

MINUTE ITEM

This Calendar Item No. 19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 2
0 at its 8/20/81
meeting.

CALENDAR ITEM

19

8/20/81
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SLL 73
JTO 16

COMPROMISE TITLE SETTLEMENT AND EXCHANGE
AGREEMENT INVOLVING LANDS LOCATED IN THE
CITY OF BENICIA, COUNTY OF SOLANO

INTRODUCTION: The State Lands Commission staff recommends Commission approval of a Compromise Title Settlement and Exchange Agreement with Lincoln Benicia V. Associates involving an approximate 186-acre parcel of land located in the City of Benicia, County of Solano (Settlement Parcel). The proposed agreement contemplates the State patenting its interest in that portion of the property which is primarily dry, (Patent Parcel) in return for a Grant Deed to that portion of the property which is marshland (State Parcel). Control and possession of the State Parcel will then be transferred to the Department of Fish and Game for management as a wildlife habitat.

BACKGROUND AND PRESENT SITUATION: The record owner of the parcel, Lincoln Benicia V. Associates, is a limited partnership, comprised of Lincoln Benicia Inc., the general partner, and Aetna Life Insurance Company as the limited partner. The 186-acre parcel is located in the northern most section of the Benicia Industrial Park in close proximity to Suisun Bay. The parcel is presently undeveloped. However, the planned development on the Patent Parcel will include warehouses, light manufacturing, and office facilities.

The parcel contains 143 acres of dry land and 43 acres of wetlands. The development plan calls for the filling of 5.4 acres of wetlands. To offset this, the Department of Fish and Game has obtained a commitment from the developer to create 6 acres of restored wetland habitat. The proposed Title Settlement calls for the Developer to convey, by Grant Deed to the State Lands Commission, the 6-acre mitigation parcel

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(Non-substantive revision 1/11/82)

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plus the remaining 37 acres of wetlands in return for a State Patent to whatever State interest remains in the parcel to be developed.

The primary source of the State's title claim is the existence of the historic course of Goodyear Slough which covered approximately 2.8 acres of the parcel that is to be developed. This portion of Goodyear Slough is now filled. The State contends that Goodyear Slough was, at the time of California's admission into the Union, a Tidal and Navigable waterway.

SUMMARY OF THE MAIN PROVISIONS OF THE AGREEMENT:

1. The State will Patent to Lincoln Benicia V. Associates its interest in the 143-acre Patent Parcel.
2. Lincoln Benicia V. Associates will convey to the State Lands Commission by Grant Deed, the 43-acre State Parcel.
3. The State will receive title insurance covering the State Parcel in the sum of \$42,000, the cost of which will be born by Lincoln Benicia V. Associates.
4. An escrow will be established for all conveyances called for in The Title Settlement Agreement. Escrow costs will be at the sole expense of Lincoln Benicia V. Associates.

The specific terms and conditions of the settlement are set forth in the proposed form of agreement, a copy of which is on file with the State Lands Commission.

CONCLUSION:

The staff has reviewed and evaluated the title evidence and the various legal principals applicable to this case. It has concluded that the proposed agreement, which in essence exchanges the States interest in 2.8 acres of the Patent Parcel for a grant deed to the 43 acre State Parcel, is a reasonable and compromise solution to this title dispute, as well as meets environmental mitigation requirements.

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It is in compliance with all legal requirements and is within the statutory authority of the State Lands Commission. The proposed settlement also has the enthusiastic support of the Department of Fish and Game, which, upon conveyance of the 43 acres to the State Lands Commission will receive possession and control of the property to manage as a marsh wildlife habitat.

It is anticipated that a quiet title action will be filed for the purpose of judicially confirming the transaction reflected by the Agreement.

AB 884:

N/A.

EXHIBITS:

