

MINUTE ITEM

This Calendar Item No. 43
was approved as Minute Item
No. 43 by the State Lands
Commission by a vote of 2
to 0 at its 4/28/83
meeting.

MINUTE ITEM
43

4/28/83
W 22580
Brittnacher
Grimes
Saurenman
SLL 102

LITIGATION AND TITLE DISPUTE SETTLEMENT
AGREEMENT REGARDING LANDS IN THE
WILMINGTON DISTRICT OF
THE CITY OF LOS ANGELES

During consideration of Calendar Item 43, attached, Assistant Attorney General Taylor clarified that the Commission's action on this item was contingent upon the approval of this agreement by the City Council of the City of Los Angeles.

With that stipulation, the resolution in Calendar Item 43 was approved by a vote of 2-0.

(NON-SUBSTANTIVE REVISION 03/27/85)

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CALENDAR ITEM

43

4/28/83
W 22580 SLL 102
Brittnacher
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LITIGATION AND TITLE DISPUTE SETTLEMENT AGREEMENT
REGARDING LANDS IN THE WILMINGTON DISTRICT OF THE
CITY OF LOS ANGELES, CALIFORNIA

PARTIES TO AGREEMENT:

City of Los Angeles (City)
State of California (State)
Union Pacific Land Resources Corporation
(Union Pacific)
Champlin Petroleum Company (Champlin)
City of Long Beach (Long Beach)
Ford Motor Company (Ford)
William Melamed (Melamed)
John S. and Joann N. Gottlieb (Gottlieb)

In 1911, the State granted to the City of Los Angeles, in trust, certain property which included property in the Wilmington District (Stats. 1911, ch. 656, p. 1256, as amended and supplemented by statutes in 1915, 1917, 1921, 1929, 1945, 1951, 1967, 1970 and 1979). In 1969, litigation was initiated by Union Pacific Railroad Company seeking to quiet title to areas which the City claimed pursuant to the grant. In the statute of 1979, the Legislature authorized exchanges of land, under specified conditions, in order to resolve the title disputes (Stats. 1979, ch. 926). In a 1980 agreement (Litigation and Title Dispute Settlement Agreement Regarding Lands in the Wilmington District of the City of Los Angeles, California, hereafter referred

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to as the "1980 Settlement Agreement") between the State, the City of Los Angeles, Union Pacific Land Resources Corporation and Champlin Petroleum Company, disputes were resolved as to a portion of the property covered by the 1979 statute. This item recommends approval of a settlement agreement which resolves the title disputes for the remaining area covered by the 1979 statute.

This item recommends settlement of a title dispute among the above named parties by the approval of and authorization to execute the Litigation and Title Dispute Settlement Agreement, which has been proposed by the parties. That Settlement Agreement contemplates the resolution of the title controversies by means of an exchange of lands and mutual conveyances to effectuate the settlement. The land exchange will be made on an equal-or-greater-value basis in favor of the City and State.

As a result of the settlement, the City will acquire certain parcels of land: 1) A 3.1[±] acre parcel near the intersection of Henry Ford Avenue and Anaheim Street which is across Henry Ford Avenue from property acquired by the City in the 1980 settlement with Union Pacific Land Resources Company and Champlin Petroleum Company; 2) The underlying fee to a portion of Henry Ford Avenue from Anaheim Street to the Los Angeles-Long Beach City boundary, an area of 6.71[±] acres; 3) A parcel of 0.71[±] acres located immediately adjacent to and northerly of the southerly boundary of the 1980 settlement between the City and Union Pacific Land Resources Corporation and Champlin and contiguous with property presently owned by the City; and 4) Several lots containing 0.70[±] acres in Tracts Nos. 3375 and 2378, also contiguous to parcels acquired by the City in the 1980 settlement.

