

MINUTE ITEM

This Calendar Item No. C76 was approved as Minute Item No. 76 by the California State Lands Commission by a vote of 3 to 0 at its 08/21/96 meeting.

CALENDAR ITEM

C76

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**CONSIDER APPROVAL AND EXECUTION
OF A TITLE SETTLEMENT AGREEMENT BETWEEN
RIVERBEND RANCH, A CALIFORNIA LIMITED PARTNERSHIP
AND THE STATE OF CALIFORNIA,
INVOLVING LAND IN AND ADJACENT
TO THE BED OF THE SAN JOAQUIN RIVER,
COUNTY OF MADERA**

APPLICANT:

Riverbend Ranch, a California limited partnership
c/o Coombs, Inc.
600 West Shaw Avenue, Suite 100
Fresno, California 93704

BACKGROUND:

The State of California owns the bed of the San Joaquin River between the rivers two ordinary low water marks (Civil Code §830). The entire river between the ordinary high water marks is subject to a Public Trust Easement as described in State of California v. Superior Court (Fogerty) 29 Cal 3rd 210 (1980). This easement and the fee owned lands in the bed of the San Joaquin River are under the jurisdiction and control of the State Lands Commission (SLC) pursuant to Public Resources Code Sections 6301 and 6216.

In 1976 the SLC began a comprehensive investigation of the historical factual evidence relating to the San Joaquin River in order to determine the location of the State's sovereign property interests between Friant Dam and Highway 99. Upon completion of that study, this office prepared, printed and distributed the **San Joaquin River Administrative Maps** to the county, city and other interested parties in April 1992.

Based upon the **San Joaquin River Administrative Maps**, the land that is the subject of this proposed title settlement agreement involves lands: 1) within the historic high

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and low water channels as it passes through Riverbend's record title lands and 2) lands above the ordinary high water mark. The legal ownership and precise boundaries of the San Joaquin River involving public and private property interests can only be determined by agreement of the parties or litigation. Rather than go through the expensive, time consuming and unpredictable course of litigation, Riverbend Ranch has requested that a mutually agreeable title settlement be entered into.

In the area involved in the proposed settlement, the San Joaquin River has been affected by human activities which had a direct impact upon, among other characteristics, the River's location, velocity and volume of flow, seasonal flow patterns, and sediment transport and deposition. An example of the direct artificial influences is the impoundment and diversion of water for agricultural, recreational, and flood control purposes by the construction and operation of Friant Dam. Consequently the pre-artificial conditions and location of the OHWM and OLWM in this area along or through the subject property no longer is reflected by current flow conditions. These changes have also had an impact on the location and extent of the riparian corridor along the river and the public trust values associated therewith.

Uncertainty exists as to the precise factual and legal location of the OHWM and the OLWM of the San Joaquin riverbed before the flows were controlled and artificial influences impacted the river. There is a *bona fide* dispute between the State and Riverbend as to the existence, extent, nature and location of their respective rights, titles and interests in the subject property.

Staff has conducted an evaluation of the state's easement and fee claims in the subject area, taking into account the factual uncertainties, the legal disputes, as well as the present and foreseeable future utility to the public in asserting, exercising, or preserving the claims in their mapped location, and recommends terminating any remaining State title claims in the area described in Exhibit C for the areas described in Exhibit D and E which have greater value and utility to the Public Trust.

A judicial resolution of the parties' rights, titles and interests in the subject property could require costly, protracted, and vigorously disputed litigation with uncertain results if the controversy could not be resolved by settlement. The parties consider it expedient and necessary and in the best interests of the State, the public, and Riverbend to resolve this title dispute by compromise settlement, thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of such litigation.

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The proposed Title Settlement Agreement provides for (1) the establishment of a permanently fixed Boundary Line separating the title interests of Riverbend from those of the State in the riverbed; (2) exchanging any property interests either party may have on opposite sides of the agreed Boundary Line; (3) dedication to the State of an access easement for use by the State of California, its agencies employees, assigns and contractors and by the public as a pedestrian use only accessway to the lands confirmed in State ownership.

