MINUTE ITEM
This Calendar Item No. C34 was approved as Minute Item No. 34 by the California State Lands Commission by a vote of 3 to Ø at its 1-30-02 meeting.

CALENDAR ITEM
C34

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AD 416

01/30/02
W 24480
D. Jones
J. Frey

CONSIDER APPROVAL OF A BOUNDARY LINE AGREEMENT BETWEEN THE STATE LANDS COMMISSION AND RICHARD DANIEL GOVER AND EXCHANGE OF LANDS IN THE DRY AND FILLED CHANNEL OF THE SACRAMENTO RIVER AND BATTLE CREEK IN SHASTA AND TEHAMA COUNTIES

PRIVATE PARTY:

Richard Daniel Gover
3776 Gover Rd.
Anderson, CA 96007

c/o Mr. Jack Reese
Reese Smalley Wiseman et al
1265 Willis St
Redding, CA 96001

BACKGROUND:

The State of California owns the bed of the Sacramento River between the two ordinary low water marks as stated in Civil Code Section 830. The entire river between the ordinary high water marks is subject to the 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 Sacramento River are under the jurisdiction of the State Lands Commission pursuant to Public Resources Code Sections 6216 and 6301. The Commission has legislative authority, pursuant to Public Resources Code Section 6307, to enter into boundary line agreements and to exchange lands to clarify the state's title. Under Public Resources Code Section 6357 the Commission may also establish the ordinary high water marks and the ordinary low water marks of sovereign lands.

The lands that are the subject of the Boundary Line Agreement consist of the bed of a former channel of the Sacramento River as it coursed around the northerly and easterly sides of Bloody Island before the turn of the Twentieth Century where the waters of Battle Creek flowed into the Sacramento River. Some time after 1882 and before 1895 the bed of the channel on the northerly side of the Island filled. Today only the waters of Battle Creek flow in the unfilled portion of the Sacramento River. The Shasta-Tehama County line follows the center line of the filled channel.

Bloody Island and lands to the north and east of it have been identified by the Trust for Public Lands and the Bureau of Land Management as having significant wildlife habitat value. Battle Creek is of interest and value because it is a salmon spawning channel and has a fish hatchery on it above the Gover property. Additionally this portion of Battle Creek is used for recreational uses such as swimming and boating.

In 2001, the Commission was approached by the Bureau of Land Management, the Trust for Public Lands and Mr. Gover regarding a potential state interest in the above referenced dry and filled portion of the Sacramento River. These parties have been working for several years to preserve the valuable habitat on Bloody Island and other lands owned by Mr. Gover by placing them under conservation and riparian easements. The Commission conducted an investigation and concluded that there was a potential state interest in bed of the River as well as in that of Battle Creek.

Mr. Gover, the private party, and his family have farmed and ranched on lands northeasterly of Bloody Island for almost 100 years and have owned the Island since the late 1940s. As part of the farm operations a levee has been constructed across the intersection of the live stream of the Sacramento River and the dry and filled portion of it. Thus permanently cutting the former channel off from the active stream. The former channel has also been disturbed to an extent that its former banks cannot be located along much of its length.

After a series of negotiations and site visits, Commission staff and Mr. Gover identified what they believe is the probable location and width of the channel. To resolve conflicting claims to the bed of the Sacramento River channel, the Commission staff recommend exchange of the bed of the dry and filled channel with Mr. Gover for lands he claims ownership of in the bed of Battle Creek. The public trust easement will not be released from the dry and filled channel of the Sacramento River and will be imposed on the bed of Battle Creek. An appraisal of the properties has been conducted and staff believes that the State will receive lands of equal or greater value as required by Section 6307.

At the conclusion of this transaction, the boundaries of the former channel will be identified; ownership questions regarding both channels will be resolved; the exchange will consolidate Mr. Gover's ownership of the island and the uplands; the placement of the properties under conservation and riparian easements to be managed by the Bureau of Land Management will protect habitat values; and resolution of title questions to the bed of Battle Creek in favor of the State will help protect the spawning habitat and recreational use of Battle Creek.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code: Division 6, Parts 1 and 2; Division 13.
B. California Administrative Code: Title 2, Division 3; Title 14, Division 6.

PERMIT STREAMLINING ACT DEADLINES

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 CEQA as a statutorily exempt project because it involves settlement of title and boundary problems.

   Authority: Public Resources Code 21080.11.

