

MINUTE ITEM

This Calendar Item No. 26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 3
to 0 at its 11/29/82
meeting.

MINUTE ITEM

26

11/29/82
W 503.1029
Grimes
Flushman
Stevenson

APPROVAL OF AGREEMENT
AND AUTHORIZATION TO SETTLE LAWSUIT;
STATE OF CALIFORNIA EX. REL. STATE LANDS COMMISSION V.
U.S.A., ET AL. (HAMILTON AIR FORCE BASE, MARIN COUNTY)

During consideration of Calendar Item 26 attached, the following
people appeared:

1. Jonathan Coupal
Marine Coalition
Aircraft Owners & Pilots Association
2. Rodney Hamblin
United States Attorney

Upon motion duly made and carried, the Resolution in Calendar
Item 26 was approved as presented by a vote of 3-0.

For a verbatim account, please refer to transcript.

Attachment: Calendar Item 26

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CALENDAR ITEM

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11/29/82
W 503.1029
Grimes
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APPROVAL OF AGREEMENT
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STATE OF CALIFORNIA EX. REL. STATE LANDS COMMISSION V.
U.S.A., ET AL. (HAMILTON AIR FORCE BASE, MARIN COUNTY)

In July 1979, the State, through the State Lands Commission, filed an action to quiet title to land in Marin County commonly known as Hamilton Air Force Base ("Base"). The United States and various federal luminaries were named defendants.

Research by the Commission's staff shows that the Base was bounded on the west by Rancho San Jose. The Rancho conveyed title to land property running to the ordinary high water mark of San Pablo Bay. Following the confirmation of the Rancho San Jose on January 14, 1861, swamp and overflowed land and tideland patents were issued to the parcels waterward of the Rancho where the Base is now located.

The United States claims the land within the Base as successor in title through donation or eminent domain to the swamp and overflowed or tideland patents mentioned above. It further claims fee title to accreted land waterward of those patents both by deed and under federal law, which it contends applies. The position of the State is that:

1. A large part, if not all, of the Base was tide and submerged land in its last natural condition, and did not pass by swamp and overflowed sale.

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2. Property at the Base sold as tideland which was in fact submerged land did not pass into private ownership. If it did, a public trust easement was reserved from sale.
3. Property within the Base properly classified and sold as tideland remains subject to a public trust easement.
4. And under State law, which the Commission has contended applies, artificially caused accretions to the swamp and overflowed and tideland sales and deeds from persons without title did not pass title to the upland owner.

A major issue in this case has been the United States' assertion that the doctrines of estoppel and laches and the twelve-year federal statute of limitations in 28 U.S.C. 2409a(f) barred recovery by the State regardless of the character of the Base as tide and submerged land. The District Court hearing this case held early in 1981 that these defenses are inapplicable in view of the State's sovereign interests in tide and submerged land. This statute of limitations question is now before the U.S. Supreme Court in another case.

Following the District Court's striking of the defenses mentioned above, the United States made an offer of settlement in the Hamilton case. Following extensive negotiations with the U.S. Attorney and federal agencies, a proposed settlement agreement is brought before the Commission by this calendar item. The agreement, which is on file in the Commission's office and incorporated into this item by reference, provides that:

1. The parties agree to set the ordinary high water mark through the Base along the bayward side of the north-south levee separating the Base from the waters of San Pablo Bay;
2. Mutual quitclaims will be exchanged by the parties for lands on either side of the agreed ordinary high water mark;

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3. Due to the remaining legal issues in this case regarding the statute of limitations, the applicability of federal or State law of accretion, and the difficulty in proving what present fast land is the result of accretion as opposed to reclamation, the United States will also convey to the State the antennae field adjoining the Base on its north side.
4. The federal government, on behalf of itself and its successors, will recognize that the State has no responsibility to maintain the levees protecting the Base from San Pablo Bay. In exchange, the State will allow the United States or its successors to retain an easement to maintain levees.
5. The United States will agree to convey to the State an easement for an access road to both the area waterward of the agreed boundary line and the antennae field;
6. The United States will knock down all antennae on the antennae field prior to the recordation of the conveyances provided for in the agreement.

Major benefits to the State under the agreement are:

1. An end to lengthy, burdensome, and costly litigation;
2. The grant of fee title to the State of approximately 318 acres.
3. Access to all land conveyed to the State.

AB 884:

N/A.

