

MINUTE ITEM
This Calendar Item No. 57
was approved as Minute Item
No. 57 by the State Lands
Commission by a vote of 3
2 at its 6/11/90
meeting.

CALENDAR ITEM

A 61
S 25

57

06/11/90
W 23938
Chatfield

AMENDMENT OF A STATE INDEMNITY SELECTION APPLICATION

PARTY: State Lands Commission
1807 - 13th Street
Sacramento, California 95814

At the request of the Department of Health Services (DHS), the Commission filed a State Indemnity Selection (SIS) application with the Bureau of Land Management (BLM) on February 17, 1987 for areas located in the Ward Valley and Silurian Valley in San Bernardino County, and Panamint Valley in Inyo County, totalling 7,352.49-acres. DHS proposes to site and develop a Low-Level Radioactive Waste Disposal Facility on lands to be acquired and subsequently transferred to DHS. The proposed project facility will occupy 50 acres, but will require at least 640 acres to meet buffer requirements for the facility.

Staff has previously informed the Commission that amendments to the SIS application would be necessary as DHS completed its site selection process and, as these amendments to the SIS became necessary, staff would notify the Commission.

Upon the filing of a SIS application with the BLM, the lands filed upon were segregated from settlement, sale, locations or entry under the public land laws, including the mining laws, but not the mineral leasing laws or the Geothermal Steam Act. The "segregative effect" benefits DHS by ensuring a clear title during the lengthy selection and acquisition period. The "segregative effect" expires two years from the date of filing. By Calendar Item C19 on February 6, 1989, the Commission authorized the refiling of the SIS application with BLM extending its segregative effect an additional two years from the date of refiling.

(ADDED pgs. 433-433.5)

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The Panamint Valley site (4,157.68 acres) was eliminated from consideration by C19 on February 6, 1989. DHS has now selected the Ward Valley as the proposed site (1,000 acres) and a small portion of the site for actual use by the project.

An EIR/EIS for the disposal project will cover only the Ward Valley site. The planned completion date of the Final EIR/EIS is September 1990. The land transfer from BLM to SLC of the DHS site cannot take place until the completion of the EIR/EIS process. Until then, it will be necessary to extend the "segregative effect" for the site. In order to trigger a new two-year period of segregative effect, staff proposes to withdraw the DHS site from the current SIS application on file, and simultaneously file a new application.

The lands under application for the DHS site will be reduced from the current acreage of 3,194.81 acres to the 1,000 acres identified for the actual site.

AB 884: N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code 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.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

- EXHIBITS:
- A. Land Description - Ward Valley Reduced SIS Application.
 - B. Location Map.
 - C. Background of Project.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378

CALENDAR ITEM NO. 57 (CONT'D)

2. AUTHORIZE WITHDRAWAL OF THE DHS SITE FROM THE STATE INDEMNITY SELECTION APPLICATION ON FILE WITH THE BUREAU OF LAND MANAGEMENT, WITH SERIAL NUMBER CA 19952 FOR 7,352.49 ACRES OF FEDERAL LAND, AND THE SIMULTANEOUS FILING OF A REDUCED STATE INDEMNITY SELECTION APPLICATION FOR 1,000 ACRES OF FEDERAL LAND IN SAN BERNARDINO COUNTY

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EXHIBIT "A"
LAND DESCRIPTION

W 23938

Four parcels of land in San Bernardino County, California described as follows.

PARCEL 1

SW-1/4 of the SW-1/4 of Section 26, T9N, R19E, SBM.

PARCEL 2

S-1/2 of the S-1/2 of Section 27, T9N, R19E, SBM.

PARCEL 3

W-1/2 of The W-1/2 of Section 35, T9N, R19E, SBM.

PARCEL 4

Section 34, T9N, R19E, SBM.

END OF DESCRIPTION

PREPARED JUNE 5, 1990 BY LLB.

