

MINUTE ITEM

This Calendar Item No. 1
was approved as Minute Item
No. 1 by the State Lands
Commission by a vote of 5-2
2 at its 3-18-81
meeting.

MINUTE ITEM

3/18/81
W 22686, G 01-05
Cook

1. PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT
SLL 72

During consideration of Calendar Item 1 attached, Mr. William F. Northrop, Executive Officer, noted for the record that the Commission staff and Office of the Attorney General had advised the Port of the proposed public trust on tidelands within the 1911 grant. In addition, he stated that while the lease to Equitec was dated December 16, 1980, the Commission staff did not receive notice until January 1981. It was not until February 27, 1981 that the staff was advised of the March 23, 1981 deadline.

Walter Cook, Staff Counsel, summarized the transaction to the Commission.

The following appearances were made in support of the item:

Tom Clark, Deputy Port Attorney, Port of Oakland. Mr. Clark stated that he concurred with the staff's recommendation, but requested the the recommendation be amended to include language to the effect that the location of the State's public trust easement is the result of a bona fide effort by the Port, the City of Oakland, and the staff of the Commission to locate the true natural boundary of the claimed State tidelands on this parcel.

David Spielberg, attorney representing Equitec, thanked the Commission for approving the staff's recommendation and expressed his hope that the exchange, as reflected in the proposed agreement, can proceed as expeditiously as possible.

D Davies, President of Equitec, reiterated Mr. Spielberg's remarks. He also stated for the record that they had advised the staff of the Commission of this transaction on May 5, 1980.

Upon motion duly made by Commission-Alternate Susanne Morgan and seconded by Commission-Alternate David Ackerman, the following resolution was approved by a vote of 2-0:

(Non-substantive
revision, 5/28/81)

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THE COMMISSION:

1. FINDS THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE TITLES WITHIN THE SUBJECT PARCEL; THAT THE LOCATION OF THE STATE'S PROPOSED PUBLIC TRUST EASEMENT AS REFLECTED IN THE PROPOSED AGREEMENT IS THE RESULT OF A BONA FIDE EFFORT BY THE PORT OF OAKLAND, THE CITY OF OAKLAND AND STAFF OF THE STATE LANDS COMMISSION TO LOCATE THE TRUE NATURAL BOUNDARY OF THE CLAIMED STATE TIDELANDS IN THIS PARCEL; THAT THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED; THAT IT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW INCLUDING SECTION 6307 OF THE PUBLIC RESOURCES CODE, AS WELL AS THE OTHER PROVISIONS OF DIVISION SIX THEREOF, AND IS CONSISTENT WITH THE STATE'S POWER TO RESOLVE AND SETTLE A CONTROVERSY IN LIEU OF LITIGATION AND IS IN THE BEST INTERESTS OF THE STATE.

2. FINDS THAT THE EXCHANGE OPTION PROVIDED BY THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, (SUBJECT TO THE VALUE REQUIREMENTS AGREED UPON, AND TO ACCEPTANCE OF AN EXCHANGE PARCEL BY THE COMMISSION IN THE EVENT SAID OPTION IS EXERCISED), WILL BE IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; AID IN RECLAMATION; FOR FLOOD CONTROL PROTECTION; TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; FOR THE PROTECTION, PRESERVATION AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO AND PUBLIC USE THEREOF PURSUANT TO THE PUBLIC TRUST; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED.

3. FINDS AND DETERMINES THAT SETTLEMENT OF THIS TITLE DISPUTE IN LIEU OF LITIGATION IS NOT A PROJECT WITHIN THE REQUIREMENTS OF CEQA AS PROVIDED BY SECTION 6371, PUBLIC RESOURCES CODE AND AS EXPRESSLY PROVIDED BY THE REGULATIONS OF THE COMMISSION ADOPTED AT ITS REGULAR PUBLIC MEETING ON MARCH 30, 1978, MINUTE ITEM NO. 19. (TITLE 2, DIV. 3, ARTICLE 10, SECTION 2903(d), CAL. ADM. CODE), PURSUANT TO THE PROVISIONS OF THE STATE EIR GUIDELINES, INCLUDING, TITLE 14, DIV. 6, CHAPTER 3, ARTICLE 5, SECTION 10505 (d) (1) (c), AND ARTICLE 8, SECTION 15100.4, WHICH AUTHORIZE PUBLIC AGENCIES TO LIST EXEMPT ACTIVITIES, AND CLASS 25 OF TITLE 14, DIV. 6, CHAPTER 3, ARTICLE 5, SECTION 15125; WHICH CATEGORICALLY EXEMPTS TRANSFERS OF OWNERSHIP TO THE STATE IN ORDER TO PRESERVE OPEN SPACE.

