

MINUTE ITEM

This Calendar Item No. 15
was approved as Minute Item
No. 15 by the State Lands
Commission by a vote of 2
to 0 at its 9-24-80
meeting.

CALENDAR ITEM

15.

9/80
W 22523
Cook
SLL '69

SUMMARY OF TITLE DISPUTE

A title dispute exists between the State in it's sovereign capacity and American Protective Services, Inc., hereafter referred to as the "PRIVATE PARTY", concerning State-Private ownership of a 1.01+ acre parcel of real property located in the City of Oakland, County of Alameda, along San Leandro Bay and located within a commercially developed neighborhood referred to as the Oakland Airport Business Park. The said real property is referred to as the SUBJECT PARCEL, and is described in the attached Exhibit "A", and is depicted on the attached Exhibit "B".

The PRIVATE PARTY claims as successors in interest to the Rancho de San Antonio as confirmed to Ygnacio Peralta by Patent issued February 3, 1858 and recorded April 4, 1858, in Book A of Patents at page 52 in the office of the Alameda County Recorder and by Deed from the City of Oakland recorded November 16, 1979 as Series No. 79-233442.

The PRIVATE PARTY contends that the said Rancho patent conveyed all public right, title and interest free of the public trust; and that the private party now holds title to said real property in fee simple absolute, free and clear of any State right, title or interest therein.

The Staff of the State Lands Commission has conducted a study of the evidence of title to the Subject Parcel and has drawn a number of evidentiary conclusions, including those summarized below:

1. That the Subject Parcel was included within the perimeter description of said Rancho de San Antonio lands patent;
2. That in a Natural State, it consisted of marsh grass estimated to be 0.932 acre and a slough estimated to be of an area of 3,400 square feet, and was covered, at least in part, by the ordinary tides, the precise extent of such tidal action being uncertain;
3. That, at least in part, the Subject Parcel remained as bay tideland until it was filled sometime prior

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to 1952. It is now a part of the substantially developed Oakland Airport Business Park. A finding that the parcel is no longer needed for trust purposes upon completion of the proposed settlement is justified in the opinion of staff.

4. That it is now, and since said filling, bounds, but is totally outside, the tidal waters of San Leandro Bay, but is otherwise unimproved;
5. That there is no record of any patent to or from the State under the Arkansas Swamp Lands Act, or otherwise. Staff is of the opinion that the subject parcel is included within a Legislative Trust Grant to the City of Oakland, Ch. 654 Statues of 1911 as amended by Ch 146 Statues 1939.
6. The City (Port) alleges that its ownership of the subject parcel (which was conveyed to the private party by the City) was solely in its proprietary capacity as successor to the private Rancho patentees, and denies that the subject parcel ever constituted salt marsh, tidelands or submerged lands owned by the State in its sovereign capacity or that the subject parcel or any interest therein was included within said Legislative grant to the City.

In order to permit settlement of the title questions, the City will quitclaim to the State any and all right title and interest it may have received by the said Legislative Trust Grant, without any admission by the City that it ever held any such interest. The Quitclaim deed from the City is a condition of the settlement and will enable the Commission to resolve the title dispute in the same manner as it would for any other ungranted tidelands or submerged lands owned by the State in its sovereign capacity.

The Staff, contrary to the contentions of the private party and the City of Oakland, is of the opinion that the title evidence and the applicable legal principles of law would lead to the conclusion that the State, in its sovereign capacity, subject to the said Legislative Trust Grant, and based on its historic tidal character, is the owner of some public trust right, title or interest in the Subject Parcel, the exact extent and nature of which is subject to uncertainty and dispute.

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LAND BANK PARCEL:

Pursuant to Commission Minute Item No. 25 of it's regular public meeting on September 26, 1979, the Commission, on behalf of the STATE OF CALIFORNIA, in its sovereign capacity, and the TRUST FOR PUBLIC LAND (TPL) have entered into a "Land Bank Option Agreement" whereby TPL has agreed to convey to the State, under the terms and conditions of the agreement, about 441 acres of real property in Contra Costa County, (described in the attached Exhibit "C", and depicted on the attached Exhibit "D") and referred to as the LAND BANK PARCEL, consisting of marsh lands along the southerly shoreline of Suisun Bay in the vicinity of Point Edith and the mouth of Pacheco Creek, upon payment to TPL of a total purchase price of \$200,000, (being about \$453.51 per acre), or, from time to time, undivided interests therein, upon a lesser payment to TPL, equal to the percentage the amount such lesser payment bears to the total price of \$200,000.

