

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
11-21-06 meeting.

CALENDAR ITEM

C48

A 29

11/21/06

W 26178

BLA 276

AD 514

S 14

C. Fossum

M. Bell

C. Husted

**CONSIDER APPROVAL OF A BOUNDARY LINE AGREEMENT
INVOLVING CERTAIN REAL PROPERTY IN AND ADJACENT TO
THE KINGS RIVER, NEAR PIEDRA, FRESNO COUNTY,
PURSUANT TO PUBLIC RESOURCES CODE SECTION 6357**

PRIVATE PARTY:

BETTY JO DOYAL, TRUSTEE OF THE
ALFRED LEE DOYAL AND BETTY JO
DOYAL 1995 FAMILY TRUST (TRUST A)
and BETTY JO DOYAL, TRUSTEE OF
THE ALFRED LEE DOYAL AND BETTY
JO DOYAL 1995 FAMILY TRUST (TRUST B)
PO Box 321
Piedra, CA 93649

BACKGROUND:

The private party applicant (Betty Jo Doyal, as trustee of the Alfred Lee Doyal and Betty Jo Doyal 1995 Family Trusts (Trust A) and (Trust B) (hereafter DOYAL) desires to resolve the issue of the location of the boundaries separating her property from the State's ownership in the Kings River.

The State of California owns the bed of the Kings 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 Kings River are under the jurisdiction and control of the California State Lands Commission (CSLC) pursuant to Public Resources Code sections 6301 and 6216.

CSLC staff has conducted an onsite survey and an investigation of the historical factual evidence involving the Kings River in order to determine the extent and

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location of the States sovereign property interests between Pine Flat Dam and Tulare Lake. 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 Kings River and 2) lands above the OHWM of the Kings River, in Section 8, T.13 S., R. 24 E., MDM. In the area involved in the proposed agreement, the Kings River has been affected by both natural causes and 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 Pine Flat 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 Kings riverbed before the flows were controlled and artificial influences impacted the river. There is a *bona fide* dispute between the State and DOYAL 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 DOYAL to resolve this title dispute by an agreement as to the common boundary lines, thereby avoiding the anticipated substantial costs, time requirements, and uncertainties of such litigation.

The proposed boundary line agreement: 1) establishes the Agreed Ordinary Low Water Mark along the right (north) bank of the Kings River (more particularly described in Exhibit B), separating the fee owned lands of the State from those of DOYAL; 2) provides for DOYAL to quitclaim all right, title and interest riverward of the Agreed Ordinary Low Water Mark to the State (more particularly described in Exhibit C); 3) establishes the Agreed Ordinary High Water Mark along the right (north) bank of the Kings River (more particularly described in Exhibit D), designating the upland extent of the public trust easement landward of the Agreed Ordinary Low Water Mark; 4) provides for the State to quitclaim to DOYAL the Upland Parcel (Exhibit E) of any State sovereign fee title claims; 5) provides for a non-exclusive public access easement (Exhibit F) from the nearest public road to the Kings River, which easement will only be opened for public use

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upon the agreement of a responsible party to maintain it.

Exhibit A shows the area involved in this proposed boundary line agreement and depicts: 1) the Agreed Ordinary Low Water Mark described in Exhibit B; 2) the River parcel to be quitclaimed by DOYAL to State (Exhibit C); the Agreed Ordinary High Water Mark (Exhibit D); the Upland Parcel (Exhibit E); and a non-exclusive public access easement (Exhibit F).

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.
- 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 CCR 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: P.R.C. 21065 and 14 CCR 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.

AB 884: N/A

- EXHIBITS
- A. Site Map of Subject Property
 - B. Agreed Ordinary Low Water Mark
 - C. River Parcel to be quitclaimed by DOYAL to State
 - D. Agreed Ordinary High Water Mark
 - E. Upland Parcel to be quitclaimed by State to DOYAL
 - F. 20 foot non-exclusive public access easement

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.
- 2. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION ON BEHALF OF THE CALIFORNIA STATE