4. FINDS THAT THE USE OF PARCEL B ACCORDING TO THE PROVISIONS OF THE SAID 66 YEAR PORT LEASE TO EQUITEC 79 REAL PROPERTY INVESTORS, INC., DOES NOT UNDULY INTERFERE WITH THE NEEDS OF THE PUBLIC TRUST THEREON, AND AGREE THAT SUCH USE OF PARCEL B BY THE PORT AS UNDERLYING FEE OWNER AND ITS LESSEE SHOULD BE PERMITTED UNDER THE PUBLIC TRUST DURING THE TERM THEREOF.
5. APPROVES AND AUTHORIZES THE EXECUTIVE, ACKNOWLEDGMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
 - A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
 - B. A STATE PATENT TO THE PORT OF THE SUBJECT PARCEL FREE OF ANY STATE RIGHT, TITLE OR INTEREST THEREIN, AND INCLUDING A TERMINATION OF THE PUBLIC TRUST THEREON, EXCEPTING AND RESERVING TO THE STATE THE PUBLIC TRUST EASEMENT ON PARCEL B.
 - C. THE STATE'S CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF A QUITCLAIM DEED TO THE STATE FROM THE PORT OF ANY RIGHT, TITLE OR INTEREST THE PORT MAY HAVE IN THE SUBJECT PARCEL BY REASON OF THE SAID LEGISLATIVE GRANT IN TRUST TO THE PORT.
 - D. THE STATE'S CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF AN EASEMENT DEED TO THE STATE FROM THE CITY CONFIRMING AND CONVEYING THE PUBLIC TRUST OVER PARCEL B.
6. AUTHORIZES AND DIRECTS 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 AND RECORDATION OF DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, DEEDS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE AND CONSENTS TO RECORDATION, AND SUCH OTHER DOCUMENTS AS MAY BE REASONABLE AND CONVENIENT TO CARRY OUT THE SAID COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER THEREOF.

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3/81
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PROPOSED COMPROMISE
TITLE SETTLEMENT AGREEMENT
(5LL 72)

PARCEL IDENTIFICATION:

This proposed Compromise Title Settlement Agreement concerns a parcel of real property (referred to as SUBJECT PARCEL), consisting of about 9.5 acres, more or less, being located in the "Port Area" of the City of Oakland, County of Alameda, State of California, and being described in the attached DESCRIPTION OF SUBJECT PARCEL and being depicted on the attached PLAT OF SUBJECT PARCEL. The SUBJECT PARCEL is a part of the Port of Oakland commercial subdivision known as the Oakland Airport Business Park.

BASIS FOR ACTION:

The City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (hereinafter referred to as PORT), asserts fee title to the SUBJECT PARCEL, free of any public trust right, title or interest, by a grant deed to the Port of the SUBJECT PARCEL recorded on March 22, 1945 in 4701 OR 39-42, Serial No. SS-18167.

The Port is a Legislative Trust Grantee of all right, title and interest of the State in tidelands within the portion of the city limits within which the SUBJECT PARCEL is located, per Chapter 654, Stats. 1911 as amended by Chapter 146, Stats. 1939, and Chapter 1737, Stats. 1965. The SUBJECT PARCEL lies within the portion of the City described in said Trust Grant. The 1939 and 1965 Amendments had no substantive effect on the titles to the SUBJECT PARCEL. The said Legislative Grant in Trust is herein referred to as the Trust Grant.

In the belief that the Port was the owner in fee simple of the SUBJECT PARCEL, free of any State right, title or interest,

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and that the SUBJECT PARCEL was not within the Trust Grant, the Port, acting on behalf of the City of Oakland, Lessor, entered into a lease of the SUBJECT PARCEL dated December 16, 1980, with EQUITEC 79 REAL ESTATE INVESTORS, Lessee, for a term of 66 years, for the purposes of the construction of a 270,000 square foot office building and rental thereof for general office space during the term of the lease.

The Port, based on information from the Lessee, advises that the said Lessee has let contracts for construction of the improvements contemplated by said lease; has secured financial commitment for the project; and is scheduled to begin construction work on March 23, 1981.

Preparatory to the commencement of the project, the Lessee and the Port applied for a permit from San Francisco Bay Conservation and Development Commission by application 1-81, dated February 6, 1981. Upon receipt of notice of the B.C.D.C. application, the Commission staff made a preliminary review of the title evidence and advised by letter of February 11, 1981 of a probable State public trust ownership within the SUBJECT PARCEL.

