

MINUTE ITEM

This Calendar Item No. 43  
was approved as Minute Item  
No. 43 by the State Lands  
Commission by a vote of 2  
to 0 at its 6/23/83  
meeting.

CALENDAR ITEM

43 7

6/23/83  
W 20905  
Valentine  
Graber

AUTHORIZATION TO BRING LITIGATION AGAINST  
IDEAL BASIC INDUSTRIES, INC., AND/OR  
BELL MARINE COMPANY, INC., OVER TITLE TO AND  
DREDGING FROM TIDE AND SUBMERGED LANDS IN  
SOUTH SAN FRANCISCO BAY

In May 1979, after the settlement of the major portion of the Westbay lawsuit, the State Lands Commission and the Office of the Attorney General began negotiations with Ideal Basic Industries, Inc., concerning disputed title to approximately 20,000 acres of tide and submerged lands in South San Francisco Bay. Most of the disputed lands are in Alameda County and San Mateo County, with a small portion in Santa Clara County.

Ideal Basic claims title as the successor to State tideland and swamp and overflowed land patentees. The State asserts that the claims are invalid as to lands waterward of the last natural location of the line of mean low water.

In October 1979, following competitive bidding, the State Lands Commission approved issuance of PRC 5752.1, an oyster shell dredging lease, to Morris Tug and Barge, Inc. In February 1980, counsel for Ideal Basic advised the State Lands Commission staff that a portion of the leased area was within the perimeter description of the patents issued to Ideal Basic's predecessors. PRC 5752.1 was subsequently voluntarily amended by the State Lands Commission to delete the disputed lands from the leased area.

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Thereafter, during the State's continuing negotiations with Ideal Basic, it was the State's understanding that both sides had informally agreed that the removal of shell deposits from any of the disputed lands would be held in abeyance pending the resolution of the title and boundary dispute. However, in June 1982, Ideal Basic entered into a lease and royalty agreement purporting to authorize Bell Marine Company, Inc., to dredge, extract and remove oyster shells from approximately 1,600 acres comprising a portion of the disputed lands.

In April 1983, Bell Marine obtained a permit from the San Francisco Bay and Conservation Commission (BCDC Permit No. M82-75), which purports to authorize the dredging and use of up to 30,000 cubic yards of shell deposits annually for five years from the portion of the disputed lands within Ideal Basic's lease to Bell Marine. In May 1983, upon learning of the issuance of BCDC Permit No. M82-75, the Office of the Attorney General advised both Ideal Basic and Bell Marine in writing that the State Lands Commission opposes any dredging of shell deposits from the disputed lands pending the resolution of the title and boundary dispute. To date, Ideal Basic and Bell Marine have not informed the Office of the Attorney General that the proposed dredging will be held in abeyance.

