MINUTE ITEM
This Calendar Item No. C86 was approved as Minute Item No. 86 by the California State Lands Commission by a vote of 3 to Ø at its 6-27-00 meeting.

CALENDAR ITEM
C86

S 1

A 3

06/27/00
L. Kiley
W 25608

CONSIDER BOUNDARY LINE AGREEMENT BETWEEN THE STATE LANDS COMMISSION AND WARREN HOPKINS ALONG THE SOUTH SHORE OF GOOSE LAKE, MODOC COUNTY

Warren Hopkins (dba Lakeshore Ranch) holds record title to upland abutting the meander line of Goose Lake, Modoc County, and claims title, as successor-in- interest to one John Davis, to a strip of land waterward of the U.S. Government Meander Line. Mr. Hopkins has proposed a Boundary Line Agreement (BLA) which would resolve certain longstanding questions regarding the extent and character of title to the bed of Goose Lake in the area subject to the BLA.

The State's fee ownership in the bed of Goose Lake extends to the ordinary low water line, and the State retains an easement for public trust purposes between the ordinary low water mark and the ordinary high water mark (People v. Superior Court (Lyon) (1981) 29 Cal.3d 210 and People v. Superior Court (Fogerty) (1981) 29 Cal.3d 240.

BACKGROUND:

John Davis was issued a Certificate of Purchase dated April 8, 1901, approved by the Office of the Surveyor General on May 17, 1902, for a certain parcel of land waterward of the 1871 government meander line, at the southerly end of Goose Lake. Mr. Davis completed payments due the State for the property on or about February 1922. He then petitioned the Surveyor General for a patent for the land described in the Certificate and accompanying survey. The Surveyor General, aware of the recent holding in Churchill Company v. Kingsbury (1918) 178 Cal. 554, declined to issue a patent. The Surveyor General cited uncertainty about whether the land in question was "recession land" or simply land uncovered by the regular natural rise and fall of the water level of the Lake (an issue in the Churchill case). The Surveyor General indicated that a court would have to make that determination. The records of the Commission reflect that staff of the Office of Surveyor General offered to refund payments made by Mr. Davis, but there is no evidence that Davis or his successors ever applied for or received a refund.

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The State of California, by statute, conditionally conveyed title to unpatented lands in the bed of Goose Lake to the United States in 1905, for reclamation purposes. The United States quitclaimed any title it had back to the State in 1942, and the deed was recorded in Modoc County in 1943. Bixby-Huffman Cattle Co., successor to John Davis, litigated title against the United States Department of the Interior (DOI) and obtained a Judgment filed January 16, 1942, prior to the United States quitclaim back to the State. The judgment gave Bixby-Huffman title (as against DOI) to the disputed lakebed land, except for a strip of lakebed land extending from Lot 4 of Section 27, which lot was (and still is) unsold Federal public domain. Representatives of the Bureau of Land Management have indicated to Commission staff that the U.S. would not likely contest a claim of ownership to lakebed land that lies waterward of the surveyed 1871 government meander line, including lakebed land adjacent to Lot 4 of Section 27.

Lake level records and court cases researched by Commission staff indicate that Goose Lake water levels may vary over very long periods of time. The Lake was reportedly dry about 1925 and the water's edge has varied between a few thousand feet north and several miles north of the meander line during recent decades. There is no evidence that the water's edge has approached the 1871 government meander line in recent times.

Time-consuming and expensive litigation of uncertain outcome would be required to finally resolve disputed title to the subject property. The proposed BLA would result in a favorable agreed position for the fee (low-water) boundary between privately owned upland and State owned submerged land, together with acknowledgement by Hopkins that the public trust easement exists over any water-covered area for so long as the area is covered by water.

Staff believes that the proposed BLA is in the public interest and is the most reasonable and equitable way to resolve the disputed issues.

EXHIBIT:

