

MINUTE ITEM

This Calendar Item No. 49
was approved as Minute Item
No. 27 by the State Lands
Commission by a vote of 3/2
to 2 at its 5/29/80
meeting.

CALENDAR ITEM

49.

5/80
W 503.1065
Fossum

AUTHORIZATION TO ENTER INTO A STIPULATION
WITH CITY OF SAUSALITO THAT THE STATE OF CALIFORNIA
MAY BE MADE A PARTY TO, AND BE BOUND BY THE JUDGMENT
ENTERED IN THE EJECTMENT ACTION BY THE CITY
AGAINST PRIVATE PARTIES.

(CITY OF SAUSALITO v. HAAS, et al.,
MARIN COUNTY SUPERIOR COURT NO. 89061,
COURT OF APPEAL NO. 1 CIV. 47138.)

On July 24, 1978, the City of Sausalito commenced
an action in ejectment for the recovery of certain underwater
lands within the City that were illegally occupied by certain
watercraft and "water structures" maintained by private
parties. The subject lands consist of underwater lots and
streets subdivided by the Board of Tide Land Commissioners
in 1870. The City holds fee title, in trust, to the streets
under a grant from the State, and administers the retained
public trust easement over the lots under the same grant.
(Stats. 1957, ch. 791, P. 2002.) The City has also succeeded
to private title interests in the tide lots, which were
previously sold by the Board of Tide Land Commissioners.

The case proceeded to judgment for ejectment in the
City's favor and the individual defendants have appealed.
The judgment does not purport to adjudicate the respective
title interests of the State and City in the subject property.
The State was joined as a party defendant to the action
pursuant to the terms of Section 6308 of the Public Resources
Code, but was never served with summons. The individual
defendants have cited the failure to bring the State into
the lawsuit as a ground for reversal on appeal.

The City has requested that the State join with it
in a stipulation whereby the State is made a party to the
action and agrees to be bound by the judgment obtained
by the City against the private parties. The case has been
reviewed by staff and the Office of the Attorney General.
Provided that certain inaccurate or incomplete characterizations
made by the City during the course of the litigation concerning
the source and nature of the City's title to the subject
property are corrected, the staff and the Attorney General
have concluded that such a stipulation would be appropriate
and is in the best interest of the State.

A 9
S 2

| | |
|---------------|-------------|
| CALENDAR PAGE | <u>230</u> |
| MINUTE PAGE | <u>1107</u> |

CALENDAR ITEM NO. 49. (CON'D)

A stipulation has been prepared by the Office of the Attorney General which would, subject to approval of the Court of Appeal, make the State a party to the litigation and bind the State to the judgment in ejectment obtained by the City, insofar as the judgment orders recovery of possession of the subject property and an injunction in the City's favor as against the individual defendants. The stipulation clarifies the source and nature of the City's title to the subject property. A copy of the proposed stipulation is on file in the offices of the Commission.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE ATTORNEY GENERAL BE AUTHORIZED TO ENTER A STIPULATION WHEREBY THE STATE OF CALIFORNIA MAY BE MADE A PARTY TO, AND MAY BE BOUND BY THE JUDGMENT ENTERED IN, CITY OF SAUSALITO v. HAAS, et al., MARIN COUNTY SUPERIOR COURT NO. 89061, COURT OF APPEAL NO. 1, CIV. 47138.

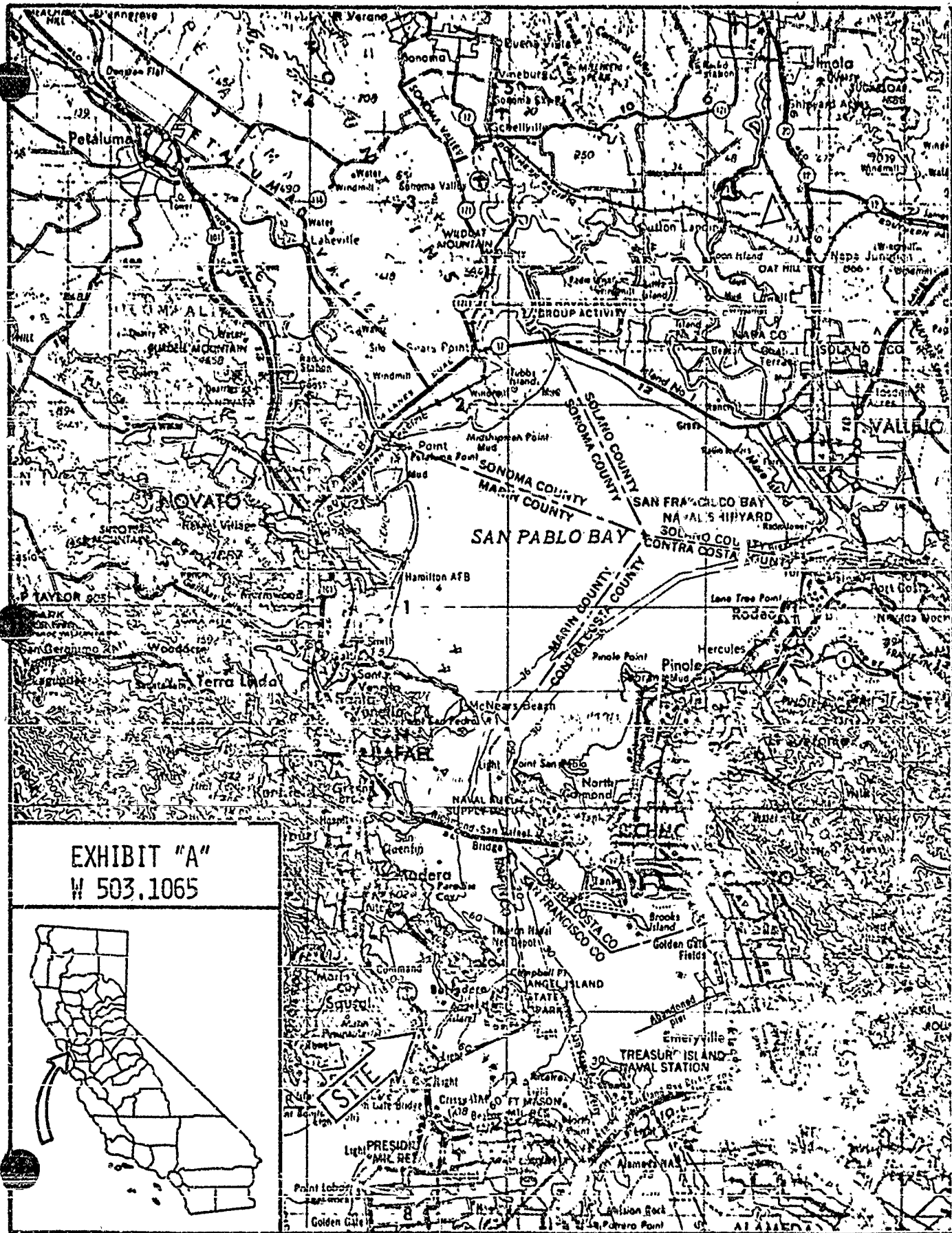


EXHIBIT "A"
W 503.1065

