

MINUTE ITEM

This Calendar Item No. 38
was approved as Minute Item
No. 38 by the State Lands
Commission by a vote of 3
2 at its 3/24/83
meeting.

CALENDAR ITEM
38

3/24/83
W 22862
SLL 90
Valentine
W. 22611

APPROVAL OF A COMPROMISE
TITLE SETTLEMENT AGREEMENT

A title dispute exists between the State of California and the Khosrowpanah family concerning possible sovereign ownership of slightly less than three acres of reclaimed land on Redwood Boulevard in the City of Novato, Marin County. The private claimants have proposed a 46-unit residential development of the parcel and have been informed by staff that the development would occupy lands owned by the State by virtue of its sovereignty. This claim of public ownership is based on the land's historic character as tide and submerged lands of the State.

As to the bulk of the property, private parties are successors in interest to a tideland patent from the State, the legal effect of which was to reserve the public trust easement to the State while conveying the underlying fee. A small portion of the parcel was within the boundary of the Rancho San Jose. Private claimants dispute the State's title to any of the subject parcel and assert that they own the property in fee. However, staff has studied the evidence of title to the subject parcel and has concluded that a substantial portion of the property was historically tidelands of the State and subject to a public trust easement for commerce, navigation, fisheries and other wetlands uses.

A 9
S 2

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It has been proposed that this dispute be resolved by entering into a compromise title settlement agreement. The staff of the Commission recommends approval of the settlement substantially in the form of the compromise agreement now on file in the offices of the State Lands Commission. The agreement contains the following principal provisions:

1. The State will convey to private parties by patent all its right, title and interest in the parcel described in Exhibit "A" and depicted on Exhibit "B";
2. In exchange, private parties will purchase for \$15,000 fee title to an undivided 23 percent interest in the Land Bank Parcel described on Exhibit "C" and depicted on Exhibit "D";
3. The State will have title to the undivided percentage interest in the Land Bank Parcel as tide and submerged lands of the State.
4. Escrow costs and a standard CLTA title policy in the amount of \$15,000, insuring the State's title to the Land Bank Parcel shall be without cost to the State.

Staff has appraised the real property and has evaluated the law and facts bearing on the dispute and has concluded that the exchange is in the best interest of the State and that the State will receive property equal to or greater in value than the interests in land relinquished pursuant to the compromise settlement agreement.

AB 884: N/A.

EXHIBITS:

- A. Land Description of the Patent Parcel.
- B. Site Map of Patent Parcel.
- C. Land Description of Land Bank Parcel.
- D. Site Map of Land Bank Parcel.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE EXCHANGE AS PROPOSED AND AUTHORIZE THE EXECUTIVE OFFICER IN SETTLEMENT OF THIS DISPUTE TO EXECUTE THE COMPROMISE SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF JUDGEMENT ON FILE IN THE OFFICE OF THE COMMISSION, WHICH ARE INCORPORATED HEREIN BY REFERENCE.

2. FIND THAT THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR AN EXCHANGE PARCEL, IS IN THE BEST INTERESTS OF THE STATE, FOR THE IMPROVEMENT OF NAVIGATION, FOR FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING; AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID COMPROMISE SETTLEMENT AGREEMENT.
3. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE-STATE TITLES WITHIN THE SUBJECT PROPERTY, THAT THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED; THAT THE SETTLEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT SETTLEMENT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW, INCLUDING P.R.C. 6307 and 6312 AS WELL AS OTHER PROVISIONS OF DIV. 6 OF THE P.R.C. AND IS PURSUANT TO THE STATE'S POWER TO RESOLVE AND SETTLE CONTROVERSIES IN LIEU OF LITIGATION.
4. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT AND ITS RECORDATION IN MARIN COUNTY THE REAL PROPERTY, DESCRIBED IN EXHIBIT "A" HAS BEEN IMPROVED, FILLED AND RECLAIMED; HAS BEEN CUT OFF FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING; IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS; AND THEREFORE SHALL BE FREED FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.
5. FIND THAT BECAUSE THIS TRANSACTION IS IN SETTLEMENT OF A TITLE DISPUTE THE PROVISIONS OF CEQA ARE INAPPLICABLE. P.R.C. 21080.11.
6. FIND THAT THE PARCEL TO BE CONVEYED BY THE STATE IS SITUATED ON LANDS NOT IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370.1.

