

MINUTE ITEM

This Calendar Item 030
was placed on the item
No. 30 of the Lands
Committee's agenda
to 0 at its 6-5-79 CALENDAR ITEM
meeting.

30.

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W 503.778
Frank
BLA 194
PRC 5778

AUTHORIZATION FOR SETTLEMENT OF LITIGATION IN
WILCOX, ET AL. V. STATE OF CALIFORNIA
SACRAMENTO SUPERIOR COURT NO. 252408

On December 27, 1974, a lawsuit was filed against the State by private parties to quiet title to 2 adjoining parcels on the Sacramento River in southern Sacramento County with a combined size of approximately 9.5 acres. The action also sought to establish the proper boundary between private uplands and the bed of the Sacramento River constituting sovereign lands of the State of California.

Plaintiffs based their claim to the property at issue in principal part on the assertion that such lands constitute natural accretions to their upland holdings. The State has taken the position that the property has varied substantially in size over the years due to a variety of forces and that major portions of the current parcels were created by artificial accretion and/or fill.

At the same time, the parties have recognized the difficulty of obtaining a precise judicial determination of the proper boundary between sovereign and private lands on the subject parcels. This is due to both an absence of definitive engineering records and the fact that a multitude of natural and artificially-induced forces have altered the shoreline over many years.

It is now proposed that this litigation be settled in the following manner: a high water line boundary will be established in a boundary line agreement executed by the parties, utilizing a United State Army Corps of Engineers survey line that reasonably approximates the original location of the shoreline. The agreement will result in a presently dry parcel of approximately 2.9 acres being quieted in the State of California.

The property at issue is encompassed within an extensive natural gas field lease (the Rio Vista Gas Field Unit Agreement/SLC Easement 415.1) to which both plaintiffs and the State of California are participants as royalty interest holders. Under the terms of the proposed settlement agreement, plaintiffs will assign to the State that portion of the future royalties attributable to the 2.9 acre parcel being quieted in the State.

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In settlement of this litigation, it is further proposed that the State Lands Commission issue a lease to plaintiffs based on the following terms:

1. A 20-year lease, with an annual rental of \$225 per year for the first 10 years and \$450 per year for the last 10 years.
2. An option on the part of the lessee to renew the lease for an additional 20-year period, with rent based on the percentage of appraised land value utilized by the State Lands Commission at the time of renewal. If rent is not assessed in that manner at the time of renewal, the currently-utilized percentage (8%) shall be utilized.
3. The lease will limit the lessees to current use of the parcel, i.e., for storage of agricultural equipment and supplies.
4. Any change from current use requires prior Commission approval and immediate adjustment of rent in accordance with Commission leasing criteria for such changed use.

The proposed settlement and related documents have been reviewed by staff and the Office of the Attorney General. It is their conclusion that the proposed settlement is in the best interests of the State of California and the public, and should therefore be adopted by the Commission.

EXHIBITS: A. Site Map. B. Land Description

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL TO EXECUTE THE PROPOSED BOUNDARY LINE AGREEMENT IN SETTLEMENT OF WILCOX, ET AL. V. STATE OF CALIFORNIA, SACRAMENTO SUPERIOR COURT NO. 252408, TO ACCEPT THE ASSIGNMENT OF RIO VISTA NATURAL GAS FIELD ROYALTIES ATTRIBUTABLE TO LANDS BEING QUIETED IN THE STATE UNDER THE TERMS OF THE SETTLEMENT, TO EXECUTE THE LEASE TO DAVID WILCOX AND JOHN FITCH WILCOX AS SET FORTH IN THE PROPOSED AGREEMENT ON FILE IN THE OFFICE OF THE COMMISSION, AND TO TAKE SUCH OTHER ACTION AS MAY BE NECESSARY TO EFFECT AND ENFORCE THE PROVISIONS OF SAID BOUNDARY LINE AND RELATED AGREEMENTS, INCLUDING BUT NOT LIMITED TO LITIGATION.

