 Act and for this
3 Court's ruling in earlier cases that Mexican ranchos are
4 in a special category, and that the state does not
5 receive tidelands in Mexican ranchos when it entered the
6 union.

7 QUESTION: Mr. Christopher, don't we have to
8 decide the treaty questions in this case?

9 MR. CHRISTOPHER: Well, you certainly have to
10 decide that the treaty was entitled -- the treaty was
11 intended to protect the rights of Mexicans --

12 QUESTION: Well, now, that very question,
13 isn't that a federal question?

14 MR. CHRISTOPHER: Yes, I believe that's a
15 federal question as well, Your Honor.

16 QUESTION: Mr. Christopher, let me follow
17 through a little on Justice Rehnquist's inquiry. If you
18 prevail here, are we not constructing, what shall I call
19 it, a Mason-Dixon line between -- in the southern part
20 of California with these old Mexican grants, and in the
21 northern part where there are no Mexican grants, with
22 different rules of law flowing from each?

23 MR. CHRISTOPHER: Mr. Justice Blackmun, I know
24 the California Supreme Court took that position. The
25 land titles in California vary all up and down the coast

1 with respect to those tidelands that the state owns
2 because they received them under the equal footing
3 clause. Many of those have been granted into private
4 ownership. Many of them are held in public ownership.
5 So there are many categories of tidelands or shorelands
6 in California.

7 I think that is a much overstated worry on the
8 part of the California Supreme Court. Frankly, there is
9 a checkerboarding of title all up and down the coast,
10 and the fact that it has been settled for 130 years that
11 Mexican land grants are in a special category, I think,
12 would indicate that it would lend stability rather than
13 promote instability for the Court to vindicate my
14 position here today.

15 QUESTION: Mr. Christopher, does the
16 California public trust doctrine embrace any land other
17 than tidal land?

18 MR. CHRISTOPHER: Mr. Justice Powell, the
19 California public trust doctrine is so ambitious that it
20 has been extended to land on the shores of lakes in
21 California. That's the Lakes and Fogarty case which was
22 here on certiorari, but the Court denied it apparently
23 because it found no federal question, and more recently
24 the California public trust doctrine has been extended
25 to non-navigable streams feeding into lakes in

1 California. That case is not final, but I think you get
2 some idea of the ambitiousness of this doctrine when you
3 see that it has been extended one place after another,
4 and this is the final or at least one of -- this is the
5 latest, this is the latest attempt to extend that
6 doctrine.

7 QUESTION: So we are not simply addressing in
8 this case tidal lands in terms of the consequences of a
9 decision?

10 MR. CHRISTOPHER: Mr. Justice Powell, this
11 decision really stands on its own bottom. There has
12 been, as I said, for a century or more special rules
13 with respect to Mexican rancho lands, and this case can
14 be decided solely on those terms. The California public
15 trust doctrine could stand with respect to other
16 property, and you could decide in this case that because
17 of this long course of decision beginning with Knight
18 versus -- beginning with the Knight case, that Mexican
19 rancho lands are in a special category because of the
20 treaty duty, because of the international duties of the
21 United States under the Treaty of Guadalupe Hidalgo.

22 Let me just say that there is no question in
23 this case of the full compliance of the owners of the
24 rancho here, Rancho La Ballena, with all the
25 administrative and statutory procedures set up under the

1 Mexican Claims Act. The end of that procedure was the
2 granting of an unqualified patent under the statute
3 itself and under decisions of this Court like the United
4 States versus O'Donnell in 303 U.S. That patent is
5 conclusive against the United States and against all
6 those claiming under the United States, such as the
7 state of California.

8 Mr. Chief Justice, I would like to reserve the
9 remainder of my time.

10 CHIEF JUSTICE BERGER: Very well.

11 Mr. Claiborne.

12 ORAL ARGUMENT OF LOUIS F. CLAIBORNE, ESQ.,

13 ON BEHALF OF U.S. AS AMICUS CURIAE

14 MR. CLAIBORNE: Mr. Chief Justice, and may it
15 please the Court.

16 One could, of course, debate the wisdom,
17 indeed, even the correctness of the rule exempting
18 Mexican land grants from the equal footing principle
19 that the state is the owner of at least navigable water
20 bottoms and tidal lands, but on this question, the law
21 has been settled so well so long ago that to engage in
22 such an exercise today with respect to a rule of
23 property would seem out of bounds and out of date.

24 On the other hand, the state ought not be
25 permitted to attempt to circumvent that settled,

1 established law by conceding the bare title to these
2 tidelands to the landowner while claiming to have
3 reserved for itself all the uses and full control of
4 those water bottoms.

5 But in our view, this is uniquely a case ruled
6 by authority, indeed, by two decisions of this Court.
7 Those are, in our view, the Coronado Beach case,
8 reported in Volume 255 of this Court's decision, and the
9 Title Insurance Company case, reported ten volumes later
10 at 265 U.S., both cases cited in all briefs.

11 Those are two unanimous decisions, the first
12 one by Mr. Justice Holmes, the second by Mr. Justice Van
13 deanter, bringing, as this Court has remarked in later
14 days, the authority of an expert in the field of land
15 law and Indian law. Those two decisions represent the
16 culmination of a long line of cases stretching back more
17 than 50 years in which the Court had addressed the
18 several problems relating to Mexican land grants.

