

MINUTE ITEM

This Calendar Item No. 49
was approved as Minute Item
No. 49 by the State Lands
Commission by a vote of 3
to 0 at its 5/27/82
meeting.

CALENDAR ITEM

49

5/27/82
SL 1292
Eagan
Fossum
BLA 211

BOUNDARY LINE AGREEMENT
BLA NO. 211
TENNECO REALTY DEVELOPMENT CORPORATION

The State Lands Commission staff recommends Commission approval of a Boundary Line Agreement with Tenneco Realty Development Corporation involving lands in and along the Kern River in Kern County. The objective of the proposed Agreement is to settle conflicting claims between the State and Tenneco over the existence and location of sovereign ownership of the bed of the Kern River in Sections 34 and 35, T28S, R2 MDM. This agreement will set a fixed boundary line along both banks of the Kern River near Bakersfield, in an area where Tenneco is the upland owner and provides public access easements to the river.

The State may enter such boundary line agreements pursuant to the provisions of P.R.C. Section 6357.

In order to locate, describe, and permanently fix and establish the ownership of the river bed and the true and correct boundary between the river bed and the uplands owned by private interests, staff requests approval of the proposed boundary line agreement, a copy of which is one file in the Sacramento office of the Commission and is summarized as follows:

1. The State's fee title to the river bed of the Kern River in Sections 34 and 35, T28S, R28E, MDM, will be confirmed, in trust, and subject to the public trust easement for commerce, navigation, fishery, recreation and related uses.
2. The true boundary between the river bed and the uplands, which is the last natural position of the ordinary high water mark unaffected by artificial reliction or accretion, cannot be precisely fixed and the parties have therefore chosen to approximate the ordinary high water mark by locating and establishing the boundary along and upon those certain fixed lines (the "Agreed Boundary Lines"). These lines are based upon the designated floodway boundaries established by the State Board of Reclamation on June 20, 1978. These lines are agreed

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by the parties to be a reasonable approximation of the last natural position of the ordinary high water mark.

3. A portion of the designated floodway boundary along the left side of the river lies landward of the meander line on the left side of the Kern River, as shown on the federal Township plat approved September 4, 1855, which approximates, as of 1855, the line between swamp and overflowed lands and fast lands, as shown in the Plats and Surveys. Tenneco and the State are not, in this agreement, determining a boundary line along the river adjacent to this portion of the designated floodway boundary, and Tenneco, by entering this Agreement and making the quitclaim in paragraph 4 below, does not intend to affect the rights, if any, of any other person to any designated floodway boundary.
4. Tenneco by entering this Agreement, will quitclaim to the State all of its right, title, and interest, in the parcel of real property (the "River Parcel").
5. In addition, Tenneco will quitclaim to the State a parcel of its swamp and overflowed land along the left bank near the boundary of Section 35.
6. By entering this Agreement, the State will quitclaim to Tenneco two parcels of land (the "North Parcel" and the "South Parcel") that abut and lie landward of the boundary lines to be agreed to.
7. The agreement expresses the State's intent to grant two permits to Tenneco, subject to fulfillment by Tenneco of all applicable State requirements and permit criteria, one to enter the river bed and extract sand and gravel for the improvement of the adjacent uplands, and one to enter upon the river bed to build diversion works for the appropriation of water.
8. Tenneco will grant to the State and the State will accept two non-exclusive public access easements, one to each bank of the river from adjacent public roads.
9. This transaction is exempt from CEQA under the provisions of 2 Cal. Adm. Code 2903(d) and is not a project within the meaning of CEQA.

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10. The Attorney General's office has reviewed and approved this transaction.

AB 884: N/A.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS TRANSACTION IS IN SETTLEMENT OF TRUST AND BOUNDARY MATTERS IN LIEU OF LITIGATION AND THE REQUIREMENTS OF CEQA DO NOT APPLY.
2. APPROVE A BOUNDARY LINE AGREEMENT WITH TENNECO REALTY DEVELOPMENT CORPORATION, BLA NO. 211; AND AUTHORIZE ITS EXECUTION ACCORDING TO THE TERMS DESCRIBED HEREIN AND SUBSTANTIALLY IN THE FORM AS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
3. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION TO FINALIZE THE AGREEMENT.

