

MINUTE ITEM
This Calendar Item No. C69
was approved as Minute Item
No. 69 by the State Lands
Commission by a vote of 2
to 0 at its 7/11/97
meeting.

CALENDAR ITEM
C69

A 80
S 37

07/11/97
W 24880.1
AD 323 A. Willard
J. Frey
P. Pelkofer
D. Reese
G. Pelka

**CONSIDER ACCEPTANCE AND CONSENT TO RECORDATION OF TITLE
TO FEDERAL LANDS; AND CONSIDER APPROVAL OF AN AMENDMENT
TO A MEMORANDUM OF AGREEMENT TO EXCHANGE STATE SCHOOL LANDS
PURSUANT TO THE CALIFORNIA DESERT PROTECTION ACT
FOR BUREAU OF LAND MANAGEMENT OWNED LANDS
IN THE CHOCOLATE MOUNTAINS,
IMPERIAL COUNTY**

BACKGROUND:

At its February 27, 1996, meeting, the California State Lands Commission (Commission) approved a Memorandum of Agreement (MOA) with the Bureau of Land Management (BLM) to exchange State school lands, pursuant to the California Desert Protection Act for, two half sections of BLM lands in the Chocolate Mountains. An amendment to the MOA was necessary to clarify the terms and conditions involving the overriding royalty, contested mining claims, and treatment of archeological resources. Subsequently, the Bureau of Land Management granted patent CACA 36218F4 to the State of California for the two half sections in the Chocolate Mountains identified in the MOA.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code sections: 6442, 6444, 6445, 7303, and 7303.5.
- B. California Code of Regulations: Title 3, Division 3, Article 2.1; Title 14, Division 6.

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

- 1. Pursuant to the Commission's delegation of authority and the State CEQA

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Guidelines (Title 14, California Code of Regulations, section 15061), Commission staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXHIBITS:

- A. Amendment to Memorandum of Agreement to Exchange Lands
- B. United States of America land patent CACA 36218F4.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. APPROVE AMENDMENT OF THE MEMORANDUM OF AGREEMENT (MOA) WITH THE BUREAU OF LAND MANAGEMENT TO EXCHANGE STATE SCHOOL LANDS PURSUANT TO THE CALIFORNIA DESERT PROTECTION ACT FOR FEDERAL LANDS (MOA ATTACHED HERETO AS EXHIBIT A).
3. AUTHORIZE ACCEPTANCE AND CONSENT TO RECORDATION OF TITLE TO THE FEDERAL LANDS CONTAINED IN PATENT NO. CACA 36218F4 ATTACHED HERETO AS EXHIBIT B.

EXHIBIT A**AMENDMENT TO MEMORANDUM OF AGREEMENT BETWEEN****THE BUREAU OF LAND MANAGEMENT, CALIFORNIA****AND****THE STATE LANDS COMMISSION, CALIFORNIA****FOR****THE CHOCOLATE MOUNTAIN EXCHANGE, AND OTHER EXCHANGES****OR STATE IN LIEU SELECTIONS, AS APPROPRIATE****Introduction:**

The Bureau of Land Management (BLM) and the State Lands Commission (SLC) previously entered into a Memorandum of Agreement (MOA) on March 4, 1996 for the exchange of certain parcels within the Chocolate Mountains. A copy of that MOA is attached hereto. This amendment is intended to clarify the terms of the MOA and, except as modified in this amendment, all terms and conditions of the original MOA shall remain in full force and effect.

Amendments:

- I. Paragraph 1(e) of the MOA is modified to read as follows:
 - 1(e). BLM shall reserve to itself an overriding royalty of 25% of the net royalty income received by SLC from the production of minerals as defined in Paragraph 6 of this MOA from the Chocolate Mountain Parcels. Such override shall not take effect until SLC has been compensated for the full value of all of its Inholdings except as stated below in Paragraph 3. For purposes of this MOA only, "royalty income" shall be defined to include land rent and mineral royalty income, as calculated under California Public Resources Code Section 6895 or any other income derived from a third party's mineral activity on the land. "Net royalty income" shall mean royalty income after deduction of SLC administrative costs as defined in Paragraph 5 below.
- II. The following paragraph shall be added to the MOA as Paragraph 7.
 7. Contested Mining Claims: SLC and BLM acknowledge that third parties have filed mining claims known as Prince 1 LMC, containing 20.66

