

MINUTE ITEM

This Calendar Item No. 20  
was approved as Minute Item  
No. 20 by the State Lands  
Commission by a vote of 3  
to 0 at its 3-19-80  
meeting.

CALENDAR ITEM

20.

3/80  
W 21695  
PRC 5262.9  
Faber

LAND EXCHANGE  
(BLA 191)

BACKGROUND AND PRESENT SITUATION:

Alameda Creek, at the location in question, was historically natural, navigable and subject to tidal action. The State's claim therefore, is as sovereign owner of the creek bed located between the Rancho Arroyo de la Alameda and Rancho Potrero de los Cerritos.

The private parties have questioned the creek's former existence, extent, and location with regard to their property. Also, they urge that the old creek bed has become filled, reclaimed and is no longer of any sovereign use.

Alameda Creek presently flows through a realigned flood control channel adjoining the property to the east.

The Del Conte and Shieler families have contacted the Commission's staff in the interest of resolving the title problem. Negotiations have proceeded and an exchange proposal made in accordance with P.R.C. Section 6307. The proposed exchange would be of equivalent value lands off-site. The interest to be received by the State would be a fractional interest in the Land Bank parcels which are the subject of Minute Item #25 of the Commissions September 26, 1979 meeting.

The major points of the proposed settlement are as follows:

1. Del Conte/Shieler would grant to the State an undivided 12,000/200,000 interest in a parcel of land located in Contra Costa County. This represents approximately 26.5 acres with a value of twelve thousand dollars (\$12,000).
2. The State would relinquish, by patent, its sovereign interests within the private parties vesting description (Agreement Exhibit B). This is valued at no more than twelve thousand dollars (\$12,000).

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3. The State would receive title insurance, without cost, for the parcel it is to receive.

An evaluation has been made by the staff which shows that the State will receive land equal or greater in value than those lands to be relinquished by this agreement.

The agreement has been reviewed and approved by the Office of the Attorney General.

The proposed exchange is for the purpose of settling a title dispute and the private party remains subject to all lawful requirements of public agencies for permits, mitigation, use, or otherwise, independent of this agreement.

On April 1, 1977, Union City entered into a 49-year public agency permit with the State Lands Commission for a right-of-way for "Bettencourt Way." This street crosses the old bed of Alameda Creek and continues into and across the Del Conte/Shieler parcel. This will not affect the right-of-way, however, as the city also acquired a right-of-way for the same area from the private parties. In addition, the State's interest will be conveyed subject to the City's lease. The City has been contacted and agrees that it's lease is not inconsistent with the exchange agreement. However, to ensure that no complications arise it would be appropriate for the Commission to authorize any modifications in the lease description which might become necessary.

