MINUTE ITEM
This Calendar Item No. 41
was approved as Minute Item
No. 41 by the State Lands
Commission by a vote of 2
0 at its 10-30-80
meeting.

CALENDAR ITEM

10/80
W 503.642
Hight

41.

AUTHORIZATION TO ENTER AGREEMENT AND STIPULATION
FOR JUDGMENT IN SETTLEMENT OF
DESMOND, ET AL. V. STATE OF CALIFORNIA, ET AL.,
BUTTE COUNTY SUPERIOR COURT NO. 50579

The above-referenced case arises out of a dispute between the State and the upland owner concerning the location of the ordinary high water mark along the right, or westerly, bank of the Feather River a few miles from Gridley, California. The state cross-complained against the upland owners on the opposite bank in order to obtain an adjudication of the location of the ordinary high water mark on the left, or easterly, bank of the river.

Certain grading and filling was done in the vicinity of the right bank in 1969, and the graded area is now part of an orchard. There is a dispute between the parties concerning whether this grading and filling was done in an area that was inundated at periods of ordinary high water. There is conflicting evidence on this question and it is highly uncertain how this issue would be resolved by a court. A compromise settlement is proposed that would involve an exchange of lands, a boundary line agreement, and a stipulation for entry of judgment.

Under this agreement, the State would quitclaim any interest it might have in a parcel lying between the existing ordinary high water mark on the right bank and the claim line inland thereof that it has asserted in the litigation. The private parties would obtain title to, and grant to the State, a parcel of equal or greater value that is usable for trust purposes. Further, the parties would agree that the existing ordinary high water mark on both banks of the river constitutes the State-private boundary and that such boundary is subject to future changes in location due to natural, non-avulsive causes. Finally, a judgment would be entered pursuant to stipulation which would quiet title in the right bank upland owners up to the agreed ordinary high water mark on the right bank and quiet title in the State to the bed of the river between the two agreed boundary lines. The settlement documents would be delivered into escrow and the settlement would not close until the private parties have delivered a grant deed to the State of the exchange parcel and the Commission has determined that such parcel is acceptable to the State. Only at such time would the Commission make

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(Added, 10/29/80)

its determination under Public Resources Code section 6307 that the parcel to be quitclaimed to the private parties was freed of the public trust claims of the State.

The effect of the proposed exchange will be to enhance and confirm the configuration of the shoreline for the improvement of lands lying landward of the existing ordinary high water mark and provide the State with a parcel of land more useful for the common law trust purposes of commerce, navigation, fishing, recreation, and ecological preservation and study.

A copy of the proposed Agreement and Stipulation for judgment is on file in the offices of the Commission. It has been reviewed by staff and by the Office of the Attorney General, and it is their conclusion that execution of the agreement and stipulation is in the best interests of the State.

EXHIBITS: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THE EXCHANGE IS IN THE BEST INTERESTS OF THE STATE, THAT IT WILL ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND, AND THAT IT WILL NOT INTERFERE WITH THE RIGHT OF NAVIGATION AND FISHING IN THE WATERS INVOLVED.

2. AUTHORIZE EXECUTION OF THE AGREEMENT AND STIPULATION FOR JUDGMENT, THE PATENT PROVIDED FOR IN SAID AGREEMENT, AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO CONSUMMATE SETTLEMENT OF DESMOND, ET AL. V. STATE OF CALIFORNIA, ET AL., BUTTE COUNTY SUPERIOR COURT NO. 50579.

(Added, 10/29/8

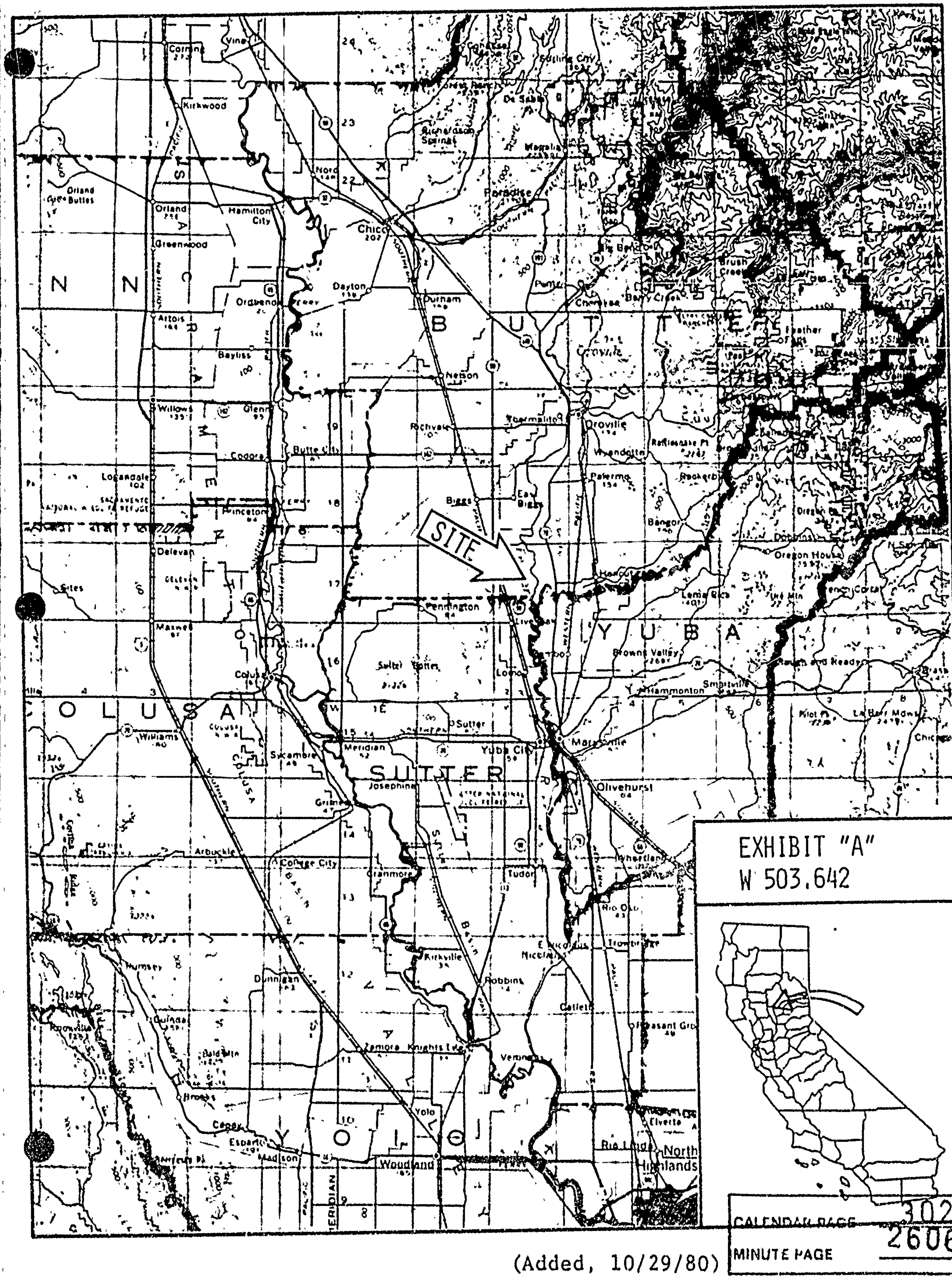

EXHIBIT "A"
W 503.642

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(Added, 10/29/80)