

MINUTE ITEM

This Calendar Item No. 47
was approved as Minute Item
No. 47 by the State Lands
Commission by a vote of 3
to 0 at its 5/27/82
meeting.

CALENDAR ITEM

47

5/27/82
W 23009
Cook
G 01-02

AUTHORIZE STAFF TO CONDUCT A PUBLIC HEARING
CONCERNING THE EXTENT AND NEEDS OF THE PUBLIC TRUST
AT THE ALBANY MUD FLATS, IN THE CITY OF ALBANY,
COUNTY OF ALAMEDA

The parcel of real property referred to in this Calendar Item is located wholly within the City of Albany and is generally depicted on the attached Plat of Title Study Parcel. For convenience in the title study, the lines of Assessor's parcels, have been followed and the Title Study Parcel therefore includes some filled lands as well as a portion of San Francisco Bay commonly known as the Albany Mud Flats. While the Mud Flats extend into the City of Richmond, this Item relates only to the Mud Flats within the City of Albany. The Mud Flats appear to be covered by the ordinary high tides of San Francisco Bay. They are bounded on the east by Hoffman Boulevard, on the north by the Albany/Richmond city limit lines, on the west by the parcel granted to the City of Albany in trust by the Legislature (Ch. 1223, Stats. 1977), and on the south by filled land north of the Golden Gate Fields Race Track and the strip of filled land extending out to the Albany Trust Grant land fill.

The Mud Flats are a part of the area known as the East Bay Shoreline which has been included within the Draft East Bay Shoreline Report by CHNMB Associates for the Coastal Conservancy (CONSERVANCY), and the Preliminary East Bay Shoreline Feasibility Study of the State Department of Parks and Recreation (PARKS). The Report and the Study define the East Bay Shoreline as the entire Alameda County bay front from the Bay Bridge north to the Contra Costa county line. The studies have included strong public participation at workshops and meetings. Private owners were also invited to participate.

CONSERVANCY has requested the State Lands Commission to study the extent and needs of the public trust ownership within the East Bay Shoreline.

Staff has begun preliminary title studies and has found, among other things, that the East Bay Shoreline includes Legislative Trust Grants to the cities of Emeryville, Berkeley

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and Albany; that much of the Shoreline is claimed by private parties (primarily the Santa Fe Land Improvement Company) as successors in interest to the State Board of Tide Land Commissioners (BTLC) deeds issued about 1872; and that the physical characteristics of the shoreline show that portions have been filled and reclaimed, that portions remain as open tidal areas of the bay, and that there are improvements, including marinas, restaurants, office buildings, apartments and the like at various areas along the shoreline.

The California Supreme Court on February 22, 1980, in the case of City of Berkeley, et al. v. Santa Fe Development Company et al., 26 Cal. 3d, 515, rendered its opinion that those portions of the San Francisco Bay included within BTLC deeds which were filled, improved or reclaimed, were free of public trust ownership, and that the State was the owner of the public trust easement over all those portions which had not been filled, improved or reclaimed, and remained a part of the Bay, with the private ownership of the wet areas being restricted to the bare underlying fee title only.

While the Berkeley case was remanded to the trial court for further proceedings on several specific issues, the basic principles set forth by the Supreme Court apply to all areas of the Bay which were included within the BTLC deeds.

Due to the many difficult and diverse factual and legal issues bearing on public trust ownership along the East Bay Shoreline, staff has felt that its title studies must be kept manageable by limiting its review first to a specific portion or portions of the East Bay Shoreline, with studies of the other portions to follow.

The factual and legal questions at the Albany Mud Flats do not appear to be as complicated as in some of the other areas. The Preliminary Studies of both CONSERVANCY and the PARKS indicate strong public concern with the future uses of the Mud Flats.

In addition, the Albany Planning and Feasibility Study, prepared for the City of Albany by Environ in July 1976, as well as the Final Environmental Impact Statement by Caltrans, dated June 18, 1981, for freeway development of Route I-880 (17) along the Hoffman Boulevard corridor, both indicate that the public needs at the Mud Flats are a matter of substantial priority. The present staff studies have therefore centered on the Albany Mud Flats.

