

MINUTE ITEM

This Calendar Item No. C48 was approved as Minute Item No. 48 by the California State Lands Commission by a vote of 3 to 0 at its 02/17/05 meeting.

**CALENDAR ITEM
C48**

A 29

S 14

02/17/05
W 26049
BLA 275
BLA 275
C. Fossum
J. M. Mc Kown
J. Smith

**CONSIDER APPROVAL OF A BOUNDARY LINE AGREEMENT INVOLVING
CERTAIN REAL PROPERTY IN AND ADJACENT TO
THE SAN JOAQUIN RIVER, NEAR HERNDON, FRESNO COUNTY,
PURSUANT TO PUBLIC RESOURCES CODE SECTION 6307**

PRIVATE PARTY:

RIVERFRONT VENTURES, LLC
a Delaware Limited Liability Company
c/o Lorren Smith
Harbour & Associates
375 Woodworth Avenue, Suite 103
Clovis, CA 93612

BACKGROUND:

The private party applicant (Riverfront Ventures, LLC) desires to resolve the issue of the location of the boundary separating its property from the State's ownership in the San Joaquin River.

The State of California owns the bed of the San Joaquin River between the ordinary low water marks (OLWMs) on each bank (Civil Code section 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 sections 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 States sovereign property interests between Friant Dam and Highway 99. Upon completion of that study, this office prepared, printed and distributed a set of maps entitled *San Joaquin River Administrative Maps* to the effected counties, city and other

CALENDAR ITEM NO. C48 (CONT'D)

interested parties in April 1992. Based upon that study the land that is the Subject Property (Exhibit A) and involved in this proposed boundary line agreement involves lands: 1) within the bed of the San Joaquin River and 2) lands above the OHWM of the San Joaquin River, in Section 32, T.12 S., R. 19 E., MDM.

In the area involved in the proposed agreement, the San Joaquin River has been affected by human activities which have had a direct impact upon, among other characteristics, the location of the river, velocity and volume of flow, seasonal flow patterns, and sediment transport and deposition. An example of the direct artificial influences is the impoundment and diversion of water for agricultural, recreational, and flood control purposes by the construction and operation of Friant Dam. Consequently the pre-artificial conditions and location of the OHWM and OLWM in this area along or through the subject property are no longer reflected by current flow conditions. 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 the Riverfront Ventures, LLC 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 agreement. The parties consider it expedient and necessary and in the best interests of the State, the public, and Riverfront Ventures, LLC to resolve this title dispute by an agreed common boundary line, thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of such litigation.

The proposed boundary line agreement establishes the agreed ordinary high water mark along the high water mark as depicted on the *San Joaquin River Administrative Maps*, as determined by the CSLC boundary study (and more particularly described in Exhibit B), as the Agreed Common Boundary Line separating the fee owned lands of the State from those of Riverfront Ventures, LLC. Riverfront Ventures, LLC is quitclaiming all its title interests riverward of the ordinary high water mark (Agreed Common Boundary Line). The State is clearing the Upland Parcel (Exhibit D) of any State sovereign title claims.

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Exhibit E shows the area involved in this proposed boundary line agreement and depicts: 1) the Agreed Common Boundary Line described in Exhibit B; 2) the River Parcel lands to be quitclaimed to the CSLC as described in Exhibit C; and 3) the Upland Parcel to be cleared of any sovereign title claims and quitclaimed by the State as described in Exhibit D.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code of Regs.: Title 2, Div. 3; Title 14, Div. 6.
- C. 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.
- D. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code of Regs 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines. Authority: Public Resources Code. 21065 and 14 Cal. Code of Regs 15378.
- E. The STATE, acting by and through the CSLC, is authorized under Division 6 of the Public Resources Code, and specifically pursuant to sections 6357 of such code, to enter into boundary line agreements.

PERMIT STREAMLINING ACT DEADLINE:

N/A

EXHIBITS:

- A. Subject Property
- B. Agreed Common Boundary Line
- C. River Parcel to be quitclaimed by Riverfront Ventures, LLC to STATE
- D. Upland Parcel to be quitclaimed by STATE to Riverfront Ventures, LLC
- E. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. FIND THAT THE BOUNDARY LINE AGREEMENT 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.

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2. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION OF THE RIVERFRONT VENTURES BOUNDARY LINE AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.

3. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL:
1) 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 AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE BOUNDARY LINE AGREEMENT;
AND 2) TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

EXHIBIT "A"

BLA 275
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SUBJECT PROPERTY

A parcel of land in and adjacent to the bed of the San Joaquin River, situate in the City of Fresno, County of Fresno, State of California and lying within the exterior boundaries of Fractional Section 32, T. 12 S., R. 19 E., M. D. M. as shown on the Official U. S. Government Township Plat, said parcel being all that land within said fractional Section 32 lying within Lot 7 (except the south 25 acres thereof), Lot 8, and that portion of Lot 9 of said Section 32 lying northerly of the Upper San Joaquin Irrigating Canal Company canal as said canal is described in deed recorded in Book 38 of Deeds, at Page 463, Fresno County Records of said Section 32 together with those lands lying northerly of and adjacent to said lots and lying southerly of the Madera-Fresno County boundary.

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EXHIBIT "B"

AGREED COMMON BOUNDARY LINE
(Ordinary High Water Mark)

BEGINNING at a point on the High Water Line of the San Joaquin River as said line is shown on sheet 16 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 8°30'39" E, 2166.91 feet from a 1/2" rebar marking the Northeast corner of said Section 32, T. 12 S., R. 19 E., M. D. M. and as shown on said sheet 16, said corner having California, Zone 4 (NAD 83) coordinates of N= 2,194,376.579 feet and E= 6,292,465.765 feet; thence along said High Water Line the following courses: thence S 71°12'14" W, 79.20 feet; thence S 71°11'05" W, 80.79 feet; thence S 75°08'17" W, 66.59 feet; thence S 77°08'26" W, 56.70 feet; thence S 63°25'29" W, 67.95 feet; thence S 63°39'53" W, 68.28 feet; thence S 75°53'48" W, 78.18 feet; thence S 80°23'49" W, 81.23 feet; thence S 73°01'57" W, 94.37 feet; thence S 70°59'08" W, 87.16 feet; thence S 83°34'07" W, 78.03 feet; thence S 79°21'06" W, 84.12 feet; thence S 79°18'56" W, 91.40 feet; thence S 82°30'44" W, 93.90 feet; thence S 87°33'06" W, 86.62 feet; thence S 88°41'17" W, 115.06 feet; thence S 86°52'45" W, 121.18 feet; thence S 86°10'34" W, 133.29 feet; thence S 84°53'57" W, 125.71 feet; thence S 84°41'04" W, 95.48 feet; thence S 85°35'59" W, 86.34 feet; thence N 87°51'38" W, 60.88 feet; thence N 85°58'31" W, 75.43 feet; thence S 81°46'23" W, 76.42 feet; thence S 86°02'24" W, 55.96 feet; thence S 81°03'25" W, 85.03 feet; thence S 81°51'15" W, 75.04 feet; thence S 78°27'48" W, 100.42 feet; thence N 89°18'53" W, 55.44 feet; thence N 74°55'13" W, 55.83 feet; thence S 82°43'30" W, 48.25 feet; thence S 89°18'19" W, 60.78 feet; thence N 82°14'23" W, 68.27 feet; thence N 81°37'20" W, 74.04 feet; thence N 65°43'41" W, 72.41 feet; thence N 64°00'00" W, 73.11 feet; thence N 86°02'52" W, 37.19 feet; thence N 68°01'53" W, 112.72 feet; thence N 64°11'11" W, 180.35' 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"

LAND DESCRIPTION

RIVER PARCEL

A parcel of land in the bed of the San Joaquin River, situate in the City of Fresno, County of Fresno, State of California and lying within the exterior boundaries of Fractional Section 32, T. 12 S., R. 19 E., M. D. M. as shown on the Official U. S. Government Township Plat, said parcel being all that land within said fractional Section 32 lying within and adjacent to Lots 7 and 8 of said Section 32 and lying southerly of the Madera-Fresno County boundary and northerly of the following described line:

BEGINNING at a point on the High Water Line of the San Joaquin River as said line is shown on sheet 16 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 8°30'39" E, 2166.91 feet from a 1/2" rebar marking the Northeast corner of said Section 32, T. 12 S., R. 19 E., M. D. M. and as shown on said sheet 16, said corner having California, Zone 4 (NAD 83) coordinates of N= 2,194,376.579 feet and E= 6,292,465.765 feet; thence along said High Water Line the following courses: thence S 71°12'14" W, 79.20 feet; thence S 71°11'05" W, 80.79 feet; thence S 75°08'17" W, 66.59 feet; thence S 77°08'26" W, 56.70 feet; thence S 63°25'29" W, 67.95 feet; thence S 63°39'53" W, 68.28 feet; thence S 75°53'48" W, 78.18 feet; thence S 80°23'49" W, 81.23 feet; thence S 73°01'57" W, 94.37 feet; thence S 70°59'08" W, 87.16 feet; thence S 83°34'07" W, 78.03 feet; thence S 79°21'06" W, 84.12 feet; thence S 79°18'56" W, 91.40 feet; thence S 82°30'44" W, 93.90 feet; thence S 87°33'06" W, 86.62 feet; thence S 88°41'17" W, 115.06 feet; thence S 86°52'45" W, 121.18 feet; thence S 86°10'34" W, 133.29 feet; thence S 84°53'57" W, 125.71 feet; thence S 84°41'04" W, 95.48 feet; thence S 85°35'59" W, 86.34 feet; thence N 87°51'38" W, 60.88 feet; thence N 85°58'31" W, 75.43 feet; thence S 81°46'23" W, 76.42 feet; thence S 86°02'24" W, 55.96 feet; thence S 81°03'25" W, 85.03 feet; thence S 81°51'15" W, 75.04 feet; thence S 78°27'48" W, 100.42 feet; thence N 89°18'53" W, 55.44 feet; thence N 74°55'13" W, 55.83 feet; thence S 82°43'30" W, 48.25 feet; thence S 89°18'19" W, 60.78 feet; thence N 82°14'23" W, 68.27 feet; thence N 81°37'20" W, 74.04 feet; thence N 65°43'41" W, 72.41 feet; thence N 64°00'00" W, 73.11 feet; thence N 86°02'52" W, 37.19 feet; thence N 68°01'53" W, 112.72 feet; thence N 64°11'11" W, 180.35' 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

