

MINUTE ITEM
This Calendar Item No. C51
was approved as Minute Item
No. 51 by the State Lands
Commission by a vote of 3
to 0 at its 10-17-95
meeting.

CALENDAR ITEM
C51

A 19
S 9

10/17/95
AD 232 W 25259
Plummer
Stevenson

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
CONCERNING 1.3 ACRES OF LAND IN THE CITY OF
SAN MATEO, SAN MATEO COUNTY

APPLICANT:

Phyllis Leonhardt
Michael Counts
1735 York Avenue
San Mateo, California 95501

The staff of the State Lands Commission was contacted on August 11 of this year by the City of San Mateo regarding a 1.3 acre parcel of vacant land in that city. The parcel, shown on the Exhibit A (attached and incorporated by reference), is presently in the record ownership of Phyllis Leonhardt and Michael Counts (referred to here as the "Private Parties"). The Private Parties are now seeking City of San Mateo authorizations to construct a subdivision of up to 10 single family homes on the subject property. The Private Parties purchased the property in April 1995. The subject property has been filled and is removed from San Francisco Bay. The City of San Mateo will develop a public park on adjoining property fronting the Bay.

The inquiry from the City of San Mateo concerned whether the property is subject to sovereign lands interests granted in trust to the City by Ch. 1099, Statutes of 1976. The staff of the Commission has completed research of land title records and historic topography of the site. The research has shown that:

1. The subject property was, prior to filling, tide and submerged lands within San Francisco Bay;
2. The subject property is waterward of Rancho San Mateo which extended from the uplands to San Francisco Bay;
3. The underlying fee to the subject property passed with the conveyance of Tidelands Patent No. 28, subject to a public trust easement as provided in People v. California Fish Company (1913) 166 Cal. 576.

CALENDAR ITEM NO. C51 (CONT'D)

4. Staff is of the opinion that the subject property remains subject to a public trust easement administered by the City of San Mateo pursuant to its legislative grant. The existence, nature, and extent of remaining sovereign interests in the subject property is disputed by the Private Parties.

The staff, working with the staff of the City of San Mateo, has negotiated a settlement of sovereign title interests in the subject property. The settlement has been memorialized in a draft settlement agreement now on file in the offices of the Commission in Sacramento. Through the settlement, the City will quitclaim its granted lands interest in the subject parcel so that the State Lands Commission may use the authority conferred by Public Resources Code Sections 6307 and 8600-8633 to enter a land exchange. The private party will deposit \$35,000 into the Kapiloff Land Bank Fund for the purchase of other land useful for public trust purposes.

The staff has determined the value of the subject property and has evaluated the evidence relating to the title history of the property and recommends entry into the settlement at the amount specified here. The settlement will allow development to proceed on a parcel of land not useful for either public trust purposes generally or for the purposes specified in the grant to the City of San Mateo. At the same time, it will result in an increase in funds available for the purchase of other land.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.
- B. California Code of Regulations: Title 2, Div.3; Title 14, Div. 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 California Code of Regulations 15061), the staff has determined that this activity is exempt from the requirements of CEQA because it falls within the statutory exemption for settlements of title and boundary problems.

Authority: Public Resources Code Section 21080.11.

EXHIBITS:

- A. Location Map of the Subject Parcel

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CALIFORNIA CODE OF REGULATIONS 15061 UNDER

