MINUTE ITEM

This Calendar Item No. 18
was approved as Minute Item
No. 18 by the State Lands
Commission by a vote of 3
to 0 at its 11/29/82
meeting.

CALENDAR ITEM

18

11/29/82
W 22392
Davis

APPROVAL OF A
COMPROMISE TITLE SETTLEMENT AND
EXCHANGE AGREEMENT BETWEEN
THE STATE LANDS COMMISSION AND
USONIA, INC.

At its February 9, 1982 meeting, the State Lands Commission approved a Compromise Title Settlement and Exchange Agreement between the Commission and Usonia, Inc., involving two parcels of land located in the City of Novato, Marin County. The Agreement provided that in exchange for releasing its title claims to the first parcel (the "Patent Parcel"), the State would receive from Usonia a parcel of land worth at least $20,000 (the staff's appraised value of the State's interest in the parcel) to be accepted as sovereign land and held subject to the public trust. The second parcel, a portion of the existing Novato Creek Flood Control Channel (the "Creek Parcel"), would be impressed with a public trust easement in exchange for undefined State title interests in the former bed of Novato Creek.

Under the Agreement, release of the State's interest in the Patent Parcel through recordation of the actual conveyances was to occur only after a suitable exchange parcel had been located and approved by the Commission. At its March 23, 1982 meeting, the Commission approved the use of an undivided interest in the TPL-Suisun Land Bank as a potential exchange parcel. That land bank, however, has since been found to be unavilable for that purpose, and there are no known suitable alternate parcels currently available elsewhere. In the absence of a suitable exchange parcel, the Agreement

A 9

S 2

CALENDAR PAGE 31
MINUTE PAGE 3081

will remain executory, a compromise settlement will not be realized, and the uncertainties arising out of the unresolved ownership questions will impede indefinitely the protection, enhancement and preservation of public trust purposes, as well as any private development. Further, the lack of a settlement agreement that is capable of expeditious execution is likely to lead to costly, time-consuming and unpredictable litigation.

To facilitate the efficient settlement of this title dispute, staff recommends that the Agreement be amended as follows:

The Agreement as presently written requires Usonia to convey to the State a parcel of land worth $20,000 in return for the State's release by patent of its undefined interest in the Patent Parcel. In carrying out its side of the bargain, Usonia would deposit into escrow a check for $20,000 which would be used to purchase an interest in real property from some third party on behalf of and for conveyance to the State. Under the proposed amendment, the $20,000 from Usonia would instead be deposited, immediately upon the closure of escrow, into the Land Bank Fund as created under the Kapiloff Land Bank Act (P.R.C. Section 8600 et seq.). (Under no circumstances will escrow close until January 1, 1983, when the Land Bank Act becomes law, or until the appropriate mechanisms are in place for deposit of the payment into the Land Bank Fund). The twenty thousand dollar amount would then be subject to a statutory trust limiting its use exclusively to the purchase of outstanding interests in tide and submerged lands, lands which have been or may be converted to wetlands, or adjoining or nearby lands where the public use and ownership of the land is necessary or extremely beneficial for furtherance of public trust purposes.

The portions of the Agreement as presently written with regard to the Creek Parcel would not be affected by this Amendment.

Staff recommends approval of the amended Agreement reflecting the changes noted above, a copy of which is now on file at the offices of the Commission and which is incorporated by reference in this Calendar Item.

AB 884: N/A.

EXHIBITS:
A. Site Map.
B. Patent Parcel Plat.
C. Creek Parcel Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE AND AUTHORIZE THE EXECUTION AND RECORDATION OF THE FORM OF THE AMENDED COMPROMISE TITLE SETTLEMENT AGREEMENT BETWEEN THE STATE LANDS COMMISSION AND USONIA, INC., ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION IN SACRAMENTO.

2. FIND THAT THE PROPOSED AMENDED EXCHANGE AGREEMENT IS IN SETTLEMENT OF A TITLE AND BOUNDARY DISPUTE AND THAT CEQA IS THEREFORE INAPPLICABLE.