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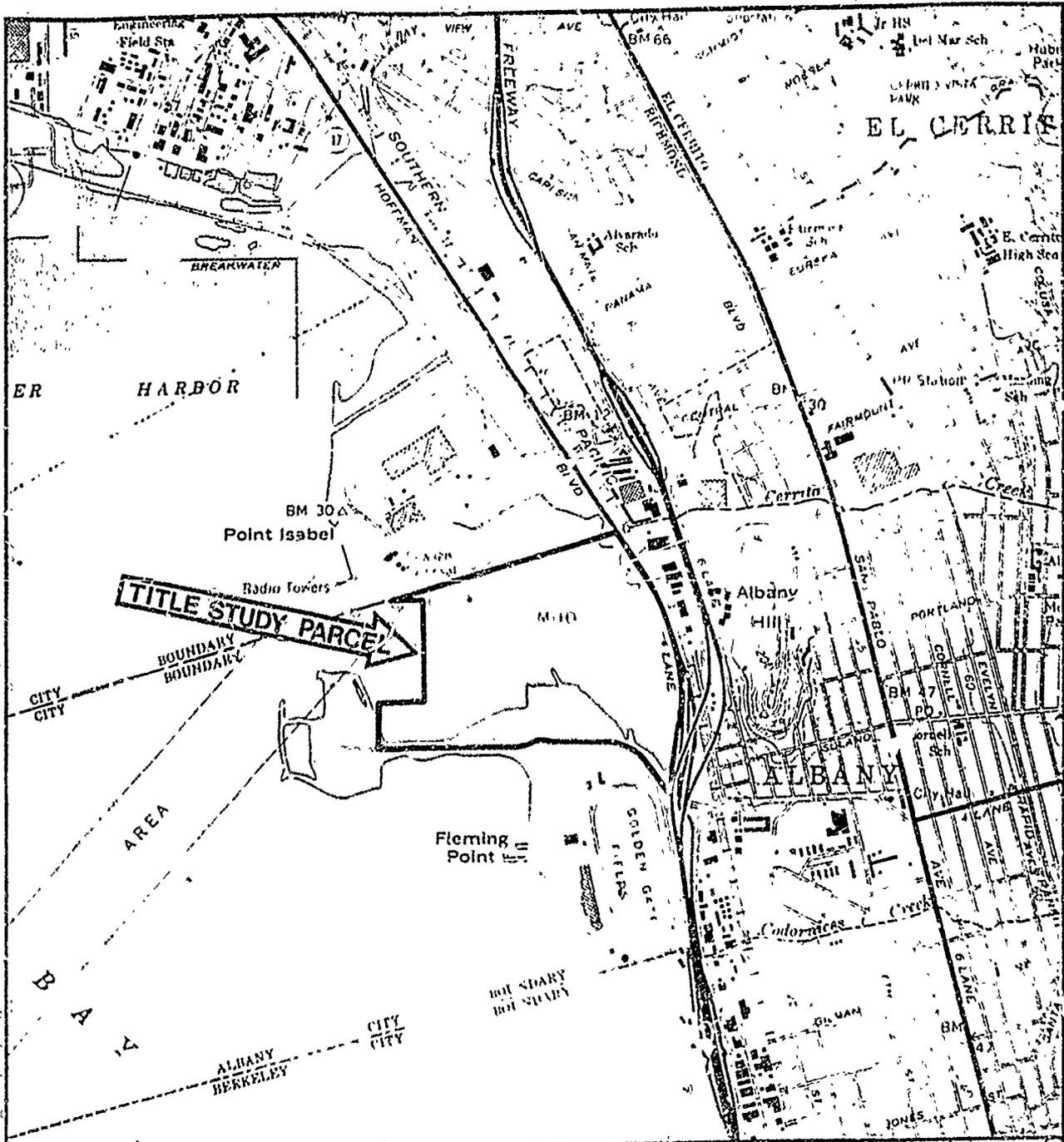
Due to the widespread concern with the future of the Albany Mud Flats, staff recommends that the Commission authorize it to conduct an investigation to determine the extent of the public trust in the Albany Mud Flats, its needs, and the course of action necessary to its preservation, protection and use in a manner consistent with the public trust.

AB 884: N/A.

EXHIBIT: Plat of Title Study Parcel.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DELEGATE THE AUTHORITY TO ITS STAFF TO CONDUCT A PUBLIC MEETING OR MEETINGS IN THE VICINITY OF THE ALBANY MUD FLATS FOR THE PURPOSE OF INQUIRING INTO ALL ASPECTS OF ANY PUBLIC TRUST WHICH MAY BE SHOWN TO EXIST THEREIN, AND TO THEREAFTER SUBMIT ITS WRITTEN REPORT OF INVESTIGATION INTO THE EXISTANCE AND NEEDS OF THE PUBLIC TRUST, WITH A RECOMMENDED COURSE OF ACTION, ALL FOR CONSIDERATION BY THE COMMISSION AT A SUBSEQUENT PUBLIC MEETING.



STATE LANDS COMMISSION
STUDY PARCEL PLAT (QUAD)

Qua3 Base:

Portion of U.S.G.S. Quad
Richmond, Revised 1980



Prepared by: R.L. BELL

Date: 5-3-82

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EXHIBIT

Title Study: Albany Mud Flats

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