MINUTE ITEM
This Calendar Item No. C26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 3
to 0 at its 7-19-93
meeting.

CALENDAR ITEM

C26

A 80

S 37

07/19/93
W 24848
A. Scott

PRC 7700

AUTHORIZE THE EXECUTION OF A TITLE SETTLEMENT AGREEMENT
COVERING CERTAIN PROPERTY IN THE
PALO VERDE VALLEY IN IMPERIAL COUNTY
PURSUANT TO THE KAPILOFF LAND BANK ACT

APPLICANT:

Jane C. Stafford, et. al.
522 W. Espraenza Boulevard
Green Valley, Arizona 85614

AREA, TYPE LAND AND LOCATION:

1,600+-acres of farm land containing 150.7+-acres of State sovereign land interests located within the last natural abandoned channel of the Colorado River.

BACKGROUND:

A title dispute exists between the State, in its sovereign capacity, and Jane Stafford, et. al. concerning ownership of approximately 150.7 acres of real property located in the western half of an abandoned channel of the Colorado River and within a 1,600+-acre parcel of farm lands in Imperial County. The real property, referred to as the Subject Property, is described in Exhibit "A", and shown on Exhibit "C".

The location of the proposed land exchange is the lower portion of the Palo Verde Valley south of the county line between Riverside and Imperial Counties (Exhibit B). The subject property is located in Imperial County and is currently being farmed. The current channel of the Colorado River is located in an artificial channel constructed in 1968 commonly known as the Cibola Cut. The last natural channel of the river as it impacts the Subject Property is the 1929 channel. This last natural location precedes the impacts of a channelization project undertaken in 1930 with the construction of the Keele Cut. The Keele Cut severed a portion of the then river channel and redirected the flow of the river into this artificial cut. The abandoned channel over the subsequent years was then filled and reclaimed for farm land.

In 1966 the Commission entered into a Boundary Agreement (BLA 75) which purported to establish the low water boundary in this area of the Colorado River. This boundary was identified using aerial photography from 1930 which showed a very large area occupied by the river channel. The low water channel was difficult to identify in the photograph and was done at that time to facilitate the settlement of a condemnation action of the Federal Government. The boundary line established was short and covered only a small portion of the Subject Property, being the portion located in Section 7 (see Exhibit C). The settlement document for BLA 75 is both vague and ambiguous in describing the settlement area and the effect of the agreement on other properties. The agreement also failed to address the State's public trust easement interest in the area between high and low water. This proposed settlement agreement would rectify and supersede BLA 75.

The staff of the State Lands Commission has conducted a study of the evidence of title to the Subject Property and has drawn a number of factual conclusions, including but not limited to the following:

1. The Subject Property includes the filled and reclaimed historic channel of the Colorado River.

2. Portions of the Subject Property were in their last natural state covered by the waters of the Colorado River.

The staff is of the opinion that the title evidence and the applicable legal principles lead to the conclusion that the State, in its sovereign capacity, is the owner of some public trust right, title and interest in the Subject Property. The exact extent and nature of the State's interest is, however, subject to uncertainty and is disputed by the Private Parties.

CURRENT SITUATION:
The current owners of the Subject Property desire to arrange for the property to be cleared of any remaining interest of the State, either sovereign fee interest or public trust easement, so that they can receive a policy of title insurance free of any State, claims. Staff of the Commission has conducted an investigation of the area for purposes of establishing the best evidence of State property interest in the area. Such research

has found that both State sovereign fee and public trust interests may remain in portions of the Subject Property claimed by the private party. However, the area is presently being farmed and bears no resemblance to the last natural channel of the river.

The current area is filled and no longer suitable for public trust purposes. In order to resolve the various ownership claims of the private parties and the State in this area, staff has prepared a title settlement agreement that will, through a Kapiloff Land Bank transaction, clear the title in the farm lands to the private parties in exchange for a deposit of $101,400.00 into the Land Bank. Such money will be used to purchase property suitable for public trust needs. The proposed agreement is on file in the Sacramento Office of the Commission.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Processing costs have been received.

