

MINUTE ITEM  
This Calendar Item No. 23  
was approved as Minute Item  
No. 23 by the State Lands  
Commission by a vote of 3  
to 0 at its 7/10/89  
meeting.

CALENDAR ITEM

A 26, 10  
S 5

23

07/10/89  
W 24161 BLA 261  
Simmons  
Grimmett

AUTHORIZATION FOR AND APPROVAL OF BOUNDARY LINE  
AGREEMENT AND COMPROMISE SETTLEMENT, TOWN OF WOODBRIDGE,  
COUNTY OF SAN JOAQUIN UNDER THE KAPILOFF LAND BANK ACT

PARTY: Del Rio Properties, a California  
limited partnership  
J. Jeffrey Kirst, Partner  
P.O. Box 1259  
Woodbridge, California 95258

A title dispute exists between the State, in its sovereign capacity, and the record owners of a parcel of land adjacent to the Mokelumne River near the Town of Woodbridge, San Joaquin County.

The State contends that the Mokelumne River in its last natural condition crossed a portion of the parcel that the record owners now wish to develop for residential use.

The private party contends that all the property described in their deeds lies landward of the last natural position of the ordinary high water mark and is thus free from any claim the State may have, based on its sovereignty or trust capacity.

The 1.89-acre area of the State claim was a bend in the river that was partially meandered on the U.S Government Township and the Swamp and Overflowed Land surveys upon which the private title is based. The former bed is now filled and cut off from navigation and another channel connects the river along the edge of the proposed subdivision. The private party has agreed to the establishment of a boundary line, along the current channel that will allow for public access along the bank to be dedicated from the subdivision lands as required by the Subdivision Map Act. Additionally, the private party has acquired the private title of the current bed to the center

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line of the river and by this agreement will grant that interest to the State. The State will then hold both the public navigational easement and the fee title to the Mokelumne in this location.

In addition, the private party has agreed to a payment of \$95,000 to be made to the Kapiloff Land Bank Fund as authorized by Public Resources Code Section 8625 in lieu of an exchange of lands pursuant to the Public Resources Code Section 6307. Staff has appraised the subject property and has evaluated the law and evidence bearing on the title dispute and is of the opinion that the \$95,000 is equal to or of greater value than the interest that the State will grant to the private party under this agreement.

The staff of the Commission recommends the approval and execution of the proposed agreement in a form similar to that now on file in the Commission's Sacramento office. The agreement will allow the private development of a tract of land not now amenable to public use and navigation while assuring public ownership and access to the current channel of the Mokelumne River. At the same time, the agreement will contribute funds to the Kapiloff Land Bank Fund to allow the Commission, as trustee of that fund, to seek out and eventually acquire lands better suited to public trust purposes than the land that will be granted to the private party under this agreement.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a statutorily exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Location Map.
- B. Site Map (for reference only).

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IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. AUTHORIZE THE EXECUTIVE OFFICER, OR HER DESIGNEE, TO EXECUTE AND DELIVER INTO ESCROW, FOR RECORDATION IN THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER, THE SUBJECT BOUNDARY LINE AGREEMENT AND COMPROMISE SETTLEMENT WITH DEL RIO PROPERTIES IN A FORM SUBSTANTIALLY SIMILAR TO THAT NOW ON FILE IN THE MAIN OFFICE OF THE STATE LANDS COMMISSION.
3. FIND THAT THE STATE AND THE PRIVATE PARTY HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS IN THE SUBJECT PROPERTY AND THAT THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION, AND THAT THIS COMPROMISE IS CONSISTENT WITH AND AUTHORIZED BY LAW.
4. FIND, UPON RECORDATION OF THE SUBJECT AGREEMENT, AND PURSUANT TO THE PUBLIC RESOURCES CODE 6307, THAT THE LANDS TO BE GRANTED TO THE PRIVATE PARTY HAVE BEEN IMPROVED, FILLED AND RECLAIMED AND HAVE THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION OR FISHING, AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THAT SUCH LANDS ARE FREE FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.
5. FIND, PURSUANT TO PUBLIC RESOURCES CODE 6307, THAT THE SUM OF \$95,000 IS AN AMOUNT EQUAL TO OR GREATER THAN THE VALUE OF THE SOVEREIGN INTERESTS TO BE TERMINATED BY THIS AGREEMENT.
6. ACCEPT, AS TRUSTEE OF THE KAPILOFF LAND BANK FUND, AND PURSUANT TO PUBLIC RESOURCES CODE SECTION 8625, THE SUM OF \$95,000 AS CONSIDERATION FOR THIS TITLE SETTLEMENT.
7. AUTHORIZE THE EXECUTIVE OFFICER, OR HER DESIGNEE, AND/OR THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL STEPS THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THIS AGREEMENT INCLUDING REPRESENTATIONS OF THE COMMISSION IN ANY LEGAL OR EQUITABLE ACTION TO DETERMINE OR ESTABLISH THE LEGALITY OF THIS AGREEMENT.

