

CALENDAR ITEM
C69

MINUTE ITEM
This Calendar Item No. C69
was approved as Minute Item
No. 69 by the State Land
Commission by a vote of 3
to 0 at its 7/6/95
meeting.

A 1
S 2

07/06/95
W 503.1806
Frey
Crow

AUTHORIZATION TO FILE DISCLAIMER OF INTEREST IN
BETO v. STATE, ET AL.,
LAKE COUNTY SUPERIOR COURT NO. 30338

The State of California is named as a defendant in a quiet title action entitled Beto v. State, et al., Lake County Superior Court No. 30338. The property which is the subject matter of the action is located adjacent to State Highway 20 in Lucerne, Lake County. Plaintiffs Roger and June Beto own a residential lot adjoining the subject property and littoral to Clear Lake. Defendants include the State, the County of Lake, the heirs of the last known owners of the subject property, and all persons unknown who may claim an interest in the property.

Plaintiffs allege that the parcel in question, which lies between their residential property and the highway, was offered for highway dedication to the State and to Lake County, but that neither the State nor the County ever accepted the dedication. Both the County and CALTRANS have disclaimed any interest or title in the subject property.

Staff of the State Lands Commission have examined present day and historic records and maps to determine whether there is any state sovereign interest in the subject property. Clear Lake is a navigable lake and is owned by the State as sovereign land. The Legislature granted all of the State's right, title and interest, save for minerals, in trust to Lake County pursuant to Chapter 639, Statutes of 1973. The subject parcel is located waterward of the 1867 U.S. meander line of Clear Lake. It is also within lands the State patented into private ownership as Lakeland Location 2191, with no minerals reserved. The courts have held that state lakeland patents are invalid to the extent they attempt to convey sovereign lands as opposed to swamp and overflowed lands. (Maginnis v. Hurlbutt (1920) 49 Cal.App. 461.)

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Further examination of present day and historic information indicates that the subject parcel was never part of the bed of Clear Lake. The parcel is landward of the present day ordinary low water mark elevation of zero on the Rumsey Gauge as surveyed by the State Lands Commission in 1967. It also is above the lake's present ordinary high water mark of 7.79 feet on the Rumsey Gauge. Additionally, the parcel is located landward of the surveyed line of zero on the Rumsey Gauge on a 1913 Yolo Water and Power Company survey map. The same map indicates it is also above the ten foot Rumsey Gauge elevation. Finally, State Highway Department plan and profile maps dated 1928 indicate that the parcel was landward of the high and low water marks of Clear Lake.

Based on the foregoing investigation, it is recommended that the Commission authorize staff and the Attorney General's office to file a disclaimer of any state sovereign interest in the property which is the subject matter of the lawsuit. The disclaimer shall provide that it is effective only for the parcel described in the lawsuit and for no other property for which the State may claim an interest. The disclaimer shall also provide that pursuant to P.R.C. Sections 6461, 6463 and 6464, no cost shall be awarded against the State in the action.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

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 this activity is not a "project" as defined by the State CEQA Guidelines.

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

EXHIBITS:

- A. Site Map
- B. Description

CALENDAR ITEM NO. C69 (CONT'D)

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.

2. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE A DISCLAIMER OF ANY SOVEREIGN INTEREST IN THE PARCEL IN QUESTION AS DESCRIBED IN EXHIBIT B HERETO IN THE CASE OF BETO v. STATE, ET AL., LAKE COUNTY SUPERIOR COURT NO. 30338.

