MINUTE ITEM

This Calendar Item No. 37 was approved as Minute Item No. 37 by the State Lands Commission by a vote of 2 to 0 at its 3/23/82 meeting.

CALENDAR ITEM

37

3/23/82
W 22611
Cook

LAND BANK AGREEMENT
(TPL - SUISUN)

LAND BANK PARCEL:

The real property (referred to as the LAND BANK PARCEL) which is the subject of the proposed LAND BANK AGREEMENT consists of about 40 acres, and is located within Solano County California. The LAND BANK PARCEL is described in the attached DESCRIPTION OF LAND BANK PARCEL and is depicted on the attached PLAT OF LAND BANK PARCEL.

The Land Bank Parcel is unimproved, contains marsh grass and other vegetation, has been cut-off from the tidal waters of nearby Suisun Slough, is not subject to the daily tides, and constitutes valuable wildlife habitat. It is located adjacent to Suisun City which is to the north and east and is immediately north of other State lands recently acquired by a title settlement. It was included within the perimeter description of the States Swamp and Overflowed Lands Patent of Swamp and Overflowed Surveys No. 142 and 1, with Certificates of Purchase dated May 3, 1859 and January 10, 1860, respectively.

The Land Bank Parcel was the subject of Cease and Desist Orders of BCDC, resulting from unauthorized fill having been placed on the parcel. The fill has been removed and the requirements of BCDC now have been met.

TITLE SETTLEMENTS PROGRAM:

The need for Compromise 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 and/or navigable waterways and estuaries of the State is uncertain, has not been resolved by agreement or court

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decree, and is the subject of bona fide disputes concerning the law and the 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 furtherance of its guardianship responsibilities;

3. Preservation of substantial wetlands for future generations;

4. Simplification of, and increased efficiency in State Lands Commission sovereign land management, including knowledge of titles and the location of property lines required for the leasing, trespass, mineral and other programs;

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

6. Elimination of disputes concerning the existence or non-existence of State and/or private ownership in parcels where such ownership would otherwise remain unresolved and in doubt;

7. Removal of clouds on title resulting from such unresolved ownership questions by compromise settlements found by the State Lands Commission to be in the State's best interest and meeting requirements of law in furtherance of the public trust.

8. Establishment of clear State record ownership of parcels which enhance and benefit the public trust, while permitting development or other use of parcels no longer needed for public trust purposes.

THE PROBLEM: It often becomes possible to resolve State and/or private ownership disputes by Compromise Title Settlements, except for the inability of the other parties to locate, acquire and convey exchange parcels to the State which meet the legal requirements of equal value and public trust enhancement.

THE LAND BANK SOLUTION:

The Land Bank Agreement will provide the State with the option to acquire undivided interests from the Trust for Public Lands (TPL) in the Land Bank Parcel upon payment to TPL of the purchase price by third parties as part of the consideration for exchanges in compromise settlement of disputed titles in other parcels.

The Land Bank Agreement permits transactions whereby third parties pay TPL for undivided interests in the Land Bank Parcel, on condition that TPL make a conveyance of such interest to the State at an agreed upon value, in exchange for a State conveyance to the third parties of other parcels as part of approved Compromise Settlements of State claims of ownership in the other parcels.

The land bank is an integral and essential first step to the completion of many future compromise title settlements concerning probable State sovereign land ownership in other estuary and water-related parcels by establishing available land which the other parties can purchase and exchange to the State as part of the title settlement.

Advance acquisition of suitable Land Bank parcels by TPL for conveyance to the State at an agreed upon value will permit completion of such settlements in an expeditious manner

at substantial savings to the State and to the other parties to the settlement. Such public-spirited action by TPL results in substantial benefits to the State. Each title settlement requiring a conveyance out of the Land Bank must be submitted to the Commission for its consideration.

MISCELLANEOUS PROVISIONS:

Consistent with the wildlife and other environmental values within the parcel, the California Department of Fish and Game wishes to, and it is expected that it will, lease the undivided interests within the Land Bank Parcel from the State Lands Commission as it is acquired.

As no title passes under the Land Bank Agreement, no title insurance is being obtained at this time. However, a preliminary title report has been reviewed for the parcel. Title insurance will be acquired for each undivided interest before conveyance of such interest to the State by TPL.

