

MINUTE ITEM

This Calendar Item No. 36
was approved as Minute Item
No. 36 by the State Lands
Commission by a vote of 3
to 0 at its 12/17/81
meeting.

CALENDAR ITEM

36

12/17/81
W 22445
R Ludlow
SIL 73

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

BACKGROUND:

At its August 20, 1981 meeting the State Lands Commission approved 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. Pursuant to the agreement the State was to have received a 43-acre parcel of marsh land which in turn was to have been turned over to the Department of Fish and Game for management as a marsh wildlife habitat.

The conveyance to the State was to have been by grant deed, free and clear of all liens and encumbrances. The entire exchange transaction was scheduled to be completed by December 31, 1981. It now appears that it will be impossible to complete this exchange within the time allowed.

PRESENT SITUATION:

Lincoln Benicia V Associates has informed the Commission staff that they are not able to convey the 43-acre exchange parcel to the State free and clear of all liens and encumbrances. When Lincoln Benicia purchased the property they gave the seller a note secured by a deed of trust covering the entire 186-acre parcel. Despite Lincoln Benicia's best efforts the seller will not release the 43-acre exchange parcel from the deed of trust. The note which the deed of trust secures may not be paid off until the summer of 1984.

In order to go forward with the exchange Lincoln Benicia has agreed to give the State immediate possession of the 43-acre

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exchange parcel. When the deed of trust can be removed Lincoln Benicia will convey to the State, by grant deed, unencumbered title to the 43-acre exchange parcel and the State in turn will patent its interest in the remaining land to Lincoln Benicia. The exchange of conveyances will take place no later than July 1, 1984.

AB 884

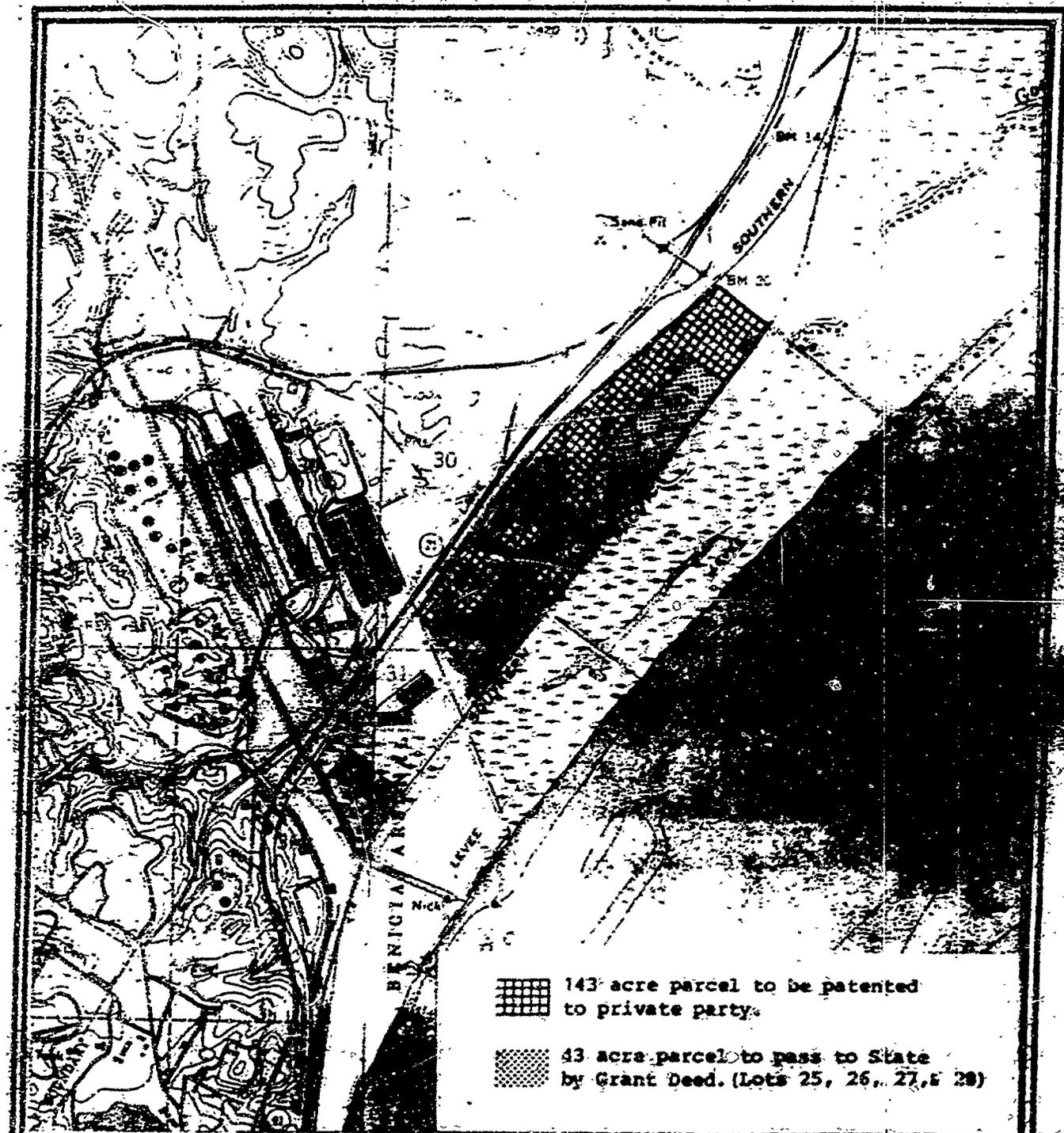
N/A.

EXHIBITS: A. Plat of Compromise Title Settlement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE EXECUTION ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, OF A MODIFIED SETTLEMENT AND EXCHANGE AGREEMENT PROVIDING FOR THE STATE TO TAKE IMMEDIATE POSSESSION OF THE 43-ACRE EXCHANGE PARCEL AND FOR THE COMPLETION OF THE EXCHANGE AND THE RECORDATION OF ALL CONVEYANCES NO LATER THAN JULY 1, 1984.
2. AUTHORIZE THE IMMEDIATE RECORDATION OF THE MODIFIED SETTLEMENT AND EXCHANGE AGREEMENT IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SOLANO.
3. AUTHORIZE THE RECORDATION OF THE PATENT CALLED FOR IN THE AGREEMENT UPON LINCOLN BENICIA'S CONVEYANCE TO THE STATE, NO LATER THAN JULY 1, 1984, OF TITLE TO THE 43-ACRE EXCHANGE PARCEL FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES.
4. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO EFFECUATE THE PROPOSED SETTLEMENT INCLUDING PARTICIPATION IN A QUIET TITLE ACTION IN ORDER TO OBTAIN A DECREE CONFIRMING THE PROVISIONS ON THE COMPROMISE TITLE SETTLEMENT AND EXCHANGE AGREEMENT.
5. FIND THAT THE PROPOSED MODIFIED 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).
6. 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.

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-  143 acre parcel to be patented to private party.
-  43 acre parcel to pass to State by Grant Deed. (Lots 25, 26, 27, & 29)

STATE LANDS COMMISSION

PLAT OF COMPROMISE
TITLE SETTLEMENT

EXHIBIT A



Prepared by Plummer Date 6-12-81 A 4 5 4

Title Study Lincoln Property - Benicla W 22445

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