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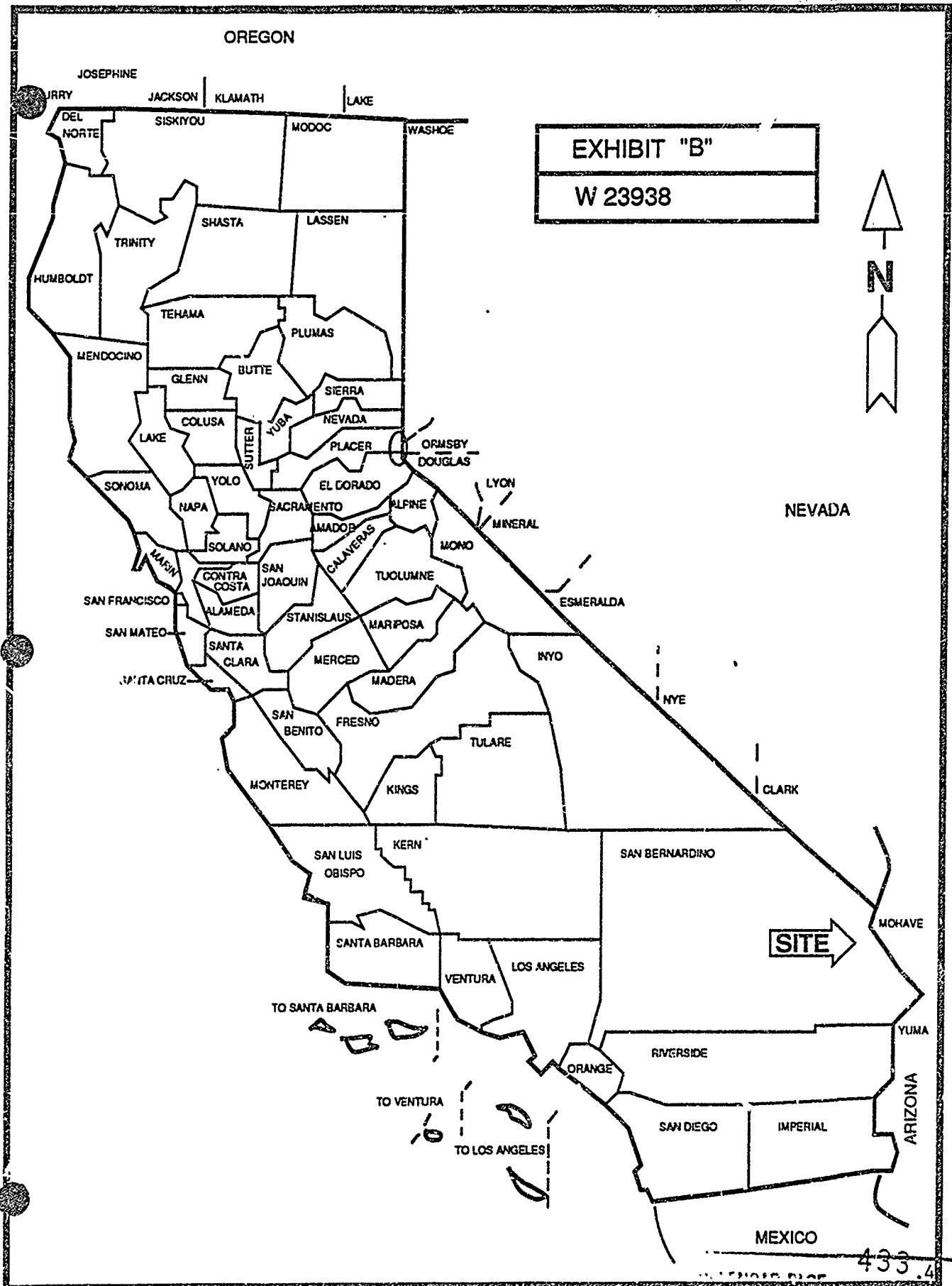


EXHIBIT "C"

BACKGROUND OF PROJECT

In December 1980, the Congress enacted the Low-Level Radioactive Waste Policy Act, Public Law 96-573. Briefly, it assigned to the states the responsibility for disposing of the low-level commercial wastes generated within their borders, encouraged states to form regional compacts for purposes of establishing regional disposal sites, and authorized compacts after January 1, 1986 to exclude wastes generated in states not parties to such compacts.

The California Legislature's response to the 1980 Act was the passing of Senate Bill 342 in September 1983. It required the DHS to select a "license designee" to site, develop, and operate a LLRW disposal facility. In the event that a license designee was not chosen or defaults in its performance, the Resources Agency has the responsibility to establish and operate the facility. Additionally, the bill provides that the disposal facility must be located on State or federally owned land. BLM has stated that LLRW disposal facilities cannot be located on federal lands per federal policy. However, this does not preclude the transfer of suitable parcels into State ownership. Discussions with BLM identify the State indemnity selection process as the most practical and expedient method of transferring these lands to State ownership.

In December 1985, Congress, recognizing the deadline date of January 1, 1986 was unrealistic, passed an amendment to the 1980 Low-Level Radioactive Waste Policy Act. The amendment postponed, until 1993, the date that regions with compacts can refuse non-regional wastes. Additionally, it imposed surcharges for the disposal of out-of-region LLRW and it set up a schedule of milestones to be met in the development of the LLRW disposal facility. If these milestones are not met, penalties in the form of increased surcharges are placed on the generators of the LLRW. However, if the milestones are met, the State can apply for a rebate of 25 percent of penalties paid.