

MINUTE ITEM  
This Calendar item No. 79  
was approved as Minute Item  
No. 79 by the State Lands  
Commission by a vote of 2  
0 at its 8-22-90  
meeting.

CALENDAR ITEM

A 61

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S 25

08/22/90  
W 23972  
BLA 263  
Louie  
Hadly  
Williams

BOUNDARY LINE AGREEMENT  
(BLA 263)

PARTIES:

Charles Graeber, et al  
Reynolds, Reider & Bowden  
300 East State Street, Suite 450  
Redlands, California 92374

BACKGROUND:

This Boundary Line Agreement extends along an abandoned portion of the bed of the Colorado River, now known as Needles Lagoon, just outside the City of Needles, San Bernardino County. Pursuant to law, the State holds sovereign title to the bed of the Colorado River in fee below the ordinary low water mark (OLWM), subject to the public trust, and holds public trust easements for the area between the ordinary high water mark (OHWM) and the ordinary low water mark.

The Colorado River, in the area of the subject Boundary Line Agreement, has since 1850 been affected by numerous natural and artificial influences, including erosion, accretion, avulsion, rechannelization, and bank stabilization. Due to such influences, uncertainty exists as to the precise last natural location of the OHWM and the OLWM of the Colorado River at this location.

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CURRENT SITUATION:

The State of California has been named as an indispensable party to the lawsuit Zimmerer v. McShan (San Bernardino, Superior Court No. BCU2191). In an effort to resolve this case, the Attorney General's office and staff have negotiated a compromise settlement in the form of a proposed Boundary Line Agreement with the Parties to the lawsuit.

The principal terms of the settlement are as follows:

1. The Parties agree to establish and fix for all time the common boundary dividing the upland interests of the private parties from the sovereign interests of the State in the abandoned bed of the Colorado River. That boundary line is depicted on Exhibit "A" and substantially described in Exhibit "C". Minor changes in the description may occur after field monuments have been set by staff along the proposed boundary line.
2. The Parties agree, for the purpose of establishing the boundary line, that the last natural location of the ordinary high water mark of the abandoned portion of the riverbed is in the same location as the last natural location of the ordinary low water mark of the abandoned portion of the riverbed.
3. Once the agreement is finalized and recorded, the State Lands Commission will lease the abandoned riverbed to the California Department of Fish and Game for restoration and management of fish and wildlife habitat. The agreement specifically provides that the State Lands Commission will enter into a lease with Fish and Game.
4. Should the State at some time in the future decide to sell the property in the abandoned portion of the riverbed, the private parties, or their heirs, successors, transfers and assigns, shall have the right of first refusal to purchase that portion of the abandoned riverbed immediately adjacent to their respective upland parcels.

The proposed boundary line represents a reasonable and good faith effort of the private parties and the State to locate the last natural location of the OHWM and OLWM of the abandoned riverbed.

BASIS FOR CONSIDERATION:  
Pursuant to 2 Cal. Code Regs. 2003.

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STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3;  
Title 14, Div. 6.

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 as a statutorily exempt project. This project is exempt because it involves settlements of boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Map of Agreement
- B. Location Map
- C. Description of Fixed Boundary Line Between Private Parties and State.

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA, PURSUANT TO 14 CAL. CODE REGS. 15061, AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF BOUNDARY PROBLEMS.
- 2. AUTHORIZE THE EXECUTION OF A BOUNDARY LINE AGREEMENT (BLA 263) BETWEEN CHARLES GRAEBER, ET AL ("PRIVATE PARTIES"), AND THE STATE SUBSTANTIALLY IN THE FORM ON FILE IN THE PRINCIPAL OFFICE OF THE STATE LANDS COMMISSION.
- 3. FIND THAT UPON THE RECORDATION OF THE SUBJECT BOUNDARY LINE AGREEMENT AND THE CLOSING OF ESCROW:
  - (A) THE COMMON BOUNDARY ("BOUNDARY LINE") AS DEPICTED ON EXHIBIT "A" AND SUBSTANTIALLY AS DESCRIBED IN EXHIBIT "C" IS ESTABLISHED AND FIXED FOR ALL TIME, DIVIDING THE UPLAND INTERESTS OF THE PRIVATE PARTIES FROM THE SOVEREIGN INTERESTS OF THE STATE IN THE ABANDONED BED OF THE COLORADO RIVER.

