

MINUTE ITEM

This Calendar Item No. 71  
was approved as Minute Item  
No. 71 by the State Lands  
Commission by a vote of 3  
to 0 at its 3/27/1970  
meeting.

MINUTE ITEM

71

PRC 7393

03/27/90

W 503.1627

W 503.1628

W 503.1643

W 503.1645

W 2400.173

AD 109

Taylor

Cox

Rump

STATE LANDS COMMISSION, CITY OF STOCKTON,  
GRUPE DEVELOPMENT CO.  
RECLAMATION DISTRICT NO. 2047, ET AL  
(Parties)

N. Gregory Taylor, Assistant Attorney General, appeared before the Commission to present staff amendments to that portion of Calendar Item 71 on page 7, under Item 1, PUBLIC ACCESS TO BE PROVIDED TO NAVIGABLE WATERWAYS, B. Additional dedication to State.

The amendments submitted were:

An additional subparagraph which referenced two access areas described in the preceding paragraph A and an additional area, which areas are to provide recreational access between the paths and the water. This additional subparagraph, designated B(7), was added to read:

"(7) Recreational Access Easements adjacent to A(1), A(5), and from the south entrance of Buckley Cove to March Lane", and

Amended the reference to B(1-6) in the subsequent paragraph to read B(1-7).

Acting Chairman McCarthy requested information on when the agreement would be ready for execution.

Mr. Taylor stated that he believed it would take approximately a month.

Acting Chairman McCarthy asked that staff prepare maps, graphically depicting the elements of the agreement and provide them to the Commission as soon as possible.

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Commission-Alternate Tucker thanked the staff of the Commission and the Attorney General's Office for the great deal of time and effort it took to bring the settlement to a resolution.

Upon consideration of Calendar Item 71 as amended, the Commission adopted the staff recommendation by a vote of 3-0.

A )  
  ) Statewide  
S )

CALENDAR ITEM

A 26

71

S 5

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LITIGATION AND TITLE SETTLEMENT AGREEMENT  
REGARDING LANDS ALONG THE CALAVERAS RIVER,  
SAN JOAQUIN RIVER, TEN-MILE SLOUGH, FOURTEEN-MILE SLOUGH  
STOCKTON, SAN JOAQUIN COUNTY

PARTIES: State of California, (Acting by and through the  
State Lands Commission)

City of Stockton

Grupe Development Company

Reclamation District 2074, et al

BACKGROUND

This calendar item recommends settlement of four lawsuits filed by the Attorney General on behalf of the State Lands Commission. The proposed settlement agreement would settle various claims concerning ownership of land, compliance with the California Environmental Quality Act, the Subdivision Map Act, the Cortese-Knox Local Government Reorganization Act, the Public Trust Doctrine, and the California Constitution.

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(ADDED pgs. 441-441.15)

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The land involved is located in the County of San Joaquin adjacent to and westerly of the City of Stockton. The specific area was historically known as the Sargent-Barnhart Tract, and more recently, as "Brookside." The area is shown on Exhibit "B" and is bounded on the north by Fourteen-Mile Slough (formerly Twelve-Mile Slough), on the northwest by the Ten-Mile Slough levee (formerly Connection Slough), on the southwest by the San Joaquin River, on the south by the Calaveras River and on the east by the Smith Levee and existing development, as more particularly described in Exhibit "C".

The claims of the State regarding the subject property are reflected in part in the four lawsuits that the State has filed against the City of Stockton, Grupe, and others. They are:

- (a) State of California ex rel. State Lands Commission v. City of Stockton, San Joaquin County Superior Court No. 217462, filed on or about July 5, 1989 (this lawsuit, generally speaking, challenges the June 5, 1989 actions of the City approving the development of Brookside on grounds of violations of the California Environmental Quality Act, the Subdivision Map Act, and the Public Trust doctrine);
- (b) State of California ex rel. State Lands Commission v. Local Agency Formation Commission (LAFCO), San Joaquin Superior Court No. 218207, filed on or about August 7, 1989 (this lawsuit challenges the annexation of the subject property to the City on grounds of violation of the Cortese-Knox Local Government Reorganization Act);
- (c) State of California ex rel. State Lands Commission v. City of Stockton/Grupe, San Joaquin Superior Court No. 221213, filed on or about December 13, 1989 (this lawsuit challenges subsequent acts of the City granting additional development approvals for the Brookside project and involves many of the same issues for which the State filed the preceding cases);
- (d) State of California ex rel. State Lands Commission v. Reclamation District No. 2074, No. 221735, filed on or about January 10, 1990. (This lawsuit is a quiet title action involving State ownership claims to the subject property.)

