

MINUTE ITEM
This Calendar Item No. C71
was approved as Minute Item
No. 71 by the State Lands
Commission by a vote of 3
to 0 at its 11-26-01
meeting.

CALENDAR ITEM
C71

A 25
S 12

AD 416
11/26/01
W 25664
C. Fossum
J. M. McKown

**CONSIDER APPROVAL OF A TITLE SETTLEMENT AGREEMENT
INVOLVING CERTAIN REAL PROPERTY IN AND ADJACENT TO
THE SAN JOAQUIN RIVER, FRESNO AND MADERA COUNTIES**

PRIVATE PARTY:

Angie Spano, as Trustee under the Last Will
and Testament of Oscar P. Spano
c/o M. Carlson Lee
777 West Shaw Ave
Fresno CA 93704

BACKGROUND:

The State of California owns the bed of the San Joaquin River between the two ordinary low water marks (OLWMs) (Civil Code §830). The entire river between the ordinary high water marks (OHWMs) 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 California State Lands Commission (CSLC) pursuant to Public Resources Code §§6301 and 6216.

In 1976, the CSLC 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 within historic high and low water channels as it passes through the private party's (Spano) record title lands. 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, Spano has requested that a mutually agreeable title settlement be entered into. Spano is proposing to sell most of her holdings along the river to the Trust

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for Public Land and San Joaquin River Parkway and Conservation Trust. Those lands will ultimately be conveyed to the San Joaquin River Conservancy (Conservancy). A part of that acquisition involves a quitclaim of the bed of the river below the low water mark to the CSLC.

In the area involved in the proposed settlement, the San Joaquin River has been affected by human activities which have 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. Examples of the direct artificial influences are the impoundment and diversion of water for agricultural, recreational, and flood control purposes by the construction and operation of Friant Dam, and gravel extraction. 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 channel configurations. 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 Spano as to the existence, extent, nature and location of their respective rights, titles and interests in the subject property.

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, necessary and in the best interests of the State, the public, and Spano to resolve this title dispute by compromise settlement, thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of such litigation.

The proposed Title Settlement Agreement provides for: (1) the acceptance of a quitclaim deed from Spano to the CSLC for those portions of the river below the Low Water Mark adjacent to the lands being conveyed to the Conservancy; and (2) conveyance of a 49-year non-exclusive easement, as described in Exhibit C, from the CSLC to Spano for gas monitoring, well maintenance and slope maintenance.

Spano has requested that the CSLC execute a mutual waiver and release of owner's liability relating to toxic or hazardous materials in exchange for Spano's conveyance of a quitclaim deed to the State of any private right, title or interest in the riverbed. CSLC staff is unable to recommend that the CSLC approve such a release of liability at this time. Staff believes that additional information is needed about past usage of the

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property for disposal of toxic materials or the presence of other recognized environmental conditions. Staff will bring this matter back to the CSLC if, after reviewing the uses made of the property and any environmental assessment that has been prepared, staff can recommend that a waiver and release of hazardous substance liability is in the best interests of the State of California.

OTHER PERTINENT INFORMATION:

1. The State, acting by and through the CSLC, 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.
2. Pursuant to Government Code section 66412(e), provisions of the Subdivision Map Act do not apply to title settlement agreements to which the CSLC is a party.
3. 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.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code of Regs.: Title 2, Div. 3; Title 14, Div. 6.

PERMIT STREAMLINING ACT DEADLINE:

N/A

EXHIBITS:

- A. Land Description for Spano Quitclaim area within Fresno County
- B. Land Description for Spano Quitclaim area within Madera County
- C. Land Description for Non-exclusive Easement to Spano from State
- D. 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 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 ISSUANCE OF A 49 YEAR NON-EXCLUSIVE EASEMENT WITHIN THE AREA DESCRIBED IN EXHIBIT C FOR THE QUITCLAIM TO THE STATE OF ANY CLAIM OF INTEREST BY SPANO WITHIN THE AREAS DESCRIBED IN EXHIBITS A AND B:
 - A. THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND CONSISTENT WITH PUBLIC TRUST NEEDS.
 - B. THAT THE 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 LEASED TO SPANO, WHICH IS A RELATIVELY SMALL AREA (APPROXIMATELY 0.25 ACRES), HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND IS NO LONGER IN FACT SUBMERGED LANDS IN THE PRESENT BED OF THE SAN JOAQUIN RIVER.
 - D. THE CONVEYANCES PROPOSED BY THE AGREEMENT WILL NOT INTERFERE WITH THE PUBLIC'S RIGHTS OF FISHING AND NAVIGATION 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.

