

MINUTE ITEM

This Calendar Item No. 30  
was approved as Minute Item  
No. 30 by the State Lands  
Commission by a vote of 2  
to 0 at its 9/26/85  
meeting.

CALENDAR ITEM

30

A 16

S 3

09/26/85  
W 503.1419  
AD 35  
Horton  
Stevenson  
Peterson

AUTHORIZATION FOR SETTLEMENT OF  
CAMPEAU SOUTH BEACH PROPERTIES

v.

STATE OF CALIFORNIA and CITY AND  
COUNTY OF SAN FRANCISCO

(SAN FRANCISCO SUPERIOR COURT NO. 841734);  
\$100,000 CONTRIBUTION TO KAPILOFF LAND BANK FUND

In June 1985, the above-referenced action was filed by the private landowner of record to quiet title to property in San Francisco. The subject property in the suit includes portions of Water Blocks 7 and 8 and Bluxome Street and is cross-hatched for reference on Exhibit "B" to this Calendar Item. A part of Bluxome Street included in the lawsuit was transferred by the State to San Francisco in the Burton Act (Stats. 1968, Ch. 1333) and is shown by solid shading for reference on Exhibit "B" to this Calendar item. The entire property is scheduled by the San Francisco Redevelopment Agency for development of housing and commercial uses.

Water Blocks 7 and 8 were conveyed by the State to San Francisco for a term of 99 years pursuant to "An Act to Provide for the Disposition of Certain Property of the State of California", enacted March 26, 1851. The Water Blocks were subdivided into lots which were sold into private ownership pursuant to "An Act to Provide for the Sale of the Interest of State of California in Property Within the Water Line Front of the City and County of San Francisco", enacted May 18, 1853. By private party sales through the years, the Southern Pacific Company acquired title to the portions of Water Blocks 7 and 8 delineated on Exhibit "B". The deed or deeds by which they took possession also included Bluxome Street, notwithstanding its public character.

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In 1919, San Francisco issued an ordinance purporting to abandon and vacate Bluxome Street. On or before that date, storage tanks were constructed in the area of Bluxome Street. No public use of the street has occurred since. Plaintiffs allege that taxes have been paid on the street area.

In 1936, Southern Pacific quieted title to the entire parcel, including all of Bluxome Street between Blocks 7 and 8, against San Francisco. The State was not named or served in the action.

In 1964, Southern Pacific quieted title to the parcel, including a portion of Bluxome Street which is included in this action, but is not in issue. Both the City and the State were named as parties and both disclaimed any interest in the portion of Bluxome Street described in that lawsuit. Judgment was rendered quieting title in Southern Pacific against the City and the State.

The portion of Bluxome Street not described in the 1964 judgment (shaded solidly on Exhibit "B") was transferred in trust for purposes of commerce, navigation, and fisheries to San Francisco, pursuant to the Burton Act (Ch. 1333, Stats. 1968) and is the land in issue between the Plaintiff and the State Lands Commission.

Plaintiff in this action claims that the public trust interest in Bluxome Street was terminated upon the sale of lots within Water Blocks 7 and 8 by the City and the filling and improving of those lots pursuant to the 1851 and 1853 Acts. Plaintiff further contends that the sale of lots in Water Blocks 7 and 8 conveyed the underlying fee title to Bluxome Street which abutted these lots and that full title vested in the owners of the lots upon abandonment of the public street easement by the City in 1919. Plaintiff also contends that any interest of the State was owned by the State in its proprietary capacity following the 1851 and 1853 Acts and that plaintiff's predecessors acquired title by more than ten years' adverse possession prior to the 1935 amendment to Civil Code Section 1107.

The position of San Francisco in this action is that the City acquired fee title to Bluxome Street as uplands through 14 U.S. Statutes, p.4 (1866) (Confirmation of Outside Lands in San Francisco) which authorized the conveyance of outside lands

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to San Francisco and through San Francisco Board of Supervisors Order No. 800 in 1868 (An Order for the Settlement and Quieting Titles to Land in the City and County of San Francisco, situated above high water mark of the Bay of San Francisco and the Pacific Ocean and without the Corporate Limits). The City maintains that the State ratified the conveyance, including Bluxome Street, by passage of "An Act to Confirm a Certain Order passed by the Board of Supervisors of the City and County of San Francisco", enacted in Statutes of 1868, Chapter 331. The City denies that Bluxome Street was ever tide or submerged lands and denies that it acquired title to any part of Bluxome Street by the Burton Act.

