MINUTE ITEM

This Calendar Item No. 52. was approved as Minute Item No. 52 by the State Lands Commission by a vote of 2 to 0 at its 8-23-79 meeting.

CALENDAR ITEM

52.

8/79
W 503.357
Flushman

EARL AND TALAWA SETTLEMENT
AND DONATION AGREEMENTS

In 1960 litigation was commenced against the State by certain plaintiffs seeking to quiet their title to land in Del Norte County which, in essence, comprised the beds of 2 coastal lakes, Lakes Earl and Talawa. The litigation was not pursued on an active basis by plaintiffs. A substitution of plaintiffs was undertaken and Loren C. Bliss et al. ("Bliss") became the named plaintiff. Again the litigation was not actively pursued. The State has still not answered the complaint but has waived the 5-year dismissal statute.

The essential contentions of Bliss are that Lakes Earl and Talawa were sold as swamp and overflowed lands by the State; that the lakes were patented to the State as swamp and overflowed by the United States; and by operation of P.R.C. Section 7552 the State's interest in the beds of Lakes Earl and Talawa was terminated. Other contentions are made as well concerning the ability of the State to now assert any claims of ownership to those lakes. On the other hand, the State's position, in brief, has been that no authority ever existed to sell the submerged beds of Lake Earl and Talawa; that the State is not precluded from asserting this claim; and that the State owns the beds of Lakes Earl and Talawa as sovereign lands of the State.

Since about 1974, however, the California Department of Parks and Recreation and the Wildlife Conservation Board have been interested in acquiring the upland holdings of Bliss which surround Lakes Earl and Talawa. These uplands holdings contain 7 miles of coastline now held in private ownership. The purpose of the acquisition is the preservation of valuable wetland and coastal dune habitat, cultural and ecological resources and the provision of compatible outdoor recreational and educational opportunities. Authorization to acquire these holdings was obtained and, since 1977, negotiations were undertaken with Bliss to acquire Bliss' holdings contiguous to Lakes Earl and Talawa. Those negotiations were recently concluded and Bliss' holdings acquired for just over $5,000,000. Lakes Earl and Talawa are an integral part of the acquisition, comprising a substantial recreational, ecological and educational resource.

CALENDAR PAGE 305
MINUTE PAGE 1638

Because of the pending title litigation evidencing the conflicting title assertions of the State and Bliss to Lakes Earl and Talawa, the lakes were excluded from the scope of the acquisition. To accomplish the purpose of the acquisition in a manner that would result in the State and Bliss clarifying their title interests in Lakes Earl and Talawa was the subject of considerable negotiation. Such negotiations have resulted in a compromise of the litigation, subject to the approval of the Commission.

In essence the compromise provides that in consideration of the State releasing its interest in Lakes Earl and Talawa Bliss will donate Lakes Earl and Talawa to the State to be held as State sovereign lands. The compromise is accomplished by a Settlement Agreement between Bliss and the Commission and a Donation Agreement between Bliss and the California Parks Foundation ("Foundation"). The Donation Agreement accomplishes the donation of the lakes to the State by the concurrent execution of quitclaims of the lakes from Bliss to the Foundation and from the Foundation to the State. As a condition of the Donation the lakes are conveyed to the State as sovereign lands subject to all the constitutional protections of tidelands. The State's release provided in the Settlement Agreement is not effective until the execution and delivery of the deed from the Foundation to the State.

This settlement will resolve the outstanding litigation against the State without the expenditure of any time, effort or funds and risks of litigation. The result of the settlement will be to receive what the State has claimed and would have obtained had the litigation been concluded entirely favorably to the State - the beds of Lakes Earl and Talawa in fee as sovereign lands of the State subject to the constitutional protections of tidelands.

The office of the Attorney General has reviewed and approved this transaction and has also found the transaction exempt from the requirements of CEQA.

EXHIBITS: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE PROPOSED SETTLEMENT AGREEMENT AND AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE SAID AGREEMENT. A COPY OF THE SETTLEMENT AGREEMENT IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.

2. AUTHORIZE THE EXECUTIVE OFFICER, UPON APPROVAL OF THE DONATION AGREEMENT BY THE DIRECTOR OF FINANCE AND THE DEPARTMENT OF GENERAL SERVICES, TO ACCEPT AND RECORD THE QUITCLAIM OF LAKES EARL AND TALAWA FROM THE CALIFORNIA PARKS FOUNDATION TO THE STATE PURSUANT TO THE DONATION AGREEMENT.

3. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL OR THE STATE LANDS COMMISSION STAFF TO TAKE ALL SUCH FURTHER ACTIONS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT SAID SETTLEMENT.

4. FIND THAT THIS SETTLEMENT AND SETTLEMENT AGREEMENT IS IN SETTLEMENT OF THE TITLE AND BOUNDARY LITIGATION AND EXEMPT FROM THE PROVISIONS OF THE CEQA.

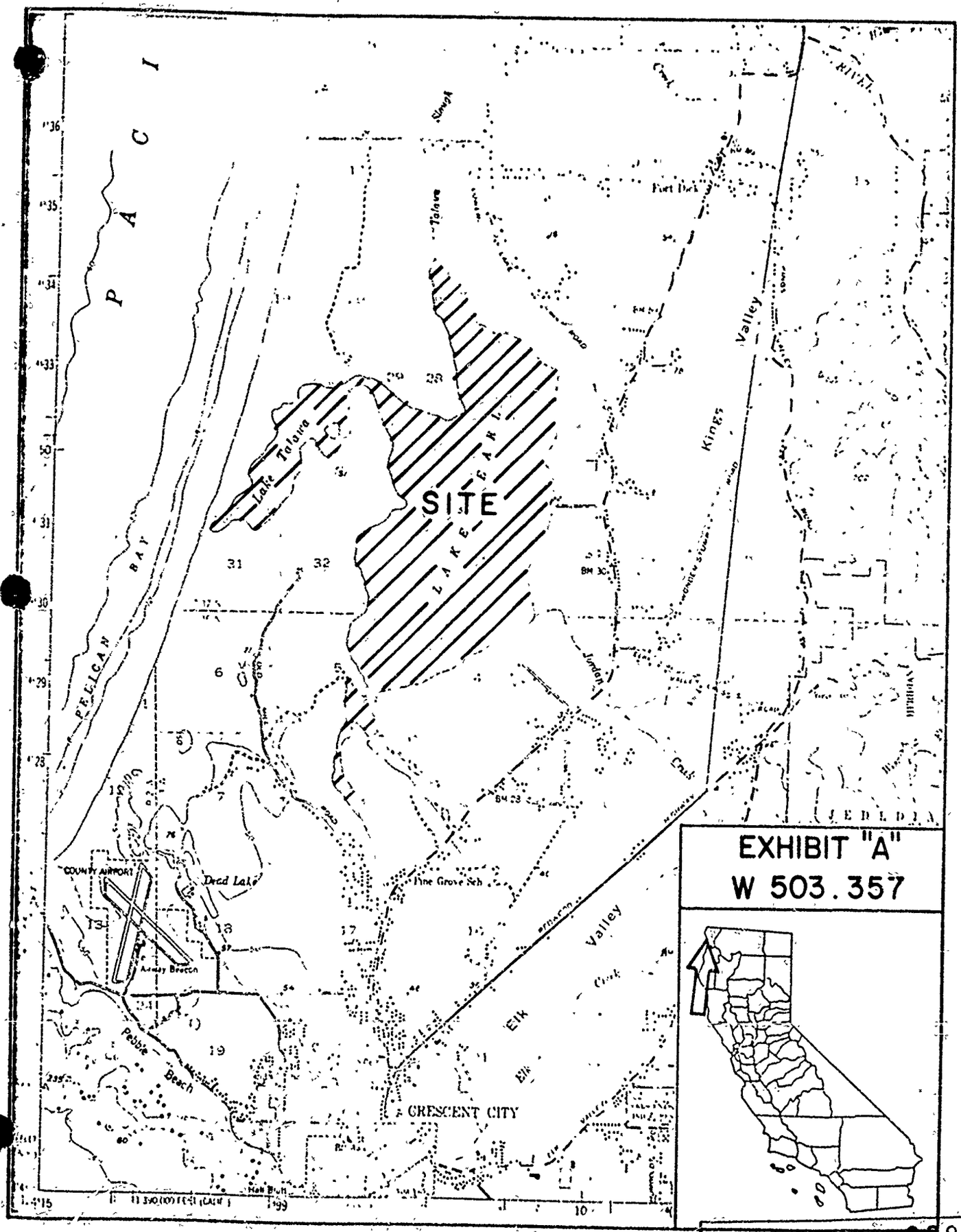

EXHIBIT "A"
W 503.357

CALENDAR PAGE 308
MINUTE PAGE 1641