

MINUTE ITEM

This Calendar Item No. 35 was approved as a Minute Item No. 35 by the State Lands Commission on 11/30/77 CALENDAR ITEM to 0 at its 11/30/77 meeting.

35.

COMPROMISE SETTLEMENT

11/77
W 20979
Cook
PRC 5416
PRC 5417
BLA 166

Certain real property along the San Leandro Shoreline is claimed to be owned in part by Jeras Corporation and in part by the City of San Leandro, Alameda County.

The land claimed by Jeras is shown on the parcel map, on file with the State Lands Commission, as parcels "L", "MM" and "O". The parcels were originally included within the perimeter descriptions of State Swamp and Overflowed Lands Patents. In addition, Jeras claims title to parcel "P" upon which the tidelands trust easement has been reserved by Legislative enactment Ch. 113, Stats. 1931. These parcels consist of historic marsh and open tide waters. The areas of historic marsh and open water within each parcel are shown on the said Plat. They have been reclaimed and cut-off from the bay and now consist in part of marshy areas and in part of filled higher ground.

The City claims as successor to the private claimants of parcels "H", "J", "K", "V" and "W", which were included in part within State tidelands patents, in part within State Board of Tidelands Commissions Deeds, and in part by the conveyances pursuant to the said Legislative enactment. For the most part, these parcels now consist of tidal flats covered by the daily tides of San Francisco Bay.

In addition to the said parcel map, the original State deeds and patents are shown on the parent title survey map, and the claimed parcels are shown in relation to historic conditions on the compilation plat.

The extent of State titles within the Jeras and City claims have not been established by agreement or Court Decree. There are bona fide disputes of fact and law concerning the nature and extent of the titles of Jeras, the City and the State within each of the respective parcels.

The Corps of Engineers intends to dredge the channel into the San Leandro Marina in the vicinity. This work will be carried out without cost to the City provided the City will provide an upland spoils site for deposit of materials hydraulically dredged from the channel.

The spoils site selected consists of said parcels "L", "O" and "P" claimed by Jeras. Based on the EIS heretofore

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circulated, the deposit of spoils will require mitigation by way of restoration of bay marsh.

On condition that its titles are cleared, Jeras will agree to accept the spoils and will provide mitigation by conveyance to the State Department of Fish and Game of reclaimed lands consisting of parcels "S", "T", "U", "NN" and part of "N".

Due to further mitigation requirements, the City will convey additional lands along the shoreline to the Department of Fish and Game and will also provide for other marsh restoration some distance to the south. The areas to be acquired by Fish and Game will remain subject to existing State sovereign title, the nature and extent of which is not being resolved.

In exchange for a deed by Jeras to the State of 7.2 acres of parcel "L" and 1.1 acres within parcel "MM", and by the City to the State of parcels "H", "J", "K", "V" and "W" consisting of more than 600 acres, the State Lands Commission is being asked to clear Jeras titles in the remainder of parcel "L" as well as all of parcels "O" and "P". The State is to lease back the 7.2 and 1.1 acre parcels to the city for open space purposes.

The City has determined that its conveyances to the State by way of exchange and mitigation parcels in consideration of Jeras acceptance of the spoils and providing mitigation parcels are justified by substantial savings to the City of the costs of dredging, and the benefits of the project to the City.

The East Bay Dischargers Sewer Line is also to be placed within the dredged channel.

The State is to receive royalty of 25¢ per cubic yard, from East Bay Dischargers or the City on a compromise basis, for spoils taken from the channel and deposited on Jeras land, for all portions of the channel lying west of the City limits, and therefore west of the City title claims.

The settlement does not purport to resolve, and is without prejudice to the State or other parties title claims to any other of the real property along the San Leandro Waterfront area.

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The proposal would resolve a serious title dispute without the costs, delays and uncertainties of litigation; clear the State's titles to large areas of Tidelands in dispute; and permit the project to move ahead, delay in which could result in serious financial burdens to the City and East Bay Dischargers.

The real property received in the exchange is over and above the mitigation parcels passing to Fish and Game. The exchange parcels are of a value equal or greater than the State's titles being given up by the State in parcels "L", "O" and "P".

The compromise is conditioned upon satisfaction of the mitigation requirements of the State Department of Fish and Game.

This project will result in further degradation of restorable bay marsh, contrary to the directives of the Secretary for Resources made subsequent to the mitigation negotiations for this transaction. However, before this transaction can be completed the mitigation requirements of both the State and Federal governments are to be met. Both the City and the East Bay Dischargers stand to incur additional costs unless the project commences without further delay.

EXHIBITS: A. Land Descriptions. B. Site Map.
 C. Parcel Map. D. Parent Title Surveys Map.
 E. Compilation Plat.

THE PROPOSAL IS SUBMITTED FOR CONSIDERATION BY THE COMMISSION, AS FOLLOWS:

1. APPROVE AND AUTHORIZE THE EXCHANGE BY WAY OF COMPROMISE SETTLEMENT OF TITLES IN LIEU OF LITIGATION; FIND THAT IT IS IN THE BEST INTERESTS OF THE STATE; AUTHORIZE THE EXECUTION OF THE CONVEYANCES TO JERAS CORPORATION; AND AUTHORIZE THE EXECUTION OF CERTIFICATES OF ACCEPTANCE OF THE DEEDS OF THE PARCELS PASSING TO THE STATE.
2. APPROVE AND AUTHORIZE THE EXECUTION OF A PUBLIC AGENCY LEASE, ON BEHALF OF THE COMMISSION, OF SAID 7.2 AND 1.1 ACRE PARCELS TO THE CITY FOR A TERM OF 49 YEARS FOR OPEN SPACE PURPOSES.
3. AUTHORIZE AND APPROVE THE DREDGING BY THE CORPS OF ENGINEERS, THE CITY AND EAST BAY DISCHARGERS FOR DEPOSIT

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ON THE SAID JERAS PARCELS FOR A ROYALTY OF 25¢ PER CUBIC YARD PAYABLE TO THE STATE OF CALIFORNIA.

4. FIND THAT THE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ARE INAPPLICABLE.
5. THE STATE LANDS DIVISION AND/OR THE ATTORNEY GENERAL ARE AUTHORIZED TO EXECUTE SUCH DEEDS OR TAKE SUCH OTHER ACTION AS MAY BE REASONABLY NECESSARY OR APPROPRIATE TO CARRY OUT THE ACTION APPROVED AND AUTHORIZED HEREBY.

Attachment: Land Description