

MINUTE ITEM

This Calendar Item No. 22
is approved as Minute Item
No. 22 by the State Lands
Commission by a vote of 3
to 0 at its 7/23/81
meeting.

CALENDAR ITEM

22

7/81
W 503.792
Hight
Eagan
BLA 186

AUTHORIZATION TO EXECUTE BOUNDARY LINE AGREEMENT
ON SACRAMENTO RIVER NEAR CORNING IN SETTLEMENT OF
KELSEY V. STATE OF CALIFORNIA, TEHAMA COUNTY
SUPERIOR COURT NO. 17881

In 1975, an action entitled Kelsey, et al. v. State of California, et al., Tehama County Superior Court No. 17881, was filed, seeking to quiet title to certain alleged "accretion land" lying along the right, or westerly, bank of the Sacramento River near Corning. Although all or a portion of the property in question was at one time in the bed of the Sacramento River, it is now farm land lying westerly of the present right bank of the river. The staff of the Commission conducted a historical study of the changes in the river's location in this area to determine whether the changes were due to natural causes or to artificial or avulsive causes. The staff, in consultation with the Office of the Attorney General, concluded that a reasonable settlement of the litigation would be accomplished by a boundary line agreement establishing that the present location of both banks of the Sacramento River in this reach of the river constitutes the boundary between State and private ownership, with such boundaries being treated as still subject to future changes due to natural, non-avulsive causes.

A survey of both banks of the river has been completed by Commission surveyors and incorporated into the boundary line agreement which is submitted to the Commission for approval. Due to the short time remaining before trial, and probable difficulties in securing the agreement, in a timely fashion, of the holders of mineral interests on both sides of the river, such mineral interest holders will not be included in the agreement.

The survey meander lines were completed some time ago, before the recent Lyon and Fogerty decisions, and approximate the bank at ordinary high water. Rather than spend the time and money to survey an additional meander line representing the ordinary low water mark, the parties are agreeable to leaving the ordinary low water mark unspecified in the agreement. The principal concern of all parties is to locate with certainty the high water mark, and thus the landward limit of the public trust easement. The agreement accomplishes this purpose.

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The proposed agreement is on file in the Sacramento office of the Commission. The staff and the Office of the Attorney General concur that execution of the agreement is in the best interests of the Commission and the public.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL, IN SETTLEMENT OF KELSEY, ET AL. V. STATE OF CALIFORNIA, ET AL., TEHAMA COUNTY SUPERIOR COURT NO. 17881, TO EXECUTE BOUNDARY LINE AGREEMENT NO. 186 ON FILE IN THE OFFICE OF THE COMMISSION, AND WHICH IS HEREBY INCORPORATED HEREIN BY REFERENCE.
2. APPROVE THE PLAT IN ONE SHEET ENTITLED, "PLAT OF AGREED BOUNDARY LINES, BOUNDARY LINE AGREEMENT NO. 186", WHICH PLAT IS ATTACHED AS EXHIBIT "C" TO THE BOUNDARY LINE AGREEMENT.
3. AUTHORIZE THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION, INCLUDING, BUT NOT LIMITED TO, APPEARANCES IN ANY LEGAL PROCEEDINGS CONCERNING THE ABOVE TRANSACTION.

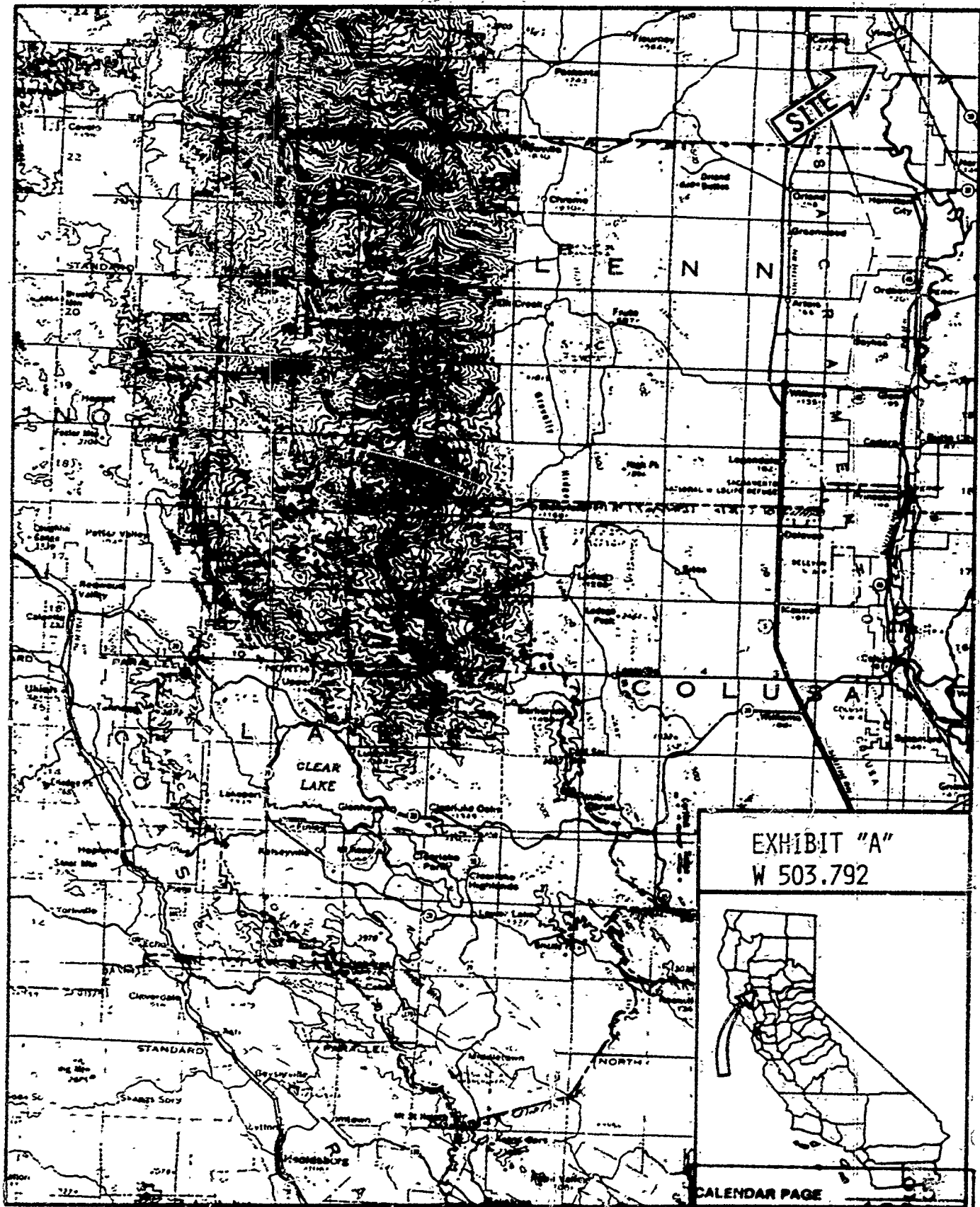


EXHIBIT "A"
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To Santa Rosa 15 Miles