MINUTE ITEM

This Calendar Item No. 48 was approved as Minute Item No. 48 by the State Lands Commission by a vote of 2 to 0 at its 2/9/82 meeting.

CALENDAR ITEM

48

1/28/82
W 22680
Valentine
SLL 76

COMPROMISE TITLE SETTLEMENT

A title dispute exists between the State in its sovereign capacity and Manuel Vela concerning State private ownership of a 33 X 80 foot parcel of real property located in Union City, Alameda County. The property is referred to herein as the subject parcel and is described and depicted on the attached Exhibits "A" and "B".

Mr. Vela is the owner of record of the subject parcel and contends that whatever State interest may once have existed therein has been extinguished.

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:

1. The subject parcel lies entirely or substantially within the banks of the historic bed of Alameda Creek;

2. In a natural state that portion of Alameda Creek where the subject parcel is located was a tidal and navigable waterway;

3. No patent or other document of transfer purporting to convey the State's interest in the subject parcel was ever executed by State officials and the parcel was not within any confirmed rancho;

4. Alameda Creek in the area where the subject parcel is located has been filled for many years cutting the parcel off from any waterway and the subject parcel has been improved by construction of a single family residence;

The staff is of the opinion that the title evidence and applicable legal principles lead to the conclusion that the State in its sovereign capacity is the owner of some public trust right, title or interest in the subject parcel. The exact nature and extent of such trust interest and of the State's right to possession of the subject parcel, if the interests are proven, are, however, subject to uncertainty and dispute.

A 15

S 8

LAND BANK PARCEL:

By Commission Item 32 of the September 29, 1981 meeting, the Commission approved a Land Bank Agreement pursuant to which the City of Hayward will convey to the State about 77 acres of historic wetlands, or undivided interests therein, along San Francisco Bay for a total purchase price of $117,206.08 or about $1,508 per acre.

PROPOSED SETTLEMENT:

The private party has offered to resolve this 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. The agreement sets forth the specific terms of the proposal. A summary of the principal terms follows:

1. Mr. Vela will purchase from the City of Hayward for the purchase price of $2,550 fee title to an undivided percentage interest in the Land Bank Parcel. This interest is to be conveyed by the City of Hayward to the State in its sovereign capacity as tidelands and submerged lands held under the public trust.

2. In exchange for the above conveyance to the State, the State will convey all its right, title or interest in the subject parcel to Mr. Vela.

3. The agreement will be effective on recordation.

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 $2,550 is equal to or greater than the value of the State's interest in the subject parcel.

AB 884: N/A.

EXHIBITS: A. Land Description.
B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR THE LAND BANK, IS IN THE BEST INTERESTS OF THE STATE:

   A. FOR THE IMPROVEMENT OF NAVIGATION;

   B. AID IN RECLAMATION;

   C. FOR FLOOD CONTROL;

   D. ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND;

   E. PROTECTION, PRESERVATION AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS, PUBLIC ACCESS THERETO AND PUBLIC USE THEREOF PURSUANT TO THE PUBLIC TRUST.

2. FIND 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.

3. 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 P.R.C., AS WELL AS THE OTHER PROVISIONS OF DIV. 6 OF THE P.R.C., AND IS CONSISTENT WITH THE STATE'S POWER TO RESOLVE AND SETTLE A CONTROVERSY IN LIEU OF LITIGATION; THAT ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PUBLIC TRUST AND THAT THE PUBLIC TRUST MAY BE TERMINATED THEREON.

4. FIND AND DETERMINE THAT SETTLEMENT OF THIS TITLE DISPUTE IN LIEU OF LITIGATION IS NOT A PROJECT WITHIN THE REQUIREMENTS OF CEQA.

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

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

   B. A PATENT CERTIFICATE AND A PATENT OF THE SUBJECT PARCEL IN ALAMEDA COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST.

   C. A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF THE CONVEYANCE TO THE STATE OF THE UNDIVIDED PERCENT FEE INTEREST IN THE LAND BANK PARCEL IN ALAMEDA COUNTY, CALIFORNIA, AS REAL PROPERTY OF THE LEGAL CHARACTER OF TIDELANDS AND SUBMERGED LANDS, OWNED BY THE STATE BY REASON OF ITS SOVEREIGNITY PURSUANT TO THE PUBLIC TRUST.