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- (8) FOR THE PURPOSE OF ESTABLISHING THE BOUNDARY LINE, THE LAST NATURAL LOCATION OF THE ORDINARY HIGH WATER MARK OF THE ABANDONED RIVERBED, SUBSTANTIALLY AS DESCRIBED IN EXHIBIT "C", IS THE SAME LOCATION AS THE LAST NATURAL LOCATION OF THE ORDINARY LOW WATER MARK OF THE ABANDONED RIVERBED.
4. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO IMPLEMENT THE ACTIONS DESCRIBED AND AUTHORIZED HEREIN, INCLUDING, BUT NOT LIMITED TO, PREPARATION, EXECUTION AND RECORDATION OF ALL DOCUMENTS, MAPS, DEEDS, TITLE AND ESCROW INSTRUCTIONS AND APPEARANCES IN ANY LEGAL PROCEEDINGS NECESSARY TO FINALIZE THE BOUNDARY LINE AGREEMENT.

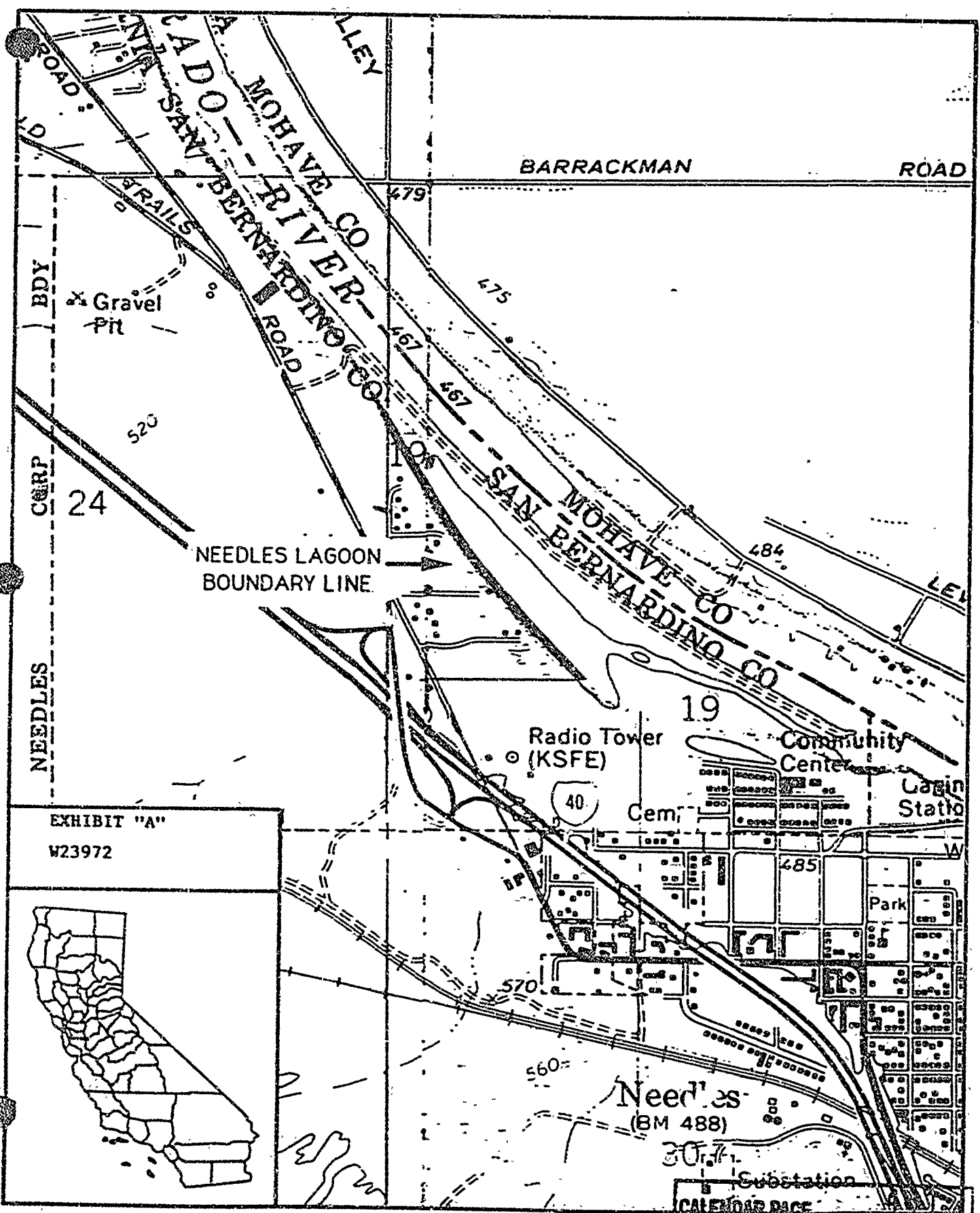


EXHIBIT "A"  
W23972



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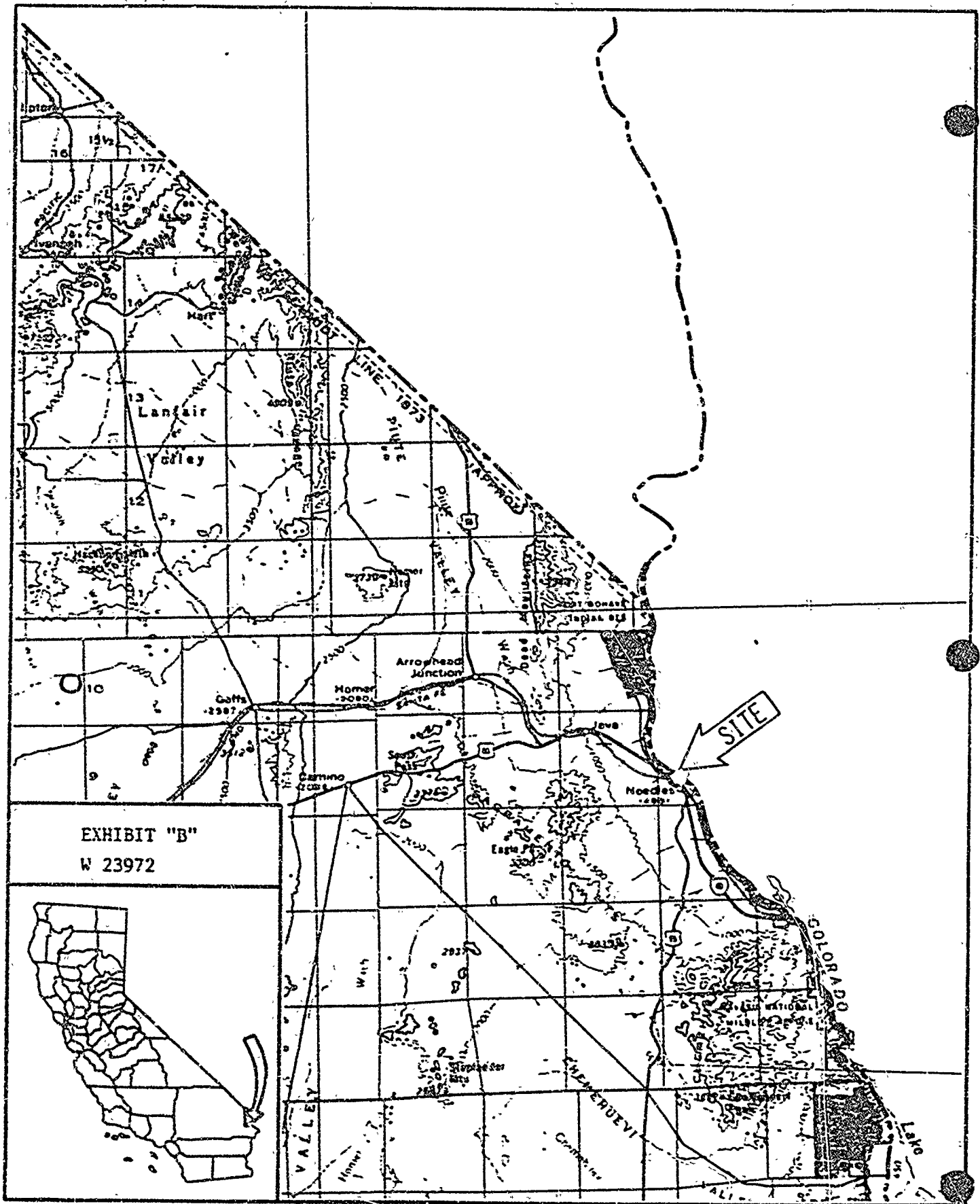