The Brookside area was originally the subject of swamp and overflowed land surveys conducted by county surveyors which, because no State or federal survey of the area had been conducted, served as the basis for applications to purchase

swamp and overflowed land from the State. These surveys failed to properly designate the existence of and segregate by survey the major navigable waters involved in the area (including significant portions of the San Joaquin River, the Calaveras River, Ten-Mile Slough and Fourteen-Mile Slough as well as their tidal tributaries) from the true swamp and overflowed lands. This resulted in navigable sovereign public trust lands improperly being included within the perimeter descriptions of swamp land surveys. Patents were subsequently issued by the State purporting to be acting under authority of several authorizing acts of the Legislature, including the statutes listed below. The record discloses there were seven applications made for acquisition of swamp and overflowed lands involving the subject property. Eight swamp and overflowed land patents were issued by the state involving the subject property. The principal facts concerning them may be summarized as follows:

- (a) S&O Survey 803 (San Joaquin) involving 640 acres including the SE/4 Section 30, the E/2 Section 31, and the NW/4 Section 32, all in T 2 N, R 6 E, MDB&M was applied for by C. H. Lathrop pursuant to Chapter 314/Statutes of 1859, the application was approved October 16, 1861 and paid for by virtue of Reclamation District 221. An S&O patent was issued on December 19, 1867 to Maurice J. Dooly.
- (b) S&O Survey 942 (San Joaquin) involving 280 acres including the SW/4 of Section 32, T 2 N, R 6 E, MDB&M was applied for by Lewis M. Cutting pursuant to Chapter 397/Statutes of 1863, the application was approved on May 10, 1864 and paid for by virtue of Reclamation District 561. An S&O patent was issued on April 10, 1877 to John S. Hager.
- (c) S&O Survey 1275 (San Joaquin) involving 26,683.90 acres applied for by G. D. Roberts pursuant to Chapter 415/Statutes of 1868, was approved on June 4, 1869 and paid for by virtue of Reclamation District 221, including within T 2 N, R 6 E, MDB&M the SW/4 of Section 30 and the W/2 of Section 31 and within T 1 N, R 6 E, MDB&M the fractional NW/4 Section 6 lying north of the Calaveras and San Joaquin Rivers and within T 1 N, R 5 E, MDB&M the fractional NE/4 Section 1 lying north of the San Joaquin River which areas were patented on June 14, 1889 to Henry Barnhart; the application also included the SE/4 of §25 (south of Twelve Mile Slough) and E/2 of Section 36, T 2 N, R 5 E, MDB&M which was patented on December 15, 1879 to George F. Smith.

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- (d) S&O Survey 1277 (San Joaquin) involving 421.32 acres including the NE/4 of Section 25, T 2 N, R 5 E, MDB&M was applied for by C. D. Gibbes pursuant to Chapter 415 Statutes of 1868, was approved on July 28, 1869 and paid for by virtue of Reclamation District 221. An S&O patent was issued on April 10, 1877 to John S. Hager.
- (e) S&O Survey 1315 (San Joaquin) involving the N/2 of Section 30, T 2 N, R 6 E, MDB&M was applied for by A. H. Estill pursuant to Chapter 415/Statutes of 1868, was approved on November 22, 1869 and paid for by virtue of Reclamation District 221. An S&O patent was issued on March 24, 1877 to George F. Smith.
- (f) S&O Survey 1375 (San Joaquin) involving 19.20 acres in the fractional N/2 of the NE/4 Section 6, T 1 N, R 6 E, MDB&M was applied for by Henry Barnhart pursuant to Title 8 of the Political Code, was approved on December 17, 1873 and paid for by virtue of Reclamation District 221. An S&O patent was issued on December 12, 1879 to Henry Barnhart.
- (g) S&O Location 108 involving 50.04 acres including the fractional W/4 of the NW/4 of Section 30, T 2 N, R 6 E, MDB&M was applied for by James H. Budd pursuant to Title 8 of the Political Code, was approved on July 20, 1874, was assigned on July 23, 1874 to C. M. Ritter, on July 25, 1874 the Certificate of Purchase was issued, while there is no indication that the land was ever fully paid for an S&O patent was issued to C. M. Ritter on September 17, 1877.

