

MINUTE ITEM

This Calendar Item No. 57
was approved as Minute Item
No. 57 by the State Lands
Commission by a vote of 2
to 0 at its 8-26-80
meeting.

CALENDAR ITEM

57.

8/80
W 503.1045
Frank
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AUTHORIZATION FOR SETTLEMENT OF LITIGATION IN
MATHESON V. STATE OF CALIFORNIA, SAN JOAQUIN
SUPERIOR COURT NO. 125148

In 1976, a quiet title action was filed by Malcolm Matheson against the then-record owners of private interests in Rindge Tract in San Joaquin County concerning a 24-acre island adjacent to Rindge Tract and the Stockton Deepwater Channel. Matheson based his claim upon a theory of adverse possession over a period of approximately 15 years, while the defendants traced their title to Tule Island to Swamp and Overflowed Survey No. 1160, a patent for which was issued by the State of California in 1867.

Soon thereafter, the staff of the State Lands Commission and the Attorney General's Office commenced detailed negotiations with the private claimants to Rindge Tract in an effort to resolve title controversies in the area. Those controversies arose out of the fact that sovereign tide and submerged lands within the Rindge Tract area, which had never been patented in private ownership, were nevertheless drained and filled by private parties as part of Nineteenth Century reclamation efforts. While discussions to work out the final details of a comprehensive settlement are continuing at this time, general terms of that agreement were reached some time ago which, among other things, would quiet title in Tule Island in the State of California.

Meanwhile, Matheson was anxious to bring his independent lawsuit to trial. It became apparent that the private Rindge Tract claimants were not in a position to vigorously defend that litigation, in part because of the contemplated status of Tule Island under the comprehensive settlement agreement.

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For this reason, an agreement was reached (approved by the Commission at its September 1979 meeting) whereby the State agreed to accept a conveyance of Tule Island in contemplation of the overall agreement and assume defense of the Matheson litigation. The transfer was made by Grant Deed recorded on December 17, 1979, as Instrument No. 79094445 of Official Records in the Office of the County Recorder of San Joaquin County. The private claimants have extinguished a reversionary interest contained in the grant deed by subsequent agreement.

Immediately prior to the start of trial in the quiet title action between Matheson and the State, a settlement was proposed. Specifically, Matheson has offered \$32,500 for acquisition of public lands in exchange for the State's fee interest in Tule Island. (The Island is currently appraised at \$38,000.) Under the terms of the settlement, the State would reserve a public trust easement for commerce, navigation, fisheries and other trust uses over that portion of the Island currently below ordinary high watermark. Finally, the proposal provides that if Matheson obtains the necessary governmental authorizations and fills the presently wet area within five years of the State's conveyance, the Executive Officer would be authorized to extinguish the residual easement over the presently-wet portion of Tule Island in favor of Matheson's fee interest.

The Attorney General's Office and staff recommend that this settlement proposal be adopted by the Commission, believing it to be in the best interests of the State of California and the public. The settlement amount appears favorable in light of the property's appraised worth, the substantial expenses that would be incurred at trial, and the uncertainties surrounding the outcome of the litigation. Contacts with other interested State agencies indicate that Tule Island is not considered suitable for public use. Moreover, the agreement meets the statutory requirements set forth in Public Resources Code, Section 6307. Finally, revenues obtained in settlement of the lawsuit would be placed in a special trust account devoted to acquisition of public lands in the Sacramento-San Joaquin Delta/Susun Bay area.

Trail of the action has been continued until September 10, 1980, to permit the Commission to consider and, if approved, effectuate the settlement agreement.