19 For the most part, the decisions in 1921 and
20 1923 merely reaffirmed what was already well settled,
21 but they did more. They put to rest any doubts, any
22 ambiguities, any unresolved questions that still
23 lingered at this date. As it happens in both these
24 cases, the United States was then advancing, in the
25 early 1920's, arguments very like those advanced by

1 California today, but we lost, and that was more than 60
2 years ago. Even then, the Court chided the government
3 with attempting to unsettle rules of property on which
4 substantial reliance had been placed in the interim, and
5 which in the Court's words "to now disturb would be
6 fraught with many injurious results."

7 Now, obviously, that is all the more true now,
8 60 years later. Touching those cases briefly, the first
9 one, the Coronado Beach Company case, that was a case in
10 which the United States brought a condemnation action
11 with respect to an island in San Diego Bay which was the
12 subject -- which had been the subject of a Mexican
13 grant. The question was whether the grant of the island
14 embraced some 600 acres of water bottoms on one side,
15 both submerged and tidelands.

16 We then in 1921 elaborately argued that the
17 tidelands could not have passed to the grantee because
18 under the equal footing doctrine they had been reserved
19 to the state; furthermore, that Mexican law would not
20 have included such water bottoms; and finally, that the
21 Land Commission, which had seemingly adjudicated the
22 water bottoms as part of the grant, had no jurisdiction
23 to do so.

24 Those arguments, as I say, elaborately put to
25 the Court, were rejected in three sentences by Justice

1 Holmes, and from that day that question has no longer
2 been thought open, but interestingly, the United States
3 made an alternative argument in that case, and it was
4 that even if bare title had passed to the Mexican
5 grantee, the United States did not -- was not required
6 to pay full value for these water bottoms in this
7 condemnation action because there were reserved public
8 rights both in the United States and in the state of
9 California that so diminished the value of these water
10 bottoms that the very inflated price ought not be paid.

11 We claimed, among other things, the California
12 public trust, citing the California Fish case as an
13 indication that the grantee had never received these
14 rights. Now, once again, the Court rejected these
15 arguments firmly and affirmed the award. That ought to
16 have been the end of the proposition that any such
17 pervasive easement attached to Mexican grants in the
18 absence of any words to that effect, and incidentally,
19 in that case, the words about enclosing without
20 prejudice to crossings, roads, and servitudes were
21 included in the grant and were pleaded by the United
22 States just as they are in this grant pleaded by
23 California. But the Court has put those aside.

24 QUESTION: Mr. Claiborne, is it possible that
25 that holding could rest on the notion that the trust did

1 not in fact change the value of the lands as opposed to
2 a holding that there was no such trust interest.

3 MR. CLAIERNE: The Court adverts, Mr. Justice
4 Stevens, only to one of the claims, which was a claim of
5 a right in the government to use the property for
6 national defense, and the Court firmly rejects that
7 there was any such easement or servitude attaching to
8 these water bottoms, and that therefore any diminishment
9 of value resulting from that cause ought not be taken
10 into account.

11 The Court does not directly address the other
12 kinds of public trust claimed by the United States, but
13 apparently rejects them, and since the whole burden of
14 the argument by the United States was that that aspect
15 had been overvalued, the instructions to the jury in
16 valuation had said the owner may use his lands as he
17 sees fit only subject to harborlines, and indeed the
18 government filed a petition for rehearing, pointing
19 again to this overvaluation question and the
20 diminishment in value due to the trust. It is hard to
21 see that the Court didn't reject that argument out of
22 hand.

23 The other case to which I would call the
24 Court's attention is the insurance case. That was a case
25 in which the United States sued on behalf of Mission

1 Indians seeking the quiet title, their Indian possessory
2 title only to occupy the land which had been the subject
3 of a Mexican grant, claiming that this kind of less than
4 fee title was not a proper subject for adjudication by
5 the land commission and that the Indians would not have
6 been required to put it forward in the 1850's.

7 The Court, adhering to an earlier decision,
8 said not so. The Indians should have put forth their
9 claim or the government should have put it forth on
10 their behalf. That was now done. It is now far too
11 late, and the Indian claim must fail.

12 It seems to us that once again this stands for
13 the proposition that a claim of less than full fee title
14 is one which if not preserved in these confirmation
15 proceedings is indeed lost to the claimant, and that
16 claimant is anyone who claims derivatively from the
17 United States, here the state of California.

18 The combined effect of these two decisions is
19 to reject any notion that the reservation of usages or
20 servitudes in the standard boilerplate can be read as
21 preserving the kinds of public rights --

22 QUESTION: Mr. Claiborne, is it your position,
23 and I take it you say it is supported by the cases if it
24 is, that land grants coming under the Treaty of
25 Guadalupe Hidalgo based on old Mexican grants prior to

1 the accession of -- the Mexican cession stand on a
2 different and higher footing in the world of land
3 transactions than, say, a grant from the United States,
4 simply a patent from the United States made by the
5 General Land Office.

6 MR. CLAIBORNE: I wouldn't say on a higher
7 footing, Justice Rehnquist, but this Court has more
8 readily found that Mexican grants include tidelands or
9 submerged lands than it has with respect to original
10 grants by the United States in which there was a like
11 ambiguity.