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- 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.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION OF THE SPANO 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 CALIFORNIA STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE CALIFORNIA 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 CALIFORNIA STATE LANDS COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

**EXHIBIT A
SPANO QUITCLAIM
FRESNO COUNTY**

A parcel of land in the bed of the San Joaquin River, situate in the County of Fresno, State of California and lying within the exterior boundaries of Fractional Sections 20, 21, 29 and 32, T. 12 S., R. 20 E., M. D. M. as shown on the Official U. S. Government Township Plat, said parcel being all that land within said county as shown on Map of Re-Survey filed in Book 19 of Record of Surveys at Pages 65 and 66, Fresno County Records, lying northerly and westerly of the following described line:

BEGINNING at a point on the Low Water Line of the San Joaquin River as said line is shown on sheet 9 of 27 of the Administrative Map of the San Joaquin River dated April 1992, on file in the offices of the California State Lands Commission, said point bears S 4°58'55" E, 1929.14 feet from a Cotton Spindle marking the North ¼ corner of Section 21, T. 12 S., R. 20 E., M. D. M. per Madera County Corner Records and as shown on said sheet 9; said 1/4 corner having California Coordinate System, Zone 4 (NAD 83) coordinates of North = 2,204,760.630 feet and East = 6,329,837.964 feet, thence along said Low Water Line the following courses; S 66°28'32" W, 51.99 feet; thence S 62°32'22" W, 116.68 feet; thence S 63°10'22" W, 90.09 feet; thence S 69°38'01" W, 80.64 feet to the intersection with the westerly right of way line of State Highway 06 - Fre, Med - 41 as said Right of Way is shown on Map showing Sovereign Lands of the State of California in Fresno and Madera Counties across the San Joaquin River near Fresno, needed as a right of way for and the protection of State Highway, Road -06-Fre, Mad-41-33.4; 0.00 approved and filed for record with the California State Lands Commission on August 21, 1996 as map number CXB 6327, said intersection bears S 3°52'09" W, 2069.85 feet from said ¼ Corner, thence continuing along said Low Water Line the following courses; S 69°38'01" W, 14.43 feet; thence S 62°05'33" W, 93.42 feet; thence S 39°09'06" W, 86.90 feet; thence S 33°46'18" W, 54.76 feet; thence S 42°44'50" W, 99.60 feet; thence S 46°35'15" W, 147.92 feet; thence S 39°29'17" W, 112.33 feet; thence S 53°36'45" W, 122.83 feet; thence S 46°50'35" W, 111.41 feet; thence S 61°03'13" W, 141.50 feet; thence S 27°39'06" W, 75.42 feet; thence S 18°39'53" W, 84.70 feet; thence S 54°30'30" W, 85.12 feet; thence S 88°29'21" W, 96.50 feet; thence S 68°26'33" W, 53.44 feet; thence S 37°01'32" W, 82.90 feet; thence S 49°48'11" W, 124.46 feet; thence S 49°45'40" W, 132.44 feet; thence S 54°57'16" W, 108.05 feet; thence S 61°20'11" W, 95.69 feet; thence S 53°51'13" W, 160.24 feet; thence S 42°41'35" W, 158.90 feet; thence S 38°29'46" W, 158.02 feet; thence S 49°48'53" W, 130.63 feet; thence S 36°45'04" W, 122.73 feet; thence S 30°40'01" W, 151.64 feet; thence S 25°35'08" W, 151.68 feet; thence S 11°59'14" W, 85.44 feet; thence S 3°58'05" W, 145.34 feet; thence S 10°56'39" W, 132.30 feet; thence S 27°56'45" W, 123.46 feet; thence S 45°11'12" W, 142.08 feet; thence S 60°21'35" W, 112.75 feet; thence S 49°56'58" W, 77.90 feet; thence S 38°05'47" W, 130.84 feet; thence S 24°40'21" W, 131.90 feet; thence S 7°48'22" W, 93.65 feet; thence S 4°49'49" W, 106.03 feet; thence S 2°40'13" E, 84.75 feet; thence S 3°03'49" W, 91.01 feet; thence S 18°03'16" W, 74.14 feet; thence S 37°37'42" W, 69.32 feet; thence S 43°06'44" W, 85.94 feet; thence S 50°21'45" W, 47.79 feet; thence S 57°41'33" W,