EXHIBITS:

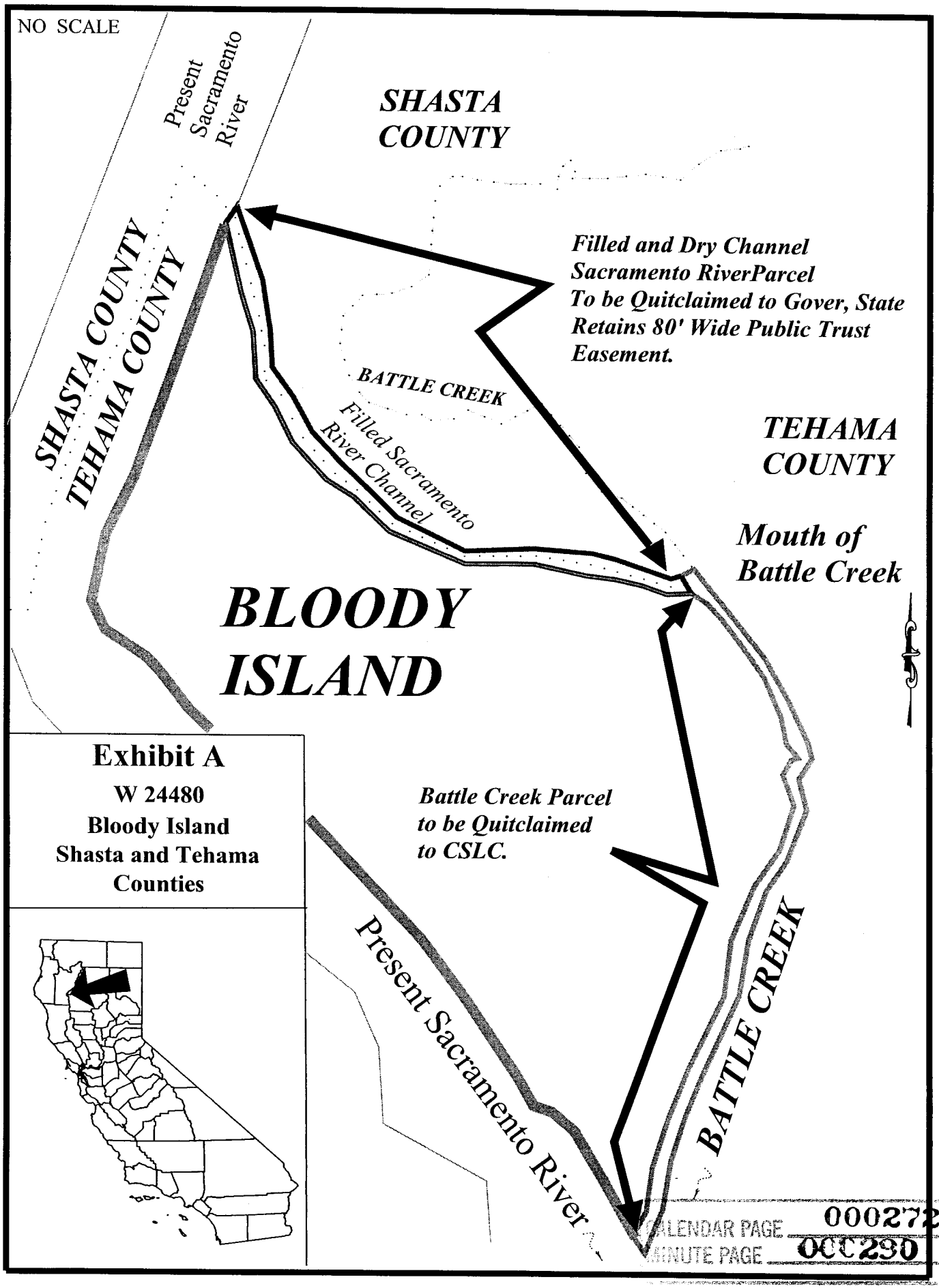
A. Location Map and site Map of Exchange Lands

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 21081.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. APPROVE THE PROPOSED BOUNDARY LINE AGREEMENT IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICES OF THE CALIFORNIA STATE LANDS COMMISSION AND EXCHANGE OF LANDS BETWEEN THE CALIFORNIA STATE LANDS COMMISSION AND MR. RICHARD DANIEL GOVER IDENTIFYING AND ESTABLISHING THE ORDINARY HIGH AND LOW WATER MARKS IN THE DRY AND FILLED PORTION OF THE SACRAMENTO RIVER AT BLOODY ISLAND AND EXCHANGING THAT PORTION OF THE SACRAMENTO RIVER BED FOR LANDS IN THE BED OF BATTLE CREEK.

3. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE THE PROPOSED TITLE SETTLEMENT AGREEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT NOW ON FILE IN THE OFFICES OF THE STATE LANDS COMMISSION; SUCH AGREEMENT TO TAKE EFFECT UPON ITS RECORDATION.



CALENDAR PAGE 000272
MINUTE PAGE 000290