12 QUESTION: Well, in the Ecrax case in 296
13 U.S., the Court distinguishes Knight and some of those
14 other cases, saying those involved Mexican land grants,
15 and we are kind of going to apply a different rule where
16 Mexican land grants aren't involved.

17 MR. CLAIBORNE: Indeed, and Ecrax is only one
18 of the most recent decisions in which the Court
19 reaffirmed once again what was done most recently of all
20 in the case in Oregon, Corvallis, that one exception to
21 the rule that water bottoms inure to the state is where
22 in pursuance of international obligations, referring to
23 the Mexican treaty, those water bottoms had been
24 previously alienated to a private grantee.

25 QUESTION: Ms. Saggese?

1 ORAL ARGUMENT OF NANCY ALVARADO SAGGESE, ESQ.,
2 ON BEHALF OF THE RESPONDENTS

3 MS. SAGGESE: Mr. Chief Justice, and may it
4 please the Court.

5 Petitioner comes before this Court seeking
6 equality of title that is higher than Mexico granted to
7 his predecessors in interest, and more than the United
8 States confirmed in carrying out its obligations under
9 the Treaty of Guadalupe Hidalgo, but in order to obtain
10 this result, petitioner is going to have to convince
11 this Court to give it special treatment, because the
12 decisions of this Court with respect to the confirmation
13 proceedings and sovereign rights and tidelands are all
14 the other way.

15 QUESTION: Do you concede that there is a
16 federal question presented here?

17 MS. SAGGESE: Well, Your Honor, there are
18 four possible bases for a federal question, as Summa has
19 stated in its brief. The Treaty of Guadalupe Hidalgo
20 is a possible basis. However, we do not challenge the
21 validity of the treaty and we don't think that it
22 requires an interpretation of the treaty in order to
23 determine this case. Furthermore, the treaty did say
24 that the United States was to inviolably respect prior
25 existing titles, but it did not state what those titles

1 were, so we think the treaty is not involved here, the
2 interpretation of it, that is.

3 The Act of 1851 is another possible basis for
4 federal jurisdiction, but again, we do not challenge the
5 validity of the Act, and we don't think that it needs to
6 be interpreted. The Act simply set forth a procedure
7 for confirming preexisting titles, but it did not create
8 new federal titles. The same with the patent, the third
9 possible basis.

10 QUESTION: But may I interrupt? On the 1851
11 Act, if we take your adversary's position, I understand
12 them to be arguing that that may have enlarged the title
13 of the Mexican grantees, and it seems to me that is a
14 federal question as to whether the federal patent could
15 convey more than the Mexican government had previously
16 conveyed. Wouldn't that be a federal question?

17 MS. SAGGESE: Well, Your Honor, you would not
18 be interpreting -- since the patent did not create a new
19 federal title --

20 QUESTION: Well, that's the argument. One of
21 the arguments is that it did grant more. Even if the
22 Mexican grant did not include the trust reservation, as
23 I understand their position, although the government is
24 a little ambiguous in its brief, they in effect argue
25 that there was an enlargement of the grant.

1 MS. SAGGESE: Yes, but this Court has held in
2 no less than seven cases that patents issued in
3 confirmation of preexisting Mexican titles did not
4 create a new federal title, so we think that that
5 argument is incorrect. This Court has --

6 QUESTION: Yes, but whether it is correct or
7 incorrect is a federal question, is all I am addressing
8 my remark to.

9 MS. SAGGESE: Well, Your Honor, once again,
10 we would point to those cases that say that when a
11 confirmatory patent is at issue, in order to determine
12 what the Mexican grantees got, that is, whether what
13 they got confirmed was what Mexico had granted them or
14 whether it enlarged -- the United States could have
15 enlarged those rights as it could have. The United
16 States was free to grant any of its proprietary rights
17 to Mexican grantees and thereby enlarge those rights,
18 but we would say that again it is a local question to
19 determine exactly what was granted by Mexico and then
20 what the grantee ended up with as a result of the
21 confirmatory grant.

22 The only other possible basis for federal
23 jurisdiction is the equal footing doctrine, and while
24 that does have its basis in the Constitution, we believe
25 that that question has already been answered by this

1 Court. The Lewis Bluepoint Cyster Company versus Friggs
2 was a case in which this Court affirmed the state
3 decision below interpreting a pre-Revolutionary War
4 crown grant. In that case, it was held that a grant by
5 the crown of tide and submerged lands passed only the
6 crown's proprietary rights or use proprivatim in the lands
7 subject to the public rights in the lands or use
8 publicum, and that after the Revolution, the state
9 succeeded to the remaining public rights the use
10 publicum or public trust, just as it succeeded to the
11 full ownership of tide and submerged lands that had not
12 previously been granted, and that is all that the state
13 seeks here. We think that that question has already
14 been answered, and under the equal footing doctrine,
15 rights in tidelands that are less than full ownership
16 did pass to the state. Of course, that is a federal
17 question, but once again, we think it has been
18 answered.

19 Almost 150 years ago, in fact, in New Orleans
20 versus the United States, this Court held that public
21 rights arising under a prior sovereign would be
22 recognized and respected even if they had been expressly
23 rejected in confirmation proceedings, because public
24 rights, in contrast to private rights, could not be so
25 extinguished. Rather, they survived, and on statehood,

1 these rights held by the prior sovereign passed to the
2 state to be administered to the people.

