MINUTE ITEM

This Calendar Item No. 31 was approved as Minute Item No. 31 by the State Lands Commission by a vote of 3 to 0 at its 4/25/85 meeting.

CALENDAR ITEM

A 80

S 37

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04/25/85
W 503.1259
AD 24
Patterson, J.
Scott, A.
Fossum

In May 1980, the Brumbaughs filed a lawsuit against the County of Imperial to establish title to a parcel of land which had been commonly known as County Road 8N01B, located in Section 8, Township 11 South, Range 22 East, S.B.M., County of Imperial. This unpaved roadway had provided access to a small residential subdivision and the Colorado River and had been maintained as a county road. The Brumbaughs, who purchased the property in 1971, believed that the road had been abandoned and was now their private property, and fenced it off in 1972. Between 1972 and 1980, Brumbaugh erected barriers across the roadway on several occasions, and the County removed them.

In May 1982, the Fourth District Court of Appeal upheld the trial court's preliminary injunction ordering Brumbaugh to remove the fence (Brumbaugh v. County of Imperial, 134 CA3d 556 (1982)).

In October 1982, the State intervened in this pending lawsuit in order to protect the public's right of access to the river and also because the parcel of land involved was a portion of land sold by the State reserving the right of the public to fish from the land, pursuant to Article 1, Section 25 of the California Constitution. The boundary along the Colorado River had been fixed in 1977, pursuant to BLA 156.

Negotiations commenced in 1983 in the hope of settling this dispute without the necessity of extensive litigation. The Brumbaughs' attorney, the County, and the State have now reached agreement on a settlement of the various issues involved in the litigation and the basic terms of the settlement (Stipulation and Judgment) are set forth below:

1. Brumbaugh will grant to the County ownership of a portion of Road 8N01B identified as Parcel B on the attached Exhibit "B".

(NON SUBSTANTIVE REVISION 04/25/85)
(ADDED 04/22/85)

2. Brumbaugh will grant permanent easements to the owners of the residential lots adjoining the road as shown on Parcel A and Parcel C on the attached Exhibit "B".

3. County will quitclaim to Brumbaugh the portion of Road 8NO1B shown as Parcel D on the attached Exhibit "B".

4. Brumbaugh will have the ten-foot (10') accessway shown as Parcel E on the attached Exhibit "B" or an equal accessway within Parcel D deeded to the State.

5. State will make a finding that the ten-foot (10') accessway is a reasonable accessway to the Colorado River in implementing the public's rights acquired by implied dedication and for the public to exercise its constitutional right to fish as to the Brumbaugh parcel and those residential lots which adjoin Brumbaugh's property to the north and which are served by Parcels A and C. No rights of the public under Article 1, Section 25 to fish from lands subject to that reservation will be affected hereby.

6. The State Lands Commission will post the accessway as it deems appropriate and indemnify and hold harmless the County for any and all claims against the County occurring on the ten-foot (10') accessway other than by negligence or intentional act of the County or its employees.

The settlement document (Stipulation and Judgment) which contains the above terms is on file in the Sacramento office of the State Lands Commission. This settlement has been approved by the County of Imperial and is acceptable to the Brumbaughs. The agreement has been reviewed by the Attorney General's Office and has been approved, and it is the recommendation of the staff that the agreement be approved by the Commission as in the best interest of the public.

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutory exempt project. The project is exempt because it involves settlement of title and boundary problems.

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

(ADDED 04/22/85)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS;

