

MINUTE ITEM

This Calendar Item No. 17  
is approved as Minute Item  
No. 17 by the State Lands  
Commission by a vote of 3  
to 0 at its 9/28/83  
meeting.

CALENDAR ITEM

*[Handwritten initials]*

9/28/83  
W 20779  
SLL 103  
Townsend  
PRC 6496

APPROVAL OF A  
COMPROMISE TITLE SETTLEMENT AGREEMENT  
AND  
GENERAL LEASE - PUBLIC AGENCY USE

A title dispute exists between the State of California and Cal-Pox, concerning certain real property (Settlement Parcel) in the City of San Rafael, Marin County. The property is located adjacent to existing State property and is immediately adjacent to the easterly boundary of the Northgate Industrial Park. For clarification purposes, the Settlement Parcel consists of sub-parcels hereafter referred to as the Patent Parcel, Exchange Parcels One and Two, and the Perpetual Easement Parcel (see Exhibit "A" attached).

Cal-Pox has proposed to develop a portion of the Settlement Parcel with two office buildings to which staff of the State Lands Commission initially objected on the ground that the development would occupy lands owned by the State by virtue of its sovereignty. This claim of ownership is based on the land's historic character as tide and submerged lands of the State, the legal effect of which was to reserve the public trust easement for commerce, navigation, fishing and associated wetland uses to the State while conveying the underlying fee. The State further claims fee ownership in a portion of the Settlement Parcel which was not conveyed into private ownership including a small parcel of unsold property surveyed as swamp and overflow land and part of an unsold BTLC Lot. Cal-Pox does not concur in staff's analysis of title and contends that title to the Settlement Parcel is free of any State right, title or interest to the present date as successor-in-interest to the grantees of State Patents.

A 9  
S 2

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Staff of the State Lands Commission has conducted a study and has found that the parcel proposed for development (Patent Parcel) has been excluded from tidal action and is no longer needed, available, or susceptible of being used for public trust purposes. An evaluation of the evidence of title to the Settlement Parcel was made and the estimate of the present economic value of the State's title within the parcel is \$51,500.

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 by Patent to Cal-Pox, Inc., all its right, title and interest to the parcel proposed for development (Patent Parcel) as depicted on Exhibit "A", free of public trust ownership.
2. In exchange, Cal-Pox will pay to the State of California the sum of \$13,750 to be deposited into the Land Bank Fund. This sum will be used to acquire lands useful for public trust purposes; the lands to be received and held by the State as tide and submerged lands subject to the public trust.

Cal-Pox further agrees to convey to the State, by Grant Deed, the following parcels of land:

PERPETUAL EASEMENT:

A minimum 20-foot vehicular accessway, which will adjoin the proposed cul de sac extension of the existing public roadway referred to as Mitchell Boulevard, (as depicted on Exhibit "A" attached), providing ingress and egress to the State's adjacent parcel and valued at \$8,250.

EXCHANGE PARCEL ONE:

Fee title to the certain 0.154-acre parcel of land (as depicted on Exhibit "A" attached) and valued at \$9,500.

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EXCHANGE PARCEL TWO:

Fee title to that certain 15,474-acre parcel, more or less, of land (as depicted on Exhibit "A" attached) and valued at \$20,000.

DEDICATION PARCEL:

Fee title to that certain nine-acre parcel of land lying south and adjacent to Exchange Parcel Two as depicted on Exhibit "A" attached.

3. Escrow costs and a standard CLTA title policy in the amount of \$37,750 insuring the State's title to the Exchange Parcels One and Two and the Perpetual Easement Parcel conveyed to the State shall be without cost to the State.
4. The Agreement shall not be effective until execution and acknowledgment of a subordinate maintenance agreement, implemented prior to the close of escrow, between the State of California and Hardage Management Corporation. This maintenance agreement will provide that Hardage will have sole responsibility for maintenance of the berm being constructed along the mutual boundary of Exchange Parcel Two and Dedication Parcel, and the property owned by by Hardage, referred to as Contempo Trailer Park.

The State has evaluated its interest in the Patent and Exchange Parcels and determined that the value of the private interests it is receiving in the Exchange Parcels are equal to or greater than the value of the State's interests being given up in the Patent Parcel. The Exchange Parcels are primarily marsh and wetlands containing substantial wildlife and other environmental values which can best be preserved in State sovereign ownership. Due to the proximity of the State's parcel adjacent to the Northgate Industrial Park and the proposed Mitchell Plaza, and the current value of the State's parcel in its landlocked position versus a potential highest and best use of Industrial, the State is to receive considerable benefit to its parcel as a result of the vehicular accessway.