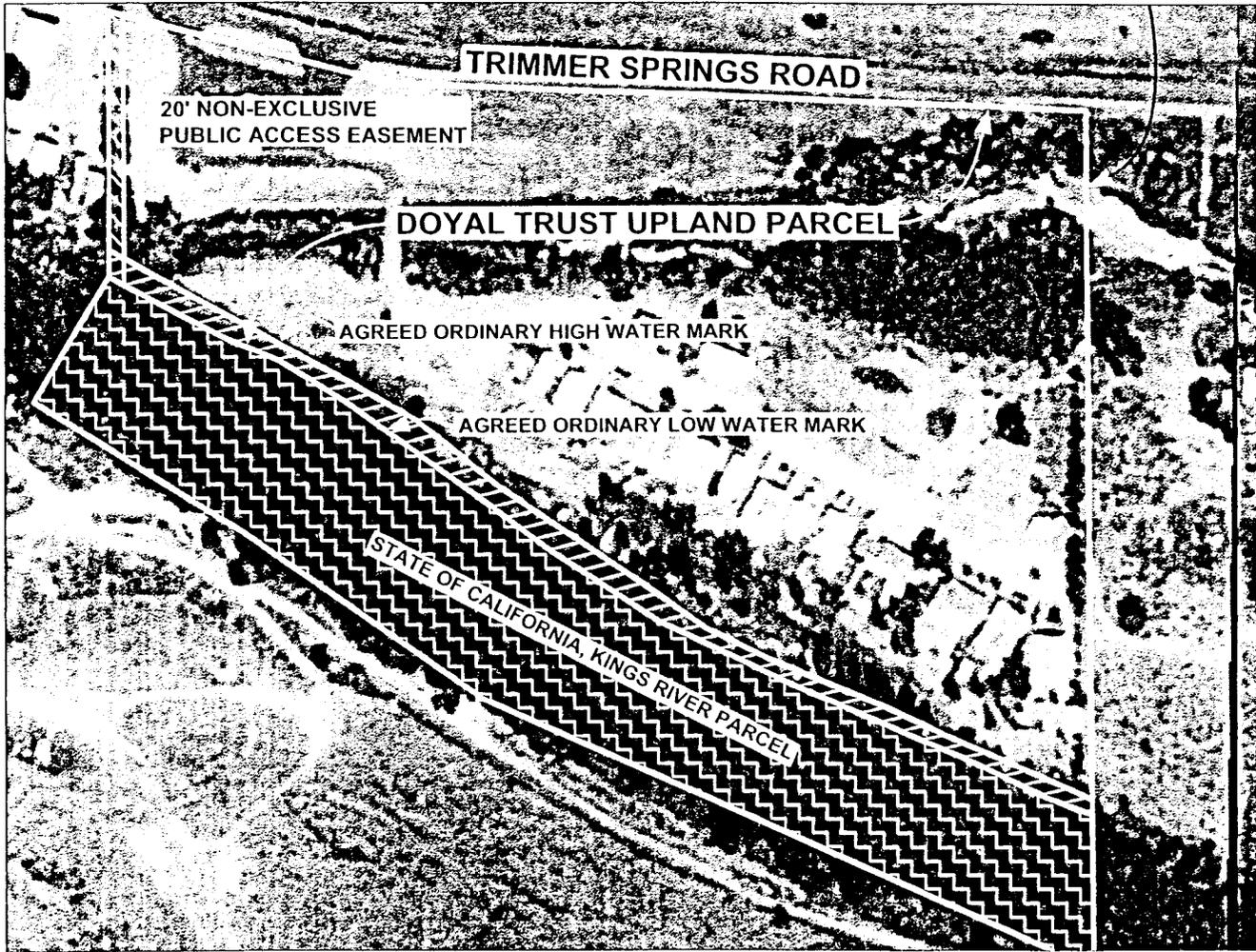
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LANDS COMMISSION OF THE DOYAL / KINGS RIVER BOUNDARY
LINE AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF
SUCH AGREEMENT ON FILE WITH THE COMMISSION.

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.