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 as a statutorily exempt project. The project is exempt because it involves settlements of title and boundary problems.

   Authority: P.R.C. 21080.11.

2. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant values.

3. In taking action on this staff recommendation, the Commission is acting in its capacity as trustee of the Kapiloff Land Bank created by P.R.C. 8610.

EXHIBITS:

A. Land Description
B. Location Map
C. Plat of Subject Property

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. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH LANDS.

3. FIND THAT, WITH RESPECT TO THE PROPOSED TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PROPERTY FOR FUNDS WITH WHICH TO BUY AN EXCHANGE PARCEL:

   A. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE AND CONSISTENT WITH PUBLIC TRUST NEEDS.

   B. THAT THE MONIES RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO, OR GREATER THAN, THE VALUE OF THE INTERESTS IN PROPERTY BEING RELINQUISHED BY THE STATE.

   C. THE SUBJECT PROPERTY, WHICH INCLUDES THE EXCHANGE PARCEL, HAS BEEN IMPROVED, RECLAIMED, FILLED AND HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER, IN FACT, SUBMERGED LANDS.

   D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS AND CLAIMS WITHIN THE SUBJECT PROPERTY DESCRIBED IN EXHIBIT "A" AND SHOWN ON EXHIBIT "C", ATTACHED HERETO.

   E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED.

F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE PROVISIONS OF LAW.

G. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PROPERTY WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.

4. AUTHORIZE THE EXECUTION, ON BEHALF OF THE STATE, OF A TITLE SETTLEMENT AGREEMENT SUBSTANTIALLY IN THE FORM OF THAT AGREEMENT ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION WITH JANE CHILCOTT STAFFORD, AS TRUSTEE OF THE JANE CHILCOTT STAFFORD LIVING TRUST DATED DECEMBER 10, 1984 AND JANE C. STAFFORD AS HER SEPARATE PROPERTY WHICH WILL RESOLVE A DISPUTE OVER OWNERSHIP INTERESTS IN THE PROPERTY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO.

5. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO IMPLEMENT THE TERMS AND PROVISIONS OF THE TITLE SETTLEMENT AGREEMENT AS ON FILE WITH THE COMMISSION, INCLUDING BUT NOT LIMITED TO, EXECUTION AND ACCEPTANCE OF ALL DOCUMENTS, MAPS, TITLE AND ESCROW INSTRUCTIONS, AND APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE ABOVE AGREEMENT IN COURT IN SUPPORT OF THE AGREEMENT.

EXHIBIT "A"
LAND DESCRIPTION

W24848

Ten parcels of land, situated in Township 9 South, Ranges 21 and 22 East, S.B.M. and located in an unincorporated area of Imperial County, State of California, and more particularly described as follows:

Parcel 1
The East half of Government Lot 1 of the Northwest Quarter; the North half of the Southwest Quarter; the Southwest Quarter of the Southwest Quarter; the Northeast Quarter of the Southeast Quarter; the South Half of the Southeast Quarter, all in Section 1, Township 9 South, Range 21 East, S.B.M. in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof.

Parcel 2
That portion of the Northeast Quarter of the Southeast Quarter of Section 2, Township 9 South, Range 21 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof, lying Southeast of the center line of Lower Borrow Pit Drain, as located on January 22, 1963.

EXCEPTING THEREFROM any portion included within Sunrise Tract, as shown on Final Map, recorded in Book 2, Page 7 of Final Maps, in the Office of the County Recorder of Imperial County.

Parcel 3
The Southeast Quarter of the Northwest Quarter; the Southwest Quarter of the Northeast Quarter, Lots 5, 6, 7 and 8, all in Section 6, Township 9 South, Range 22 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof.

Parcel 4
The West Half of the Northwest Quarter of Section 12, Township 9 South, Range 21 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof.

Parcel 5
The Southeast Quarter of the Northeast quarter of Section 11, Township 9 South, Range 21 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof.