CONCLUSION: The staff of the Commission has reviewed and evaluated the title evidence and the various legal principles applicable to this case. It has concluded that the proposed

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Agreement is a reasonable compromise solution to this title dispute, is in compliance with all legal requirements and is within the statutory authority of the State Lands Commission.

Staff recommends approval by the Commission of the Compromise Title Settlement Agreement in substantially the form on file in the offices of the State Lands Commission. Staff additionally recommends authorization for the subsequent approval and issuance of a 49-year General Lease - Public Agency Use, subject to their acceptance, of Exchange Parcels One and Two, and the Dedication Parcel, for management purposes. Consideration will be the public use and benefit.

This project is exempt from CEQA because it involves a Compromise Title Settlement Agreement, a transfer of ownership in land to preserve open space, and a lease to the Department of Fish and Game for natural resources protection.

Authority: P.R.C. 21080.11, 14 Cal. Adm. Code, Div. 6, Section 15325(a), and 15307.

AB 884: N/A.

EXHIBITS: A. Plat of the Compromise Title Settlement.  
B. Location Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. DETERMINE AND DECLARE THAT THE SUBJECT COMPROMISE TITLE SETTLEMENT AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND THAT THE PARCEL BEING PATENTED BY THE STATE HAS BEEN FILLED AND RECLAIMED AND IS NO LONGER NEEDED, AVAILABLE, OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION AND FISHING, AND IS NO LONGER, IN FACT, TIDELANDS OR SUBMERGED LANDS AND UPON RECORDATION OF THE STATE'S CONVEYANCE PURSUANT TO THE SUBJECT COMPROMISE TITLE SETTLEMENT AGREEMENT SHALL BE FREE FROM THE PUBLIC TRUST FOR COMMERCE, NAVIGATION AND FISHERIES.

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2. DECLARE AND DETERMINE THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS SUBJECT TO THE COMPROMISE TITLE SETTLEMENT AGREEMENT EQUAL TO OR GREATER THAN THE VALUE OF THE STATE'S INTEREST BEING GIVEN UP IN THE SETTLEMENT PARCEL.
3. AUTHORIZE ACCEPTANCE BY THE STATE LANDS COMMISSION, ACTING IN ITS ROLE AS LAND BANK TRUSTEE, OF THE SUM OF \$13,750 TO BE DEPOSITED IN THE LAND BANK FUND PURSUANT TO THE PROVISIONS OF DIVISION 6 AND 7 OF THE PUBLIC RESOURCES CODE, SECTION 8600 ET SEQ., AND ACCEPTANCE OF EXCHANGE PARCELS ONE AND TWO AND THE PERPETUAL EASEMENT PARCEL.
4. AUTHORIZE ACCEPTANCE BY THE STATE LANDS COMMISSION OF THAT CERTAIN NINE-ACRE PARCEL BEING DEDICATED TO THE STATE.
5. DECLARE AND DETERMINE THAT THE SUBJECT COMPROMISE TITLE SETTLEMENT IS BEING MADE IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; 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 THE STATE'S POWER TO RESOLVE AND SETTLE CONTROVERSIES IN LIEU OF LITIGATION.
6. AUTHORIZE EXECUTION ON BEHALF OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, OF THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM ON FILE WITH THE COMMISSION AND TO DEPOSIT THE AGREEMENT AND OTHER DOCUMENTS INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF MARIN.
7. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO EFFECTUATE THE PROPOSED SETTLEMENT INCLUDING EXECUTION OF ALL OTHER DOCUMENTS AS REQUIRED AND PARTICIPATION IN A QUIET TITLE ACTION IN ORDER TO OBTAIN A DECREE CONFIRMING THE PROVISIONS OF THE COMPROMISE TITLE SETTLEMENT AGREEMENT.
8. FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT AND LAND TRANSFER ARE EXEMPT FROM CEQA PURSUANT TO PUBLIC RESOURCES CODE, SECTION 8631 AND 21080.11; AND 14 CAL. ADM. CODE, DIV. 6, SECTION 15325(a).