3 We think that this case presents an even
4 stronger case for affirmation of public rights.

5 QUESTION: What treaty, Ms. Sagesse, did the
6 New Orleans case grow out of?

7 MS. SAGGESE: Well, the New Orleans case came
8 out of the Louisiana Purchase after that property became
9 property of the United States. The United States had
10 the same obligation to respect preexisting titles under
11 international law. That is a requirement even if it is
12 not specifically set forth in any treaty.

13 QUESTION: But there was no expressed
14 counterpart to the provision in the Treaty of Guadalupe
15 Hidalgo in the Louisiana Purchase treaty?

16 MS. SAGGESE: I am not aware, but I would
17 think that under international law the United States
18 would have the obligation to respect preexisting titles,
19 and it did set up a board of land commissioners
20 identical to the board of land commissioners in
21 California in purpose --

22 QUESTION: If you are right there, then we are
23 not talking about just a federal right that arises under
24 any patent confirming a prior Mexican grant in the whole
25 Mexican cession area, but we are talking about the area

1 between the Mississippi and the Rocky Mountains and the
2 Gulf of Mexico and the Canadian border.

3 MS. SAGGESE: Well, Your Honor, it is true
4 that the United States has acquired a lot of property
5 from other sovereigns, especially from Spain, Mexico,
6 and France. However, those states have already told us
7 what they think of that -- the law of the prior
8 sovereign. For example, in Louisiana we do have New
9 Orleans versus United States, where preexisting public
10 rights were recognized. In Florida we have the Apcla
11 Jaccla case, in which the La Cieta Partidas, which was
12 the law in effect in Mexico at the time of this grant,
13 was interpreted to hold that a grant of tidelands passed
14 again, the proprietary rights only held by the crown,
15 but retained the public rights, which would remain. The
16 public rights there seemed to --

17 QUESTION: I take it that it isn't entirely
18 impossible under your theory that the Supreme Court of
19 Nebraska, which is a state that was acquired in the
20 Louisiana Purchase, could next year decide that under
21 old French law the state owned the bottom of all the
22 riverbeds, even though that had never been the law in
23 Nebraska up to now, and presumably that would then
24 depend on an examination of the old French authorities
25 prior to the Louisiana Purchase.

1 MS. SAGGESE: Well, Your Honor, if California
2 is correct in this case, Nebraska would have to follow
3 the same type of analysis as California has proposed
4 here, and it would have to be a right that was existing
5 under the previous sovereign, and the analysis would
6 also have to consider whether that right would take away
7 any rights for existing private property rights under
8 the preexisting sovereign, and also determine whether or
9 not that right is consistent with and compatible with
10 its own system of laws.

11 For example, in California, the courts have
12 looked at water rights questions, and have decided to
13 adopt federal water rights, because they are consistent
14 and compatible with their own system, but rejected the
15 appropriative water rights system that Mexico held in
16 favor of a Riparian one. So these questions have been
17 decided all along since statehood in the various states,
18 and this is the type of analysis that has been used.

19 Tidelands are a special type of property. It
20 is a type of property that has been -- in which public
21 use and public rights have been protected by nations
22 since the time of Justinian. It is a type of property
23 that is so important to the state functioning as a state
24 that it has been identified with the police power as an
25 incident of sovereignty. The tideland --

1 QUESTION: Ms. Sagesse, why isn't the
2 California court bound by the determination of the
3 question of historical fact in the 1851 Act proceedings
4 that the lands weren't tidelands?

5 MS. SAGGESE: Well, Your Honor, those
6 proceedings took place pursuant to the Act of 1851, and
7 the board and the General Land Office had a very limited
8 jurisdiction under that Act. It had to determine the
9 validity of title and then if found to be valid to
10 locate them on the ground. This Court held in *Freemont*
11 *versus United States* that those bodies -- expressly held
12 that those bodies did not have the jurisdiction to
13 determine or affect sovereign rights.

14 So, the first answer to that question is that
15 any determination made in the General Land Office as to
16 the location of a private grant could not have affected
17 sovereign rights because it didn't have the jurisdiction
18 to do so. But secondly --

19 QUESTION: Well, did it have jurisdiction to
20 determine whether they were tidelands or not?

21 MS. SAGGESE: Well, I think that that was an
22 irrelevant question in that proceeding because the
23 purpose of the proceedings in the General Land Office
24 was not to determine the character of property and then
25 if found to be tidal to exclude them, but rather to

1 determine if the surveys that had been made of the
2 ranchos had accurately depicted the boundaries set forth
3 in the decree of confirmation. The fact of the
4 character of the land that would be encompassed within a
5 rancho was really irrelevant to the General Land Office.

6 For example, many years before the La Ballena
7 survey was approved by the General Land Office, it had
8 approved the survey for the rancho that was involved in
9 the Coronado Beach case. Now, that admittedly contained
10 within it tide and submerged lands in San Diego Bay, and
11 yet the General Land Office approved it, notwithstanding
12 the fact that it contained tide and submerged lands,
13 because it found that the survey accurately depicted the
14 boundaries that had been set in the decree of
15 confirmation, and that is all they did in this case.