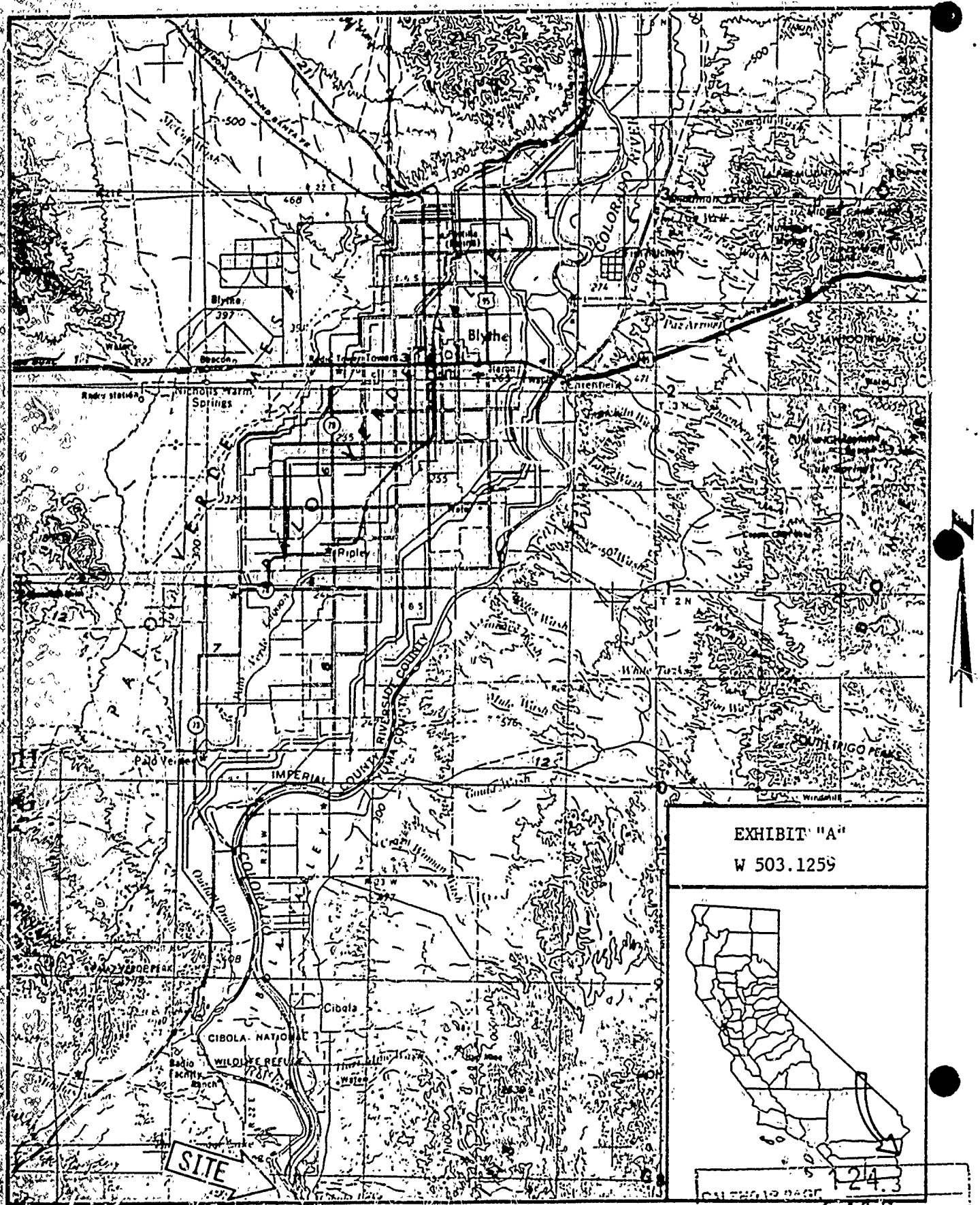
2. FIND THAT THE SETTLEMENT (STIPULATION AND JUDGMENT) IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF PUBLIC ACCESS IN THE SETTLEMENT AREA AS MANDATED BY CALIFORNIA CONSTITUTION ARTICLE X SECTION 4;

3. FIND THAT THE TEN-FOOT (10') ACCESSWAY IDENTIFIED AS PARCEL E ON EXHIBIT "B" ATTACHED HERETO CONSTITUTES A REASONABLE ACCESSWAY TO THE COLORADO RIVER FOR THE PUBLIC TO EXERCISE ITS RIGHTS ACQUIRED BY IMPLIED DEDICATION AND AS AN IMPLEMENTATION OF THE PUBLIC'S RIGHTS OF ACCESS TO EXERCISE ITS CONSTITUTIONAL RIGHT TO FISH ALONG THE COLORADO RIVER, IN THE SETTLEMENT AREA.

