

MINUTE ITEM

This Calendar Item No. C14
was approved as Minute Item
No. 14 by the State Lands
Commission by a vote of 3
to 0 at its 1-21-81
meeting.

CALENDAR ITEM

C14

1/81
W 21727
De La Cruz

RESCISSION OF PRIOR AUTHORIZATION TO ISSUANCE
GENERAL LEASE - COMMERCIAL LIVESTOCK USE
PRC 5783.1

APPLICANT: Pacific States Builders
P. O. Box 1278
Alturas, California 96101

BACKGROUND: At its meeting of January 24, 1980, the Commission authorized the issuance to Pacific States Builders of a nonprejudicial 10-year General Lease - Commercial Livestock Use beginning June 1, 1979, for livestock grazing in the former bed of Goose Lake within the NW $\frac{1}{4}$ of Section 23, T48N, R14E, MDM, Modoc County.

The proposed lease area had been used by the applicant's predecessors for livestock grazing. In 1972, Mr. Howard Welles, lessee of the applicant's predecessor (Lumberman's Acceptance Company), initiated adverse possession litigation against Lumberman's for the proposed lease area. This action has been challenged by Lumberman's Acceptance Company.

The location of the State's ownership boundary within this area has not been determined. The applicant has been advised of the current high-low water litigation regarding the State's ownership boundary within navigable lakes, such as Goose Lake, and did nonetheless request a non-prejudicial lease for the subject property from the State since the applicant feels that they had acquired prior rights to the property from their predecessors.

Mr. Welles has contested the issuance of the lease to Pacific States Builders. Staff has been negotiating with the concerned parties in order to resolve this dispute. However, negotiations to date have proven unsuccessful.

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CURRENT SITUATION:

The applicant has advised the Commission's staff that they are proceeding with the litigation and have requested a refund of the monies which represent the first year's rental payment. The authorized lease has been executed on behalf of Pacific States Builders, but was not executed on behalf of the Commission due to the unresolved dispute.

In view of the State's ongoing high-low water litigation and the unresolved dispute between the applicant and Mr. Welles, staff is recommending that the Commission's authorization to issue the subject lease be rescinded.

The rescission of the Commission's prior authorization is made without prejudice to any future ownership claims of the State of California within the subject area.

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY BECAUSE SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21065, 14 CAL. ADM. CODE 15037 AND 2 CAL. ADM. CODE 2903(d).
2. RESCIND ITS ACTION OF JANUARY 24, 1980, WHICH AUTHORIZED ISSUANCE OF A GENERAL LEASE - COMMERCIAL LIVESTOCK USE TO PACIFIC STATES BUILDERS.
3. AUTHORIZE STAFF TO REFUND THE PREPAID RENTAL ON DEPOSIT WITH THE COMMISSION.
4. FIND THAT THIS ACTION IS MADE WITHOUT PREJUDICE TO ANY FUTURE OWNERSHIP CLAIMS OF THE STATE OF CALIFORNIA WITHIN THE SUBJECT AREA.

EXHIBIT "A"

LAND DESCRIPTION

W 21727

A parcel of land in the State-owned bed of Goose Lake, Modoc County, California, described as follows:

1. Bounded on the north by the Oregon-California border.
2. Bounded on the south by the westerly prolongation of the east-west quarter section line of fractional Section 23, T48N, R14E, MDM.
3. Bounded on the east by the west line of lots 3 and 4 of said fractional Section 23 as shown upon the U. S. Township plat of T48N, R14E, MDM dated 9/20/1872.
4. Bounded on the west by a line located 50 feet westerly of and parallel to the water's edge of Goose Lake.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Goose Lake.

ALSO EXCEPTING THEREFROM any portion located within the right-of-way of the Southern Pacific Railway, formerly Nevada-California-Oregon Railway.

