

MINUTE ITEM

This Calendar Item No. C75
was approved as Minute Item
No. 75 by the State Lands
Commission by a vote of 3
to 0 at its 11/15/94
meeting.

CALENDAR ITEM

C75

A 80

S 37

11/15/94

A. SCOTT

W23954

AUTHORIZE THE EXECUTION OF A
TITLE SETTLEMENT AGREEMENT COVERING CERTAIN PROPERTY
IN THE PALO VERDE VALLEY IN RIVERSIDE COUNTY
PURSUANT TO P.R.C. SECTION 6307 AND
THE KAPILOFF LAND BANK ACT

APPLICANT:

McMahon, et. al.
c/o George Allen, Esq.
Allen and Kimbell
317 East Carrillo Street, Suite 100
Santa Barbara, California 93101

Robert Andrews, Esq.
Mullen and Henzell
112 East Victoria Street
Santa Barbara, California 93102-0789

AREA, TYPE LAND AND LOCATION:

A total of approximately 2137± acres of farm land and residential subdivision, containing 145± acres of State sovereign land interests located within two loops of the former channel of the Colorado River.

BACKGROUND:

A title dispute exists between the State, in its sovereign capacity, and McMahon, et. al. concerning ownership of approximately 145 acres of real property located in the western half of two loops of the former channel of the Colorado River located within two parcels of farm lands and a residential subdivision in Riverside County. The two parcels contain a total of approximately 2,137± acres and are referred to hereafter as the Subject Property and are described in Exhibit "C-1" and shown on Exhibit "E" of the proposed settlement agreement and attached hereto as exhibits.

The location of the proposed land exchange is near the City of Blythe and in the lower portion of the Palo Verde Valley north of the county line between Riverside and Imperial Counties (Exhibit "E"). The Subject Property is located in Riverside County and is currently used as farm land and for a residential subdivision. The current channel of the Colorado River is located in an artificial channel constructed in the early 1920's.

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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 parcels described in Exhibit "C-1" include two filled and reclaimed loops of the historic channel of the Colorado River.
2. Portions of the parcels were, prior to artificial cuts relocating the river, 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 the purposes of establishing the best evidence of State property interest in the area. Such research has found that the property interest of the State in both sovereign fee and public trust interest may still exist in portions of the property claimed by the private parties. However the area is presently being farmed and/or being used for residential purposes and bears no resemblance to the former 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 an exchange of property interests and a Kapiloff Land Bank transaction, clear the title in the farm lands and the residential subdivision to the private parties in exchange for certain property interests in a total of approximately 160± acres and a deposit of \$130,000 into the Land Bank. Such money will be used to purchase property more suitable

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for public trust needs. The proposed agreement is on file in the Sacramento Office of the Commission.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and 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 as the State Lands Commission and also in its capacity as trustee of the Kapiloff Land Bank created by P.R.C. 8610.

EXHIBITS:

- A. List of Owners (Subdivision)
- B. List of Owners (Farm Land)
- C-1. Description of Subject Property
- D. Location Map
- E. Plat of Subject Property

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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 LAND 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 LAND.
3. FIND THAT, WITH RESPECT TO THE PROPOSED TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PROPERTY FOR OTHER PROPERTY INTERESTS AND 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 PROPERTY INTERESTS AND 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 PARCELS, 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 "C-1" AND SHOWN ON EXHIBIT "E", 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 REQUIREMENT OF LAW.

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- 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 MCMAHON, ET. AL. LISTED ON EXHIBITS "A" AND "B" ATTACHED HERETO, WHICH WILL RESOLVE A DISPUTE OVER OWNERSHIP INTERESTS IN THE PROPERTY DESCRIBED IN EXHIBIT "C-1", 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.

