

This Calendar Item No. 11  
was approved as Minute Item  
No. 11 by the State Lands  
Commission by a vote of 2  
to 0 at its 4-26-79  
meeting.

MINUTE ITEM

4/26/79  
Rump

17. AUTHORIZATION FOR LITIGATION - W 503.967.

James Trout, Assistant Executive Officer, acknowledged receipt of and submitted for the record letters from John Dacey, representing Yuba Goldfields Inc., Reverend Hugh J. Bannon of St. Josephs Church, Marysville, and a telegram from Harold J. Sperbeck, Chairman, Yuba County Board of Supervisors.

Staff Counsel Jack Rump presented the staff's position on this matter.

Marvin Kratter, John Dacey, and Frank Andres appeared on behalf of Yuba Goldfields, Inc.

Donald Denny and Morgan Wheeler appeared on behalf of the United States Corps of Engineers.

Clark Moscrip appeared on behalf of Mr. Andy Rossen, Jr.

Assistant Attorney General N. Gregory Taylor provided the views of the Attorney General on the matter.

Commission Alternate David Ackerman suggested that the wording of the staff recommendation be altered so as to delete the directive "to protect" state interests in the Yuba River in favor of one "to determine" such interests. Mr. Ackerman was of the belief that this language more precisely characterized the uncertain nature of the title questions regarding the property. The amendment was adopted by the commission.

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

THE COMMISSION AUTHORIZED STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO DETERMINE ANY AND ALL STATE INTERESTS IN THE YUBA RIVER AT THE LOCATION IN QUESTION.

Attachment: (3 pages)

CALENDAR ITEM

17.

4/79  
W 503.967  
Rump

AUTHORIZATION FOR LITIGATION

Last year, the State Lands Commission's staff found that Yuba Goldfields, Inc., claimed ownership of the bed of the Yuba River along a stretch of the River near Hammonton above Marysville. The State became aware of this claim primarily through the efforts of a private party (Mr. Rossen) to join the State Lands Commission in a suit with Yuba Goldfields. The Commission's staff began an investigation of possible State ownership of the bed of the Yuba River.

As part of this investigation, the Staff met with a number of persons and agencies including Yuba Goldfields, the United States Army Corps of Engineers, and the Bureau of Land Management. From these meetings, the staff learned that Yuba Goldfields and the Corps of Engineers was negotiating an exchange of lands. The exchange is in the area of the proposed Marysville Lake Project.

As a result of this investigation, the State Lands Commission's staff concluded:

1. The Yuba River is a navigable waterway and was such at the time of California's admission to the Union in 1850.
2. Accordingly, the bed of the river is sovereign land, owned by the State in trust for its citizens.
3. Intensive mining activities in the mid-nineteenth century have irreparably altered the course and nature of the Yuba River at this location.

The staff then prepared a calendar item for the October 1978, Commission meeting authorizing the staff and the Office of the Attorney General to take whatever steps were necessary to protect the public rights in the bed of the Yuba River.

At the request of Yuba Goldfields, this item was removed from the calendar and discussions were begun to explore the matter further. At one of the meetings Yuba Goldfields suggested a property exchange whereby the State would get title to the present bed of the river. However, subsequently Yuba Goldfields informed the staff that they were not interested in any further settlement negotiations. Yuba Goldfields was also offered a non-prejudicial permit for its intended activities which was refused.

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At the present time, there appear to be 3 major issues involved in this controversy:

1. Whether the Yuba River was navigable above the statutory head of navigation in 1850 (which was 8 miles above the confluence of the Yuba and Feather Rivers near Marysville). The statutory head was later further amended downstream.
2. Whether the proper boundary is high or low water.
3. The actual location of the river boundary in its natural location.

Insofar as Yuba has refused to negotiate with staff, there would seem to be no alternative, but to let a court resolve the dispute. Failure to proceed at this time could result in the loss of valuable public rights, lands and minerals.

EXHIBIT:           A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO PROTECT ANY AND ALL STATE INTERESTS IN THE YUBA RIVER AT THE LOCATION IN QUESTION.