The Port and the Lessee had secured a Preliminary Title Report for the SUBJECT PARCEL, dated September 4, 1980, which does not make reference to any public trust title.

The Port advised the Commission staff on February 27, 1981 that the Lessee has informed the Port that unless the Lessee could proceed under its lease free of any cloud resulting from possible public trust ownership and for the full 66 year term on or before March 23, 1981, the project will no longer be feasible; it will lose its present financing; it cannot commence the construction; and it must abandon the project and the lease.

The Port further advises that the completion of the project constitutes a very important and vital development in the City of Oakland.

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The Port specifically advises that the proposed office building will be the largest office building ever constructed in the Port Area and the fifth largest in the City of Oakland; that construction and subsequent operation will create over 2,500 direct jobs and result in the relocation to or creation in Oakland of several service businesses; that the project is a vital part of the Port's overall efforts to promote the use and development of the Port's water terminals and the Metropolitan Oakland International Airport; that the lease contains several specific provisions to insure that use and development of the lease premises do not interfere with use and development of the Airport and that the lessee comply with the Port's Airport Business Park Standards and Restrictions; that one of the Port's primary marketing tools for the Airport Business Park is the advantages of Airport Business Park sites to the Airport for purposes of air freight, common carrier and charter air passenger service and corporate aviation facilities and that a primary reason that purchasers and lessees select the Airport Business Park is its close physical and functional relationship to the Airport; and that the Port's development of the Airport Business Park is in furtherance of and promotes commerce and transportation generally at the Port of Oakland and is in furtherance of and directly promotes the airport trust purposes for which the State by Chapter 1028, Stats. 1955 and Chapter 209, Stats. 1957, granted to the City of Oakland tidelands and submerged land.

DISPUTE:

The Commission staff has conducted a title study, appraisal and evaluation of potential State ownership and has found evidence from which it infers the following:

1. The SUBJECT PARCEL is within the area described in the Federal confirmatory patent of the portion of the Rancho San Antonio patented to Ygnacio Peralta, lying landward of the Rancho meander line, which line is generally located

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at the bayward edge of the historic salt marsh, referred to in the Rancho field notes as the ordinary high water mark.

2. The Rancho meander line crossed the mouths of and enclosed a number of tidal sloughs, some of which were of substantial size.
3. The SUBJECT PARCEL was traversed by a tidal slough of about 150 feet in width, which was navigable in fact as shown by a landing which existed in 1871 upstream from the SUBJECT PARCEL on said slough. The staff estimates the slough to have included about 35,200 square feet of the SUBJECT PARCEL, (.81 ac.[±]).
4. By 1871, substantial levees existed across the salt marsh, which did not, however, cut off the subject from tidal action.
5. By 1898, additional levees were constructed which cut the slough crossing the subject, thereby effectively preventing tidal action from reaching the SUBJECT PARCEL.
6. The SUBJECT PARCEL was filled beginning about 1945 until the early 1950's, and it is now well above the elevation of the highest tides, in its entirety.
7. The Port entered into an agreement with the Pacific Gas and Electric Company in 1955 which was recorded on April 5, 1955 in 7621 O.R. 111, which purported to establish the boundary of the Trust Grant at the meander line crossing of the mouth of said historic slough headland to headland, and has relied on said agreement, among other things, to establish that the trust grant and the public trust did not extend into the said Rancho up the said slough to the SUBJECT PARCEL.

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8. The Port contends that the basic legal principles pertaining to reclaimed and filled tidal-navigable waters within the perimeter description of Rancho Confirmation Patents is to the effect that the patentees took title thereto free and clear of any public trust ownership, and as a result, irrespective of the existence or non-existence of tidal waters therein, no portion of the SUBJECT PARCEL was subject to the public trust and was thereby not a part of the statutory trust grant.
9. In summary, the Commission contentions in the case of City of Los Angeles vs. Venice Peninsula Properties, now on appeal to the State District Court of Appeal, Second District, 2d Civ. No. 56383, after the trial court held in the State's favor, are to the effect that the public trust easement was not conveyed by Rancho Confirmation Grants but was reserved to the public by implication.
10. Staff is therefore of the opinion that there is a rational, legal basis upon which the court could conclude that there is a public trust ownership within the SUBJECT PARCEL; that such ownership would fall within the Legislative Trust Grant to the City of Oakland; and that any portion of the SUBJECT PARCEL below the ordinary low tide may not be within the said trust grant but in any event, would be subject to the State's public trust easement.
11. While the Port disagrees and is of the opinion that there is no public trust interest within the subject, and that therefore the Legislative Trust Grant does not extend therein, the staff believes that there is sufficient uncertainty in the factual and legal issues presented to prevent its recommendation to the Commission that there be a disclaimer of State interest.