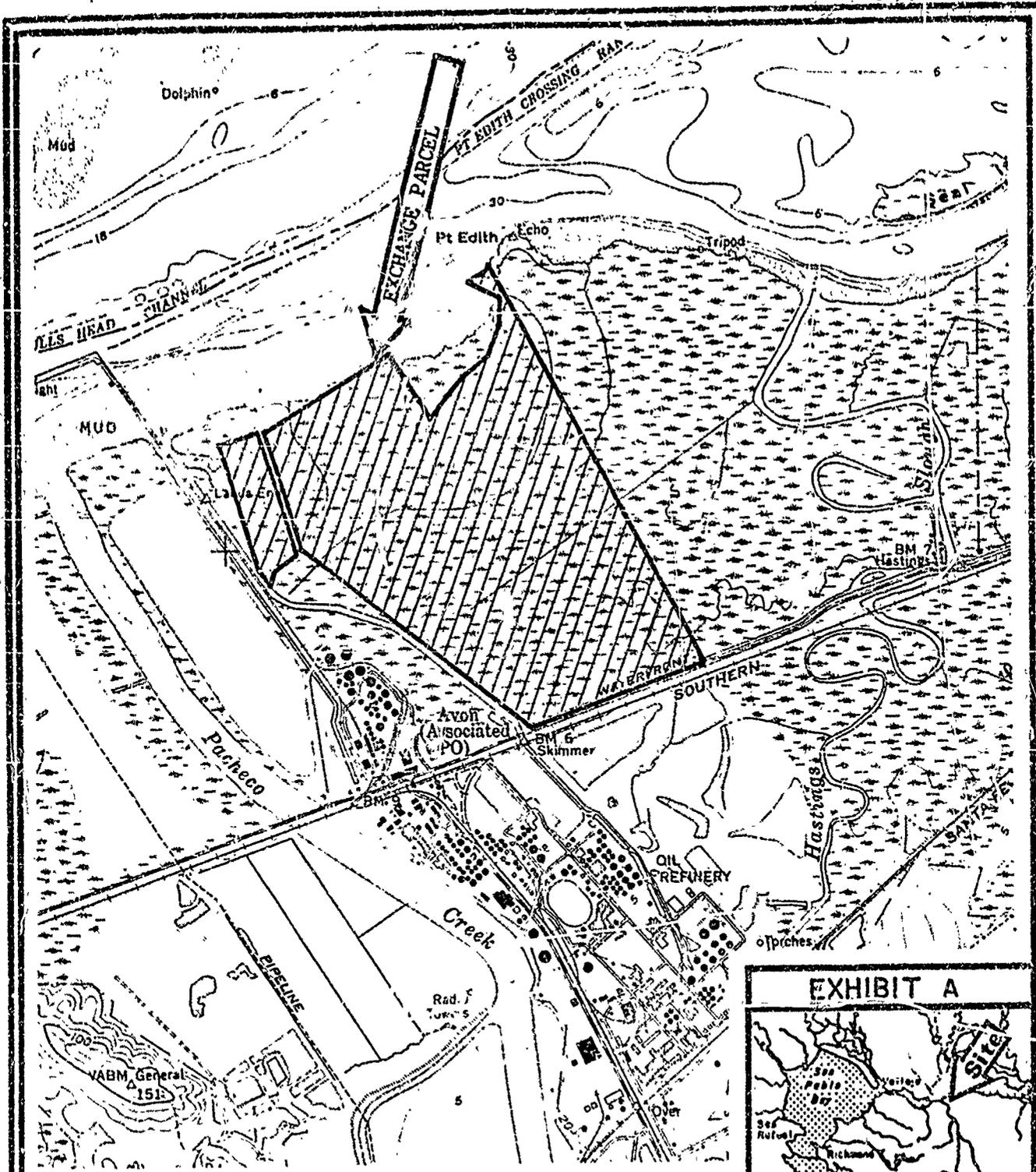
- EXHIBITS: A. Location Map - Property to be acquired by the State.
- B. Location Map - Property to be confirmed to the private parties.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE EXCHANGE (BLA 191) AND AUTHORIZE THE EXECUTION OF THE EXCHANGE AGREEMENT BETWEEN THE COMMISSION AND THE PRIVATE PARTY. A COPY OF THE AGREEMENT IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE THERETO IS MADE A PART HEREOF.
2. FIND THAT THE EXCHANGE OF LANDS, INTERESTS IN LANDS, AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 1 ABOVE, ARE IN THE BEST INTERESTS OF THE STATE FOR AID IN RECLAMATION; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED, AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTEREST IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID AGREEMENT.

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3. AUTHORIZE THE EXECUTION OF A STATE PATENT TO THE PRIVATE PARTY OF THE REAL PROPERTY DESCRIBED IN EXHIBIT "B" OF THE AGREEMENT.
4. ACCEPT AND AUTHORIZE THE RECORDATION OF CONVEYANCES TO THE STATE AS PROVIDED IN THE AGREEMENT.
5. FIND THAT THE EXECUTION OF THIS AGREEMENT IS NOT INCONSISTANT WITH THE 49-YEAR PUBLIC AGENCY PERMIT (PRC 5262.9) TO THE CITY OF UNION CITY AND AUTHORIZE STAFF TO EXECUTE ANY NECESSARY DOCUMENTS TO MODIFY THE CITY'S LEASE SHOULD IT BECOME NECESSARY.
6. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT, AND THE RECORDATION THEREOF IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, THE REAL PROPERTY DESCRIBED IN SAID PATENT:
  - a. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, FILLED, AND RECLAIMED BY THE PRIVATE PARTY OR PREDECESSORS IN INTEREST;
  - b. HAS THEREBY BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION, AND FISHING, AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL BE FREED FROM SUCH PUBLIC TRUST.
7. AUTHORIZE THE COMMISSION'S STAFF, AND/OR THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE TRANSACTION DESCRIBED ABOVE, INCLUDING BUT NOT LIMITED TO APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE TRANSACTION.
8. FIND THAT THE TRANSACTION IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.