END OF DESCRIPTION

PREPARED 1/9/80 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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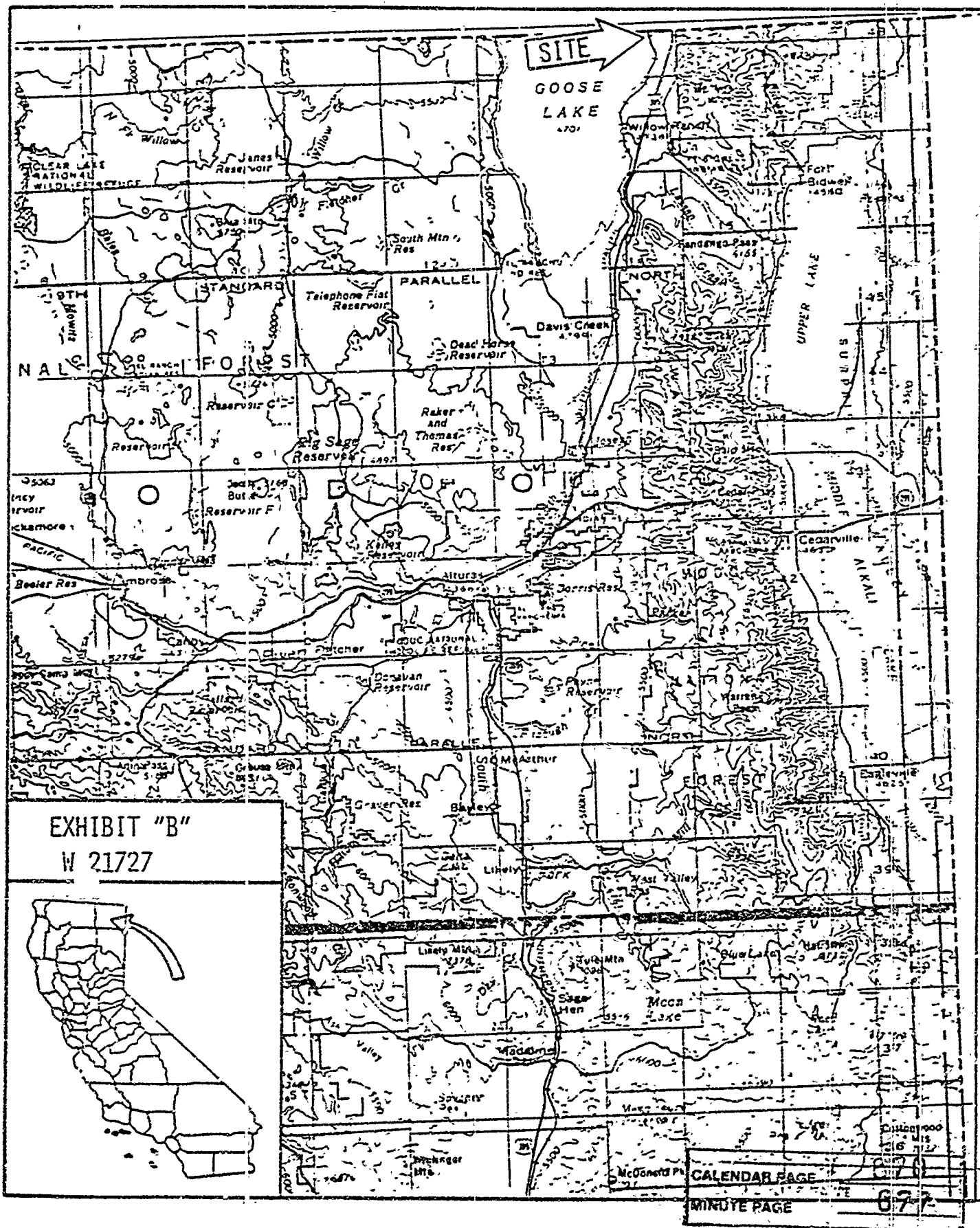


EXHIBIT "B"
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