

MINUTE ITEM

This Calendar Item No. 30
was approved as Minute Item
No. 30 by the State Lands
Commission by a vote of 2
to 0 at its 10-30-80
meeting.

CALENDAR ITEM

30.

10/80
W 22505
BLA 198
Frank
Stevenson
Scott

AUTHORIZATION FOR ENTRY INTO BOUNDARY LINE
AGREEMENT WITH HERMAN H. AND IDA P. WEBER
RE: SWAMP AND OVERFLOWED LANDS SURVEY NO. 566,
SACRAMENTO COUNTY
(BLA 198)

In December 1974, the State Lands Commission was served with a Complaint in a quiet title action entitled Wilcox, et. al. v. State of California, Sacramento Superior Court No. 252408. That litigation concerned conflicting title claims to a parcel of land originally patented as swamp and overflowed lands adjoining sovereign lands in the Sacramento River in southern Sacramento County.

After considerable research into the title and physical history of the property at issue and extended negotiations with opposing counsel, the staff and Attorney General's Office proposed a settlement of the litigation establishing a high water boundary between State sovereign lands and private upland. That Agreement will utilize a 1925 United States Army Corps of Engineers Survey of the property which shows the shoreline. The Parties to this Agreement have chosen to use this shoreline survey as a reasonable compromise boundary between their respective ownerships. The Commission authorized execution of the Boundary Line Agreement in settlement of litigation at its May, 1979 meeting as Minute Item C-30.

Counsel for plaintiffs in the litigation also represent Herman and Ida Weber, owners of an adjoining parcel along the Sacramento River which has been subject to the same boundary changes and uncertainties. As a result, the negotiations were expanded in an effort to seek a similar resolution of the Weber/State boundary problems and to extend the boundary line used in the proposed settlement of Wilcox, et al, along the full length of the existing berm in this area of the Sacramento River.

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The parcel claimed by the Webers is Swamp and Overflowed Lands Survey No. 566, Sacramento County. Investigation by Commission staff revealed that there is considerable uncertainty concerning the State/private boundary between true swamp and overflowed lands and tide and submerged lands owned in trust by the State of California. Furthermore, there is uncertainty as to the extent to which the parcel has been subject to filling and natural or artificially-induced accretion and erosion over the years.

