

MINUTE ITEM

This Calendar Item No. 32  
was approved as Minute Item  
No. 32 by the State Lands  
Commission by a vote of 3  
0 at its 9-29-81  
meeting.

MINUTE ITEM

9/29/81  
W 22798  
Valentine

32. LAND BANK AGREEMENT

During consideration of Calendar Item 32 attached, William F. Northrop, Executive Officer, read into the record an amendment as set forth below in Resolution No. 4.

Upon motion duly made and carried, the following resolution was approved by a vote of 3-0:

THE COMMISSION:

1. FINDS THAT: a) THE LAND BANK AGREEMENT IS ENTERED INTO PURSUANT TO THE AUTHORITY AND JURISDICTION OF THE COMMISSION UNDER DIVISION 6 OF THE P.R.C.; b) THAT THE LAND BANK AGREEMENT IS NECESSARY TO AND AN INTEGRAL FIRST STEP IN THE SETTLEMENT OF TITLE DISPUTES IN LIEU OF LITIGATION; c) THE VALUE AGREED UPON IS NO GREATER THAN THE MARKET VALUE OF THE PRIVATE TITLES WITHIN THE LAND BANK PARCEL FREE AND CLEAR OF ANY STATE OWNERSHIP THEREIN; d) THAT THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND SHOULD BE APPROVED; AND e) THE AGREEMENT IS NECESSARY TO SETTLEMENT OF TITLE AND BOUNDARY DISPUTES IN LIEU OF LITIGATION AND THE PROVISIONS OF THE CEQA ARE THEREFORE INAPPLICABLE.
2. APPROVES AND AUTHORIZES THE EXECUTION OF AND RECORDATION OF THE LAND BANK AGREEMENT ON BEHALF OF THE STATE IN SUBSTANTIALLY THE FORM OF THE AGREEMENT NOW ON FILE WITH THE COMMISSION.
3. AUTHORIZES THE STATE LANDS COMMISSION 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 PROCEEDING BROUGHT CONCERNING THE ABOVE TRANSACTION.
4. CONDITIONS APPROVAL OF THE LAND BANK AGREEMENT ON A GRANT BY THE CITY OF HAYWARD TO THE STATE OF CALIFORNIA A FORTY FEET WIDE NON-EXCLUSIVE PUBLIC ACCESS EASEMENT TO THE LAND BANK PARCEL FROM BREAKWATER AVENUE ACROSS ADJACENT CITY-OWNED PROPERTY.

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CALENDAR PAGE

MINUTE PAGE

1958

## LAND BANK AGREEMENT

The proposed Land Bank Agreement, entered into pursuant to the State Lands Commission's jurisdiction and authority to administer sovereign lands under Division 6 of the P.R.C., will provide the State with an option to later acquire undivided interests as sovereign lands (through third parties as part of other title settlements, or by way of the mitigation requirements of other public agencies) over a two-year period, within about 77 acres of wetlands in the City of Hayward, Alameda County. The parcel is presently owned by the City of Hayward as proprietary land of the City.

The Land Bank parcel is described in the attached Exhibit "A" and is depicted on the attached Exhibit "B". It is located near San Francisco Bay just north of Highway 92 and southwest of the Hayward sewage treatment plant. The parcel consists mainly of open space wetland with some open water. Parent title stems from a Swamp and Overflowed patent.

Consistent with the wildlife and other environmental values within the parcel, the East Bay Regional Park District wishes to, and it is expected that it will, lease the undivided interests within the parcel from the State Lands Commission as the parcel is acquired. As no title passes under the Land Bank Agreement, no title insurance has yet been obtained. The Land Bank Agreement will provide that a policy of title insurance must be obtained prior to acceptance of the conveyance by the State. A preliminary title report has been reviewed by staff.

The price of the land bank parcel will be established for the term of the agreement at \$117,260.08, which is equivalent to about \$1,509.14 per acre. The purchase price for undivided interests, as they are acquired, will be proportional to the total price, depending upon the percentage of interest acquired. For example, 25% of the purchase price of \$117,260.08 would result in a 25% undivided interest.

Should the entire parcel not be acquired during the two-year period, or extension thereof, the parties agree to a partition based on the percentage interest on an acre-for-acre basis, the boundary to be located on a north-south line and with the State portion to be westerly of the line.

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CALENDAR ITEM NO. 32 (CONTD)

The land bank parcel may be subject to an existing, but undefined, State ownership. The staff has appraised the parcel and has evaluated the extent of the probable State interest and has concluded that the private ownership, over and above any State ownership is of a value equal to or greater than \$17,260.08. The Agreement will provide that the State takes title to the property in its sovereign capacity as tidelands and submerged lands.

Minerals, oil and gas, etc. will pass to the State.

The land bank is an integral and essential first step to the completion of future compromise title settlements concerning probable State sovereign land ownership in other estuary and water related parcels. The agreement is intended to be used when title settlements require an exchange whereby third parties require exchange land to be conveyed to the State. The land bank establishes available land which the other parties can purchase and transfer to the State as part of the title settlement.