Parcel 6
That portion of the Southeast Quarter of the Southeast Quarter of Section 2, in Township 9 south, Range 21 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof, lying Easterly of the following described line:

BEGINNING at a point on the North line of said Southeast Quarter of Southeast Quarter, 244 feet Easterly from the Northwest corner of said land; thence southerly and parallel to the west line of said land to a point that is 250 feet North of the South line of said Section 2; thence Southeasterly 298 feet, more or less, to a point on the South line of said Section 2, that is 410 feet Easterly from the Southwest corner of said Southeast Quarter of Southeast Quarter.

EXCEPTING THEREFROM the Southerly 30 feet thereof.

ALSO EXCEPTING THEREFROM that portion of the Southeast Quarter of the Southeast Quarter of section 2, said Township and Range, described as follows:
BEGINNING at a point which is 410 feet East and 30 feet North of the Southwest corner of the Southwest corner of the Southeast Quarter of said Section 2; thence North 125 feet and parallel with the West line thereof; thence East 110 feet and parallel with the South line thereof; thence South 125 feet and parallel with the West line thereof; thence West 110 feet and parallel with the South line thereof to the Point of Beginning.

Parcel 7
That portion of the Northeast Quarter of the Northeast Quarter of Section 11, in Township 9 South, Range 21 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof, lying Easterly of the following described line:

BEGINNING at a point on the North line of said Section 11, 410 feet Easterly from the Northwest corner of said Northeast Quarter of Northeast Quarter; thence Southwesterly 653 feet to a point that is 244 feet East of the West line of said Northeast Quarter of Northeast Quarter, and 630 feet South of the North line of said Section 11; thence Southerly on a line parallel to the West line of said Northeast Quarter of Northeast Quarter, 430 feet; thence Southwesterly 364 feet to the Southwest corner of said Northeast Quarter of Northeast Quarter.

EXCEPTING THEREFROM the Northerly 30 feet thereof.

Parcel 8
That portion of the Southwest Quarter of the Northeast Quarter of Section 11, Township 9 South, Range 21 East, S.B.M., in an unincorporated area of the County Of Imperial, State of California, according to the Official Plat thereof, as follows:

COMMENCING at the Northeast corner of said Section 11; thence North 89°53'30" West, along the North line thereof, a distance of 1116.3 feet to a point; thence South 03°14'07" West, a distance of 932.43 feet to a point; thence South 17°25'09" West, a distance of 529.39 feet to a point in the East line of said Southwest Quarter of Northeast Quarter of said Section; said point being the TRUE POINT OF BEGINNING; thence continuing South 17°25'09" West, a distance of 195.11 feet to a point; thence