3. FIND THAT THE PROPOSED EXCHANGE WILL BE IN THE BEST INTEREST OF THE STATE.

4. DIRECT STAFF TO TAKE ALL STEPS NECESSARY, INCLUDING LEGAL ACTION, TO COMPLETE THE EXCHANGE.

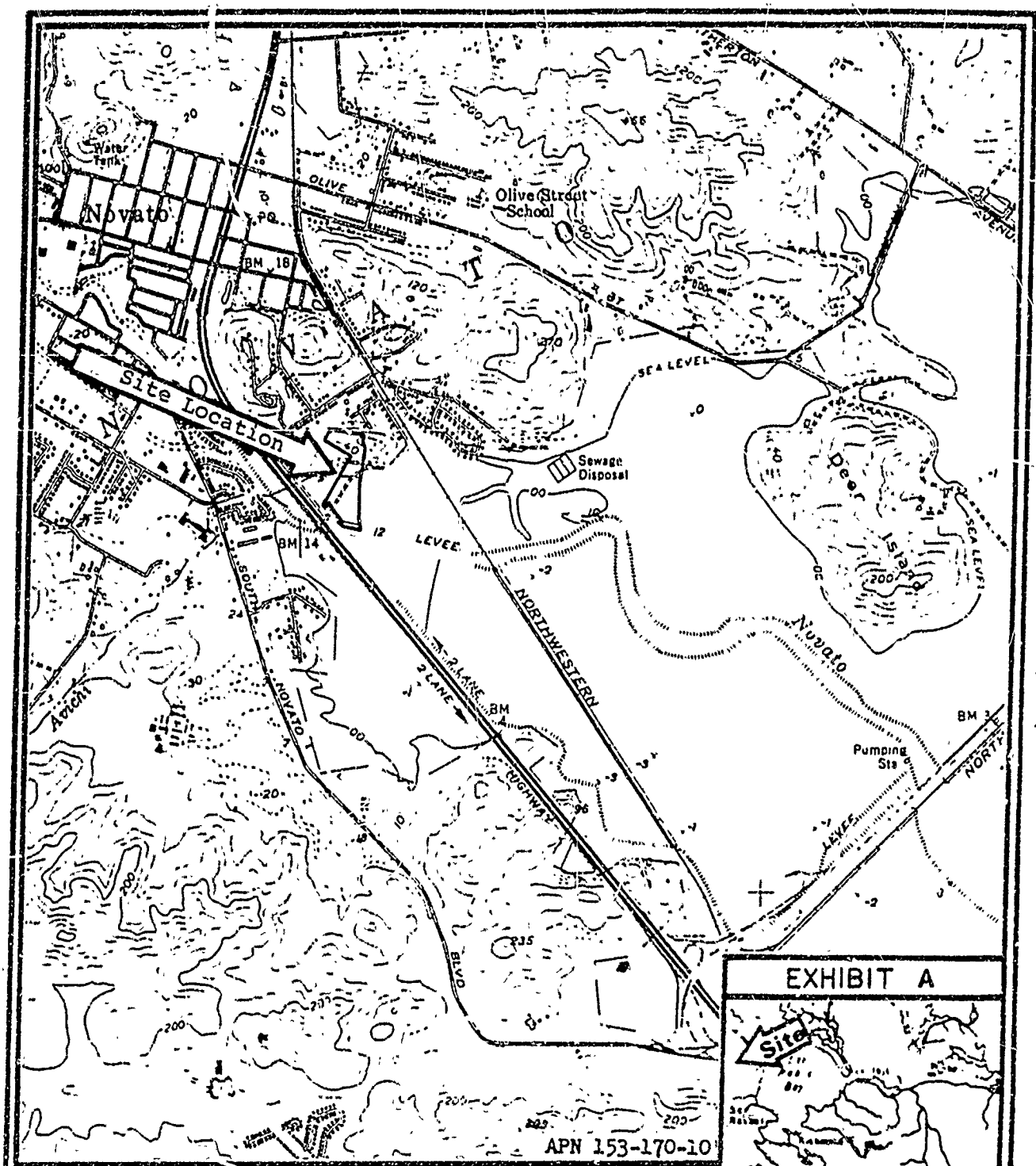


EXHIBIT A

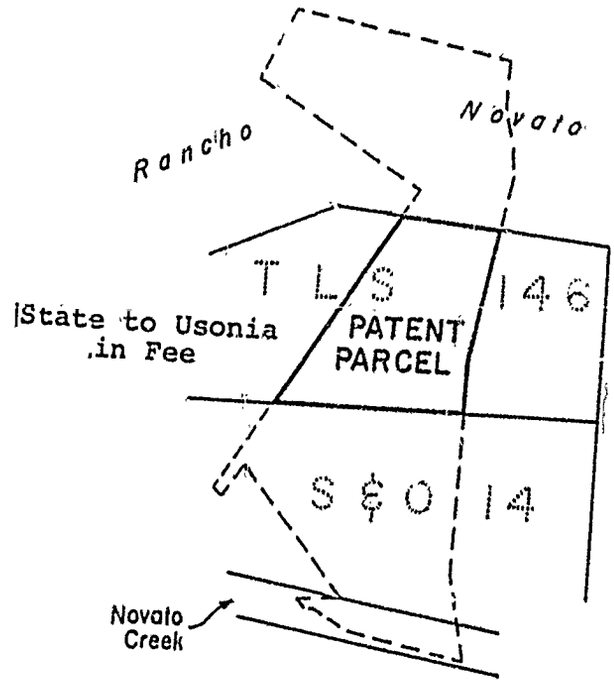
STATE LANDS COMMISSION

Site Map

Prepared by: jsf Date: 2-29-80 A 9 S 2

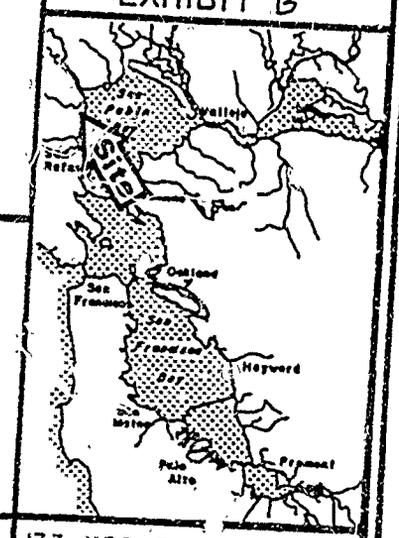
Title Study: Novato Creek - Usonia Inc W 22392 Z3-N58-E140

MINUTE PAGE 3084



N

EXHIBIT B



Plotting Approximate

STATE LANDS COMMISSION

EXHIBIT 'B'
PATENT PARCEL