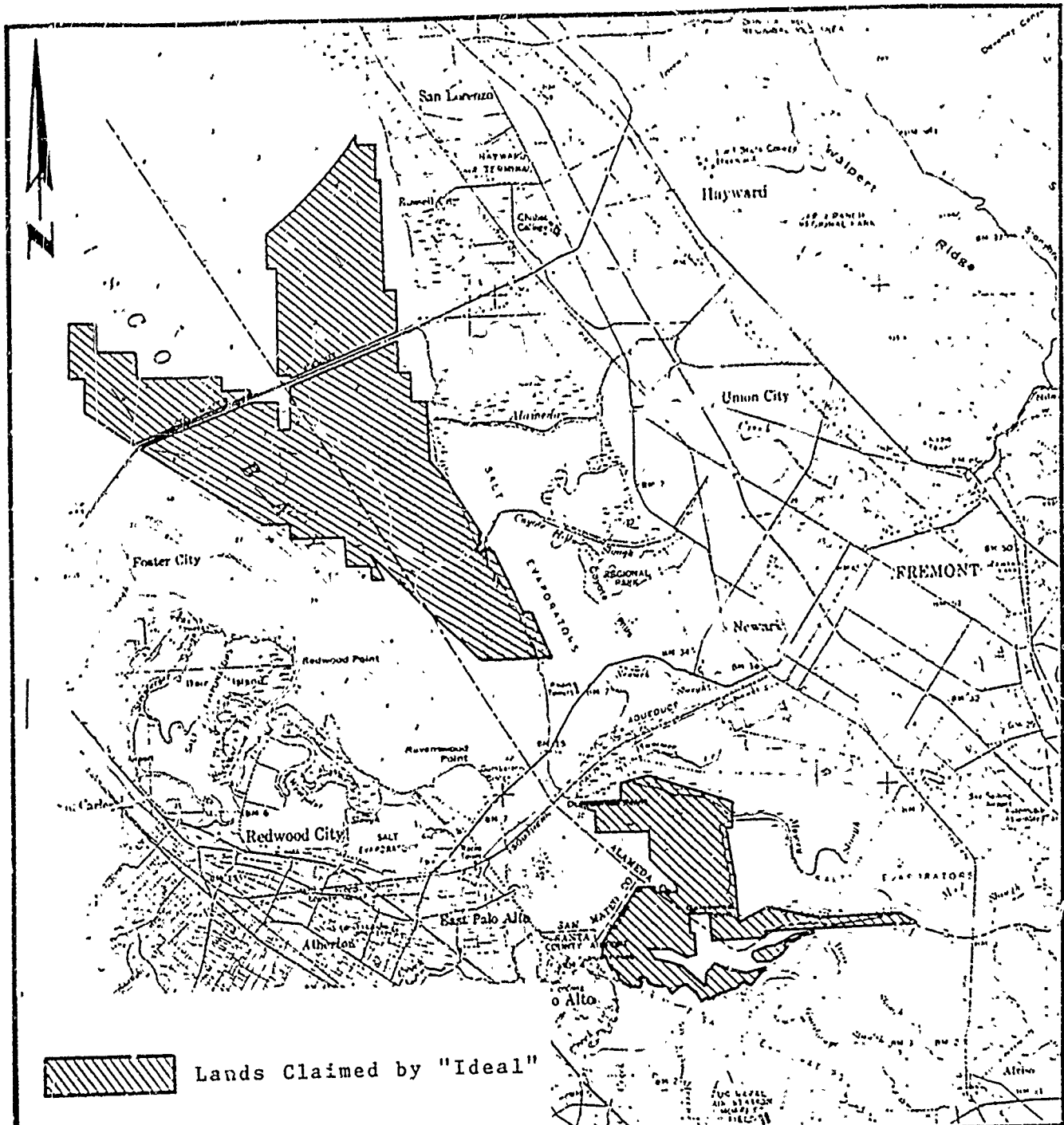
As a result of the settlement negotiations with Ideal Basic, representatives of both sides in November 1982 had reached an informal, preliminary agreement on the location of the boundary between the State's sovereign lands and Ideal Basic's lands, subject to further adjustment. In negotiations conducted before BCDC issued the dredging permit to Bell Marine, questions remained concerning whether a title and boundary settlement would include provisions as to the use of any of the disputed lands waterward of an agreed boundary for shell deposit dredging and/or for mariculture.


Efforts to resolve, through negotiations, both the title and boundary dispute with Ideal Basic and the shell dredging matter with Bell Marine are continuing, but litigation may be required to protect the State's sovereign title and mineral rights in the disputed lands. Even if the settlement negotiations are successful, confirmatory judgments would be necessary before the State could obtain title insurance as to any of the lands within the perimeter description of the patents issued to Ideal Basic's predecessors.

- EXHIBITS:
- A. Site Map.
  - B. Map of Disputed Lands within BCDC Permit to Bell Marine Company, Inc.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO FILE WHATEVER ACTION OR ACTIONS THAT MAY BE DEEMED NECESSARY TO QUIET THE STATE OF CALIFORNIA'S TITLE TO AND/OR RIGHTS IN THE LANDS CLAIMED BY IDEAL BASIC INDUSTRIES, INC.
2. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE WHATEVER ACTION OR ACTIONS THAT MAY BE DEEMED NECESSARY TO PREVENT THE DREDGING, EXTRACTION AND REMOVAL OF OYSTER SHELL DEPOSITS FROM ANY PORTION OF THE DISPUTED LANDS BY BELL MARINE COMPANY, INC., AS THE LESSEE OF IDEAL BASIC INDUSTRIES, INC., UNTIL TITLE THERETO IS FINALLY DETERMINED BY A COURT OR COURTS OF COMPETENT JURISDICTION.
3. AUTHORIZE THE COMMISSION STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO CONTINUE SETTLEMENT NEGOTIATIONS WITH IDEAL BASIC INDUSTRIES, INC., TO RESOLVE THE TITLE AND BOUNDARY DISPUTE.
4. FIND THAT THE PROVISIONS OF CEQA ARE INAPPLICABLE TO THIS AUTHORIZATION.



 Lands Claimed by "Ideal"

STATE LANDS COMMISSION

Site Map of Lands Claimed by Ideal Basic Industries, Inc.



Prepared by: D. Plummer

Date: 6/1/83

EXHIBIT A

Title Study: Ideal Basic Industries, Inc.