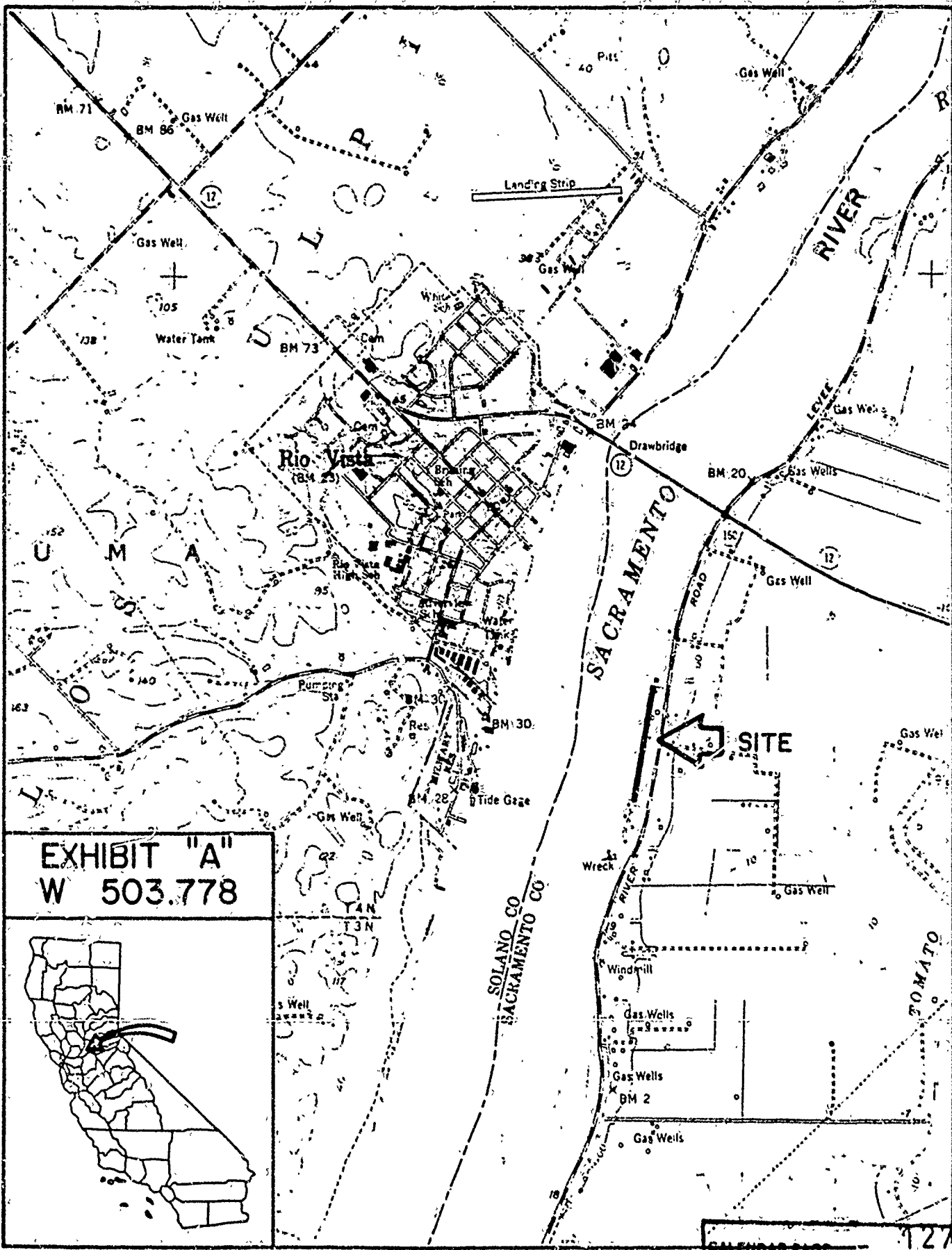


EXHIBIT "A"
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EXHIBIT "B"

Exhibit "B" not available at time of mailing.

Parcel 1

EXHIBIT "B"

That certain line in Sacramento County, State of California, described as follows:

BEGINNING at a point on the North line of "Parcel No. 3 - Exhibit A - Estate of John Fitch Wilcox", as shown on Record of Survey entitled "Wilcox Berm, Brannon Island", filed April 13, 1976, in the Office of the Recorder of Sacramento County, in Book 32 of Surveys; Page 14, and described in Decree of Final Distribution, Estate of John Fitch Wilcox recorded in Book 71-12-21, Page 482 in the Office of the Recorder of Sacramento County, said point shown and so designated as Point "A" on said Record of Survey map entitled "Wilcox Berm, Brannon Island"; thence South $110^{\circ} 12' 27''$ West 346.01 feet to an iron pipe monument with a brass tag stamped L. S. 2651; thence South $05^{\circ} 32' 18''$ West 776.97 feet to a similar monument located on the South line of said Parcel 3, Exhibit A, said point being the end of the herein described line, from which point a 1" iron pipe monument located at the Southeast corner of said parcel bears South $89^{\circ} 51' 00''$ East 134.80 feet.

Parcel 2

EXHIBIT "B"

That certain line in Sacramento County, State of California described as follows:

Beginning at a point on the North line of the "Everett E. Wilcox Property - 5.66 Acre Parcel" as shown on Record of Survey Map entitled "Wilcox Bern, Brannon Island" filed April 13, 1976, in the Office of the Recorder of Sacramento County in Book 32 of Surveys page 14, and described in Decree of Final Distribution, Estate of Everett E. Wilcox recorded in Book 76-05-14 page 803, in the Office of the Recorder of Sacramento County, said point is located North 89° 51' 00" West 175.00 feet from the Northeast corner as said parcel, said Northeast corner being marked by 1 inch iron pipe monument set in concrete as shown on said Record of Survey Map; thence South 12° 57' 25" West 763.96 feet to a point on the South line of said Everett E. Wilcox Property, said point being the end of the herein described line, from which point, the Southeast corner of said property bears South 35° 35' 00" East 205.00 feet, said Southeast corner being marked with a 1' inch iron pipe monument with a brass tag stamped L.S. 2651.