- A. Plat of Compromise Title Settlement.
- B. Land Description of the 143-acre Patented Parcel which will be cleared of the States interest by State Patent.
- C. Land Description of the 43-acre State Parcel the State will receive by Grant Deed.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE AND DECLARE THAT THE STATE HAS IDENTIFIED THE STATE PARCEL AS LANDS THAT MEET THE REQUIREMENTS OF THE NATURE, QUALITY AND VALUE PRESCRIBED IN SECTION 6307 OF THE PUBLIC RESOURCES CODE AND AGREE TO ACCEPT THE CONVEYANCE OF SAID LANDS TO THE STATE AND CONSENT TO THE RECORDATION THEREOF.
2. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 6307 OF THE PUBLIC RESOURCES CODE THAT THE SUBJECT EXCHANGE OF STATE AND PRIVATE TITLES IS IN THE BEST INTERESTS OF THE STATE AND THAT THE PATENT PARCEL HAS BEEN FILLED AND RECLAIMED AND HAS THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION AND FISHING, IS NO LONGER, IN FACT, TIDELANDS OR SUBMERGED LANDS AND UPON RECORDATION OF THE STATE'S CONVEYANCE PURSUANT TO THE SUBJECT EXCHANGE AGREEMENT SHALL BE FREE FROM THE PUBLIC TRUST FOR COMMERCE, NAVIGATION AND FISHERIES.

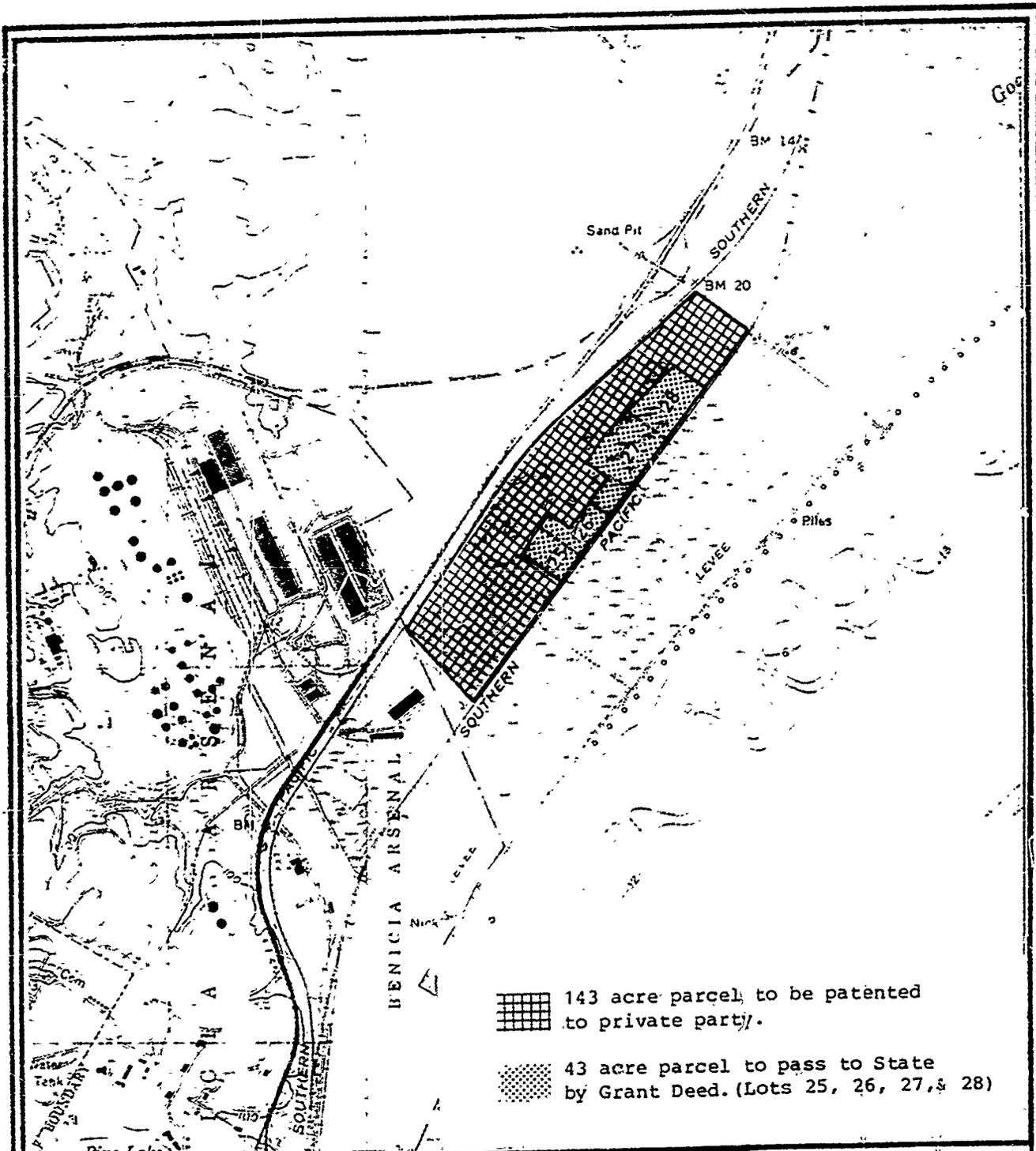
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3. DECLARE AND DETERMINE THAT THE VALUE OF THE PRIVATE INTERESTS IT IS RECEIVING PURSUANT TO THE EXCHANGE OVER AND ABOVE THE SIX ACRES REQUIRED FOR MITIGATION, IS EQUAL TO OR GREATER THAN THE VALUE OF THE STATE'S INTEREST BEING GIVEN UP.
4. AUTHORIZE EXECUTION ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, OF THE PROPOSED SETTLEMENT AND EXCHANGE AGREEMENT IN SUBSTANTIALLY THE FORM ON FILE WITH THE COMMISSION AND OTHER APPROPRIATE TITLE DOCUMENTS, AND DELIVERY OF SAID AGREEMENT AND OTHER DOCUMENTS INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SOLANO.
5. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO EFFECTUATE THE PROPOSED SETTLEMENT INCLUDING PARTICIPATION IN A QUIET TITLE ACTION IN ORDER TO OBTAIN A DECREE CONFIRMING THE PROVISIONS OF THE COMPROMISE TITLE SETTLEMENT AND EXCHANGE AGREEMENT.
6. FIND THAT THE PROPOSED EXCHANGE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE PURSUANT TO 2 CAL. ADM. CODE 2903(d).
7. AUTHORIZE TRANSFER OF POSSESSION AND CONTROL OF THE 43-ACRE STATE PARCEL TO THE STATE DEPARTMENT OF FISH AND GAME TO BE USED BY THEM AS A MARSH WILDLIFE HABITAT.