PROPOSED SETTLEMENT:

The private party has offered to resolve such title dispute by a written agreement in compromise settlement of the legal and evidentiary issues. The Staff of the State Lands Commission recommends approval of the settlement in substantially the form of the agreement, a copy of which is now on file with the State Lands Commission.

While the agreement sets forth all the specific terms and conditions of the settlement, a brief summary of some of the principal terms and conditions of the settlement is set forth below, as follows:

1. The private parties will purchase from TPL for the purchase price of \$3,000.00 the fee title to an undivided 1.50% interest in the LAND BANK PARCEL, such interest to be conveyed by TPL to the State in its sovereign capacity as real property of the legal character of tidelands and submerged land held under the public trust. The 1.50% interest is equivalent to ± 6.62 acres of the Land Bank Parcel.
2. In exchange for such conveyance to the State, the State will convey all its right, title and interest in, and will terminate the public trust upon the SUBJECT PARCEL, to the PRIVATE PARTY

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or their successors in interest. The PRIVATE PARTY agrees to provide public access as required by the San Francisco Bay Conservation and Development Commission.

3. The agreement provides for an escrow and will be effective upon its recordation along with the other documents of title.
4. The PRIVATE PARTY will provide a standard form of C.L.T.A. title insurance in the amount of \$3,000.00, insuring the State's title to the 1.50% interest in the LAND BANK PARCEL without cost to the State.

Staff has appraised the SUBJECT PARCEL and has evaluated the law and the evidence bearing on the title dispute, and is of the opinion that the said sum of \$3,000.00 is equal to or greater than the value of the State's interest in the SUBJECT PARCEL.

The settlement is made in contemplation of a lease of the State's interest, to be acquired in the LAND BANK PARCEL, to the California Department of Fish and Game for fish, wildlife and other environmental purposes with the parcel to remain substantially as undeveloped open space.

The agreement will accomplish the following:

Subject Parcel:

1.01 acres cleared in private ownership

Land Bank Parcel:

0.02 miles (pro-rata equivalent) of boundary cleared

6.62 acres (pro-rata equivalent) in State sovereign ownership

EXHIBITS: A-Subject Parcel Description
 B-Subject Parcel Plat
 C-Land Bank Parcel Description
 D-Land Bank Parcel Plat

IT IS RECOMMENDED THAT THE COMMISSION:

FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR THE LAND BANK PARCEL IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; AID IN

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RECLAMATION; FOR FLOOD CONTROL PROTECTION; TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; FOR THE PROTECTION, PRESERVATION AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO AND PUBLIC USE THEREOF PURSUANT TO THE PUBLIC TRUST; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED; AND THAT THE REAL PROPERTY RECEIVED BY THE STATE, IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SUBJECT PARCEL BEING RELINQUISHED BY THE STATE.

FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE-STATE TITLES WITHIN THE SUBJECT PARCEL; THAT THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED; THAT IT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW INCLUDING SECTION 6307 OF THE PUBLIC RESOURCES CODE, AS WELL AS THE OTHER PROVISIONS OF DIVISION SIX THEREOF, AND IS CONSISTENT WITH THE STATE'S POWER TO RESOLVE AND SETTLE A CONTROVERSY IN LIEU OF LITIGATION; THAT ON THE RECORDATION OF THE AGREEMENT AND CONSISTENT WITH THE TERMS THEREOF, INCLUDING THE RESERVED PUBLIC ACCESS, THE SUBJECT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST MAY BE TERMINATED THEREON; AND THAT THE PROPOSED AGREEMENT IS IN THE BEST INTERESTS OF THE STATE.