The immediate dispute among the parties deals primarily with the properties east of Henry Ford Avenue which were not a part of the 1980 settlement. Union Pacific, Champlin, Ford, the City of Long Beach, acting as trustee pursuant to statutes of 1911, 1925 and 1935, William Melamed and

1/ The City of Long Beach is included in this transaction in order that the title question be completely clarified. Long Beach owns a parcel within the area that the State is quitclaiming any sovereign interest. The City and State have never claimed that this parcel was subject to the public trust by virtue of being sovereign lands within the Inner Bay Exception. The parcel is now subject to the trust as proceeds of original trust lands by virtue of its having been acquired by Long Beach with tideland trust funds. The patent by the State will not affect the trust status of this parcel.

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the Gottliebs (hereafter "Private Owners") contend that the Rancho San Pedro Patent conveyed all right, title and interest in and to the lands comprising the Wilmington Property and that none of the Wilmington Property lies within the Inner Bay Exception because all of said lands lay landward of the line of mean high tide at the time of the admission of the State to the Union, at the time of the Rancho San Pedro Patent and subsequently.

The City and the State contend that some or all of the lands comprising the Wilmington property lie within the Inner Bay Exception from the Rancho San Pedro Patent in that some or all of said lands were located waterward of the line of mean high tide at the time of the admission of the State to the Union and the Rancho San Pedro Patent or at any time prior to said line being affected by the acts of man.

The Private Owners contend that the State, the City and the Private Owners and their predecessors recognized, acquiesced in and agreed, expressly and impliedly, that the location of the boundary between lands owned by the State and the City as part of the Inner Bay Exception and adjacent lands owned by the Private Owners and their predecessors pursuant to the Rancho San Pedro Patent was and is along the Inner Bay Exception line as modified by 1916 judgments in Wheatley v. San Pedro, Los Angeles and Salt Lake Railroad Company and City of Los Angeles v. San Pedro, Los Angeles and Salt Lake Railroad Company, both of which were ultimately decided by the California Supreme Court.

Representatives of the parties have conducted independent engineering and other studies with the advice of their respective counsel to attempt to ascertain the location of the last natural position of the mean high-water line in the vicinity of the property in controversy, but the evidence each has uncovered is conflicting. Thus, no agreement among them has been made on that subject. The absence of agreement is due in large part to the extensive alterations of the lands by artificial processes (such as dredging and filling) and the present lack of complete and accurate maps, surveys and other records of the area prior to the intervention of man.

The judgments in Wheatley v. San Pedro, etc. and City of Los Angeles v. San Pedro, etc. present further complication to the analyses of the parties. In each of those cases, the line of mean high-tide was adjudged as to certain portions of the Inner Bay of San Pedro lying in the vicinity of

the lands in the present dispute. However, there are inconsistencies between the two cases regarding the adjudicated lines.

Following extensive and protracted negotiations, representatives of the parties have reached an agreement in principle for resolving the title questions presented here by way of a land exchange. Resolution of this controversy by agreement, in lieu of litigation, would be in the public interest because, in part, of the expense, burden, lengthy time and unpredictable outcome of a trial to decide the many complex factual and legal issues presented.

The essential elements of the Settlement Agreement are as follows:

1. The City will acquire from the Private Owners title to the surface estate of a 3.1[±] acre parcel located generally in the area east of Henry Ford Avenue, south of Anaheim Street and north of the Dominguez Channel.
2. The City will also acquire the underlying fee to a portion of Henry Ford Avenue, an area of 6.71[±] acres. Union Pacific and Champlin will retain limited rights to use a portion of Henry Ford Avenue, in order to assure reasonable access to their property south of the Consolidated Slip.
3. The City will acquire certain lots in Tracts Nos. 3375 and 2378 containing 0.70[±] acres located on Alameda Street and contiguous to a parcel obtained by the City in the 1980 settlement with Union Pacific and Champlin.
4. The City will acquire a parcel of 0.71[±] acres located immediately adjacent to and northerly of the southerly boundary of the property for which Union Pacific and Champlin's title were confirmed in the 1980 settlement.
5. Union Pacific and Champlin retain all minerals and mineral rights in and under the above described parcels, in items 1, 2 and 4 above, without, however, a right of entry into said parcels above a plane of 100 feet below the surface thereof to explore for, remove and dispose of said minerals.
6. Fee title in certain lands situated southerly of Anaheim Street northerly of the Los Angeles-Long Beach City boundary and easterly of Henry Ford Avenue is confirmed in the Private Owners. The sovereign or public trust interest in these lands, to the extent existing, will be terminated by the City and State. The Public Trust will not be terminated as to interests held by the City, State or other public entities in easements for roadways or waterways which provide access to existing waterways.