EXHIBITS:

- A. Site Map.
- B. Map showing approximate location of parcels settled in the State and the United States.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE SETTLEMENT OF THE HAMILTON AIR FORCE BASE CASE BY AUTHORIZING THE EXECUTIVE OFFICER AND THE OFFICE OF THE ATTORNEY GENERAL TO EXECUTE A LITIGATION AND BOUNDARY LINE SETTLEMENT AGREEMENT SUBSTANTIALLY IN THE FORM ON FILE AT THE COMMISSION'S OFFICE.
2. AUTHORIZE EXECUTION OF AND DELIVERY INTO ESCROW OF A MINUTE ITEM EVIDENCING THE APPROVAL OF THE COMMISSION OF THE SETTLEMENT AGREEMENT AND QUITCLAIM DEEDS PROVIDED FOR IN THE AGREEMENT FOR RECORDATION WITH THE COUNTY RECORDER OF MARIN COUNTY.
3. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE PROPOSED SETTLEMENT AND BOUNDARY LINE AGREEMENT; AND
4. FIND THAT THE PROPOSED AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE.

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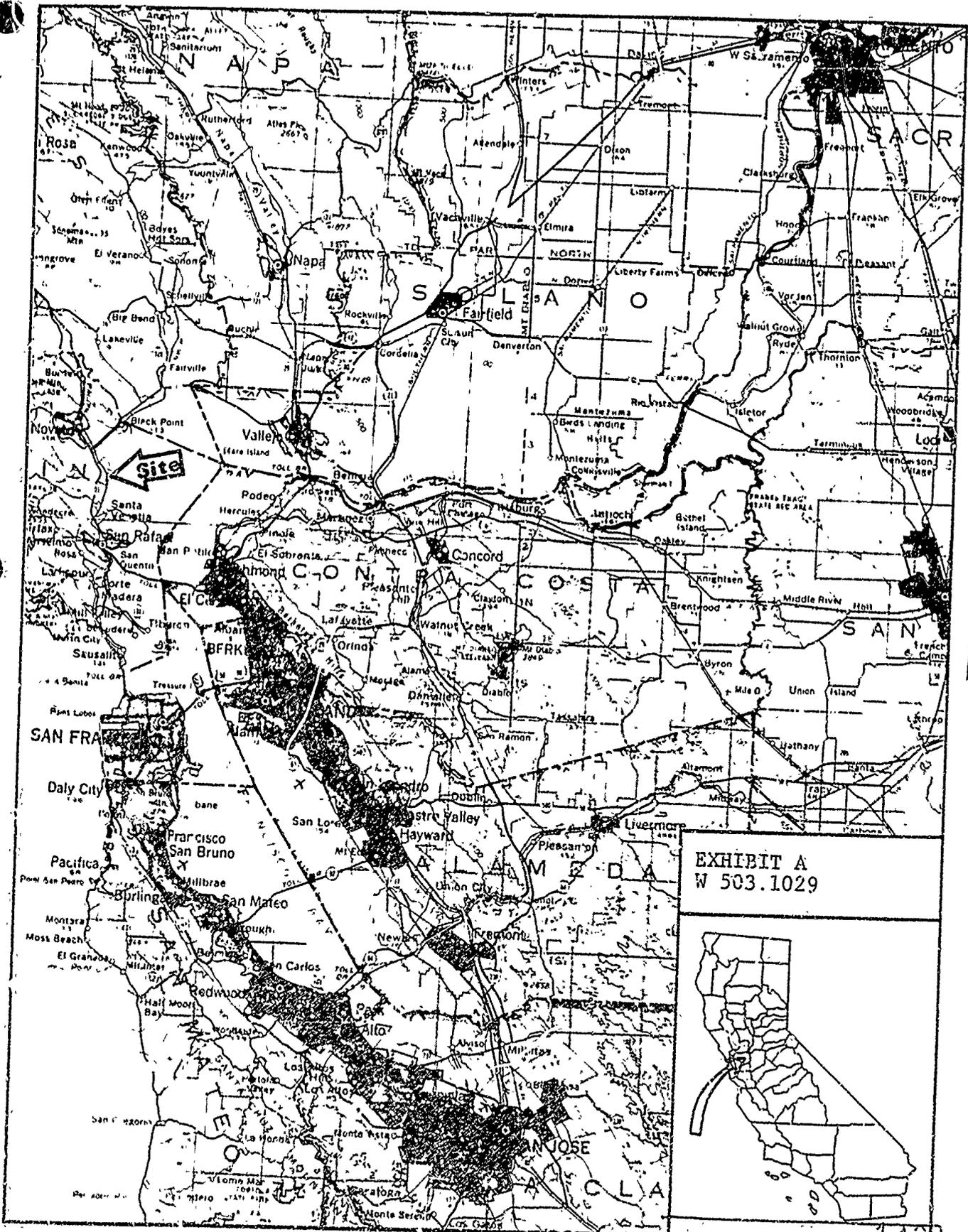


