MINUTE ITEM
This Calendar Item No. C47 was approved as Minute Item No. 47 by the California State Lands Commission by a vote of 3 to 0 at its 11/27/00 meeting.

CALENDAR ITEM
C47

A 34

S 17

AD 220

11/27/00
W 24846
J. Frey

TITLE SETTLEMENT AGREEMENT ALONG THE COLORADO RIVER

APPLICANTS: Dr. Glen Bonecutter
Dr. Charles Morrell
Ms. Judi Booth

PROPOSED AUTHORIZATION:
In December, 1994 the Commission approved a title settlement agreement between the State of California and the applicants. The Agreement established a fixed boundary line between the interests of each of the parties and the State and contained mutual quitclaims of interests on either side of the agreed line. The original agreement was never executed by the parties. This Item seeks to reauthorize the agreement and the concomitant exchange of deeds.

BACKGROUND:
The Colorado River, near the City of Needles, has historically meandered over a large flood plain. In 1883 the United States Bureau of Land Management surveyed the Official Township Plat for Township 8 North, Range 23 East, S. B. M., and located the River within what is now the Applicants' property.

On June 25, 1951, the United States Bureau of Reclamation (USBR) opened a dredged channel westerly of the Pelican Bend area and adjacent to the Applicants' property. This dredged channel is now the current channel of the Colorado River (USBR Channel) and the location of the Settlement Agreement. In the Settlement Agreement the Applicants relinquished all of their right, title and interest in the USBR Channel and the State quitclaimed all of its right, title and interest to lands easterly of the right bank of the USBR Channel. Additionally the Applicants conveyed an access easement along the right bank to the State.

CURRENT SITUATION:
Public Resources Section 6307 provides that the Commission may lift the public trust from lands "improved, filled, and reclaimed, and have thereby been excluded from the public channels and are no longer available or useful or susceptible of being used for navigation and fishing, and are no longer in fact tidelands or submerged lands."Addtionally, the exchanged lands must be of equal or greater value.

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The Commission staff has inspected and surveyed the lands described in the Settlement Agreement and has appraised them. Their conclusion is that the lands in their current condition meet the criteria for the lifting of the public trust and that the exchange lands are of equal or greater value.

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 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.

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. but such activity will not affect those significant lands.

EXHIBIT:

A: Site Map
B: Description of Agreed Common Boundary Line
C: Description of River (State) Parcel
D: Description of Upland (Private) Parcel
E: Description of Easement Along Agreed Common Boundary Line

RECOMMENDATIONS:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON THOSE RESOURCES FOR WHICH SUCH LANDS ARE IDENTIFIED.

3. FIND THAT THE PROPOSED SETTLEMENT AGREEMENT CONSISTING OF ESTABLISHING A FIXED BOUNDARY LINE AND THE CONCOMITANT EXCHANGE OF DEEDS FOR INTERESTS ON EITHER SIDE OF THE LINE

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AND THE LIFTING OF THE PUBLIC TRUST OVER PRIVATE LANDS IS IN THE BEST INTERESTS OF THE STATE IN LIEU OF LITIGATION.

4. FIND, PURSUANT TO PUBLIC RESOURCES CODE SECTION 6307, THAT THE VALUE OF THE RIVER PARCEL AND THE ACCESS EASEMENT RECEIVED BY THE STATE IS OF EQUAL OR GREATER VALUE THAN THE INTERESTS RELINQUISHED BY THE STATE.

5. FIND, PURSUANT TO PUBLIC RESOURCES CODE SECTION 6307, THAT THE UPLAND PARCEL 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 LAND; AND THAT THE PUBLIC TRUST IS TERMINATED OVER THE UPLAND PARCEL EFFECTIVE UPON RECORDATION OF THE AGREEMENT WITH THE SAN BERNARDINO COUNTY RECORDER.

6. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF A BOUNDARY LINE/SETTLEMENT AGREEMENT WITH GLEN BONECUTTER, ET AL. THAT WILL FIX A BOUNDARY BETWEEN THE PROPERTY INTERESTS OF THE STATE AND THOSE OF THE PRIVATE PARTIES AND PROVIDE FOR ACCESS CONSISTENT WITH THAT AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION.

7. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS HE/THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THIS AGREEMENT INCLUDING REPRESENTATION OF THE COMMISSION IN ANY LEGAL ACTION TO DETERMINE THE VALIDITY OF THIS AGREEMENT.