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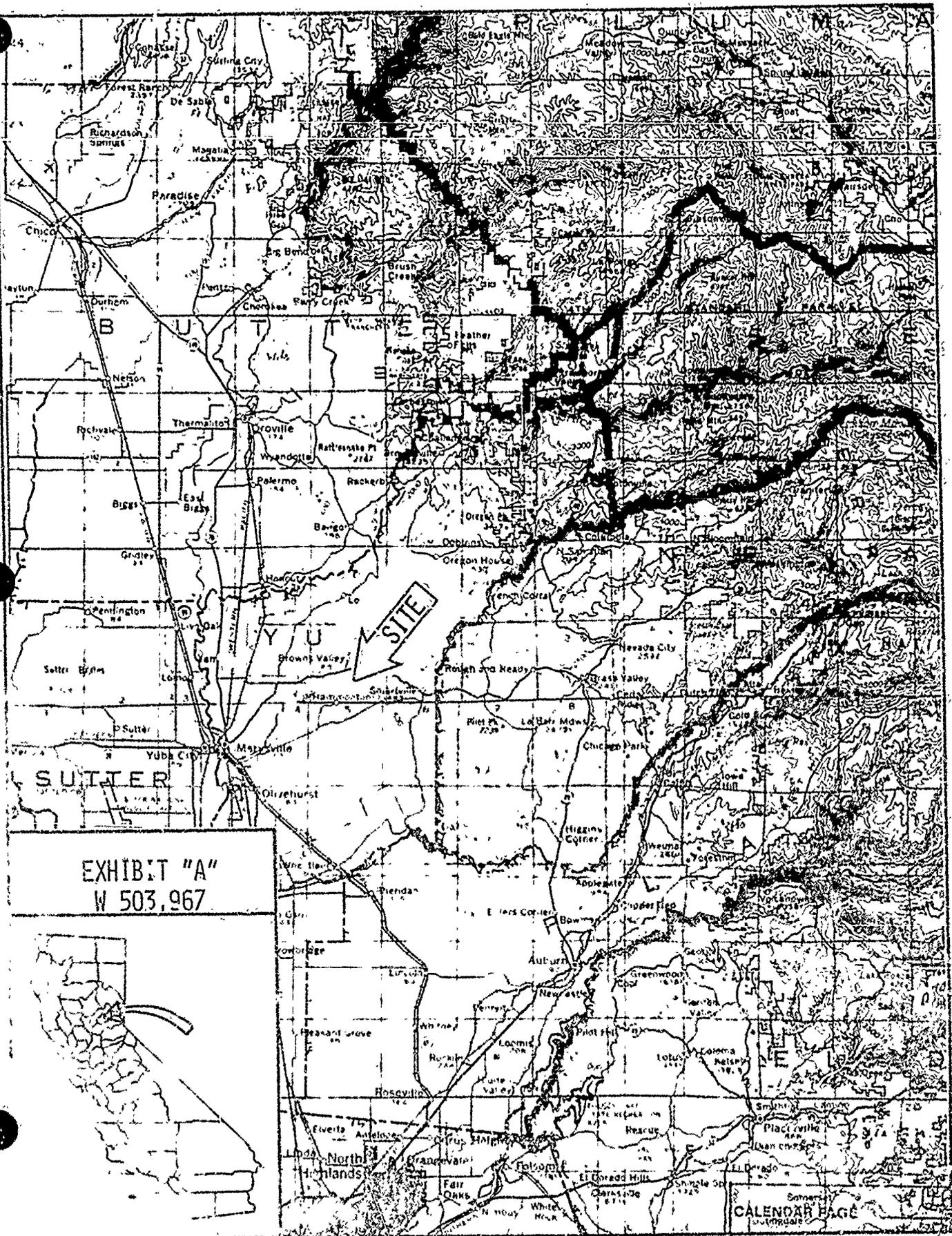
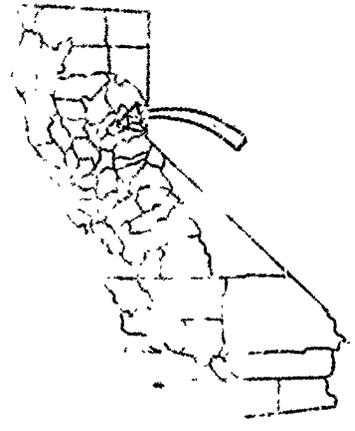


EXHIBIT "A"  
W 503,967



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