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CALENDAR ITEM NO. 17 (CCNTD)

9. AUTHORIZE ISSUANCE TO THE DEPARTMENT OF FISH AND GAME, SUBJECT TO THEIR ACCEPTANCE, OF A 49-YEAR GENERAL LEASE - PUBLIC AGENCY USE; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT; FOR MANAGEMENT OF EXCHANGE PARCELS ONE AND TWO, AND THE DEDICATION PARCEL AS DEPICTED ON EXHIBIT "A", ATTACHED AND BY REFERENCE MADE A PART HEREOF.
10. FIND THAT THE PROPOSED LEASE TO THE DEPARTMENT OF FISH AND GAME IS EXEMPT FROM CEQA PURSUANT TO 14 CAL. ADM. CODE, DIV. 6, SECTION 15307, AS IT WILL INVOLVE PROTECTION OF NATURAL RESOURCES BY A REGULATORY AGENCY.

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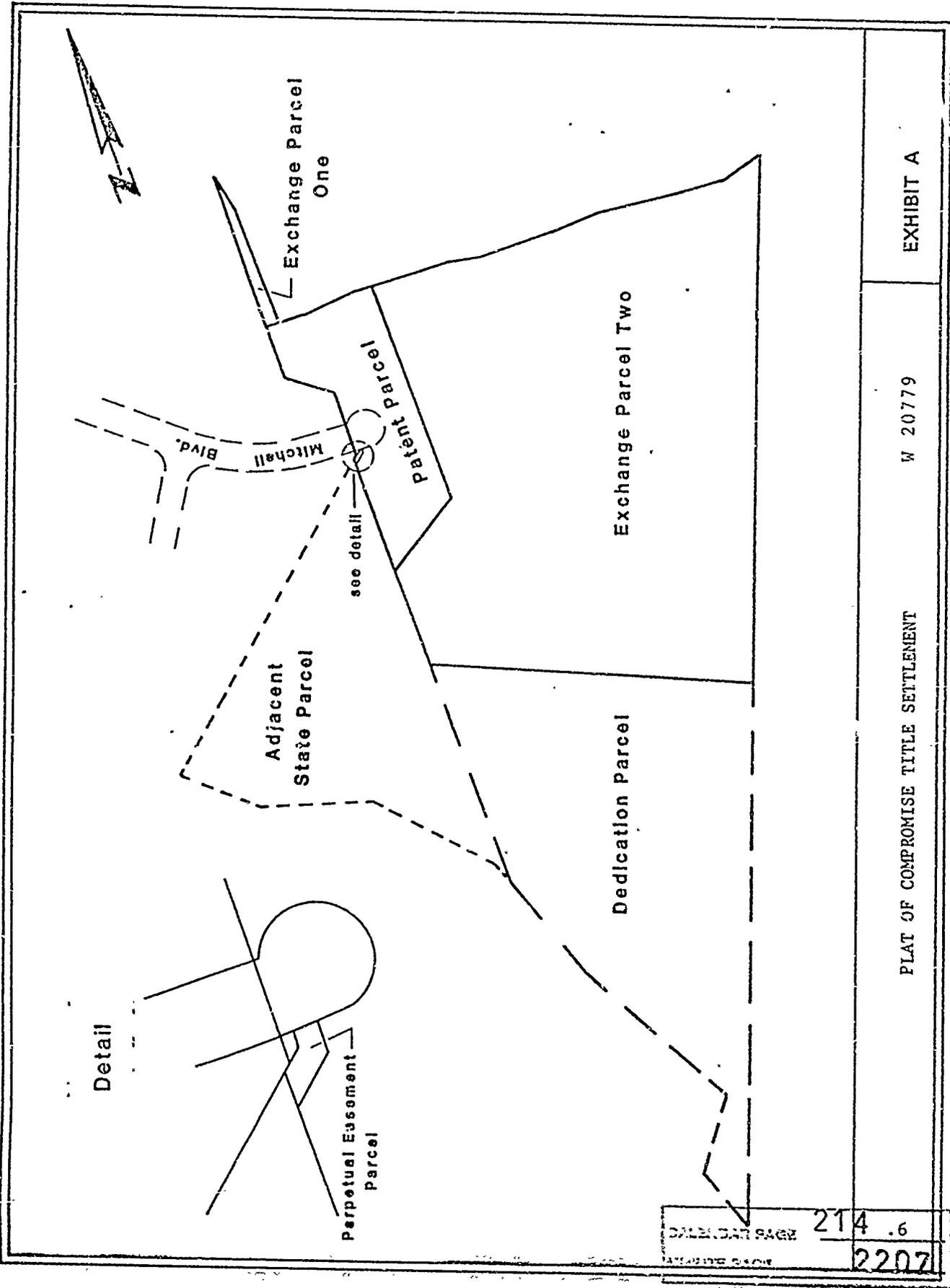