The need for such title settlements results from the fact that the nature and extent of State ownership of sovereign interests in vast areas located within or along tidal/navigable waterways and estuaries of the State are uncertain, have not been resolved by agreement or court decree, and are the subject of bona fide disputes concerning the law and evidence between the State and other parties claiming ownership.

The State Lands Commission program of vigorous and efficient settlement of these title disputes by settlements in lieu of litigation in compromise of the legal and evidentiary questions results in substantial public benefits, including:

1. Avoidance of the substantial costs, delays and uncertainties of litigation;
2. Increased ability on the part of the State Lands Commission to protect the public property rights in performance of its guardianship responsibilities;
3. Preservation of substantial wetlands for future generations as tide and submerged lands subject to the public trust;
4. Simplification and increased efficiency of sovereign land management, including knowledge of the exact location

COMMISSION REPORT NO. 32 (CONT'D)

of property lines required for the leasing, trespass, mineral, etc. programs;

5. Facilitation of construction and development on, and increased tax rolls of the parcels cleared in private ownership.

If approved, this will constitute the third Land Bank Agreement entered into by the State Lands Commission. The other two land banks have been acquired by the State Lands Commission in settlement of disputed title questions.

The agreement will be subject to the approval of the Attorney General.

The staff believes that the Agreement is in the best interests of the State and recommends its approval.

EXHIBITS:           A. Legal Description.  
                      B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT: a) THE LAND BANK AGREEMENT IS ENTERED INTO PURSUANT TO THE AUTHORITY AND JURISDICTION OF THE COMMISSION UNDER DIVISION 6 OF THE P.R.C.; b) THAT THE LAND BANK AGREEMENT IS NECESSARY TO AND AN INTEGRAL FIRST STEP IN THE SETTLEMENT OF TITLE DISPUTES IN LIEU OF LITIGATION; c) THE VALUE AGREED UPON IS NOT GREATER THAN THE MARKET VALUE OF THE PRIVATE TITLES WITHIN THE LAND BANK PARCEL FREE AND CLEAR OF ANY STATE OWNERSHIP THEREIN; d) THAT THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND SHOULD BE APPROVED; AND e) THE AGREEMENT IS NECESSARY TO SETTLEMENT OF TITLE AND BOUNDARY DISPUTES IN LIEU OF LITIGATION AND THE PROVISIONS OF THE CEQA ARE THEREFORE INAPPLICABLE.
2. APPROVE AND AUTHORIZE THE EXECUTION OF AND RECORDATION OF THE LAND BANK AGREEMENT ON BEHALF OF THE STATE IN SUBSTANTIALLY THE FORM OF THE AGREEMENT NOW ON FILE WITH THE COMMISSION.
3. AUTHORIZE THE STATE LANDS COMMISSION 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 PROCEEDING BROUGHT CONCERNING THE ABOVE TRANSACTION.

## EXHIBIT "A"

LAND DESCRIPTION

All that certain real property in the Township of Eden, County of Alameda, State of California, described as follows:

A portion of the land conveyed to the City of Hayward by deed dated June 19, 1978 and recorded August 3, 1978 in Reel 5516 of Official Records of Alameda County, Image 237, (78-148844), described as follows:

COMMENCING at the most northern corner of said land, being the most eastern corner of the 235 acre, more or less, parcel of land conveyed to the City of Hayward by Deed dated May 21, 1965 and recorded September 24, 1965 in Reel 1604 of Official Records of Alameda County, Image 694, (AX 132369), said corner being marked by a bolt shown on Record of Survey No. 508, filed in Book 3 of Record of Surveys at Page 32, in the Office of the Alameda County Recorder; run thence southeasterly along the general eastern line of said land, (78-148844), 914.22 feet to an angle point therein marked by a "Found Concrete Monument per R/S - 3/32" shown on said Record of Survey No. 508, said point being the POINT OF BEGINNING of this description; and running thence southwesterly parallel with the southeastern line of said 235 acre parcel of land S 66° 16' 58" W 993.54 feet, to the northern line of the southeast 1/4 of the northeast 1/4 of Section 36, Township 3 South, Range 3 West, Mount Diablo Meridian; thence West along last said line 350.00 feet, to the western line of said southeast 1/4, being the western line of said land (78-148844); thence South along last said line 2640.00 feet to the southern line of said land; thence East along last said line 800.00 feet; thence N 45° E 650.00 feet to a line drawn South from the actual point of beginning; thence North 2580.00 feet to the point of beginning