FIND AND DETERMINE THAT SETTLEMENT OF THIS TITLE DISPUTE IN LIEU OF LITIGATION IS NOT A PROJECT WITHIN THE REQUIREMENTS OF CEQA AS PROVIDED BY SECTION 6371, PUBLIC RESOURCES CODE AND AS EXPRESSLY PROVIDED BY THE REGULATIONS OF THE COMMISSION ADOPTED AT ITS REGULAR PUBLIC MEETING ON MARCH 30, 1978, MINUTE ITEM NO. 19. (TITLE 2, DIV. 3, ARTICLE 10, SECTION 2903(d), CAL. ADMIN. CODE), PURSUANT TO THE PROVISIONS OF THE STATE EIR GUIDELINES, INCLUDING, TITLE 14, DIV. 6, CH. 3, ARTICLE 5, SEC. 10505 (c) (1) (c), AND ARTICLE 8, SEC. 15100.4, WHICH AUTHORIZE PUBLIC AGENCIES TO LIST EXEMPT ACTIVITIES, AND CLASS 25 OF TITLE 14, DIV. 6, CH. 3, ART. 5, SEC. 15125; WHICH CATEGORICALLY EXEMPTS TRANSFERS OF OWNERSHIP TO THE STATE IN ORDER TO PRESERVE OPEN SPACE.

APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:

1. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT OF FILE WITH THE COMMISSION.

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2. A PATENT OF THE SUBJECT PARCEL IN ALAMEDA COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", TO PRIVATE PARTY FOREVER FREE OF THE PUBLIC TRUST.
3. A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF THE CONVEYANCE TO THE STATE OF THE UNDIVIDED 1.50% FEE INTEREST IN THE LAND BANK PARCEL IN CONTRA COSTA COUNTY CALIFORNIA, DESCRIBED IN EXHIBIT "C", AS REAL PROPERTY OF THE LEGAL CHARACTER OF TIDELANDS AND SUBMERGED LANDS, OWNED BY THE STATE BY REASON OF ITS SOVEREIGNTY UNDER THE PUBLIC TRUST.
4. A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION OF A CLAIM DEED OF THE SUBJECT PARCEL TO THE STATE FROM THE CITY OF OAKLAND IN SUBSTANTIALLY THE FORM OF THE COPY ON FILE WITH THE COMMISSION.

AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION, AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION OF DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, DEEDS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE AND CONSENTS TO RECORDATION, AND SUCH OTHER DOCUMENTS AS MAY BE REASONABLE AND CONVENIENT TO CARRY OUT THE SAID COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER THEREOF.

