

MINUTE ITEM

This Calendar Item No. 41
was approved as Minute Item
No. 41 by the State Lands
Commission by a vote of 2
to 0 at its 2/25/85
meeting.

CALENDAR ITEM

A 18

41

02/28/85
W 503.604
AD 6
Meier

S 10

APPROVAL OF A
COMPROMISE TITLE SETTLEMENT AGREEMENT
CITY OF UNION CITY, ALAMEDA COUNTY

PRIVATE PARTIES: C.F.S. Continental, Inc.

A title dispute exists between the State, in its sovereign capacity, and C. F. S. Continental, Inc., a Delaware Corporation ("private party"), concerning ownership of a 11.7-acre parcel of real property, located in the City of Union City, Alameda County. The property is on the west side of Union City Boulevard, north of Tara Court. The real property hereinafter designated as the subject parcel, is described in Exhibit "A" and is depicted on Exhibit "B".

The private party is the record owner of the subject parcel as successor in interest to the Patent of Rancho Arroyo de la Alameda, which included part of the subject parcel.

The private party contends that the rancho patent conveyed all right, title, and interest within the subject parcel without any reservations to the State, expressed or implied, and that they now hold title to the property free and clear of any State right, title, or interest.

The staff of the State Lands Commission has conducted a study of the evidence of title to the subject parcel and has drawn a number of factual conclusions, including those summarized below:

1. A portion of the subject parcel was included within the perimeter description of Rancho Arroyo de la Alameda.
2. The rancho patent conveyed property only to the bank of Alameda Creek and did not include any part of the creek bed itself. No other state or federal patent purported to convey the bed of Alameda Creek to private parties.

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3. The natural bed of Alameda Creek, a navigable waterway in its last natural state, occupies a portion of the subject parcel.
4. That portion of the bed of Alameda Creek within the subject parcel is reclaimed and unimproved and was, in its natural state, submerged or covered by the ordinary tides, the precise extent of which is uncertain.

The staff is of the opinion that the title evidence and the applicable legal principles lead to the conclusion that the State, in its sovereign capacity, is the owner as trustee of the public trust, of some right, title, or interest in the subject parcel. The exact extent and nature of the State's interest is, however, subject to uncertainty and dispute.

The private party has offered to resolve the title dispute by written agreement in compromise settlement of the legal and evidentiary issues. The staff of the State Lands Commission recommends approval of the settlement in substantially the form of the agreement now on file with the State Lands Commission.

While the agreement sets forth all the specific terms and conditions of the settlement, a brief summary of some of the principle terms and conditions of the settlement is set forth below, as follows:

1. The private parties will deposit \$28,000 into the Land Bank Trust Fund administered as trustee by the State Lands Commission. The sum will be used by the State Lands Commission to acquire other lands more reasonably susceptible to use for public trust purposes.
2. In exchange for this deposit of monies into the Land Bank Trust Fund, the State will convey to private parties all its right, title, and interest, and will terminate the public trust interest in the subject parcel.
3. The agreement provides for an escrow and will be effective upon its recordation. Escrow will be without cost to the State.

Staff has appraised the subject parcel and has evaluated the law and the evidence bearing on the title dispute, and is of the opinion that the sum of \$28,000 is equal to or greater than the value of the State's interest in the subject parcel.

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Because the subject parcel is entirely reclaimed, the settlement of title will not interfere with any right of the public for fishing or navigation.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. 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 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.

- EXHIBITS:
- A. Subject Parcel Description.
 - B. Subject Parcel Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE 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. FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR THE EXCHANGE PARCEL, IS IN THE BEST INTERESTS OF THE STATE.
 - a. THAT THE SUM TO BE DEPOSITED INTO THE LAND BANK TRUST FUND IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SUBJECT PARCEL BEING RELINQUISHED BY THE STATE.
 - b. THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE-STATE TITLES WITHIN THE PARCEL.
 - c. THAT THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.

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- d. THAT THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION, AND THAT IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
 - e. THAT, ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST MAY BE TERMINATED, THE SUBJECT PARCEL HAS BEEN REMOVED FROM THE PUBLIC WATERWAYS AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS.
 - f. SETTLEMENT OF THIS TITLE DISPUTE, AS DESCRIBED HEREIN, WILL NOT INTERFERE WITH ANY PUBLIC RIGHT OF NAVIGATION OR FISHING OVER THE LAND INVOLVED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH COMMISSION.
 - B. A PATENT OF THE SUBJECT PARCEL IN ALAMEDA COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", FOREVER FREE OF THE PUBLIC TRUST.
4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE TITLE SETTLEMENT AGREEMENT AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