The State Lands Commission staff has made an appraisal of the Land Bank Parcel and has concluded that its market value is in the total sum of $65,000 at $1,500 per acre.

The State Lands Commission staff has reviewed the evidence bearing an ownership of the Land Bank Parcel and has concluded that the evidence of any State right, title, or interest therein is insufficient to require any deduction from the appraised value.

The price of the Land Bank Parcel will be established for the term of the agreement at $65,000, which is equivalent to about $1,500 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, the sum of $16,250 would result in a 25 percent undivided interest in the LAND BANK PARCEL passing to the State.

Should the entire parcel not be acquired during the period of the agreement, 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 with the State portion to be east of the line.

The Trust for Public Land is reserving the right to withhold its consent to exercise the option for specific transactions if the purposes of any such transaction is not consistent with TPL's objectives.

Minerals, oil and gas, etc. will pass to the State. Title to the Land Bank Parcel will be accepted by the State as sovereign tide and submerged lands.

If approved, this will constitute the second Land Bank Agreement between the State Lands Commission and TPL. The first agreement was approved by State Lands Commission Minute Item 21 on September 26, 1979. That agreement authorized acquisition of the 441-acre Point Edith parcel in Contra Costa County along the south shoreline of Suisun Bay. The Point Edith Parcel has now been fully acquired as a result of a number of title settlements and mitigation requirements, as well as by the donation by TPL of substantial interests in the parcel. The parcel is now being managed by the Department of Fish and Game under a lease from the State Lands Commission.

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 approval thereof.

AB 884: N/A.

EXHIBITS: A. Description of Land Bank Parcel.
B. Plats of Land Bank Parcel.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE LAND BANK AGREEMENT IS ENTERED INTO PURSUANT TO THE AUTHORITY AND JURISDICTION OF THE COMMISSION UNDER DIV. 6 OF THE P.R.C.; THAT IT IS NECESSARY TO AND IS AN INTEGRAL FIRST STEP IN THE SETTLEMENT OF TITLE DISPUTES IN LIEU OF LITIGATION; THAT 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; AND THAT THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND SHOULD BE APPROVED.

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 PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.

4. FIND THAT THE AGREEMENT IS NECESSARY TO SETTLEMENT OF TITLE AND BOUNDARY DISPUTES IN LIEU OF LITIGATION AND THE PROVISIONS OF CEQA AND GUIDELINES PROMULGATED PURSUANT THERETO ARE INAPPLICABLE.

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EXHIBIT A
DESCRIPTION OF LAND BANK PARCEL

W22611

A portion of Sections 35 and 36, Township 5 North, Range 2 West, M.D.B. & M., City of Suisun City, County of Solano, State of California, more particularly described as follows:

Commencing at the intersection of the easterly line of the Southern Pacific Railroad right-of-way and the southerly line of Cordelia Street (County Road No. 76); thence along said easterly line South 22°21'23" West, 324.00 feet more or less to the TRUE POINT OF BEGINNING and continuing along said easterly line South 22°21'23" West, 1625.00 feet more or less to the Northerly line of a Pacific Gas and Electric Company easement recorded July 17, 1972, in Book 1763 of Official Records, Solano County, at page 535; thence along said northerly line South 88°49'18" East, 930.5 feet more or less; thence continuing along said northerly line North 80°35'46" East 668.46 feet more or less; thence North 10°32'23" West, 360.25 feet more or less to a tangent curve concave to the Northeast; thence along said curve having a radius of 118.00 feet and a central angle of 8°14'51", a distance of 16.99 feet more or less; thence a non-tangent bearing North 11°44'34" West a distance of 116.79 feet more or less; thence N01°10'30" West, 53.79 feet more or less; thence South 83°30'27" East, 24.97 feet more or less, thence North 6°38'45" West, 780.38 feet more or less; thence North 89°51'00" West, 410.00 feet more or less; thence North 0°09'00" East, 100.00 feet more or less; thence North 89°51'00" West, 402.47 feet more or less to THE TRUE POINT OF BEGINNING.

