

MINUTE ITEM

This Calendar Item No. 27
was approved by the State Lands
Commission by a vote of 3
to 0 at its 2/23/78
meeting.

CALENDAR ITEM

27.

COMPROMISE TITLE SETTLEMENT
PUBLIC AGENCY PERMIT
BLA 169

2/78
W 20400
Cowan
PRC 5451

Private parties claim record title to a 53.749 ± acre parcel of open land located at the upper tidal reaches of Belmont and O'Neill Sloughs, a short distance easterly of the Bayshore Freeway. The parcel consists of real property in San Mateo County, California, more particularly described as Parcels A, B, C, D, and E, on the attached EXHIBIT A. The parcel is also depicted on the attached EXHIBIT B (Proposed Record of Survey); EXHIBIT C (Estuary Plat); EXHIBIT D (NASA Airphoto Plat); EXHIBIT E (Quad Plat); and EXHIBIT F (Compilation Plat).

The proposed settlement is to provide that:

1. The boundaries of the existing Belmont and O'Neill Sloughs are to be established at the location shown on EXHIBIT B as the boundaries between Parcel A and Parcels B, C, D, and E, respectively.
2. The private parties are to receive title to Parcel A, consisting of 44.637 ± acres clear of any State right, title, or interest, except for the public non-motorized access ways along the slough boundaries as shown on EXHIBIT B for which the State will reserve an easement.
3. The State is to receive fee title, in its sovereign capacity, to Parcels B, C, D, and E, as shown on EXHIBIT B, as tidelands and submerged lands; the parcels consist of 9.112 ± acres.
4. The State, in its sovereign capacity, is to receive an undivided 31/135th interest in Brown's Island from the East Bay Regional Park District as tidelands and submerged lands, pursuant to the Land Bank Agreement between the State Lands Commission and the

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District (See the State Lands Commission by Minute Item No. 21 of December 19, 1977) upon payment to the District of \$31,000 by the private parties. At the rate of \$226.75 per acre, this is the equivalent of about 136.71 acres of Brown's Island. Pursuant to the Land Bank Agreement, the interest in Brown's Island will be leased back to the District for management purposes.

5. As part of the settlement the State is to issue to the City of Belmont its 49-year no fee Public Agency Permit for a Right-of-Way for public access and utilities over a strip 100 feet in width crossing O'Neill Slough outside the subject parcel. The precise location of the strip is not defined; however, it crosses and is located within the parcel of land claimed by the City of Belmont, (5834 OR 353, as shown on EXHIBIT B). It will therefore extend only to the undefined State's right, title and interest in tidelands and submerged lands within the Belmont parcel; will be subject to any titles of the city; and at such time as improvements are proposed will be further subject to CEQA, construction and/or other requirements of the city, as well as the requirements of any and all other State, Federal, or local public agencies having jurisdiction.

Among other things, the Permit shall not be exercised in such manner as will prevent public access along and adjacent to the waterway being crossed.

6. The City of Belmont will provide the State with a description of the location of any present or future improvements across O'Neill Slough within the City of Belmont parcel.

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TITLE HISTORY: The entire parcel (Parcels A, B, C, D, and E, described in EXHIBIT A) is claimed by the private parties as successors in interest to the State's Swamp and Overflow Lands Patents. The perimeter description of the swamp and overflowed surveys included the entire parcel; however, the early topographic survey maps (depicted on EXHIBIT F) show the parcel to have consisted of marsh grass and open tidal waters including major reaches of Belmont/O'Neill Sloughs.

Parcel A of EXHIBIT A has been leveed and cut off from tidal flow, has been filled in part, and the agreement is to provide that any tidelands or submerged lands therein are no longer needed nor susceptible for the trust purposes of commerce, navigation, or fisheries. The remaining Parcels B, C, D, and E, of EXHIBIT A are claimed to be owned by the private parties; however, they currently consist of marsh grass and tidal waters outside the outer crown of the existing Parcel A levees.

The Commission's Staff has made an evaluation of the State's interest within Parcel A and Brown's Island and has determined that the value of the interest in Brown's Island being received by the State is equal or greater than the value of the State's interest in Parcel A.