(Revised 8/18/81)

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STATE LANDS COMMISSION

PLAT OF COMPROMISE
TITLE SETTLEMENT

Prepared by Plummer

Date: 8-12-81 A 4 S. 4

Title Study - Lincoln Property - Benicia

W 22445

EXHIBIT A



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EXHIBIT B

LAND DESCRIPTION

PATENT PARCEL

All of that real property situate in the State of California, County of Solano, City of Benicia, described as follows:

Portion of Parcels 3-1A and 8-1B as shown in Book 19 of Parcel Maps at Page 94, recorded February 14, 1980, in the Office of the Recorder, Solano County, California, more particularly described as follows:

Beginning at the northeast corner of Parcel 3-1B, along the boundary line of said parcel 8-1B, South $36^{\circ}06'30''$ West 1089.63 feet; thence leaving said boundary line, North $51^{\circ}21'48''$ West 553.45 feet; thence South $44^{\circ}43'09''$ West 1264.95 feet to the beginning of a tangent curve concave to the southeast having a radius of 968.00 feet; thence southerly 290.88 feet along said curve through a central angle of $17^{\circ}13'01''$; thence on a tangent line South $27^{\circ}30'08''$ West 240.01 feet; thence South $53^{\circ}53'30''$ East 415.94 feet; thence South $36^{\circ}06'30''$ West 930.00 feet; thence North $53^{\circ}53'30''$ West 372.00 feet; thence South $37^{\circ}52'02''$ West 172.00 feet to the beginning of a tangent curve concave to the southeast having a radius of 1968.00 feet; thence southerly 151.82 feet along said curve through a central angle of $4^{\circ}25'12''$; thence on a tangent line South $33^{\circ}26'50''$ West 337.20 feet; thence South $56^{\circ}33'10''$ East 651.59 feet to the easterly boundary line of said Parcel 8-1B; thence along the boundary line of said Parcel 8-1B the following courses: South $36^{\circ}06'30''$ West 2087.54 feet; North $42^{\circ}58'07''$ West 192.65 feet to the corner of said Parcel 8-1A. Thence along the boundary line of said Parcel 8-1A the following courses: North $42^{\circ}58'07''$ West 1159.85 feet; North $33^{\circ}26'50''$ East 1017.77 feet to the corner of said Parcel 8-1B. Thence along the boundary line of said Parcel 1B the following courses: North $33^{\circ}26'50''$ East 1266.39 feet to the beginning of a non-tangent curve concave to the southeast having a radius of 11,359.17 feet, having a radial line bearing North $56^{\circ}39'25''$ West; thence northeasterly 123.90 feet along said curve through a central angle of $0^{\circ}37'30''$ to the beginning of a non-tangent curve concave to the southeast having a radius of 5629.50 feet, having a radial line bearing North $55^{\circ}55'35''$ West; thence northeasterly 1232.01 feet along said curve through a central angle of $12^{\circ}32'20''$ to the beginning of a non-tangent curve concave to the southeast having a radius of 11,359.17 feet, having a radial line bearing North $43^{\circ}16'55''$ West; thence northeasterly 123.91 feet along said curve through a central angle of $0^{\circ}37'30''$; thence on a non-tangent line North $47^{\circ}14'20''$ East 2558.73 feet; thence South $51^{\circ}51'56''$ East 831.65 feet to the point of beginning.

