

MINUTE ITEM

This Calendar Item No. 37
was approved as Minute Item
No. 39 by the State Lands
Commission by a vote of 3
to 0 at its 1-24-80
meeting.

CALENDAR ITEM

39.

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W 503.794
W 503.795
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W 503.797
Mckown
Williams

AUTHORIZATION TO SETTLE LITIGATION
WITH PACIFIC GAS AND ELECTRIC COMPANY

GROUND

Leslie Salt Company ("Leslie") and the State of California and the State Lands Commission (collectively referred to as "SLC") are currently involved in quiet title litigation, concerning certain land in Alameda County in the east San Francisco Bay region. (See exhibit A.) The property is presently being used by Leslie primarily as salt evaporation ponds. Pacific Gas and Electric (PG&E) claims easement interest over portions of the property for the transmission and distribution of electricity and is a named defendant in the lawsuits brought by SLC. There are several PG&E facilities currently on the property. These facilities are identified in Exhibit B.

The ownership dispute between Leslie and SLC centers around the character of the land. Leslie contends that it is the successor to parties who received State patents to the land in the nineteenth century. If the character of the property is as Leslie asserts, swamp and overflowed land, then it is subject to absolute disposition by the State to private parties, free from any reserved interest in the State. (Newcomb v. City of Newport Beach (1936) 7 Cal.2d 393, 400.) On the other hand, if the property is tideland in character, as SLC asserts, then even if assuming it was sold by the State to private parties, it remains subject to the common law public-trust easement for commerce, navigation and fisheries. (People v. California Fish Co. (1913) 166 Cal. 476, 585-602; Marks v. Whitney (1971) 6 Cal.3d 251, 259-260.)

PG&E is claiming title through Leslie. Leslie has granted PG&E easement interests in the property for the transmission and distribution of electricity. Consequently, PG&E has sided with Leslie in the various lawsuits in alleging that the land should be classified as swamp and overflowed land.

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PG&E's role in the litigation has been primarily to support and endorse the allegations of Leslie; however, PG&E has not taken an active role, and has indicated that, if possible, it would like to avoid further potential litigation costs. PG&E's prime concern is to protect its interest in the property no matter what the ultimate character of the property is determined to be.

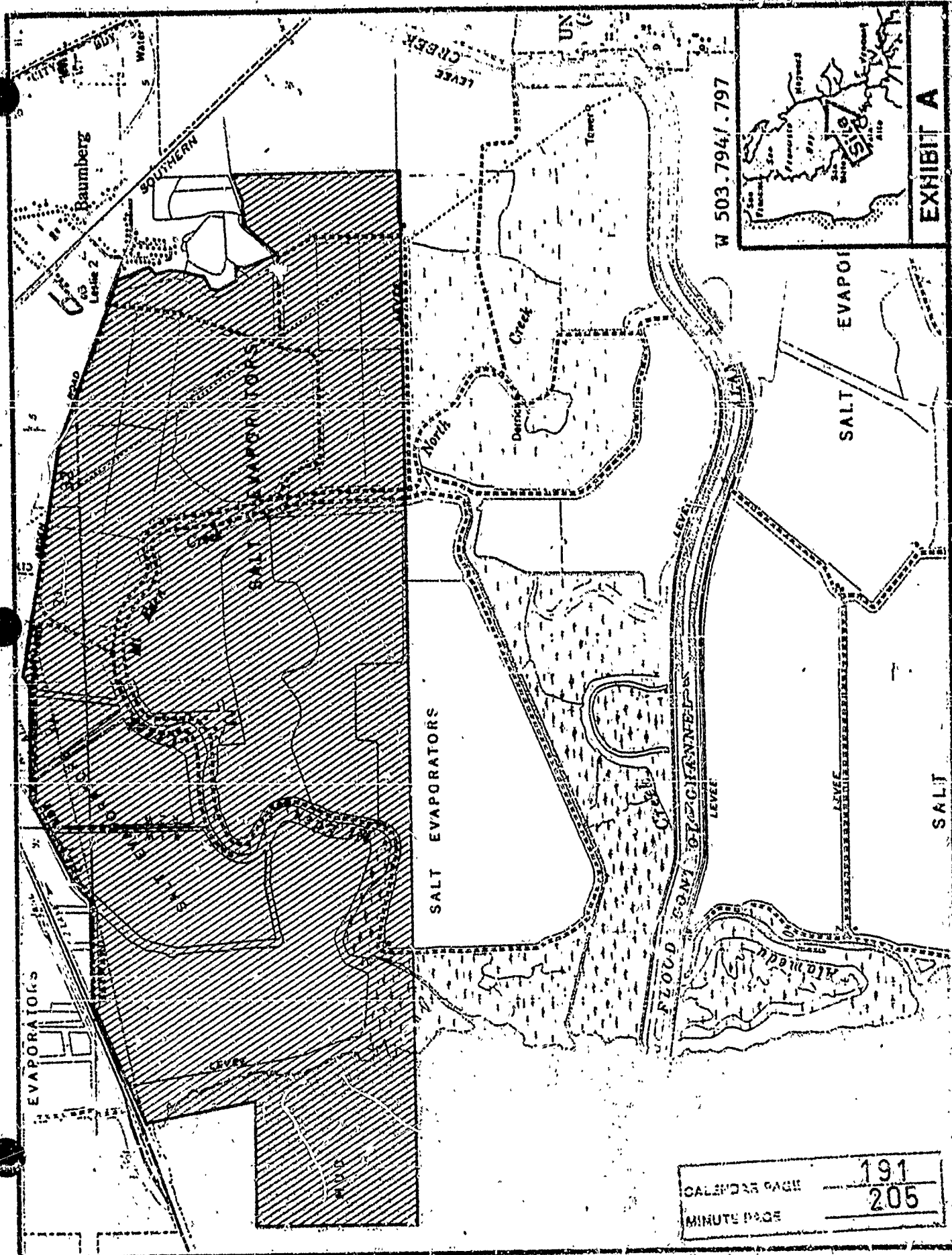
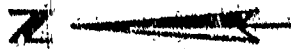
In light of this fact, PG&E has been willing to settle this matter with SLC. Pursuant to the proposed settlement, if SLC prevails in its litigation against Leslie, the property will remain subject to PG&E's current interests in the property. All future PG&E facilities would require SLC approval. PG&E favors this arrangement in that it would retain its interest in the property no matter who prevails without incurring the litigation expenses. SLC would also benefit by this settlement. A copy of the stipulation is on file in the office of SLC.