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65.94 feet; thence S 69°38'24" W, 62.56 feet; thence S 65°43'15" W, 71.36 feet; thence S 64°08'20" W, 78.88 feet; thence S 65°57'25" W, 75.29 feet; thence S 70°11'43" W, 103.13 feet; thence S 72°50'20" W, 78.36 feet; thence S 72°13'53" W, 94.13 feet; thence S 61°27'51" W, 74.81 feet; thence S 56°25'43" W, 88.43 feet; thence S 50°29'46" W, 88.84 feet; thence S 58°29'01" W, 91.82 feet; thence S 49°35'06" W, 121.86 feet; thence S 39°18'53" W, 100.41 feet; thence S 40°56'31" W, 110.28 feet; thence S 46°18'13" W, 65.89 feet; thence S 69°13'57" W, 52.76 feet; thence N 77°12'32" W, 79.10 feet; thence N 68°43'56" W, 100.71 feet; thence S 70°36'50" W, 34.15 feet; thence S 53°39'15" W, 47.67 feet; thence S 56°34'50" W, 84.88 feet; thence S 80°00'57" W, 57.41 feet; thence N 79°24'48" W, 67.71 feet; thence S 55°19'58" W, 34.20 feet; thence S 41°47'56" W, 99.17 feet; thence S 36°16'41" W, 188.75 feet; thence S 32°18'31" W, 75.52 feet; thence S 5°58'16" W, 66.43 feet; thence S 8°36'23" W, 90.15 feet; thence S 20°47'42" W, 103.14 feet; thence S 23°22'38" W, 71.28 feet; thence S 55°55'33" W, 77.81 feet; thence S 8°02'11" W, 228.73 feet; thence S 11°10'12" W, 152.83 feet; thence S 17°25'29" W, 75.43 feet; thence S 43°16'35" W, 203.39 feet; thence S 16°12'09" W, 147.32 feet; thence S 5°09'04" W, 151.69 feet; thence S 4°14'39" W, 123.48 feet; thence S 11°30'13" W, 176.53 feet; thence S 7°33'16" W, 154.17 feet; thence S 2°52'37" W, 79.96 feet; thence S 12°30'57" E, 85.17 feet; thence S 0°56'18" E, 123.60 feet; thence S 34°12'00" E, 162.91 feet; thence S 25°35'41" E, 168.45 feet; thence S 24°47'12" E, 152.80 feet; thence S 36°22'04" E, 76.66 feet; thence S 41°41'02" E, 124.86 feet; thence S 26°19'36" E, 106.14 feet; thence S 24°33'14" E, 169.99 feet; thence S 25°46'44" W, 91.43 feet; thence S 8°05'36" W, 99.60 feet; thence S 1°39'38" E, 110.87 feet; thence S 16°41'43" E, 93.07 feet; thence S 29°14'33" W, 83.45 feet; thence S 33°14'17" W, 70.12 feet; thence S 50°07'52" W, 70.52 feet; thence S 5°23'23" W, 81.06 feet; thence S 27°53'00" W, 54.41 feet; thence S0°58'20"E, 84.47 feet; thence leaving said Low Water Line S49°40'25"W, 31.90 feet; thence S53°26'53"W, 134.09 feet; thence S51°39'53"W, 136.33 feet; thence S55°22'08"W, 156.80 feet; thence S56°33'21"W, 184.31 feet; thence S62°42'16"W, 64.63 feet; thence S24°17'03"W, 2.72 feet to said Low Water Line; thence continuing along said Low Water Line the following courses,; thence S62°03'47"W, 20.89 feet, thence S 27°55'12" W, 58.91 feet; thence S 24°34'30" W, 46.85 feet; thence S 42°30'31" W, 97.52 feet; thence S 10°50'09" W, 82.39 feet; thence S 28°21'26" W, 96.43 feet; thence S 43°52'29" W, 36.76 feet; thence S 64°15'50" W, 89.63 feet; thence S 47°21'50" W, 72.47 feet; thence S 57°45'53" W, 102.21 feet; thence S 55°56'12" W, 103.49 feet; thence S 48°12'46" W, 77.33 feet; thence S 63°47'37" W, 55.81 feet; thence S 77°50'17" W, 67.64 feet; thence S 74°27'13" W, 89.14 feet; thence S 64°30'21" W, 84.46 feet; thence S 67°30'59" W, 96.06 feet; thence S 68°56'29" W, 83.77 feet; thence S 71°59'41" W, 51.73 feet; thence S 71°59'42" W, 18.24 feet; thence S 66°16'29" W, 86.12 feet; thence S 67°42'42" W, 79.34 feet; thence S 77°51'20" W, 89.83 feet to the end of the herein described line.

