

MINUTE ITEM

This Calendar Item No. 49  
was approved as Minute Item  
No. 49 by the State Lands  
Commission by a vote of 3  
to 0 at its 10/26/83  
meeting.

MINUTE ITEM

49.

10/26/83  
W 503.967  
Hight  
Stevenson  
Frank

YUBA GOLDFIELDS, INC.

During consideration of Calendar Item 49, Rick Frank, Deputy Attorney General, appeared to provide a brief explanation of the Yuba Goldfield settlement. Andrea Miller, representing Yuba Natural Resources, Inc., then appeared and suggested the following amendment to Page 3, the first un-numbered paragraph of the Calendar Item as follows:

In return the proposed settlement calls for the State to quitclaim to YUBA minerals the State contends it owns by virtue of its sovereignty in the downriver portion of the stipulated historic riverbed.

Robert Hight, Chief Counsel of the State Lands Commission, then read an amendment to Resolution No. 7 as follows:

7. THE MANNER AND METHOD OF SURVEYING THE PROPERTY TO BE CONVEYED TO THE STATE SHALL BE THAT MUTUALLY AGREEABLE TO THE PARTIES AND THE DISCHARGE OF THE COSTS NECESSARY TO EFFECT THE SURVEY SHALL BE SUBJECT TO APPROVAL OF THE EXECUTIVE OFFICER.

Upon motion duly made, the Commission adopted the staff recommendation as amended by a vote of 3-0.

2533

CALENDAR ITEM

49 -4

10/26/83  
W 503.967  
Hight  
Stevenson  
Frank  
SLL 114

YUBA GOLDFIELDS, INC.

In October 1979 a lawsuit was filed by the State Lands Commission against Yuba Goldfields, Inc., its officers, and the United States, several federal agencies, and agency officers. The subject of the suit was an approximately 12-mile stretch of the historic bed of the Yuba River beginning about seven miles upstream from Marysville and extending to within a mile of Englebright Dam.

The State's position in the lawsuit was that:

1. The Yuba River was a navigable waterway at the time of statehood;
2. Title to the river is therefore in the State of California as sovereign property; and
3. The State's title is to the bed of the river as it existed prior to the devastating effects of upstream hydraulic mining.

In January 1980 the parties stipulated to the location of the natural bed of the Yuba River as it existed in 1850. This bed is shown on Exhibit "B", which is a 2' x 5' base map with overlays to be used at the Commission meeting, approximately 325 acres of the historic bed are dry land; about 250 acres are still in the present bed of the river.

A 3  
S 1

-1-

218

2534

Added 10/25/83

CALENDAR ITEM NO. 49 (CONTD)

Yuba Goldfields, Inc. (which is now known as Yuba Natural Resources, Inc., and referred to throughout this item as "YUBA") claims the fee interest in the upriver one-third of the stipulated historic bed. In the lower stretch, the United States claims fee ownership subject to YUBA's mineral claim.

This case came to trial on February 15 of this year. Thirty days of testimony on the Yuba River's historic use for navigation and its physical susceptibility to such use was heard. At that point, the United States Supreme Court held in a separate case entitled Block v. North Dakota (1983) that the statute of limitations provision of the Federal Quiet Title Act applied against the states. This in effect overruled an earlier finding in the Yuba case that it did not apply. As a consequence, the United States, its agencies, and their officers were dismissed from the YUBA lawsuit. The impact for the State was that it could not clear its title to the downriver part of the stipulated bed which the United States claimed. The Office of the Attorney General has, pursuant to an earlier directive of this Commission, appealed the dismissal of the United States from this lawsuit. The settlement which this Calendar Item treats is not intended to and will have no effect upon that appeal. The proposed settlement has been structured to avoid such an adverse result.

