

CALENDAR ITEM

C42

MINUTE ITEM
This Calendar Item No. C42
was approved as Minute Item
No. 42 by the State Lands
Commission by a vote of 3
to 0 at its 3/8/94
meeting

A 20

S 11

03/08/94

W 24457

Plummer

AD 211

APPROVAL OF A COMPROMISE TITLE SETTLEMENT
AGREEMENT REGARDING CERTAIN REAL PROPERTY
IN THE CITY OF SAN CARLOS, SAN MATEO COUNTY,
PURSUANT TO THE KAPILOFF LAND BANK ACT.

A title dispute exists between the State, acting by and through the State Lands Commission ("State") and the City of San Carlos, hereinafter "City", concerning ownership of approximately five acres of real property within the City of San Carlos in San Mateo ("Subject Property").

Commission staff has conducted a study of the evidence of title to the Subject Parcel and has drawn a number of factual conclusions, including those summarized below:

1. The Subject Property includes filled and reclaimed historic tidelands which formerly consisted of the bed of numerous tidal sloughs, tributary to San Francisco Bay.
2. A portion of the Subject Property was in a natural state covered by the ordinary tides of these tidal sloughs, the precise extent of coverage being subject to dispute.

The staff is of the opinion that the title evidence and the 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 Property. The exact extent and nature of the State's interest is, however, subject to uncertainty and dispute.

The Subject Property has been filled and reclaimed since the 1930's and the property is the former site of a sewage treatment plant, approximately two miles away from San Francisco Bay.

City has offered to resolve the title dispute by 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 now on file with the Commission.

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While the agreement sets forth all the specific terms and conditions of the settlement, a brief summary of some of the principal terms and conditions of the settlement is set forth below, as follows:

1. City will deposit the sum of \$49,500 into the Kapiloff Land Bank Fund which is administered by the State Lands Commission as trustee pursuant to P.R.C. 8600 et seq.
2. In exchange for the above transfer of funds by City to the State, the State will convey to City all its right, title, and interest and will terminate the public trust interest in the Subject Property.
3. The agreement provides for an escrow and will be effective upon its recordation. Escrow fees and any title insurance will be without cost to the State.

Staff has appraised the Subject Property and has evaluated the law and evidence bearing on the title dispute, and is of the opinion that the sum of \$49,500 is equal to or greater than the value of the State's interest in the Subject Property.

AB 884:
N/A

OTHER PERTINENT INFORMATION:

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

Authority: P.R.C. 21080.11.

2. In taking action on this staff recommendation, the Commission is acting as the trustee of the Kapiloff Land Bank Fund created by P.R.C. 8610.

EXHIBITS:

- A. Description of Subject Property.
- B. Plat of Subject Property

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IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.

2. FIND THAT WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SUBJECT PROPERTY FOR FUNDS WITH WHICH TO BUY AN EXCHANGE PARCEL:
 - A. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDE AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST.

 - B. THAT THE MONIES RECEIVED BY THE STATE ARE OF A VALUE EQUAL OR GREATER THAN THE VALUE OF THE INTEREST IN THE SUBJECT PROPERTY BEING RELINQUISHED BY THE STATE.

 - C. THE SUBJECT PROPERTY HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT TIDE OR SUBMERGED LAND.

 - D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE SETTLEMENT PARCEL.

 - E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED.

 - F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.

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- G. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PROPERTY WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.
3. 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 OF THE SUBJECT PROPERTY IN SAN MATEO COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST.
4. 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, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

EXHIBIT A

A PARCEL OF LAND SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN MATEO, CITY OF SAN CARLOS DESCRIBED AS FOLLOWS:

A portion of those parcels of land described in deeds from Harbor Development Corporation to City of San Carlos, a Municipal Corporation, recorded July 20, 1950 in Book 1902 of Official Records at page 464 (file no. 72921-I), and November 14, 1950 in Book 1975 of Official Records at page 641 (file no. 99509-I), records of San Mateo County, more particular described as follows:

BEGINNING at the most easterly corner of said parcel described in the above mentioned deed recorded July 20, 1950 (Book 1902 of Official Records at page 464);

THENCE from said POINT OF BEGINNING along the northeasterly boundary thereof North $42^{\circ}08'24''$ West 671.02 Feet to the southeasterly line of that certain 3.598 acre tract described in deed to State of California recorded June 29, 1953 in Volume 2437 of Official Records at page 528 (file no. 90573-k), records of San Mateo County;

THENCE Southerly along said line from a tangent that bears South $18^{\circ}07'12''$ West along a curve to the left with a radius of 457 Feet, through an angle of $15^{\circ}15'36''$, an arc length of 121.72 Feet;

THENCE South $2^{\circ}51'36''$ West 386.99 Feet;

THENCE along a tangent curve to the left with a radius of 457 Feet, through an angle of $41^{\circ}32'24''$, an arc length of 331.33 Feet;

THENCE South $38^{\circ}40'48''$ East 103.31 Feet to the northwesterly line of that certain 40 foot road described in the deed from W. F. Chipman et al, to Elliette O'Brien recorded January 26, 1921 in Book 3 of Official Records at page 359 records of San Mateo County;