EXHIBIT: A. Site Map.

RECOMMENDATIONS:

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS TRANSACTION IS EXEMPT FROM CEQA REQUIREMENTS PURSUANT TO SECTION 6371 OF THE PUBLIC RESOURCES CODE.
2. AUTHORIZE SETTLEMENT WITH PG&E WHEREBY PG&E AND SLC WILL AGREE THAT ANY JUDGMENT, SETTLEMENT, OR CONVEYANCE BETWEEN LESLIE AND SLC GIVING THE SLC TITLE OR JURISDICTION OVER THE PROPERTY WILL BE MADE EXPRESSLY SUBJECT TO THE EXISTING RIGHTS OF PG&E ON THE PROPERTY SAID RIGHT BEING MORE PARTICULARITY IDENTIFIED IN EXHIBIT B. ALL FUTURE PG&E FACILITIES WILL REQUIRE PRIOR SLC APPROVAL.
3. AUTHORIZE THE STATE LANDS COMMISSION STAFF AND ATTORNEY GENERAL TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED SETTLEMENT WITH PG&E.



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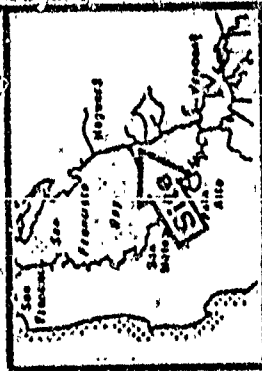


EXHIBIT A

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EXHIBIT B

1. Moraga-San Mateo 230 KV 2-tower line corridor
 Leslie Salt Co.
 Rec. 11/29/51 Official Records, Alameda Co. 6599, page 43
 2303-02-0721

 Change of location agreement
 Leslie Salt Co.
 Rec. 6/13/52 Official Records 6753, page 373
 2302-02-0720
2. Newark-Station J 115 KV tower line
 A. A. Oliver
 Rec. 4/22/16 Deeds 2432, page 338
 2304-02-0046

 Commercial Salt Co.
 Rec. 4/24/19 Deeds 2741, page 390
 2304-02-0021

 Elsa A. Oliver
 Rec. 4/22/16 Deeds 2456, page 19
 2304-02-0043

 F. F. Lund
 Rec. 3/16/11 Deeds 1900, page 28
 2303-02-1912
3. San Leandro-Newark 115 KV tower line corridor
 plus improvements to rights for Newark-Station J
 115 KV tower line

 Leslie Salt Co., - overhang strip
 Rec. 2/2/60 Official Records RE 20 IM 48
 2303-03-0213

 Leslie Salt Co. - tower line strip
 Rec. 2/2/60 Official Records RE 20 IM 41
 2303-03-0447
4. Ravenswood Eastshore 230 KV tower line
 Leslie Salt Co.
 Rec. 6/21/61 Alameda County Official Records RE 350, IM 84
 2303-02-1231

 [Recorded also in San Mateo County Official Records
 Volume 5424, page 312.]

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