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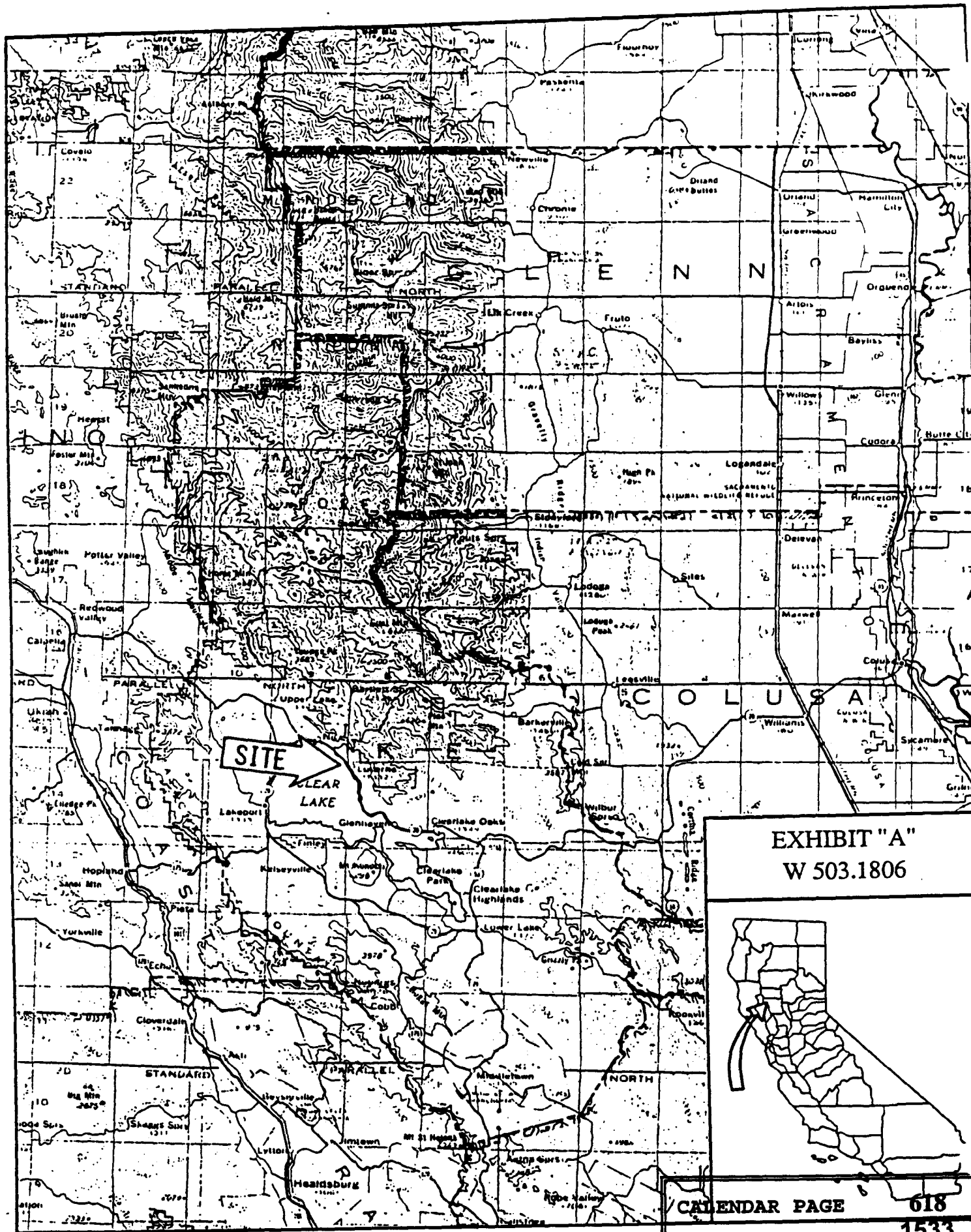


EXHIBIT "A"
W 503.1806



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To Santa Rosa 15 Miles

LAND DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF LAKE, STATE OF CALIFORNIA, ALSO BEING A PORTION OF LAKESHORE BOULEVARD AS SHOWN ON THAT CERTAIN MAP ENTITLED, "TOWN OF LUCERNE, BEING THE TOWNSITE SUB-DIVISION OF CLEAR LAKE BEACH," FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER OF SAID LAKE COUNTY ON JULY 28, 1924, IN BOOK 3 OF TOWN RECORDS AT PAGE 113, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF LOT "K", AS SHOWN ON SAID MAP, SAID POINT OF BEGINNING ALSO BEING THE WESTERLY LINE OF LAKESHORE BOULEVARD AS SHOWN ON SAID MAP, AT THE MOST NORTHERLY CORNER OF THAT CERTAIN PARCEL OF SAID LAND DESCRIBED IN THE DEED FROM LUCERNE ON THE LAKE, INC., TO JOHN HUDSON, ET UX., RECORDED MAY 9, 1960, IN BOOK 329, OF OFFICAL RECORDS OF SAID LAKE COUNTY, AT PAGE 527; THENCE ALONG THE EXTENSION OF THE NORTHERLY LINE OF SAID LANDS OF HUDSON, NORTH 59°16'45" EAST (NORTH 59°16' EAST) A DISTANCE OF 29.43 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 20; THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF SAID STATE HIGHWAY 20, NORTH 39°02'23" WEST (NORTH 39°04' WEST) A DISTANCE OF 48.23 FEET; THENCE CONTINUING ALONG THE WESTERLY LINE OF SAID STATE HIGHWAY 20, NORTH 25°33'15" WEST (NORTH 25°31' WEST) A DISTANCE OF 1.23 FEET TO A POINT OF INTERSECTION WITH THE EXTENSION OF THE CENTERLINE OF THIRTEENTH AVENUE AND THE WEST LINE OF SAID STATE HIGHWAY 20; THENCE ALONG SAID EXTENSION OF THE CENTERLINE OF THIRTEENTH AVENUE, SOUTH 59°16'45" WEST (SOUTH 59°16' WEST) A DISTANCE OF 39.46 FEET TO THE MOST NORTHERLY CORNER OF LANDS OF BETO AS DESCRIBED IN BOOK 1420 OFFICIAL RECORDS AT PAGE 171 FILED FOR RECORD ON JULY 12, 1988 AT SAID LAKE COUNTY RECORDER'S OFFICE; THENCE ALONG THE EASTERLY LINE OF SAID LANDS OF BETO, 52.73 FEET ALONG THE ARC OF A 80.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, TANGENT BEARING SOUTH 30°53'06" EAST, THROUGH A CENTRAL ANGLE OF 37°45'59" TO THE MOST NORTHERLY CORNER OF SAID LANDS OF HUDSON AND POINT OF BEGINNING CONTAINING 1828.6 SQUARE FEET MORE OR LESS.

END OF DESCRIPTION

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