The trial in Yuba was continued until December 6 of this year to see if the remaining parties could reach an agreement. After lengthy negotiations, an agreement in principle has been proposed. Its provisions are that:

1. YUBA will convey to the State its fee interests in the upriver portion of the present riverbed. Two bars to be dredged by Yuba will be omitted from this grant upland from their mean high water marks. The area to be granted in fee comprises 294 acres;
2. YUBA will convey its mineral interest in the present Yuba River bank-to-bank from the upriver part it owns in fee downstream to the end of its property. The average width of this portion of the property is 800 feet and it extends for seven miles. The parcel is approximately 460 acres in size. As stated above, it is subject to fee ownership claims by the United States. It is a prime salmon spawning habitat and therefore unlikely to be developed for minerals;

CALENDAR ITEM NO. 49 (CONTD)

3. YUBA will convey to the State the fee interest in three sites useful for public access and recreation. One site is 13 acres in size and just upstream from Parks Bar Bridge. Immediately downriver, another five-acre site takes in a road just downriver of the bridge. A third nine-acre site adjoins a Yuba County Park. It will provide public access from the park to the river. Selection of these three parcels is recommended by the Department of Fish and Game and will benefit river users as sites for boating take-out and camping;
4. YUBA will use its best efforts to convey an easement to the State for an access road from Highway 20 to Daguerre Point Dam. (At present, Yuba is verifying whether it has deeded access along that road).

In return the proposed settlement calls for the State to quitclaim to YUBA minerals the State owns by virtue of its sovereignty in the downriver portion of the stipulated historic riverbed. This area is comprised of approximately 325 acres. In addition, the State Lands Commission will not unreasonably restrict YUBA's discharge of water associated with its activities at two sites on the river, provide that all State, Federal, and local laws and regulations are complied with.

The land appraisal and mineral staffs of the Commission have reviewed the proposed settlement and have concluded that the value of the property to be received by the State is equal to or greater than the value of the property to be quitclaimed to YUBA.

There are several factors which weigh in favor of settling this case on the terms described. First, the existing river and its recognized biological resources will be protected from mineral development, unless done by the State or its lessee in conformance with all applicable regulations. Second, valuable access will be provided to a stretch of the Yuba previously without any. And third, further costly litigation with an uncertain result will be ended.

EXHIBITS:           A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY STEPS TO SETTLE STATE OF CALIFORNIA V. YUBA GOLDFIELDS, INC. (U.S. DIST. CT., EAST. DIST. OF CA., S-79-733-RAR)

CALENDAR ITEM NO. 49 (CONTD)

IN ACCORDANCE WITH THE TERMS SPECIFIED IN THIS CALENDAR ITEM OR TERMS SUBSTANTIALLY SIMILAR. THE SETTLEMENT IS BETWEEN THE STATE AND YUBA GOLDFIELDS AND ITS OFFICERS ONLY. IT IS NOT INTENDED NOR SHALL IT AFFECT THE STATE'S SOVEREIGN CLAIM AGAINST THE UNITED STATES, ITS AGENCIES, OR THEIR OFFICERS.

2. THE COMMISSION FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY QUESTIONS AND THAT CEQA IS THEREFORE INAPPLICABLE.
3. FIND THAT THE PROPERTY TO BE ACQUIRED BY THE STATE AS A RESULT OF THIS SETTLEMENT IS OF EQUAL OR GREATER VALUE THAN THE PROPERTY INTEREST TO BE CONVEYED TO YUBA.
4. THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF YUBA COUNTY THE SUBJECT SETTLEMENT AGREEMENT IN SUBSTANTIAL CONFORMANCE WITH THAT DESCRIBED IN THIS CALENDAR ITEM.
5. THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ACCEPT THE GRANT OF PROPERTY PROVIDED FOR IN THE PROPOSED SETTLEMENT AGREEMENT.
6. THE COMMISSION FIND THAT THE PROPERTY TO BE QUITCLAIMED BY THE STATE IS REMOVED FROM THE PRESENT YUBA RIVER AND IS NO LONGER USEFUL FOR COMMERCE, NAVIGATION, AND FISHERIES, DUE TO ITS LOCATION, RELATIONSHIP TO SURROUNDING PARCELS, AND THE EFFECTS OF HISTORIC HYDRAULIC MINING ACTIVITY.
7. SURVEY COSTS NECESSARY TO IMPLEMENT THIS AGREEMENT SHALL BE BORNE EQUALLY BY THE PARTIES.