EXHIBIT "D"

LAND DESCRIPTION

UPLAND PARCEL

A parcel of land situate in the City of Fresno, County of Fresno, State of California and lying within the exterior boundaries of Fractional Section 32, T. 12 S., R. 19 E., M. D. M. as shown on the Official U. S. Government Township Plat, said parcel being all that land within said fractional Section 32 lying within and adjacent to Lots 7 (except the south 25 acres thereof, Lot 8 and that portion of Lot 9 of said Section 32 lying northerly of the Upper San Joaquin Irrigating Canal Company canal as said canal is described in deed recorded in Book 38 of Deeds, at Page 463, Fresno County Records of said Section 32 and lying southerly of the following described line:

BEGINNING at a point on the High Water Line of the San Joaquin River as said line is shown on sheet 16 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 8°30'39" E, 2166.91 feet from a 1/2" rebar marking the Northeast corner of said Section 32, T. 12 S., R. 19 E., M. D. M. and as shown on said sheet 16, said corner having California, Zone 4 (NAD 83) coordinates of N= 2,194,376.579 feet and E= 6,292,465.765 feet; thence along said High Water Line the following courses: thence S 71°12'14" W, 79.20 feet; thence S 71°11'05" W, 80.79 feet; thence S 75°08'17" W, 66.59 feet; thence S 77°08'26" W, 56.70 feet; thence S 63°25'29" W, 67.95 feet; thence S 63°39'53" W, 68.28 feet; thence S 75°53'48" W, 78.18 feet; thence S 80°23'49" W, 81.23 feet; thence S 73°01'57" W, 94.37 feet; thence