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12. While the lease is for a term of 66 years, the Legislative Trust Grant permits only a 25 year lease with a 25 year right of renewal. Therefore, if the subject is within the trust grant, the 66 year lease term would exceed the trust grant limits. But for a term of the lease, staff is of the opinion that the lease would otherwise be proper under the trust grant.
13. Staff believes that the proposed use under the Port lease is a part of the overall Port of Oakland harbor and airport commercial development; is in aid of commerce; and upon consideration of the present physical character of the SUBJECT PARCEL, and the uses of surrounding parcels, that such use does not unduly interfere with the needs of the public trust upon the SUBJECT PARCEL; and that such use by the Port as underlying fee owner and its lessee should be permitted under the public trust.

PROPOSED SETTLEMENT:

Without the option of a disclaimer by the State, the Port and the Commission staff have negotiated a proposed Compromise Title Settlement Agreement, which is substantially summarized below. A copy of the Agreement is on file with the Commission and must be looked to for the full details of the settlement. The essence of the proposal is summarized as follows:

1. To avoid the disputes and uncertainties concerning the impact, if any, of the Legislative Trust Grant to the Port, the Port will quitclaim to the State any right, title or interest it may have in the SUBJECT PARCEL under said grant.
2. For purposes of the settlement, the SUBJECT PARCEL has been divided into parcel A and parcel B as depicted on the attached PLAT OF SUBJECT PARCEL.

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3. The State will Patent parcels A and B of the SUBJECT PARCEL (as shown on the attached plat of SUBJECT PARCEL) to the Port and will acknowledge and confirm and convey to terminate the public trust thereon, excepting and reserving to the State the public trust easement over parcel B. While not exact, parcel B, being of an area of 50,000 square feet, closely approximates the location at which the historic slough traversed the SUBJECT PARCEL, this area being approximately 15,000 square feet in excess of the area of the said slough as it traversed the SUBJECT PARCEL.
4. The Port will grant to the State the public trust easement on and over parcel B.
5. The State will receive a standard CLTA policy of title insurance for its public trust easement on parcel B in the sum of \$31,500, without cost to the State.
6. The State will confirm the Port authority as underlying fee owner to lease parcel B and will confirm, approve and agree to the uses under the said lease for the said 66 year term as being consistent with and not unduly interfering with the public trust, and will agree not to disturb lessee's quiet enjoyment and possession pursuant to the terms of said lease, during the term thereof.

FUTURE EXCHANGE OPTION:

1. For a period of ten years from the effective date of the agreement (recording), either the Port or the State may elect to carry out an exchange whereby the State's reserved public trust easement in parcel B will be conveyed to the Port free and clear of any State right, title or interest therein, with the public trust terminated thereon, in exchange for a conveyance to the State, in its sovereign capacity, as tidelands and submerged lands under the public trust of other real property

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acceptable to the State, the market value of which (after deducting the value of any State existing public trust right, title or interest in the exchange parcel) shall be in the sum of \$31,500 plus an incremental value after the first year equal to a surcharge of 10% per annum, there being no such incremental surcharge for the first year after the effective date of the agreement.

2. The Port shall exercise its option by providing written notice to the State that it has selected a parcel, or interest therein, which it offers for such exchange. Within a reasonable time thereafter, the State will determine the acceptability of such parcel and the value it is receiving therein, and will notify the Port of its findings. The State will not unreasonably refuse to accept the offered parcel or interest therein. The standards upon which the State will apply in determining the acceptability of the offered parcel or interest therein are those required by law including the provisions of Section 6307 of the Public Resources Code, and generally stated the parcel should consist of existing or former wetlands which would be of value for purposes of the public trust. These standards are informational and do not necessarily constitute a full statement of the requirements. However, the State will act reasonably in its application of the exchange requirements.
3. The State shall exercise its option by notice to the Port of the availability of an acceptable parcel or interest therein, for sale by a willing seller, at the purchase price above referred to, whereupon the Port shall make payment to the designee of the State of such purchase price for its conveyance of the parcel or interest therein to be conveyed to the State.

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4. The parties will establish an escrow to complete the exchange, with a standard CLTA policy insuring the title the State will receive in the exchange parcel. The parties will share in the escrow costs and the State's title policy will be at its cost. The parties will take all necessary steps to close said escrow in a reasonably expeditious manner.

