

MINUTE ITEM

This Calendar Item No. C49 was approved as Minute Item No. 49 by the California State Lands Commission by a vote of 3 to 0 at its 12/7/95 meeting.

CALENDAR ITEM

C49

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12/07/95
W 24562
Stevenson
Plummer

**APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
CONCERNING 19.5 ACRES OF LAND IN THE CITY OF PETALUMA,
SONOMA COUNTY**

APPLICANT:

Larry Wasem
Baywood Partners, Inc.
414 Aviation Boulevard
Santa Rosa, California 95403-1069

David M. Mellina
Kelly, Hart, and Hallman
2500 First City Bank Tower
201 Main Street
Fort Worth, Texas 76102

The staff of the State Lands Commission has been contacted by Baywood Partners, Inc. regarding an approximately 19.5 acre parcel of land in the City of Petaluma, Sonoma County, in which it holds an option to purchase. The subject parcel, the general location of which is shown on the Exhibit A (attached and incorporated by reference), is presently in the record ownership of Darling International Inc., a Delaware corporation (referred to here as the "Private Party"). The Baywood Partners intend to develop a portion of the subject property for commercial purposes. One side of the subject property fronts the Petaluma River, and the wider, developable part is farthest from the River.

The staff of the Commission has completed research of land title records and historic topography of the site. The research has shown that:

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1. The subject property was, prior to filling, bisected by the Petaluma River, a navigable and tidal waterway;
2. The Petaluma River within the subject parcel was never included within the perimeter description of any patent issued by California, the United States, Mexico, or Spain;
3. The portion of the subject parcel north of the historic Petaluma River lies within Tidelands Patent No. 20 for Sonoma County, and is subject to a Public Trust Easement as provided in People v. California Fish Company (1913) 166 Cal. 576.
4. The portion of the subject parcel lying south of the Petaluma River was included within the perimeter description of Swamp and Overflowed Patent No.13, and was traversed by tidal sloughs of the Petaluma River and tidal marshes.
5. The portion of the subject parcel along its northern boundary lies within Rancho Petaluma and is not subject to a title interest of the State based upon sovereignty.

The staff and the Private Party have 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 subject property will be divided into four parcels, denominated the Trust Termination Parcels, the Public Trust Parcel, and the Public Access Parcel. The Private Party will deed its title in the Public Trust Parcel to the State to be held by it as land of the legal character of tide and submerged lands. Also, the Private Party will deed an easement to the State in the Public Easement Parcel, the location of which may be relocated under certain conditions. In exchange, the State will deed to the Private Party any interest in may hold by virtue of sovereignty in the Trust Termination Parcels.

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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 agreement as described. The settlement will allow development to proceed on the portion of the property most removed from the Petaluma River while establishing State title in lands leading to the Petaluma River which may be used for public recreation and wildlife habitat.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Division 6, Parts 1 and 2; Division 13.
- B. Cal. Code Regs.: Title 2, Division; Title 14, Division 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 the CEQA as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: Public Resources Code Section 21080.11.

EXHIBIT:

- 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 CAL. CODE REGS. 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

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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 LANDS OR INTERESTS IN LANDS TO BE DEEDED TO THE STATE THROUGH THE AGREEMENT ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF SOVEREIGN INTERESTS IN THE PARCELS IN WHICH THE STATE IS TO TERMINATE THE PUBLIC TRUST;
 - C. THE PARCELS IN WHICH THE TRUST IS TO BE TERMINATED HAVE BEEN IMPROVED, RECLAIMED, AND FILLED; HAVE BEEN EXCLUDED FROM THE PUBLIC CHANNELS; AND ARE NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND ARE 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 SUBJECT PARCEL;

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- 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; AND
 - G. THE TRUST TERMINATION PARCELS ARE NO LONGER NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THAT THE PUBLIC TRUST IS TERMINATED IN THEM.
4. APPROVE RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION; AND
 - B. A PATENT OF THE TRUST TERMINATION PARCELS DESCRIBED IN THE AGREEMENT.
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.

