

MINUTE ITEM

This Calendar Item No. 24  
was approved as Minute Item  
No. 24 by the State Lands  
Commission by a vote of 3  
0 at its 7/19/78  
meeting.

MINUTE ITEM

7/78  
Waggoner

24. AUTHORIZATION TO MODIFY THE RIGHT OF SURFACE ENTRY - W 40120

During consideration of Calendar Item 24, attached, Assistant Attorney General Jan Stevens suggested that the following language be inserted at the end of paragraph 2 of the staff's recommendation:

"provided appropriate steps shall be taken to assure that no diminution in the value of the State's interest shall be made as a result thereof."

Mr. Stevens explained the above amendment would protect the State's interest, in the event minerals are later discovered, by preventing the owner of the remaining 15/16th mineral from claiming that the State's interest would be less due to its failure to retain an independent entry right.

Commission-Alternate Betty Jo Smith questioned the staff's reason for quitclaiming its surface entry right to the applicants. As set forth in the attached calendar item, it was explained that pursuant to Section 601(b) of the Public Resources Code, under certain conditions, the State can modify its surface entry right to permit the orderly use and development of the land. Since no minerals were discovered after a mineral investigation had been conducted by staff, the applicants had requested that the State modify its surface entry right on the subject lands in order for them to acquire the adequate financing for their subdivision. However, as stated above, with the addition of the above amendment, Mr. Stevens assured the Commission that (in the event minerals are discovered at a later date) the State's rights are protected.

THE COMMISSION:

1. FINDS THAT THERE ARE NO KNOWN DEPOSITS OF COMMERCIALY VALUABLE MINERALS IN AND ABOVE A PLANE LOCATED 500 FEET BELOW THE SURFACE OF THE SUBJECT PARCEL, AS DISCLOSED BY INDEPENDENT STUDIES BY A CONSULTING FIRM AND THE COMMISSION'S STAFF.
2. AUTHORIZES THE EXECUTIVE OFFICER TO EXECUTE A QUITCLAIM DEED, MODIFYING ANY AND ALL RIGHT TO SURFACE ENTRY THAT THE STATE MAY HAVE TO ENTER UPON A PORTION OF THE S2 SW4 AND THE S2 SE4 SECTION 36, T33N, R5W, MDB&M, DESIGNATED ON SHASTA COUNTY ASSESSOR'S MAP AS PARCEL NO. 006-01-03 AND 006-01-07 OF TRACT 1478, SHASTA COUNTY, IN AND ABOVE A PLANE 500 FEET BELOW THE SURFACE, AS REQUESTED BY THE SURFACE OWNERS, MESSRS. I. WALTON AND R. D. PAGE; PROVIDED APPROPRIATE STEPS SHALL BE TAKEN TO ASSURE THAT NO DIMINUTION IN THE VALUE OF THE STATE'S INTEREST SHALL BE MADE AS A RESULT THEREOF.

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Attachment: Calendar Item 24 (4 pages)

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CALENDAR ITEM

24.

7/78  
W 40120  
Waggoner

AUTHORIZATION TO MODIFY THE RIGHT OF SURFACE ENTRY

SURFACE OWNER: Messrs. Leroy Walton and R. D. Page  
3211 Churn Creek Road  
Redding, California 96001

AREA, TYPE OF LAND AND LOCATION:

Approximately 72 acres of patented school land, Section 36, T33N R5W, MDB&M, Central Valley, California, Shasta County. The State has a 1/16 reserved mineral interest.

PERTINENT INFORMATION:

1. The present land owners are currently constructing and developing the 72 acre parcel into a residential subdivision. The subdivision will ultimately include 206 single family residences. In order to make the subdivision eligible for FHA financing they are requesting the modification.
2. Section 6401 (b) of the Public Resources Code (PRC) provides in part that... "upon a finding by the Commission that there are no known deposits of commercially valuable minerals in and above a plane located 500 feet below the surface of any land sold...and wherein any... of the mineral deposits...are required by law to be reserved to the State, the Commission may by...appropriate instrument, modify the accompanying rights of the State to the use of the surface of such lands, including any right to enter such lands to a depth of 500 feet below the surface of such lands, as will permit the orderly use and development of all such sold or exchanged lands".
3. Section 6373 of the PRC provides in part that "Before any disposition of State lands to a private party or other governmental agency, the intended recipient

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of such lands shall submit to the Commission and to the Legislature a general plan...".

4. Rezoning requests for the area known as Coeur d'Alene Estates (Tract No. 1478) and the environmental document have been approved by the Shasta County Planning Commission. The Shasta County Technical Advisory Committee has also approved this project as being consistent with the County General Plan and zoning.
5. A geologic study completed by an acceptable Geotechnical Consulting firm reports that the subject parcel does not contain commercially valuable mineralization. Further, an independent study made by the State Lands Commission's staff concurs with that finding.
6. The applicant has filed with the Commission's staff, copies of the EIR (which includes the development plan) and the Geologic Report. They have been distributed as follows:
  - a. One copy of each to the Commissioners of the State Lands Commission;
  - b. One copy of each to the Chief Clerk of the Assembly;
  - c. One copy of each to the Secretary of the Senate.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THERE ARE NO KNOWN DEPOSITS OF COMMERCIALY VALUABLE MINERALS IN AND ABOVE A PLANE LOCATED 500 FEET BELOW THE SURFACE OF THE SUBJECT PARCEL, AS DISCLOSED BY INDEPENDENT STUDIES BY A CONSULTING FIRM AND THE COMMISSION'S STAFF.
2. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE A QUITCLAIM DEED, MODIFYING ANY AND ALL RIGHT TO SURFACE ENTRY THAT THE STATE MAY HAVE TO ENTER UPON A PORTION OF THE S2 SW4 AND THE S2 SE4 SECTION 36, T33N, R5W, MDB&M,

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DESIGNATED ON SHASTA COUNTY ASSESSOR'S MAP AS PARCEL  
NO. 006-01-03 AND 006-01-07 OF TRACT 1478, SHASTA COUNTY,  
IN AND ABOVE A PLANE 500 FEET BELOW THE SURFACE, AS  
REQUESTED BY THE SURFACE OWNERS, MESSRS. L. WALTON  
AND R. D. PAGE.

# EXHIBIT "A" W40120

## SURFACE RIGHT-OF-ENTRY MODIFICATION