NO SCALE

SITE

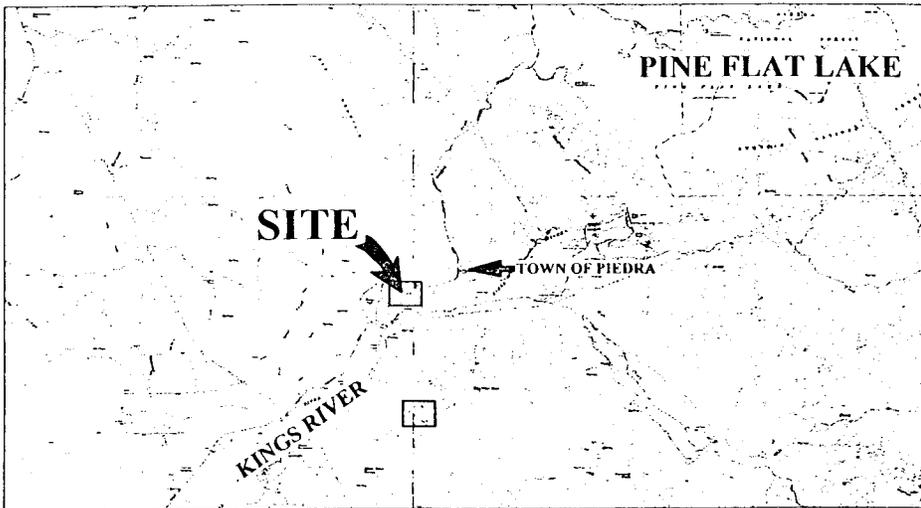


MAP SOURCE: USGS DOQ

25425 & 25433 TRIMMER SPRINGS RD. SANGER, CA
APN 158-220-02

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lands shown, 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.

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Exhibit A

BETTY J. DOYAL
W26178

BOUNDARY LINE AGREEMENT
PUBLIC TRUST EASEMENT
SANGER, CALIFORNIA
FRESNO COUNTY



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EXHIBIT B

AGREED ORDINARY LOW WATER MARK

DESCRIPTION

A line consisting of ten (10) segments situate within the exterior boundary of fractional Section 8, T13S, R24E, MDM, Fresno County, California, described as follows:

BEGINNING at a point on the east line of said exterior boundary, from which a 1" outside diameter iron pipe with brass disk stamped "RCE 15375" marking the southwest corner of Government Lot 4, fractional Section 9, as said monument is shown and so designated on Parcel Map No. 6551, filed in Book 43 of Parcel Maps, at Page 37, Official Records of said County, bears North 00°21'00" West 229.57 feet; thence the following ten (10) courses:

- (1) North 69°34'32" West 66.41 feet,
- (2) North 64°04'26" West 123.28 feet,
- (3) North 66°32'13" West 249.55 feet,
- (4) North 64°16'34" West 195.22 feet,
- (5) North 57°04'48" West 171.64 feet,
- (6) North 53°28'07" West 137.37 feet,
- (7) North 54°48'04" West 190.32 feet,
- (8) North 57°44'38" West 113.95 feet,
- (9) North 67°12'57" West 78.25 feet,
- (10) North 61°51'02" West 175.89 feet to the east boundary of the northwest quarter of the northeast quarter of said Section 8 and the terminus of said line.

The basis of bearings of this description is the west line of the northwest quarter of said Section 9 as shown on said Parcel Map.

END OF DESCRIPTION

Prepared 10/04/2006 by the California State Lands Commission Boundary Unit

EXHIBIT C

RIVER PARCEL TO BE QUITCLAIMED BY DOYAL TO STATE

LAND DESCRIPTION

All that real property situate within the exterior boundary fractional Section 8, T13S, R24E, MDM, Fresno County, California, described as follows:

BEGINNING at a point on the east line of said exterior boundary, from which a 1" outside diameter iron pipe with brass disk stamped "RCE 15375" marking the southwest corner of Government Lot 4, fractional Section 9, as said monument is shown and so designated on Parcel Map No. 6551, filed in Book 43 of Parcel Maps, at Page 37, Official Records of said County, bears North 00°21'00" West 229.57 feet; thence the following ten (10) courses:

- (1) North 69°34'32" West 66.41 feet,
- (2) North 64°04'26" West 123.28 feet,
- (3) North 66°32'13" West 249.55 feet,
- (4) North 64°16'34" West 195.22 feet,
- (5) North 57°04'48" West 171.64 feet,
- (6) North 53°28'07" West 137.37 feet,
- (7) North 54°48'04" West 190.32 feet,
- (8) North 57°44'38" West 113.95 feet,
- (9) North 67°12'57" West 78.25 feet,
- (10) North 61°51'02" West 175.89 feet to the east boundary of the northwest quarter of the northeast quarter of said Section 8;

thence South 31°00'00" West 194.00 feet, more or less, to the ordinary low water mark along the left bank of the Kings River; thence meandering along said ordinary low water mark the following three (3) courses:

- (11) South 58°00'00" East 330.00 feet,
- (12) South 55°00'00" East 390.00 feet, and
- (13) South 66°00'00" East 890.29 feet more or less, to said east line of said exterior boundary of Section 8;

thence along said east line North 00°21'00" West 206.96 feet to the point of beginning.

The basis of bearings of this description is the west line of the northwest quarter of said Section 9 as shown on said Parcel Map.