GENERAL:

In the interest of avoiding the possible substantial losses to the parties and the costs, delays and uncertainties of probable litigation, the proposed agreement is based on a compromise of the disputes of law and fact. It is to be clearly understood that the proposed settlement is intended to resolve the titles to the SUBJECT PARCEL only and is to be expressly without any admission by either party concerning their respective right, title or interest in any other parcel, whether based on the same or similar evidence and issues as this settlement or otherwise.

Staff believes that the proposed settlement constitutes a reasonable compromise and is in the best interests of the State and recommends its approval by the Commission.

ATTACHMENTS:

Description of Subject Parcel.
Plat of Subject Parcel.
Description of Patent Parcel.
Description of Public Trust Parcel (Parcel B).

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE TITLES WITHIN THE SUBJECT PARCEL; THAT THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED; THAT IT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW INCLUDING SECTION 6307 OF THE PUBLIC RESOURCES CODE, AS WELL AS THE OTHER PROVISIONS OF DIVISION SIX THEREOF, AND IS CONSISTENT WITH THE STATE'S POWER TO RESOLVE AND SETTLE A CONTROVERSY IN LIEU OF LITIGATION AND IS IN THE BEST INTERESTS OF THE STATE.

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2. FIND THAT THE EXCHANGE OPTION PROVIDED BY THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, (SUBJECT TO THE VALUE REQUIREMENTS AGREED UPON, AND TO ACCEPTANCE OF AN EXCHANGE PARCEL BY THE COMMISSION IN THE EVENT SAID OPTION IS EXERCISED), WILL BE IN THE BEST INTERESTS OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; AID IN RECLAMATION; FOR FLOOD CONTROL PROTECTION; TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; FOR THE PROTECTION, PRESERVATION AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO AND PUBLIC USE THEREOF PURSUANT TO THE PUBLIC TRUST; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED.
3. FIND AND DETERMINE THAT SETTLEMENT OF THIS TITLE DISPUTE IN LIEU OF LITIGATION IS NOT A PROJECT WITHIN THE REQUIREMENTS OF CEQA AS PROVIDED BY SECTION 6371, PUBLIC RESOURCES CODE AND AS EXPRESSLY PROVIDED BY THE REGULATIONS OF THE COMMISSION ADOPTED AT ITS REGULAR PUBLIC MEETING ON MARCH 30, 1978, MINUTE ITEM NO. 19. (TITLE 2, DIV. 3, ARTICLE 10, SECTION 2903(d), CAL. ADM. CODE), PURSUANT TO THE PROVISIONS OF THE STATE EIR GUIDELINES, INCLUDING, TITLE 14, DIV. 6, CHAPTER 3, ARTICLE 5, SECTION 10505 (d) (1) (c), AND ARTICLE 8, SECTION 15100.4, WHICH AUTHORIZE PUBLIC AGENCIES TO LIST EXEMPT ACTIVITIES, AND CLASS 25 OF TITLE 14, DIV. 6, CHAPTER 3, ARTICLE 5, SECTION 15125; WHICH CATEGORICALLY EXEMPTS TRANSFERS OF OWNERSHIP TO THE STATE IN ORDER TO PRESERVE OPEN SPACE.
4. FIND THAT THE USE OF PARCEL B ACCORDING TO THE PROVISIONS OF THE SAID 66 YEAR PORT LEASE TO EQUITEC 79 REAL PROPERTY INVESTORS, INC., DOES NOT UNDULY INTERFERE WITH THE NEEDS OF THE PUBLIC TRUST THEREON, AND AGREE THAT SUCH USE OF PARCEL B BY THE PORT AS UNDERLYING FEE OWNER AND ITS LESSEE SHOULD BE PERMITTED UNDER THE PUBLIC TRUST DURING THE TERM THEREOF.
5. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
 - A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
 - B. A STATE PATENT TO THE PORT OF THE SUBJECT PARCEL FREE OF ANY STATE RIGHT, TITLE OR INTEREST THEREIN, AND INCLUDING A TERMINATION OF THE PUBLIC TRUST

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THEREON, EXCEPTING AND RESERVING TO THE STATE THE PUBLIC TRUST EASEMENT ON PARCEL B.

- C. THE STATE'S CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF A QUITCLAIM DEED TO THE STATE FROM THE PORT OF ANY RIGHT, TITLE OR INTEREST THE PORT MAY HAVE IN THE SUBJECT PARCEL BY REASON OF THE SAID LEGISLATIVE GRANT IN TRUST TO THE PORT.
- D. THE STATE'S CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF AN EASEMENT DEED TO THE STATE FROM THE CITY CONFIRMING AND CONVEYING THE PUBLIC TRUST OVER PARCEL B.
6. 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 AND RECORDATION OF DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, DEEDS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE AND CONSENTS TO RECORDATION, AND SUCH OTHER DOCUMENTS AS MAY BE REASONABLE AND CONVENIENT TO CARRY OUT THE SAID COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER THEREOF.