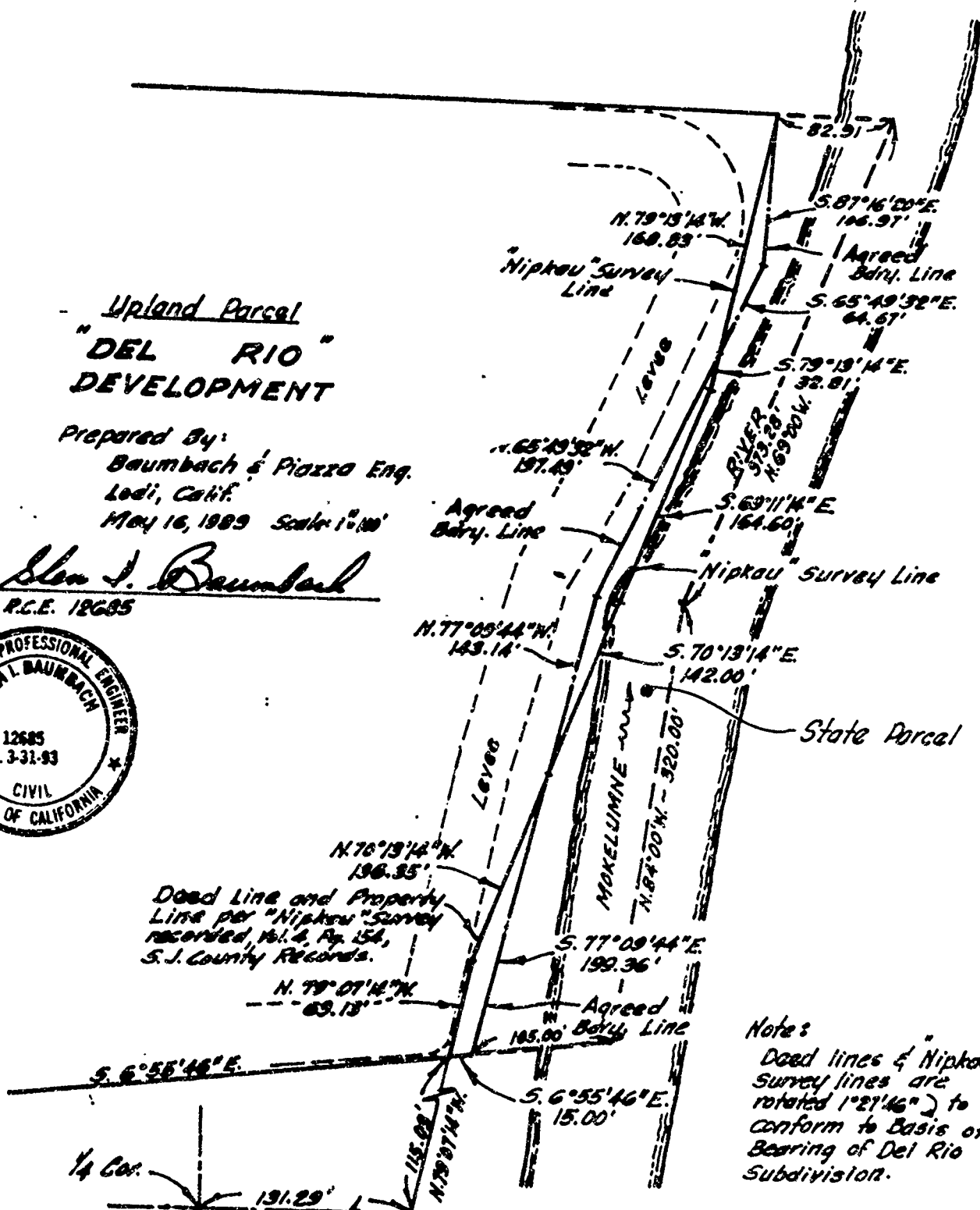


Scale: 1" = 100'

Upland Parcel  
**"DEL RIO"**  
**DEVELOPMENT**

Prepared By:  
 Baumbach & Piazza Eng.  
 Lodi, Calif.  
 May 16, 1989 Scale: 1" = 100'

Glen J. Baumbach  
 R.C.E. 18685



Notes:  
 Dead lines & Nipkau  
 Survey lines are  
 rotated (1° 27' 46") to  
 conform to Basis of  
 Bearing of Del Rio  
 Subdivision.

S.E. Cor. of SW 1/4  
 of Sec. 27, T.4N.R.6E.  
 M.D.B. of M.  
 ("Nipkau" Survey)

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SITE MAP  
 Exhibit "B"