MINUTE ITEM
This Calendar Item No. C39
was approved as Minute Item
No. 39 by the State Lands
Commission by a vote of 3
to Ø at its 12/17/92
meeting.

CALENDAR ITEM

C39

A 61

S 25

12/17/92
PRC 5906
Kruger

APPROVE ASSIGNMENT OF PREFERENTIAL RIGHT
UNDER STATE MINERAL PROSPECTING PERMIT PRC 5906
SAN BERNARDINO COUNTY

ASSIGNOR:
Mountain States Mineral Enterprises
4370 S. Fremont Avenue
Tucson, Arizona 85714

ASSIGNEE:
Fort Cady California Corporation
32 South Street
Baltimore, Maryland 21202

ASSIGNEE'S AGENT:
Ernest Riffenburgh
Greshman, Varner, Savage, Nolan & Tilden
Law Offices
600 N. Arrowhead Avenue, Suite 300
San Bernardino, California 92401

AREA, TYPE LAND AND LOCATION:
State Mineral Prospecting Permit PRC 5906 consists of approximately 269 acres of patented State school lands with a 100 percent (100%) mineral interest reserved to the State. These lands are located in the SE1/4 of NW1/4, the S1/2 of NE1/4, and the SW1/4, all in Section 36, T8N, R5E, SBM, in an unpopulated area of the central Mojave Desert about 40 miles east of Barstow, California. The surface area of the State's portion in Section 36 is owned by the Assignee, Fort Cady California Corporation. The State interest land adjoins private lands and federal mining claims comprising the Fort Cady Borate Mining Project.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

1. Assignment forms have been executed by both Assignor and Assignee.

2. Assignee is qualified to hold this entitlement.

3. Statutory filing fee of $25 has been submitted to the Commission, and staff costs for processing this activity will be reimbursed through R04991.

BACKGROUND:

State mineral prospecting permit PRC 5906 was originally issued to Duval Corporation of Tucson, Arizona in November 1980 for a primary term of two years to prospect for borate minerals. An exploration drilling program on State lands was conducted by Duval during the permit term. The drilling resulted in discovery of minor, thin borate mineralization within the State's land. The State land mineralization, uneconomic by conventional extraction methods (underground mine or open pit), could be produced by solution mining using injection/recovery wells. The main discovery was a fairly large borate deposit on the fee land adjoining the State parcel. Prior to expiration of Duval's permit in October 1982, the Commission authorized a one-year extension effective through October 1983. The permit expired in October 1983. Another prospecting permit was issued to Duval Corporation effective January 1985, and was subsequently assigned to Mountain States Mineral Enterprises (Mountain States) and extended through December 1987. In November 1987, Mr. Riffenburgh as agent, submitted a preferential right mineral lease application on behalf of Mountain States. The lease application was reviewed by staff and the Applicant was advised in December 1987 that the application was incomplete.

In early 1988, the Mountain State's agent notified staff that a feasibility study was being conducted regarding several alternatives for extraction of the borate mineral deposit. Staff continued conferring with Mountain States on several occasions during 1988 and 1989 regarding the project. In May 1990, Mountain States advised that its interest in the project had been assigned to Fort Cady California Corporation (FCCC). In June 1990, staff responded to Mountain States that its lease application was still incomplete, and that the assignment would have to be approved by the Commission.

In October 1991, an application was received on behalf of Fort Cady requesting approval of a series of assignments of the preferential right under Mineral Prospecting Permit PRC 5906 from Duval Corporation to Mountain States to Corona Corporation to Fort Cady Minerals Corporation and finally to Fort Cady California Corporation. The various conveyances and mineral lease application were reviewed and approved by staff counsel. The assignment application file contained documents from the Maryland State Department of Assessments and Taxation that FCCC is incorporated under Maryland law and is in good standing, certification of FCCC to transact business within the State of California and a certified Board Resolution of FCCC authorizing the assignment from Fort Cady Minerals Corporation.

Since 1987, legal disputes involving the principals, and the absence of a mining and reclamation plan and environmental documentation combined to delay the Fort Cady Borate Mining Project. Approval of the assignment to Fort Cady establishes its preferential right to apply for a mineral lease under terms of the prospecting permit.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

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 because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

   Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

2. Application material for this activity has been reviewed by the Office of the State Attorney General for compliance with applicable provisions of the law.

3. Entitlement to the preferential right under terms of the prospecting permit shall not affect the discretion of the Commission in granting or denying a mineral extraction lease application because of environment considerations. Issuance of any mineral lease shall be subject to all necessary environmental analysis and approvals.

EXHIBITS:

A. Land Description
B. Location Map

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 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.

