MARIPOSA COUNTY AGENDA
BOARD OF SUPERVISORS ACTION FORM

DATE: 4/23/02 AGENDA ITEM NO.: 8A

DÉPARTMENT: Public Works BY: Jerome S. Freeman PHONE: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No X___)

Authorization for the Chairman of Board to execute statement on the map entitled “Record of Survey for Cunningham Ranch”

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Cunningham Ranch L.L.C. submitted lot line adjustments application No.’s 632 and 633 plus a Parcel Merger application on October 2, 2001. The Mariposa County Planning Director approved the application on December 3, 2001 with conditions. The map as delineated in Exhibit 1 reflects the re-establishment of a portion of the Mariposa County – Merced County boundary line and this boundary line will be utilized in the lot line adjustment descriptions.

Both County Surveyors of Mariposa County and Merced County have reviewed and approved the location the County boundary line as delineated on Exhibit I herein.

The Mariposa County Board of Supervisors is required to approve any survey re-establishing a portion of the Mariposa County and Merced County boundary line as per Government Code Section 23171.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve said map, Government Code Sections 23172 and 23173 will then apply.

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COSTS: ( ) Not Applicable
A. Budgeted current FY $____________
B. Total anticipated costs $____________
C. Required additional funding $____________
D. Internal transfers $____________

SOURCE: ( ) 4/5ths Vote Required
A. Unanticipated revenues $____________
B. Reserve for contingencies $____________
C. Source description: Balance in Reserve for Contingencies, if approved: $____________

CLERK’S USE ONLY:
RECOMMENDATION: Res. No.: 54-12b Ord. No.________________________
Vote - Ayes: __________ Noes: __________
( ) Approved ( ) Denied
( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: ________________________________
ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: ________________________________
Deputy

SPECIAL INSTRUCTIONS:
1. Record of Survey map for Cunningham Ranch (8 pages)
2. Government Code Section 23171 (2 pages)
3. Government Code Section 23172 (1 page)
4. Government Code Section 23173 (1 page)

COUNTY ADMINISTRATIVE OFFICER’S
This item on agenda as:

Recommended
Not Recommended
For Policy Determination
Submitted with Comment
Returned for Further Action

Comment: ________________________________

C.A.O. Initials: ________________________________

Action Form Revised 5/92
SURVEYOR'S STATEMENT
This map correctly represents a survey made by me or under my direction in accordance with the requirements of the Land Surveyor's Act at the request of Cunningham Ranch.

Edward M. Cardosa, L.S. 3733
License Expiration Date: 6-10-04

Lawrence L. Bowen, L.S. 4493
License Expiration Date: 9-10-05

MARIPOSA COUNTY SURVEYOR'S STATEMENT
This map has been examined in accordance with Section 8766 of the Land Surveyor's Act this day of , 200_, and only applies to the portion lying within Mariposa County as it relates to Mariposa County.

COUNTY SURVEYOR
By:.................................................. Deputy
License Expiration Date:

MARIPOSA COUNTY BOARD OF SUPERVISORS' STATEMENT
This map is hereby approved under section 23171 of Government Code.

Board of Supervisors of the County of Mariposa, State of California

Dated this day of , 200_.

By:.................................................. Chairman of the Board of Supervisors

MERCE County SURVEYOR'S STATEMENT
This map has been examined in accordance with Section 8766 of the Land Surveyor's Act this day of , 200_, and only applies to the portion lying within Merced County as it relates to Merced County.

Paul A. Fildesworth
COUNTY SURVEYOR
By:.................................................. Deputy

MERCE County BOARD OF SUPERVISORS' STATEMENT
This map is hereby approved under section 23171 of Government Code.

Board of Supervisors of the County of Merced, State of California

Dated this day of , 200_.

By:.................................................. Chairman of the Board of Supervisors

NOTE:
The purpose of this survey is to retrace and monument the location of the County Line Surveys and to mutually recognize this survey as the common boundary between Mariposa and Merced County.

PROCEDURE OF SURVEY
FOR CUNNINGHAM RANCH
Being a survey within Sections 4, 9, 10, 15, 16, 21, 22, 23 and 26 of the Merced / Mariposa County Line T 7 S, R. 16 E, M.D.B. & M.

Sheet 1 of 8

Scale: 1" = 500'

Merced County & Mariposa County

VOLUME _______ PAGE _______
NOTE: HIGHWAY RECORDS INDICATE 80.00 FEET WIDE IN MERced COUNTY AND 80.00 FEET WIDE IN Mariposa County. NO ATTEMPT WAS MADE TO RECONCILE ANY PROBLEMS AND ONLY EXISTING CONDITIONS ARE SHOWN.

DETAIL "C"
NOT TO SCALE

DETAIL "D"
NOT TO SCALE

RECORD OF SURVEY FOR CUNNINGHAM RANCH

Being a survey within Sections 4, 9, 10, 15, 16, 21, 22, 23 and 26 of the Merced / Mariposa County Line

T. 5 S., R. 16 E., M.D.B. & M.

Scale: None

Merced County & Mariposa County

Sheet 8 of 8

December, 2001

VOLUME PAGE
boundary line is in dispute because of uncertainty or indefiniteness in statutory description, primary jurisdiction over dispute is in courts rather than in State Lands Commission. Alpine County v Tuolumne County (1958) 49 C2d 787, 322 P2d 449.
State Land Commission is not empowered to determine whether boundary line has been fixed because of mutual use and recognition within meaning of this section or § 23177; sole power conferred on it with respect to boundary lines is "to survey and mark" them, and this does not include power to make prior determination that statutory line has been altered by mutual use and recognition. Alpine County v Tuolumne County (1958) 49 C2d 787, 322 P2d 449.