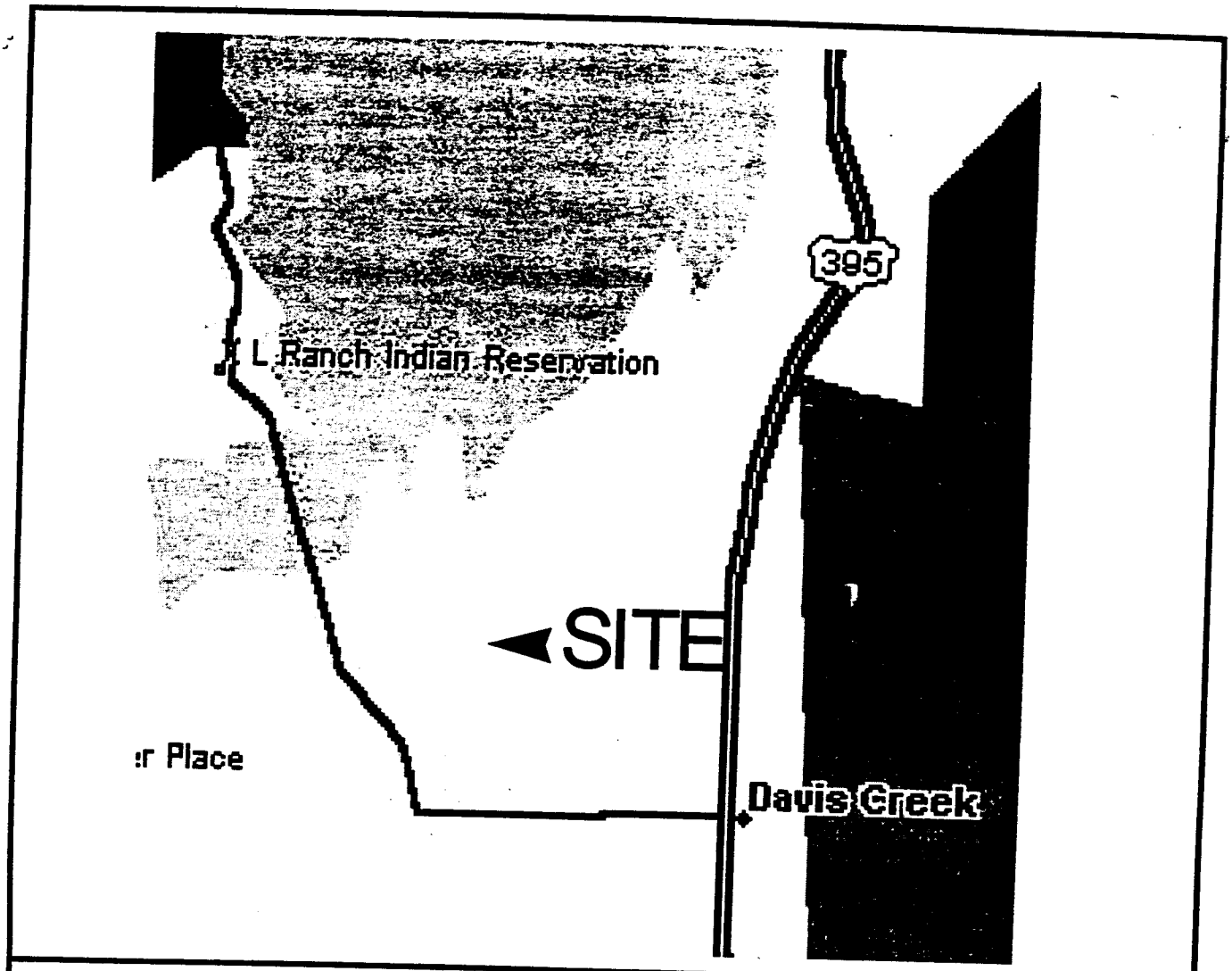
A. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS 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. AUTHORIZE THE EXECUTION OF A BOUNDARY LINE AGREEMENT WITH WARREN HOPKINS IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE COMMISSION.

3. AUTHORIZE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO CONCLUDE THE PROPOSED BOUNDARY LINE AGREEMENT, INCLUDING DRAFTING AND EXECUTION OF DETAILED DOCUMENTS, COURT APPEARANCES, RECORDING OF DOCUMENTS, AND OTHER ACTIONS AS REQUIRED.



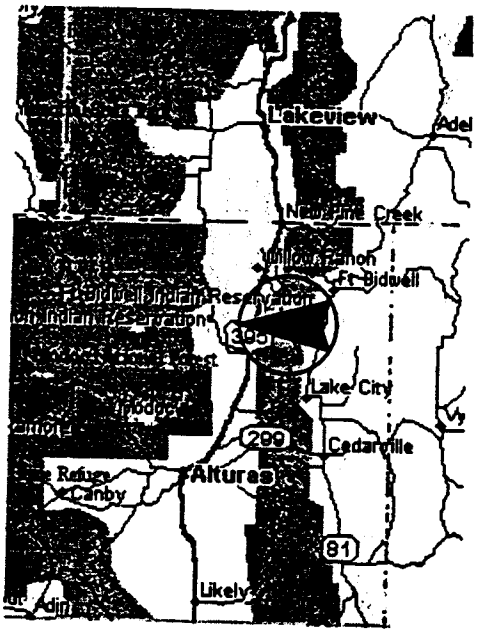
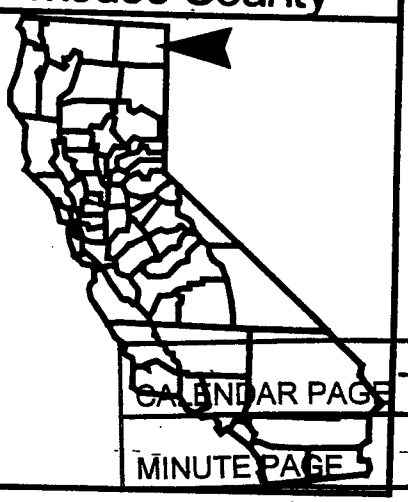


Exhibit A
W25608

Goose Lake
Modoc County



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