

**CALENDAR ITEM
C50**

A 25
S 12

04/09/02
W 25664
C. Fossum
J. M. McKown

**CONSIDER AMENDMENT TO PROPOSED 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:

On November 26, 2001 the Commission, by approval of Minute Item 71, authorized execution of a title settlement agreement with the above Private Party. That agreement provided for for: (1) the acceptance of 2 quitclaim deeds from Spano to the CSLC for those portions of the river below the Low Water Mark, adjacent to the lands being purchased by and conveyed to the San Joaquin River Conservancy, as more particularly described in the legal description attached as Exhibit A and B, thereto; and (2) conveyance of a 49-year non-exclusive easement from the CSLC to Spano for gas monitoring, well maintenance and slope maintenance.

At the time of the CSLC's consideration of the title settlement agreement, Spano had requested that the CSLC execute a 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 was unable to recommend that the CSLC approve such a release of liability.

Subsequent to the CSLC's action on November 26, 2001, it was determined by the San Joaquin River Conservancy, the Trust for Public Land, and the Wildlife Conservation Board, who are working to acquire the upland property for the Conservancy, that a portion of one of the parcels they were to acquire contained a landfill. In order to exclude the area containing the landfill, title to the lands within APN 405-340-02 are no longer part of the purchase or the title settlement agreement. Additionally, a portion of the historic riverbed, claimed by Spano, also has been filled and consists of approximately 0.79 acres; this area will be quitclaimed by the State to Spano. The parcel, however, contains an access road that staff believes will facilitate public access to the River. Therefore, staff believes that it is in the State's best interests to acquire an

CALENDAR ITEM NO. **C50** (CONT'D)

easement for the access road within that parcel and the adjacent parcel totaling 0.86 acres. The value of the easement has been compared with the value of the landfill area being quitclaimed by the State to the Private Party and the easement value exceeds that of the landfill. The access easement is described in Exhibit D. In exchange for this easement, the State will quitclaim any claims of the State of California within the area described in Exhibit C.

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 CSLC'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 State Quitclaim area within Fresno County
- D. Land Description for Easement from Spano to State
- E. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE

CALENDAR ITEM NO. **C50** (CONT'D)

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 MODIFIED TITLE SETTLEMENT AGREEMENT, FOR THE QUITCLAIM TO THE STATE OF ANY CLAIM OF INTEREST BY SPANO WITHIN THE AREAS DESCRIBED IN EXHIBITS A AND B AND THE GRANT OF AN EASEMENT OVER THE LANDS DESCRIBED IN EXHIBIT D IN EXCHANGE FOR A QUITCLAIM BY THE STATE OVER THE LANDS DESCRIBED IN EXHIBIT C:
 - A. THE MODIFIED AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND CONSISTENT WITH PUBLIC TRUST NEEDS.
 - B. THAT THE INTERESTS IN 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 QUITCLAIMED TO SPANO, WHICH IS A RELATIVELY SMALL AREA (APPROXIMATELY 0.79 ACRES), HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION OR FISHERIES AND IS NO LONGER IN FACT SUBMERGED LANDS IN THE BED OF THE SAN JOAQUIN RIVER.
 - D. THE CONVEYANCES PROPOSED BY THE MODIFIED AGREEMENT WILL NOT INTERFERE WITH BUT RATHER ENHANCE 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 MODIFIED AGREEMENT AREA.
 - F. THE PROPOSED MODIFIED SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED.
 - G. THE MODIFIED 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.

CALENDAR ITEM NO. **C50** (CONT'D)

3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION OF THE MODIFIED SPANO TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH MODIFIED 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 MODIFIED 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 MODIFIED AGREEMENT.