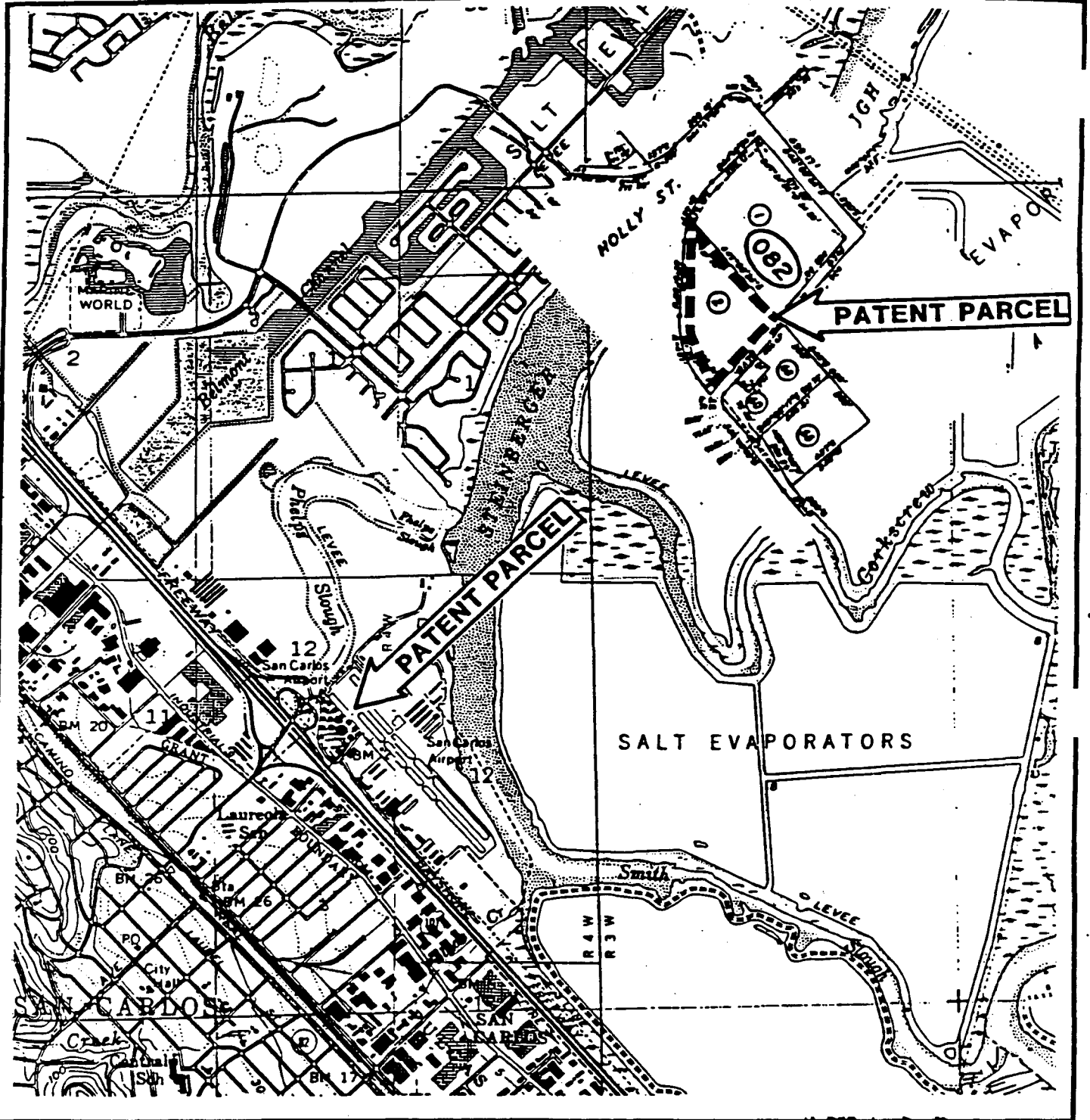
THENCE along said northwesterly line North $39^{\circ}29'26''$ East 514.83 Feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION OF THE ABOVE DESCRIBED PROPERTY AS CONVEYED IN THAT CERTAIN GRANT DEED FROM THE CITY OF SAN CARLOS, A MUNICIPAL CORPORATION TO THE STATE OF CALIFORNIA RECORDED AUGUST 23, 1979 IN REEL 7887, IMAGE 1518 SERIES NO. 51981-AO OFFICIAL RECORDS OF SAN MATEO COUNTY, CALIFORNIA.

Prepared 01/14/94 by SFB&CC Boundary Unit
R. La Force, Supervisor

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EXHIBIT B

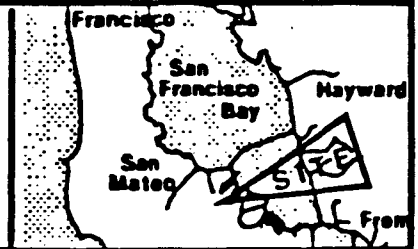


STATE LANDS COMMISSION

SETTLEMENT PLAT

SKY VIEW PROPERTY DEVELOPMENT APN 046-082-020
CITY OF SAN CARLOS, COUNTY OF SAN MATEO

MAP BASE IS A PORTION OF USGS QUADRANGLES SAN MATED 1956 (PR 1980) AND REDWOOD POINT 1959 (PR 1980)



THIS IS NOT A SURVEY NOR IS ANY LINE SHOWN A BOUNDARY LINE THIS PLAT IS FOR PUBLIC PURPOSE ONLY.

Prepared by: R. La Force

Date: Feb. 16, 1994

A: 20 S: 1

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TITLE SETTLEMENT/TRUST TERMINATION PLAT

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