The area encompassed by these patents was included within the "Plat showing the subdivision of Two Bodies of Land 'NOTORIOUSLY SWAMPY & OVERFLOWED (sic)' East of the Mount Diablo Meridian in Township 1, 2, 3, 4, & 5 North and Township 1 South of Mount Diablo Base Line." This 1872 plat was a perimeter segregation survey of federal public lands and private grants (ranchos) from the federally granted swamp and overflowed lands of the Sacramento/San Joaquin Delta. The plat made no attempt to segregate by survey the sovereign tidally navigable waterways from the swamp and overflowed lands. The swamp and overflowed lands were subsequently patented by the United States to the State of California. There were two such patents:

CALENDAR ITEM NO. 71 (CONT'D)

- (a) United States Patent No. 8 (Stockton district), dated April 9, 1877 which confirmed to the State all swamp and overflowed lands within the subject property lying within T. 1 N., R. 5 E.; T. 1 N., R. 6 E.; and T. 2 N., R. 5 E., M.D.B. & M.
- (b) United States Patent No. 11 (Stockton district), dated December 16, 1886 which confirmed to the State all swamp and overflowed land within the subject property lying within sections 29, 30, 31 and 32 of T. 2 N., R. 6 E., M.D.B. & M.

In 1865 the United States approved a township plat for Township 2 North, Range 6 East, Mount Diablo Meridian. No meander line surveys of navigable or tidal waters were conducted for this plat.

In 1877, after all of the S&O Surveys and purchases involving the subject area had taken place, W. F. Benson conducted a meander survey of the San Joaquin River and some of its tributaries including the Calaveras River, segregating the navigable waterways from the swamp and overflowed lands. This survey is reflected in the 1879 approved township plat for Township 1 North, Range 6 East, Mount Diablo Meridian. This survey contradicted the designation of swamp and overflowed lands found in the county S&O Surveys 803, 924, 1275, and 1375 which were in this township.

In 1879 the United States approved two other township plats which included meander surveys of the San Joaquin River conducted by Benson in 1879 these involved Townships 1 North 5 East and 2 North 5 East, Mount Diablo Meridian.

As previously stated the county surveyors failed to properly meander or segregate the true swamp and overflowed lands from the navigable rivers adjoining them. Evidence based on historical surveys preceding, concurrent, and subsequent to the county swamp land surveys indicate the existence of these waterways.

The present physical condition of Sargent-Barnhart Tract as agricultural lands which are at an elevation below sea-level is the result of reclamation work initially undertaken in the nineteenth century which included dredging of lands in or adjacent to the natural tidal waterways to construct levees around the perimeter of the tract. In some instances this

filling and construction of levees was such as to fill or reclaim tide and submerged lands and in other instances created new tidally covered areas by dredging swamp and overflowed lands.

The State's quiet title action seeks to settle the question of the title to the beds of the existing and historic tidal navigable waterways that traverse and surround the proposed Brookside development.

The State's other lawsuits challenge the attempted annexation of lands under the authority and control of the Commission without its consent, and the failure of the developer and city to comply with the requirements of CEQA, the Map Act, Public Trust Doctrine, and the Constitution regarding the necessity of providing reasonable access to and along the waterways within the subdivision.

Grupe claims that the State has no property interest within Brookside and along with the other defendants claims that the defendants have complied with the CEQA, the Map Act, the Local Government Reorganization Act, the Public Trust Doctrine, and the California Constitution.

The parties have independently investigated the facts and retained counsel regarding their respective legal positions.

The parties to the quiet title action have investigated the historical changes in the physical condition of the property. Regardless of the time, effort, and expertise their remains considerable uncertainty and a bona fide dispute between the parties as to the existence, extent, nature and location of the State's sovereign public trust title claims within the subject property. A judicial resolution of this title dispute would require protracted and vigorously contested litigation.

AGREEMENT

The representatives of the parties to this dispute, after more than a year of discussions and extensive negotiations, have reached an agreement to settle all of the issues pending before the parties. The elements compromising the proposed agreement may be summarized as follows:

CALENDAR ITEM NO. 71 (CONT'D)

1. PUBLIC ACCESS TO BE PROVIDED TO NAVIGABLE WATERWAYS
  - A. Existing offers of dedication to City
    - (1) Bike/Access - Fourteen-Mile Slough school site (1000' to 1600')
    - (2) Bike/Access - Calaveras River I-5 to Brookside (1700')
    - (3) Bikepath - within subdivision to Buckley Cove
    - (4) Access Easement - offsite San Joaquin River (6500')
    - (5) Access Easement - Calaveras River (2000')
    - (6) Access Easement - San Joaquin River (500')
    - (7) Access Easement - Ten-Mile Slough (1300')
  - B. Additional dedications to State
    - (1) Access Easement - Calaveras River (5700')
    - (2) Access Easement - San Joaquin River (2900')
    - (3) Access Easement - Fourteen-Mile Slough - T shape (15')
    - (4) Access Easement - Fourteen-Mile Slough - T shape (15')
    - (5) Access Easement - Fourteen-Mile Slough/Ten-Mile Levee (8')
    - (6) Access Easement - To and along Calaveras River offsite (1700')

The addition of the dedications in B(1) and B(2) to A(5) and A(6) provide continuous public access along the entire length of the Calaveras and San Joaquin Rivers within the Brookside subdivision. The Commission will accept all of the easements described in A(5-7) and B(1-6) as public trust lands and they shall be held as an asset of the trust.