The area of claimed state interest to be exchanged with the upland owner involves approximately 1.81 acres of easement and 3.65 acres of fee. The state will acquire fee title to approximately 6.18 acres of private fee upland and 4.79 acres of upland subject to the public trust easement and in addition obtain clear title to an estimated additional 50.12 acres which include the bed of the San Joaquin River and a major island in the river.

The State, acting by and through the SLC, is authorized under Division 6 of the Public Resources Code, and specifically pursuant to Sections 6307 and 6357 of such code, to enter into property exchange and boundary line agreements.

Pursuant to Government Code Section 66412(e), provisions of the Subdivision Map Act do not apply to title settlement agreements to which the SLC is a party.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code of Regs.: Title 2, 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: Public Resources Code Section 21080.11.

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EXHIBITS:

- A. Description of Agreed Boundary Line
- B. Site Map
- C. Area of State Quitclaim to Riverbend (Upland Parcel)
- D. Area of Riverbend Quitclaim to State (State Parcel)
- E. Access Easement from Riverbend to State

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 PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT, WITH RESPECT TO THE PROPOSED TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF ANY STATE INTEREST WITHIN THE AREA DESCRIBED IN EXHIBIT C OF THIS CALENDAR ITEM FOR THE INTERESTS OF RIVERBEND IN THE AREA DESCRIBED IN EXHIBIT D AND E:
 - A. THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND CONSISTENT WITH PUBLIC TRUST NEEDS.
 - B. THAT THE LANDS AND INTERESTS IN LANDS RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO, OR GREATER THAN, THE VALUE OF THE INTEREST IN THE LANDS BEING RELINQUISHED BY THE STATE.
 - C. THE AREA OF INTERESTS IN LANDS BEING CLAIMED BY THE STATE TO BE RELINQUISHED, IS A RELATIVELY SMALL AREA AND PURSUANT TO A PROJECT FOR IMPROVEMENT OF NAVIGATION, RECREATION, AND FLOOD CONTROL HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT SUBMERGED LANDS IN THE PRESENT BED OF THE SAN JOAQUIN RIVER.

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- D. THE CONVEYANCES PROPOSED BY THE AGREEMENT WILL NOT INTERFERE WITH THE PUBLIC'S RIGHTS OF FISHING AND NAVIGATING IN THE SAN JOAQUIN RIVER.
 - E. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS AND CLAIMS WITHIN THE AGREEMENT AREA.
 - F. THE PROPOSED SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED.
 - G. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
 - H. CONSISTENT WITH THE TERMS OF THE TITLE SETTLEMENT AGREEMENT, ANY STATE SOVEREIGN PROPERTY INTERESTS WITHIN THE AREA DESCRIBED IN EXHIBIT C WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST EASEMENT WILL BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION ON BEHALF OF THE STATE LANDS COMMISSION, OF THE RIVERBEND RANCH TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

EXHIBIT "A"

Description of

AGREED BOUNDARY LINE.

BEGINNING at a point which bears South 2° 07' 27" East, 1496.08 feet from the northwest corner of Section 2, Township 12 South, Range 20 East, M.D.M., said corner having California Coordinate System, Zone 4 (NAD83) coordinates of N = 2,220,100.071 feet and E = 6,337,593.775 feet; thence North 72° 48' 16" East, 937.08 feet; thence North 57° 42' 54" East, 495.73 feet; thence North 89° 47' 46" East, 1021.48 feet; thence North 61° 56' 45" East, 1276.07 feet; thence North 31° 18' 15" East, 618.33 feet; thence North 14° 22' 11" East, 1000.33 feet; thence North 12° 23' 48" West, 176.67 feet; thence North 35° 18' 22" West, 212.48 feet; thence North 11° 18' 20" West, 495.30 feet; thence North 3° 55' 38" East, 90.63 feet; thence North 16° 54' 46" West, 145.13 feet; thence North 31° 28' 33" West, 200.46 feet; thence North 5° 38' 03" West, 409.07 feet; thence North 9° 13' 31" West, 235.00 feet; thence North 2° 25' 00" West, 360.23 feet to a point on the northwesterly boundary of Parcel No. 1 as described in Grant Deed recorded February 23, 1973 in Book 1152 of Official Records, at Page 500, Madera County Records.