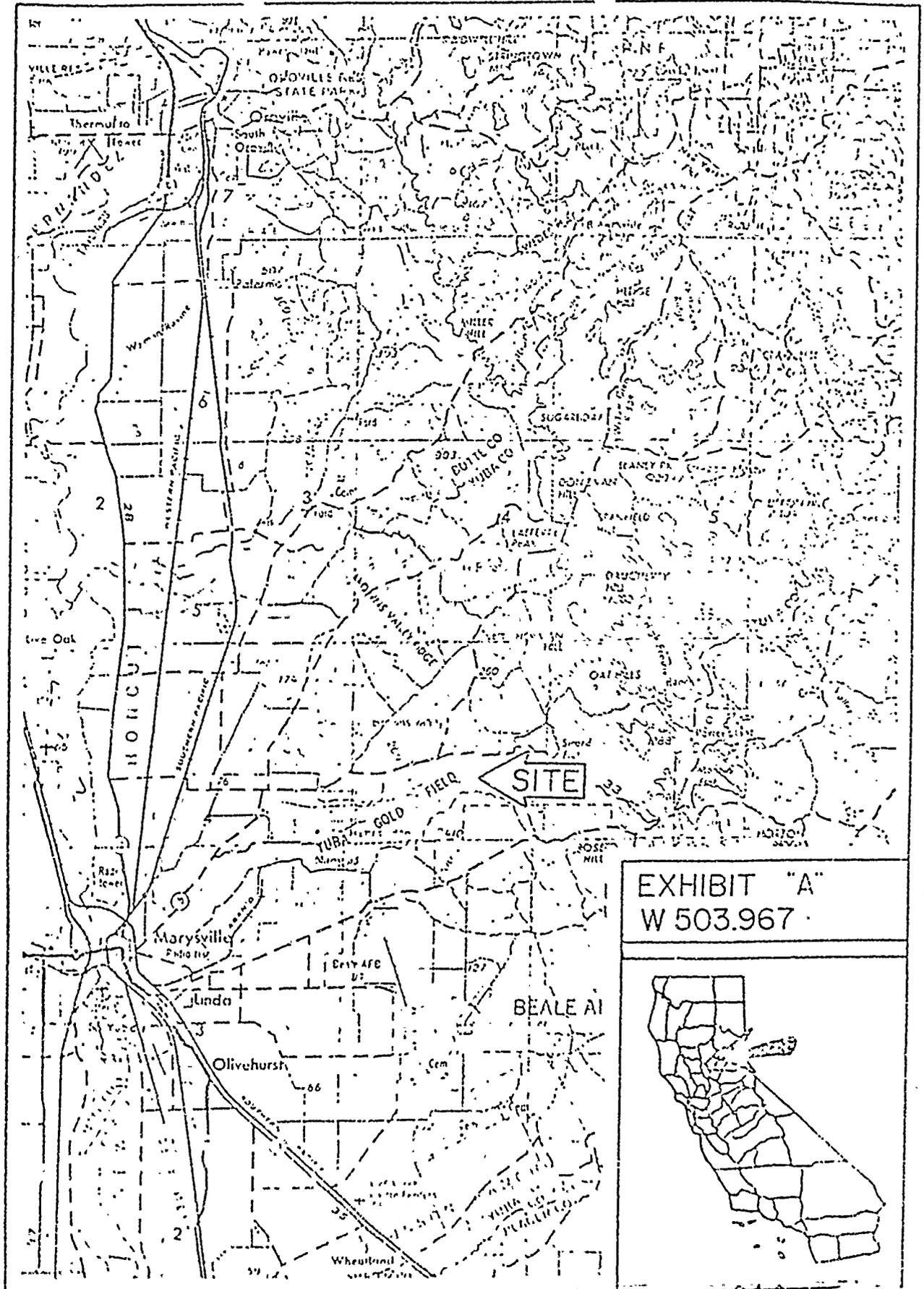


EXHIBIT "A"  
W 503.967



218  
2538