Settlement of this litigation by entering into a Compromise Settlement Agreement and Stipulation for Entry of Judgment is proposed. The Office of the Attorney General, in consultation with staff of the Commission, has concluded that a reasonable settlement of the litigation can be accomplished by resolution of the title questions regarding Bluxome Street. Since the Burton Act does not authorize the City to alienate or compromise any claims to lands conveyed by the Burton Act, the City would quitclaim to the State its interest which exists by virtue of the Burton Act in Bluxome Street. As part of the settlement, the State would relinquish all title claims to Bluxome Street. In exchange, the Plaintiff will deposit \$100,000 into escrow, to be paid into the Kapiloff Land Bank fund for the acquisition of other public trust lands equal or greater in value than the claims in Bluxome Street. The terms of the proposed settlement state that the City's claims to Bluxome Street as uplands (rather than historic tidelands) shall be settled by payment by Campeau to the City of \$25,000.

The proposed compromise settlement agreement and stipulation is on file in the Sacramento office of the Commission. The staff and the Office of the Attorney General concur that execution of the agreement is in the best interests of the Commission and the public. The settlement will avoid long, costly litigation with uncertain results. The proposed exchange is for the purpose of settling a title dispute.

AB 884: N/A.

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OTHER PERTINENT ACTIVITIES

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. Site Map Showing General Area for Reference Only.
- B. Site Specific Map for Reference Only.

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. APPROVE THE EXCHANGE AS PROPOSED AND AUTHORIZE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL, IN SETTLEMENT OF CAMPEAU SOUTH BEACH PROPERTIES v. STATE OF CALIFORNIA AND CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO SUPERIOR COURT NO. 841734 TO EXECUTE THE COMPROMISE SETTLEMENT AGREEMENT AND STIPULATION ON FILE IN THE OFFICE OF THE COMMISSION, WHICH IS INCORPORATED HEREIN BY REFERENCE.
3. FIND THAT THE EXCHANGE OF LANDS, INTERESTS IN LANDS, AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 2 ABOVE, ARE IN THE BEST INTERESTS OF THE STATE FOR AID IN RECLAMATION, THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING; 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; AND THAT THE AGREEMENT WILL RESOLVE COSTLY AND LENGTHY LITIGATION OF UNCERTAIN RESULTS.
4. AUTHORIZE ACCEPTANCE OF THE CITY'S QUITCLAIM OF ITS RIGHT, TITLE AND INTEREST WHICH EXISTS BY VIRTUE OF THE BURTON ACT IN BLUXOME STRLET.

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5. AUTHORIZE, THROUGH THE COMPROMISE SETTLEMENT AGREEMENT, THE EXECUTION AND DELIVERY TO CAMPEAU SOUTH BEACH PROPERTIES A QUITCLAIM FOR ANY INTEREST THE STATE MAY HAVE IN BLUXOME STREET, INCLUDING THE PUBLIC TRUST FOR COMMERCE, NAVIGATION, AND FISHERIES.
6. FIND AND DECLARE THAT, UPON RECORDATION OF THE SETTLEMENT AGREEMENT, THAT BLUXOME STREET.
  - a. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, AND RECLAIMED BY PRIVATE PARTIES OR THEIR PREDECESSORS-IN-INTEREST;
  - b. HAS BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING, AND IS NO LONGER, IN FACT, TIDE OR SUBMERGED LANDS, AND THEREFORE, SHALL BE FILED FROM THE TRUST.
7. AUTHORIZE THE DEPOSIT OF \$100,000 (PLUS ANY ACCRUED INTEREST) INTO THE CAPITOL LAND BANK FUND FOR ACQUISITION OF LANDS SUITABLE FOR PUBLIC TRUST PURPOSES;
8. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE ABOVE TRANSACTION, INCLUDING, BUT NOT LIMITED TO, THE EXECUTION OF ALL DOCUMENTS, ESCROW INSTRUCTIONS, MAPS AND PLATS, AND ANY APPEARANCES OR FILING OF PLEADINGS IN ANY LEGAL PROCEEDINGS NECESSARY OR REQUIRED TO ACCOMPLISH THE TERMS AND PROVISIONS OF THE ABOVE TRANSACTION.