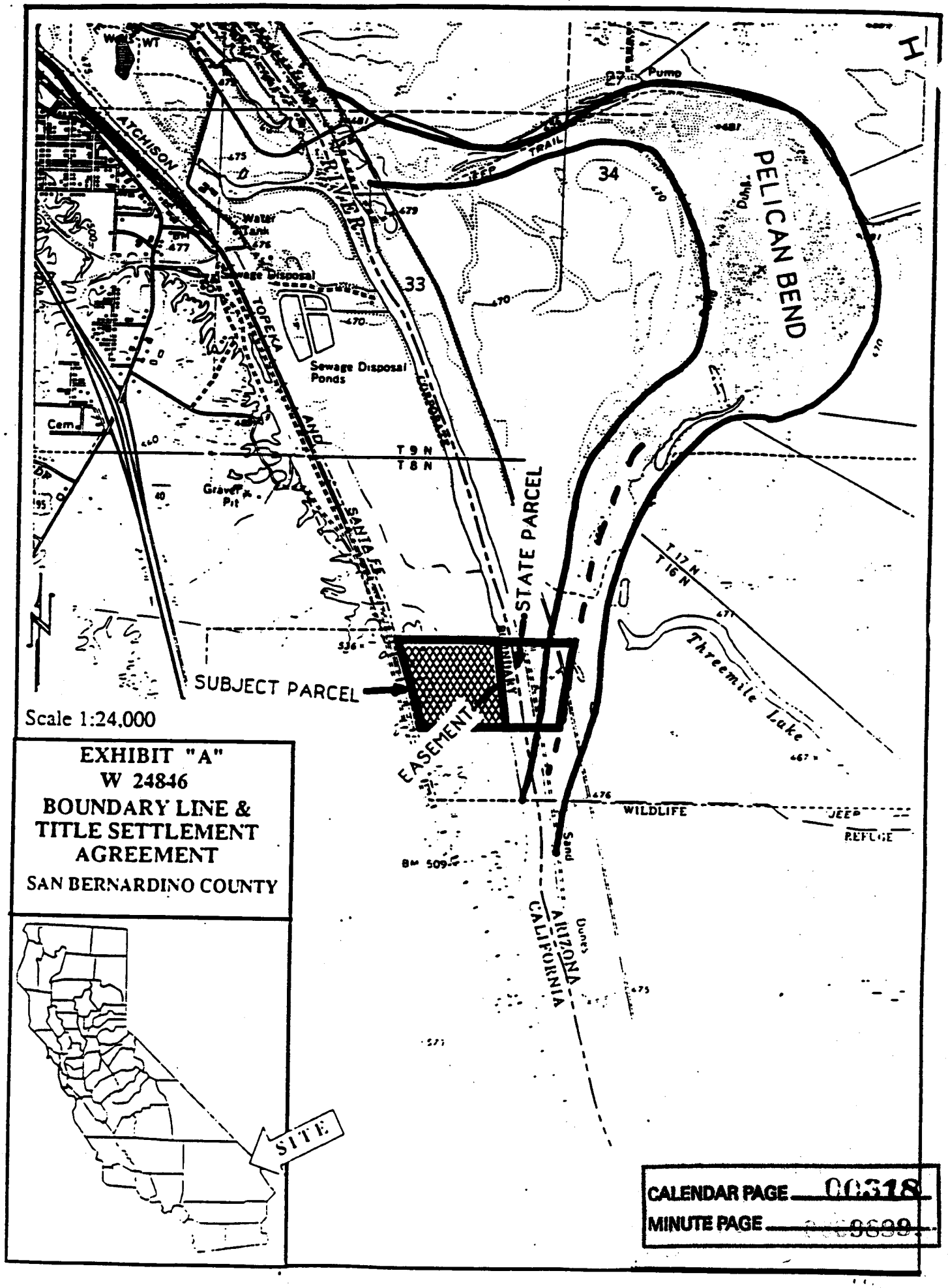

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EXHIBIT "A"
W 24846
BOUNDARY LINE & TITLE SETTLEMENT AGREEMENT
SAN BERNARDINO COUNTY

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Exhibit B

Land Description

DESCRIPTION OF AGREED COMMON BOUNDARY LINE

A fixed and AGREED COMMON BOUNDARY LINE near the right bank of the present United States Bureau of Reclamation channel (hereafter present channel) of the Colorado River, situated in Section 4, Township 8 North, Range 23 East, San Bernardino Base & Meridian, located in San Bernardino County, State of California and more particularly described as follows:

COMMENCING at a Bureau of Land Management (BLM) brass cap, stamped E 1/16, S.4-9, T8N, R23E, 1961, and shown on the Official Plat of the Limited Dependent Resurvey for T8N, R23E, S.B.B.M., as surveyed in 1961 and approved by BLM in 1962; thence from said point of commencement N30°45'51"E, 1,388.72 feet to a point near the right bank of the present channel of the Colorado River and a California State Lands Commission (CSLC) aluminum cap marked I; thence N08°51'05"W, 112.22 feet, plus or minus, the southerly boundary line of the land described in the deed recorded in Book 4958, Page 371 Official Records of the San Bernardino County Recorder and the TRUE POINT OF BEGINNING of the herein described AGREED COMMON BOUNDARY LINE; thence N08°51'05"W, 360.61 feet to a CSLC aluminum cap marked II; thence N10°07'42"W, 369.14 feet to a CSLC aluminum cap marked III; thence N09°41'28"W, 487.29 feet to the northerly boundary of the land described in the deed recorded in Book 4958, Page 371 Official Records of the San Bernardino County Recorder and the end of the herein described AGREED COMMON BOUNDARY LINE, said point bears N11°05'07"E, 2,551.84 feet, plus or minus from the point of commencement.