**SPECIFICS:**

1) Grupe, Reclamation District 2074, and the other property owners holding title to the requisite land will convey to the State an easement for an eight-foot-wide public pedestrian trail. The trail will run along the Calaveras and San Joaquin Rivers from the point that the adequate dedicated bike trail located along the crown of the Calaveras River levee descends the levee at the southeast corner of the Brookside subdivision to Buckley Cove. The pathway will be open during daylight hours with the entrance closing 30 minutes before sunset. The pathway entrance will be through a structure or device which will permit pedestrian and handicapped access.

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Grupe will obtain EBMUD's consent to the pathway crossing the utility's right of way. Grupe will seek to construct a bench cut on the waterside of the levee at one-half foot above the 100-year flood elevation to accommodate the pathway. This location of the pathway has the advantages of privacy to the adjacent homes and will benefit the public in providing a trail that will allow an enhanced experience and greater enjoyment due to its proximity to and along the river's shoreline. To the extent that the path cannot be placed at the proposed elevation it will be located along either a higher portion of the waterside of the levee or on the levee crown.

2) The requisite property owners will convey to the state two "T"-shaped accessways along Fourteen-Mile Slough which will connect the nearest public sidewalk. The paths will be eight feet in width to the top of the levee and 15 feet in width along the waterside of the levee to the water's edge.

3) The requisite property owners will convey to the state an eight-foot-wide accessway from the nearest public sidewalk to the intersection of the Ten-Mile Slough Levee with Fourteen-Mile Slough. In the alternative an additional accessway similar to paragraph 2) above will be provided.

4) Grupe will convey to State a public access and recreational use easement over its property lying between Smith Levee and I-5, and Brookside Road and the Calaveras River.

5) The State Lands Commission will issue to the City of Stockton a 49-year public agency permit to operate and maintain the State public accessways. The City will be permitted to contract with Reclamation District 2074 to maintain the accessways.

2. CEQA COMPLIANCE

- A. LEVEE, BANKS OR BEDS OF WATERWAY - Any and all development will require environmental review in compliance with CEQA
- B. BENCH CUT PATH - necessary review to be done in connection with governmental approvals
- C. BOAT DOCKS - a supplemental EIR will be prepared by the City of Stockton and funded by Grupe or property owners if and when the first application for a dock is filed. It will be a cumulative impacts analysis which among alternatives will consider the effect of one boat dock per waterfront lot.

3. ANNEXATION - the Commission will consent to the annexation of lands under its jurisdiction as described by the boundaries approved by the Commission pursuant to Minute Item #33 at the April 26, 1989 State Lands Commission meeting.

4. TITLE SETTLEMENT AND EXCHANGE

- A. Grupe, Reclamation District 2074, and the other record title holders will convey to the State all their right, title, and interest waterward of the present mean high water mark in the Calaveras and San Joaquin Rivers, and Fourteen-Mile Slough including the islands, reserving certain rights as described in 4.D below.
- B. Grupe will quitclaim all its right title and interest (except any riparian or appropriative water rights) within the area described as North Buckley Cove to the State.
- C. The State will quitclaim to the owners of record all sovereign, public trust or related interests lying above the mean high water mark within Brookside, subject to the access easements described in Paragraph 1. above.
- D. The State will confirm to the record title holders along portions of the Calaveras and San Joaquin rivers and Fourteen-Mile Slough the underlying fee interest from the present mean high water mark waterward 40 feet, subject to the State's retained public trust easement.
- E. Grupe, R.D. 2074, any other holders of title, and the State, agree that the present mean high water mark will be a permanently fixed and agreed boundary line and not a meander line and will not change by accretion, avulsion, or reliction.

5. LAWSUITS - The parties agree to dismiss with prejudice all the lawsuits existing between the parties including those listed in the BACKGROUND paragraphs above.

AB 884: N/A.

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OTHER PERTINENT INFORMATION:

1. This settlement agreement proposal has been reviewed and approved by the Commission staff and the Office of the Attorney General as to to compliance with applicable laws, rules and regulations of the State Lands Commission.

This agreement is exempt from the provisions of the Subdivision Map Act (Gov. Code 66412 (e)) and the California Environmental Quality Act (P.R.C. 21080.11).

- EXHIBIT:
- A. Location Map.
  - B. Site Map.
  - C. Description.