The Record of Survey, in substantially the form of the attached EXHIBIT B, will be recorded immediately prior to the recording of the Settlement Agreement.

The State, at the private parties' expense, is to receive title insurance for Parcels B, C, D, and E, and for the interest to be received in Brown's Island.

Copies of the proposed agreements necessary to accomplish this transaction are on file with the State Lands Commission and are incorporated herein by reference thereto.

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The settlement is authorized by Division 6 of the Public Resources Code, with particular reference to Sections 6107 and 6307, and by the authority to resolve the title disputes in lieu of litigation.

EXHIBITS:

- A. Property Descriptions.
- B. Proposed Record of Survey.
- C. Estuary Plat.
- D. Air Photo Plat.
- E. U.S.G.S. Quadrangle.
- F. Compilation Plat.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED SETTLEMENT AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION, AID IN RECLAMATION, FOR FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND, AND THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED; AND 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 AGREEMENT.
2. AUTHORIZE THE EXECUTION OF THE SETTLEMENT AGREEMENT SUBSTANTIALLY IN THE FORM OF THE AGREEMENTS ON FILE WITH THE STATE LANDS COMMISSION.
3. AUTHORIZE THE EXECUTION OF A STATE PATENT TO THE PRIVATE PARTIES FOR THE REAL PROPERTY DESCRIBED AS PARCEL A IN THE ATTACHED EXHIBIT A.
4. FIND AND DECLARE THAT UPON THE EFFECTIVE DATE OF THE AGREEMENT THE REAL PROPERTY DESCRIBED IN SAID PATENT:
 - a. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, AND RECLAIMED BY THE PRIVATE PARTIES AND THEIR PREDECESSORS IN INTEREST;
 - b. HAS THEREBY BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION, AND FISHERIES, AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL BE FREED FROM SUCH PUBLIC TRUST.

