

MINUTE ITEM

This Calendar Item No. 35 was approved as Minute Item No. 35 by the State Lands Commission by a vote of 2 to 0 at its 12-20-79 meeting.

CALENDAR ITEM

35.

12/79
W 21064
Cowan

AUTHORIZATION FOR SUIT TO REMOVE UNAUTHORIZED FILL

TRESPASSER: Bruce Martin
874 E. Woodward Avenue
Manteca, California 95536

AREA, TYPE LAND AND LOCATION: A parcel of tide and submerged land consisting of a cut-off arm of the San Joaquin River about 4 miles west of Manteca, San Joaquin County.

LAND USE: Land bridge to provide alternate vehicular access to a parcel of land on opposite side of the river.

BACKGROUND: On February 23, 1976, Bruce Martin applied for a permit to place fill in the old bed of the San Joaquin River for the purpose of constructing a land bridge to provide more convenient access to his land on the opposite side of the River. The old channel of the river at the subject site was cutoff from the present channel during the 1955 flood and formed an oxbow. The upstream end of the old channel was silted in, reclaimed and is now being used for agricultural purposes. The lower end remains open to tidal action through the present channel of San Joaquin River (see Exhibit A).

Negotiations were conducted for the next year and a half with various local, state and federal agencies to resolve this and other problems associated with Mr. Martins' overall development plans. In August of 1977, the State Lands Commission staff was informed by Mr. Martin that due to his inability to secure the necessary permits, he was terminating his proposed project.

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The State Lands Commission Staff was informed that on or about September 25, 1978, Mr. Martin had constructed a road across the old bed of the River by placing approximately 1000 cubic yards of fill material in the river without obtaining the necessary permits from public agencies. October 4, 1978 the United States Corps of Engineers filed Violation Report No. E-78-93 and subsequently issued a Cease and Desist Order.

The illegal fill was approximately 135 feet long with an average width of 45 feet. The fill blocked all navigation to approximately 1/2 mile of the upper reach of the old channel which in places is over 200 feet wide but averages about 100 feet. Mr. Martin has been requested to remove the illegal fill by the United States Corps of Engineers, the Resources Agency and the Commission staff.

In addition Mr. Martin has been requested by the Resources Agency to restore, as much as possible to its natural condition, the adjacent areas Mr. Martin had cleared of riparian vegetation which had been identified by the Department of Fish and Game as "...habitat types (which) are in critically short supply in the general area..." To date, none of these requests has been honored. A 30-foot wide breach was cut through a section of the illegal fill to restore an adequate water supply to a neighbor's pump.

The United States Corps of Engineers has referred the matter to their attorneys in Washington D.C. to proceed with action to force removal.

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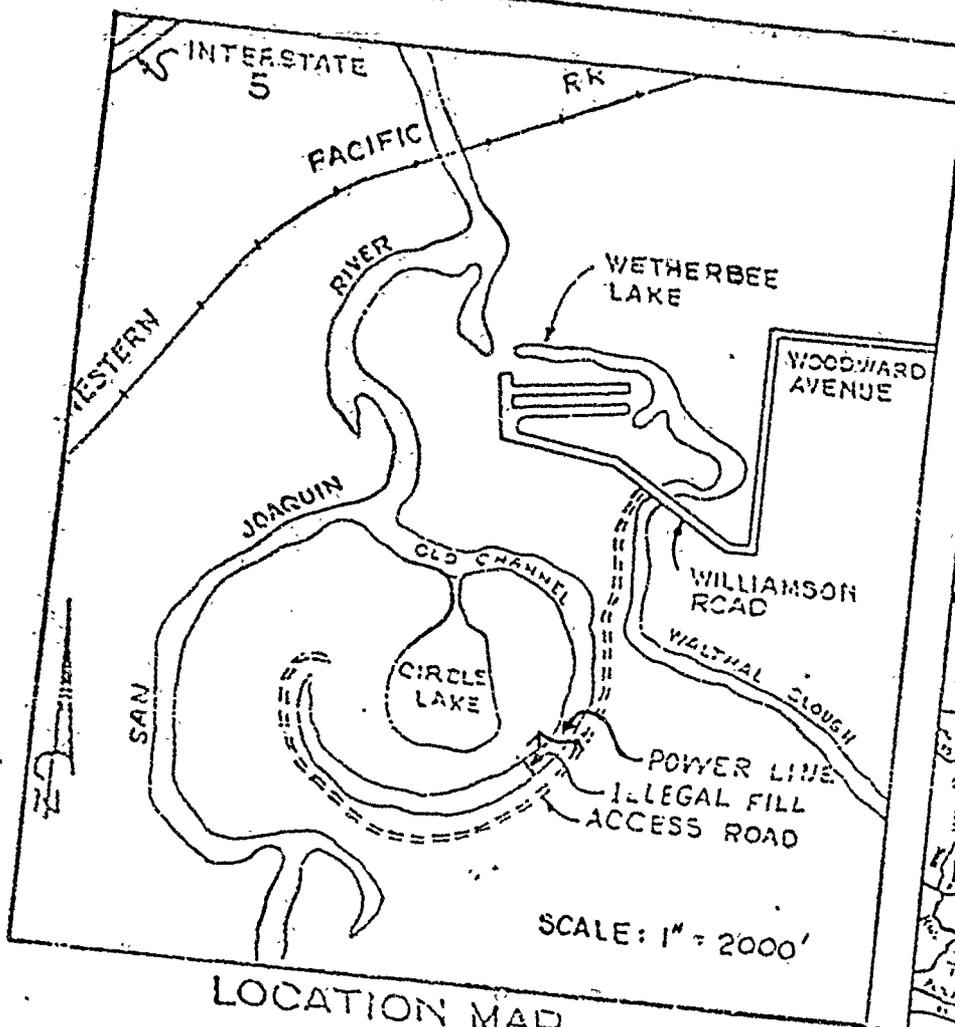
Although the subject fill is not capable of providing access at the present time due to the breach, Mr. Martin is reluctant to remove the remainder because he believes that some day he will be allowed to put a bridge across the channel at the site of the fill. The fill would then provide the approaches for the bridge. Present access to Mr. Martins' property is by way of an easement over an adjacent owner's land to the west, and across the reclaimed silted portion of the old channel of the same river, (also a trespass). The staff believes that due to the small size, (85 acres) of Mr. Martins property of which approximately 45 acres are covered by water (Circle Lake) and the environmental sensitivity of the area it is highly unlikely that additional access can be justified in the foreseeable future.