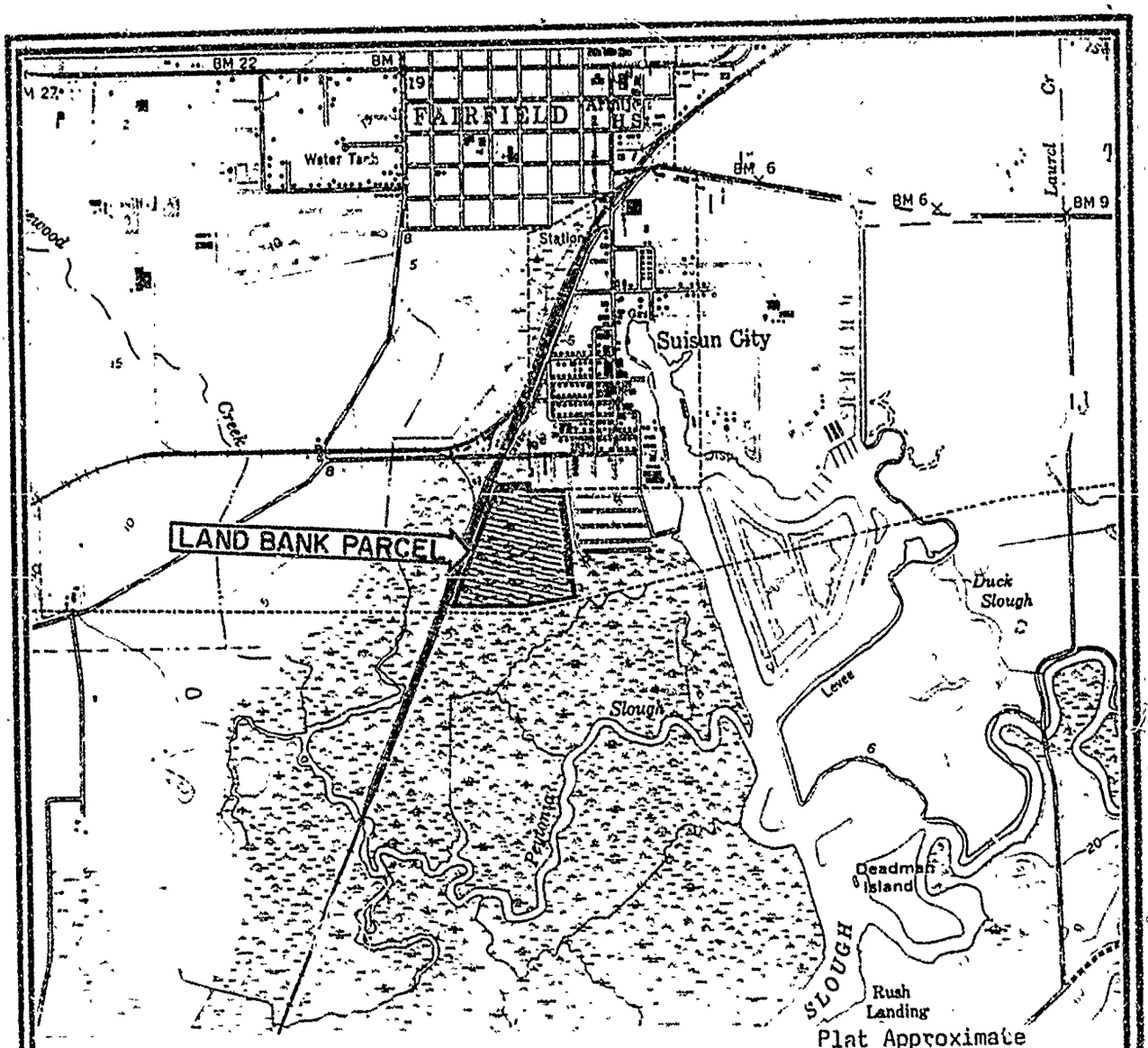
Reserving therefrom, an easement for the purposes of access and maintenance over and through the following describe property:

A portion of Sections 35 and 36, Township 5 North, Range 2 West, M.D.B. & M., City of Suisun City, County of Solano, State of California, more particularly described as follows:

A strip of land 50' in width, lying 25 feet each side of the following described centerline; commencing at the intersection of the easterly line of the Southern Pacific Railroad right-of-way and the southerly line of Cordelia Street; thence South 22°21'23" West, 351.00 feet more or less to the TRUE POINT OF BEGINNING; thence South 89°51'00" East, 388.00 feet more or less; thence South 0°09'00" West, 100.00 feet more or less; thence South 89°51'00" East, 410.00 feet more or less; thence South 6°38'45" East, 725.00 feet more or less; thence North 83°30'27" West, 25.00 feet more or less; thence South 1°10'30" East, 85.00 feet more or less; thence South 11°44'34" East, 163.00 feet more or less; thence South 13°06'13" East, 105.00 feet more or less.