AREA WITHIN TIDELAND SURVEY 146

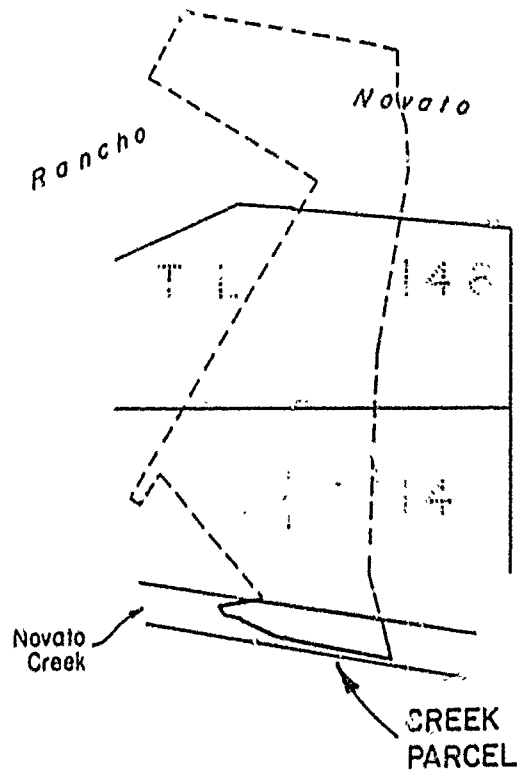
Prepared by: R.L. Bell November 30, 1981 A:9 S:2

Title Study: Novato Creek-Usonia Inc. W22392

Z3-N58-E140

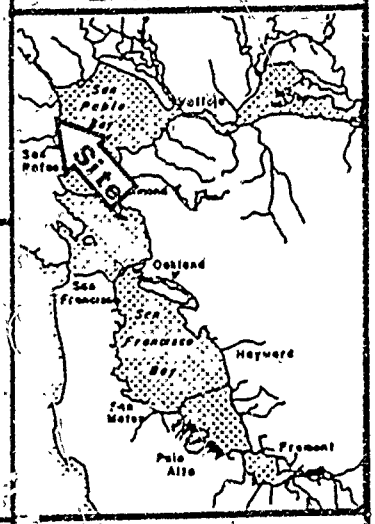
CALENDAR PAGE 5

MINUTE PAGE 3085



N

EXHIBIT C



Plotting Approximate

STATE LANDS COMMISSION

EXHIBIT 'C'

CREEK PARCEL

AREA WITHIN THE EXISTING CHANNEL
AND LEVEES OF NOVATO CREEK

Prepared by: R.L. Bell November 30 1981 A:9 S:2

Title Study·Novato Creek-Usonia Inc. W22392

Z3-N58-E140

CALENDAR PAGE 56

MINUTE PAGE 3089