

MINUTE ITEM

This Calendar Item No. 23.
was approved as Minute Item
No. 23. by the State Lands
Commission by a vote of 3
0 at its 3-19-80
meeting.

CALENDAR ITEM

23.

3/80
W 22404
Cook
PRC 5812.1

It is proposed that the Commission lease about 11,200 acres in and along the northerly portion of San Pablo Bay, to the United States Department of Interior Fish and Wildlife Service as part of the SAN PABLO BAY NATIONAL WILDLIFE REFUGE.

The proposed lease parcel is located in Solano and Sonoma Counties, and is depicted on the attached plat marked Exhibit A. The parcel is generally south of the Sears Point Highway extending for about 10 miles of San Pablo Bay Shoreline between Mare Island on the east to the mouth of Petaluma Creek on the west. It is partly within the City of Vallejo.

The proposed lease parcel also includes about four miles of the lower Tolay Creek marshes; about 800 or more acres of marsh between the highway and the Bay westerly of Mare Island; a 72+ acre leveed parcel on Tubbs Island; as well as other marsh, tidal flats and bay waters.

The 11,200 acres of refuge to be established by the proposed lease adjoins the 10,000 acre San Pablo Bay State Wildlife area along the San Pablo Bay Shoreline in Marin County, which was established by a lease to the California Department of Fish and Game approved by the Commission by Minute Item 25 of its March 25, 1976 meeting. With the proposed lease, the San Pablo Bay shoreline in Marin, Sonoma and Solano Counties from Gallinas Creek for about 22 miles to Mare Island will be protected with careful management of its wildlife resources and public access of great benefit to the public

Prior to the United States filing a condemnation action in federal court on November 29, 1971, it had been unable to acquire clear titles to the marsh areas within the Refuge from private claimants by reason of probable state sovereign titles.

This lease results from substantial efforts exerted over a number of years to settle as many of the complex and difficult title questions involved as necessary to permit the Refuge to come into being. The Commission has entered into the following title settlements within the refuge area as part of its effort to assist in the establishment of the refuge:

A 8
S 4

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1. Title Settlement Agreement at the Upper Tubbs Island (BLA-130) recorded July 10, 1972, 2643 O. R. 798 and 923, Sonoma County, establishing about 10 miles of the Upper Tubbs Island boundaries along San Pablo Bay and Tolay Creek, and clearing the State's titles to 72+ acres inside the Island.
2. Stipulated partial judgment in the condemnation action (based on a Boundary Agreement with Figueras, et al.), recorded February 8, 1974, in 1974 O. R. 5589, Solano County, resolving about 2 miles of the State/private boundary west of Mare Island.
3. Title Settlement Agreement (BLA-151 recorded in 1976 O. R. 74836, Solano County on December 30, 1976), whereby the State received the private titles to about 400 acres of marsh contiguous to about 2 miles of Sears Point Highway westerly of Mare Island and the Figueras parcel.
4. Title Settlement Agreement with the Nature Conservancy (BLA, 153, recorded in 3435 OR 432 Sonoma County, on August 7, 1978), clearing about 3 miles of the boundary of lower Tubbs Island and establishing State ownership of substantial marsh areas at the mouth of Tolay Creek.

While the foregoing title settlements have not cleared all the refuge titles (see Exhibit A) and while efforts are continuing to settle remaining ownership questions, the State has established its sovereign trust titles to sufficient areas to proceed with this lease of substantially all the Refuge area owned by the State.

The proposed lease parcel is more particularly described in the attached Exhibit B (3 pages). The terms of the proposed lease have been worked out to the satisfaction of the Commission Staff and the Federal officials. It is in the form of two prior leases for portions of the Refuge previously approved by the Commission by Minute Items 21 & 23 of its December 20, 1978 meeting. Due to the pendency of the proposed lease the two previously authorized leases were never completed and will no longer be required if the proposed lease is approved by the Commission.

In brief summary, the terms of the proposed lease provide for management of the parcel by the United States

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Fish and Wildlife Service as part of the National Wildlife Refuge system for a term of 66 years. A copy of the proposed lease is on file with the Commission.