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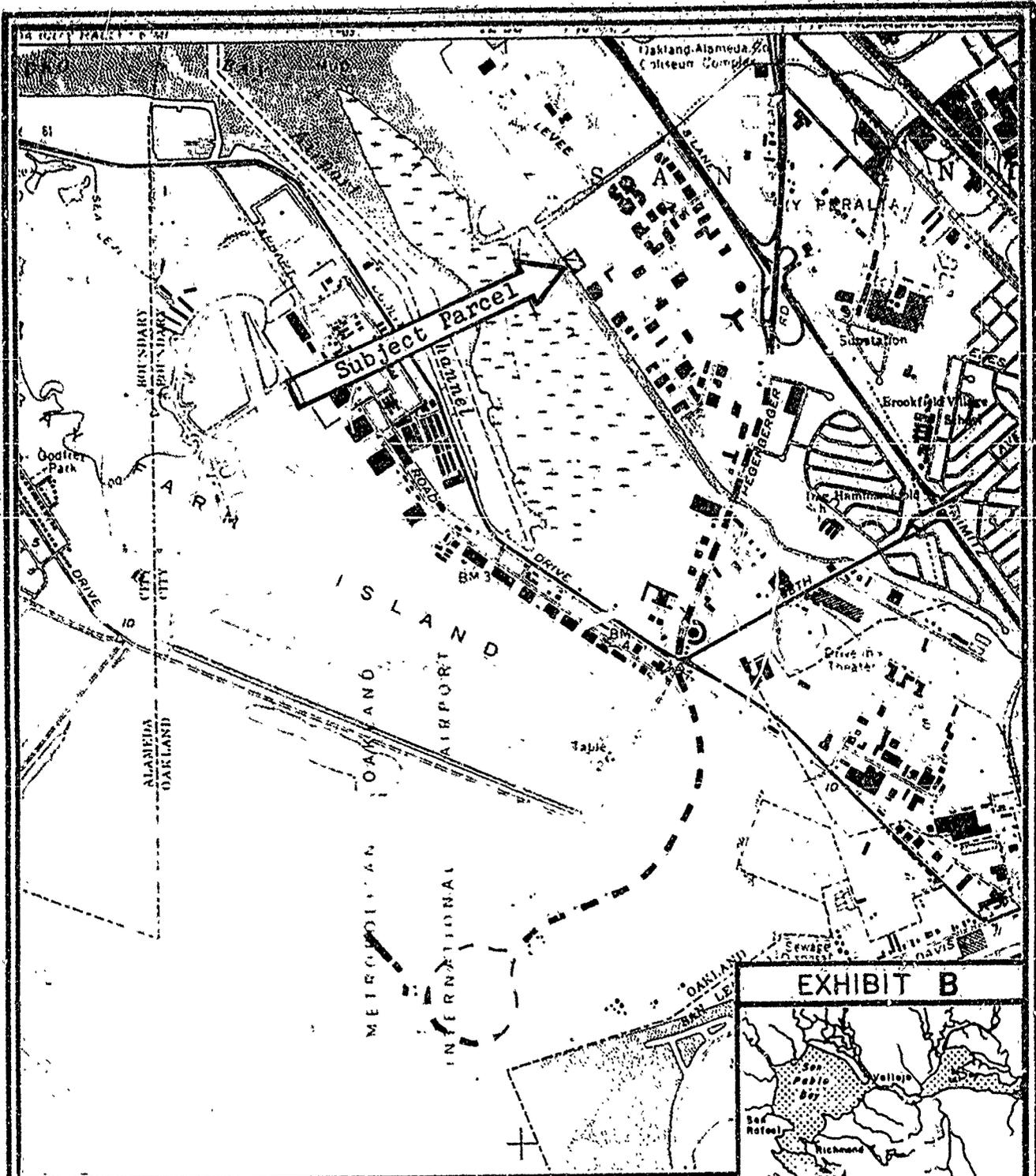
REAL PROPERTY in the City of Oakland, County of Alameda, State of California, described as follows:

Commencing at the monument in Hegenberger Road at the first angle point Southerly of the Nimitz Freeway (formerly known as Eastshore Freeway). Said monument is also known as Monument 41/D, situate in the City of Oakland, County of Alameda, State of California, from which monument the bearing of the monument line to the monument known as 41/E is being taken as South $19^{\circ} 54' 54''$ West, for the purpose of this description; thence leaving Monument 41/D along the monument line North $4^{\circ} 39' 16''$ East 224.23 feet to its intersection with the Southeasterly production of the Southwestern right of way line of the Street known as Edgewater Drive; thence along last said line and said Southwestern right of way line the following four courses: North $70^{\circ} 05' 06''$ West 803.25 feet; North $47^{\circ} 51' 59''$ West 89.33 feet; along a tangent curve concave to the Northeast with a radius of 428 feet through a central angle of $12^{\circ} 59' 15''$ for an arc distance of 97.02 feet; tangent to last said curve North $34^{\circ} 52' 44''$ West 2,278.77 feet to its intersection with the Northeasterly production of the Southeastern right of way line of the proposed Street, 100 feet in width; thence along last said line and its production South $55^{\circ} 07' 16''$ West 668.72 feet to the True Point of Beginning of the parcel to be described; thence continuing along last said right of way line South $55^{\circ} 07' 16''$ West 190.5 feet to a point herein for convenience in being designated as Station "A", said point also being on the Northeasterly line of Parcel 1 in the Grant Deed to the Alameda County Flood Control and Water Conservation District which was recorded April 29, 1974, in Reel 3664 at Image 818, Alameda County Records; thence along last said line South $34^{\circ} 52' 44''$ East 231 feet; thence North $55^{\circ} 07' 16''$ East 190.5 feet; thence North $34^{\circ} 52' 44''$ West 231 feet to the point of beginning, containing an area of 1.01023 acres, more or less.