W 20905

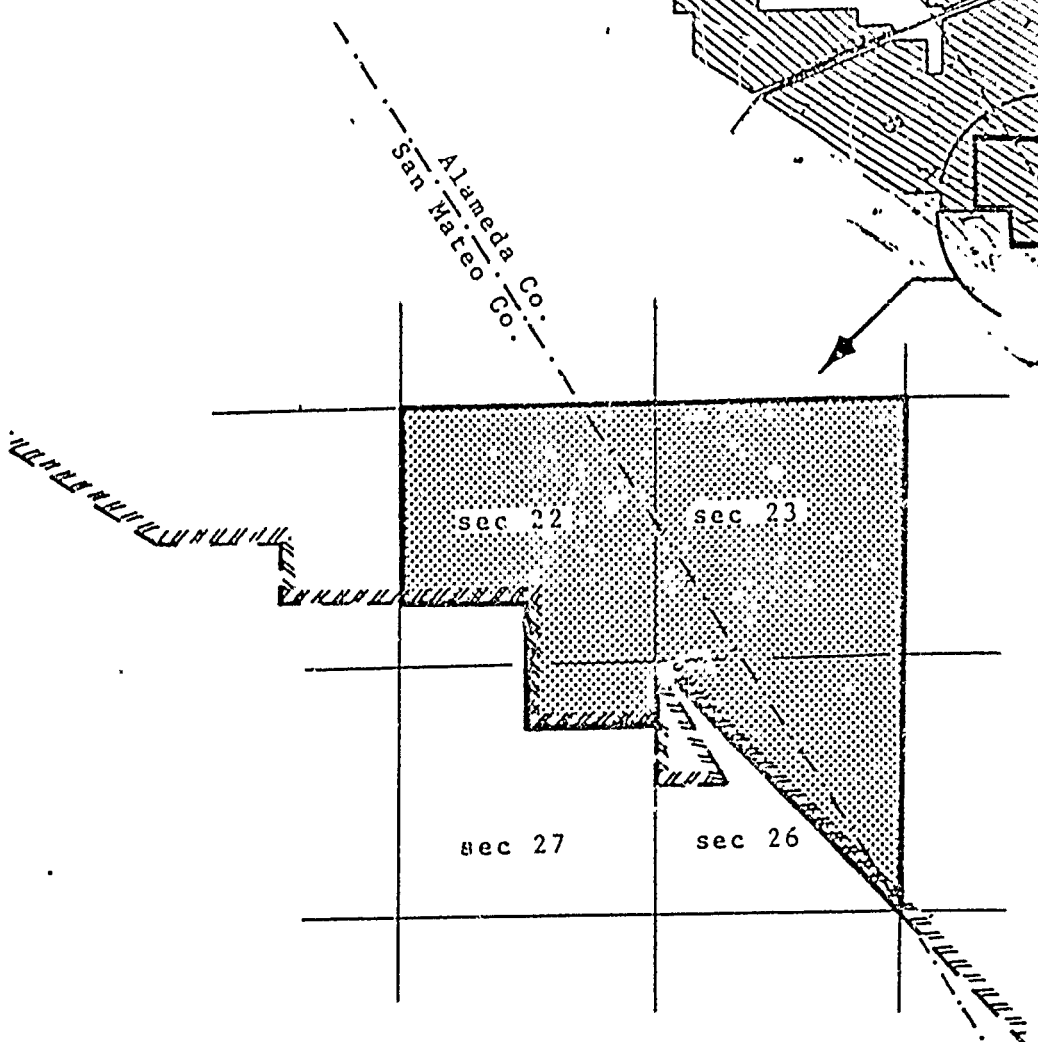
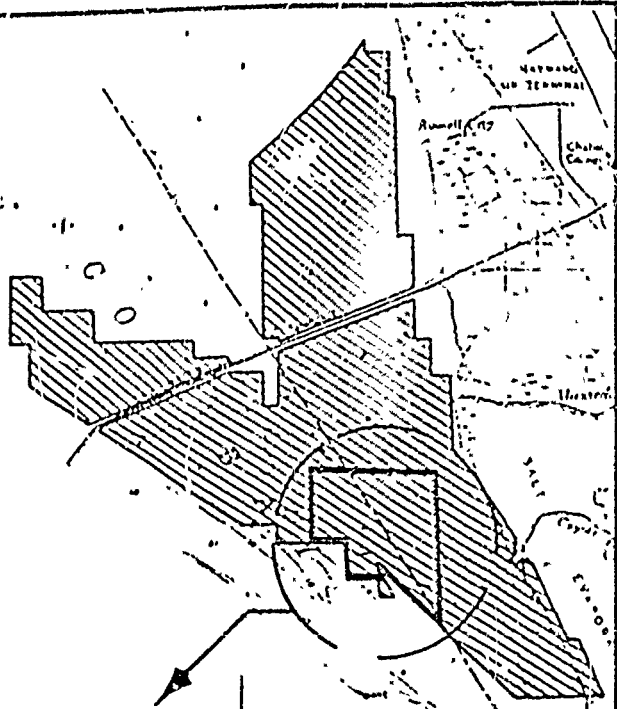
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Proposed Dredging Site

Ideal Basic Industries, Inc.  
Claims



STATE LANDS COMMISSION

Map of Disputed Lands within BCDC Permit  
to Bell Marine Company, Inc.



Prepared by: D. Plummer

Date: 6/1/83

EXHIBIT B

Title Study: Ideal Basic Industries, Inc.

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