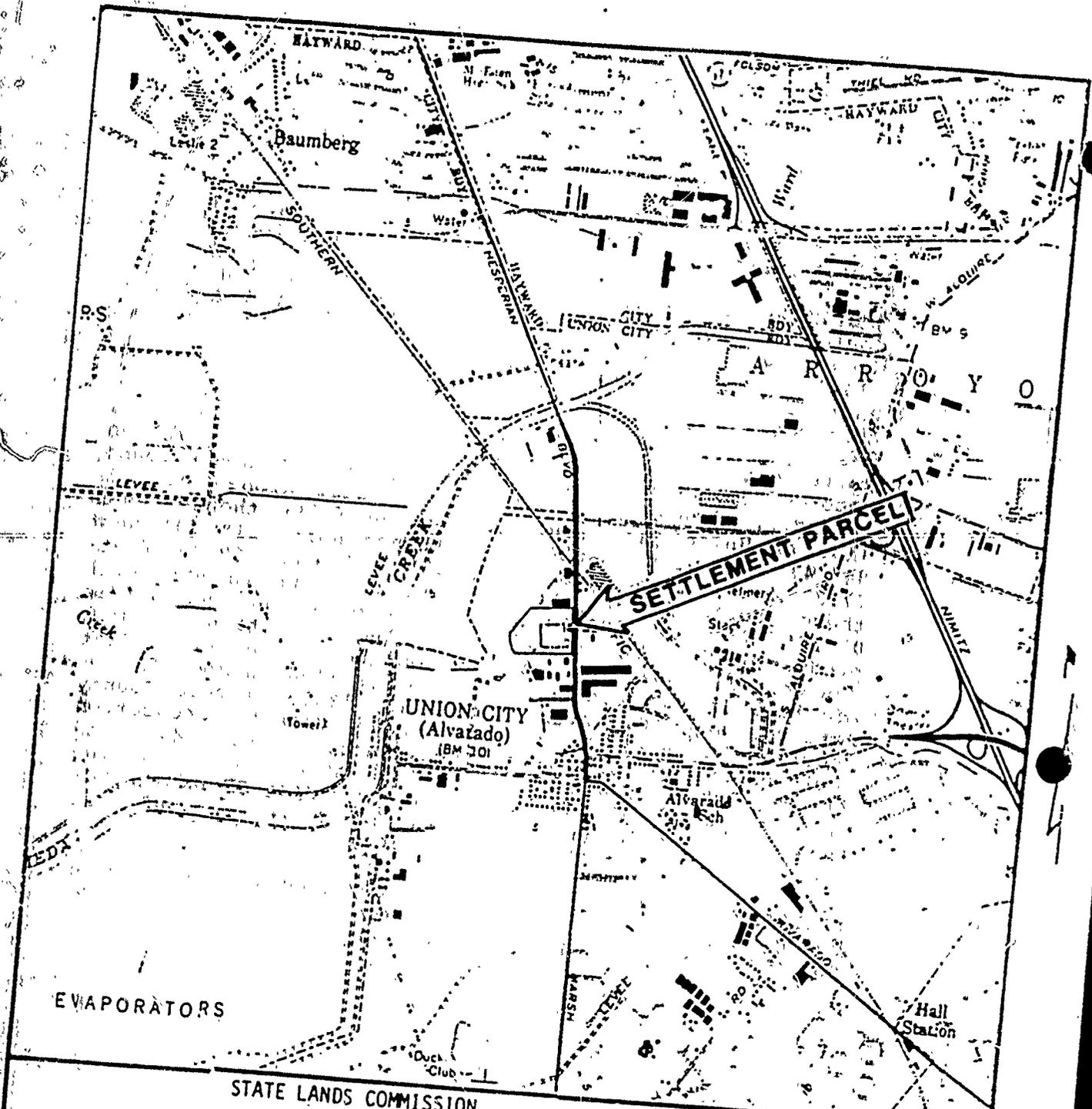
EXHIBIT "A"

The land referred to herein is situated in the State of CALIFORNIA, County of ALAMEDA, City of UNION CITY and is described as follows:

BEGINNING at a point on the western line of Union City Boulevard, formerly Hesperian Boulevard, also known as County Road No. 72, distant thereon south $5^{\circ} 12' 30''$ east 514.76 feet from the southwestern line of the Southern Pacific right of way (said southwestern line being the southwestern line of a strip of land 60.00 feet wide described in deed from August May to Bay and Coast Railroad Company, a Corporation, dated July 23, 1877 and recorded in Book 144 of Deeds, page 432, Alameda County records); thence south $5^{\circ} 12' 30''$ east along the said line of Union City Boulevard 682.00 feet; thence south $84^{\circ} 47' 30''$ west 856.09 feet; thence north $11^{\circ} 44'$ west 77.27 feet; thence north $1^{\circ} 25' 40''$ east 69.73 feet; thence north $5^{\circ} 38' 20''$ east 60.24 feet; thence north $0^{\circ} 15' 50''$ east 109.70 feet to a point on the direct production southwesterly of that certain course designated as No. 114, as shown on the map entitled "Plat of the Rancho Arroyo De La Alameda", filed in Book "A" of Patents, Page 70, dated October 13, 1857, Alameda County Records; thence along the said direct production southwesterly of said course designated as No. 114, north $33^{\circ} 39' 30''$ east 472.13 feet until intersected by a line drawn south $84^{\circ} 47' 30''$ west from the POINT OF BEGINNING; thence along said line so drawn, north $84^{\circ} 47' 30''$ east 538.76 feet to the POINT OF BEGINNING.

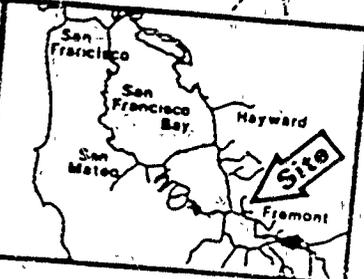
EXCEPTING THEREFROM that portion conveyed to the City of Union City by Deed recorded September 24, 1963, Series No. AU/158435, Reel 999 OR, Image 801.

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STATE LANDS COMMISSION

**PROPOSED
SETTLEMENT PLAN**



Prepared by: **R.L. Ball** Date: **1-23-85** A:18 S:10
 Title Study: **DISTRIBULO INC. - ALAMEDA CREEK - W503.604**

EXHIBIT
23-N40-E154

CALENDAR SHEET: **175.5**
 MINUTE PAGE: **863**

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