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EXHIBITS: A. Site Map. B. Land Description.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL DOCUMENT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH DOCUMENT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21065, 14 CAL. ADM. CODE 15037 AND 15060 AND 2 CAL. ADM. CODE 2903 AND PRC 6371;
2. DETERMINE THAT THE PROPOSED SETTLEMENT:
 - A. IS IN THE BEST INTERESTS OF THE STATE OF CALIFORNIA AND THE PUBLIC;
 - B. WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHT OF NAVIGATION AND FISHING IN THE NAVIGABLE WATERS OF THE STATE;
 - C. WILL RESULT IN THE STATE RECEIVING LANDS OF EQUAL OR GREATER VALUE THAN THOSE INTERESTS QUIETED IN THE PRIVATE PARTY UNDER THE TERMS OF THE SETTLEMENT; AND
 - D. WILL ENHANCE THE RECREATIONAL OPPORTUNITIES AND ENVIRONMENTAL QUALITY OF THE PUBLIC.
3. AUTHORIZE THE SETTLEMENT OF THIS LITIGATION AND APPROVE THE ISSUANCE OF A PATENT WITH THE NAME OF MALCOLM MATHESON SUBJECT TO THE PUBLIC TRUST RESERVATION, OVER THAT PORTION OF THE SUBJECT PROPERTY CURRENTLY SUBJECT TO TIDAL ACTION, AND THE ACCEPTANCE OF \$32,500 IN CONSIDERATION THEREFORE; AND
4. AUTHORIZE THE STAFF AND OFFICE OF THE ATTORNEY GENERAL TO TAKE SUCH ACTION AS IS NECESSARY TO EXECUTE OR IMPLEMENT THE PROPOSED SETTLEMENT.