2. APPROVE ASSIGNMENT OF THE PREFERENTIAL RIGHT TO APPLY FOR A MINERAL EXTRACTION LEASE UNDER STATE MINERAL PROSPECTING PERMIT PRC 5906, IN SAN BERNARDINO COUNTY, FROM MOUNTAIN STATES MINERAL ENTERPRISES TO FORT CADY CALIFORNIA CORPORATION.

EXHIBIT "A"

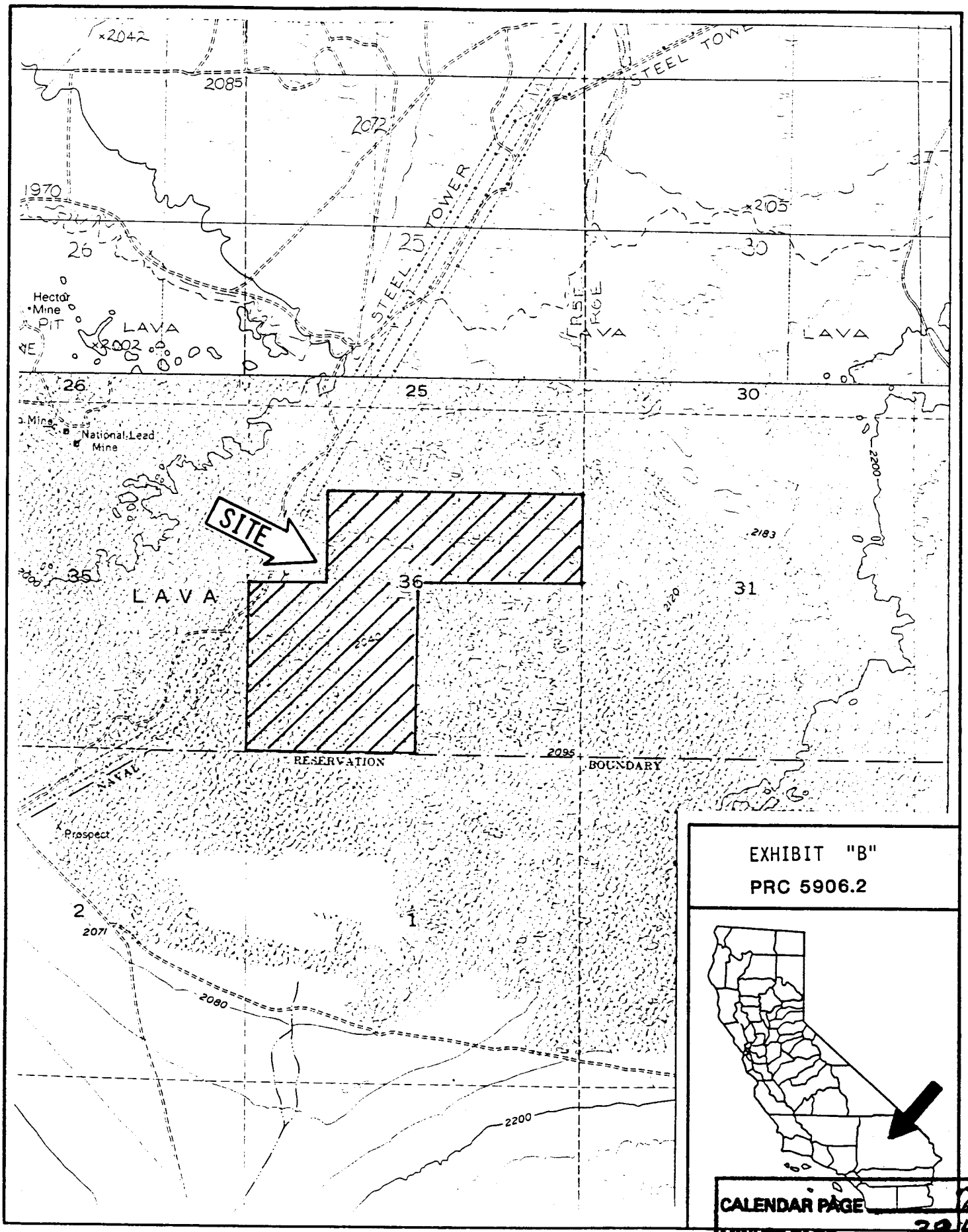
LAND DESCRIPTION **PRC 5906.2**

A parcel of California State school lands in San Bernardino County, California, described as follows:

S1/2 NE1/4, SE1/4 NW1/4, and the SW1/4 of Section 36, T8N, R5E, SBM.

END OF DESCRIPTION

Prepared October 4, 1984, BY BOUNDARY AND TITLE UNIT



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