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acres, Prince 2 LMC, containing 20.66 acres, and Gold Dust LMC, containing 12.78 acres. All portions of the Prince 2 LMC and the Gold Dust LMC are within the exterior boundaries of the Chocolate Mountain Parcels. 3.50 acres of the Prince 1 LMC are within the exterior boundaries of the Chocolate Mountain Parcels. All three mining claims are the subject of a validity contest which is still pending. BLM and SLC agree that, in the event that the mining claims are ultimately judged valid, SLC shall have a right to acquire other federal lands comparable in value to the surface estate of the parcels as of the date of the patent (June 12, 1997) to the State.

III. The following paragraph shall be added to the MOA as Paragraph 8.

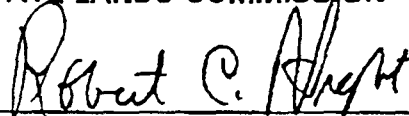
8. Preservation Of The Historic Record: Prior to any earth disturbing activity all National Register eligible properties shall be evaluated pursuant to 36 CFR 800 et seq. A report describing the outcome of the mitigating actions directed toward the sites shall be completed and delivered to the BLM within 90 days of completion of the archaeological field work and concurred with by the BLM California State Director. All field work, report writing and curation work shall be paid for by the project proponent. All artifacts shall be curated in an acceptable curation facility and shall be paid for by the project proponent. Catalogues, photographs, etc. shall be sent to the BLM at the time of delivery to the curation facility. The State Historic Preservation Office shall be sent a copy of the final report by the BLM.

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

STATE OF CALIFORNIA
STATE LANDS COMMISSION



ED HASTEY
California State Director



ROBERT C. HIGHT
Executive Officer

Date: JUN 11 1997

Date: 6-12-97

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EXHIBIT B

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS,

The State of California

is entitled to a land patent pursuant to Sec. 206 of the Act of October 21, 1976, as amended, 43 U.S.C. 1716, for the following described lands:

San Bernardino Meridian, California,

T. 13 S., R. 19 E.,

Sec. 5, lots 1 to 10, inclusive;

Sec. 6, lots 1 to 10, inclusive.

Containing 657.85 acres.

NOW KNOW YE, that there is, therefore, granted by the **UNITED STATES** unto the **State of California**, the lands described above; **TO HAVE AND TO HOLD** the said lands with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said **State of California** to its successors and assigns, forever.

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EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 43 U.S.C. 945

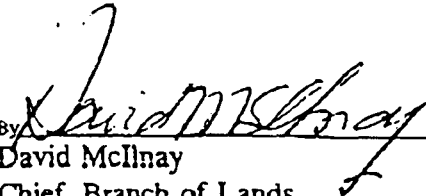
2. A royalty interest as defined and set forth in the Memorandum of Agreement Between the Bureau of Land Management, California and the State Lands Commission, California for the Chocolate Mountain Exchange, and Other Exchanges or State In-Lieu Selections as Appropriate, dated March 4, 1996, as amended and supplemented.

SUBJECT TO valid existing rights, if any, in mining claims CAMC 29836, CAMC 29837, and CAMC 29838.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in **Sacramento, California** the **TWELFTH** day of **JUNE** in the year of our Lord one thousand nine hundred and **NINETY-SEVEN** and of the Independence of the United States the two hundred and **TWENTY-FIRST**.

By 
David McIlroy
Chief, Branch of Lands
California State Office

04-97-0077

Patent Number _____

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BLM Serial No. CACA 36218F4

Acknowledgment of Delivery

I hereby acknowledge that I have received the following document from the Bureau of Land Management, Patent No. 04-97-0077, Dated June 12, 1997

Dated this Twelfth day of June 1997

Nancy J. Alex
(Signature)

Mark R. Bean
(Signature)

Name:
for Bureau of Land Management

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