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The State, through the staffs of the Commission and the Attorney General's Office, has independently reviewed the sovereign title interests within the Wilmington property, which is the entirety of the property under the Settlement Agreement. This review has revealed that such title interests within the lands claimed by Union Pacific constitute relatively small portions of the subject property primarily consisting of narrow sloughs which interlaced parts of the area in question. The review has also taken into account the effects of the aforementioned prior cases in this area.

The City and Union Pacific each have had separate appraisals performed of the values of the rights and interests to be exchanged, retained and relinquished by the respective parties. The staff of the State Lands Commission has reviewed those appraisals and, though not adopting or accepting any of such in its entirety, has independently analyzed and evaluated the values of the respective property interests covered under the Settlement Agreement, in conjunction with its review of the sovereign title interests, above. The staff analysis and evaluation indicates that the rights and interests received by the City and State are equal or greater in value than their claims and interests being relinquished and extinguished. The Attorney General's Office has advised the staff as to the applicable legal principles throughout this as well as other aspects of the settlement process.

As a part of this settlement, the State is conveying to the various private parties all right, title and interest, in certain lands described above, held by the State, by virtue of its sovereignty. The parcel involved, however, is interlaced with a wide variety of ownership interests. In order that the patent from the State be as complete as possible, it is necessary that there be attached to it, and incorporated by reference into it, Annex II which is a listing by instrument number (prepared by Title Insurance and Trust Corporation) of the various ownership interests in the area conveyed by the State to the private owners. Because these interests are subject to change between the date of approval of the Settlement by the Commission and the actual date of the closing of the Settlement, it is necessary that the Commission authorize an updating of Annex II to the time of closing so that it accurately reflects the ownership interests as of that date and time.

Copies of the Settlement Agreement, its attachments and exhibits and all other documents necessary to accomplish the foregoing transaction, including the staff analysis thereof, are on file in the office of the State Lands Commission. By this reference they are incorporated herein as if set forth fully.

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This Settlement Agreement is exempt from the requirements of the Subdivision Map Act, pursuant to Section 66412(e) of the Government Code. The agreement is also exempt from the provisions of the California Coastal Act, pursuant to Section 31416(c) of the P.R.C. This agreement is exempt from the California Environmental Quality Act pursuant to Section 21080.11 of the P.R.C.

This settlement proposal has been reviewed and approved in its entirety by the Office of the California Attorney General as to compliance with applicable laws and rules and regulations of the State Lands Commission.

The following recommended findings, declarations, approvals, and authorizations are specifically authorized by the Legislature in Chapter 926 of the Statutes of 1979.

