

MINUTE ITEM

This Calendar Item No. 33
was approved as Minute Item
No. 33 by the State Lands
Commission by a vote of 3
to 0 at its 2/22/79
meeting.

CALENDAR ITEM

33.

2/79
BLA 182
Cowan

AMENDMENT TO EXCHANGE AND BOUNDARY LINE AGREEMENT

At the November regular meeting, the State Lands Commission approved the Exchange and Boundary Line Agreement (BLA-182) between the State and Parkwood 101. The Commission authorized the execution of the agreement in substantially the form of the copy of the agreement on file at the time of the meeting. At that time Parkwood 101 believed that it held fee title, including minerals to all of the land included in the agreement within San Mateo County. It was agreed between the State and Parkwood 101 that mineral interests, as well as the fee would be exchanged.

Parkwood 101 has since found that a person, not a party to the agreement is the owner of the mineral rights together with rights of ingress and egress for the purpose of exploring for and removing oil, gas or mineral substances beneath the surface of the land, as reserved in the deed from Leslie Salt Company, a Delaware Corporation, to San Mateo County Scavenger Company, a California Corporation, dated April 30, 1952 and recorded July 7, 1952 in Book 2262 Official Records, page 740 (14413-K) affect a 0.709-acre parcel in which Parkwood 101 is now the successor in interest. Parkwood 101 has no means of conveying the mineral interest in said parcel. Under the proposed agreement the State would receive a 0.656-acre of said parcel. Because of the sovereign character of the parcel and the public easements which restrict its economic utility, the staff has determined that the parcel has nominal value (\$100 per acre) which would not be further reduced as a result of the mineral interest being held by another party.

The subject parcel falls within an area where the provisions of Section 6357 of the P.R.C. are applicable, wherein: "The Commission may establish the ordinary high water mark... by agreement ... whenever it is deemed expedient or necessary." The State's portion of subject parcel lies waterward of the ordinary high water mark which was established by compromise agreement between the State and Parkwood 101. The provisions of Section 6207 of the P.R.C., which require that the State receive mineral rights in the land it receives in an exchange in which the State is releasing its mineral rights, are not applicable to the particular lands involved. The State's claims to the minerals, if any, are not prejudiced by the

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proposed agreement. A resolution of the ownership of the mineral rights to the subject parcel can be resolved at a later time.

The Commission's staff believes that a delay in the proposed agreement could jeopardize the establishing of approximately 316 acres, including mineral rights, valued at over \$150,000 in State ownership.