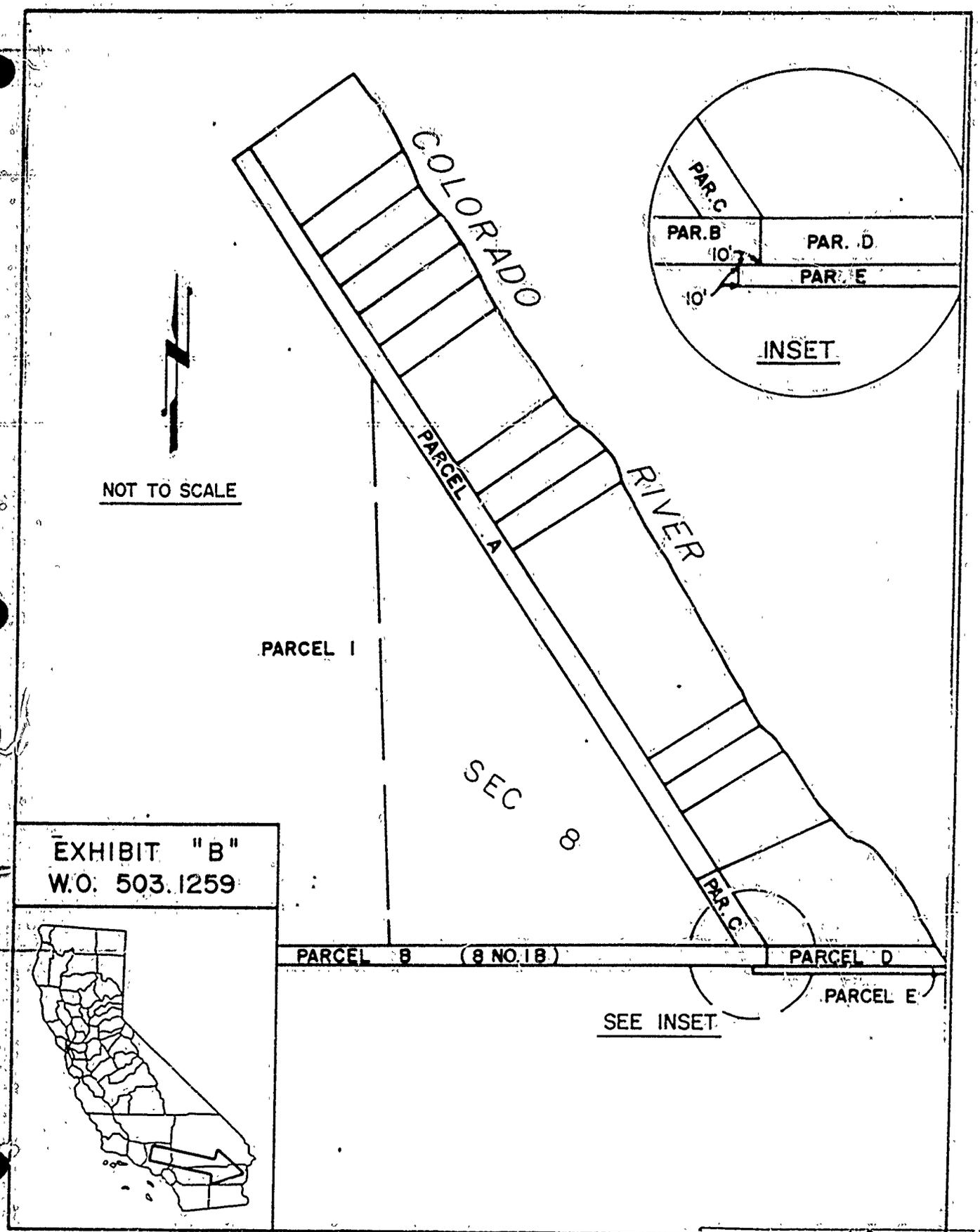
4. AUTHORIZE THE EXECUTION AND RECORDATION OF THE STIPULATED JUDGMENT ON BEHALF OF THE COMMISSION BETWEEN FLOYD M. BRUMBAUGH, MARGARET J. BRUMBAUGH, AND ROBERT ESPINOSA AND THE COUNTY OF IMPERIAL AND THE STATE IN SUBSTANTIALLY THE FORM OF THE AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION.

5. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE TERMS AND PROVISIONS OF THIS AGREEMENT, INCLUDING APPROVAL AND EXECUTION OF MAPS, DEEDS, TITLE AND ESCROW INSTRUCTIONS, CERTIFICATES OF ACCEPTANCE AND CONSENT TO RECORD AND APPEARANCES IN ANY LEGAL PROCEEDINGS TO FINALIZE THIS AGREEMENT.

(ADDED 04/22/85)



(ADDED 04/22/85)



(ADDED 04/22/85)

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