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COLORADO RIVIERA

Timothy McMahon (1/8), Patrick McMahon (1/16), Shauna McMahon (1/32), Patrick Leo McMahon (1/32), Shriners' Hospitals for Crippled Children, a corporation (1/8), Bruce N. Anticouni as Successor Trustee to Marguerite H. Marshall, as Trustee of the Marguerite H. Marshall Trust (1/8), T. Paul Dalzell, II, as Successor Trustee under the Will of Donald P. Dalzell (7.25%), T. Paul Dalzell, II, as Trustee of the Dalzell Family Living Trust U/A dated September 29, 1987 (17.75%), Donald R. Phillips, as Trustee of the Donald R. Phillips Trust under the Will of L. R. Phillips (1/16), Donald R. Phillips as Trustee of the Donald R. Phillips Trust under the Will of Blanche R. Phillips (1/16), Richard L. Phillips, as Trustee of the Richard L. Phillips Trust under the Will of L. R. Phillips (1/16), and Richard L. Phillips, as Trustee of the Richard L. Phillips Trust under the Will of Blanche R. Phillips (1/16).

EXHIBIT A

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L-47 (EXCLUDING THE COLORADO RIVIERA) AND L-48

Catherine McMahon (1/8), Patrick McMahon (1/8), Shriners' Hospitals for Crippled Children, a corporation (1/8), Bruce N. Anticouni as Successor Trustee to Marguerite H. Marshall, as Trustee of the Marguerite H. Marshall Trust (1/8), T. Paul Dalzell, II, as Successor Trustee under the Will of Donald P. Dalzell (7.25%), T. Paul Dalzell, II, as Trustee of the Dalzell Family Living Trust U/A dated September 29, 1987 (17.75%), Donald R. Phillips, as Trustee of the Donald R. Phillips Trust under the Will of L. R. Phillips (1/16), Donald R. Phillips as Trustee of the Donald R. Phillips Trust under the Will of Blanche R. Phillips (1/16), Richard L. Phillips, as Trustee of the Richard L. Phillips Trust under the Will of L. R. Phillips (1/16), and Richard L. Phillips, as Trustee of the Richard L. Phillips Trust under the Will of Blanche R. Phillips (1/16).

EXHIBIT B

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EXHIBIT "C-1"
L-47
LAND DESCRIPTION (STATE PARCEL)

A Parcel of land, within Sections 11 and 14, Township 7 South, Range 23 East S.B.M., in the County of Riverside, State of California and more particularly described as follows:

COMMENCING at the Section Corner common to sections 3-4-9-10, T7S, R23E, S.B.M., as said corner is described on the map entitled, "Record of Survey of a Portion of Sections 2, 11 and 14, T7S, R23E, S.B.B.M., Feb. 1960", and recorded on April 19, 1960, in Book 31 of Record of Surveys, Page 63-66, at the County Recorders Office, in Riverside California; thence S62°51'20"E, 9,299.87 feet to the POINT OF BEGINNING of the herein described parcel, said point of beginning being the Southeast Corner of Parcel #14, of the subdivision shown on the above referenced Record of Survey Map; thence from said point of beginning, East, 443.28 feet to the Right Descending Bank of the Present Channel of the Colorado River as said bank is defined in that certain amended judgement of the United States District Court, Central District of California, dated December 14, 1982, recorded as Instrument No. 227359, in the Office of the County Recorder in Riverside County; thence southerly along said right bank of the present channel of the Colorado River, the following 14 courses and distances;