STATE LANDS COMMISSION  
 PORTION OF U.S.G.S. QUADRANGLES  
 PORT CHICAGO 1959  
 PHOTOREVISED 1968

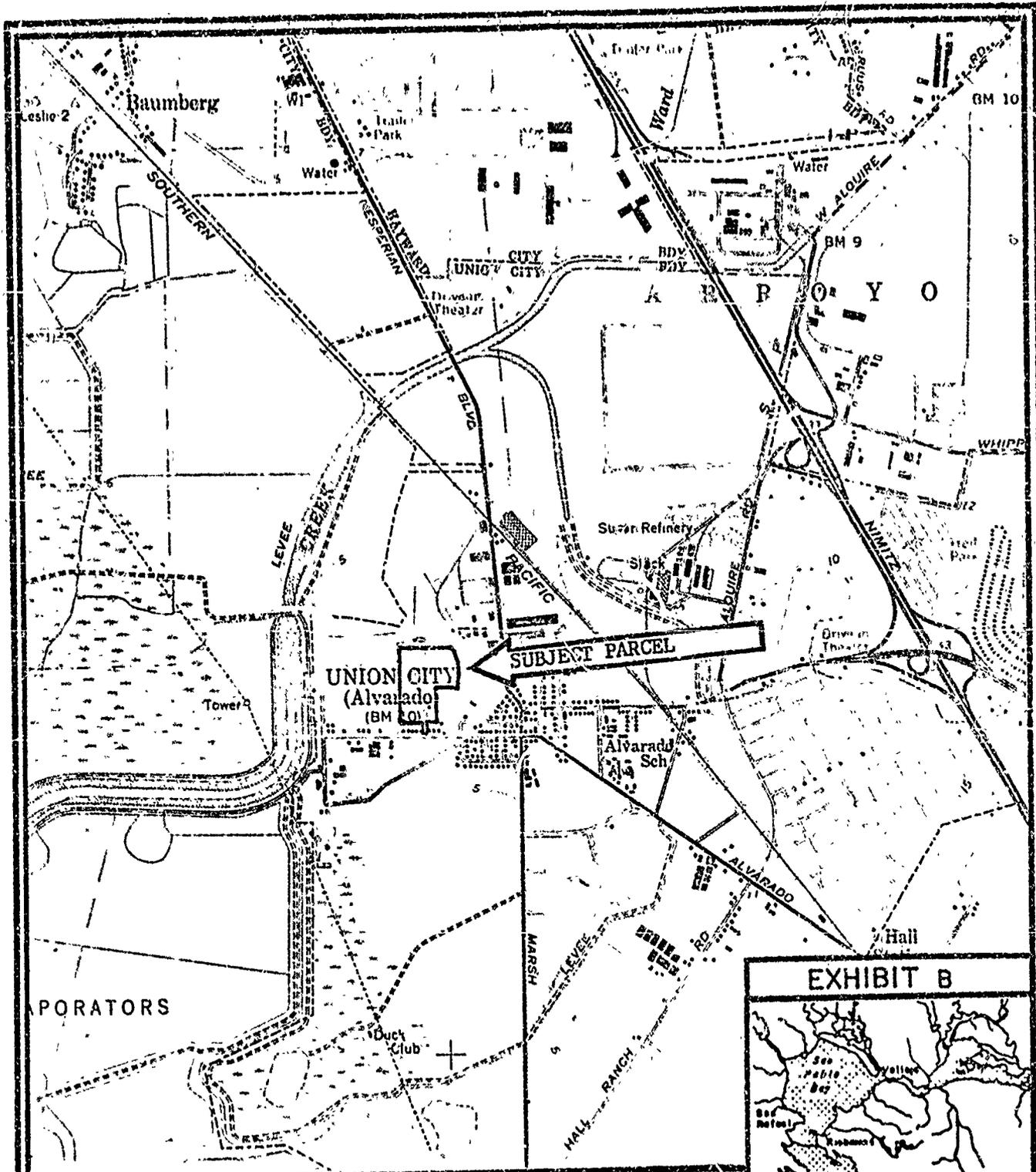


Title Study: T.P.L. - KNUDSON PARCEL W 22121

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STATE LANDS COMMISSION  
 PORTION OF U.S.G.S. QUADRANGLE  
 NEWARK 1959  
 PHOTOREVISED 1968 & 1973

Title Study: DEL CONTE  
 W 21695