16 It is true that a statement was made by
17 Commissioner Drummond that the inner bay is not an arm
18 of the sea. However, for one thing, it was a not
19 irrelevant determination to what they were doing, and
20 secondly, it was superseded by the Secretary of the
21 Interior's decision on the case which didn't mention the
22 character of the land at all, and simply said that the
23 survey's northeastern and northwestern boundaries had
24 been correctly located, and furthermore, the subject of
25 the instant case is not in that inner bay. It is a part

1 of the inlet which in the U.S. Coast Survey map of 1876
2 is shown as tideland, which even the Solicitor General
3 concedes shows a low water line, indicating that it is
4 tidal.

5 For that reason, it has never been determined
6 otherwise than to be tidal, and that was what the
7 experts at trial looked to, not the character of the
8 entire inner bay as to whether it was tidelands
9 historically, but only that part of the inlet that is
10 involved in this case, and that was found to be
11 tidelands today and tidelands for the last 900 years.

12 The tidelands in issue here, I should point
13 out, are very small in size. They take up about 12
14 acres of the approximately 14,000 acres confirmed to
15 Summa's predecessors in interest, but they are important
16 nevertheless to the state because they are one of the
17 few remaining undeveloped estuaries in Southern
18 California.

19 QUESTION: Ms. Sagesse, some time during your
20 argument would you mind taking out the map that appears
21 at the back of the brief for the petitioner and
22 identifying which of the lands there are the subject of
23 this particular dispute?

24 MS. SAGGESE: Yes, Your Honor. I would be
25 happy to do that. That map and petitioner's statement

1 and also that of the Solicitor General would have this
2 Court believe that an entire area of the inner bay is
3 involved in the instant proceedings, but it is actually,
4 as I say, 12 acres of tidelands that are at the very
5 bottom of the map.

6 QUESTION: The very bottom of the map?

7 MS. SAGGESE: Yes, where it connects to the
8 sea. Today --

9 QUESTION: Where it says Del Ray Lagoon?

10 MS. SAGGESE: It is north of the entrance
11 channel.

12 QUESTION: North of the entrance channel.

13 MS. SAGGESE: I think you can see a little bit
14 of the blue waterway with Ballona Lagoon.

15 QUESTION: Part of the -- the southern part of
16 the Ballona Lagoon? Is that what we are --

17 MS. SAGGESE: Yes. Well, that map does not
18 show the historic lagoon. It shows the Marina del Rey
19 small craft harbor that was built in the 1960's, and
20 that, of course, is not in issue here. The only thing
21 we have is historic tidelands. Your Honor, would you
22 like me to --

23 QUESTION: No, that is what I was trying to
24 find out. Thank you very much.

25 MS. SAGGESE: Our position is that when these

1 tidelands were held by Mexico, they were subject to
2 public rights that are very similar to the public
3 trust. In fact, in the Apola Jacola case, we know that
4 those public rights had the same source, that is, Roman
5 law book, the common law public trust, and the Mexican
6 public trust. They were both recognized as incidents of
7 sovereignty. They were both -- they came into being as
8 a recognition of the public interest in waterways and
9 the necessity to protect this public interest.

10 QUESTION: One point that is made by your
11 opponents, and they dispute the Supreme Court of
12 California on this, I guess, is, they say that we are
13 not really talking here about an incident of
14 sovereignty. We are talking about essentially a
15 proprietary interest in the land, because presumably it
16 is so extensive in their view. Do you think that the
17 distinction between the so-called sovereign power that
18 you say it is and the ordinary property interest is a
19 rather clear one?

20 MS. SAGGESE: Yes, Your Honor, the sovereign
21 rights have always been treated much differently from
22 proprietary rights. In fact, the sovereign ownership of
23 land has been very clearly shown to be comprised of two
24 separate elements, the proprietary rights in the land or
25 the use probatum and the public rights in the land or

1 use publicum, and the sovereign can convey the
2 proprietary rights so long as the public rights are
3 retained, and that was what was done in this case by the
4 Mexican sovereign.

5 We do have sovereign ownership here.
6 California never owned the fee title to the land, but
7 the Mexican sovereign did, and when he granted out this
8 land, the public rights in it remained. It is only the
9 public interest that the state is interested in here,
10 and not the proprietary rights to the land, and this
11 public interest is, it is consistent with the state's
12 interest in protecting these properties, because the
13 public trust or state's interest in tidelands is not
14 coextensive with the full breadth of ownership.
15 Ownership of the public trust interest has been found to
16 be necessary to protect these properties and will
17 satisfy --

18 QUESTION: Under your theory, is it essential
19 that this public trust doctrine or its counterpart had
20 existed under Mexican law at the time of the 1839 grant?

21 MS. SAGGESE: Well, Your Honor, yes. It
22 would be a very tough case.

23 QUESTION: In view of the Coronado Beach and
24 some of the others kind of attaching special
25 significance to Mexican land grants, I would think if

1 this hadn't existed under Mexican law you would have a
2 real problem.

3 MS. SAGGESE: Yes, Your Honor, I believe so.
4 I'd like to talk about the Coronado case for just a
5 moment.

6 QUESTION: Before you do that, could I ask,
7 what evidence is there in the record about the existence
8 of the easement in the original Mexican grant?

