MINUTE ITEM

This Calendar Item No. 31 was approved as Minute Item No. 31 by the State Lands Commission by a vote of 3 to 0 at its 3/22/84 meeting.

CALENDAR ITEM

31

3/22/84
W 22676
SLL 122
R. Ludlow
SLL 122

APPROVAL OF
COMPROMISE TITLE SETTLEMENT AGREEMENT

INTRODUCTION: The State Lands Commission staff recommends Commission approval of a Compromise Title Settlement Agreement with John W. Doudell, Trustee under Trust Agreement dated December 30, 1971, Armand Kunde and Joan Kunde, (Doudell and Kunde), involving an approximately 100-acre parcel of land (Settlement Parcel), located in the town of Milpitas, County of Santa Clara. The proposed agreement contemplates the State patenting its interest in the Settlement Parcel, with the exception of the present bed of Penitencia Creek, in return for the sum of $20,000. That sum will be deposited in the Land Bank Fund pursuant to Public Resources Code, Section 8625(a). This money would then be available to purchase property more suitable for trust purposes.

BACKGROUND AND PRESENT SITUATION:

The Settlement Parcel is located in the northern portion of Santa Clara County within the City of Milpitas. It is bounded on the west in part, by Penitencia Creek,

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on the north by Dixon Landing Road, on the east by Southern Pacific and Western Pacific rail lines, and on the south by several residential areas. Loudell and Kunde intend to hold the property for future development as a business park and residential area.

The source of the State's Title Claim is the existence, within the Settlement Parcel, of a portion of the historic bed of Penitencia Creek. The historic bed of Penitencia Creek is now dry and is not suitable for trust purposes. Further, there is no land of equal or greater value within the Settlement Parcel suitable for trust purposes and which is available for exchange. Therefore, the compromise Title Settlement Agreement contemplates the State patenting its interest in the Settlement Parcel to Loudell and Kunde in exchange for the sum of $20,000, which will be deposited in the land bank fund. Specific terms and conditions of the Compromise Title Settlement are set forth in the proposed form of agreement, a copy of which is on file with the State Lands Commission.

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 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.

OTHER PERTINENT INFORMATION:
Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of The California Environmental Quality Act (CEQA) as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

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AB 884: N/A.

EXHIBITS: A. Land description of the 100, acre (±) Settlement Parcel.

B. Plat of Compromise Title Settlement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. DETERMINE AND DECLARE THAT THE SUBJECT COMPROMISE TITLE SETTLEMENT AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND THAT THE SETTLEMENT PARCEL HAS BEEN FILLED AND RECLAIMED AND HAS THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION AND FISHING, 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.

3. DECLARE AND DETERMINE THAT THE SUM OF $20,000 THE STATE IS RECEIVING PURSUANT TO THE SUBJECT COMPROMISE TITLE SETTLEMENT AGREEMENT IS EQUAL TO OR GREATER THAN THE VALUE OF THE STATE'S INTEREST BEING GIVEN UP IN THE SETTLEMENT PARCEL.

4. DETERMINE AND DECLARE THAT THE SUBJECT COMPROMISE TITLE SETTLEMENT IS BEING MADE IN LIEU OF LITIGATION, IS A TITLE SETTLEMENT WITHIN THE MEANING OF PUBLIC RESOURCES CODE SECTION 8601(d) AND AUTHORIZE ACCEPTANCE OF THE SUM OF $20,000 TO BE DEPOSITED IN THE LAND BANK FUND PURSUANT TO PUBLIC RESOURCES CODE SECTION 8625(a).

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5. 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 OTHER APPROPRIATE TITLE DOCUMENTS, AND DELIVERY OF SAID AGREEMENT AND OTHER DOCUMENTS INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF SANTA CLARA.

6. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY OR APPROPRIATE TO EFFECTUATE THE PROPOSED SETTLEMENT INCLUDING PARTICIPATION IN A QUIET TITLE ACTION IN ORDER TO OBTAIN A DECREE CONFIRMING THE PROVISIONS OF THE COMPROMISE TITLE SETTLEMENT AGREEMENT.

Added 3/20/84

EXHIBIT "A"

LAND DESCRIPTION

W 22876

All that certain property situate in the City of Milpitas, County of Santa Clara, State of California, described as follows:

PARCELS 1, 2 and 3, as shown on Parcel Map filed January 27, 1983 in Book 508 of Maps, at pages 36 and 37, Santa Clara County Records.

EXCEPTING THEREFROM all that portion thereof lying Southerly and Southwesterly of the Northerly and Northeasterly lines of the easement parcels described in the Deed to Santa Clara Valley Water District recorded January 27, 1983 in Book H 302 of Official Records, page 572 as to Parcels 1 and 3; and as described in the Deed to Santa Clara Valley Water District recorded January 27, 1983 in Book H 302 of Official Records, page 577, as to Parcel 2.

END OF DESCRIPTION

REVIEWED FEB. 8, 1984 BY BOUNDARY & TITLE UNIT, LEROY WEED, SUPERVISOR.