Consideration specified in the proposed lease consists of the operation, management protection and maintenance of the parcel by the United States and the ensuing public benefit. Should the United States earn income from the parcel in excess of its costs of maintaining the parcel, the State reserves the right to charge a reasonable rental.

The State is the owner of the mineral, etc., rights and reserves the right of extraction. The proposed lease provides that the State will notify and involve the United States and the State Department of Fish and Game in planning for extraction.

Hunting is permitted under the proposed lease, however, areas may be closed for safety, waterfowl protection or administration requirements.

The proposed lease is on file with the Commission. It is referred to for other specific provisions.

The City of Vallejo was the Legislative Trust Grantee of the easterly portion of the leased parcel. The trust Grant to the City was made in 1957 for airport purposes. As the City no longer intended to use the parcel for an airport, and in the interest of cooperation in the establishment of the Refuge, the City Quitclaimed the Trust Grant area, with access strips, back to the State, thereby reducing the title questions required to be resolved. The City Quitclaim to the State was approved and accepted by the Commission by Minute Item No. 23 of its December 20, 1978 meeting and the deed was recorded on April 10, 1979 in 1979 O.R. 26770, Solano County. By the same Minute Item No. 23, the Commission authorized a lease of the quitclaim area to the Fish and Wildlife area.

EXHIBITS: A. Plat. B. Description.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED LEASE TO THE UNITED STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE IS IN THE BEST INTERESTS OF THE STATE.

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2. FIND THAT IT IS IN THE INTERESTS OF THE STATE THAT THE LEASE SHOULD BE FOR A TERM OF 66 YEARS, AND AUTHORIZE SUCH 66 YEAR TERM.
3. APPROVE THE LEASE ON BEHALF OF THE STATE OF CALIFORNIA, AUTHORIZE ITS EXECUTION FOR THE COMMISSION BY ITS DULY DELEGATED STAFF; AND AUTHORIZE ITS RECORDATION WITH THE RECORDERS OF SONOMA AND SOLANO COUNTIES.
4. FIND THAT THE TRANSACTION IS CATEGORICALLY EXEMPT FROM PREPARATION OF AN EIR IN THAT THE PROJECT INVOLVES THE USE OF LANDS FOR FISH AND WILDLIFE CONSERVATION PURPOSES INCLUDING PRESERVATION OF FISH AND WILDLIFE HABITAT, (14 CAL. ADM. CODE SECTION 15113) AND THE PROJECT INVOLVES ACTION BY THE COMMISSION FOR PROTECTION OF NATURAL RESOURCES AND THE ENVIRONMENT, (14 CAL. ADM. CODE SECTIONS 15107, 15108).
5. AUTHORIZE THE STATE LANDS COMMISSISON STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS WHICH MAY BE REASONABLY NECESSARY OR CONVENIENT TO IMPLEMENT THE TRANSACTION DESCRIBED ABOVE, INCLUDING BUT NOT LIMITED TO THE EXECUTION OF DOCUMENTS OF TITLE, RECORDATION, ESCROW INSTRUCTIONS AND APPEARANCES IN ANY LEGAL ADMINISTATIVE OR OTHER PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.

Lower Tubbs Island
 BLA 153, recorded
 Aug. 7, 1978 Bk. 3435
 OR Pg. 432 Sonoma Co.

Main Tubbs Island
 BIA 130, recorded
 July 10, 1972
 Bk. 2643 OR Pg. 798
 Bk. 2643 OR Pg. 923
 Sonoma Co.

Federal Condemnation (503.696)
 USIC No. S-2274 filed Nov. 29, 1971

Deed to State
 BLA 151, recorded
 Dec. 30, 1976,
 Bk. 1976 OR Pg. 74853
 Solano Co.

Vallejo Quitclaim
 to State

Stipulated Judgement
 recorded Feb. 8, 1974
 Bk. 1974 OR Pg. 5589

LEGEND



State boundary
 not established



Area to be
 leased to U.S.