EXHIBITS: A. Site Map.
 B. Parcel Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE EXCHANGE OF LANDS, AND RIGHTS AND INTERESTS THEREIN, SET FORTH IN THE SETTLEMENT AGREEMENT REFERRED TO ABOVE AND DESCRIBED IN PARAGRAPH 3 BELOW IS IN THE BEST INTERESTS OF THE STATE AND THE PUBLIC AND IN FURTHERANCE OF THE PUBLIC TRUST PURPOSES OF COMMERCE, NAVIGATION AND FISHERY; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THESE TRUST PURPOSES, BUT RATHER WILL ENHANCE AND ENLARGE THE PUBLIC RIGHTS AND UTILIZATION OF THE WATERWAYS INVOLVED IN THIS SETTLEMENT.
2. FIND THAT THE VALUE OF THE TITLES AND INTERESTS IN THE LANDS ACQUIRED BY THE CITY AND STATE FROM UNION PACIFIC IS EQUAL TO OR GREATER THAN THE VALUE OF THE CITY'S AND STATE'S TITLES AND INTERESTS IN THE LANDS BEING EXTINGUISHED, REMOVED AND RELINQUISHED AS A RESULT OF THIS SETTLEMENT.
3. APPROVE AND AUTHORIZE THE EXECUTION OF THE LITIGATION AND TITLE DISPUTE SETTLEMENT AGREEMENT REGARDING LANDS IN THE WILMINGTON DISTRICT OF THE CITY OF LOS ANGELES, CALIFORNIA, AMONG THE CITY OF LOS ANGELES, STATE OF CALIFORNIA, UNION PACIFIC LAND RESOURCES CORPORATION AND CHAMPLIN PETROLEUM COMPANY, FORD MOTOR COMPANY, CITY OF LONG BEACH, WILLIAM MELAMED, AND THE GOTTLIEBS, TOGETHER WITH THE IMPLEMENTING CONVEYANCES, COPIES OF WHICH AGREEMENTS ARE ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY THIS REFERENCE MADE A PART HEREOF AS IF SET FORTH FULLY.

4. FIND AND DECLARE THAT:

A. TO THE EXTENT THAT THERE ARE SOVEREIGN LANDS WITHIN THE PROPERTY DESCRIBED IN EXHIBITS "D" AND "E" TO THAT SETTLEMENT AGREEMENT, SUCH LANDS HAVE BEEN IMPROVED, FILLED, RECLAIMED AND EXCLUDED FROM THE PUBLIC NAVIGATIONAL CHANNELS; ARE NO LONGER AVAILABLE, USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION AND FISHING OR OTHER TRUST PURPOSES; ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS; AND THEREFORE, IN FURTHERANCE OF A HIGHLY BENEFICIAL PUBLIC PROGRAM OF HARBOR DEVELOPMENT, SHALL BE FREED FROM THE PUBLIC TRUST, UPON THE EXECUTION OF THE SETTLEMENT AGREEMENT BY ALL THE PARTIES IN ACCORDANCE WITH ITS TERMS, PROVIDED THAT SUCH AGREEMENT AND THIS TRANSACTION ARE CONSUMMATED AS PROVIDED FOR THEREIN AND WITHIN THE TIME SPECIFIED THEREIN;

B. TO THE EXTENT THERE ARE RIGHTS AND INTERESTS IN SOVEREIGN LANDS EXCEPTED AND RESERVED IN PARAGRAPH A, OF SECTION 1.2 OF ARTICLE FIRST OF EXHIBIT "C" TO THAT SETTLEMENT AGREEMENT, THE LANDS IN WHICH SUCH RIGHTS AND INTERESTS EXIST HAVE BEEN IMPROVED, FILLED, RECLAIMED AND EXCLUDED FROM THE PUBLIC NAVIGATIONAL CHANNELS; SUCH RIGHTS AND INTERESTS ARE NO LONGER AVAILABLE, USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION AND FISHING OR OTHER TRUST PURPOSES AND ARE NO LONGER IN FACT RIGHTS OR INTERESTS IN TIDELANDS OR SUBMERGED LANDS; AND THEREFORE IN FURTHERANCE OF A HIGHLY BENEFICIAL PUBLIC PROGRAM OF HARBOR DEVELOPMENT, SUCH RIGHTS AND INTERESTS SHALL BE FREED FROM THE PUBLIC TRUST, UPON THE EXECUTION OF THE SETTLEMENT AGREEMENT BY ALL THE PARTIES IN ACCORDANCE WITH ITS TERMS, PROVIDED THAT SUCH AGREEMENT AND THIS TRANSACTION ARE CONSUMMATED AS PROVIDED FOR THEREIN AND WITHIN THE TIME SPECIFIED THEREIN.