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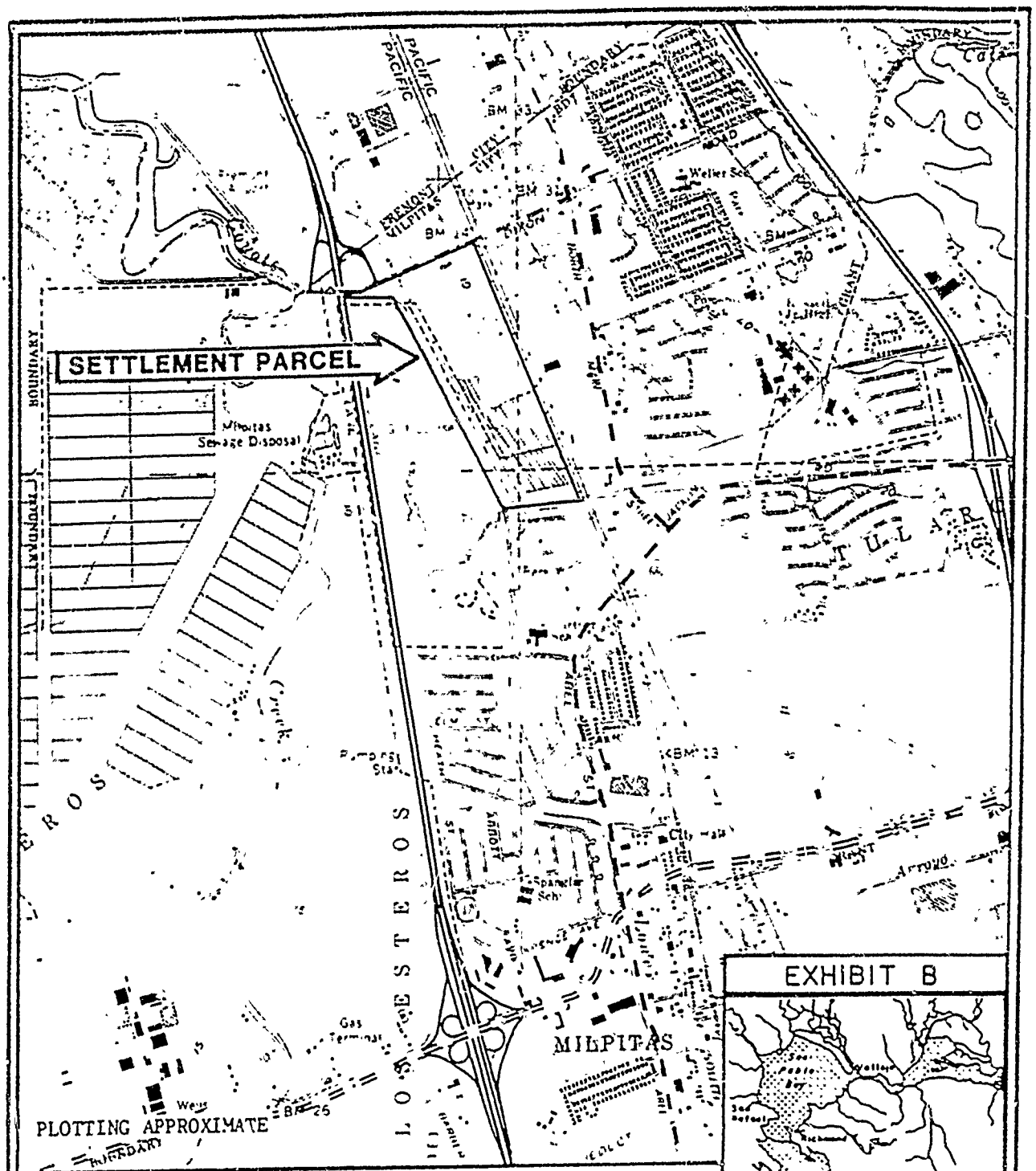
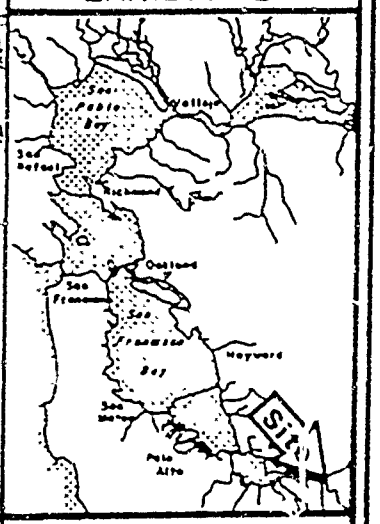


EXHIBIT B



STATE LANDS COMMISSION

PORTION OF U.S.G.S. QUAD MILPITAS, PHOTOREVISED 1980

Prepared by: R.L. BELL FEB. 8, 1984 A:18 S:12

Title Study: DOUDELL - MILPITAS W 22876 Z 3 N 34 E 158

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