EXHIBIT "B"  
 W 23972

Exhibit "C"  
Land Description

W23972

A Boundary Line along the West Bank of the Abandoned Channel of the Colorado River, situated in Section 19, Township 9 North, Range 23 East, San Bernardino Meridian, located in San Bernardino County, State of California and more particularly described as follows:

COMMENCING at the 1/4 corner for Sections 19 and 24, T 9 N, R 22 and 23 E, S.B.M., delineated on the Field Notes and Plat entitled, "Dependent Resurvey of Sections 13 and 24, Township 9 North, Range 22 East", approved October 3, 1961; thence along said section line, N 00° 06' 00" W, 673.20 feet to a California State Lands (CSLC) Aluminum Cap, stamped B.L.A. # 1, 1990, said point being the POINT OF BEGINNING of the herein described Boundary Line; thence from said point of beginning S 31° 41' 23" E, 557.88 feet to a CSLC Aluminum Cap, stamped B.L.A. # 2, 1990; thence S 14° 11' 41" E, 204.34 feet to a CSLC Aluminum Cap, stamped B.L.A. # 3, 1990; thence S 30° 28' 37" E, 162.45 feet to a CSLC Aluminum Cap, stamped B.L.A. # 4, 1990; thence S 44° 42' 00" E, 111.93 feet to a CSLC Aluminum Cap, stamped B.L.A. # 5, 1990; thence S 34° 50' 18" E, 365.22 feet to a CSLC Aluminum Cap, stamped B.L.A. # 6, 1990; thence S 37° 06' 55" E, 66.00 feet to a CSLC Aluminum Cap, stamped B.L.A. # 7, 1990; thence S 38° 09' 13" E, 239.76 feet to a CSLC Aluminum Cap, stamped B.L.A. # 8, 1990; thence S 41° 19' 34" E, 176.46 feet to a CSLC Aluminum Cap, stamped B.L.A. # 9, 1990; thence S 40° 39' 57" E, 184.94 feet to a CSLC Aluminum Cap, stamped B.L.A. # 10, 1990; thence S 28° 52' 43" E, 160.55 feet to a CSLC Aluminum Cap, stamped B.L.A. # 11, 1990; thence S 43° 22' 16" E, 196.04 feet to a CSLC Aluminum Cap, stamped B.L.A. # 12, 1990, said B.L.A. # 12 being the end of the herein described Boundary Line; said B.L.A. # 12 bears N 89° 54' 00" E, 1,347.92 feet from the 1/4 corner for Sections 19 and 24, T 9 N, R 22 and 23 E, S.B.M., delineated on the Field Notes and Plat entitled, "Dependent Resurvey of Sections 13 and 24, Township 9 North, Range 22 East", approved on October 3, 1961.

END DESCRIPTION

Description subject to minor revisions following final field monumentation.

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