5. AUTHORIZE THE EXECUTION OF A STATE PATENT TO UNION PACIFIC, CHAMPLIN, FORD, MELAMED, THE GOTTLIEBS AND LONG BEACH AS WELL AS THE OTHER OWNERS OF INTEREST AS REFLECTED IN THE PATENT, AS TO THE LANDS AND INTERESTS REFERRED TO IN EXHIBIT "C", ARTICLE FIRST, SECTION 1.2, PARAGRAPH A, AND EXHIBIT "E", ANNEX I AND ANNEX II OF THE SETTLEMENT AGREEMENT PURSUANT TO THE TERMS AND CONDITION SPECIFIED THEREIN AND ALSO AUTHORIZE

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THE SUBSTITUTION, AT THE TIME OF CLOSING, OF AN ANNEX II TO EXHIBIT "E" OF SUCH SETTLEMENT AGREEMENT UPDATED TO THE DATE AND TIME OF CLOSING.

6. AUTHORIZE THE ACCEPTANCE AND RECORDATION OF THE CONVEYANCES TO THE STATE (AND CITY) BY UNION PACIFIC AND CHAMPLIN, AS PROVIDED IN THAT SETTLEMENT AGREEMENT.
7. FIND THAT THE SETTLEMENT AGREEMENT AND THE SUBJECT TRANSACTION ARE EXEMPT FROM THE CALIFORNIA COASTAL ACT, THE SUBDIVISION MAP ACT AND THE CEQA (SECTION 21080.11 P.R.C.).
8. AUTHORIZE THE STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ANY AND ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE FOREGOING TRANSACTION, INCLUDING BUT NOT LIMITED TO EXECUTION OF DOCUMENTS AND APPEARANCES IN ANY LEGAL PROCEEDINGS CONCERNING THAT TRANSACTION.