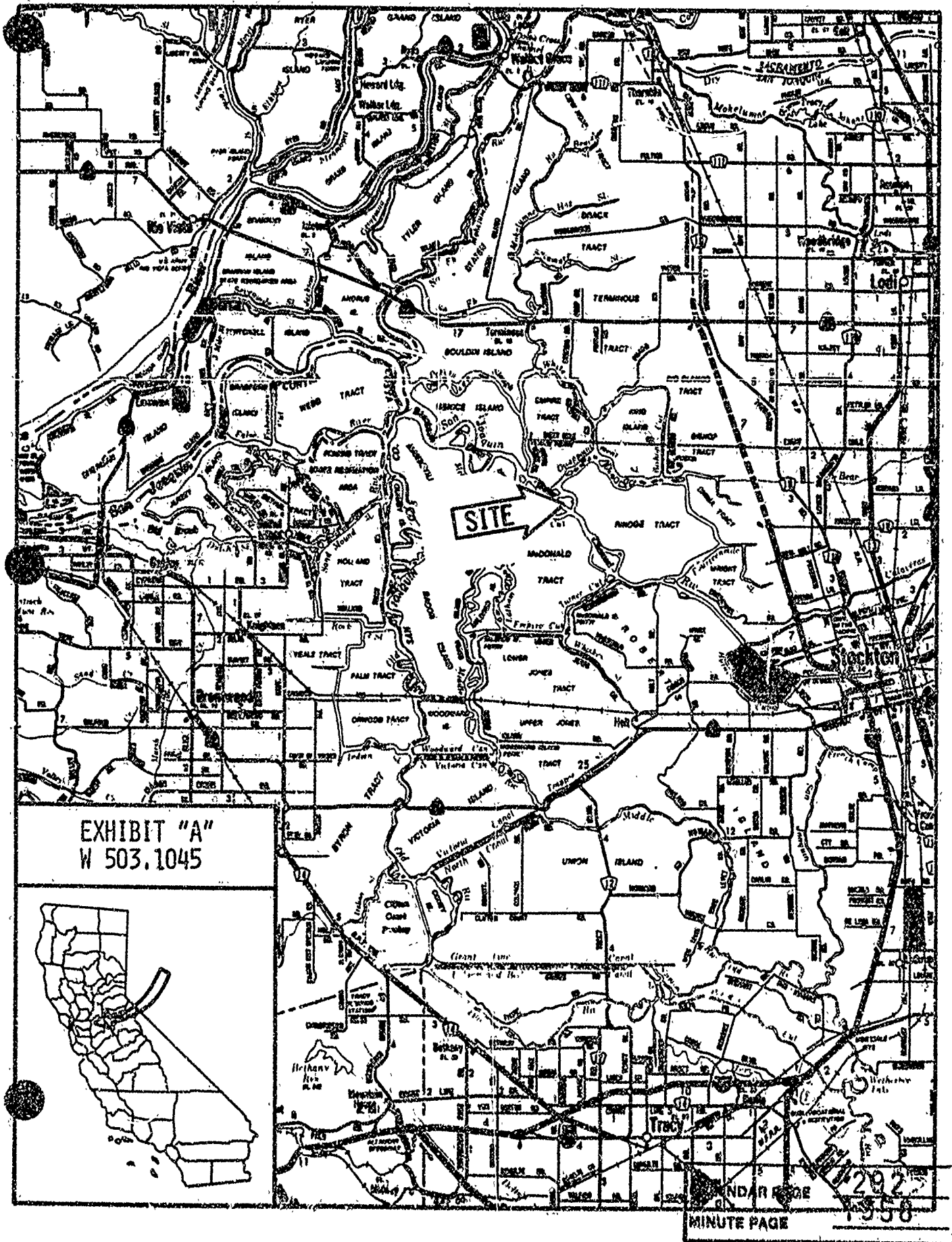


EXHIBIT "A"
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EXHIBIT "B"

LAND DESCRIPTION

W 503.1045

A parcel of land situated in San Joaquin County, California, being more particularly described as follows:

A portion of that certain berm lettered "I" as shown on page 4 of 5 on that certain Record of Survey Map for Reclamation District No. 2037 recorded in Book 15 of Surveys at page 34, June 9, 1955, in the Office of the County Recorder of said County, said portion being described as follows:

COMMENCING at a point on said berm lettered "I", that bears N 80° 15' W 505 feet, from a 3/4 inch diameter iron pin numbered 89 on Rindge Tract, as shown on said map; thence N 24° 40' W, 49 feet to the TRUE POINT OF BEGINNING of this description; thence the following forty-six courses:

1. N 46° 17' W 82 feet;
2. N 1° 42' E 42.3 feet;
3. N 28° 19' W 63.2 feet;
4. N 13° 08' W 62.3 feet;
5. N 34° 53' W 94.2 feet;
6. N 5° 20' W 42.2 feet;
7. N 40° 15' E 38.3 feet;
8. N 2° 21' W 38.2 feet;
9. N 85° 30' E 41.2 feet;
10. N 17° 46' E 36.3 feet;
11. N 13° 47' E 45.3 feet;
12. N 7° 00' W 63.3 feet;
13. N 88° 23' W 21.9 feet;
14. S 53° 57' W 47.6 feet;
15. N 1° 17' W 34.2 feet;
16. N 29° 54' W 62.2 feet;
17. S 86° 55' W 39.8 feet;
18. N 50° 57' W 68 feet;
19. N 24° 55' W 144.5 feet;
20. N 54° 02' W 87.9 feet;
21. N 11° 18' W 167.8 feet;
22. S 74° 15' E 60.2 feet;
23. S 70° 51' E 106.3 feet;
24. S 27° 46' E 42.9 feet;
25. S 60° 57' E 29 feet;
26. S 89° 11' E 86.4 feet;
27. N 76° 14' E 52.3 feet;
28. S 85° 18' E 100.5 feet;
29. S 79° 49' E 112.5 feet;
30. S 66° 12' E 50.1 feet;

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31.	S	49°	18'	E	54	feet;
32.	S	4°	30'	E	38.8	feet;
33.	S	7°	55'	W	56.6	feet;
34.	S	4°	34'	W	34.8	feet;
35.	S	25°	05'	E	12	feet;
36.	S	57°	42'	E	21	feet;
37.	S	20°	00'	W	21.8	feet;
38.	N	67°	54'	W	16	feet;
39.	S	81°	48'	W	17.9	feet;
40.	S	22°	27'	W	77.4	feet;
41.	S	43°	16'	W	45.6	feet;
42.	S	19°	45'	W	139.9	feet;
43.	S	1°	13'	E	57.6	feet;
44.	S	9°	46'	W	198.6	feet;
45.	S	23°	57'	W	52.6	feet;
46.	S	10°	26'	W	115.2	feet to the true point of beginning.

END OF DESCRIPTION

PREPARED AUGUST 6, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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