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 UNDER THE STATUTORY EXEMPTION FOR SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS, PURSUANT TO P.R.C. 21080.11.
2. FIND THAT WITH RESPECT TO THE PROPOSED LITIGATION SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE (PURSUANT TO P.R.C. 6307) OF THE STATE'S SOVEREIGN AND PUBLIC TRUST INTERESTS WITHIN THE BROOKSIDE PROJECT LYING LANDWARD OF THE PRESENT LINE OF MEAN HIGH WATER FOR THE LANDS TO BE CONVEYED TO THE STATE IN AND UNDERLYING THE CALAVERAS RIVER, THE SAN JOAQUIN RIVER, TEN-MILE SLOUGH (NORTH BUCKLEY COVE), AND FOURTEEN-MILE SLOUGH, TOGETHER WITH THE CONVEYANCE OF THE PUBLIC ACCESS EASEMENTS TO BE HELD SUBJECT TO THE PUBLIC TRUST:
  - A. THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE FOR THE BENEFIT OF PUBLIC TRUST USES AND PURPOSES WHICH INCLUDE NAVIGATION, FLOOD CONTROL PROTECTION, AND THE IMPROVEMENT AND PROTECTION OF THE ENVIRONMENT FOR FISHERIES, RECREATION, SCIENTIFIC STUDY, OPEN SPACE, AND ECOLOGICAL PRESERVATION OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST.
  - B. THAT THE INTERESTS IN LAND RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE PROPERTY INTERESTS TO BE RELINQUISHED BY THE STATE.

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- C. THAT UPON CLOSE OF ESCROW, THE PROPERTY TO CONVEYED BY THE STATE HAS BEEN FILLED AND RECLAIMED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION OR FISHERIES AND IS NO LONGER IN FACT TIDELAND OR SUBMERGED LAND.
  - D. THAT THE PROPERTY INTERESTS TO BE CONFIRMED TO THE PROPERTY OWNERS OF RECORD WILL NOT SUBSTANTIALLY INTERFERE WITH PUBLIC TRUST NEEDS OR USES OVER THE PROPERTY AND THAT THE COMMISSION RETAINS THE PUBLIC'S RIGHTS AND AUTHORITY OVER THE PUBLIC TRUST EASEMENT WITHIN THAT AREA.
  - E. THAT THE PARTIES HAVE A GOOD FAITH BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS, BOTH AS TO FACT AND LAW REGARDING THE SUBJECT PROPERTY.
  - F. THAT THE PROPOSED LITIGATION SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF FACT AND LAW UPON WHICH THE DISPUTES ARE BASED INVOLVING EACH OF THE LAWSUITS TO WHICH THE PARTIES ARE INVOLVED.
  - G. THAT THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES INVOLVED IN FURTHER LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
  - H. THAT FOLLOWING THE EFFECTIVE DATE OF THIS AGREEMENT AND CONSISTENT WITH ITS TERMS, THE STATE LANDS COMMISSION FINDS THE PROPERTY TO BE CONVEYED BY THE STATE WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THEREFORE IN FURTHERANCE OF A REASONABLE SETTLEMENT OF A HIGHLY DISPUTED SOVEREIGN RIGHTS CLAIM, THE PUBLIC TRUST RIGHTS AND INTERESTS MAY BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION OF THE SETTLEMENT AGREEMENT AS DESCRIBED HEREIN, SUBSTANTIALLY IN THE FORM AS PROVIDED IN THE "BROOKSIDE SETTLEMENT AGREEMENT" A COPY OF WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
4. ACCEPT THE FOLLOWING RIGHTS, TITLES, AND INTERESTS ON BEHALF OF THE STATE OF CALIFORNIA AS SOVEREIGN LANDS OF THE CHARACTER OF TIDE AND SUBMERGED PUBLIC TRUST LANDS:

CALENDAR ITEM NO. 71 (CONT'D)