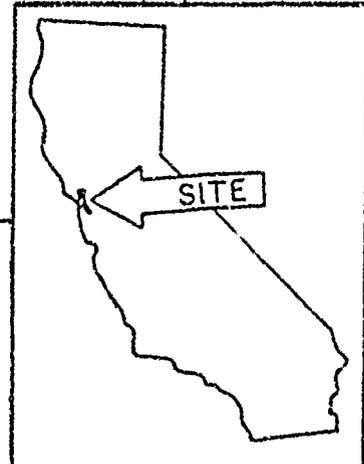
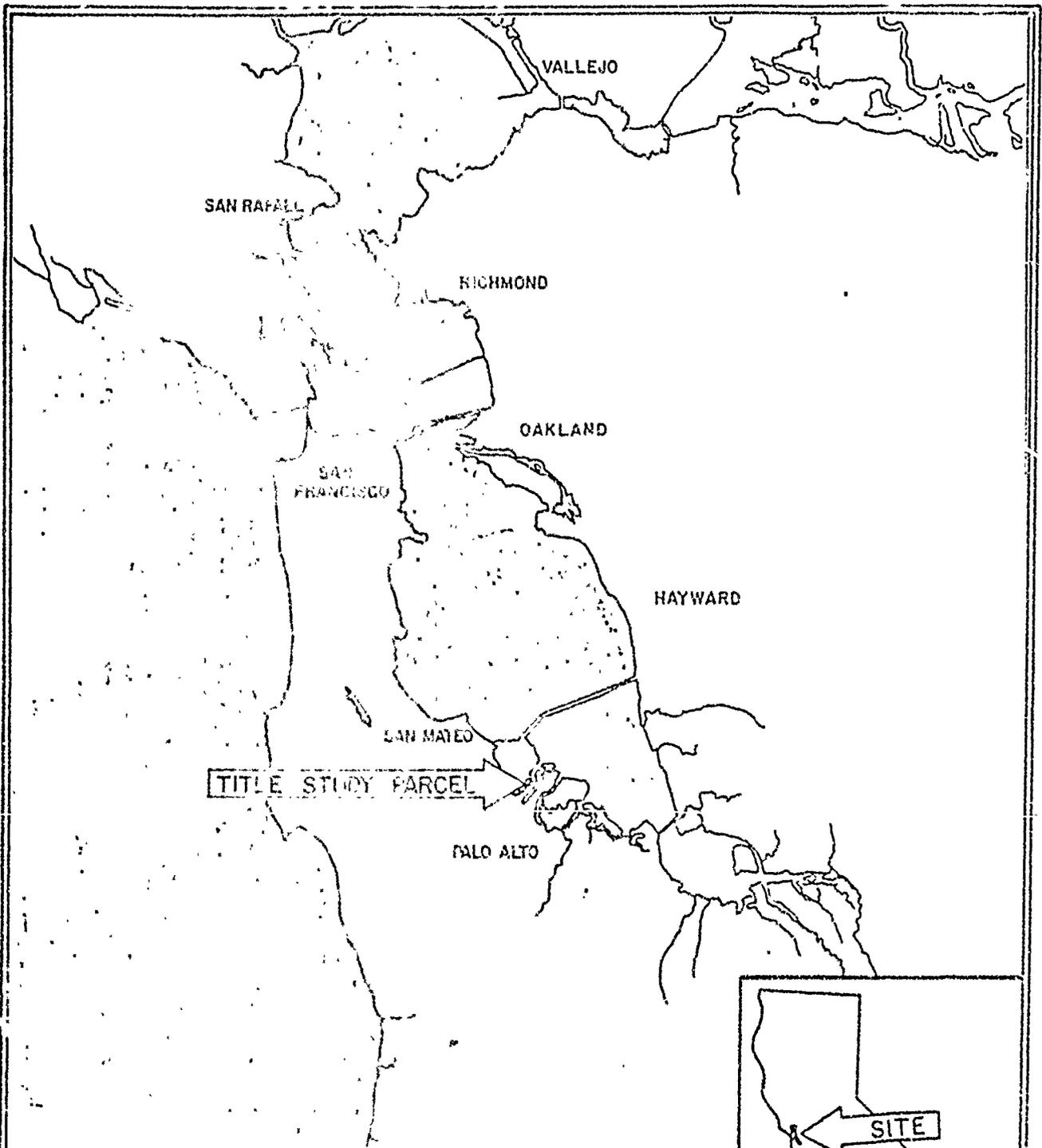
It was also discovered that an agreement between Leslie Properties, Inc. and San Mateo County Scavenger Company recorded June 25, 1970 in Volume 5798 OR 699, San Mateo County placed a covenant on the land which is to be received by the State in San Mateo County which prohibits the use of the property for garbage fill and other uses related to a refuse disposal operation.

The staff believes that the State can properly accept the land subject to the covenant since it is unlikely, in any case, that the State would endorse such uses at the subject location. The form of the agreement on file with the Commission at the time of the November meeting has been amended to reflect the above changes. In addition several minor changes, additions and deletions were made in the wording to improve the clarity of the agreement. None of the minor amendments were substantial or changed the context or intent of the original agreement.

EXHIBITS: A. Site Map. B. Mineral Reservation Parcel.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AMEND ITS PRIOR APPROVAL TO AUTHORIZE ACCEPTANCE OF THE DEED FROM PAREWOOD 101 WITH THE RESERVATION OF MINERAL RIGHTS AND COVENANT AS SET FORTH IN THE AMENDED AGREEMENT.
2. APPROVE THE EXCHANGE AND BOUNDARY LINE AGREEMENT (BLA 182) AS AMENDED, AND AUTHORIZE THE EXECUTION OF THE AGREEMENT BETWEEN THE COMMISSION AND PAREWOOD 101, IN SUBSTANTIALLY THE FORM OF THE COPY OF THE AGREEMENT ON FILE WITH THE COMMISSION.
3. DECLARE THAT, EXCEPT AS HEREBY AMENDED ALL OF THE FINDINGS AND AUTHORIZATIONS IN STATE LANDS COMMISSION MINUTE ITEM 29 FOR THE NOVEMBER 27, 1978 MEETING REMAIN THE SAME.



STATE LANDS DIVISION
 ESTUARINE FLAT

Prepared by: BJJ

Date: 9-24-76

EXHIBIT A

Title Study: PARKWOOD COI

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