DESCRIPTION OF SUBJECT PARCEL

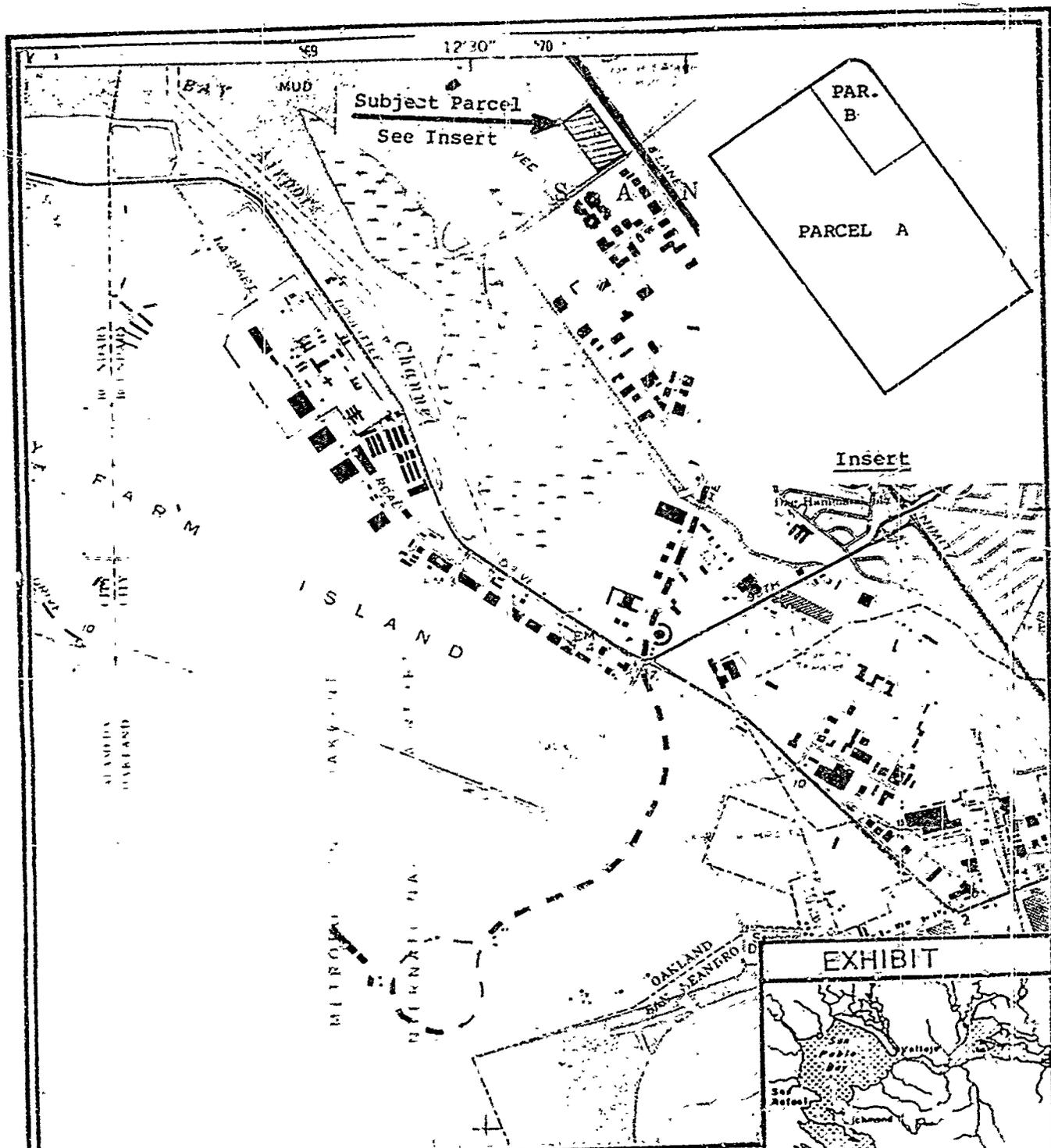
REAL PROPERTY in the City of Oakland, County of Alameda, State of California, described as follows:

