

MINUTE ITEM

This Calendar Item No. 32
was approved as Minute Item
No. 32 by the State Lands
Commission by a vote of 4
to 0 at its 7/24/86
meeting.

CALENDAR ITEM

32

A 18

S 10

07/24/86
W 22632
SLL 95
Valentine

PROPOSED AMENDMENT OF COMPROMISE TITLE SETTLEMENT
AGREEMENT TO DELETE ACCESS EASEMENT, ALAMEDA COUNTY

The Commission, by its Minute Item No. 41 adopted at its regular meeting on March 24, 1983, approved a compromise title settlement agreement with Salvatore Niosi and Silvano Vial concerning a parcel of property in the City of Newark, Alameda County. The parcel is described on Exhibit "A" and depicted on Exhibit "B". Mr. Vial has succeeded to the interest of Mr. Niosi in the subject parcel.

As a part of the settlement agreement, the private parties agreed to quitclaim to the State a ten-foot wide easement for public access along the boundary of the property where it adjoins a flood control channel owned by the Alameda County Flood Control and Water Conservation District. The transfers of interests in land and the payment contemplated by the settlement agreement have occurred.

The flood control district also owns an easement for maintenance access along the banks of the canal. The flood control district has found it necessary to fence the area along the channel to prevent public access due to the safety hazard posed by high flows in the channel. The public access easement retained by the Commission has thus been rendered unuseable by the flood control district's precautions. It is contemplated that the fence along the flood control canal will remain in place as long as the channel is used for flood control purposes.

The compensation paid by the private parties into the Land Bank Trust Fund in return for a termination of state sovereign claims on the parcel did not include a deduction for the retained public access area. That is, the sum paid by the private parties was an amount calculated to clear the State's ownership from the entire parcel, including the public access

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area. Mr. Vial has requested that since the easement cannot serve the function for which it was retained by the State, that it be removed from the parcel, thereby allowing private use of that portion of the parcel burdened by the easement.

EXHIBITS: A. Settlement Parcel Description.
 B. Settlement 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 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. FIND THAT THE PUBLIC ACCESS EASEMENT DOES NOT SERVE THE FUNCTIONS FOR WHICH IT WAS RETAINED BY THE STATE DUE TO NO ACTION OR FAULT OF THE PRIVATE PARTY.
3. RELEASE AND TERMINATE THE EASEMENT FOR PUBLIC ACCESS OVER THE PARCEL DEPICTED AND DESCRIBED IN EXHIBITS "A" AND "B".
4. FIND THAT ADDITIONAL COMPENSATION IS NOT REQUIRED FOR THIS EASEMENT TERMINATION, THE COMMISSION HAVING ALREADY BEEN COMPENSATED IN THE PREVIOUS STATE-NIOSI-VIAL TITLE SETTLEMENT AGREEMENT.
5. AUTHORIZE THE STAFF TO PREPARE, FILE AND RECORD ALL DOCUMENTS NECESSARY TO EFFECT THE EASEMENT TERMINATION.

EXHIBIT A
LAND DESCRIPTION
TRUST TERMINATION PARCEL

A parcel of land within a portion of projected Section 2, T5S, R2W, MDM, in the City of Newark, County of Alameda, State of California, described as follows:

All that land described in that certain Grant Deed, recorded March 24, 1966 in Reel 1733, image 411, Alameda County Records.

EXCEPTING THEREFROM any portion lying northwesterly of a line that is parallel with and measures 16.5 feet distant northwesterly from the original centerline of the county road known as Mayhews Landing Road, as said road is designated on the "Map Showing the Town of Newark", filed April 27, 1880, in Map Book 17, page 42, Alameda County Records.

ALSO EXCEPTING THEREFROM any portion lying southwesterly of the northwesterly line of Thornton Avenue (formerly Dumbarton Road) as said line is described in that certain Indenture recorded April 12, 1926 in Book 1279, page 119, Alameda County Records.

END OF DESCRIPTION

PREPARED BY THE BOUNDARY AND TITLE UNIT, LEROY WEED, SUPERVISOR.

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