EXHIBIT A
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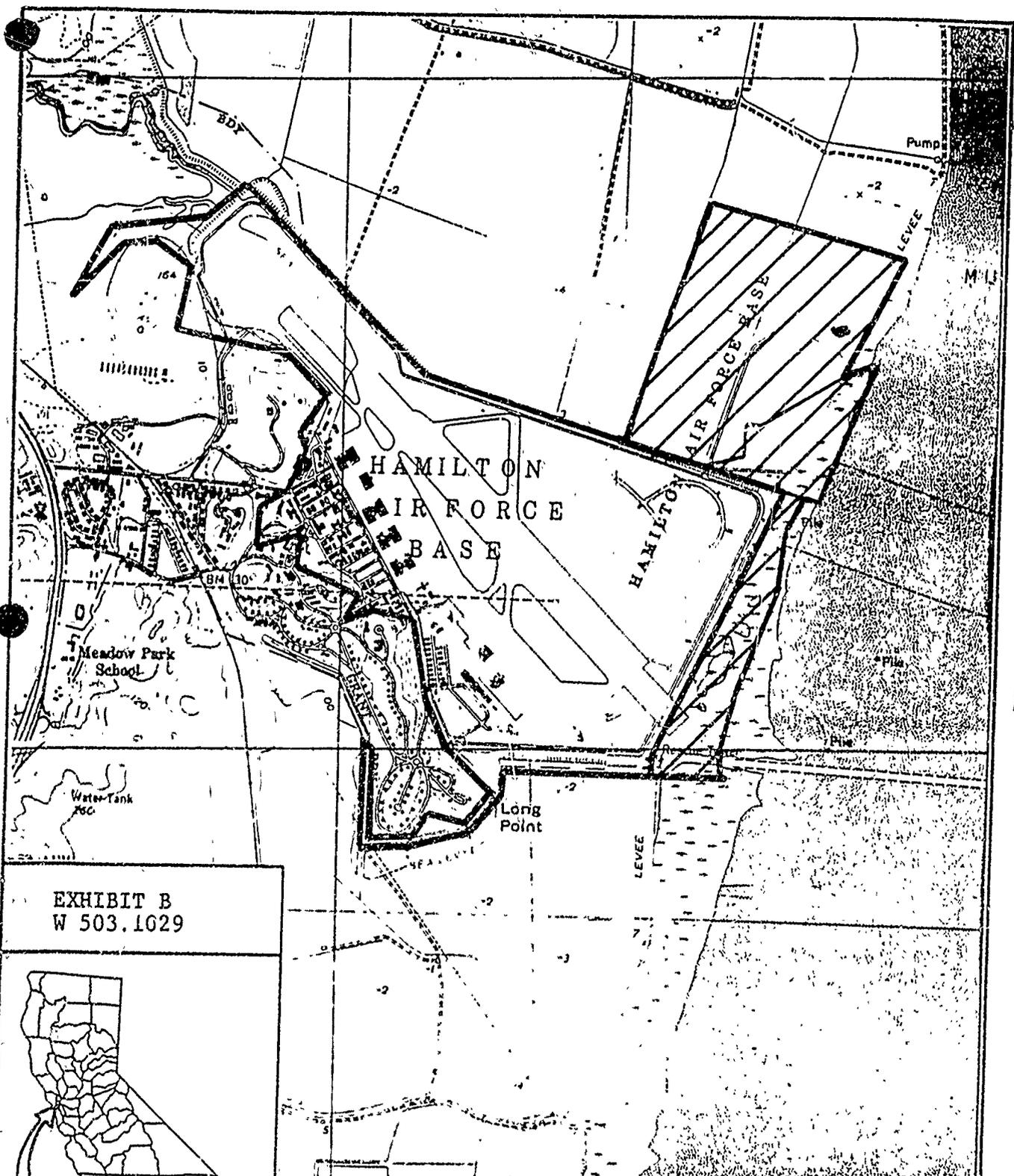


EXHIBIT B
W 503.1029



 U.S.A. TO STATE, 318± Ac.
 STATE TO U.S.A.