Commencing at the monument in Hegenberger Road at the first angle point southerly of the Nimitz Freeway (formerly known as Eastshore Freeway). Said monument is also known as Monument 41/D, situate in the City of Oakland, County of Alameda, State of California, from which monument the bearing of the monument line to the monument known as 41/E is being taken as South 19°54'54" West, for the purpose of this description; thence leaving Monument 41/D along the monument line North 4°39'16" East 224.23 feet, to its intersection with the southeasterly production of the southwestern right of way line of the street known as Edgewater Drive; thence northwesterly along last said line and said southwestern right of way line the following four courses. North 70°05'06" West 803.25 feet; North 47°51'59" West 89.33 feet; along a tangent curve concave to the northeast with a radius of 428 feet through a central angle of 12°59'15" for an arc distance of 97.02 feet; tangent to last said curve North 34°52'44" West 2830.38 feet to a point on the northwestern line of the Elmhurst Channel Reserve, 110 feet in width; thence along last said line and its northeasterly production North 55°07'16" East 87 feet to a point on the city monument line for Edgewater Drive, said monument line being parallel with and 39 feet southwesterly of the northeastern line of Edgewater Drive, 126 feet in width, said point is distant thereon South 34°52'44" East 858.06 feet from the City Monument known as 26NE/5; thence along said monument line North 34°52'44" West 828.06 feet to the intersection thereof with the southwesterly production of the southeastern right of way line of Hassler Way, 60 feet in width; thence along said line and its production North 55°07'16" East 644 feet to a point on the northeastern line of the Port's Reserve, 20 feet in width for the Railroad Drill and Storage Tracks, said point also being the TRUE POINT OF BEGINNING of the parcel being described; thence continuing along said line of Hassler Way North 55°07'16" East 455 feet; thence easterly along the arc of a curve concave to the south with a radius of 45 feet through a central angle of 90° for an arc distance of 70.69 feet to a point on the southwestern right of way line of Oakport Street; thence along last said right of way line South 34°52'44" East 783.06 feet to a point on the hereinabove referred to northwestern line of the Elmhurst Channel Reserve, said point is herein for convenience being designated as Station A; thence along said northwestern line of said channel reserve South 55°07'16" West 500 feet to a point on the northeastern line of the hereinabove referred to Railroad Drill Track and Storage Track Reserve; thence along last said line North 34°52'44" West 828.06 feet to the true point of beginning. Containing an area of 9.5 acres, more or less.

END OF DESCRIPTION

Prepared by Title Settlements and Reviewed March 6, 1981 by Technical Services Unit. Roy Minnick, Supervisor.

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STATE LANDS COMMISSION

PLAT
OF
SUBJECT
PARCEL

Prepared by A.A. Shimonauuff Date 1-12-81 A 14 58

Title Study Oak. Air. Ind. Park-Equitoc 79 W 22686

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DESCRIPTION OF PATENT PARCEL

REAL PROPERTY in the City of Oakland, County of Alameda, State of California,
described as follows:

Commencing at the monument in Hegenberger Road at the first angle point southerly of the Nimitz Freeway (formerly known as Eastshore Freeway). Said monument is also known as Monument 41/D, situate in the City of Oakland, County of Alameda, State of California, from which monument the bearing of the monument line to the monument known as 41/E is being taken as South $19^{\circ}54'54''$ West, for the purpose of this description; thence leaving Monument 41/D along the monument line North $4^{\circ}39'16''$ East 224.23 feet, to its intersection with the southeasterly production of the southwestern right of way line of the street known as Edgewater Drive; thence northwesterly along last said line and said southwestern right of way line the following four courses: North $70^{\circ}05'06''$ West 803.25 feet; North $47^{\circ}51'59''$ West 89.33 feet; along a tangent curve concave to the northeast with a radius of 428 feet through a central angle of $12^{\circ}59'15''$ for an arc distance of 97.02 feet; tangent to last said curve North $34^{\circ}52'44''$ West 283.38 feet to a point on the northwestern line of the Elmhurst Channel Reserve, 110 feet in width; thence along last said line and its northeasterly production North $55^{\circ}07'16''$ East 87 feet to a point on the city monument line for Edgewater Drive, said monument line being parallel with and 39 feet southwesterly of the northeastern line of Edgewater Drive, 126 feet in width, said point is distant thereon South $34^{\circ}52'44''$ East 858.06 feet from the City Monument known as 26NE/5; thence along said monument line North $34^{\circ}52'44''$ West 828.06 feet to the intersection thereof with the southwesterly production of the southeastern right of way line of Hassler Way, 60 feet in width; thence along said line and its production North $55^{\circ}07'16''$ East 646.38 feet to a point on the northeastern line of the Port's Reserve, 20 feet in width for the Railroad Drill and Storage Tracks, said point also being the TRUE POINT OF BEGINNING of the parcel being described; thence continuing along said line of Hassler Way North $55^{\circ}07'16''$ East 455 feet; thence easterly along the arc of a curve concave to the south with a radius of 45 feet through a central angle of 90° for an arc distance of 70.69 feet to a point on the southwestern right of way line of Oakport Street; thence along last said right of way line South $34^{\circ}52'44''$ East 783.06 feet to a point on the hereinabove referred to northwestern line of the Elmhurst Channel Reserve, said point is herein for convenience being designated as Station A; thence along said northwestern line of said channel reserve South $55^{\circ}07'16''$ West 100 feet to a point on the northeastern line of the hereinabove referred to Railroad Drill Track and Storage Track Reserve; thence along last said line North $34^{\circ}52'44''$ West 828.06 feet to the true point of beginning. Containing an area of 9.5 acres, more or less.