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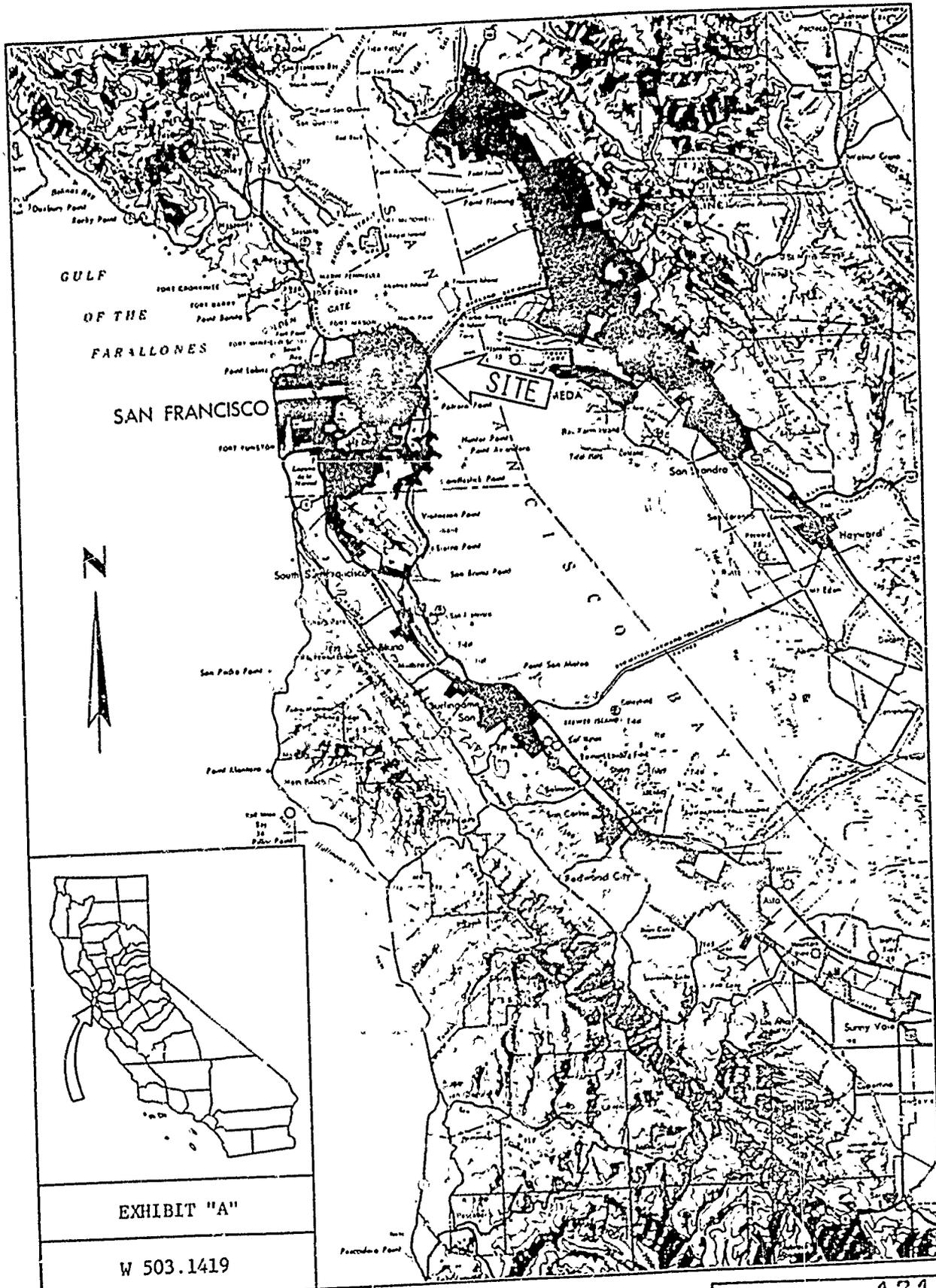