- A. THE PUBLIC ACCESS EASEMENTS PROVIDED FOR IN THE "BROOKSIDE AGREEMENT" AND AS DESCRIBED HEREIN WHICH PROVIDE ACCESS TO AND ALONG THE CALAVERAS RIVER, THE SAN JOAQUIN RIVER, TEN MILE SLOUGH (NORTH BUCKLEY COVE), AND FOURTEEN MILE SLOUGH.
- B. THE RIGHT, TITLE, AND INTERESTS OF THE RECORD TITLE HOLDERS TO BE CONVEYED TO THE STATE INVOLVING THE PROPERTY IN AND INCLUDING BOTH THE WATERWAYS AND THE ISLANDS IN THE CALAVERAS RIVER, THE SAN JOAQUIN RIVER, TEN MILE SLOUGH (NORTH BUCKLEY COVE), AND FOURTEEN MILE SLOUGH.
- 5. FIND THAT THE SETTLEMENT AGREEMENT DESCRIBED HEREIN IS IN THE BEST INTERESTS OF THE STATE.
- 6. AUTHORIZE THE ISSUANCE OF A 49-YEAR PUBLIC AGENCY PERMIT TO THE CITY OF STOCKTON FOR THE OPERATION AND MAINTENANCE OF THE PUBLIC ACCESS EASEMENTS TO BE ACCEPTED BY THE STATE PURSUANT TO THE "BROOKSIDE SETTLEMENT AGREEMENT."
- 7. AUTHORIZE THE EXECUTIVE OFFICER TO DETERMINE THE ADEQUACY AND CONSISTENCY WITH THE "BROOKSIDE SETTLEMENT AGREEMENT OF ANY RELOCATION OF ACCESS EASEMENTS AS PROVIDED FOR IN THE AGREEMENT.
- 8. AUTHORIZE THE STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ANY AND ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE FOREGOING TRANSACTION, INCLUDING BUT NOT LIMITED TO THE EXECUTION OF DOCUMENTS AND APPEARANCE IN ANY LEGAL PROCEEDINGS CONCERNING THE SETTLEMENT AGREEMENT.