1. S17°12'05"E, 57.13 feet; thence
2. S19°17'48"E, 230.05 feet; thence
3. S19°41'13"E, 244.77 feet; thence
4. S22°45'12"E, 286.18 feet; thence
5. S23°09'27"E, 230.23 feet; thence
6. S23°25'09"E, 211.30 feet; thence
7. S27°12'55"E, 318.56 feet; thence
8. S27°07'51"E, 314.23 feet; thence
9. S29°06'09"E, 246.82 feet; thence
10. S30°48'15"E, 279.09 feet; thence
11. S31°52'57"E, 231.83 feet; thence
12. S33°14'13"E, 319.14 feet; thence
13. S34°57'10"E, 359.21 feet; thence
14. S36°49'31"E, 106.08 feet; thence leaving said right bank of the present channel of the Colorado River, S88°48'00"W, 2,048.68 feet, to the southeasterly corner of the Subdivision shown on the above referenced Record of Survey Map; thence northerly along the easterly line of the Subdivision shown in the above referenced Record of Survey Map, the following courses and distances:
16. N05°31'00"E, 339.21 feet to the SE Corner of Parcel #23; thence
17. N05°31'00"E, 309.00 feet to the SE Corner of Parcel #22; thence
18. N05°31'00"E, 400.24 feet to the SE Corner of Parcel #21; thence
19. N41°21'00"W, 370.32 feet to the SE Corner of Parcel #20; thence
20. N02°32'50"W, 346.45 feet to the SE Corner of Parcel #19; thence
21. N26°45'20"W, 221.04 feet along the East line of Parcel #19; thence

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22. N48°43'50"W, 364.84 feet to the NE Corner of Parcel #18; thence
23. S88°53'00"W, 425.03 feet to the centerline of a 60 foot road and the Point of Beginning of a 300 foot Radius Curve, concave to the East, having a radial bearing of S74°14'30"W, and a Delta Angle of 10°06'20"; thence northerly, along said centerline of 60 foot road and curve, a distance of 52.91 feet; thence continuing along said centerline of 60 foot road N05°39'10"W, 15.93 feet to the Point of Beginning of a 500 foot Radius Curve, concave to the East, having a radial bearing of S84°20'50"W, and a Delta Angle of 13°46'10"; thence northerly along said centerline of 60 foot road and curve 120.16 feet; thence along said centerline of 60 foot road, N08°07'00"E, 32.69 feet; thence leaving said 60 foot road and along the southerly line of Parcel #17 of the Subdivision shown in the above referenced Record of Survey Map, N88°53'00"E, 484.57 feet to the SE Corner of Parcel#16; thence northerly along the westerly line of the Subdivision shown in the above referenced Record of Survey Map, the following courses and distances:
29. N54°14'30"E, 240.96 feet along the East line of Parcel #16; thence
30. N42°41'00"E, 273.70 feet along the East line of Parcel #16; thence
31. N11°17'00"E, 136.84 feet to the SE Corner of Parcel#15; thence
32. N11°17'00"E, 322.39 feet to the SE Corner of Parcel #14, being the point of beginning and the end of the herein described parcel.

EXCEPTING THEREFROM any portion of said parcel within the Right of Way of Riviera Drive, being the above mentioned 60 foot road.

END DESCRIPTION

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EXHIBIT "C-1"
L-48
LAND DESCRIPTION (STATE PARCEL)

A parcel of land within Sections 25 and 36, Township 8 South, Range 22 East, S.B.M., in the County of Riverside, State of California and more particularly described as follows:

COMMENCING at the Found Section Corner common to Sections 34-35, T8S, R22E and Section 4, T9S, R22E, SBM, as said corner is shown on the U.S.B.L.M. Plat for Township 8 South, Range 22 East of the San Bernardino Meridian, California, Dependent Resurvey and Survey of Accretion, surveyed by Beverly W. Cappell, from March 31 to April 27, 1960; thence from said corner, easterly, along the section line common to sections 35 and 3, N89°59'00"E, 8,032.43 feet to a point on the section line between sections 36 and 3, T8&9S, R22E and the southwesterly corner of the parcel described in the deed to Riverside County, recorded in Book 1567, Pages 491-493, recorded in the County Recorders Office of Riverside County, said point is distant West, 631.00 feet from the right descending bank of the Colorado River; thence from said southwesterly corner and along the westerly boundary of said parcel, North, 168.00 feet; thence East, 390.00 feet; thence North, 43.00 feet; thence East, 86.00 feet; thence North, 389.00 feet to the northwesterly corner of the parcel described in Book 1567, Pages 491-493, and the POINT OF BEGINNING of the herein described parcel; thence from said point of beginning the following courses and distances:

1. N04°19'20"W, 168.92 feet;
2. N32°50'53"E, 112.22 feet;
3. N00°46'04"E, 566.96 feet;
4. N85°24'21"E, 213.29 feet;
5. N04°12'25"E, 678.35 feet;
6. N60°48'47"E, 153.60 feet;
7. N02°54'50"E, 547.93 feet;
8. N79°30'28"E, 259.65 feet;
9. N04°07'34"E, 629.29 feet;
10. N60°48'51"E, 200.92 feet;
11. N00°18'19"E, 516.10 feet;
12. N31°56'54"E, 140.38 feet;
13. N01°30'00"E, 647.45 feet;
14. N87°51'33"E, 154.94 feet;
15. N00°56'21"E, 549.94 feet;
16. N01°55'24"W, 227.07 feet;
17. S82°35'42"W, 194.55 feet;
18. N13°51'25"W, 75.75 feet;
19. N00°54'20"E, 570.63 feet;
20. N10°16'40"E, 129.46 feet;
21. N37°13'07"E, 151.16 feet;
22. N04°51'31"W, 312.77 feet;

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23. N17°34'43"W, 175.76 feet;
24. N01°33'00"W, 266.80 feet;
25. N21°20'36"W, 582.26 feet;
26. N18°11'45"W, 173.02 feet;
27. N01°31'21"E, 153.74 feet;
28. N89°21'33"E, 504.07 feet to the present right descending bank of the Colorado River; thence southerly along said present bank of the Colorado River the following courses and distances;
29. S09°56'50"W, 66.49 feet;
30. S06°33'29"W, 381.05 feet;
31. S03°50'21"E, 376.33 feet;
32. S13°31'13"E, 157.99 feet;
33. S12°17'36"E, 413.12 feet;
34. S09°42'27"E, 325.67 feet;
35. S07°01'48"E, 272.47 feet;
36. S01°02'43"E, 353.83 feet;
37. S00°45'47"E, 203.24 feet;
38. S00°50'41"E, 209.80 feet;
39. S13°13'55"W, 242.74 feet;
40. S10°18'57"W, 195.22 feet;
41. S05°26'18"W, 289.05 feet;
42. S15°52'52"W, 179.28 feet;
43. S15°03'04"W, 282.22 feet;
44. S16°57'31"W, 280.14 feet;
45. S17°25'09"W, 259.95 feet;
46. S16°09'00"W, 176.36 feet;
47. S12°46'43"W, 198.66 feet;
48. S13°14'35"W, 249.23 feet;
49. S15°56'35"W, 302.74 feet;
50. S14°07'55"W, 221.20 feet;
51. S08°33'24"W, 249.94 feet;
52. S08°53'58"W, 271.12 feet;
53. S09°12'11"W, 223.21 feet;
54. S15°04'33"W, 211.09 feet;
55. S12°48'05"W, 218.20 feet;
56. S14°27'56"W, 299.55 feet;
57. S19°13'40"W, 268.24 feet;
58. S12°49'39"W, 197.97 feet;
59. S14°15'17"W, 51.89 feet; thence leaving said present right descending bank of the Colorado River, N90°00'00"W, 344.73 feet to the point of beginning and the end of the herein described parcel.

END DESCRIPTION

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CITY of BLYTHE

16TH AVE.

DRAWING NOT TO SCALE
FOR GRAPHIC PURPOSES ONLY

INTAKE BLVD.

18TH AVE.

CALIFORNIA

COLORADO RIVER

ARIZONA

34TH AVE.

RANCH L-48

36TH AVE.

RIVERSIDE COUNTY

IMPERIAL COUNTY

EXHIBIT "E"
OWNERSHIP PLAT
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