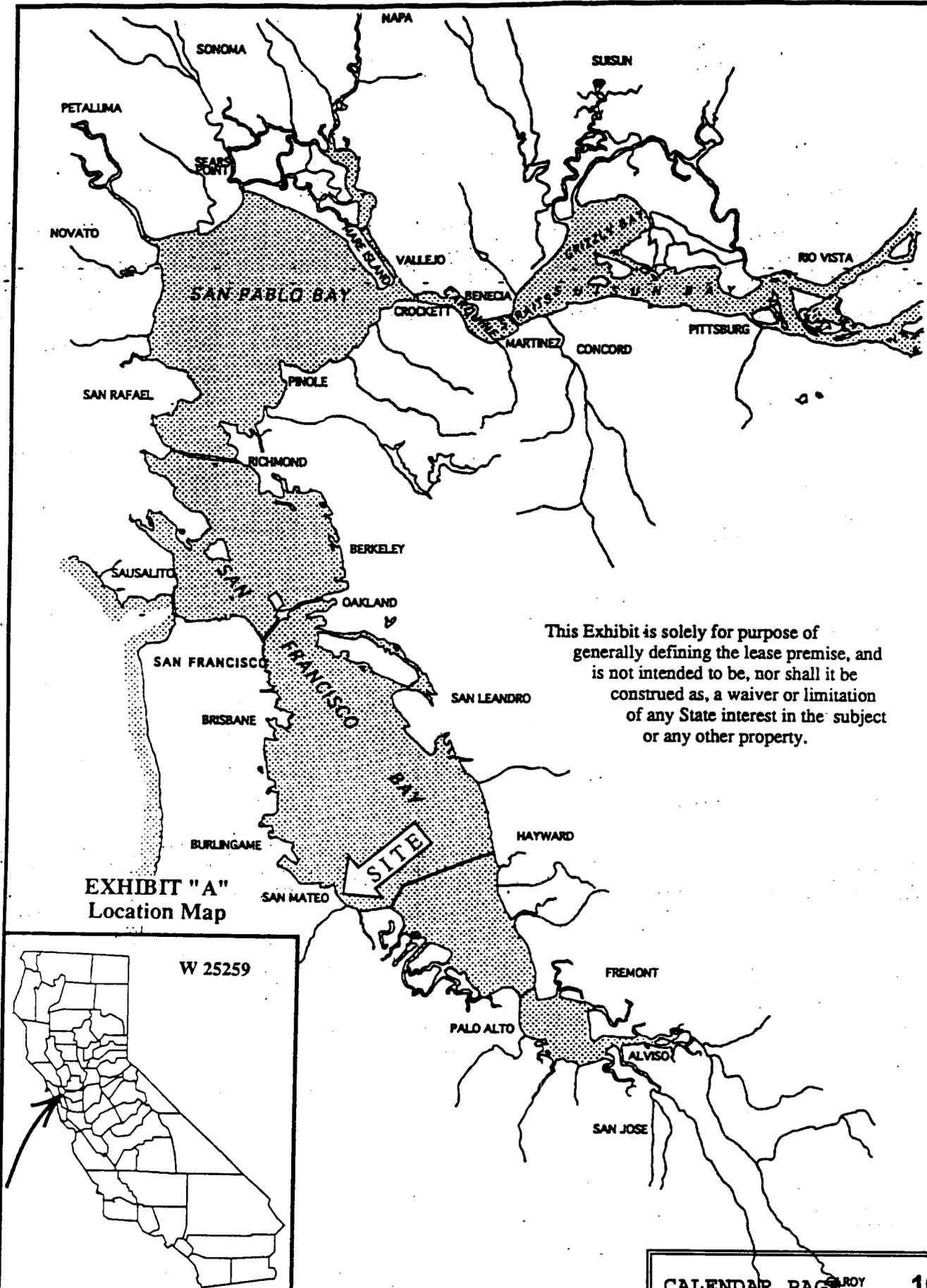
CALENDAR ITEM NO. C51 (CONT'D)

THE STATUTORY EXEMPTION FOR SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11.

2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE THE PROPOSED TITLE SETTLEMENT AGREEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT NOW ON FILE IN THE OFFICES OF THE STATE LANDS COMMISSION.
3. FIND, EFFECTIVE UPON RECORDATION OF THE PROPOSED SETTLEMENT AGREEMENT, THAT:
 - A. THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO.
 - B. THE AMOUNT OF FUNDS TO BE DEPOSITED INTO THE KAPILOFF LAND BANK FUND THROUGH THE AGREEMENT IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF SOVEREIGN INTERESTS IN THE PARCEL IN WHICH THE STATE IS TO TERMINATE THE PUBLIC TRUST.
 - C. THE PARCEL IN WHICH THE TRUST IS TO BE TERMINATED HAS BEEN IMPROVED, RECLAIMED, AND FILLED; HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS; AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER TIDE OR SUBMERGED LANDS IN FACT;
 - D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE PARCEL IN WHICH THE PUBLIC TRUST IS TO BE TERMINATED.
 - E. THE AGREEMENT CONSTITUTES A COMPROMISE OF CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.
 - F. THE AGREEMENT IS ENTERED IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF LITIGATION AND IS CONSISTENT WITH AND IS AUTHORIZED BY LAW.

CALENDAR ITEM NO. C51 (CONT'D)

- G. THE TRUST TERMINATION PARCEL IS NO LONGER NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THAT THE PUBLIC TRUST IS TERMINATED IN IT.
4. APPROVE RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF SUCH AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION.
- B. A PATENT OF THE SUBJECT PARCEL IN SAN MATEO COUNTY, DESCRIBED IN THE AGREEMENT AS THE TRUST TERMINATION PARCEL.
5. 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, ACKNOWLEDGMENT, ACCEPTANCE, 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.



This Exhibit is solely for purpose of generally defining the lease premise, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT "A"
Location Map