§ 23171. Surveys establishing common boundaries and corners
All common boundaries and common corners of counties not adequately marked by natural objects or lines, or by surveys lawfully made, shall be definitely established by surveys made jointly by the surveyors of all the counties affected, and approved by the boards of supervisors of the counties, or by a survey made by the State Lands Commission, on application of the board of supervisors of any county affected.
Added Stats 1947 ch 424 § 1.

Historical Derivation:
Former Pol C § 3969.

Cross References:
Duties, etc., of county surveyors: Gov C §§ 27550 et seq.
State Lands Commission and Division of State Lands: Pub Res C §§ 6101 et seq.

Collateral References:
Cal Jur 3d Municipalities § 70.
Am Jur 2d Municipal Corporations, Counties, and Other Political Subdivisions § 41.

NOTES OF DECISIONS

Where a survey of a county boundary was made by a surveyor authorized by the Surveyor-General to make it, and officially sanctioned and approved by the latter, the survey became his act, and was made by the Surveyor-General within the meaning of former Pol C §§ 483 and 3969 (see, now, Pub Res C § 6204) although the surveyor making the survey was not a deputy surveyor-general. Rice v Trinity County (1895) 110 C 247, 42 P 809.
A survey made under former Pol C § 3869 is a public and official act of the executive department of the state government, and a matter of official record. Merritt v Trinity County (1906) 3 CA 168, 84 P 675.
The common boundary line between Mendocino and Trinity counties, ever since the survey made under the act of March 30, 1872, having been adequately marked by monuments, lines, and surveys, lawfully made, there was no necessity or authority for a resurvey by the Surveyor-General under former Pol C § 3969, unless the monuments of that survey had been displaced or destroyed so that the line was no longer adequately marked. Trinity County v Mendocino County (1907) 151 C 279, 90 P 685.
Where the language of an act so clearly defines the county boundary line that there is nothing to be done but run a survey along it, there is no room for question and former Pol C §§ 3969–3972 furnish a plain, speedy, and adequate remedy for the establishment of the line; but this legal remedy can only be availed of where the language of the act defining a boundary is clear. Sierra County v Nevada County (1908) 155 C 1, 99 P 371.
A county may maintain an equitable action against an adjoining county to restrain the latter from exercising jurisdiction over territory alleged to be situated within its boundaries, but claimed by the latter to belong to it, where the defendant county admits the exercise of jurisdiction, and asserts the right to exercise it, in the disputed territory, and there is uncertainty and dispute between the counties as to the actual location of the boundary line, and a necessity of construing the statute defining such boundary in order to determine its location under such circumstances the special legal remedy for the determination of a disputed boundary line under former Pol C §§ 3969-3972 was not an adequate remedy at law. Sierra County v Nevada County (1908) 155 C 1, 99 P 371.
COUNTIES GENERALLY § 23173

Code provisions relating to settlement of county boundary disputes provide special remedy for determination of survey by State Lands Commission, of inadequately marked boundary lines. Alpine County v Tuolumne County (1958) 49 Cal 2d 787, 322 P2d 449.

Language of §§ 23171-23175, relates to determination of disputed boundary lines only through marking of surveys to mark county boundary lines defined by tit 3 div 1 ch 2 art II (§§ 23100-23158), not to define those lines by interpreting legislative language which leaves uncertain point where survey shall start or courses it must follow; with respect to disputes of latter character, legislative plan contemplates resolution by judicial proceedings. Alpine County v Tuolumne County (1958) 49 Cal 2d 787, 322 P2d 449.

§ 23172. Failure of supervisors to approve survey; Report to State Lands Commission

If the boards of supervisors do not agree upon and finally approve the survey made by the county surveyors, each surveyor shall make a report to the State Lands Commission, with surveys, maps, notes, and explanations touching disputed points.

Added Stats 1947 ch 424 § 1.

Historical Derivation:
Former Pol C § 3970.

Cross References:

Collateral References:
Cal Jur 3d Municipalities § 70.
Am Jur 2d Municipal Corporations, Counties, and Other Political Subdivisions § 41.

§ 23173. Establishment of common boundaries and corners by State Lands Commission

Upon the reports made by the county surveyors the State Lands Commission shall finally determine and establish the common boundaries and corners, if it can collate a satisfactory description therefrom. If the reports are insufficient for the purpose, it shall cause surveys to be made, and when approved by it, the surveys establish the common boundaries and corners.

Added Stats 1947 ch 424 § 1.

Historical Derivation:
Former Pol C § 3971.

Cross References:
Survey of county and city boundaries: Pub Res C § 6204.
COUNTIES GENERALLY § 23173

Two procedures for determining county boundary lines are provided in Code, but two methods are not necessary alternatives in given case, rather, §§ 5100-5109, providing for judicial determination, may be invoked where language of boundary statute is unclear as well as where line has been obliterated, while §§ 23171-23175, providing for survey by State Lands Commission when common boundary is not adequately marked by natural objects or lines, or by surveys lawfully made,” are to be availed of only where language of boundary statute is clear and only ministerial action on part of surveyor inadequately marking line is required. Alpine County v Tuolumne County (1958) 49 C2d 787, 322 P2d 449.

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