Containing 142.198 acres more or less.

END OF DESCRIPTION

REVIEWED 5-12-81 BY JARFY A. WELDON, LS 3752, TITLE SETTLEMENTS SECTION

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EXHIBIT C

LAND DESCRIPTION

STATE PARCEL

Parcel 8-18 real property situate in the State of California, County of Solano City of Benicia, described as follows:

Portion of Parcel 8-18 as shown on that certain Parcel Map filed February 11, 1981, Book 19 of Parcel Maps at Page 4, Office of the Recorder, Solano County, being Parcels 25, 26, 27, and 28 as shown on Fleetside Industrial Park Tentative Map with Revision Number 1, dated April 27, 1981, more particularly described as follows:

PARCEL 25

COMMENCING at the northeast corner of said parcel 8-18, thence South $36^{\circ}06'30''$ West 4007.28 feet to the TRUE POINT OF BEGINNING; thence South $36^{\circ}06'36''$ West 396.00 feet; thence North $56^{\circ}33'10''$ West 651.59 feet; thence North $33^{\circ}26'50''$ East 337.20 feet to the beginning of a tangent curve concave to the southeast having a radius of 1968.00 feet; thence northeasterly 58.38 feet along said curve through a central angle of $1^{\circ}41'59''$; thence on a non-tangent line South $56^{\circ}33'10''$ East 669.11 feet to the true point of beginning.

Containing 6.000 acres more or less.

PARCEL 26

COMMENCING at the northeast corner of said parcel 8-18, thence South $36^{\circ}06'30''$ West 3308.00 feet to the TRUE POINT OF BEGINNING; thence South $36^{\circ}06'30''$ West 699.28 feet; thence North $56^{\circ}33'10''$ West 669.11 feet to a point on a curve concave to the southeast, having a radial line bearing South $54^{\circ}51'11''$ East, a radius of 1968.00 feet; thence northeasterly 93.44 feet along the arc of said curve through a central angle of $2^{\circ}43'13''$; thence North $37^{\circ}52'02''$ East 172.00 feet; thence South $53^{\circ}53'30''$ East 372.00 feet; thence North $36^{\circ}06'30''$ East 465.00 feet; thence South $53^{\circ}53'30''$ East 290.46 feet to the true point of beginning.

Containing 6.921 acres more or less.

PARCEL 27

COMMENCING at the northeast corner of said parcel 8-18, thence South $36^{\circ}06'30''$ West 1950.00 feet to the TRUE POINT OF BEGINNING; thence South $36^{\circ}06'30''$ West 1358.00 feet; thence North $53^{\circ}53'30''$ West 290.46 feet; thence North $36^{\circ}06'30''$ East 465.00 feet; thence North $53^{\circ}53'30''$ West 415.94 feet; thence North $27^{\circ}30'08''$ East 240.01 feet; thence 190.88 feet along the arc of a tangent curve concave to the southeast having a radius of 968.00 feet; thence North $44^{\circ}43'09''$ East 37.20 feet; thence South $53^{\circ}53'30''$ East 372.00 feet to the true point of beginning.

Containing 6.373 acres more or less.

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PARCEL 28

COMMENCING at the northeast corner of said parcel 8-1B, thence
South $35^{\circ}06'30''$ West 1029.63 feet to the TRUE POINT OF BEGINNING;
thence South $35^{\circ}06'30''$ West 860.37 feet; thence North $53^{\circ}53'30''$
West 886.89 feet; thence North $44^{\circ}43'09''$ East 894.87 feet; thence
South $51^{\circ}21'48''$ East 553.45 feet to the true point of beginning.

Containing 12.43 acres more or less.

END OF DESCRIPTION

REVISED 8-12-81 BY TITLE SETTLEMENTS SECTION AND REVIEWED
BY GARRY A. WELDON, LS 3752

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