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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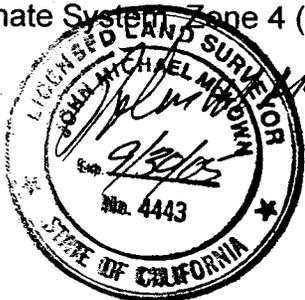
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**EXHIBIT B
SPANO QUITCLAIM
MADERA COUNTY**

A parcel of land in the bed of the San Joaquin River, situate in the County of Madera, State of California and lying within the exterior boundaries of Fractional Section 29 , T. 12 S., R. 20 E., M. D. M. as shown on the Official U. S. Government Township Plat, said parcel being all that land within said county conveyed by deed recorded December 6, 1967 in Book 999 of Official Records at Page 259, Madera County Records, lying easterly of the following described line:

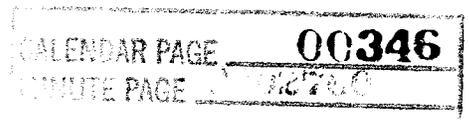
BEGINNING at a point on the Low Water Line of the right bank of the San Joaquin River as said line is shown on sheet 11 of 27 of the Administrative Map of the San Joaquin River dated April 1992, on file in the offices of the California State Lands Commission, said point bears S61°09'07"E, 2261.91 feet from a 1" O. D. iron pipe marking the West ¼ Corner of said Section 29 as shown on Map of Re-survey, filed in Book 7 of Record of Surveys at Pages 42 and 43 Madera County Records, said pipe having California Coordinate System, Zone 4 (NAD 83).coordinates of North = 2196924.464 feet and East = 6321758.101 feet, thence N25°13'01"E, 71.87 feet; thence N9°43'08"E, 124.26 feet; thence N21°09'52"E, 135.40 feet; thence N27°18'13"E, 116.43 feet; thence N13°07'08"W, 44.22 feet; thence N7°21'50"W, 76.33 feet; thence N33°22'28"W, 58.12 feet; thence N43°51'42"W, 64.49 feet; thence N37°30'03"W, 97.30 feet; thence N40°03'02"W, 132.19 feet; thence N43°36'28"W, 63.28 feet; thence N81°32'08"W, 67.43 feet; thence N49°36'04"W, 80.29 feet; thence N56°55'41"W, 55.24 feet; thence N46°50'01"W, 92.96 feet; thence N49°25'19"W, 90.88 feet; thence N32°47'48"W, 72.23 feet; thence N19°26'10"W, 89.56 feet; thence N41°35'58"W, 71.20 feet; thence N2°07'24"E, 50.28 feet; thence N41°13'18"W, 72.75 feet; thence N7°45'55"E, 66.86 feet; thence N25°36'12"E, 76.01 feet; thence N23°54'06"E, 100.51 feet; thence N32°43'12"E, 111.54 feet; thence N25°20'42"E, 74.42 feet; thence N26°18'14"E, 136.10 feet; thence N40°22'02"E, 104.39 feet; thence N27°04'44"E, 58.43 feet; thence N33°55'17"E, 72.74 feet; thence N52°44'42"E, 86.47 feet; thence N44°46'31"E, 106.50 feet; thence N42°08'45"E, 99.81 feet; thence N50°29'56"E, 94.74 feet; thence N49°38'33"E, 93.59 feet; thence N48°56'23"E, 124.39 feet; thence N28°44'50"E, 110.68 feet; thence N26°29'01"E, 105.90 feet; thence N28°20'26"E, 92.37 feet; thence N22°55'56"E, 94.91 feet; thence N18°09'28"E, 79.03 feet; thence S29°40'57"E, 33.67 feet; thence S3°26'12"E, 72.11 feet; thence S80°48'27"E, 173.55 feet; thence N37°33'51"E, 55.27 feet; thence N39°35'51"E, 83.22 feet; thence N56°34'13"E, 61.94 feet; thence N66°28'34"E, 139.48 feet; thence N62°16'42"E, 160.01 feet; thence N50°48'54"E, 177.17 feet to the end of the herein described line.

