

MINUTE ITEM

This Calendar Item No. 33
was approved as Minute Item
No. 33 by the State Lands
Commission by a vote of 3
to 0 at its 11/21
meeting.

CALENDAR ITEM

33

9/29/81
W 22513
Valentine

COMPROMISE TITLE SETTLEMENT

A title dispute exists between the State in its sovereign capacity and Mr. Frank P. Greene ("Greene"), concerning State-private ownership of a 5.2-acre parcel of real property located in the City of Corte Madera, County of Marin. The property is located along San Francisco Bay about ten miles north of the City of San Francisco. It consists of former marshland which has been filled. The property is referred to as the SUBJECT PARCEL and is described and depicted in the attached Exhibits A and B.

Greene claims the subject property as successor to the grantees of Rancho Corte Madera del Presidio. Greene contends that the confirmation patent to his predecessor in interest conveyed all right, title and interest of the State without reservation and that he therefore holds title to the subject parcel in fee simple absolute free of any State interest.

The staff of the State Lands Commission has conducted a study of the evidence of title to the subject parcel and has drawn a number of the evidentiary conclusions, including:

- 1) The subject parcel was included within the perimeter description of Rancho Corte Madera del Presidio;
- 2) in a natural state the subject parcel consisted of marsh grass and sloughs and was covered, at least in part, by the daily tides;
- 3) the precise extent to which the subject parcel was subject to tidal action is uncertain;
- 4) the subject parcel has been filled, thereby cutting it off from the Bay;
- 5) the subject parcel has been substantially improved with buildings.

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The Staff is of the opinion that the title evidence and applicable legal principles lead to the conclusion that the State in its sovereign capacity is the owner of some public trust right, title or interest in the subject parcel. The exact nature and extent of such trust interest is, however, subject to uncertainty and dispute.

LAND BANK PARCEL:

By Commission Minute Item No. 32 of this date the Commission, on behalf of the State, approved a Land Bank Agreement pursuant to which the City of Hayward will convey to the State about 77 acres of wetlands, or undivided interests therein, along San Francisco Bay for a total purchase price of \$117,206.08 or about \$1,508 per acre.

PROPOSED SETTLEMENT:

The private parties have offered to resolve this title dispute by a written agreement in compromise settlement of the legal and evidentiary issues. The staff of the State Lands Commission recommends approval of the settlement in substantially the form of the agreement, a copy of which is now on file with the State Lands Commission. The agreement sets forth the specific terms of the proposal. A summary of the principal terms are:

- 1) Mr. Greene will purchase from the City of Hayward for the purchase price of \$17,000 fee title to an undivided 14.49 percent interest in the Land Bank Parcel. This interest is to be conveyed by the City of Hayward to the State in its sovereign capacity as tidelands and submerged land held under the public trust.
- 2) In exchange for the above conveyance to the State, the State will convey all its right, title or interest in the subject parcel to Mr. Greene, reserving a public access easement around the perimeter of the parcel.

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- 3) The agreement will be effective upon its recordation.

Staff has appraised the Subject Parcel and has evaluated the law and the evidence bearing on the title dispute and is of the opinion that \$17,000 is equal to or greater than the value of the State's interest in the Subject Parcel.

AB 884: N/A.

EXHIBITS: A. Land Description.
B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PARCEL FOR THE LAND BANK IS IN THE BEST INTERESTS OF THE STATE:
 - a) FOR THE IMPROVEMENT OF NAVIGATION;
 - b) AID IN RECLAMATION;
 - c) FOR FLOOD CONTROL;
 - d) ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND;
 - e) PROTECTION, PRESERVATION AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS, PUBLIC ACCESS THERETO AND PUBLIC USE THEREOF PURSUANT TO THE PUBLIC TRUST.
2. FIND THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED; AND THAT THE REAL PROPERTY RECEIVED BY THE STATE, IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SUBJECT PARCEL BEING RELINQUISHED BY THE STATE.
3. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE-STATE 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 UNNCERTAINTIES OF TITLE LITIGATION; THAT IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW INCLUDING SECTION 6307 OF THE P.R.C.,

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AS WELL AS THE OTHER PROVISIONS OF DIV. 6 OF THE P.R.C., AND IS CONSISTENT WITH THE STATE'S POWER TO RESOLVE AND SETTLE A CONTROVERSY IN LIEU OF LITIGATION; THAT ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, INCLUDING THE RESERVED PUBLIC ACCESS EASEMENT, THE SUBJECT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PUBLIC TRUST AND THAT THE PUBLIC TRUST MAY BE TERMINATED THEREON.

4. FIND AND DETERMINE THAT SETTLEMENT OF THIS TITLE DISPUTE IN LIEU OF LITIGATION IS NOT A PROJECT WITHIN THE REQUIREMENTS OF CEQA.
5. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT 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 PATENT CERTIFICATE AND A PATENT OF THE SUBJECT PARCEL IN MARIN COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST, EXCEPTING AND RESERVING, HOWEVER, A PUBLIC ACCESS EASEMENT AS APPROVED IN THE AGREEMENT.
 - c) A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF THE CONVEYANCE TO THE STATE OF THE UNDIVIDED 14.49 PERCENT FEE INTEREST IN THE LAND BANK PARCEL IN ALAMEDA COUNTY, CALIFORNIA, AND OF THE DEED TO THE STATE OF THE PUBLIC ACCESS EASEMENT EXCEPTED AND RESERVED FROM THE SUBJECT PARCEL AS REAL PROPERTY OF THE LEGAL CHARACTER OF TIDELANDS AND SUBMERGED LANDS, OWNED BY THE STATE BY REASON OF ITS SOVEREIGNTY PURSUANT TO PUBLIC TRUST.
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, ACKNOWLEDGEMENT 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 THIS COMPROMISE TITLE SETTLEMENT AGREEMENT; TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

