MINUTE ITEM
This Calendar Item No. C78 was approved as Minute Item No. 78 by the California State Lands Commission by a vote of 3 to 0 at its 2/27/98 meeting.

CALENDAR ITEM
C78

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D. Plummer
B. Stevenson

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT CONCERNING APPROXIMATELY 2.2 ACRES OF LAND IN THE CITY OF SAN MATEO, SAN MATEO COUNTY

APPLICANTS:

California Jockey Club, a Delaware corporation
Norman I. Book, Jr.
Carr, McClellan, Ingersoll, Thompson & Horn
P.O. Box 513
Burlingame, California 94011-0513

The City of San Mateo
c/o Roy C. Abrams
City Attorney
City of San Mateo
330 West Twentieth Street
San Mateo, California 94403

The staff of the State Lands Commission was contacted in 1997 by the attorney for the California Jockey Club regarding an approximately 2.2 acre parcel of land within the City of San Mateo, San Mateo County. The subject parcel, the location of which is shown on Exhibit A (attached and incorporated by reference), is presently in the record ownership of the California Jockey Club, a Delaware corporation (referred to here as the "CJC"). The subject property has been filled and is removed from San Francisco Bay.

The purpose of the settlement now before the State Lands Commission is to enter an agreement as to subject property. The staff of the Commission has completed research of land title records and the historic topography of the site. The research has shown that:

1. The subject property lies partially within and partially waterward of the meander line of Rancho de las Pulgas. The portion waterward lies within Swamp and Overflowed Lands Survey No. 6;

2. The subject property was, prior to filling, within tidal marsh interspersed with tidal sloughs tributary to San Francisco Bay; and

3. All or a part of 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 CJC.

The staff, working with the CJC and 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 interests in the subject parcel to the State 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 CJC will place the sum of $10,000 into the Kapiloff Land Bank Fund for the purchase of other land useful for public trust purposes, with an emphasis upon locating land for purchase in the City of San Mateo for a period of three years.

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 public trust purposes or the purposes specified in the grant to the City of San Mateo while contributing funds for the purchase of other land.

STATUTORY AND OTHER REFERENCES:

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

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 California Administration Code 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 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 CAL. ADM. CODE 15061 UNDER THE STATUTORY EXEMPTION FOR SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS TO P.R.C. 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, INCLUDING THE FINDINGS TO TAKE EFFECT UPON RECORDING OF THE AGREEMENT WHICH WILL RESULT IN A TERMINATION OF SOVEREIGN RIGHTS IN THE SUBJECT PARCEL.

3. FIND, EFFECTIVE UPON RECORDATION OF THE PROPOSED SETTLEMENT, 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 PARCELS 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 INTEREST 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.

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.

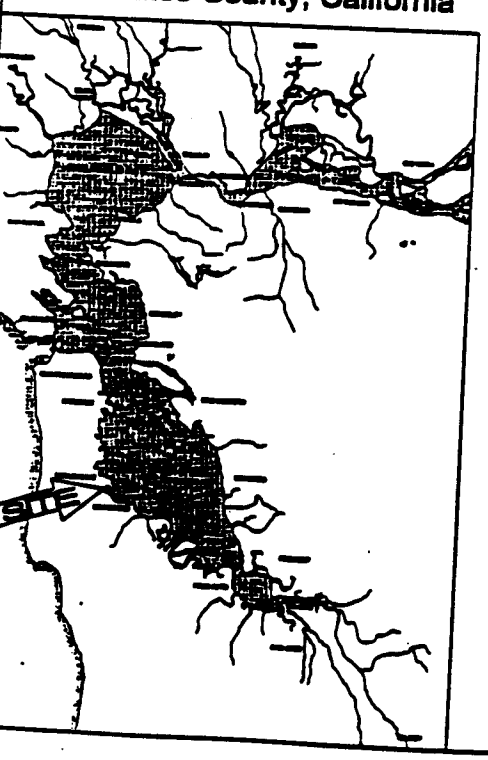
4. APPROVE RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:

A. THE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY 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.



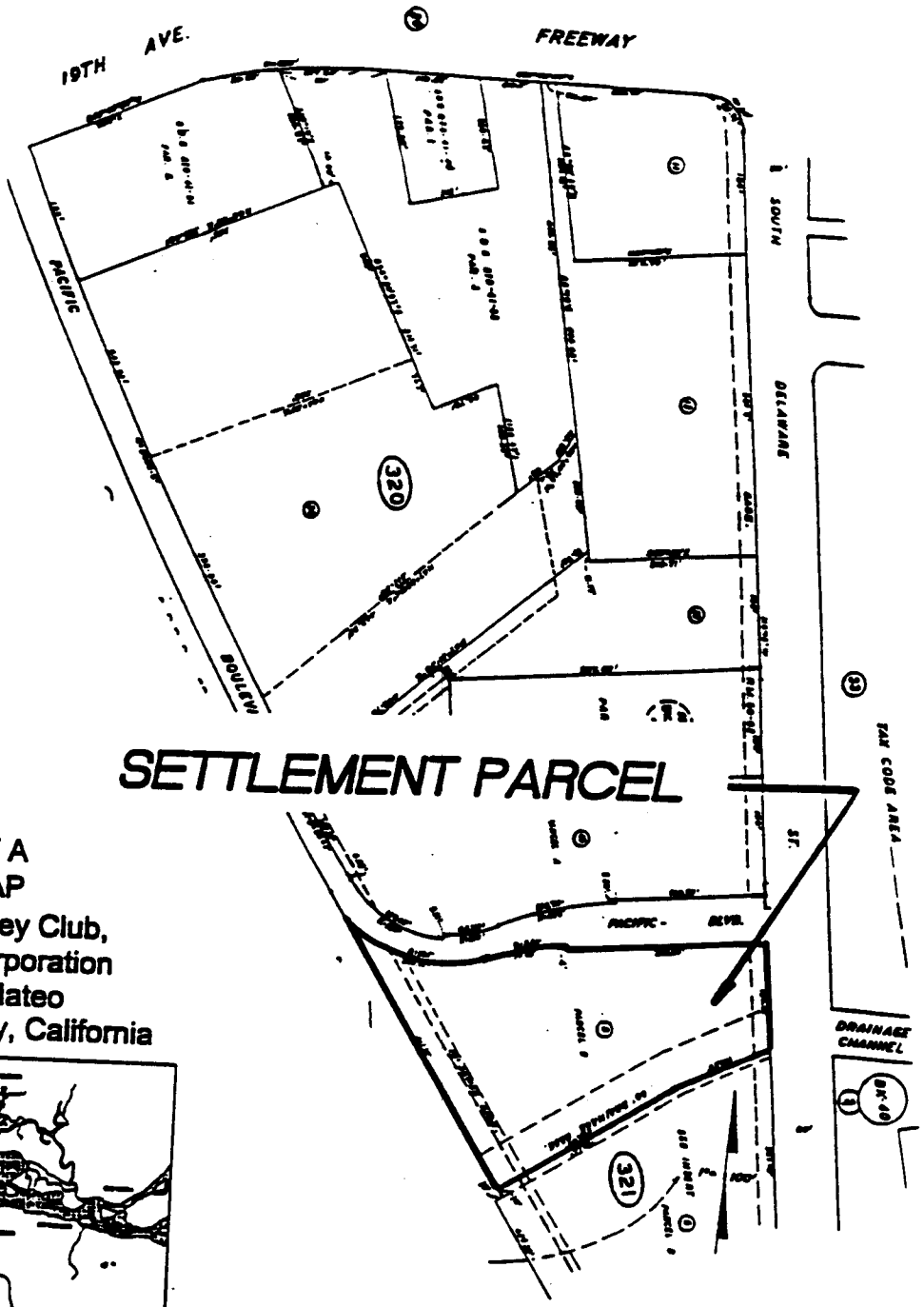


EXHIBIT A
SITE MAP
California Jockey Club,
a Delaware Corporation
City of San Mateo
San Mateo County, California

This exhibit is solely for the purpose of generally defining the settlement area and is not intended to be, nor shall it be contrued as, a waiver or limitation of any State interest in the subject or any other property.