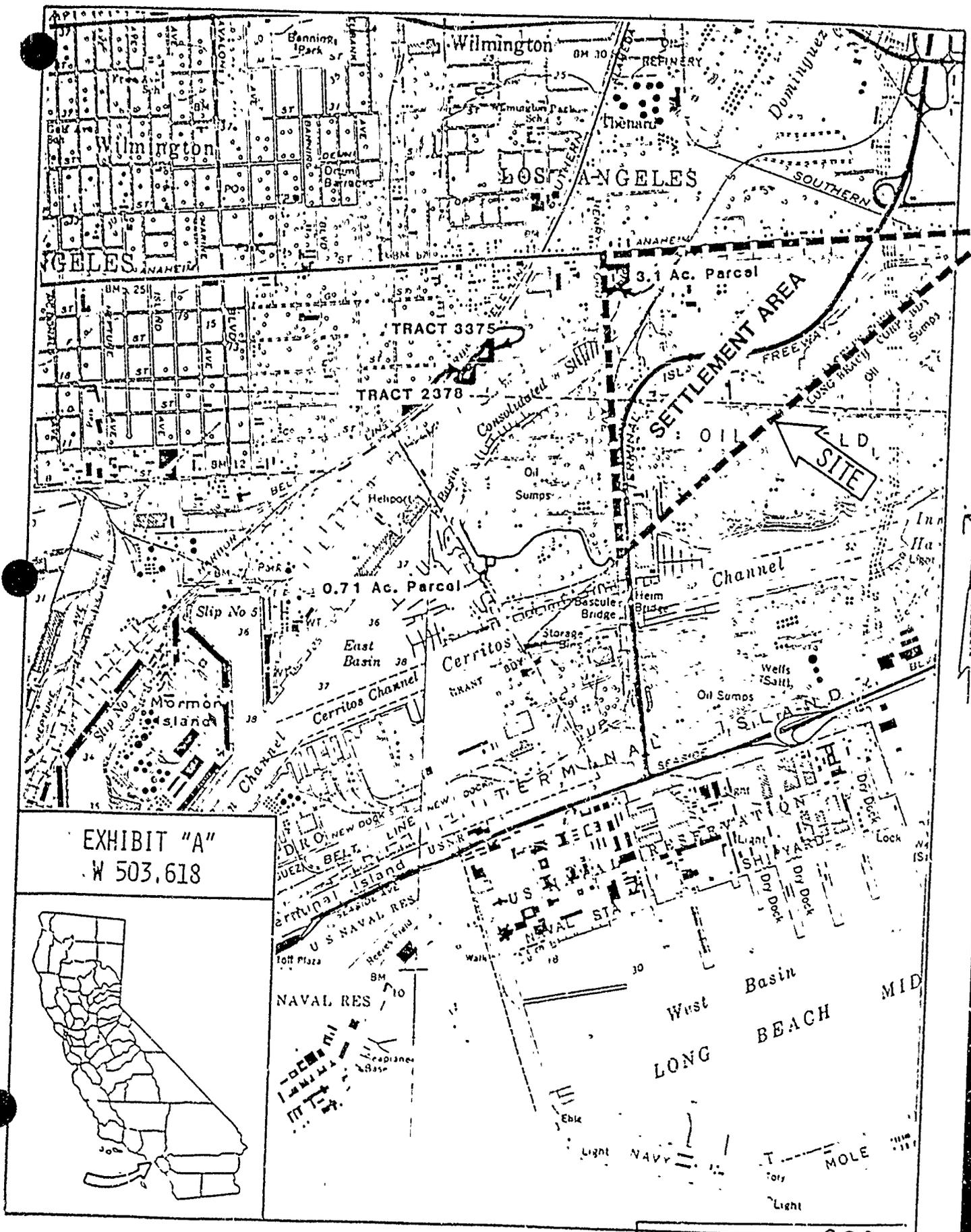