EXHIBIT A

W 20779

PLAT OF COMPROMISE TITLE SETTLEMENT

DATE OF RECORDING 214 .6  
 PLAT NUMBER 2207

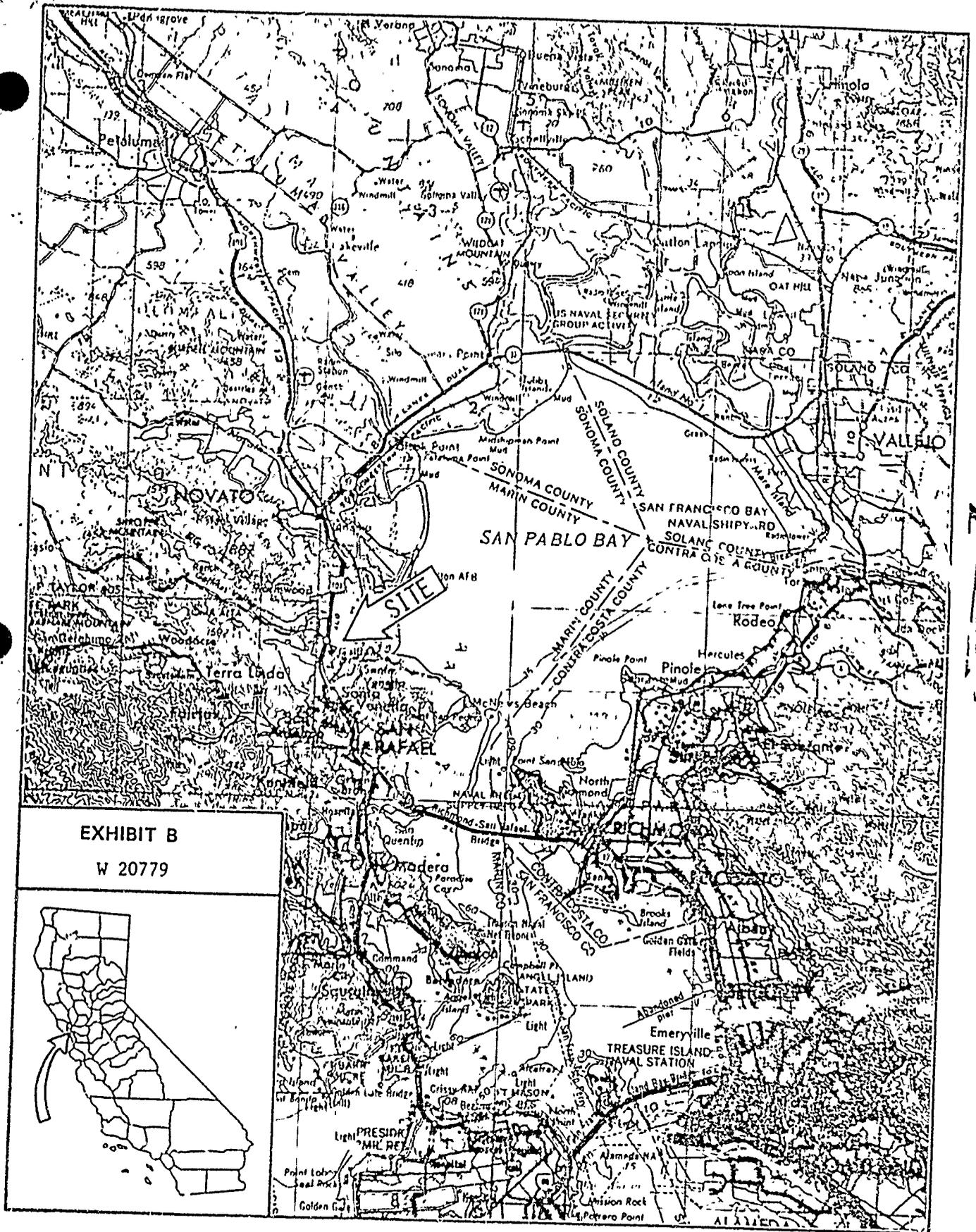


EXHIBIT B

W 20779



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