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7. AUTHORIZE ACCEPTANCE OF THE CONVEYANCE TO THE STATE OF THE FEE INTEREST IN THE EXCHANGE PARCEL AS TIDE AND SUBMERGED LANDS SUBJECT TO THE PUBLIC TRUST, AND AUTHORIZE EXECUTION BY THE EXECUTIVE OFFICER OF A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF SAID CONVEYANCE.
8. AUTHORIZE ISSUANCE OF A PATENT CERTIFICATE AND PATENT OF THE SUBJECT PROPERTY IN MARIN COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST.
9. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY OR APPROPRIATE TO IMPLEMENT THE ABOVE SETTLEMENT, INCLUDING BUT NOT LIMITED TO THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION OF ALL DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE, AND COURT DOCUMENTS; AND TO FILE ANY DOCUMENTS AND APPEAR IN ANY LEGAL PROCEEDINGS NECESSARY OR REQUIRED TO ACCOMPLISH THE TERMS AND PROVISIONS OF THE COMPROMISE SETTLEMENT AGREEMENT.

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EXHIBIT "A"
LAND DESCRIPTION
TRUST TERMINATION PARCEL

W 22862

A parcel of land situate in the City of Novato, County of Marin, State of California, being Parcel 1 as shown on that certain Record of Survey filed March 16, 1973 in Book 11 of Surveys, at Page 72, Marin County Records.

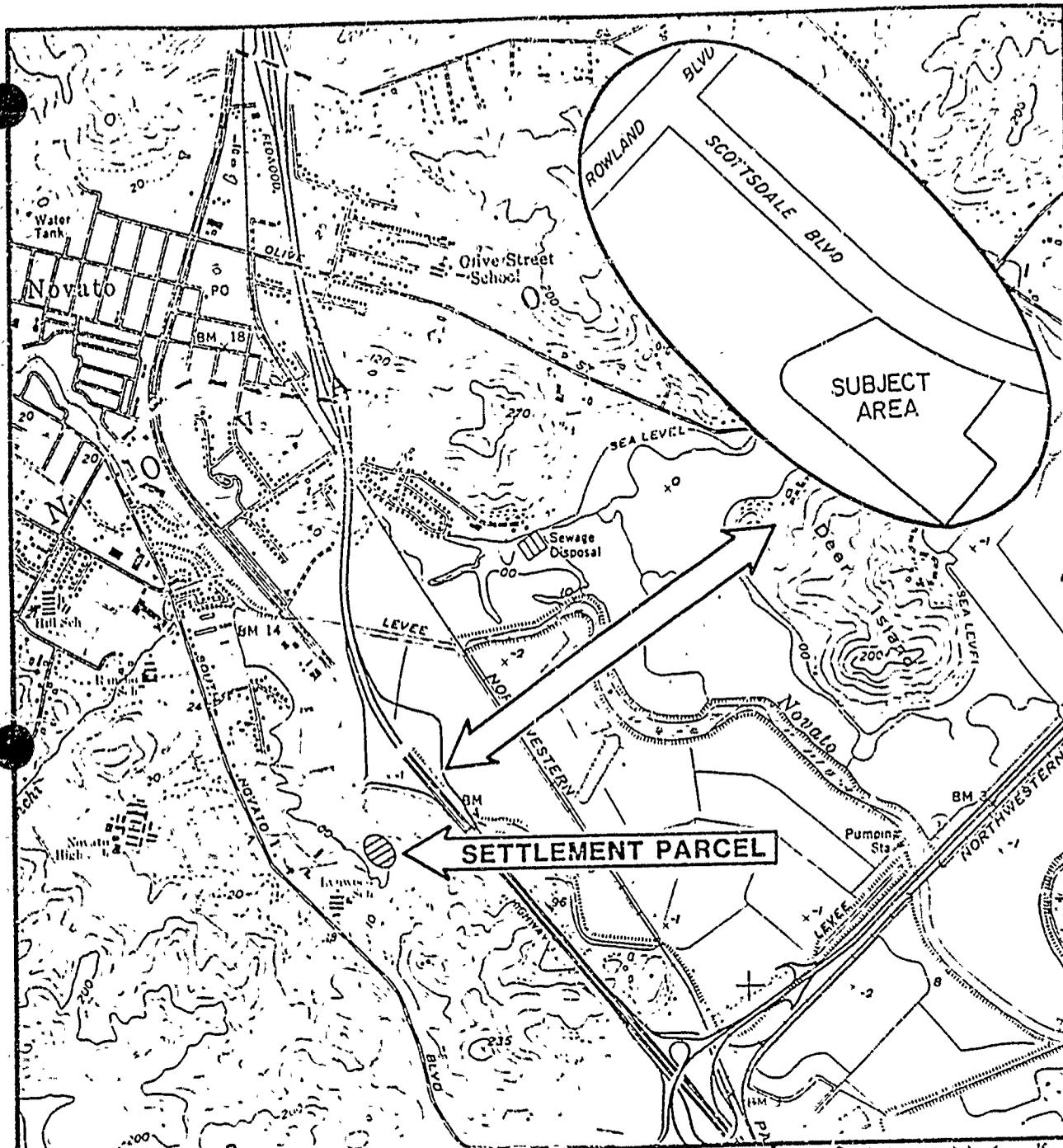
Said Parcel 1 being more directly described as follows:

COMMENCING at the most northerly corner of Lot 56, as shown on that certain map entitled, "Map of Lynwood Park, Unit 3", filed February 17, 1955 in Book 8 of Maps, at Page 42, Marin County Records. Thence S 44° 09' 16" W, 56.83 feet (S 44° 45' 00" W, 56.00 feet per 8-M-42) to the Point of Beginning of the here-in-after described parcel; thence continuing along said boundary of "Lynwood Park Unit 3", S 44° 09' 16" W, 186.00 feet (S 44° 45' 00" W per 8-M-42); thence leaving said boundary (8-M-42) N 45° 50' 44" W, 470.12 feet; thence along a curve to the right with a radius of 50 feet through a central angle of 114° 47' 01" for an arc length of 100.17 feet; thence N 68° 56' 17" E, 208.63 feet to the southwesterly boundary of Redwood Boulevard (formerly known as Scottsdale Boulevard); thence along Redwood Boulevard on a curve to the left having a radius of 1145 feet through a central angle of 16° 37' 47" for an arc length of 332.33 feet; thence leaving Redwood Boulevard S 44° 09' 16" W, 151.44 feet; thence S 45° 50' 44" E, 105.98 feet to the point of beginning.

END OF DESCRIPTION

PREPARED FEBRUARY 15, 1983 BY THE BOUNDARY AND TITLE SECTION, LEROY WEED, SUPERVISOR.

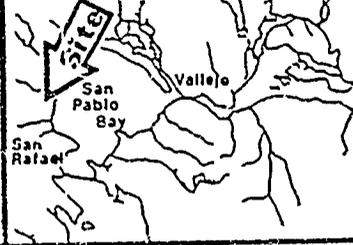
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STATE LANDS COMMISSION

SETTLEMENT PLAT

TRUST TERMINATION PARCEL



Prepared by: **R.L. BELL** Date: **2-15-83** A: 9 S: 2

Title Study **PORT ARTHUR - NOVATO** W22862

EXHIBIT 'B'

13-N-58E 140

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EXHIBIT 'C'
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 $22^{\circ}21'23''$ West, 324.00 feet more or less to the TRUE POINT OF BEGINNING and continuing along said easterly line South $22^{\circ}21'23''$ 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 $88^{\circ}49'18''$ East, 930.5 feet more or less; thence continuing along said northerly line North $80^{\circ}35'46''$ East 668.46 feet more or less; thence North $10^{\circ}32'23''$ 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 $8^{\circ}14'51''$, a distance of 16.99 feet more or less; thence a non-tangent bearing North $11^{\circ}44'34''$ West a distance of 116.79 feet more or less; thence North $10^{\circ}10'30''$ West, 53.79 feet more or less; thence South $83^{\circ}30'27''$ East, 24.97 feet more or less; thence North $5^{\circ}38'45''$ West, 780.38 feet more or less; thence North $89^{\circ}51'00''$ West, 410.00 feet more or less; thence North $0^{\circ}09'00''$ East, 100.00 feet more or less; thence North $89^{\circ}51'00''$ 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:

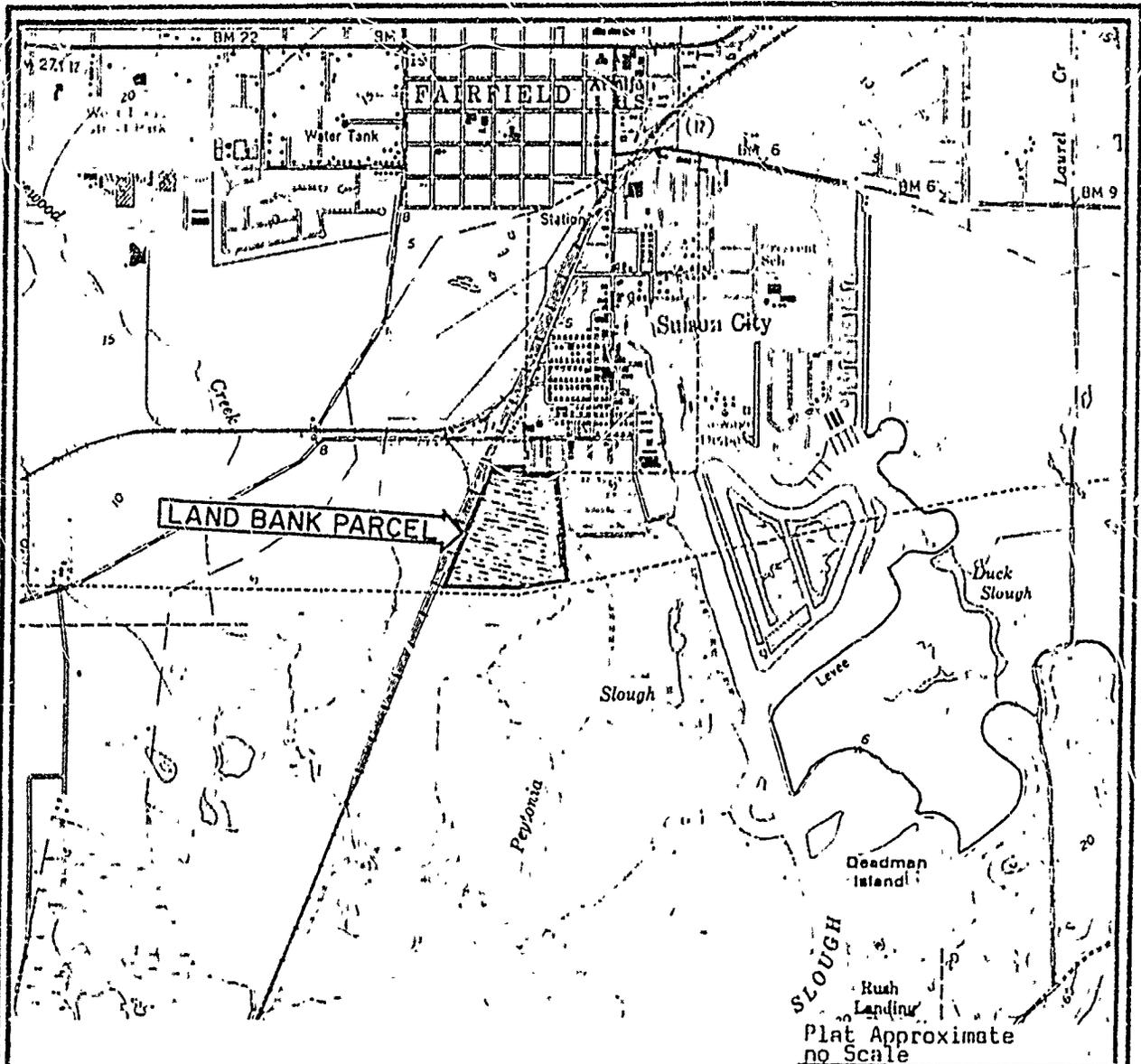
A portion of Sections 35 and 36, Township 5 North, Range 2 West, M.D.B. & M., City of Suisun City, County of Solano, State of California, more particularly described as follows:

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 $22^{\circ}21'23''$ West, 351.00 feet more or less to the TRUE POINT OF BEGINNING; thence South $89^{\circ}51'00''$ East, 388.00 feet more or less; thence South $0^{\circ}09'00''$ West, 100.00 feet more or less; thence South $89^{\circ}51'00''$ East, 410.00 feet more or less; thence South $5^{\circ}38'45''$ East, 725.00 feet more or less; thence North $83^{\circ}30'27''$ West, 25.00 feet more or less; thence South $1^{\circ}10'30''$ East, 85.00 feet more or less; thence South $11^{\circ}44'34''$ East, 163.00 feet more or less; thence South $13^{\circ}06'13''$ East, 105.00 feet more or less.

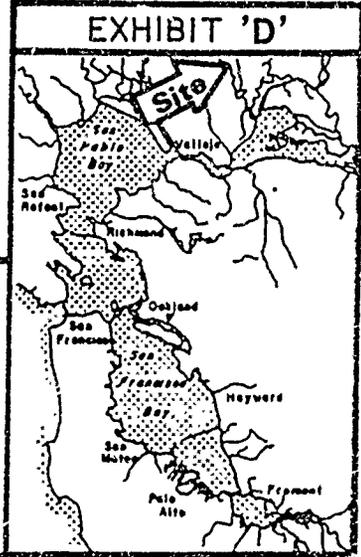
END OF DESCRIPTION

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

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Plat Approximate
no Scale



STATE LANDS COMMISSION

PLAT OF LAND BANK PARCEL

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

Title Study: TPL - Suisun W 22611 Z2-N21 -E 198

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