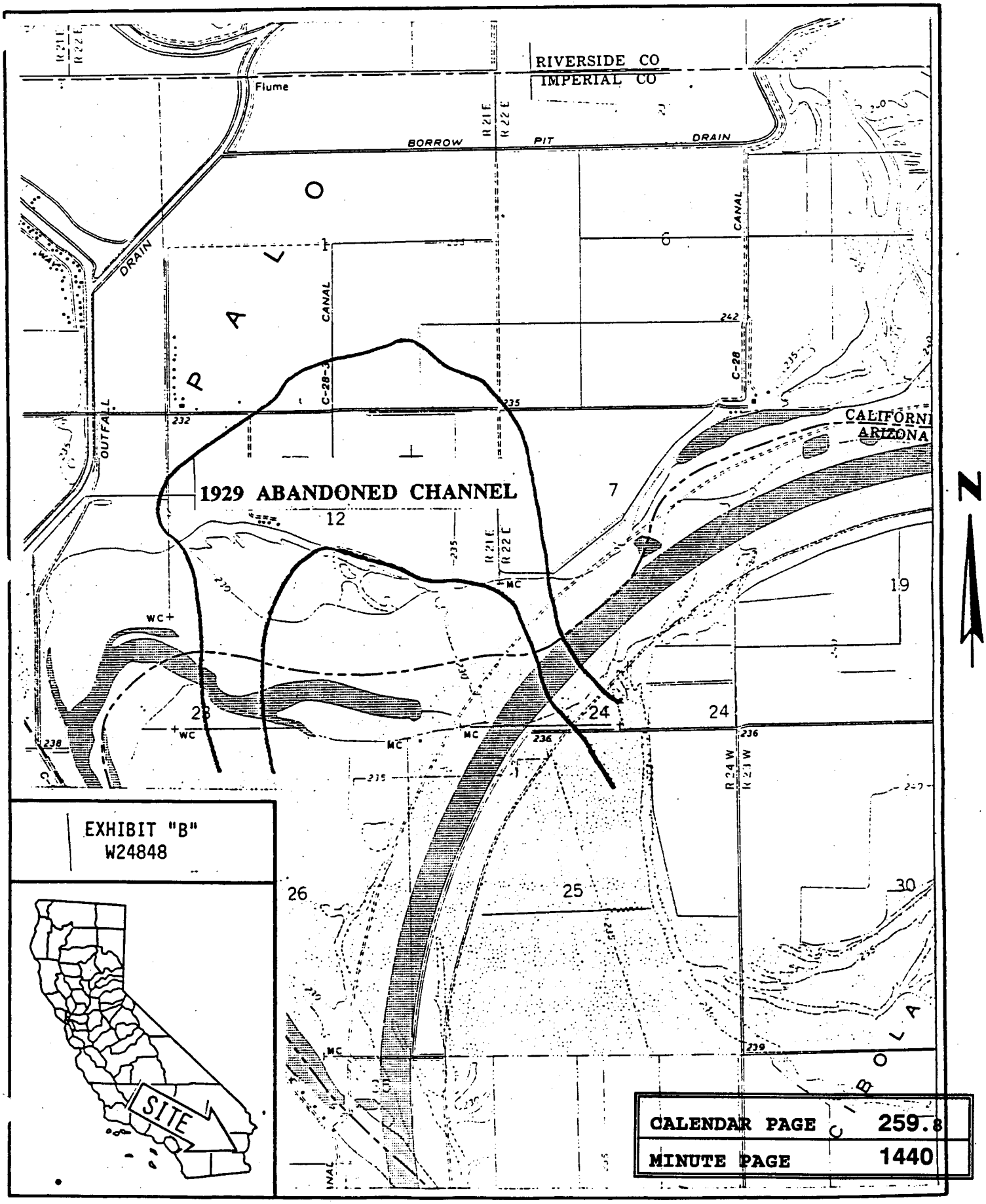
South 32°39'24" West, a distance of 720.0 feet to a point; thence South 89°53'30" East, a distance of 446.71 feet to a point in the East line of the Southwest Quarter of Northeast Quarter of said Section; thence North 00°01'17" East, along said East line, a distance of 793.18 feet to the True Point of Beginning.

EXCEPTING THEREFROM the Westerly 40 feet thereof.