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 C
LEASE AREA
FRESNO COUNTY**

A parcel of land in the bed of the San Joaquin River, situate in the County of Fresno, State of California and lying within the exterior boundaries of Fractional Sections 29 and 32, T. 12 S., R. 20 E., M. D. M. as shown on the Official U. S. Government Township Plat, more particularly described as follows:

BEGINNING at a point on the Low Water Line of the San Joaquin River as said line is shown on sheet 11 of 27 of the Administrative Map of the San Joaquin River dated April 1992, on file in the offices of the California State Lands Commission, said point having California Coordinates of North = 2194589.291 feet and East = 6324865.168 feet, said point also bears N 80°28'42" W, 2235.01 feet from the Southwest corner of Section 28, T. 12 S., R. 20 E., M. D. M. as said corner is shown on Parcel Map No. 79-16 recorded in Book 31 of Parcel Maps at Pages 87 through 98, Fresno County Records; thence along said Low Water Line S0°58'20"E, 23.88 feet; thence leaving said Low Water Line S49°40'25"W, 31.90 feet; thence S53°26'53"W, 134.09 feet; thence S51°39'53"W, 136.33 feet; thence S55°22'08"W, 156.80 feet; thence S56°33'21"W, 184.31 feet; thence S62°42'16"W, 64.63 feet; thence S24°17'03"W, 2.72 feet to said Low Water Line; thence along said Low Water Line S62°03'47"W, 20.89 feet; thence S27°55'12"W, 56.60 feet; thence leaving said Low Water Line N22°58'42"E, 81.86 feet; thence N62°42'16"E, 70.17 feet; thence N56°33'21"E, 183.15 feet; thence N55°22'08"E, 156.04 feet; thence N51°39'53"E, 135.95 feet; thence N52°56'57"E, 138.32 feet; thence N50°25'32"E, 41.94 feet to the POINT OF BEGINNING.

