

MINUTE ITEM

This Calendar Item No. 22
was approved by the Commission at its meeting on 3/24/83
No. 22 State Lands
Commissioner's Office

CALENDAR ITEM

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3/24/83
W 22988
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AUTHORIZATION FOR SALE OF STATE SCHOOL LAND
IN LIEU OF LITIGATION

APPLICANT: Mrs. Edna Patterson, et al.
c/o Mr. James C. Van Dyke
Van Dyke, Shaw and Schuckman
333 North San Joaquin Street
Stockton, California 95202

A parcel of State school land is encumbered with a long-standing mineral interest title problem. The subject land is Lots 1, 2, 7 and 8 of Section 16, T1S, R15E, MDM, containing 163.38 acres, more or less, in Tuolumne County. Staff seeks Commission authorization to sell the above lots at fair market value without competitive bidding in lieu of litigation.

BACKGROUND: Hypolite Favot located the Diablo and Feliciano mining claims on the subject lots in 1900 and 1903 pursuant to Chapter 270, Statutes of 1897. The vesting of the rights in the claims were affirmed by the Court of Appeals in the case of Favot v. Kingsbury 98 CA 284. The claims vested in the applicants in 1953. Since 1953 the applicants have owned the adjacent lots in fee and have periodically worked the mines and have paid all tax assessments on the claims. Since 1953 the

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applicants have made several efforts to purchase the surface rights but were advised they could not because of conflict between State and Federal mining law. They were also advised that no yearly assessment work or recordings of such work need be done. Therefore, no recordings were made.

P.R.C. 2315 states that failure to record assessment work is a prima facie presumption of an intent to abandon a mining claim. In light of the applicants' actions over the years it is questionable whether the presumption can be sustained. It is also questionable whether the statute applies to claims on State lands. Additionally, the 1897 vesting statute grants the claimholder a right to purchase the lands after a judicial determination of the lands' mineral character.

CURRENT SITUATION:

Commission staff have met with the applicants and discussed specific terms, conditions, and reservations which staff believes are in the State's best interests.

The applicants have agreed to quitclaim to the State any mineral interest they have in the lots, to restore the surface, close entrances to the mines, and grant access easements to the State in lieu of litigating their mineral interest in the property and rights under the 1897 statute.

OTHER PERTINENT INFORMATION:

This activity is exempt from CEQA because it is not considered to be a project under the provisions of P.R.C. 21065, 14 Cal. Adm. Code 15037, 15060, and P.R.C. 21080.11. The land is steep and rocky and not suited to cultivation.

This activity is exempt from the Environmentally Significant Lands Act because it is a title settlement. P.R.C. 6370 and P.R.C. 6371.

AB 884: N/A.

(Revised 3/23/83)

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EXHIBIT: A. Site Map.

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 P.R.C. 21065, 14 CAL. ADM. CODE 15037, 15060, AND P.R.C. 21080.11.
2. FIND THAT THE LAND IS NOT SUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION.
3. DETERMINE THAT THIS ACTIVITY IS EXEMPT FROM THE ENVIRONMENTALLY SIGNIFICANT LANDS ACT BECAUSE IT IS A TITLE SETTLEMENT. P.R.C. 6371.
4. AUTHORIZE A WAIVER OF THE STATE SCHOOL LAND SALES RESTRICTION AND DETERMINE THAT IT IS IN THE BEST INTEREST OF THE STATE, PURSUANT TO 2 CAL. ADM. CODE 2030(b)(1), TO SELL AT FAIR MARKET VALUE LOTS 1, 2, 7 AND 8 OF SECTION 16, T1S, R15E, MDM, WITHOUT COMPETITIVE BIDDING, IN LIEU OF LITIGATING THE APPLICANT'S MINERAL INTEREST IN THE SUBJECT LANDS AND TO ISSUE A PATENT SUBJECT TO ALL APPLICABLE STATUTORY AND CONSTITUTIONAL RESERVATIONS.