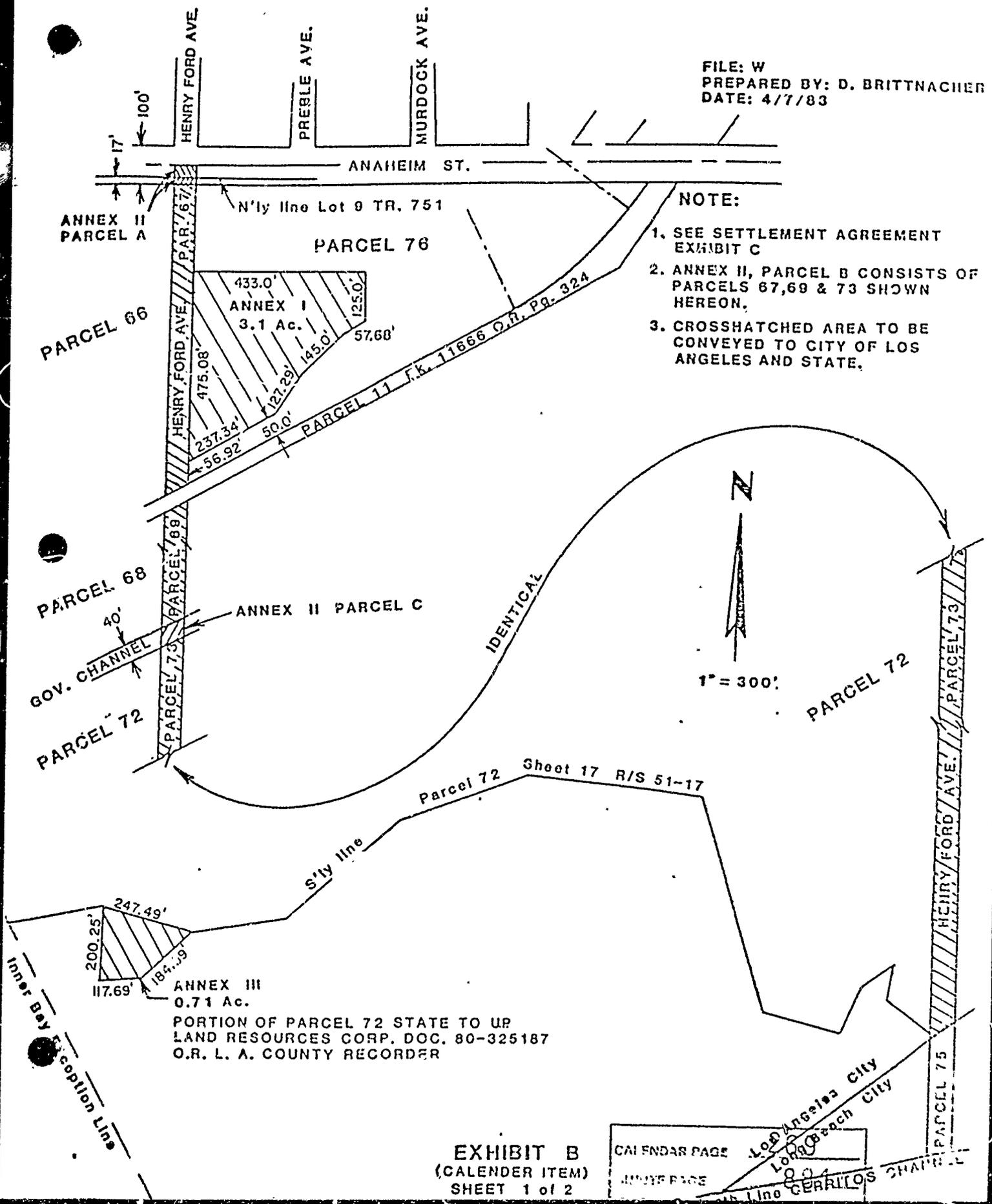