END DESCRIPTION

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EXHIBIT "C"

DESCRIPTION OF RIVER PARCEL

A parcel of land situated in Section 4, Township 8 North, Range 23 East, San Bernardino Base & Meridian in San Bernardino County, State of California and more particularly described as follows:

COMMENCING at a Bureau of Land Management (BLM) brass cap, stamped E1/16,S.4-9, T8N, R23E, 1961, and shown on the Official Plat of the Limited Dependent Resurvey for T8N, R23E, S.B.B.M., as surveyed in 1961; thence from said point of commencement N11°05'07"E, 2,551.84 feet plus or minus to a point near the right bank of the present United States Bureau of Reclamation channel (hereafter present channel) of the Colorado River, said point also being a point on a line projected due east from the northerly boundary of the land described in the deed recorded in Book 4958, Page 371 of the Official Records of the San Bernardino County Recorder (hereafter OR) and the TRUE POINT OF BEGINNING of the herein described parcel; thence N89°52'55"E, to the centerline of the former bed of the Colorado River, as said river is delineated by the Map entitled, *"United States Department of Interior, Bureau of Reclamation, Colorado River Front and Levee System Project, Preconstruction Survey, Colorado River, Needles to Topock, Boulder, Nevada, February 19, 1948", Sheet 3 of 4;* thence southerly along said middle of the Colorado River, to the prolongation of the southerly line of the parcel of land described in Book 4958, Page 371 OR: thence along said southerly line S89°22'21"W to a point near the right bank of the current channel of the Colorado River; thence northerly, continuing along said present right bank of the present channel of the Colorado River, said point being the intersection of the previous described course and the AGREED COMMON BOUNDARY LINE described in Exhibit A of this Agreement: thence northerly near the right bank of the current channel of the Colorado River the following specific courses and distances, N08°51'05"W, 360.61 feet to a CSLC aluminum cap marked II; thence N10°07'42"W, 369.14 feet to a CSLC aluminum cap Marked III; thence N09°41'28"W, 487.29 feet plus or minus, to the point of beginning and the end of the herein described parcel.

EXCEPTING THEREFROM that portion conveyed to the California, Arizona and Santa Fe Railway Company, by deed dated July 13, 1954 and recorded September 24, 1956, in Book 4045, Page 414 OR.

END DESCRIPTION

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EXHIBIT "D"

DESCRIPTION OF UPLAND PARCEL

A parcel of land, adjacent to the right bank of the present United States Bureau of Reclamation channel (present Channel) of the Colorado River and situated in Sections 4, Township 8 North, Range 23 East, San Bernardino Base & Meridian, in San Bernardino County, State of California and more particularly described as follows:

The south 1240 feet of Government Lots 6 and 7, measured along the east boundary line of the Atchison, Topeka and Santa Fe railroad right of way, in Section 4, Township 8 North, Range 23 East, San Bernardino Base & Meridian according to Government Survey.

TOGETHER WITH all the Accretion Lands lying westerly of the AGREED BOUNDARY LINE as described in Exhibit A of this Agreement being near the bank of the present channel of the Colorado River and easterly of Lots 6 and 7 described above.

EXCEPTING THEREFROM all that portion of Government Lot 6 lying West of the East boundary line of said Atchison, Topeka and Santa Fe Railroad right of way.

END DESCRIPTION

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EXHIBIT "E"

DESCRIPTION OF EASEMENT ALONG
AGREED COMMON BOUNDARY LINE

A strip of land twenty (20) feet in width, for use as a non-vehicular easement, along the right bank of the present United States Bureau of Reclamation channel (present channel) of the Colorado River, and situated in Section 4, Township 8 North, Range 23 East, S.B.B.M., in San Bernardino County, State of California. The easterly line of which is described more particularly as follows:

COMMENCING at a found Bureau of Land Management (BLM) Brass Cap (BC), stamped E1/16,S.4-9, T8N, R23E, 1961, and shown on the Official Plat of the Limited Dependent Resurvey for T8N, R23E, S.B.B.M., as surveyed in 1961and approved by BLM in 1962; thence from said point of commencement, N11°05'07"E, 2,551.84 feet to a point near the right bank of the present channel of the Colorado River, being the intersection of the above described course and a line projected due east from the northerly boundary of the land described in the deed recorded in Book 4958, Page 371 of the Official Records of the San Bernardino County Recorder (hereafter OR) and the POINT OF BEGINNING of the herein described line; thence continuing southerly near said right bank of the present channel of the Colorado River the following specific courses and distances, S09°41'28"E, 487.29 feet to a CSLC aluminum cap marked III; thence S10°07'42"E, 369.14 feet to a CSLC aluminum cap marked II; thence S08°51'05"E, 360.61 feet plus or minus to a point being the intersection of the above described course and a line projected due east from the southerly boundary of the land described in the deed recorded in Book 4958, Page 371 OR and the end of the herein described centerline.

This easement shall be relocatable to another mutually acceptable portion of the EXHIBIT C – UPLAND PARCEL upon the completion of any waterfront development if said activity renders the presently described easement unusable for its intended access purposes.

END DESCRIPTION

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