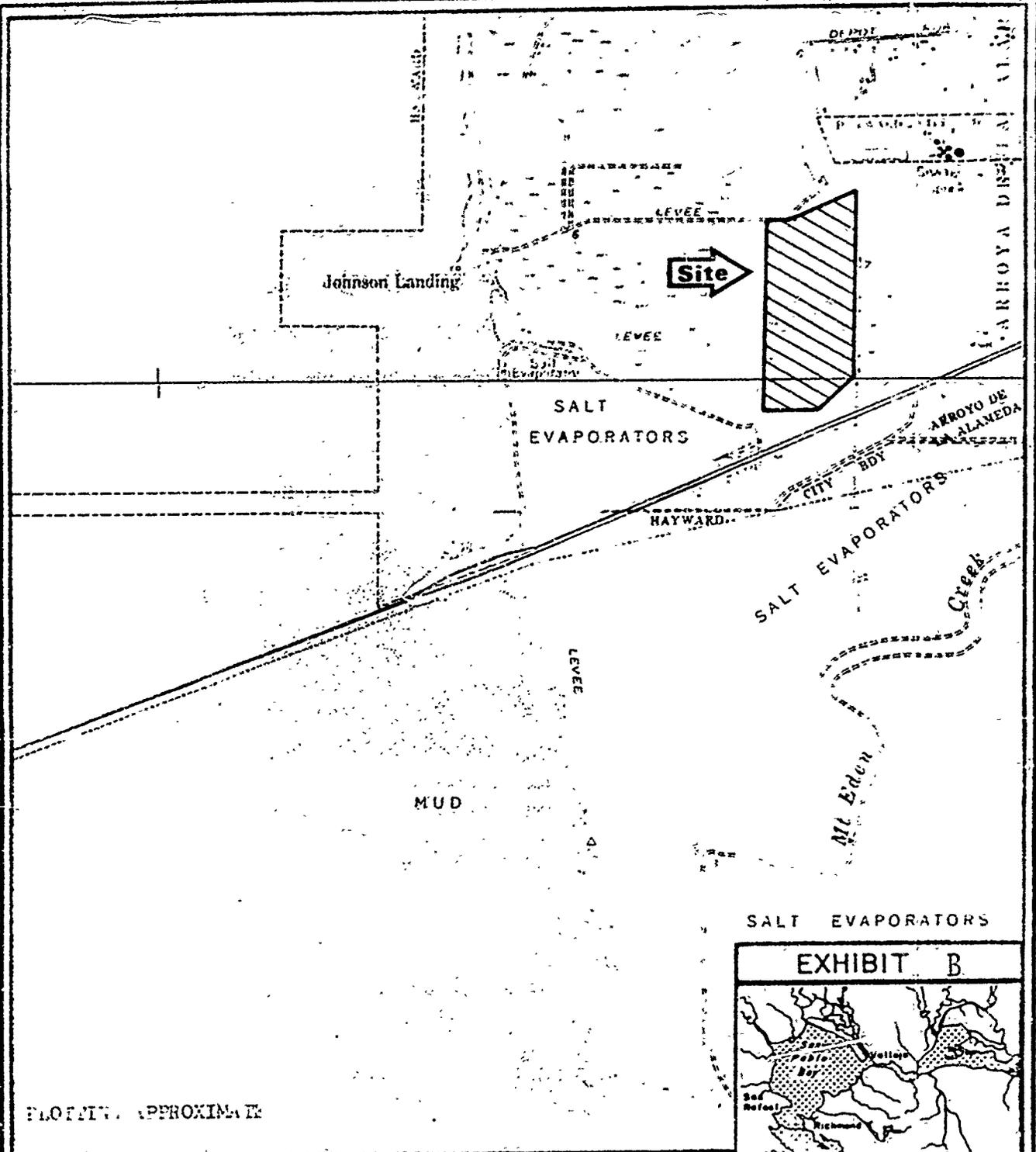
Containing 77.7 acres, more or less.

END OF DESCRIPTION

PREPARED SEPTEMBER 11, 1981 BY GARRY A. WELDON, L.S. 3752

(Added 9/25/81)

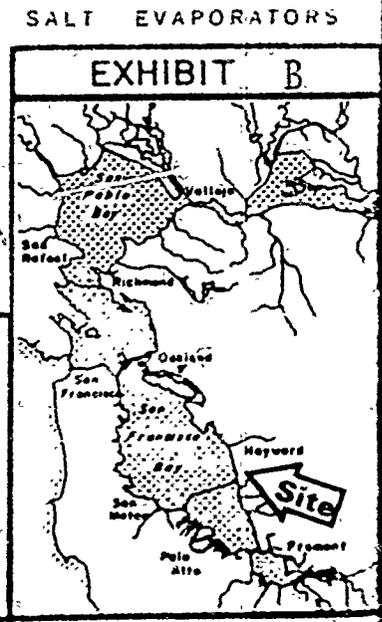
CALENDAR PAGE	147
MINUTE PAGE	1962



FLOPPY APPROXIMATE

STATE LANDS COMMISSION  
**PORTION OF U.S.G.S. QUADRANGLES  
 SAN LEANDRO, REVISED 1980 &  
 REDWOOD POINT, REVISED 1980**

Prepared by J. W. [unclear] Date [unclear]  
 Title Study [unclear]



(Added 9/25/81)