

MINUTE ITEM

This Calendar Item No. 44
was approved as Minute Item
No. 44 by the State Lands
Commission by a vote of 3
to 0 at its 12-12-90
meeting.

CALENDAR ITEM

A 32
S 25

44

12/12/90
AD 136
W 23744
Grimmett
McKown
Sevenson

REQUEST FOR AUTHORIZATION TO ENTER
A TITLE SETTLEMENT WITH THE SIENNA CORPORATION
CONCERNING PROPERTY ALONG A ONE AND ONE-HALF MILE STRETCH
OF THE SAN JOAQUIN RIVER IN RURAL FRESNO COUNTY;
INCLUDING A \$30,000 CONTRIBUTION TO THE KAPILOFF LAND BANK FUND

PARTY:

The Sienna Corporation
c/o James A. McKelvey
Motscheidler, Michaelides & Wishon
1690 West Shaw Avenue, Suite 200
Fresno, California 93711

In September of this year, staff of the State Lands Commission (Commission) met with the record owner of property along the San Joaquin River in rural Fresno County. The subject property, known as Ball Ranch, contains 592 acres of land. Its location is shown for reference on Exhibit "A" to this calendar item. At the time of the meeting in September, the property was in the record ownership of the Ball family. It has since been purchased by the Sienna Corporation (Sienna), a property developer based in Minnesota.

The Ball Ranch is one of the single largest ownerships of property along the San Joaquin River near Fresno and includes ponds left from gravel mining and significant areas of riparian foliage, and open woodland. It lies approximately three miles downstream of Friant Dam. Sienna Corporation has requested Fresno County to

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amend its General Plan to allow this property to be developed with residences and a golf course.

The State Lands Commission has been active in protecting sovereign rights in the San Joaquin River, both upstream and downstream of the city of Fresno. There has been substantial controversy with local landowners, many of whom have established paper title to the bed of the River since the construction of Friant Dam and the reduction of water levels. In the case of the Ball Ranch, a settlement agreement has been drafted by the staff and has been approved by Sienna which determines the landward extent of State title interests within the subject property. The agreement is on file at the Commission's Sacramento office and is incorporated by reference as a part of this calendar item.

The most important terms of the settlement provide that:

1. The parties will set a boundary line between their ownerships through the length of the Ball Ranch. Under the agreement, there will be private fee ownership on one side of the line and State sovereign fee ownership on the other.
2. The State will terminate any possible sovereign land title in an area of the Ball Ranch where there is title uncertainty. In exchange for this termination, Sienna will contribute \$30,000 to the Kapiloff Land Bank Fund. The area in which the public trust is to be terminated is open woodland separated from the active channel of the San Joaquin River by land to be settled in the State under the agreement. This area is subject to substantial title uncertainty because it is shown on available maps as an island above the high water flows of the San Joaquin River just prior to the construction of Friant Dam.
3. Sienna will deed an access easement to the State between the nearest public road and land quieted in the State in the San Joaquin River. This easement shall be for non-motorized public use and motorized use by State vehicles.

The Staff of the State Lands Commission and the Office of the Attorney General have evaluated the proposed settlement in

consideration of environmental, legal, boundary and appraisal factors. The settlement is recommended for several reasons: (1) it will settle sovereign title in a significant reach on the San Joaquin River; (2) it will also permanently protect riparian land along the river in sovereign ownership; (3) access to the River will also be assured and may be increased under the Subdivision Map Act should Fresno County permit a new subdivision of the upland at this site; and (4) it will provide the first Kapiloff funds for expenditure in the San Joaquin River region.

AB 884: N/A

OTHER PERTINENT INFORMATION:

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

Authority: P.R.C. 21080.11

- EXHIBIT:
- A. Site Map for Reference Only.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS;
2. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE FRESNO COUNTY RECORDER A BOUNDARY LINE AND EXCHANGE AGREEMENT WITH SUBSTANTIALLY THE TERMS DESCRIBED IN THIS CALENDAR ITEM;
3. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE BOUNDARY BETWEEN STATE AND PRIVATE TITLE INVOLVING LAND WITHIN THE BALL RANCH; THAT THE PROPOSED BOUNDARY LINE AND EXCHANGE AGREEMENT ARE A COMPROMISE CONSISTENT WITH AND AUTHORIZED BY THE REQUIREMENTS OF LAW

