MINUTE ITEM

This Calendar Item No C37 was approved as Minute Item No. 37 by the California State Lands Commission by a vote of 3 to 0 at its 02/05/07 meeting.

CALENDAR ITEM
C37

A 80

S 40

02/05/07
W 503.1936
J. Frey, T. Fujimoto, A. Scott, S. Lehman

CONSIDER APPROVAL OF THE NOWELL GROUP TITLE SETTLEMENT AGREEMENT, INVOLVING CERTAIN REAL PROPERTY IN AND ADJACENT TO THE COLORADO RIVER IN THE CITY OF BLYTHE, RIVERSIDE COUNTY, PURSUANT TO PUBLIC RESOURCES CODE SECTION 6307

PRIVATE PARTIES:

DAVID C. NOWELL, BETTY ANN NOWELL, JOE ANN MORTON,
LEVEE BLOCK LIMITED PARTNERSHIP and NOWELL INVESTMENT GROUP

c/o O'Melveny & Meyers LLP
Attn: David Enzminger, Esq.
400 S. Hope Street
Los Angeles, CA 90071

BACKGROUND:
A title dispute exists between the California State Lands Commission (CSLC) and the Private Parties regarding the ownership of portions of an area of real property located adjacent to the present bed of the Colorado River in the Palo Verde Valley, in the City of Blythe, Riverside County. The real property involved in the dispute is generally referred to as the "Disputed Property" and is generally as shown on the settlement plat attached hereto as Exhibit A. The Colorado River is a navigable river and has, since 1850, been affected by natural and artificial influences, including rechannelization and bank stabilization projects that have resulted in a change in the location of the river channel. CSLC claims a sovereign fee ownership in an abandoned portion of the Colorado River, commonly referred to as Raab Bend, which occurred from diversion efforts undertaken in 1923-24. Private Parties dispute the State's claims. Private Parties claim fee simple ownership of the Disputed Property through various conveyances and as successor in interest to Swamp and Overflowed patents issued by the State of California and accretions to those lands.

Several quiet title actions have been filed concerning the Disputed Property. The most recent is *David C. Nowell. et al. v. State of California, et al.,* Superior Case No. BLC002444 (Riverside County). Staff of the Attorney General's Office and the CSLC have met with the Private Parties both formally in court ordered settlement conferences and voluntarily in attempts to resolve this dispute. Staff of the Attorney General's Office and the CSLC have reached a proposed agreement with the Private Parties on a settlement of the various disputed issues of ownership involving this property.

The results of these negotiations are reflected in the Nowell Group Title Settlement Agreement, on file with in the Sacramento office of the CSLC. Exhibit A, attached hereto, provides a graphic representation of the proposed agreement. The proposed agreement provides generally for the following:

1. The parties have agreed that the low water line of the present channel of the Colorado River shall be the boundary between private and sovereign lands. The CSLC will quitclaim any right, title and interest of the State to all lands landward of the low water line and the Private Parties will quitclaim any and all of their right, title and interest to the bed of the Colorado River below the low water line.

2. Private Parties will grant to the CSLC 2 vertical non-exclusive easements and one horizontal easement for access to and along the present channel of the Colorado River. Additionally the CSLC will receive an easement along the bank of the River between the top of the bank and the low water line. The easements will be accepted by the Commission as sovereign lands thereby impressing all of the easements with the public trust.

3. Staff has appraised the lands comprising the abandoned bed of the Colorado River and has concluded that the State will receive equal or greater value in the exchange of the abandoned bed of the River for the easements to and along the River together with Private Parties contribution of $60,000.00 for deposit in the Land Bank Fund established by Section 8610 of the Public Resources Code.

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.

E. The STATE, acting by and through the CSLC, is authorized under Division 6 of the Public Resources Code, and specifically pursuant to sections 6307and 8600 through 8633 of such code, to enter into land exchange agreements.