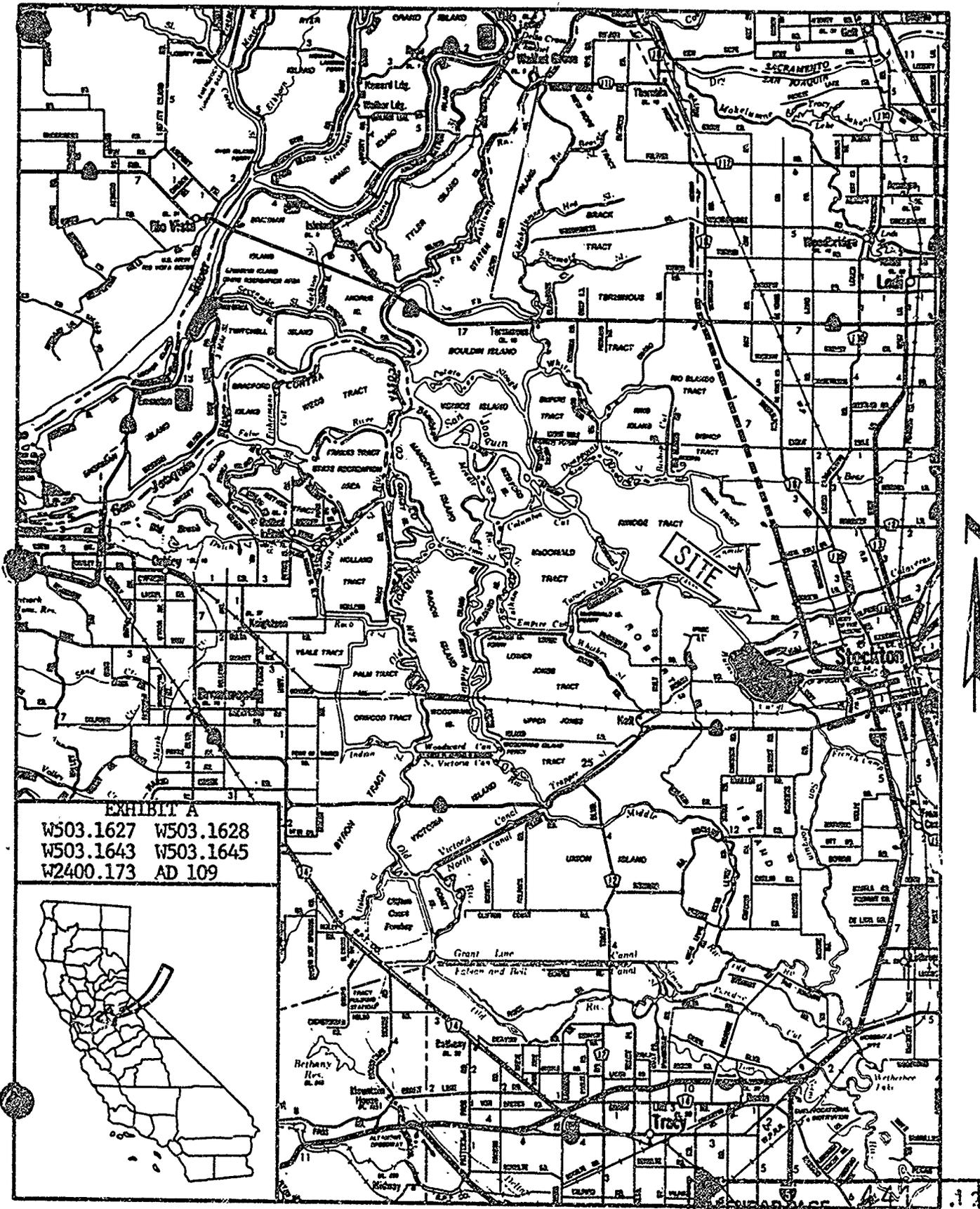


EXHIBIT A  
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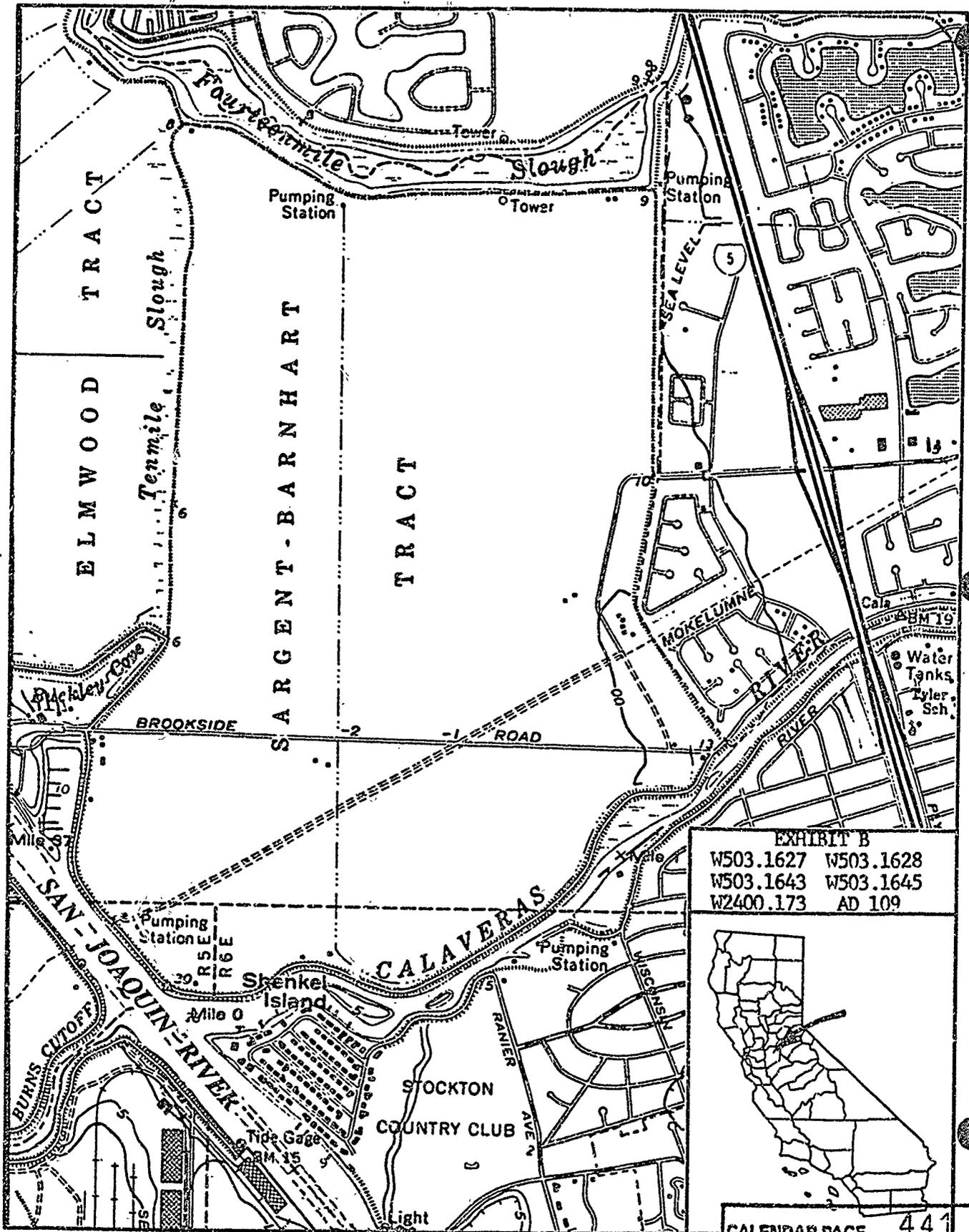


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EXHIBIT "C"