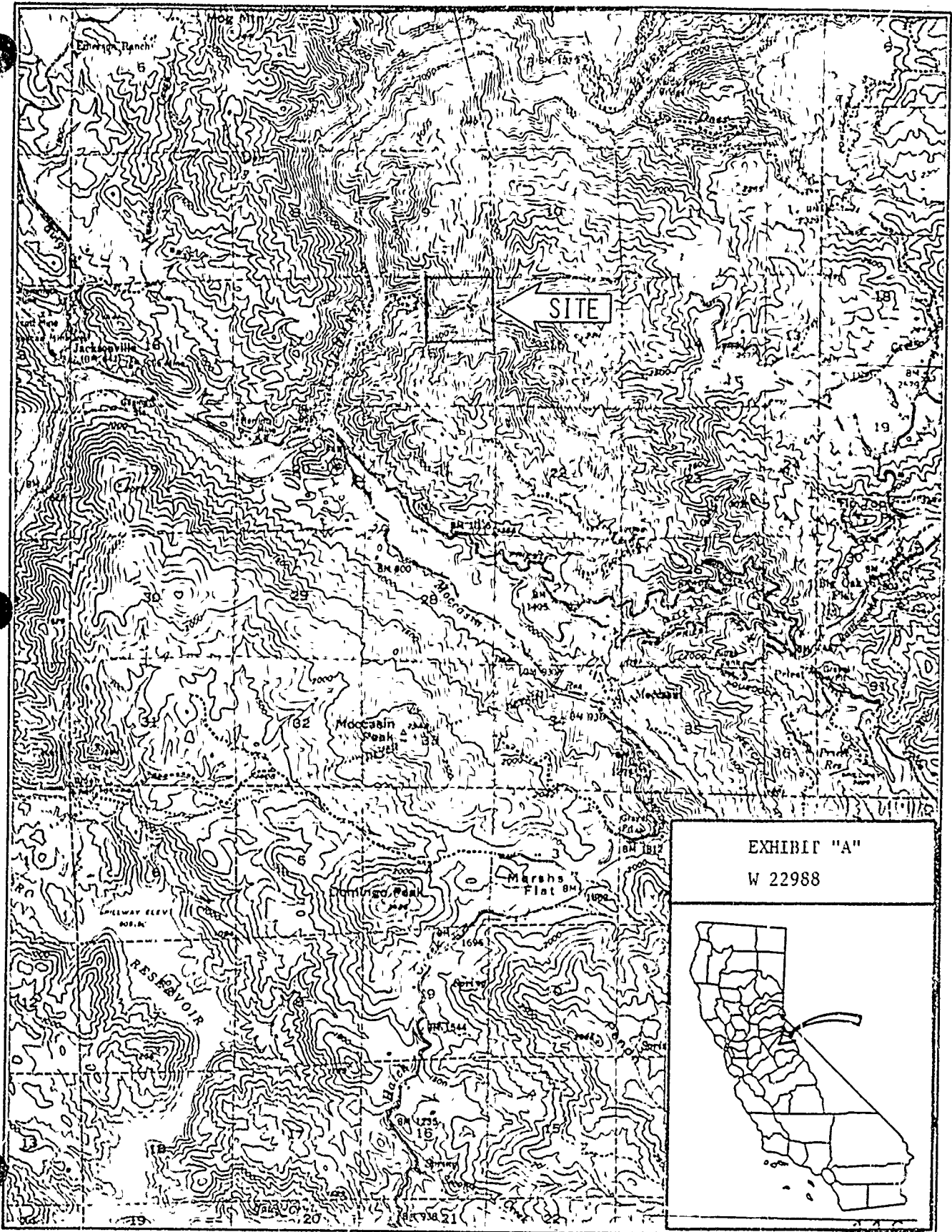


EXHIBIT "A"

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