PERMIT STREAMLINING ACT DEADLINE:

N/A

EXHIBITS:

A. Settlement Plat
B. Plat of Access Easement Areas

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE NOWELL GROUP TITLE SETTLEMENT 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. MAKE THE FOLLOWING FINDINGS REGARDING THE NOWELL GROUP TITLE SETTLEMENT AGREEMENT:
   a. THE LANDS OR INTEREST IN LANDS TO BE ACQUIRED IN THE AGREEMENT WILL PROVIDED A SIGNIFICANT BENEFIT TO THE PUBLIC TRUST.
   b. THE AGREEMENT DOES NOT SUBSTANTIALLY INTERFERE WITH PUBLIC RIGHTS OF NAVIGATION AND FISHING.

c. THE MONETARY VALUE OF THE LANDS OR INTERESTS IN LANDS RECEIVED BY THE TRUST THROUGH THE AGREEMENT IS EQUAL TO OR GREATER THAN THAT OF THE LANDS OR INTERESTS IN LANDS GIVEN BY THE TRUST.
d. THE LANDS OR INTERESTS IN LANDS GIVEN THROUGH THE AGREEMENT HAVE BEEN CUT OFF FROM WATER ACCESS AND NO LONGER ARE INFACT TIDELANDS OR SUBMERGED LANDS OR IN THE BED OF A NAVIGABLE WATERWAY, BY VIRTUE OF HAVING BEEN FILLED OR RECLAIMED, AND ARE RELATIVELY USELESS FOR PUBLIC TRUST PURPOSES.
e. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE.
f. THE AGREEMENT WILL ENHANCE THE PHYSICAL CONFIGURATION OF THE SHORELINE OR TRUST LAND OWNERSHIP IN THE COLORADO RIVER.
g. THE AGREEMENT WILL ENHANCE PUBLIC ACCESS TO AND ALONG THE COLORADO RIVER.
h. THE AGREEMENT WILL RESOLVE THE BOUNDARY AND A TITLE DISPUTE INVOLVING THE SUBJECT PROPERTY.

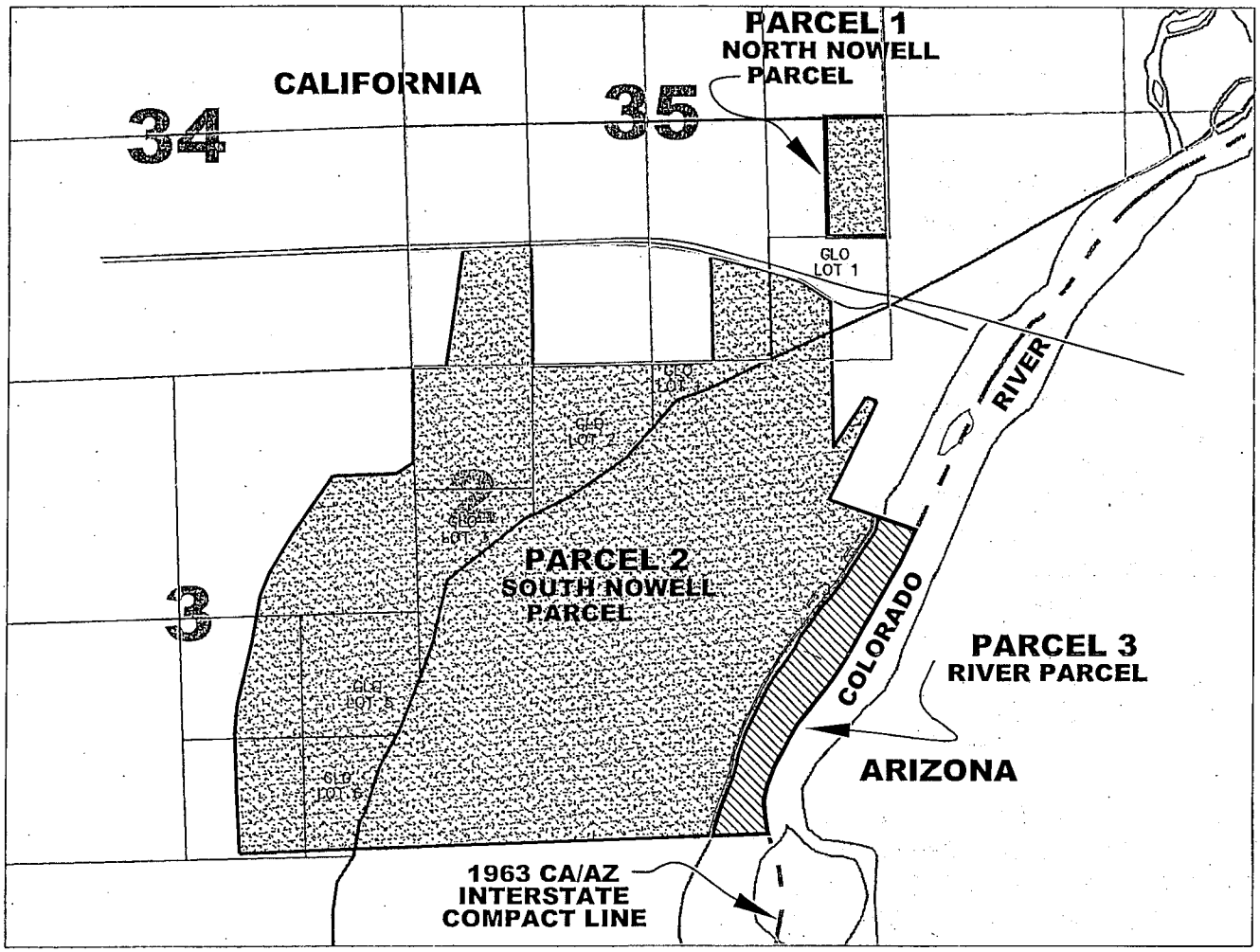
3. FIND THAT UPON FULL EXECUTION OF THE NOWELL GROUP TITLE SETTLEMENT AGREEMENT AS PROVIDED THEREIN, ANY AND ALL SOVEREIGN PUBLIC TRUST INTERESTS IN THE NOWELL UPLAND PARCELS DESCRIBED THEREIN WILL BE TERMINATED

4. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION OF THE NOWELL GROUP TITLE SETTLEMENT AGEEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.

5. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL: 1) TO TAKE ALL NECESSARY OR APPROPRATE 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 NOWELL GROUP TITLE SETTLEMENT AGREEMENT; AND 2) TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE NOWELL GROUP TITLE SETTLEMENT AGREEMENT.

NO SCALE

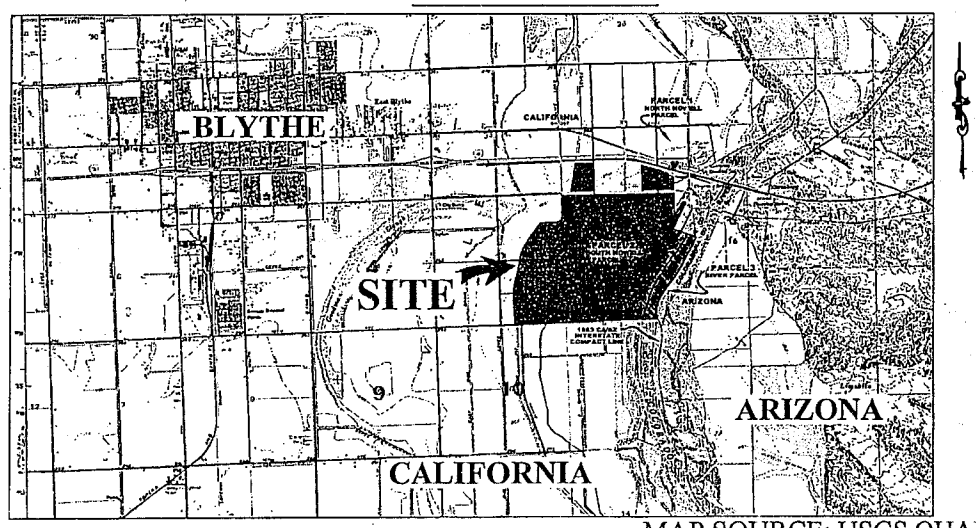
SITE



EAST OF BLYTHE AT THE COLORADO RIVER

NO SCALE

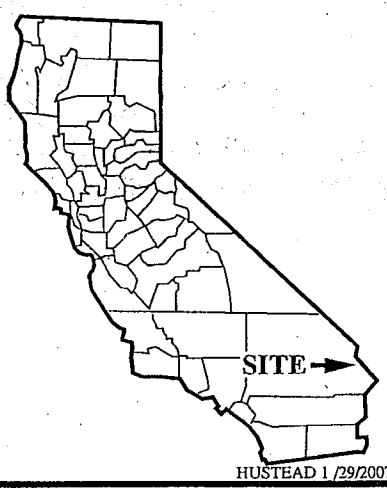
LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