STATE LANDS COMMISSION

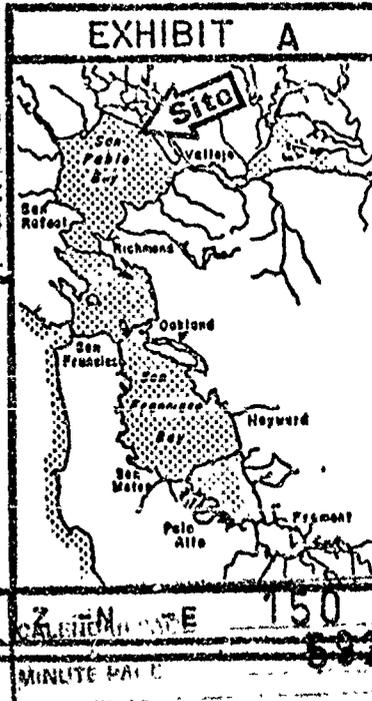
Proposed Lease to U.S.
 U.S. San Pablo Refuge

Prepared by: jsf

Rev. 3-5-80
 Date: 3-13-79

Title Study: U.S. San Pablo Refuge

W 22404



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EXHIBIT "B"

REAL PROPERTY DESCRIPTION

All those lands in Solano and Sonoma Counties, State of California, described as follows:

BEGINNING at "Angle Point No. 5" (AP 5) as said point is shown on "Map of the Grant to City of Vallejo, Chapter 483, Statutes of 1947, Vicinity of Mare Island, Solano County, California", recorded in Book 7 of Surveys, page 8, in the Office of the County Recorder of Solano County, said point also being in the westerly boundary of Mare Island Naval Yard; thence northwesterly along the line described in paragraph VI of the Judgment of the United States District Court for the Eastern District of California, Civil No. S-2274 (Tract No. 12), recorded February 8, 1974, as Image 5589 of Official Records of Solano County, Instrument No. 3499, to the easterly line of that certain property described in the Deed to Antonio Zunino, et al, recorded on May 6, 1963, in Book 1198 of Official Records of Solano County at page 541, Instrument No. 11567; thence leaving said Judgment line and running N. 29° 11' 42"E. along said easterly line of said parcel described in said Deed to Zunino to the southwesterly line of State Highway Route 37 as described in Deed to the State of California, recorded August 20, 1970, in Book 1639 of Official Records of Solano County at page 461; thence northwesterly along said southwesterly line of State Highway Route 37 as it now exists and is described in the following five instruments, all as recorded in the office of the County Recorder of Solano County:

1. August 20, 1970, in Book 1639 of Official Records, page 461, (Instrument No. 14849),
2. May 13, 1969, in Book 1563 of Official Records, page 183, (Instrument No. 8501),
3. May 5, 1971, in Book 1683 of Official Records, page 113, (Instrument No. 8694),
4. November 22, 1971, in Book 1717 of Official Records, page 610, (Instrument No. 23671) (Parcel 1),
5. May 5, 1971, in Book 1683 of Official Records, page 121, (Instrument No. 8698);

thence from the southwesterly corner of the parcel described in last said deed recorded in Book 1683, at page 121, on California Coordinate System Zone 2 bearings and distances as shown on map of State Highway