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INCLUDING P.R.C. SECTION 6307; THAT ANY SOVEREIGN INTERESTS CONVEYED TO A PRIVATE PARTY BY THIS TRANSACTION HAVE BEEN RECLAIMED AND REMOVED FROM THE SAN JOAQUIN RIVER AND ARE NO LONGER USEFUL OR SUSCEPTIBLE TO USE FOR NAVIGATION AND FISHING, AND THAT, UPON RECORDATION OF THIS TITLE SETTLEMENT AGREEMENT, ARE NO LONGER LAND OF THE LEGAL CHARACTER OF TIDE AND SUBMERGED LANDS; AND FURTHER, THAT THIS SETTLEMENT ENHANCES THE CONFIGURATION OF THE SHORELINE AND HELPS TO PROTECT ITS USE FOR RECREATION, VEGETATION, AND PRESERVATION OF RIPARIAN HABITAT; AND

4. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY ACTION, INCLUDING THE FILING OF QUIET TITLE LITIGATION, TO ESTABLISH THE LEGAL VALIDITY OF THIS AGREEMENT.

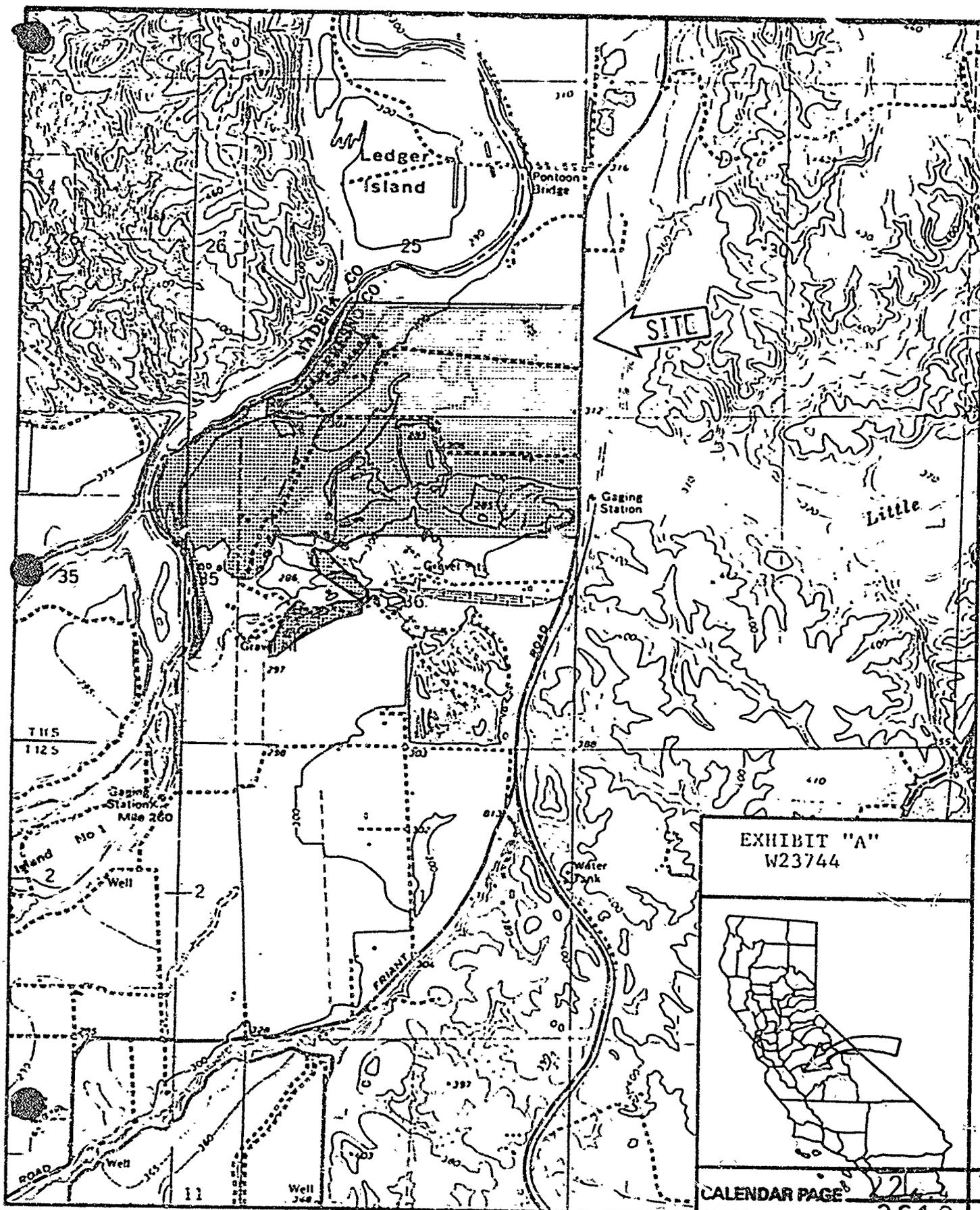


EXHIBIT "A"
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