

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 5/12/97 meeting.

**CALENDAR ITEM
C76**

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A 12

05/12/97
W 23745
AD 310
Fossum
McKown

**CONSIDER ACCEPTANCE OF A
CHARITABLE GIFT DEED FROM WILLIAM AND ANN WHITEHURST
INVOLVING AN EASEMENT OVER BOY SCOUT ROAD,
CITY AND COUNTY OF FRESNO**

APPLICANT:

William and Ann Whitehurst
2560 West Shaw Avenue, Suite 102
Fresno, California 93711

BACKGROUND:

The applicants have offered the California State Lands Commission (CSLC) a deeded access over a property they own known as Boy Scout Road. Staff of the CSLC have been involved in analysis and negotiations relating to this and adjoining property for over ten years. The subject easement is a necessary element in ultimately establishing a connecting link between Van Ness Avenue. and the San Joaquin River. On October 15, 1985, staff first met with representatives of the prior property owner who at the time held record title to the subject land and the other lands lying between the easement and the San Joaquin River. A request was made at that time to the staff for a determination of the State's claim, both to fee title area and public trust area involving the then owner's entire property.

In 1976 the CSLC had begun 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. The Whitehursts purchased their interests in the area in 1991.

The State of California owns the bed of the San Joaquin River between the 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 CSLC (Public Resources Code sections 6301 and 6216).

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The easement to be deeded by the Whitehursts will allow the CSLC to assist the local community and public entities in planning and implementing the San Joaquin River Parkway. The easement will be immediately useable by the State and its agents for policing and management of its property. At such time as a Parkway plan has been developed and an acceptable entity identified to construct, operate and manage the subject easement, so as to provide access to the San Joaquin River, the CSLC may then enter into a lease or other agreement to open the easement for public use.

During the last several years the CSLC staff have been negotiating a settlement of title claims over lands lying between the subject easement and the river. It is hoped these negotiations will soon prove fruitful. In order to assist and expedite the settlement of all issues in the area the Whitehursts have graciously offered to make a charitable gift to the State of this easement as described in Exhibit A and shown on Exhibit B.

The CSLC as trustee for the State holds the property interests of the public in the San Joaquin River for the benefit of all Californians. It is the responsibility of the CSLC to protect the public's interests in these lands and foster appropriate access thereto. Staff believes that acceptance of the deed from the Whitehursts will further that responsibility.

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 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: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXHIBITS:

- A. Land Description
- B. Location
- C. Site Map

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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 TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE, SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

2. AUTHORIZE STAFF OF THE COMMISSION TO TAKE ALL ACTIONS NECESSARY, INCLUDING BUT NOT LIMITED TO FILING AN ACCEPTANCE AND CONSENT TO RECORD, TO ACCEPT A CHARITABLE GIFT DEED OF AN EASEMENT OVER CERTAIN LANDS LOCATED WITHIN FRESNO COUNTY, MORE PARTICULARLY DESCRIBED IN EXHIBIT A, ATTACHED HERETO, FROM WILLIAM AND ANN WHITEHURST.

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Exhibit A

**Boy Scout Road Easement
Legal Description**

Those lands described as Parcel 2 in the Corporation Grant Deed from Fig Garden Golf Course, Inc. and Angela Coson to James R. Coson recorded March 7, 1973 in Book 6137, Page 201 Official Records of Fresno County.

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MADERA COUNTY

SAN JOAQUIN RIVER

SCOUT ISLAND

**FIG GARDEN
GOLF COURSE**

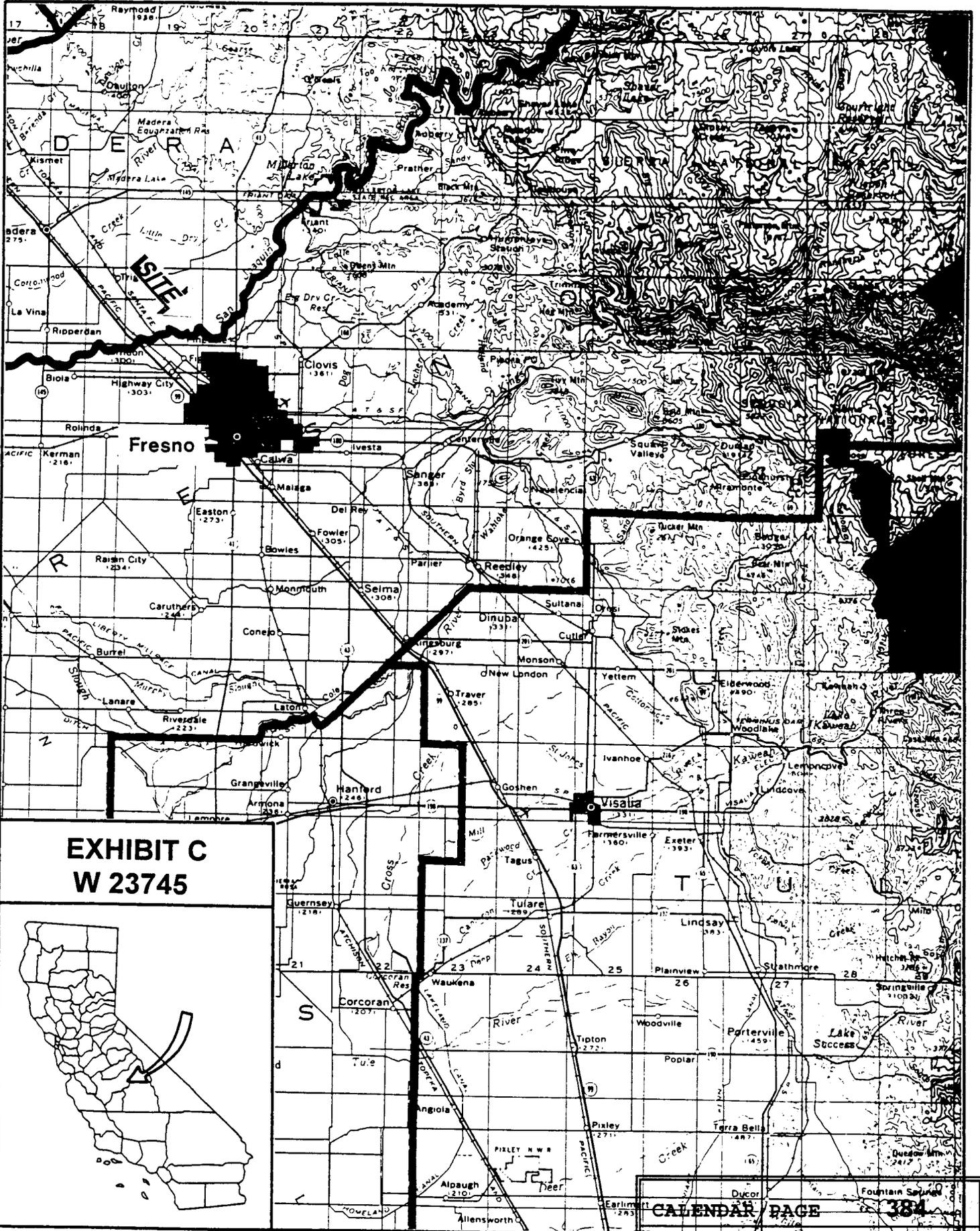
ACCESS EASEMENT - BOY SCOUT ROAD

FRESNO COUNTY



EXHIBIT B

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**EXHIBIT C
W 23745**