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Exhibit B

Route 37 in Highway District 10, Solano County, South 26° 49' 13" West, 129.99 feet to the southeast corner of Parcel 1 described in the Deed from Leslie Salt Co. to the State of California dated February 9, 1970 and recorded June 29, 1970 in Book 1631 of Official Records of Solano County at page 528 (Instrument No. 11479); thence North 63° 10' 47" West, 121.99 feet; thence North 85° 08' 40" West, 1500.00 feet, being in part along the south line of the "Reservation of Lands for Highway Purposes, No. 3747.9 - Public Resources Code Series" executed by Lessor on May 22, 1967 in favor of the State of California Department of Public Works for a bridge crossing of Sonoma Creek; thence continuing along said Reservation line, North 35° 10' 18" West, 572.90 feet to the northerly terminus of course number 58, described as "North 17° 06' 47" West 138.86 feet to a 2" x 2" redwood stake (A-205)", as said course is shown in that Patent from the State of California recorded July 10, 1972 in Book 2643 of Official Records of Sonoma County at page 906 (Instrument No. M-80453); thence southerly and southwesterly along the line described in said Patent, being along San Pablo Bay, to the true point of beginning described in said Patent; thence leaving San Pablo Bay and continuing along the line crossing Tubbs Island North 25° 21' 55" West 1744.82 feet, as described in said Patent, to the southerly terminus of course number 208 on the east bank of Tolay Creek as described in said Patent; thence continuing on the line along the easterly bank of Tolay Creek as described in said Patent in a general northerly direction to the southerly right-of-way line of State Highway Route 37 as described in "Public Agency Permit No. 4625.0 - Public Resources Code Series", executed February 29, 1972, by Lessor in favor of State Department of Public Works, Division of Highways; thence westerly along said southerly right of way line to the Ordinary High Water Mark on the westerly right bank of Tolay Creek (aka Midshipman Slough); thence in a general southerly direction along said Ordinary High Water Mark on said westerly bank of Tolay Creek to the Ordinary High Water Mark of San Pablo Bay; thence in a general westerly direction along said Ordinary High Water Mark of San Pablo Bay and its tributary tidal waterways to the easterly line of the Pacific Gas and Electric Co. Vaca-Dixon-Ignacio tower line right-of-way as shown on said Pacific Gas and Electric Co. Map No. 21160; thence southerly along said easterly line and the easterly line of the 100-foot strip of land the center line of which is described as bearing "North 18° 02' East" in that certain right-of-way lease No. 740.1 Public Resources Code Series issued by lessor to Pacific Gas and Electric Company for 49 years beginning February 8, 1951 to its intersection with a line that bears North 84° 25' 12" West from that red navigation channel marker numbered "20" on the northerly line of the Petaluma River channel as shown on National Ocean Survey Chart No. 18654, 23rd Ed., dated June 15, 1974; thence from said intersection South 84° 25' 12" East to said marker numbered "20"; thence continuing easterly along said northerly line of the Petaluma River channel to those red navigation channel markers numbered "18" to "16", and "14", as said markers are shown on said Chart No. 18654; thence easterly in a direct line to "Sta. 4" as shown on said "Map of the Grant to City of Vallejo" recorded in Book 7 of Surveys at page 8; thence North 40° 11' 50" East 2304.04 feet to the Point of Beginning;

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AND ALSO Parcels One and Two and that certain non-exclusive easement as said Parcels and Easement are described in Deed to the State of California recorded July 10, 1972 in Book 2643 of Official Records of Sonoma County at page 923 (Instrument No. M-8054);

AND ALSO Parcels One and Two as said Parcels are described in Deed to the City of Vallejo recorded November 17, 1959 in Book 1001 of Official Records of Solano County, at page 460;

EXCEPTING herefrom any portion of land above the OHWM of San Pablo Bay lying westerly of the lands of Zunino as described in the Deed to Antonio Zunino, et al, recorded on May 6, 1963, in Book 1198 of Official Records of Solano County at page 541, easterly of Sonoma Creek and southerly of State Highway Route 37;

AND EXCEPTING herefrom that parcel of land conveyed to the Nature Conservancy as said parcel of land is described in the boundary line and settlement agreement between the Nature Conservancy and the State of California recorded August 7, 1978, in Book 3435 of Official Records of Sonoma County at page 432;

AND ALSO EXCEPTING an existing right of way of record along Tolay Creek from Sears Point Highway for ingress and egress as described in Book 51 of Official Records of Sonoma County at page 292, as reserved by the Nature Conservancy in the above-mentioned boundary line and settlement agreement.

AND ALSO EXCEPTING any valid right, title, or interests of others arising out of the judgment of January 5, 1940, in the case of Dickson, et al, vs. State of California, et al, Case No. 24452, in the Superior Court of the State of California in and for the County of Sonoma, recorded January 5, 1940, in Book 492 of Official Records, page 192, Sonoma County Records.

Containing approximately 11,200 acres.

End of Description.