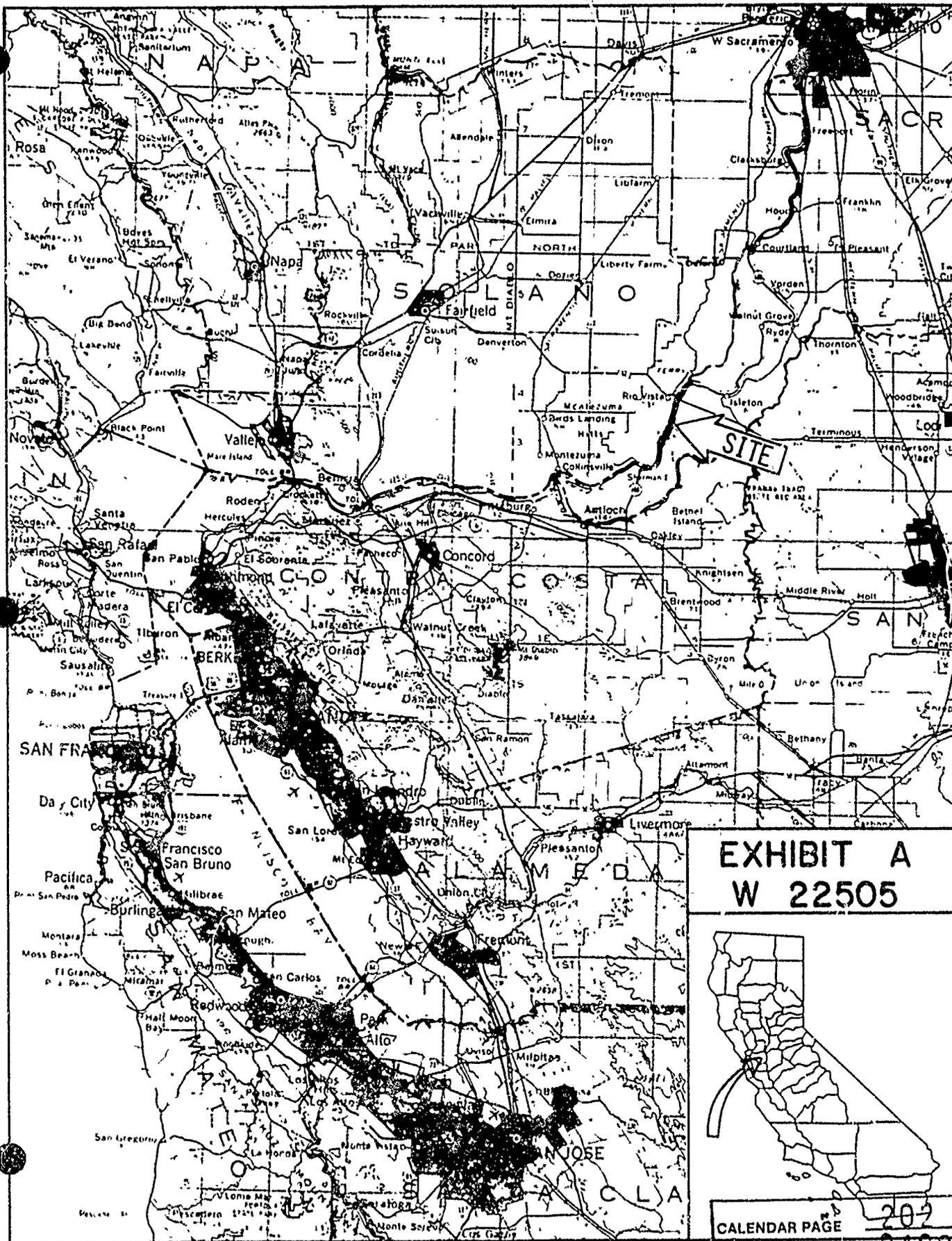
It is proposed that this boundary dispute be resolved through the execution of a Boundary Line Agreement between the State and the private parties. The proposed agreement provides for a permanently fixed boundary line along that portion of the property in dispute. The proposed Agreement adopts as a boundary the 1925 survey of the shoreline of the property which the parties agree represents a compromise settlement of this boundary dispute. This survey line is the same one recommended by the staff and adopted by the Commission in the proposed settlement of the Wilcox litigation over the adjoining parcel.

The proposed Boundary Line Agreement further provides for a quitclaim deed, by the private parties, to the State, of lands lying waterward of the compromise boundary line, including all claims of the private parties deriving from their predecessors' patent to Swamp and Overflowed Lands Survey No. 566. A corresponding quitclaim deed to lands lying landward of the compromise boundary line would be issued by the State to the private parties. The Agreement has been reviewed by staff and by the Office of the Attorney General, and it is their conclusion that the Agreement is in the best interests of both the State of California and the public. A copy of the proposed Agreement is on file in the offices of the State Lands Commission in Sacramento and is incorporated herein by reference.

EXHIBITS: A. Site Map. B. Parcel Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTION OF THE PROPOSED BOUNDARY LINE AGREEMENT (BLA 198) REGARDING SWAMP AND OVERFLOWED LANDS SURVEY NO. 566, SACRAMENTO COUNTY, AND TO TAKE SUCH OTHER ACTION AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS OF THE AGREEMENT INCLUDING, BUT NOT LIMITED TO, LITIGATION.
2. FIND THAT BECAUSE THIS TRANSACTION IS IN SETTLEMENT OF A TITLE DISPUTE, THE PROVISIONS OF EQA ARE INAPPLICABLE.



**EXHIBIT A
W 22505**



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