MINUTE ITEM
This Calendar Item No. C63 was approved as Minute Item No. 68 by the California State Lands Commission by a vote of 3 to 0 at its 9-3-99 meeting.

CALENDAR ITEM
C63

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09/03/99
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P. Pelkofer

CONSIDERATION OF SETTLEMENT PROPOSAL IN THE CASE OF SMITH v. STATE OF CALIFORNIA EX REL., STATE LANDS COMMISSION, MENDOCINO COUNTY SUPERIOR COURT NO 72714

APPLICANT:

California State Land Commission
100 Howe Ave., Suite 100 South
Sacramento, CA 95825

PROPOSED AUTHORIZATION:

Consideration of a settlement proposal which will terminate a lawsuit by providing for the conveyance of a parcel of School Land. The parcel, which contains areas of old growth Douglas Fir, would be encumbered with a conservation easement for the protection of the trees and would be conveyed to the Wildlife Conservation Board.

PERTINENT INFORMATION:

In 1994 the Commission offered for sale certain scattered and isolated School Land parcels. Cas and Rosemary Smith bid on a parcel adjacent to land which they own in Mendocino County . The Smiths submitted the highest bid. Subsequent to the acceptance of the bid, it was learned that the parcel contained merchantable timber which substantially increased the land's value. A field inspection of the parcel prior to sale had failed to disclose the presence of the timber which resulted in setting the minimum bid price considerably below fair market value. Because the law requires that the Commission obtain fair market value for the sale of School Lands, the agreement to sell was rescinded.

The Smiths, seeking to compel the completion of the sale and the transfer of the land, filed suit. The Commission responded and parties have pursued both the litigation and settlement options since that time. An initial proposal by the Commission's staff to harvest the trees and then sell the land to the Smith was discontinued when it was learned that among the trees were stands of old growth Douglas Fir. The Commission then sought a conservation easement to protect the trees, which the Wildlife Conservation Board has agreed to purchase. The conservation easement prohibits cutting of the trees and reduces the commercial value of the land. The Smith's have agreed to purchase the land subject to the easement at that reduced value.

With all the other parties in agreement to the terms of the proposal for settlement the staff seeks authorization from the Commission to proceed with the settlement.

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 California Code of Regulations section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because it is not a project as defined by CEQA and the State CEQA guidelines. Further, actions under Division 7.2 of the Public Resources Code, Section 8700 (the School Lands Bank Act) are not subject to the CEQA.

Authority: Public Resources Code Section 21065, and 14 California Code of Regulations section 15378 and Public Resources Coded Section 8710.

RECOMMENDED ACTION:

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 AS WELL AS PUBLIC RESOURCES CODE SECTION 8710.

2. ACCEPT THE PROPOSED SETTLEMENT IN THE CASE OF SMITH v. STATE OF CALIFORNIA, MENDOCINO COUNTY SUPERIOR COURT NO. 72714, AND AUTHORIZE THE EXECUTIVE OFFICER TO SIGN THE SETTLEMENT AGREEMENT, AUTHORIZE THE EXECUTION AND DELIVERY OF THE PATENTS TRANSFERRING PROPERTY INTEREST TO THE WILDLIFE CONSERVATION BOARD AND TO THE SMITHS, AND FURTHER AUTHORIZING STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY STEPS TO EFFECTUATE THE SETTLEMENT.