EXHIBIT "A"
W 503.618



**PLAT SHOWING LANDS
TO BE CONVEYED BY PRIVATE OWNERS
TO CITY AND STATE
IN THE CITY OF LOS ANGELES,
LOS ANGELES COUNTY, CALIFORNIA**

FILE: W
PREPARED BY: D. BRITTNACHER
DATE: 4/7/83



NOTE:

1. SEE SETTLEMENT AGREEMENT EXHIBIT C
2. ANNEX II, PARCEL B CONSISTS OF PARCELS 67, 69 & 73 SHOWN HEREON.
3. CROSSHATCHED AREA TO BE CONVEYED TO CITY OF LOS ANGELES AND STATE.



1" = 300'

IDENTICAL

Parcel 72 Sheet 17 R/S 51-17

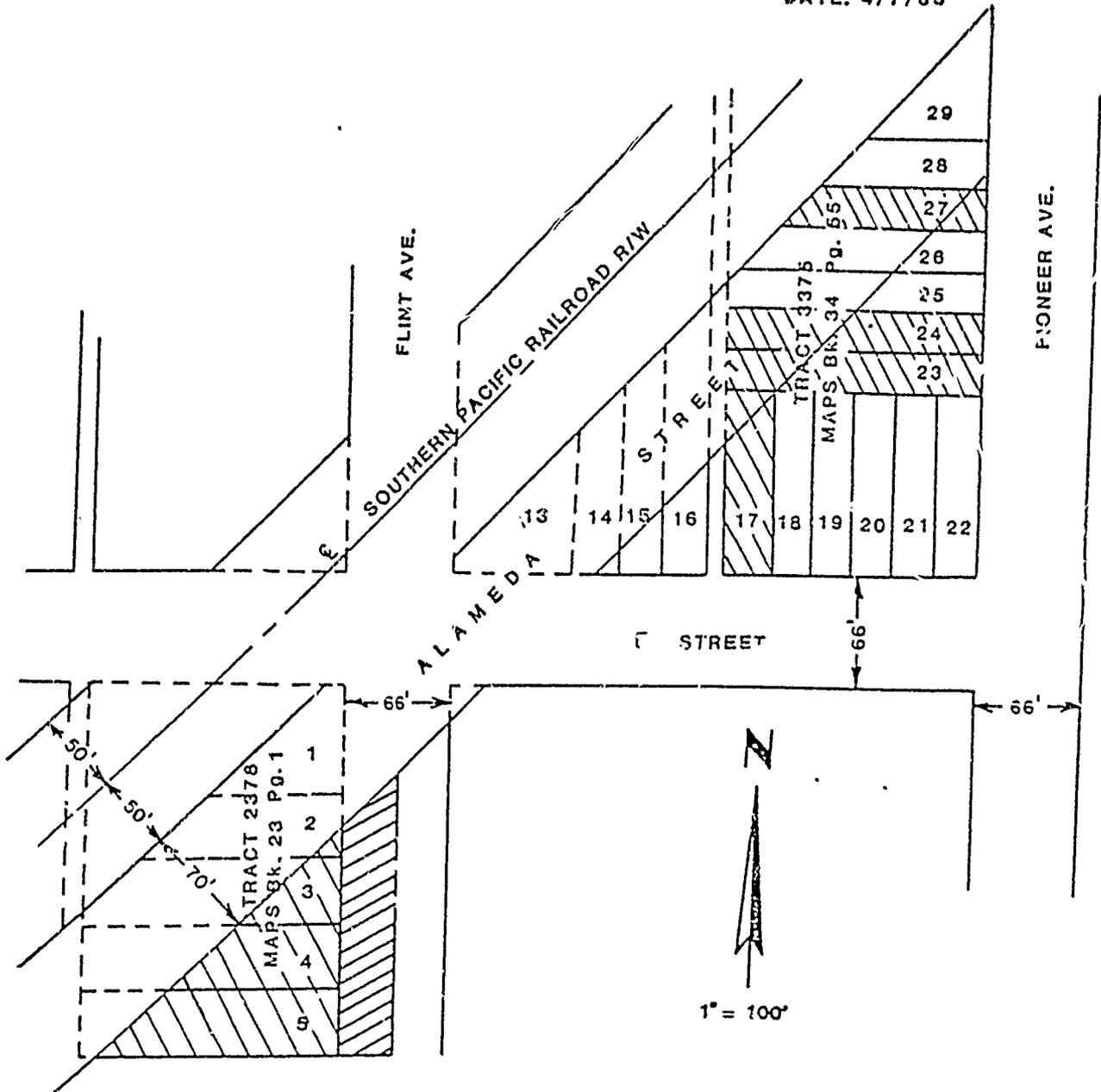
ANNEX III
0.71 Ac.
PORTION OF PARCEL 72 STATE TO UP
LAND RESOURCES CORP. DOC. 80-325187
O.R. L. A. COUNTY RECORDER

EXHIBIT B
(CALENDAR ITEM)
SHEET 1 of 2

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Los Angeles City
Long Beach City
Gerritos Channel

**PLAT SHOWING LANDS
TO BE CONVEYED BY PRIVATE OWNERS
TO CITY AND STATE
IN THE CITY OF LOS ANGELES
LOS ANGELES COUNTY, CALIFORNIA**

FILE: W
PREPARED BY: D. BRITTNACHER
DATE: 4/7/83



NOTES:

1. THE INTEREST TO BE CONVEYED IN LOTS 2, 3, 4 & 5 AND PORTION FLINT STREET IS A $\frac{1}{2}$ % INTEREST.
2. CROSSHATCHED AREA TO BE CONVEYED TO CITY OF LOS ANGELES AND STATE

REFERENCES:

1. 82-521756 O.R. L. A. COUNTY, LOT 27, TR. 3375
2. 82-521757 O.R. L. A. COUNTY, LOTS 2, 3, 4 & 5, TR. 2378
3. 82-909913 O.R. L. A. COUNTY, LOTS 23 & 24, TR. 3375
4. 82-909914 O.R. L. A. COUNTY, LOT 17, TR. 3375

EXHIBIT B
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