Being portions of Section 1, Township 1 North, Range 5 East, Section 6, Township 1 North, Range 6 East, Section 36, Township 2 North Range 5 East, and Sections 30, 31 and 32, Township 2 North, Range 6 East, Mount Diablo Meridian, San Joaquin County, California, more particularly described as follows:

Beginning at the westerly end of that certain parcel of land, called Schenkels Island, described in deed recorded in Book of Official Records, Volume 2788, Page 412, San Joaquin County Records; thence westerly 1,400 feet, more or less, along the midline of the existing waterway of the old channel of the San Joaquin River and the westerly projection thereof to a point on the centerline of the Stockton Deep Water Channel, 400 feet southeasterly of the City of Stockton Buckley Cove Annexation, said point being on the City of Stockton City Limits line; thence northwesterly 400 feet along said City Limits Line to said Buckley Cove Annexation; thence northeasterly, northwesterly and northerly along the northeasterly and easterly boundary of the City of Stockton City Limits line created by said annexation a distance of 4,150 feet, more or less, to Point GB-7, as said point is shown on map of survey filed in Book of Surveys, Volume 22, Page 59, San Joaquin County Records; thence following said Stockton City Limits line, northwesterly along the northwesterly projection of the line between Point GB-8 of said survey and said Point GB-7 a distance of 50 feet, more or less, to a point on the southerly right-of-way line of forty-foot wide Brookside Road, as said right-of-way is described in deed from Coulter McKeever, et ux, to the County of San Joaquin, recorded in Book of Official Records, Volume 1019, Page 380, San Joaquin County Records; thence easterly, northerly and easterly along the southerly, easterly and southerly right-of-way line of said Brookside Road, 1,600 feet, more or less, to a point bearing South 63° 30' 56" West 40.00 feet from the northerly point of termination of the 74.05 foot radius curve in the westerly boundary of the 452.597 acre parcel of land shown on that certain Map of Survey, filed for record in Book of Surveys, Volume 27, Page 8, San Joaquin County Records; thence North 63° 30' 56" East 40.00 feet to said northerly point, said point being a point on the easterly boundary of the Elmwood Tract, filed for record in Book of Surveys, Volume 2, Page 67, San Joaquin County Records; thence northerly along the easterly boundary of said Elmwood Tract 6,085 feet, more or less, to the point designated "F" on last said Map of Survey, being on the southerly side of Fourteen Mile Slough (formerly known as Twelve Mile Slough); thence North 40° 06' East along the northeasterly projection of said boundary to a point on the City of Stockton City Limits line in the centerline of said Fourteen Mile Slough; thence along said City Limits line the following four (4) courses: (1) in a general easterly direction, 6,600 feet, more or less, along the centerline of said Fourteen Mile Slough to the east line of said Section 30, (2) southerly 4,575.55 feet along the east line of said Sections

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30 and 31, (3) South  $09^{\circ} 56' 33''$  West 1,478.95 feet, and (4) South  $35^{\circ} 43' 22''$  East 1,942 feet, more or less, to a point on the southerly right-of-way line of Brookside Road; thence leaving said City Limits line, along the southerly right-of-way line of Brookside Road the following three (3) courses: (1) North  $43^{\circ} 26'$  East 740.33 feet; (2) North  $47^{\circ} 41'$  East 1004.94 feet; and (3) North  $62^{\circ} 57'$  East 200.39 feet to a point on the westerly right-of-way line of Interstate Route No. 5; thence leaving said southerly right-of-way line, South  $16^{\circ} 51'$  East along the westerly line of Interstate Route No. 5 to a point in the Calaveras River on the agreed line between J.C. Smith on the south and Elizabeth Barnhart and Daisy Bell Nicewonger on the north, recorded in Book "A" of Deeds, Volume 98, Page 305, San Joaquin County Records; thence southwesterly along said agreed line 7,000 feet, more or less, to the easterly end of the boundary of said Schenkels Island; thence westerly along the northerly boundary of said Island to the point of beginning.

Including all right, title and interest in the present and historic channels of the Calaveras and San Joaquin Rivers adjacent to the southerly boundary of the above described parcel.

Including all right, title and interest in a portion of Fourteen Mile Slough (formerly known as Twelve Mile Slough) bounded and described as follows:

Bounded on the north by the most northerly existing bank of Fourteen Mile Slough; bounded on the south by the most southerly existing bank of Fourteen Mile Slough; bounded on the east by the east line of Section 30, Township 2 North, Range 6 East, Mount Diablo Meridian and bounded on the west by a line passing through a point designated 'F' on that certain Map of Survey, filed for record in Book of Surveys, Volume 27, Page 8, San Joaquin County Records with a bearing of North  $40^{\circ} 06'$  East.