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



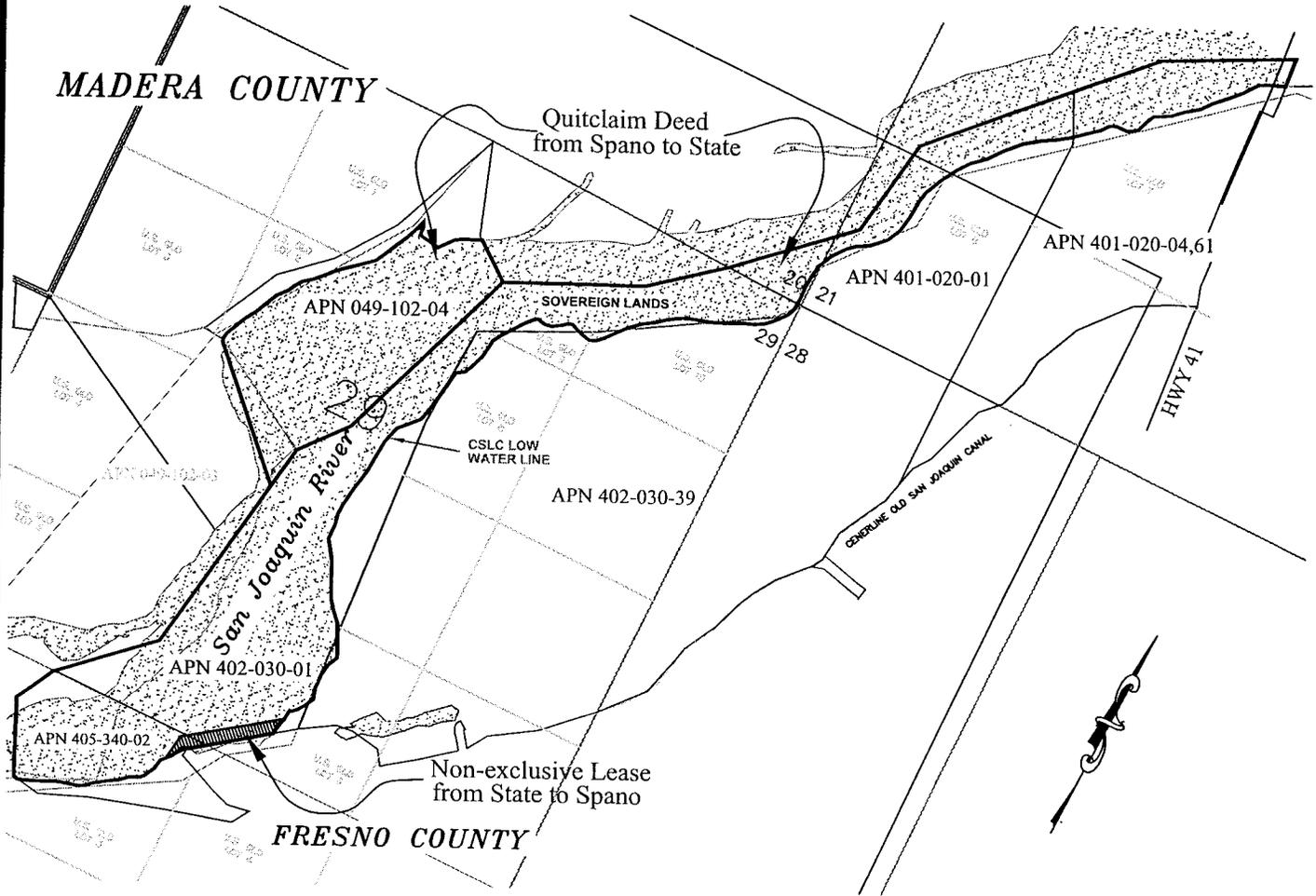
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NO SCALE

SITE MAP



SPANO TITLE SETTLEMENT SAN JOAQUIN RIVER

NO SCALE

LOCATION MAP

San Joaquin River

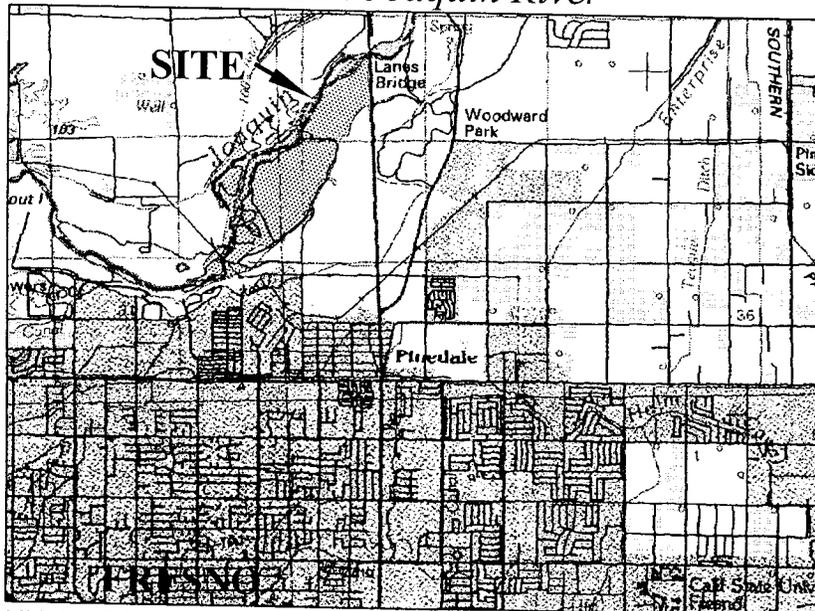


Exhibit D
W25664
Title Settlement
San Joaquin River
FRESNO AND
MADERA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, and is not intended to be, nor shall it be construed as, a waiver of limitation of any state interest in the subject or any other property.