S 70°59'08" W, 87.16 feet; thence S 83°34'07" W, 78.03 feet; thence S 79°21'06" W, 84.12 feet; thence S 79°18'56" W, 91.40 feet; thence S 82°30'44" W, 93.90 feet; thence S 87°33'06" W, 86.62 feet; thence S 88°41'17" W, 115.06 feet; thence S 86°52'45" W, 121.18 feet; thence S 86°10'34" W, 133.29 feet; thence S 84°53'57" W, 125.71 feet; thence S 84°41'04" W, 95.48 feet; thence S 85°35'59" W, 86.34 feet; thence N 87°51'38" W, 60.88 feet; thence N 85°58'31" W, 75.43 feet; thence S 81°46'23" W, 76.42 feet; thence S 86°02'24" W, 55.96 feet; thence S 81°03'25" W, 85.03 feet; thence S 81°51'15" W, 75.04 feet; thence S 78°27'48" W, 100.42 feet; thence N 89°18'53" W, 55.44 feet; thence N 74°55'13" W, 55.83 feet; thence S 82°43'30" W, 48.25 feet; thence S 89°18'19" W, 60.78 feet; thence N 82°14'23" W, 68.27 feet; thence N 81°37'20" W, 74.04 feet; thence N 65°43'41" W, 72.41 feet; thence N 64°00'00" W, 73.11 feet; thence N 86°02'52" W, 37.19 feet; thence N 68°01'53" W, 112.72 feet; thence N 64°11'11" W, 180.35' 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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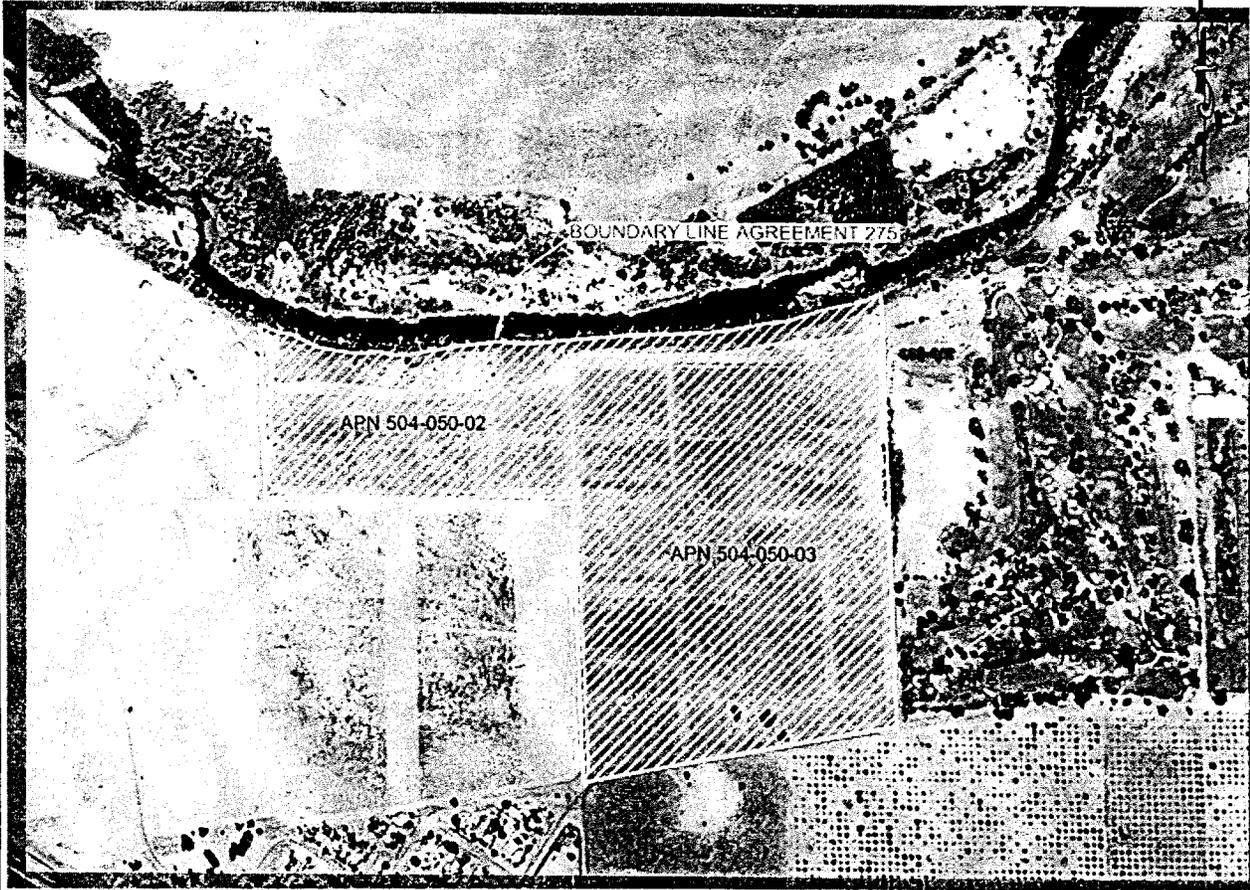
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NO SCALE

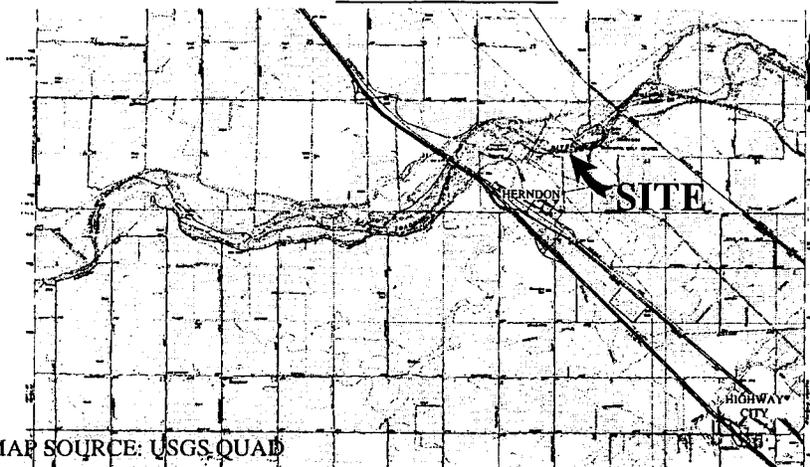
SITE



RIVERFRONT VENTURES LLC
APN 504-050-02, 03

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit E

BOUNDARY LINE
AGREEMENT 275
SAN JOAQUIN RIVER
FRESNO COUNTY



JAK 02/05

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