9 MS. SAGGESE: In the original Mexican grant
10 we have the language that the grantee can enclose the
11 property without prejudice to the traversing roads and
12 servitudes.

13 QUESTION: That is the only language?

14 MS. SAGGESE: That is the language, Your
15 Honor, which petitioner's own expert witness on Mexican
16 law interpreted at trial to mean a reservation in favor
17 of the public, that it would include the public's rights
18 in tidelands, and California courts have also
19 interpreted this language, servitude in the context of a
20 Mexican ranch grant, to be a reservation in favor of the
21 public, and this Court's holding in Barker versus Harvey
22 is not to the contrary, because in that case this Court
23 only found that an Indian private right of occupancy was
24 not a servitude, but that is consistent with the
25 California courts' determination that only public rights

1 were servitudes under Mexican law. The Indian right,
2 being a private right, could not have been a servitude.

3 In the Coronado Beach Company case, the
4 Solicitor General has talked to this Court at length
5 about what was contained in the briefs for the United
6 States. I didn't have access to them. I don't know
7 what was on review to the Court by the United States
8 other than what is contained in the official reports.
9 There is an excerpt of the United States' argument there
10 in which the United States clearly acknowledges the
11 existence of the public trust.

12 In fact, the attorney for the Coronado Beach
13 Company also says the public rights for navigation and
14 fishery are not in issue here. So this was strictly a
15 case of whether the United States was going to have to
16 pay for this land. It argued, Number One, that it
17 shouldn't have to because under Mexican law there was a
18 servitude -- this language, without prejudice to the
19 servitudes existed in that grant as well -- and that the
20 servitude for military occupation would allow it to be
21 able to get this land free of payment of compensation.

22 But this Court looked at servitude in that
23 grant and determined that there was no such servitude
24 under Mexican law, that the military right of occupancy
25 could not exist under Mexican law on private property,

1 and where it could exist, the Mexican government would
2 have to pay compensation, so therefore there was no
3 servitude under Mexican law that would get the United
4 States out from having to pay compensation.

5 The only other question that the Court
6 addressed in its opinion is whether fee title to tide
7 and submerged lands would have passed in the
8 confirmatory patent in that case, and it said, it
9 acknowledged that tidelands are usually held by the
10 state, but said that since we had the obligation to
11 recognize preexisting titles, and since Mexico had the
12 ability to convey these lands, that if they were
13 encompassed within a confirmatory patent, the only thing
14 we could do was recognize them.

15 The state's title was held in abeyance until
16 they were finally located, and if it was found to
17 include tide and submerged lands, that title related
18 back to the original grant, which said the state never
19 had any interest in it as far as the fee is concerned,
20 but we say that since the sovereign retained the public
21 rights, those public rights then came to California on
22 its admission to the union.

23 QUESTION: May I ask you a question? You
24 don't dispute, as I understand you, that title to the
25 tidelands itself is in your opponent. It is just the

1 trust interest in the --

2 MS. SAGGESE: That is exactly correct.

3 Exactly.

4 QUESTION: So that is a little different. In
5 the Coronado Beach case there was actually a dispute
6 over the ownership of the tidelands themselves.

7 MS. SAGGESE: In fact, Your Honor, I think
8 that was the only issue that the Court addressed in its
9 opinion, ownership of the fee title of tidelands.

10 QUESTION: Yes.

11 QUESTION: Could I ask you, I take it that
12 under the California public trust doctrine, the state
13 could actually take possession of the property and
14 develop it?

15 MS. SAGGESE: The state would have the right.
16 This retained public trust interest could be exercised.

17 QUESTION: Well, it could take possession and
18 develop it.

19 MS. SAGGESE: That's right.

20 QUESTION: Do you think that was true of the
21 reserved right which you claimed existed in favor of the
22 sovereign in Mexico and under Mexican law?

23 MS. SAGGESE: I don't know, Your Honor, but
24 we do know that it was very -- they were both couched in
25 the same terms. That is, public rights for navigation

1 and fishing, and in fact the Mexican public trust might
2 have even been broader because, as was stated in the
3 Apola Jacola case, it recognized public rights for
4 recreation as well, which the California courts have
5 only recently recognized.

6 But I think, Your Honor, that you have to
7 compare the Mexican public trust and the common law
8 state public trust at the time of 1848 when the Mexican
9 sovereign would have relinquished it, and 1850, when the
10 state would have succeeded to it, and it is only at that
11 time that a comparison is valid. After that, Mexican
12 law is irrelevant, and the interests would be defined by
13 the California common law.

14 QUESTION: Were there any improvements on this
15 lagoon at the time this complaint was filed?

16 MS. SAGGESE: Never, Your Honor. There still
17 are none today.

18 QUESTION: None today?

19 MS. SAGGESE: None today.

20 QUESTION: Would the owner of the fee have had
21 the right, say, to put a large marina on it?

22 MS. SAGGESE: Your Honor, as far as privately
23 owned tidelands subject to the public trust, there are
24 approximately 80,000 acres of such lands in private
25 ownership in the state today. These are lands located

1 outside of Mexican ranchos which everyone concedes the
2 state came into full ownership of on its admission to
3 the union. So over the years the state has sold
4 approximately 80,000 acres into private ownership, and
5 yes, the uses that can be made of them include marinas,
6 commercial uses such as restaurants, commercial
7 buildings, hotels.