Coordinates, bearings and distances used in the above description are based on the California Coordinate System, Zone 4 (NAD83).

END OF DESCRIPTION



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EXHIBIT "C"

**Description of
UPLAND PARCEL**

All those portions of those certain parcels of land described in grant deeds recorded February 23, 1972 in Book 1152 at Page 500 and February 23, 1972 in Book 1152 at Page 503, both in Official Records of Madera County, California and being portions of fractional Sections 34 and 35, Township 11 South, Range 20 East and fractional Sections 2 and 3, Township 12 South, Range 20 East all M.D.M., lying northerly and westerly of the following described LINE ONE and easterly of the following described LINE TWO:

LINE ONE:

BEGINNING at a point herein designated as Point "A", which point bears South 2° 07' 27" East, 1496.08 feet from the northwest corner of said Section 2, said corner having California Coordinate System, Zone 4 (NAD83) coordinates of N = 2,220,100.071 feet and E = 6,337,593.775 feet; thence North 72° 48' 16" East, 937.08 feet; thence North 57° 42' 54" East, 495.73 feet; thence North 89° 47' 46" East, 1021.48 feet; thence North 61° 56' 45" East, 1276.07 feet; thence North 31° 18' 15" East, 618.33 feet; thence North 14° 22' 11" East, 1000.33 feet; thence North 12° 23' 48" West, 176.67 feet; thence North 35° 18' 22" West, 212.48 feet; thence North 11° 18' 20" West, 495.30 feet; thence North 3° 55' 38" East, 90.63 feet; thence North 16° 54' 46" West, 145.13 feet; North 31° 28' 33" West, 200.46 feet; thence North 5° 38' 03" West, 409.07 feet; thence North 9° 13' 31" West, 235.00 feet; thence North 2° 25' 00" West, 360.23 feet to a point on the northwesterly boundary of Parcel No. 1 as described in deed recorded February 23, 1972 in Book 1152 of Official Records, at Page 500, Madera County Records.

LINE TWO:

BEGINNING at the herein above designated Point "A"; thence North 20° 35' 36" West, 574.13 feet; thence North 67° 45' 49" East, 47.61 feet; thence northwesterly from a tangent that bears North 54° 30' 10" West, along a curve convave northeasterly, having a radius of 175.00 feet, through a central angle of 34° 10' 57" an arc distance of 104.40 feet; thence North 20° 19' 13" West, 366.59 feet; thence northwesterly along a tangent curve concave southwesterly, having a radius of 625.00 feet, through a central angle of 25° 17' 48" an arc distance of 275.94 feet; thence North 45° 37' 01" West, 251.21 feet; thence northerly along a tangent curve concave northeasterly having a radius of 175.00 feet, through a central angle of 53° 27' 30" an arc distance of 163.28 feet to the beginning of a reverse curve concave southwesterly; thence northwesterly along said curve having a radius of 15.00 feet, through a central angle of 76° 20' 40" an arc distance of 19.99 feet to the beginning of a reverse curve concave northeasterly, thence northwesterly along said curve, having a radius of 337.50 feet, through a central angle of 23° 09' 45" an arc distance of 136.44 feet; thence North 42° 53' 11" West, 171.75 feet; thence northwesterly along a tangent curve concave southwesterly, having a radius of 109.88 feet,

DESCRIPTION OF UPLAND PARCEL (Continued)

through a central angle of 20° 46' 45" an arc distance of 39.85 feet to the westerly boundary of said parcel of land described in deed recorded in Book 1152 at Page 500 Official Records of Madera County, California.

Coordinates, bearings and distances used in the above description are based on the California Coordinate System, Zone 4 (NAD 83).