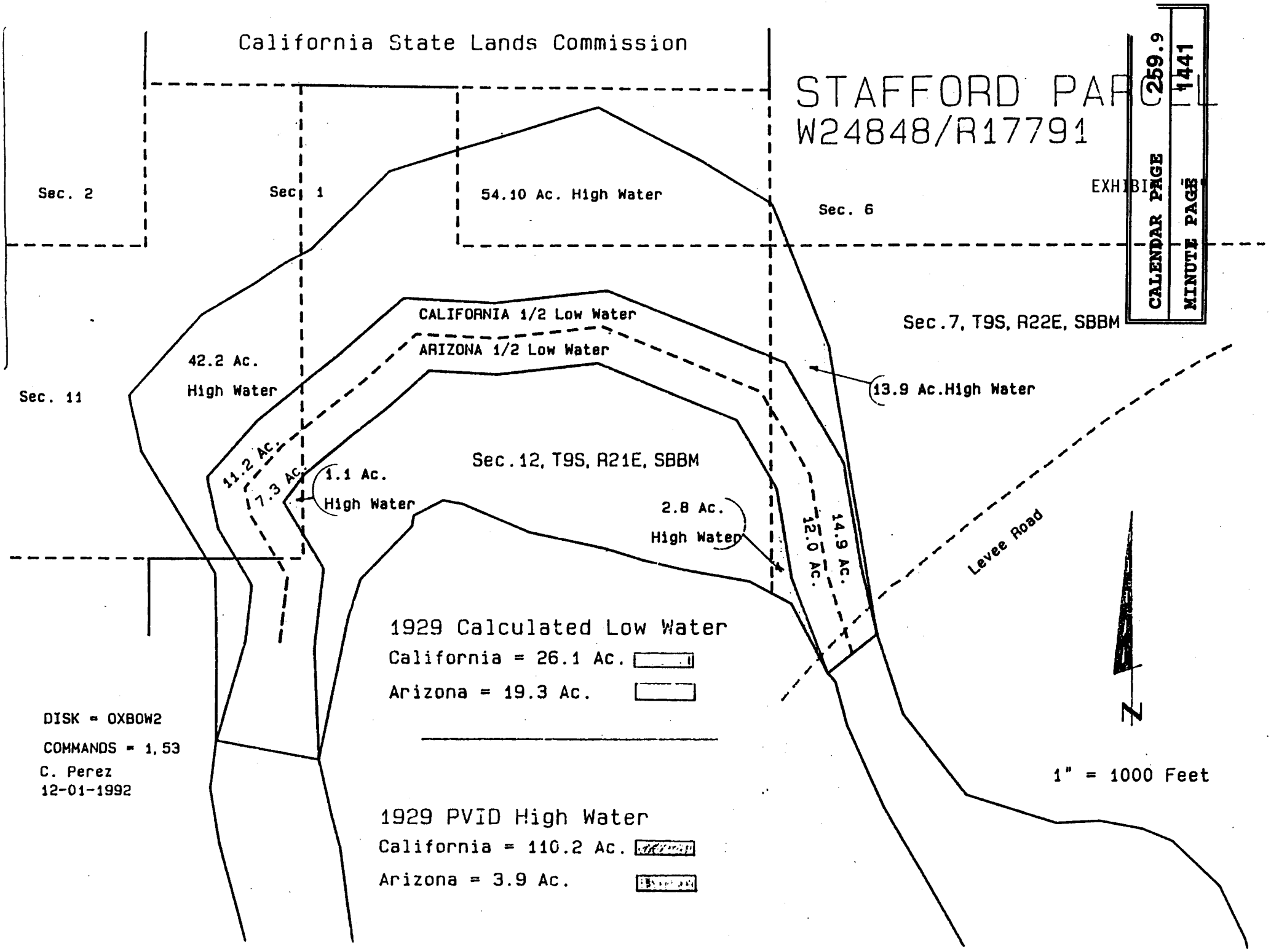
Parcel 9
The Southeast Quarter of the Southwest Quarter of Section 1, Township 9 South, Range 21 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof.

Parcel 10
All Accretions to Section 6, Township 9 South, Range 22 East, S.B.M., in an unincorporated area of Imperial County, State of California, according to the Official Plat thereof, within projected Sections 6 and 7 and lying northerly of the United States Bureau of Reclamation Levee. Said levee being on the northerly side of the Right Bank of the present channel of the Colorado River.

END DESCRIPTION



CALENDAR PAGE	259.8
MINUTE PAGE	1440


California State Lands Commission
STAFFORD PARCEL
W24848/R17791
EXHIBIT
CALENDAR PAGE 259.9
MINUTE PAGE 1441
Sec. 2
Sec. 1
54.10 Ac. High Water
Sec. 6
Sec. 7, T9S, R22E, SBBM
CALIFORNIA 1/2 Low Water
ARIZONA 1/2 Low Water
42.2 Ac.
High Water
Sec. 11
13.9 Ac. High Water
11.2 Ac.
7.3 Ac.
1.1 Ac.
High Water
Sec. 12, T9S, R21E, SBBM
2.8 Ac.
High Water
12.0 Ac.
14.9 Ac.
Levee Road
1929 Calculated Low Water
California = 26.1 Ac.
Arizona = 19.3 Ac.
DISK = OXBOW2
COMMANDS = 1,53
C. Perez
12-01-1992
1929 PVID High Water
California = 110.2 Ac.
Arizona = 3.9 Ac.
N
1" = 1000 Feet