EXCEPTING AND RESERVING to the State of California the public trust easement, held by the State in its sovereign capacity, on patented tidelands and submerged lands, for the purposes required by law, on, over and across the following described portion of the above-described real property:

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Commencing at the point of beginning of the above-described parcel; thence along the southeastern right of way line of Hassler Way North $55^{\circ}07'16''$ East 355 feet to the TRUE POINT OF BEGINNING of the parcel being described; thence continuing along said line of Hassler Way North $55^{\circ}07'16''$ East 120 feet; thence easterly along the arc of a curve concave to the south with a radius of 45 feet through a central angle of 90° for an arc distance of 70.69 feet to a point on the southwestern right of way line of Oakport Street; thence along last said right of way line South $34^{\circ}52'44''$ East 265 feet; thence leaving said right of way line South $55^{\circ}07'16''$ West 165 feet; thence North $34^{\circ}52'44''$ West 310 feet to the true point of beginning.

END OF DESCRIPTION

Prepared by Title Settlements and Reviewed March 12, 1981 by Technical Services Unit, Ray Minnick, Supervisor.

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DESCRIPTION OF PUBLIC TRUST PARCEL

(Parcel B)

REAL PROPERTY in the City of Oakland, County of Alameda, State of California, described as follows:

Commencing at the monument in Hegenberger Road at the first angle point southerly of the Nimitz Freeway (formerly known as Eastshore Freeway). Said monument is also known as Monument 41/D, situate in the City of Oakland, County of Alameda, State of California, from which monument the bearing of the monument line to the monument known as 41/E is being taken as South $19^{\circ}54'54''$ West, for the purpose of this description; thence leaving Monument 41/D along the monument line North $4^{\circ}39'16''$ East 224.23 feet, to its intersection with the southeasterly production of the southwestern right of way line of the street known as Edgewater Drive; thence northwesterly along last said line and said southwestern right of way line the following four courses: North $70^{\circ}05'06''$ West 803.25 feet; North $47^{\circ}51'59''$ West 89.33 feet; along a tangent curve concave to the northeast with a radius of 428 feet through a central angle of $12^{\circ}59'15''$ for an arc distance of 97.02 feet; tangent to last said curve North $34^{\circ}52'44''$ West 2830.38 feet to a point on the northwestern line of the Elmhurst Channel Reserve, 110 feet in width; thence along last said line and its northeasterly production North $55^{\circ}07'16''$ East 87 feet to a point on the city monument line for Edgewater Drive, said monument line being parallel with and 39 feet southwesterly of the northeastern line of Edgewater Drive, 126 feet in width, said point is distant thereon South $34^{\circ}52'44''$ East 358.06 feet from the City Monument known as 26NE/5; thence along said monument line North $34^{\circ}52'44''$ West 828.06 feet to the intersection thereof with the southwesterly production of the southeastern right of way line of Hassler Way, 60 feet in width; thence along said line and its production North $55^{\circ}07'16''$ East 979 feet to the TRUE POINT OF BEGINNING of the parcel being described; thence continuing along said line of Hassler Way North $55^{\circ}07'16''$ East 120 feet; thence easterly along the arc of a curve concave to the south with a radius of 45 feet through a central angle of 90° for an arc distance of 70.69 feet to a point on the southwestern right of way line of Oakport Street; thence along last said right of way line South $34^{\circ}52'44''$ East 265 feet; thence leaving said right of way line South $55^{\circ}07'16''$ West 165 feet; thence North $34^{\circ}52'44''$ West 310 feet to the true point of beginning.

END OF DESCRIPTION

Prepared by Title Settlements and Reviewed March 12, 1981 by Technical Services Unit, Roy Minnick, Supervisor.

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