EXHIBIT "A"

W 503.1419

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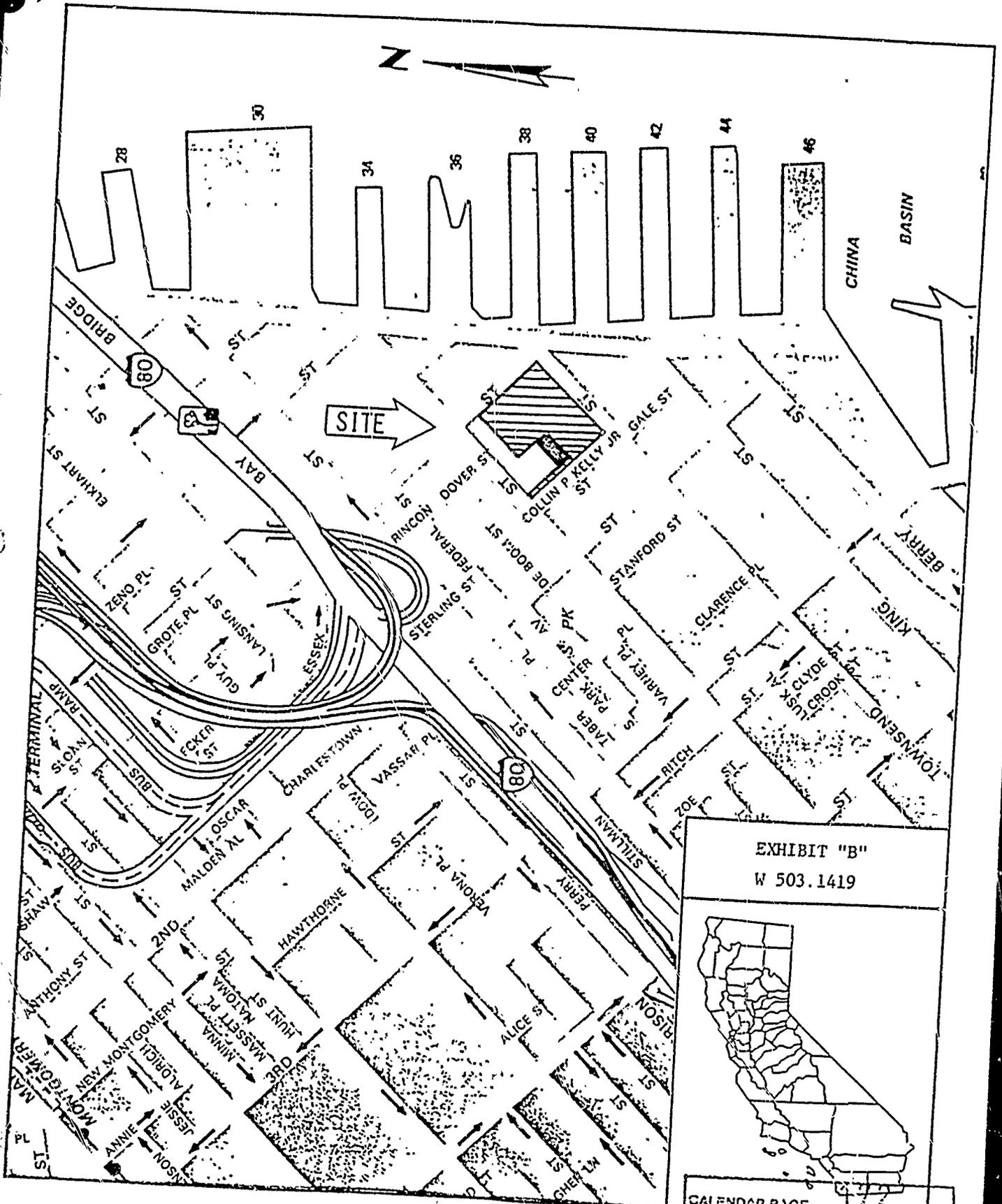


EXHIBIT "B"  
 W 503.1419

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