8 QUESTION: Could the city of Los Angeles have
9 enjoined an improvement that it thought interfered,
10 perhaps, with its wetland rights?

11 MS. SAGGESE: The only way that -- once a
12 development is in -- right now there is a procedure in
13 California where if a person wants to make a development
14 on lands within the coastal zone, which would include
15 these lands, it would have to go to the Coastal
16 Commission for a development permit. The Coastal
17 Commission then informs the State Lands Commission that
18 there is going to be a development or one is proposed.

19 QUESTION: Before any development could be
20 made, permission has to be obtained?

21 MS. SAGGESE: By the State Lands Commission.
22 The State Lands Commission will comment as to whether
23 the development is or is not consistent with the public
24 trust, and once -- once a development is in on the basis
25 that the State Lands Commission had said it is not

1 inconsistent, if the state at a later date wanted to
2 exercise the public trust to remove it, it would have to
3 pay compensation for the improvement under state law and
4 for the fill.

5 QUESTION: I am puzzled about that. Is this
6 public trust interest something that the state can or
7 cannot convey to a private owner?

8 MS. SAGGESE: The proprietary rights in
9 tidelands can be conveyed by the state as sovereign, but
10 subject --

11 QUESTION: Can they surrender entirely?

12 MS. SAGGESE: Absolutely not. It is subject
13 to the public trust. It can be surrendered entirely,
14 but only under special circumstances for the reclamation
15 of property in aid of navigation, similar to the Jover
16 case, Jover versus Insular Government, which was a
17 recognition that under the Mexican law similar grants of
18 tidelands could be made for reclamation and improvement
19 to navigation, so the two public trusts are similar --

20 QUESTION: You rely on the Illinois Central
21 case, which I understood held that if it is this kind of
22 animal, this kind of trust right, the state legislature
23 does not have the power to divest the state of it.

24 MS. SAGGESE: That was a case where it was
25 divesting its entire ownership. I think the Court --

1 QUESTION: That is what I am asking. Could
2 the state of California divest its entire ownership in
3 this particular -- what is in dispute here.

4 MS. SAGGESE: Fee title and public trust, no.
5 It would have to be -- There is state law on this
6 subject. It says it has to be a relatively small
7 parcel, that it wouldn't interfere with the use of the
8 remaining tidelands, that it has to be in the course of
9 a highly beneficial program that would aid navigation,
10 and there might be one other. There are quite a few
11 tests that have to be made before the public trust would
12 be terminated.

13 QUESTION: As I understand it, meanwhile, the
14 fee title, without the permission of the Lands
15 Commission, you can't do anything --

16 MS. SAGGESE: That is not true, Your Honor.
17 The private owner of tidelands can make any use that is
18 not inconsistent with the trust. The only thing that --

19 QUESTION: Yes, but can he make that use --
20 perhaps I misunderstood you. I thought you said any use
21 he wants to make of it, the consistency with the state
22 interest has to be determined, and that is by the Lands
23 Commission.

24 MS. SAGGESE: Well, he can -- if a developer
25 wants a determination from the state lands commission,

1 he can have it, and --

2 QUESTION: My question is, doesn't he have to
3 get that determination?

4 MS. SAGGESE: I think that under the procedure
5 that is set, it would automatically happen in the course
6 of getting --

7 QUESTION: It would automatically happen how?
8 He would have to go to the --

9 MS. SAGGESE: That he would get permission
10 because it would be part of the development permit
11 process.

12 QUESTION: My question is, he can't do
13 anything without that permission, can he? You say he
14 wouldn't --

15 MS. SAGGESE: Unless he didn't want a
16 development permit. If he didn't go through the
17 development permit process, the State Lands Commission
18 would never know about it, and anything could go on
19 that property without knowledge.

20 QUESTION: Well, anything? I mean, he could
21 build on it?

22 MS. SAGGESE: Well, not without a development
23 permit. I would say that in the procedure that is set
24 by state law now for development permits, the State
25 Lands Commission would be informed and would comment on

1 the development.

2 QUESTION: Yes, but what can he do without
3 getting a permit, with the Mexican lands?

4 MS. SAGGESE: Well, Your Honor, this land is
5 treated the same as any other tidelands in the state.

6 QUESTION: I know, but I still don't
7 understand. What may he do without getting a Lands
8 Commission permit?

9 MS. SAGGESE: If he wants to develop -- It is
10 not a permit, Your Honor. It is just a statement that
11 it is not inconsistent with the public trust.

12 QUESTION: Well, whatever it may be.

13 MS. SAGGESE: I think that in order to put any
14 kind of a development on it, he would have to go through
15 the governmental permit process or else he couldn't
16 develop it at all, and in going through the governmental
17 development --

18 QUESTION: He couldn't develop it without it.
19 What may he do without going to the Lands Commission?

20 MS. SAGGESE: He can make any use of it in its
21 natural condition that it is in now -- it has been in
22 this natural condition since, I suppose, the beginning
23 of time. It is still in its natural condition now.