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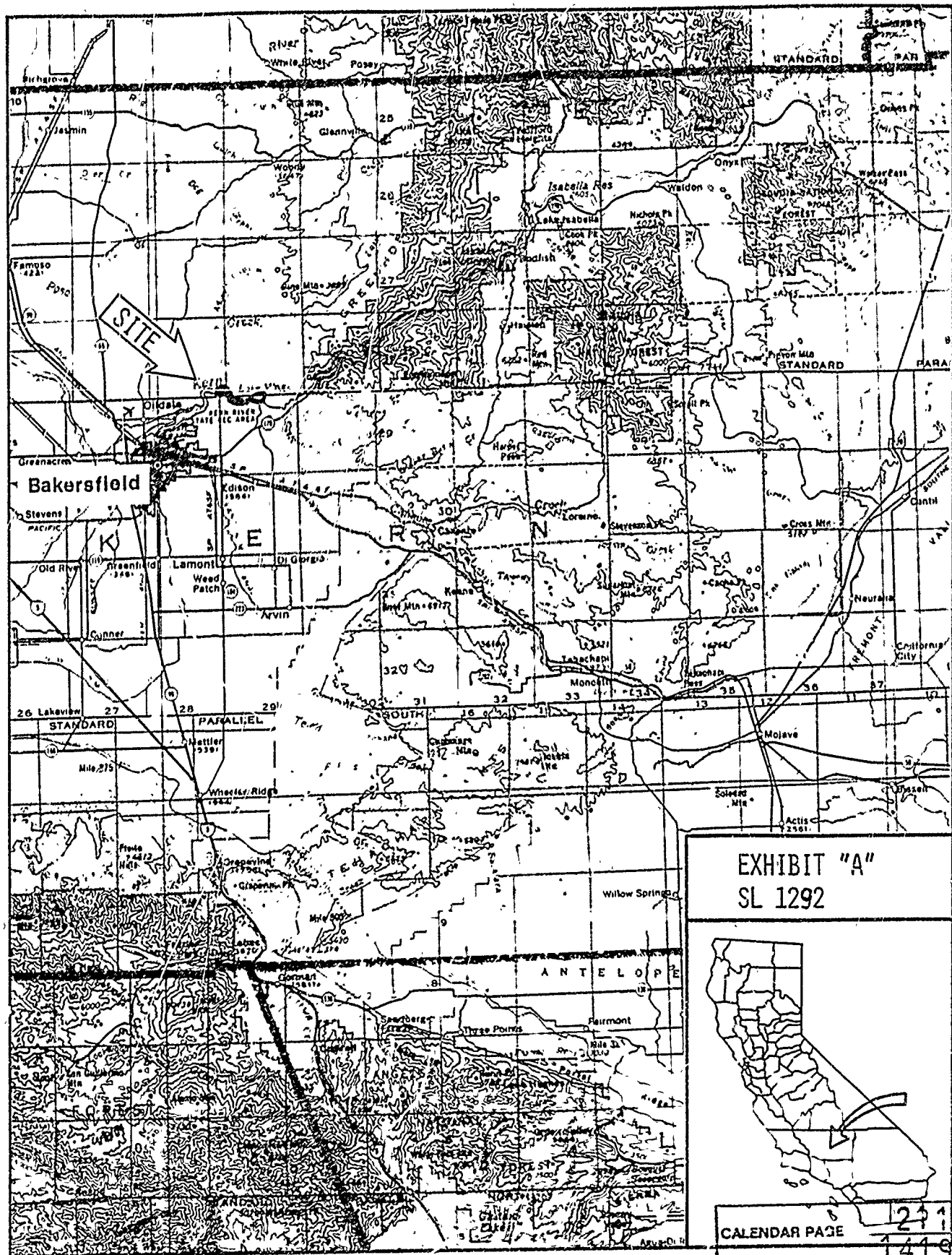


EXHIBIT "A"
SL 1292



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