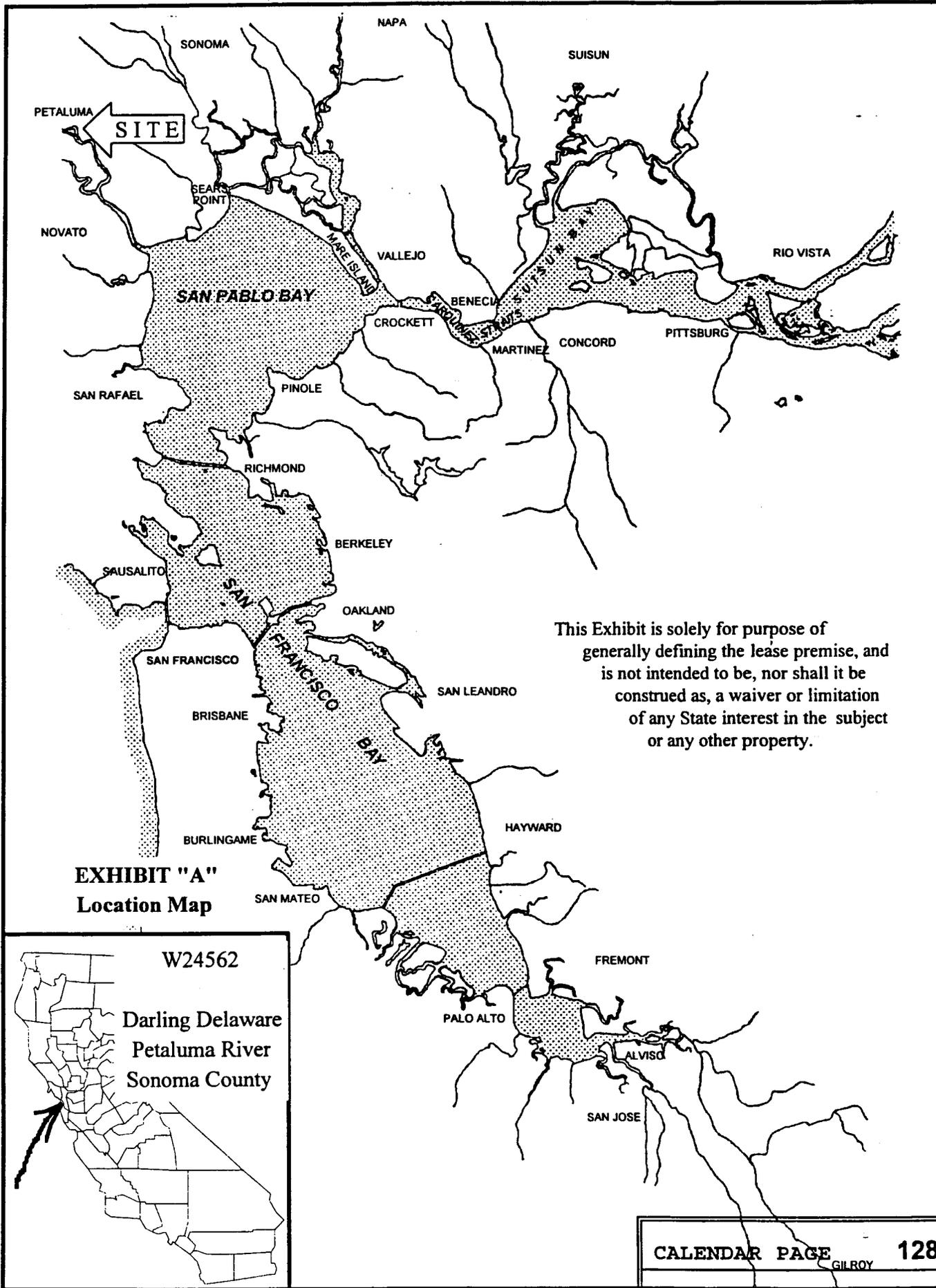


EXHIBIT "A"
Location Map

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.