EXHIBIT "A"

LAND DESCRIPTION

W 22513

All that certain real property situate in the Town of Corte Madera, County of Marin, State of California, described as follows:

COMMENCING at a point in the easterly line of the Northwestern Pacific Railroad Right-of-Way, as described in Book 3 of Deeds, at Page 399, Marin County Records; said point being due East along the easterly extension of the southerly line of the property described in the Deed from Charles L. Robinson, et ux., to I.J. Ely, et ux., recorded February 5, 1948 in Book 578 of Official Records, at Page 111, Marin County Records, and shown on Record of Survey filed in Book 15 of Surveys at Page 6 of said county; thence S 06° 58' E 20.00 feet to the POINT OF BEGINNING, thence the following four courses and distances:

1. S 06° 58' E 450.00 feet;
2. N 83° 02' E 500.00 feet;
3. N 06° 58' W 450.00 feet;
4. S 83° 02' W 500.00 feet to the point of beginning.

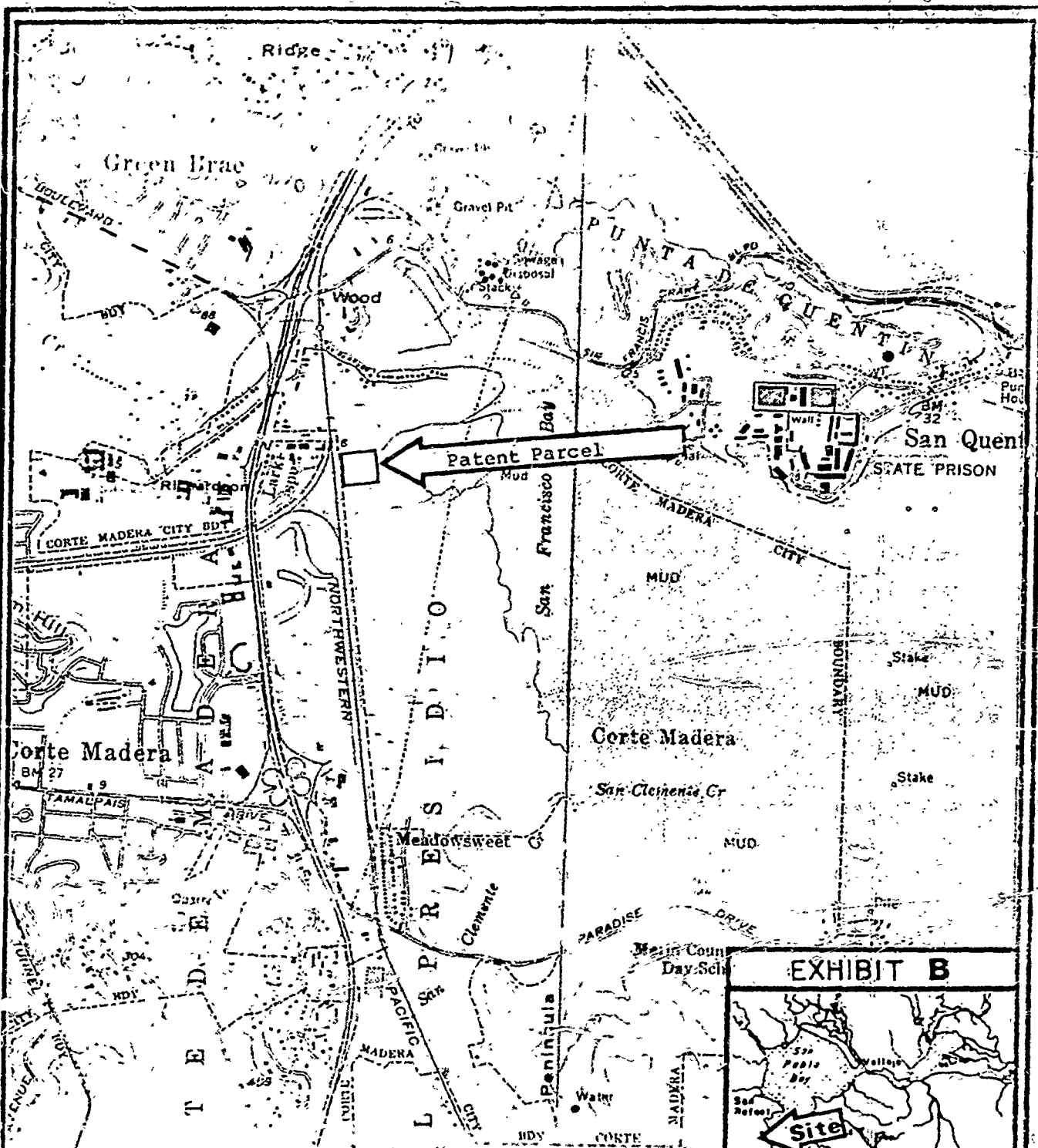
Containing 5.16 acres, more or less.

END OF DESCRIPTION

PREPARED SEPTEMBER 11, 1981 BY GARRY A. WELDON L.S. 3752

(Added 9/25/81)

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STATE LANDS COMMISSION
 PORTION OF U.S.G.S. QUADRANGLE
 SAN RAFAEL 1954
 PHOTOREVISED 1968

Prepared by B. Lee Date: 6-20-80 A 9 S 2
 Title Sheet GREENE - CORTE MADERA W 22513



(Added 9/25/81)

23-NEE-5142
 CALIFORNIA
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