6. 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 THIS COMPROMISE TITLE SETTLEMENT AGREEMENT; TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

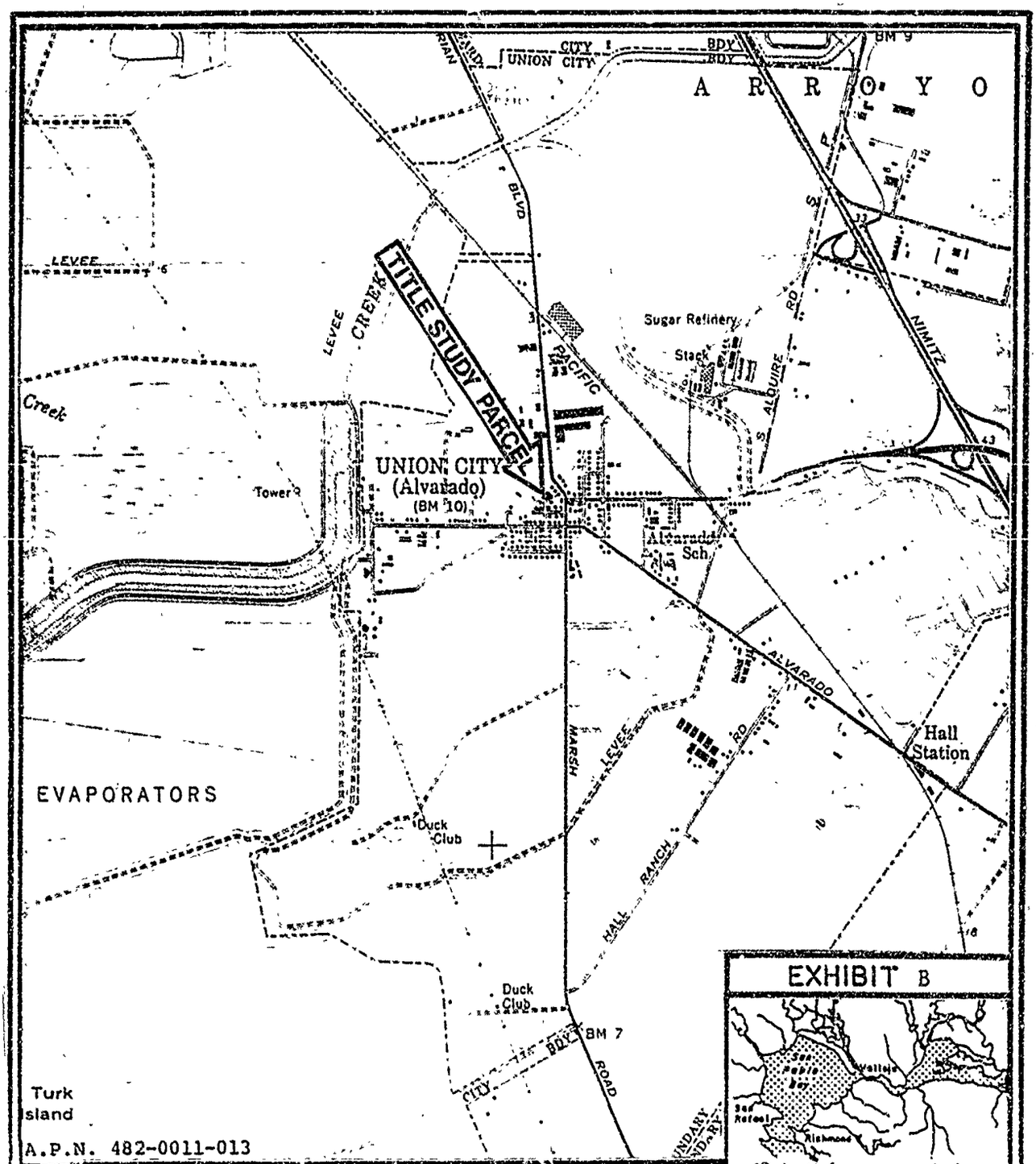
EXHIBIT A

LAND DESCRIPTION

All that parcel of land in the City of Union City, County of Alameda, State of California, described as follows:

Commencing at a point on the Northern line of Maiden Lane, 30 feet wide, distant thereon North 89° 59' 10" West (said bearing used for this description) 385.11 feet from the Western line of Union City Boulevard, 60 feet wide; thence North 0° 00' 50" East 25.16 feet to the Southwestern corner of the land thirdly described in the Deed to V. Naharra, et ux., recorded July 12, 1938, Book 3631 OR, page 253, (II/33208); thence on the Northwestern line of said land, North 40° 16' East 206.97 feet to the actual point of beginning; thence along said Northwestern line, North 40° 16' East 88.03 feet; thence South 48° 44' East 33.15 feet; thence South 39° 37' 52" West 89.22 feet to a line drawn South 46° 46' 41" East from the point of beginning; and thence North 46° 46' 41" West 34.18 feet to the point of beginning.

END OF DESCRIPTION



STATE LANDS COMMISSION

EXHIBIT PLAT

PORTION OF
U.S.G.S. QUADRANGLE
NEWARK 1959
PHOTOREVISED 1968 & 1973

Prepared by: A.A. Shimonauff Date: 5-5-81 A: 15 S: 8

Title Study: Union City - Vela W 22680 Z3 -N 40-E 154

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