

MINUTE ITEM

This Calendar Item No. C19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 3
to 2 of its 7/15/91
meeting.

CALENDAR ITEM

A 20
S 11

C 1 9

07/15/91
W 503.1646 AD 165
Okikawa
Rusconi

AUTHORIZE THE ATTORNEY GENERAL TO SETTLE LITIGATION RE:
BURGESS v. STATE OF CALIFORNIA, ET AL
SAN MATEO COUNTY SUPERIOR COURT NO. 347052

PARTY:

State Lands Commission
1807 - 13th Street
Sacramento, California 95814

The State Lands Commission is a party to a Quiet Title Action brought by George and Helen Burgess against the State of California, State Lands Commission, and all persons known or unknown, entitled Burgess v. State of California, et al, San Mateo County Superior Court No. 347052.

The property which is the subject of this litigation is adjacent to Seal Slough and within the perimeter description of Swamp and Overflowed Lands Patent No. 67 for San Mateo County. A search of the Commission's records indicates that at the time of the survey and sale of S & O No. 67 and in a natural condition thereafter, the area at issue in this litigation was above the line of ordinary high water and thus was lawfully sold free of any retained State sovereign interests. An artificial channel has been dredged from Seal Slough into the parcel. The channel and Seal Slough are tidal and navigable. Seal Slough has a tide gate at its mouth at San Francisco Bay which makes navigation between the slough and the Bay impossible.

Plaintiff, record owner of the property which is the subject of this litigation, has agreed to acknowledge and make of record, by grant deed or otherwise, the existence of the sovereign public trust easement, held by the State, for purposes of commerce, navigation, fisheries, and other recognized public trust uses, over those lands lying below the ordinary high water mark in the bed of the channel.

It is therefore recommended that the Commission approve settlement of the subject litigation, wherein the Commission would agree that a portion of the subject parcel, lying above the

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ordinary high water mark of Seal Slough and of the dredged channel, constitutes swamp and overflowed lands, sold by the State pursuant to Patent No. 67, and is not subject to sovereign interests of the State; and wherein the Plaintiff, record owners of the subject property, would expressly acknowledge, by grant deed or otherwise, the State's public trust easement over those lands in the bed of the channel lying below the ordinary high water mark of the said channel.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

- 1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Land Description
- B. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
- 2. AUTHORIZE THE ATTORNEY GENERAL TO ACCEPT A SETTLEMENT IN THE CASE OF BURGESS V. STATE OF CALIFORNIA, ET AL., SAN MATEO COUNTY SUPERIOR COURT NO. 347052, WHEREIN THE STATE, ACTING BY AND THROUGH THE STATE LANDS COMMISSION, WOULD AGREE THAT A PORTION OF THE SUBJECT PARCEL, LYING ABOVE THE ORDINARY HIGH WATER MARK OF SEAL SLOUGH AND OF THE DREDGED CHANNEL, CONSTITUTES SWAMP AND OVERFLOWED LANDS PATENT NO. 67; AND IS NOT SUBJECT TO SOVEREIGN INTEREST OF THE STATE; AND WHEREIN THE PLAINTIFF, RECORD OWNERS OF THE SUBJECT PROPERTY, WOULD

CALENDAR ITEM NO. C 7 9 (CONT'D)

EXPRESSLY ACKNOWLEDGE, BY GRANT DEED OR OTHERWISE, THE STATE'S PUBLIC TRUST EASEMENT OVER THOSE LANDS IN THE BED OF THE CHANNEL LYING BELOW THE ORDINARY HIGH WATER MARK OF THE SAID CHANNEL.

3. AUTHORIZE STAFF AND THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO COMPLETE THE SETTLEMENT OF LITIGATION SET FORTH HEREIN, INCLUDING, BUT NOT LIMITED TO, THE EXECUTION, ACCEPTANCE, AND RECORDATION OF ALL NECESSARY AND APPROPRIATE DOCUMENTS.

EXHIBIT "A"

LAND DESCRIPTION

W 503.1646

A PARCEL OF REAL PROPERTY situated in the State of California, County of San Mateo, City of San Mateo and is described as follows:

Parcel D as shown on that certain map entitled "MARINER'S ISLAND UNIT NO. 1, SAN MATEO, SAN MATEO COUNTY, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on March 4, 1966 in Book 64 of Maps at pages 28 to 30 inclusive, being more particularly described as follows:

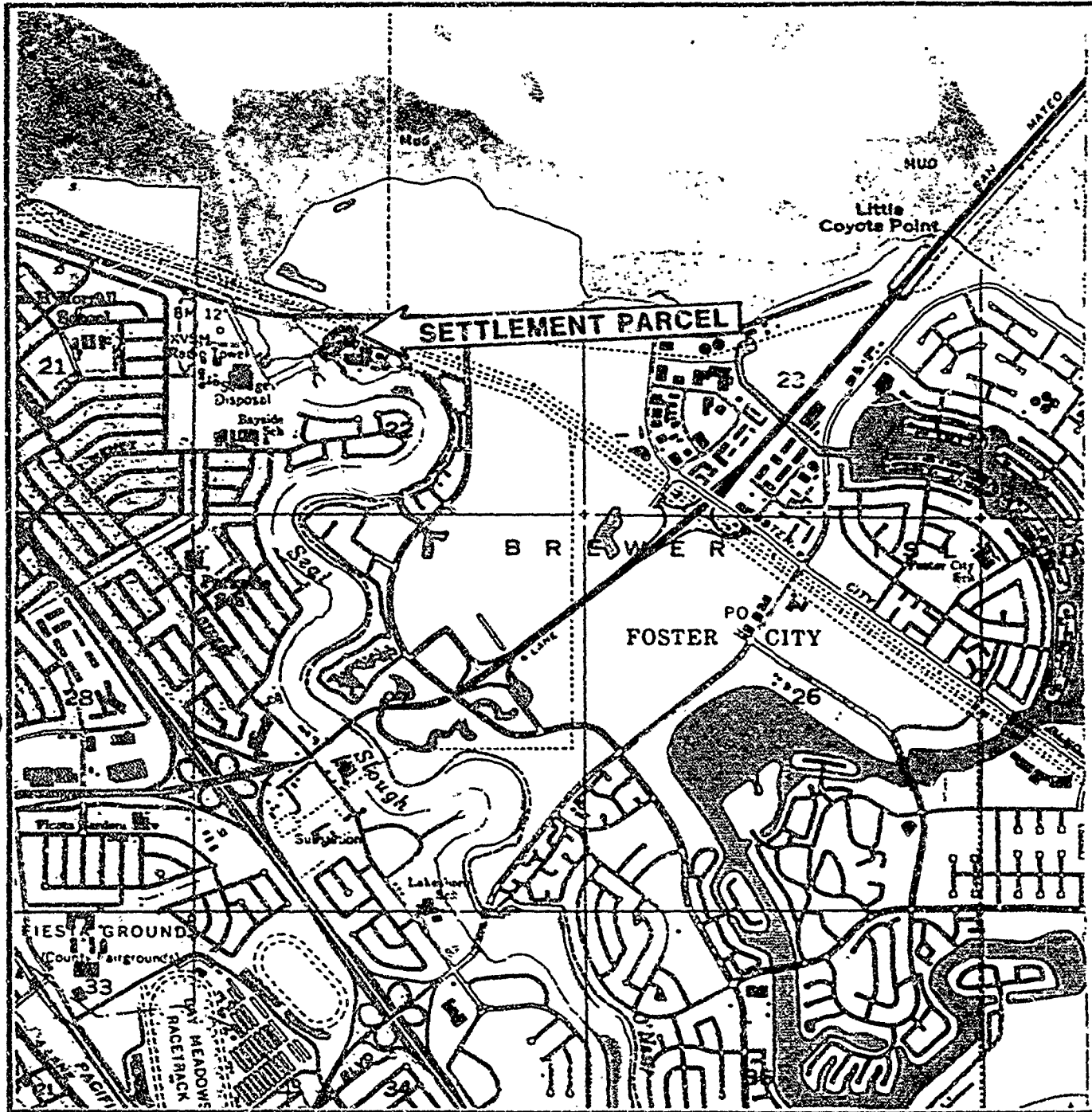
EXCEPTING THEREFROM the following described lands:

BEGINNING at the Northwest corner of Parcel D, as said Parcel is shown on the Map entitled "MARINER'S ISLAND UNIT NO. 1, SAN MATEO, SAN MATEO COUNTY, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on March 4, 1966 in Book 64 of Maps at pages 28, 29 and 30; thence from said point of beginning along the Northerly line of said Parcel D, South 88° 30' 55" East 765.96 feet to the Northeast corner thereof; thence along the Easterly line of said Parcel D, South 1° 29' 05" West 71.23 feet to a point thereon; thence leaving the boundary of Parcel D, along the top of the bank of a lagoon, the following courses: from a tangent that bears North 23° 57' 58" West, Northwesterly along the arc of a curve to the left having a radius of 62 feet and a central angle of 64° 02' 02", an arc distance of 69.29 feet; thence tangent to the preceding curve North 88° 00' West 134.49 feet; thence tangent to the preceding course Northwesterly along the arc of curve to the left having a radius of 132 feet and a central angle of 34° 30' 00", an arc distance of 79.48 feet; thence tangent to the preceding curve South 57° 30' West 50.85 feet; thence South 42° 00' West 89.99 feet; thence tangent to the preceding curve Southwesterly along the arc of a curve to the left having a radius of 57 feet and a central angle of 73° 00' an arc distance of 72.62 feet; thence tangent to the preceding curve Southeasterly along the arc of a curve to the right having a radius of 28 feet and a central angle of 75° 00', an arc distance of 36.65 feet; thence tangent to the preceding curve South 44° 00' West 124.54 feet to the Southwesterly line of said Parcel D, at a point which is distant North 42° 11' 30" West 122.05 feet from the most Southerly corner of said Parcel D; thence along said Southwesterly line of Parcel D, North 42° 11' 30" West 397.95 feet and tangent to the preceding course Northwesterly along the arc of a curve to the right having a radius of 139.99 feet and a central angle of 28° 19' 52", an arc distance of 59.22 feet to the point of beginning.

END OF DESCRIPTION

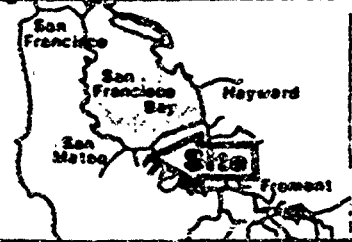
REVIEWED BY BOUNDARY INVESTIGATION UNIT 4, SUPERVISED BY RAND LAFORCE, JUNE 25, 1991.

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STATE LANDS COMMISSION

SETTLEMENT PLAT



Prepared by: B. Lee

Date: 6 - 25 - 91

A20 S:11

EXHIBIT "B"

Title Study: **BURGESS v. STATE of CA et. al.**
 San Mateo Co. Sup. Ct. No. 347052

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