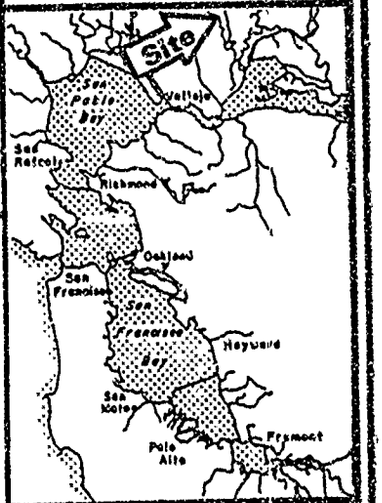
END OF DESCRIPTION

REVISED FEBRUARY 3, 1982 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR



Plat Approximate
no Scale

EXHIBIT B



STATE LANDS COMMISSION

PLAT OF LAND BANK PARCEL

Prepared by A.A. Shimonauff Date: 2/9/82 A: 4 S: 4

Title Study: TPL - Suisun W 22611

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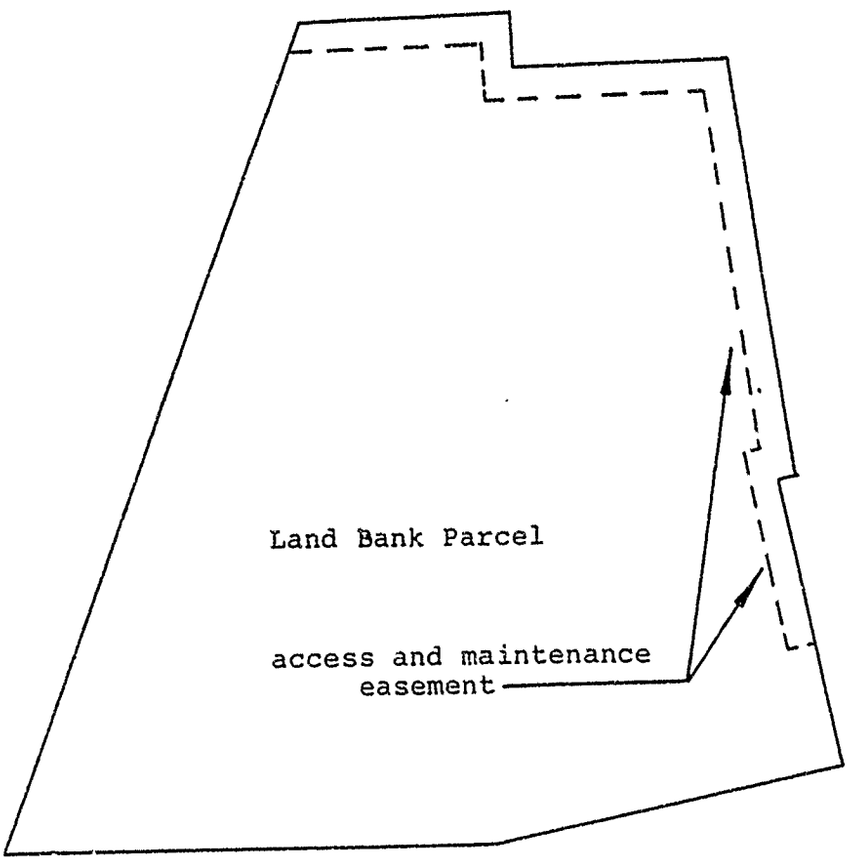

STATE LANDS COMMISSION

PLAT OF LAND BANK PARCEL

[Plotting Approximate]

Prepared by J.K.HERING Date 3/5/82 A 4 S 4

Title Study TPT SUISUN W 22611

EXHIBIT B

Z2 -N 21-E198

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