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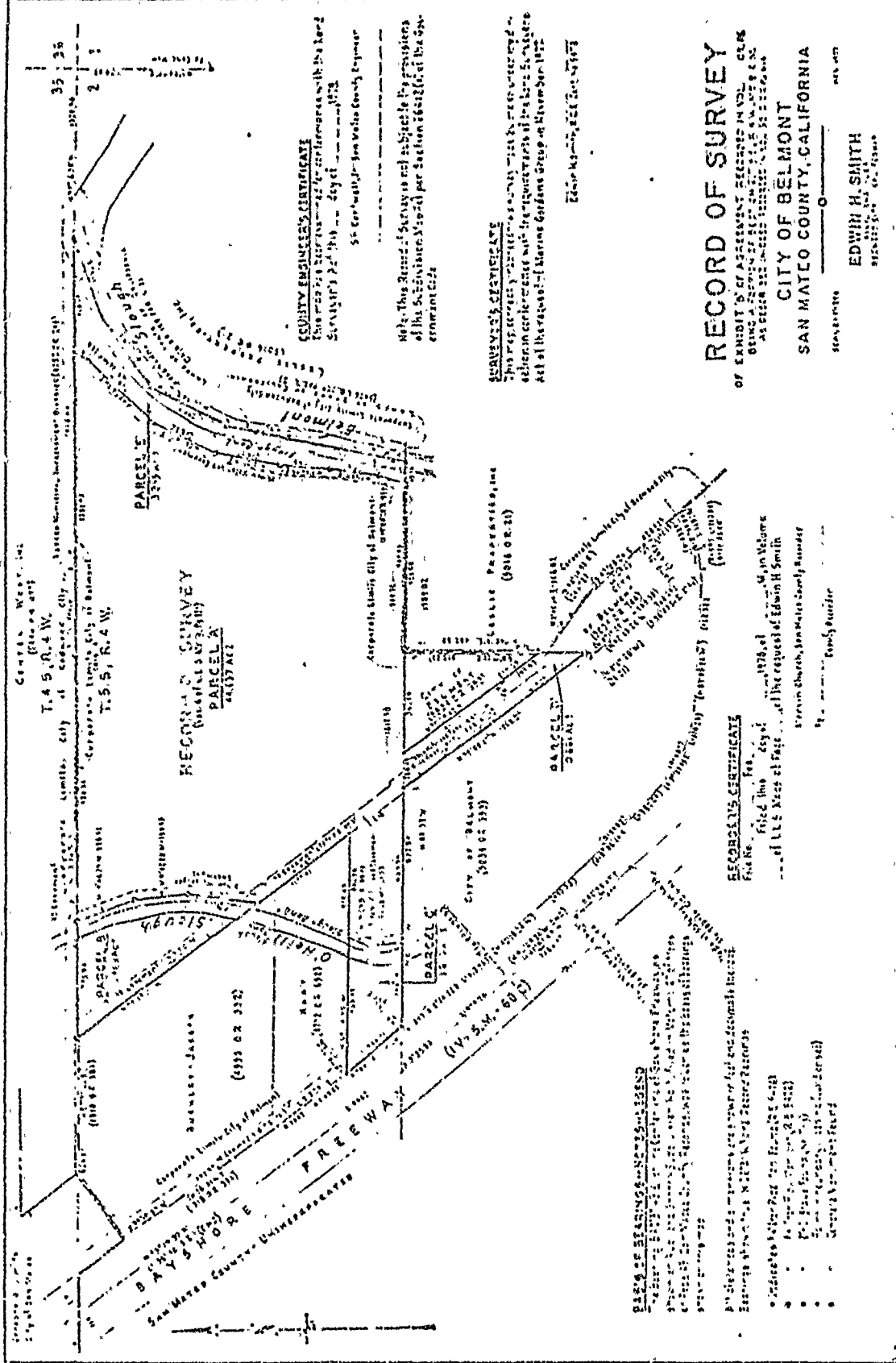
5. ACCEPT AND AUTHORIZE THE RECORDATION OF CONVEYANCES TO THE STATE AS PROVIDED IN THE SETTLEMENT AGREEMENT.
6. AUTHORIZE THE EXECUTION OF A 49-PUBLIC AGENCY PERMIT FOR A PUBLIC RIGHT-OF-WAY TO THE CITY OF BELMONT PURSUANT TO THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT.
7. AUTHORIZE THE INCLUSION OF THE AREA RECEIVED ON BROWNS ISLAND IN THE LEASE PRC 5426 TO EAST BAY REGIONAL PARK DISTRICT.
8. AUTHORIZE THE COMMISSION'S STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE TRANSACTION DESCRIBED ABOVE, INCLUDING, BUT NOT LIMITED TO, THE EXECUTION OF ESCROW INSTRUCTIONS AND OTHER DOCUMENTS AND APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.
9. FIND THAT THE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION, AND THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ARE INAPPLICABLE.

Attachment: Exhibit A and B

EXHIBIT "A"

W 20400

PARCELS A, B, C, D, and E as shown on that proposed Record of Survey as EXHIBIT B to the Agreement numbered BLA 169 and to this Calendar Item.



COUNTY ENGINEER'S CERTIFICATE
 This map is a true and correct copy of the original survey made by the County Engineer of San Mateo County, California, on the 24th day of January, 1912.
 J. C. GARDNER, County Engineer

Note: This Record of Survey is not subject to the provisions of the Statute in force at the date of the original survey.
 EDWIN H. SMITH, Surveyor

RECORD OF SURVEY
 OF EXHIBIT "B" OF AGREEMENT BETWEEN THE CITY OF BELMONT AND THE CITY OF SAN MATEO COUNTY, CALIFORNIA
 AS SET FORTH IN THE RECORDS OF THE CITY OF BELMONT

SAN MATEO COUNTY, CALIFORNIA
 EDWIN H. SMITH
 SURVEYOR

RECORDER'S CERTIFICATE
 This map was filed for record in the County Recorder's Office of San Mateo County, California, on the 24th day of January, 1912, and the same was duly recorded.

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 This map was filed for record in the County Recorder's Office of San Mateo County, California, on the 24th day of January, 1912, and the same was duly recorded.

EXHIBIT B
 W 20400