24 QUESTION: Well, what does that mean? He can
25 fish? He can hunt?

1 MS. SAGGESE: Well, the public has been making
2 that kind of use of it, the fishing and hunting and
3 clamming and boating and swimming, since the 1800's that
4 we know of, documented in the record, and this use has
5 been going on, and it still goes on now.

6 QUESTION: But it can't produce too much
7 income for the fee title owner, can it?

8 MS. SAGGESE: No, Your Honor.

9 QUESTION: May I follow up, please, ma'am? We
10 have an amicus brief filed on behalf of the Title
11 Examiners Association of California, the Title Insurance
12 Companies, I guess it is.

13 MS. SAGGESE: Yes.

14 QUESTION: They say that thousands of policies
15 have been issued that have not recognized California law
16 to be as your brief describes it. Is this just
17 attributable to the ignorance of the lawyers who examine
18 the titles? Or what is the explanation of that?

19 MS. SAGGESE: Well, I don't know, Your Honor.
20 There is usually an exception in land title policies for
21 sovereign rights of the state, but one thing I do know
22 is that they state that eight and a half million acres
23 of property would be clouded. Well, that must be all
24 property that was ever included in the Mexican ranch
25 grant, and even the California Land Title Association

1 admits that shores and tidelands and submerged lands and
2 bays were not generally granted by Mexico. We have not
3 done an inventory of how much land would be involved,
4 but we know that it was not very much land at all.

5 QUESTION: Related to that question, has the
6 state of California asserted before this case in other
7 cases involving Mexican rancho grants this public trust?

8 MS. SAGGESE: Yes, Your Honor. In fact, in
9 the reply brief filed by Summa, they point to the Rancho
10 Bolsa Chica case and said that the state has changed its
11 position, because in that case we took the position that
12 tidelands within ranches are not subject to the public
13 trust. However, petitioner has also included in his
14 reply brief the supplemental brief that the state filed
15 in that case which sets forth the responses.

16 In that case, the underlying transaction
17 involved was a settlement of where sovereign rights were
18 going to be, and it was a settlement, and in the
19 underlying settlement the state did recognize that
20 tidelands within ranches were subject to the public
21 trust.

22 QUESTION: Well, it is a recent position taken
23 by the state.

24 MS. SAGGESE: Well, it has only come up --
25 every time it has come up the state has taken that

1 position. That is the best way that I can answer that.

2 CHIEF JUSTICE BERGER: Very well. Your time
3 has expired.

4 MS. SAGGESE: Thank you, Your Honor.

5 CHIEF JUSTICE BERGER: Mr. Christopher, do you
6 have any more?

7 ORAL ARGUMENT OF WARREN M. CHRISTOPHER, ESQ.,

8 ON BEHALF OF THE PETITIONER - REBUTTAL

9 MR. CHRISTOPHER: Only briefly, Mr. Chief
10 Justice.

11 First, on a factual matter, I wanted to be
12 sure that Mr. Justice Fehnnquist had his question
13 answered with respect to the map attached to our brief.
14 The property in issue, as I believe you were correctly
15 saying at the end of the colloquy, is the Ballona lagoon
16 area there just north of the channel. The area of black
17 line is the area which the state says may be public
18 trust. In other words, that may be the area where they
19 assert public trust interests if they win this case with
20 respect to the Ballona lagoon.

21 Mr. Justice Brennan, on your factual question,
22 I think the answer is, a landowner, our client, and
23 other landowners would be able to undertake any
24 development on the property only at their peril, only at
25 the peril that subsequently the state would assert that

1 it was inconsistent with the public trust.

2 QUESTION: But if they get the permission in
3 the first place, that determination is made by the
4 commission, is it?

5 MR. CHRISTOPHER: That determination is made
6 by the State Lands Commission, but after a rather
7 exhaustive proceeding, and as you understand, Mr.
8 Justice, the State Lands Commission could insist that
9 the property be kept in open space without the payment
10 of compensation if you were to uphold this public
11 trust.

12 With respect to the provision of the grant
13 relating to traversing roads, I think I should say
14 before I conclude that that provision is in the 1839
15 Mexican grant, but it does not appear in the 1873 patent
16 from the United States to petitioner's predecessors.
17 Once again, that is the kind of an issue the Board of
18 Land Commissioners were fully competent to pass on. The
19 fact that it does not appear in the patent, I think,
20 should be decisive here in addition to the fact that
21 this Court has never held that language preserved so
22 broad and pervasive and permanent a trust -- or a
23 property interest as is involved here.

24 Mr. Chief Justice, thank you very much.

25 CHIEF JUSTICE BERGER: Thank you, counsel.

1 The case is submitted.

2 (Whereupon, at 11:59 o'clock a.m., the case in
3 the above-entitled matter was submitted.)

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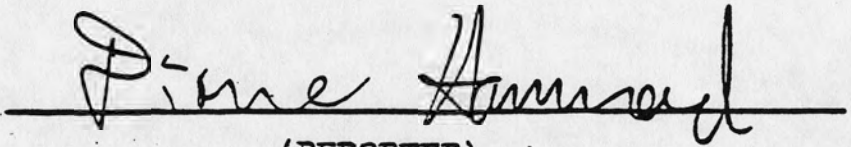
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#82-708-SUMMA CORPORATION, Petitioner v. STATE LANDS COMMISSION AND CITY OF LOS ANGELES

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