503.1936
NOWELL
TITLE SETTLEMENT
COLORADO RIVER
RIVERSIDE COUNTY



This Exhibit is solely for purposes of generally defining the subject property 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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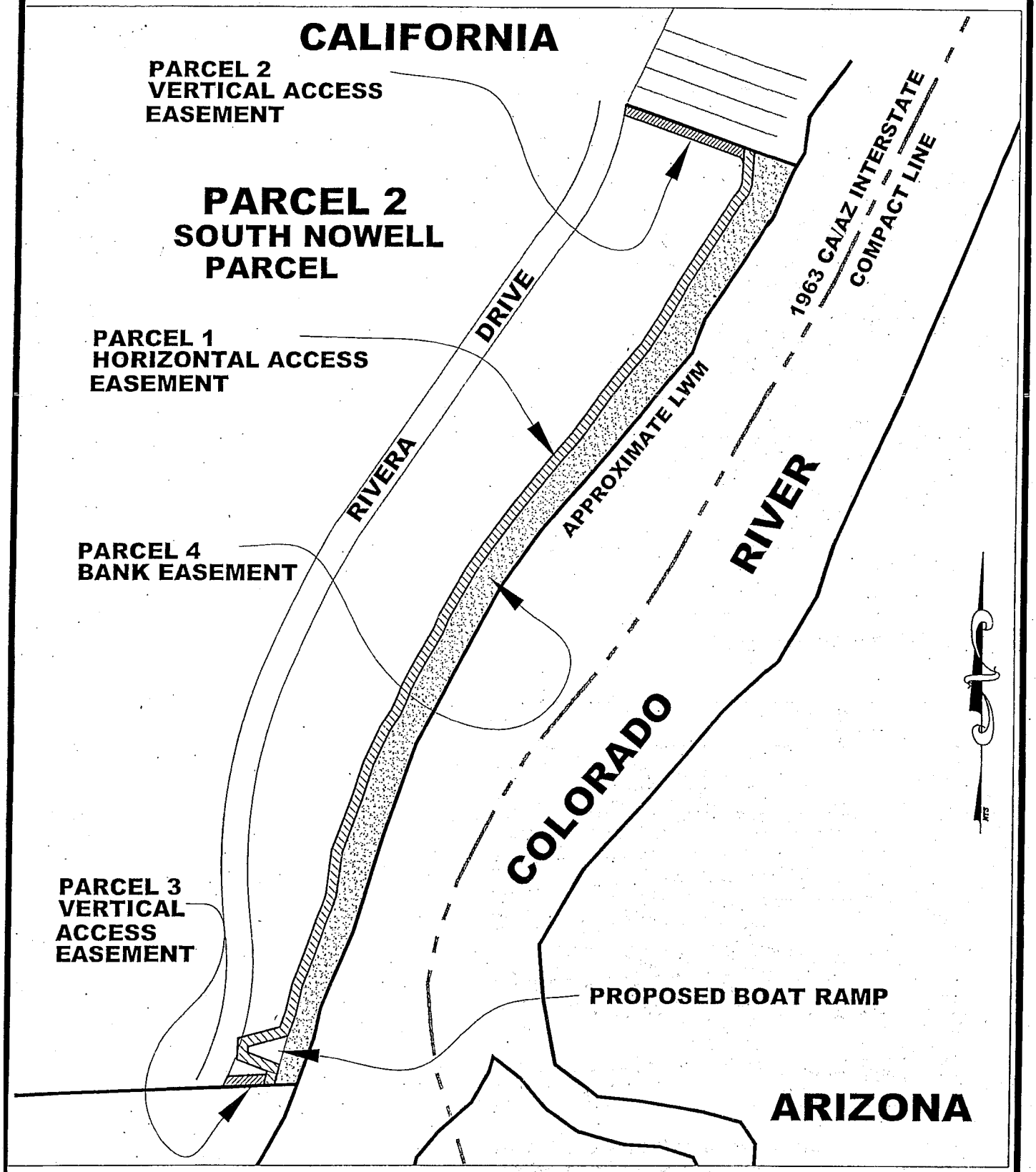
CALENDAR PAGE MINUTE PAGE

HUSTEAD 1/29/2007

EXHIBIT B
PLAT OF ACCESS EASEMENT AREAS



Date 01/26/07