EXHIBIT: A. Location Map.

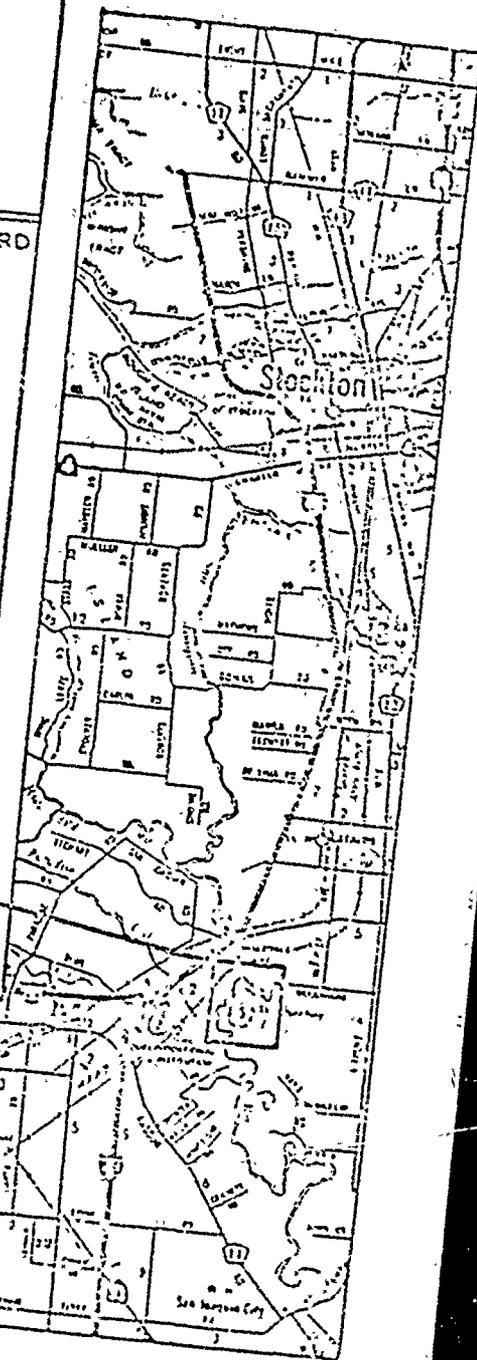
IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO CAUSE THE REMOVAL OF THE FILL WHICH WAS PLACED UPON THE STATE-OWNED TIDE AND SUBMERGED LAND WITHIN THE ORIGINAL BED OF THE SAN JOAQUIN RIVER AND THE RESTORATION OF THE LAND TO THE SATISFACTION OF THE COMMISSION TO ITS CONDITION PRIOR TO THE ALTERATIONS MADE BY/FOR BRUCE MARTIN.

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EXHIBIT A
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LOCATION MAP



VICINITY MAP

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