END OF DESCRIPTION



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EXHIBIT "D"

Description of

STATE PARCEL

All that portion of Parcel No. 1 described in Grant Deed recorded February 23, 1972 in Book 1152 at page 500 of Official Records, Madera County Records lying southerly and easterly of the following described LINE ONE and easterly of the following described LINE TWO:

LINE ONE:

BEGINNING at a point herein designated as Point "A" which point bears S. 2° 07' 27" East, 1496.08 feet from the northwest corner of Section 2, Township 12 South, Range 20 East, M.D.M., said corner having California Coordinate System, Zone 4 (NAD83) coordinates of N = 2,220,100.071 feet and E = 6,337,593.775 feet; thence North 72° 48' 16" East, 937.08 feet; thence North 57° 42' 54" East, 495.73 feet; thence North 89° 47' 46" East, 1021.48 feet; thence North 61° 56' 45" East, 1276.07 feet; thence North 31° 18' 15" East, 618.33 feet; thence North 14° 22' 11" East, 1000.33 feet; thence North 12° 23' 48" West, 176.67 feet; thence North 35° 18' 22" West, 212.48 feet; thence North 11° 18' 20" West, 495.30 feet; thence North 3° 55' 38" East, 90.63 feet; thence North 16° 54' 46" West, 145.13 feet; thence North 31° 28' 33" West, 200.46 feet; thence North 5° 38' 03" West, 409.07 feet; thence North 9° 13' 31" West, 235.00 feet; thence North 2° 25' 00" W., 360.23 feet to a point on that certain course described as North 51° 30' East, 240.00 feet in the northwesterly boundary of said Parcel No. 1; thence along said northwesterly and westerly boundary of said Parcel No. 1 the following three courses: North 52° 15' 33" East, 172.99 feet; North 39° 01' 27" West, 104.82 feet and North 13° 45' 33" East, 394.98 feet to the most northerly corner of said Parcel No. 1.

LINE TWO:

BEGINNING at the herein above designated Point "A"; thence South 20° 35' 36" East, 300 feet more or less to the left bank of the San Joaquin River.

Coordinates, bearings and distances used in the above description are based on the California Coordinate System, Zone 4 (NAD83).

END OF DESCRIPTION



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EXHIBIT "E"

Description of

ACCESS EASEMENT

A strip of land, 10.00 feet in width, located within Sections 34 and 35, Township 11 South, Range 20 East and Section 2, Township 12 South, Range 20 East, all Mount Diablo Meridian, lying 5.00 feet on each side of the following described center line:

BEGINNING at a point on that certain course described as North 61° 56' 45" East, 1276.07 feet in the AGREED BOUNDARY LINE as described in EXHIBIT "A" incorporated herein, distant along said course North 61° 56' 45" East, 510.18 feet from the southwesterly extremity thereof, said point also bears South 75° 58' 38" East, 2,928.73 feet from the northwest corner of said Section 2, said corner having California Coordinate System, Zone 4 (NAD83) coordinates of N = 2,220,100.712 feet and E = 6,337,593.775 feet: thence North 28° 03' 15" West, 45.12 feet; thence North 24° 56' 45" East, 48.00 feet; thence North 28° 03' 15" West, 106.60 feet; thence North 09° 56' 45" East, 88.93 feet; thence North 17° 22' 41" West, 161.90 feet; thence South 71° 22' 59" West, 317.77 feet; thence North 90° 00' 00" West, 703.14 feet; thence North 71° 04' 17" West, 319.88 feet; thence North 52° 08' 33" West, 638.43 feet; thence North 74° 31' 08" West, 212.72 feet; thence South 83° 06' 18" West, 846.64 feet; thence North 88° 36' 38" West, 584.63 feet; thence North 45° 20' 26" West, 343.59 feet to the midpoint of that certain course described as "North 23° 48' 20" East, 69.86 feet" on the westerly boundary line of the Riverbend Ranch as described in PARCEL NO. 2 in Grant Deed to the County of Madera, recorded July 21, 1971 in Book 1096 at Page 178 Official Records of Madera County, California.

The side lines of the herein described 10.00 foot wide strip shall be prolonged or shortened so as to terminate on said AGREED BOUNDARY LINE on the southern extremity and said westerly boundary of the Riverbend Ranch on the westerly extremity.

Coordinates, bearings and distances used in the above description are based on the California Coordinate System, Zone 4 (NAD 83).



END OF DESCRIPTION

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