Exhibit "A"

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STATE LANDS COMMISSION

SUBJECT PARCEL PLAT

Prepared by A.A. Shimonauiff Date 9/03/80 A 14 S 8

Title Study Oak. Bus. Park -Amer. Prot. Serv. W 22523



73-N45-E 150

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DESCRIPTION OF LAND BANK PARCEL

PARCEL ONE

All that portion of Swamp and Overflow Surveys Nos. 87, 88 and 89; that portion of Tide Land Survey No. 207, and that portion of the 976.04 acre parcel described in the deed to C. A. Hooper & Co. recorded June 1, 1932, in Book 310, page 498 of Official Records of Contra Costa County, California, all within unincorporated territory of said county and described as a whole as follows:

Commencing at the Northwesterly corner of the 273.183 acre parcel of land awarded to the United States of America in the Final Judgement in condemnation under Action No. C-69-369 in the United States District Court, entitled United States of America, plaintiff, vs. V. P. Baker et al., defendants, a certified copy of which was recorded November 19, 1973, in Book 7094, page 482, of said Official Records;

Thence South $27^{\circ} 48' 59''$ East 5930.49 feet along the Southwesterly line of said 273.183 acre parcel of land to the Southwesterly corner thereof in the Northerly line of the 200 foot wide strip of land firstly described in the deed recorded June 18, 1913 in Book 205, page 141 of deeds of said Official Records;

Thence South $70^{\circ} 25'$ West 1665.13 feet along said Northerly line to the Point of Beginning of this description;

- (1) Thence North $27^{\circ} 48' 59''$ West 6102.91 feet, parallel with the above mentioned Southwesterly line of the 273.183 acre parcel of land, to the mean high tide line of Suisun Bay;

Thence meandering along said mean high tide line the following courses:

- (2) South $5^{\circ} 14' 30''$ West 70.80 feet;
- (3) South $57^{\circ} 32'$ West 307.74 feet, and
- (4) South $62^{\circ} 59'$ East 302.68 feet;
- (5) Thence South $69^{\circ} 36'$ East 138.42 feet to the low water line of Suisun Bay;

Thence meandering along said low water line the following courses:

- (6) South $4^{\circ} 07'$ East 311 feet;
- (7) South $19^{\circ} 18'$ West 516 feet;

EXHIBIT C

- (8) South $52^{\circ} 37'$ West 541 feet;
- (9) South $41^{\circ} 46'$ West 650 feet;
- (10) South $26^{\circ} 20'$ West 398 feet;
- (11) South $62^{\circ} 31'$ West 624 feet;
- (12) South $88^{\circ} 20' 15''$ West 1438.90 Feet to the Easterly line of the 30.00 foot wide strip of land described as Parcel One in the deed to Monsanto Chemical Company, recorded June 30, 1952, in Book 1954, page 245 of said Official Records, said point hereinafter being referred to as Point "A";
- (13) Thence South $61^{\circ} 54' 15''$ West 652.74 feet along said low water line to the Northeasterly line of the 106.09 acre parcel described in the deed to Associated Oil Company recorded March 28, 1913, in Book 201, page 65 of Deeds, and the Northeasterly line of the tract of land described as Parcel Two in the deed to Tide Water Associated Oil Company, recorded December 17, 1941, in Book 635, page 396 of said Official Records;

Thence along said Northeasterly lines and along the Southerly line of the above mentioned Tide Land Survey No. 207 the following courses:

- (14) South $18^{\circ} 15'$ East 1244.83 feet;
- (15) South $36^{\circ} 05'$ East 170.93 feet;
- (16) North $22^{\circ} 51'$ East 316.39 feet, and
- (17) North $55^{\circ} 00'$ East 380 feet to the above mentioned Easterly line of the 30.00 foot wide strip of land to Monsanto Chemical Company, said point hereinafter being referred to as Point "B";
- (18) Thence South $51^{\circ} 48'$ East 3934.18 feet along the Northeasterly line of said 30.00 foot wide strip of land to the above mentioned Northerly line of the 200 foot wide strip of land firstly described in the deed recorded in Book 205, page 141 of Deeds, of said Official Records;
- (19) Thence North $70^{\circ} 25'$ East 2603.38 feet along said Northerly line to the Point of Beginning.