END OF DESCRIPTION

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EXHIBIT D

AGREED ORDINARY HIGH WATER MARK

DESCRIPTION

A line consisting of eight (8) segments situate within the exterior boundary of fractional Section 8, T13S, R24E, MDM, Fresno County, California, described as follows:

BEGINNING at a point on the east line of said exterior boundary, from which a 1" outside diameter iron pipe with brass disk stamped "RCE 15375" marking the southwest corner of Government Lot 4, fractional Section 9, as said monument is shown and so designated on Parcel Map No. 6551, filed in Book 43 of Parcel Maps, at Page 37, Official Records of said County, bears North 00°21'00" West 208.92 feet; thence the following eight (8) courses:

- (1) North 66°08'58" West 201.94 feet,
- (2) North 64°34'06" West 98.78 feet,
- (3) North 67°30'02" West 165.84 feet,
- (4) North 63°44'43" West 95.54 feet,
- (5) North 54°50'06" West 95.01 feet,
- (6) North 56°05'04" West 240.38 feet,
- (7) North 51°40'35" West 142.59 feet,
- (8) North 60°54'27" West 468.76 feet, to the east boundary of the northwest quarter of the northeast quarter of said Section 8 and the terminus of said line.

The basis of bearings of this description is the west line of the northwest quarter of said Section 9 as shown on said Parcel Map.

END OF DESCRIPTION

Prepared 10/04/2006 by the California State Lands Commission Boundary Unit

EXHIBIT E

UPLAND PARCEL TO BE QUITCALIMED BY STATE TO DOYAL

LAND DESCRIPTION

All that certain real property situate within the exterior boundary of fractional Section 8, T13S, R24E, MDM, Fresno County, California and being all those portions of Parcel 1 and Parcel 2, as said parcels are described in that Grant Deed recorded January 5, 1998 as document 98000885, Official Records of said County, described as follows:

BEGINNING at a point on the east line of said exterior boundary, from which a 1" outside diameter iron pipe with brass disk stamped "RCE 15375" marking the southwest corner of Government Lot 4, fractional Section 9, as shown and so designated on Parcel Map No. 6551, filed in Book 43 of Parcel Maps, at Page 37, Official Records of said County, bears North 00°21'00" West 229.57 feet; thence the following ten (10) courses:

- (1) North 69°34'32" West 66.41 feet,
- (2) North 64°04'26" West 123.28 feet,
- (3) North 66°32'13" West 249.55 feet,
- (4) North 64°16'34" West 195.22 feet,
- (5) North 57°04'48" West 171.64 feet,
- (6) North 53°28'07" West 137.37 feet,
- (7) North 54°48'04" West 190.32 feet,
- (8) North 57°44'38" West 113.95 feet,
- (9) North 67°12'57" West 78.25 feet,

(10) North 61°51'02" West 175.89 feet to the east boundary of the northwest quarter of the northeast quarter of said Section 8; thence northerly along said east boundary and the west boundary of said Parcel 1 to the north boundary of said Parcel 1; thence easterly along said north boundary of said Parcel 1 and the north boundary of said parcel 2 to the east boundary of said Parcel 2; thence southerly along said east boundary of said Parcel 2 to the point of beginning.

SUBJECT TO a public trust easement as provided for in the DOYAL / KINGS RIVER BOUNDARY LINE AGREEMENT of which this land description is a part.

ALSO SUBJECT TO a non-exclusive public access easement as described in EXHIBIT F to the DOYAL / KINGS RIVER BOUNDARY LINE AGREEMENT of which this land description is a part.

The basis of bearings of this description is the west line of the northwest quarter of said Section 9 as shown on said Parcel Map.

END OF DESCRIPTION

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W 26178
BLA 276
AD 514

EXHIBIT F

20-FOOT NON-EXCLUSIVE PUBLIC ACCESS EASEMENT

LAND DESCRIPTION

A strip of land 20.00 feet wide situate within the exterior boundary of fractional Section 8, T13S, R24E, MDM, Fresno County, California and being a portion of Parcel 1, as said parcel is described in that Grant Deed recorded January 5, 1998 as document 98000885, Official Records of said County, the west line of said strip being described as follows:

BEGINNING at the intersection of the west line of said Parcel 1 with the agreed ordinary low water mark described in EXHIBIT B to the DOYAL / KINGS RIVER BOUNDARY LINE AGREEMENT of which this land description is a part; thence northerly along said west line to the south line of a public road known as Trimmer Springs Road and the terminus of said strip, the east line of said strip to be shortened or lengthened, as the case may be, to terminate at said agreed ordinary low water mark and said south line of said public road.

END OF DESCRIPTION

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