EXCEPTING therefrom that portion of the above mentioned 30.00 foot wide strip of land to Monsanto Chemical Company, the Easterly line being described as follows:

Beginning at Point "A" referred to in Course (12) above;
Thence South $17^{\circ} 19' 30''$ East 1171.38 feet to Point "B"
referred to in Course (17) above, the sidelines of said
30.00 foot wide strip of land to be lengthened or shortened
to terminate in Courses (13 and 17) above.

Containing 391.184 acres, more or less, after deducting
area of excepted 30.00 foot wide strip of land.

PARCEL TWO

All that portion of Tide Land Survey No. 207 in unincorporated
territory of the County of Contra Costa, State of California,
described as follows:

Beginning at the intersection of the Northwesterly line
of said Tide Land Survey No. 207 with the Easterly line
of the 30 foot wide strip of land described as Parcel One
in the deed to Monsanto Chemical Company recorded June 30,
1952 in Book 1954, page 245 of Official Records of said
County, said point being hereinafter referred to as Point "C";

- (1) Thence North $71^{\circ} 51'$ East 103.88 feet and
- (2) North $58^{\circ} 15'$ East 1905.93 feet along said Northwesterly
line;
- (3) Thence South $31^{\circ} 45'$ East 1003.90 feet, leaving said
Northwesterly line, to the low water line of Suisun
Bay;

Thence meandering along said low water line the following
courses:

- (4) South $26^{\circ} 20'$ West 298.86 feet,
- (5) South $62^{\circ} 31'$ West 624 feet and
- (6) South $88^{\circ} 20' 15''$ West 1438.90 feet to said Easterly
line of the 30 foot wide strip of land, said point
being hereinafter referred to as Point "A";
- (7) Thence South $61^{\circ} 54' 15''$ West 652.74 feet along said
low water line to the Northeasterly line to the 106.09
acre parcel described in the deed to Associated Oil
Company recorded March 28, 1913 in Book 201, page
65 of deeds, and the Northeasterly line of the tract
of land described as Parcel Two in the deed to Tide
Water Associated Oil Company recorded December 17,
1941 in Book 635, page 396 of said Official Records:

(8) Thence North $18^{\circ} 15'$ West 540 feet along said Northeasterly lines to said Northwesterly line of Tide Land Survey No. 207.

(9) Thence North $71^{\circ} 51'$ East 655.52 feet along said Northwesterly line to the Point of Beginning.

EXCEPTING therefrom that portion of said 30 foot wide strip of land described in deed recorded in Book 1954, page 245 of Official Records, the Easterly line being described as follows:

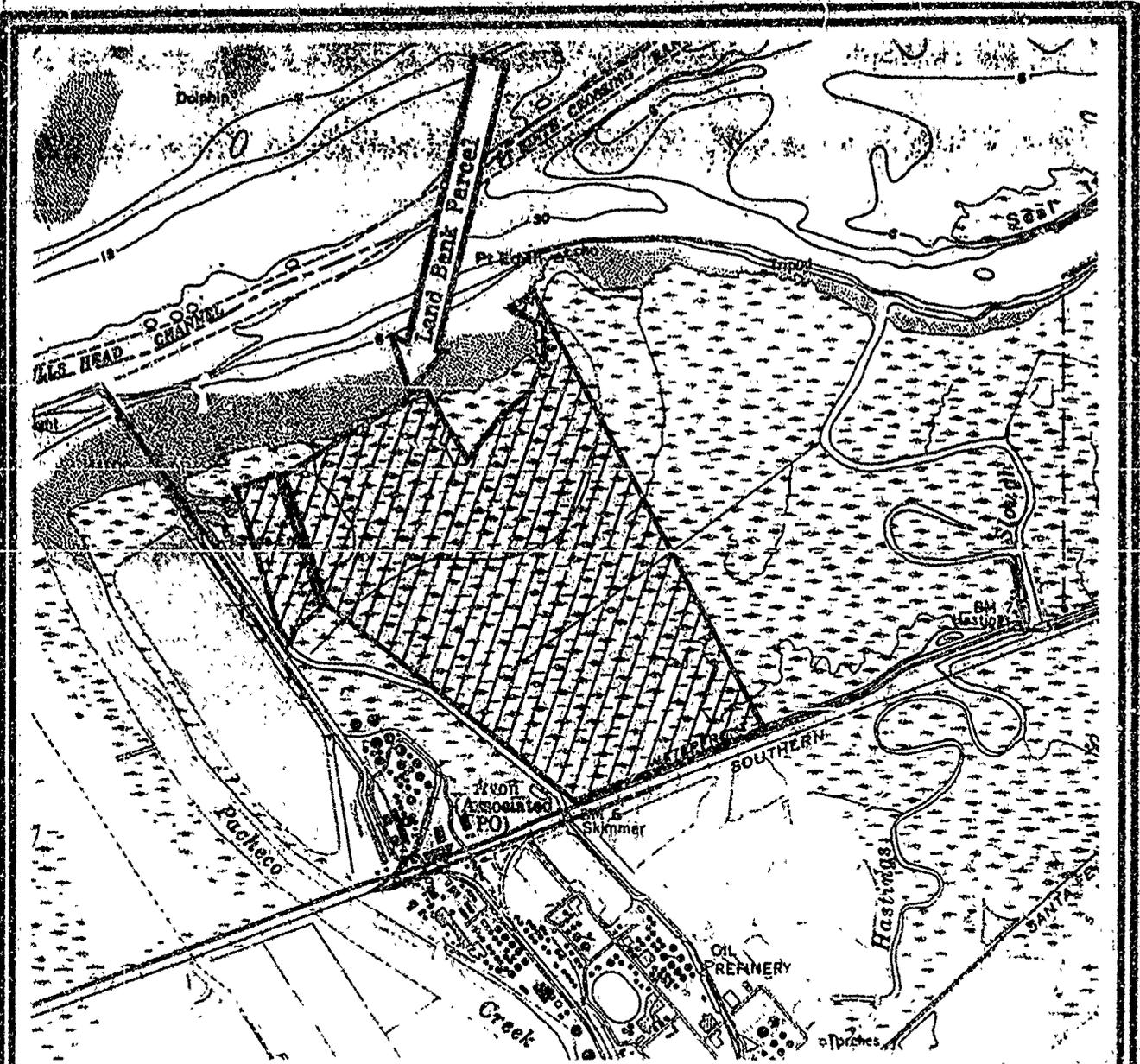
Beginning at Point "C";

Thence South $17^{\circ} 19' 30''$ East 427.27 feet to Point "A", the sidelines of said 30 foot wide strip of land being lengthened or shortened so as to terminate in Courses (7) and (9).

Containing 50.234 acres, more or less, after deducting the area of the excepted 30 foot wide strip of land.

Subject to easements, rights-of-way and restrictions of record.

DESCRIPTION OF LAND BANK PARCEL
W 22121, STATE LANDS COMMISSION
September 3, 1980



Oakland Business Park- American Protective Service
 W 22523

6.6 ± acres (pro-rata equivalent) to State
 0.02 ± miles (pro-rata equivalent) of boundary established

NOTE: Base sheet from USGS Quadrangle PORT
 CHICAGO 1959, photorevised 1968

STATE LANDS COMMISSION

LAND BANK PARCEL PLAT

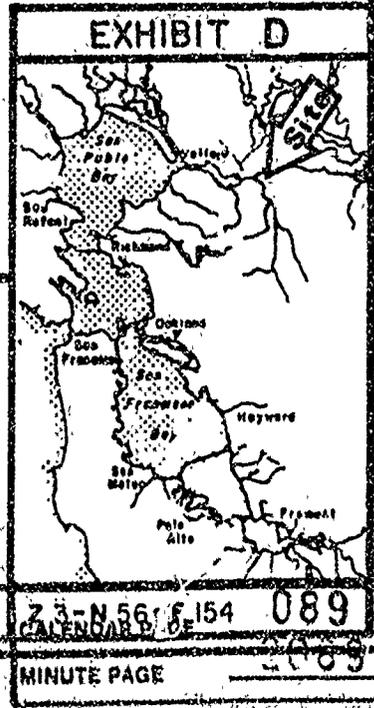
Agreement approved per SLC Minute Item 25 of Sept. 26, 1979. Parcel contains 441 ± acres and has 1.24 ± miles of water boundary.

Prepared by : Plummer

Date: 9/3/80

Title Study: T.P.L - KNUDSON PARCEL

W 22121



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