

CALENDAR ITEM
C71

MINUTE ITEM
This Calendar Item No. 271
was approved as Minute Item
No. 71 by the State Lands
Commission by a vote of 3
to 0 at its 11/15/94
meeting.

A 16

S 9

W 25178
Plummer
Hight

**AUTHORIZATION TO DISCLAIM ANY SOVEREIGN STATE TITLE INTEREST
IN RESIDENTIAL PROPERTY AT 244 LAKESIDE DRIVE, OAKLAND**

Property at 244 Lakeside Drive in Oakland, Alameda County, located across Lakeside Drive from Lake Merritt, is improved with a large apartment building that was built approximately 60 years ago. At the request of a title company, and a potential buyer, the University of California, staff of the Commission was asked to review the applicable facts and law concerning the property, some of which was tideland in the bed of Lake Merritt in 1850. Staff has done so, and recommends that the Commission authorize execution of a disclaimer of any sovereign title interest in the property.

The facts and law relating to the property are as follows:

In part, the property consists of what, in 1850, was tideland along a marshy arm of Lake Merritt. That tideland was granted by the State to the City of Oakland in 1852 and subsequently granted to Horace Carpentier, a private party. A title settlement was entered into by the City in 1868 that confirmed the grant of this property to Carpentier. In 1897, the California Supreme Court, in Oakland v. Oakland Water Front Co. (1897) 118 Cal. 160, confirmed that the private grant of tidelands and the 1868 settlement had been valid, rejecting claims that the grant and settlement had violated the common law public trust that attaches to tidelands.

The property was filled many years ago, and a multi-lane boulevard, Lakeside Drive, was constructed between it and a park that surrounds Lake Merritt. By virtue of grants from the Legislature, the City holds the remaining sovereign interest in Lake Merritt. The City also holds a grant to the lake from the Oakland Water Front Company, a successor to Carpentier. The City is the abutting owner on the lakeward side of 244 Lakeside Drive. 244 Lakeside Drive no longer abuts the lake, and is not needed to maintain access to the lake. The lake is readily accessible to the public via the numerous public streets that lead to it, that parallel its shores, and that lie immediately adjacent to the parkland that surrounds it.

CALENDAR ITEM NO. C71 (CONT'D)

In 1926, the City and the owner of the parcel entered into a boundary line agreement that set the northerly boundary of 244 Lakeside Drive, and created mutual rights and obligations in the City and the private owner in land lakeward of the common boundary. A large apartment building was built on the property approximately 60 years ago. In 1934, a quiet title action quieted title in the private owner of the property as against the City and certain private parties. The State was party neither to the boundary line agreement nor the quiet title action.

Although arguments could be made that the principles set forth in the Oakland Water Front case, discussed above, are not in accord with more recent precedent, both the staff of the Commission and the Attorney General's Office believe that any attempt to relitigate that case in the context of this property would be unsuccessful.

Accordingly, both staff and the Attorney General's Office recommend that the Commission authorize the issuance of a disclaimer of any sovereign title interest in the property known as 244 Lakeside Drive, Oakland, contingent upon a similar authorization being given by the City of Oakland. Staff and the Attorney General's Office believe such a disclaimer would be in the best interests of both the private owner and public.

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. Site Map
- B. Location Map

CALENDAR ITEM NO. C71 (CONT'D)

IT IS RECOMMENDED THAT THE COMMISSION:

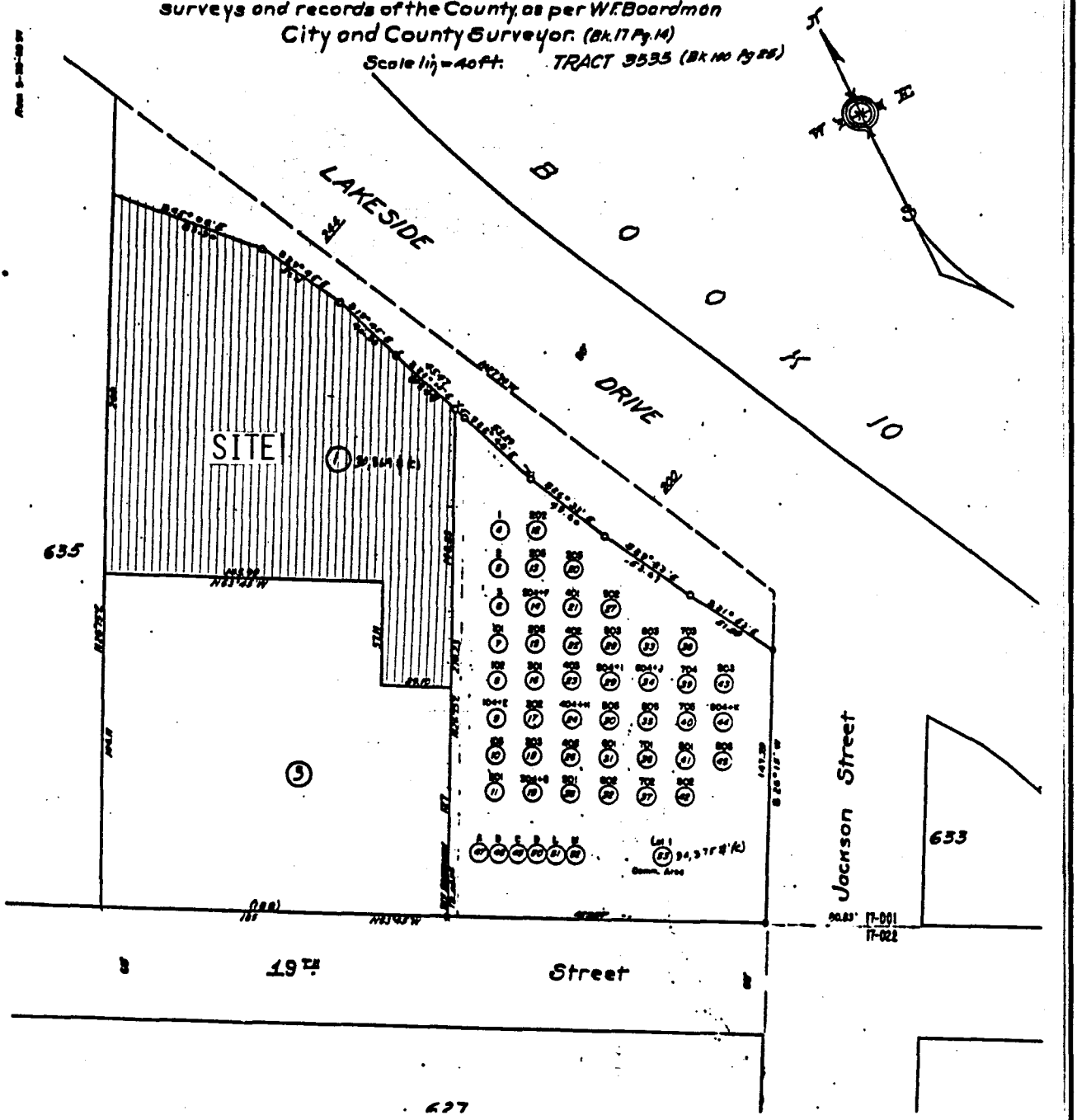
1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. BASED UPON THE PARTICULAR TITLE HISTORY AND FACTS CONCERNING THE SUBJECT PROPERTY, AUTHORIZE ISSUANCE OF A DISCLAIMER OF ANY SOVEREIGN TITLE INTEREST IN THE PROPERTY KNOWN AS 244 LAKESIDE DRIVE, OAKLAND, ALAMEDA COUNTY, CONTINGENT UPON A SIMILAR ACTION BEING TAKEN BY THE CITY OF OAKLAND.
3. AUTHORIZE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE DISCLAIMER AUTHORIZED.

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ASSESSORS MAP 0

Map of Oakland and vicinity showing of streets as established and proposed. Compiled from official surveys and records of the County, as per W.F. Boardman City and County Surveyor. (Bk. 17 Pg. 14)

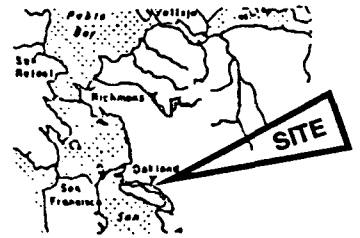
Scale 1 1/4" = 40 ft. TRACT 9535 (Bk. No. 19 26)



STATE LANDS COMMISSION

SITE MAP

DISCLAIMER OF INTEREST IN PROPERTY LOCATED AT 244 LAKESIDE DRIVE, OAKLAND, ALAMEDA COUNTY



Prepared by: R. LA FORCE

Date: 11-14-94

A: 16 S:

9 CALENDAR EXHIBIT A PAGE

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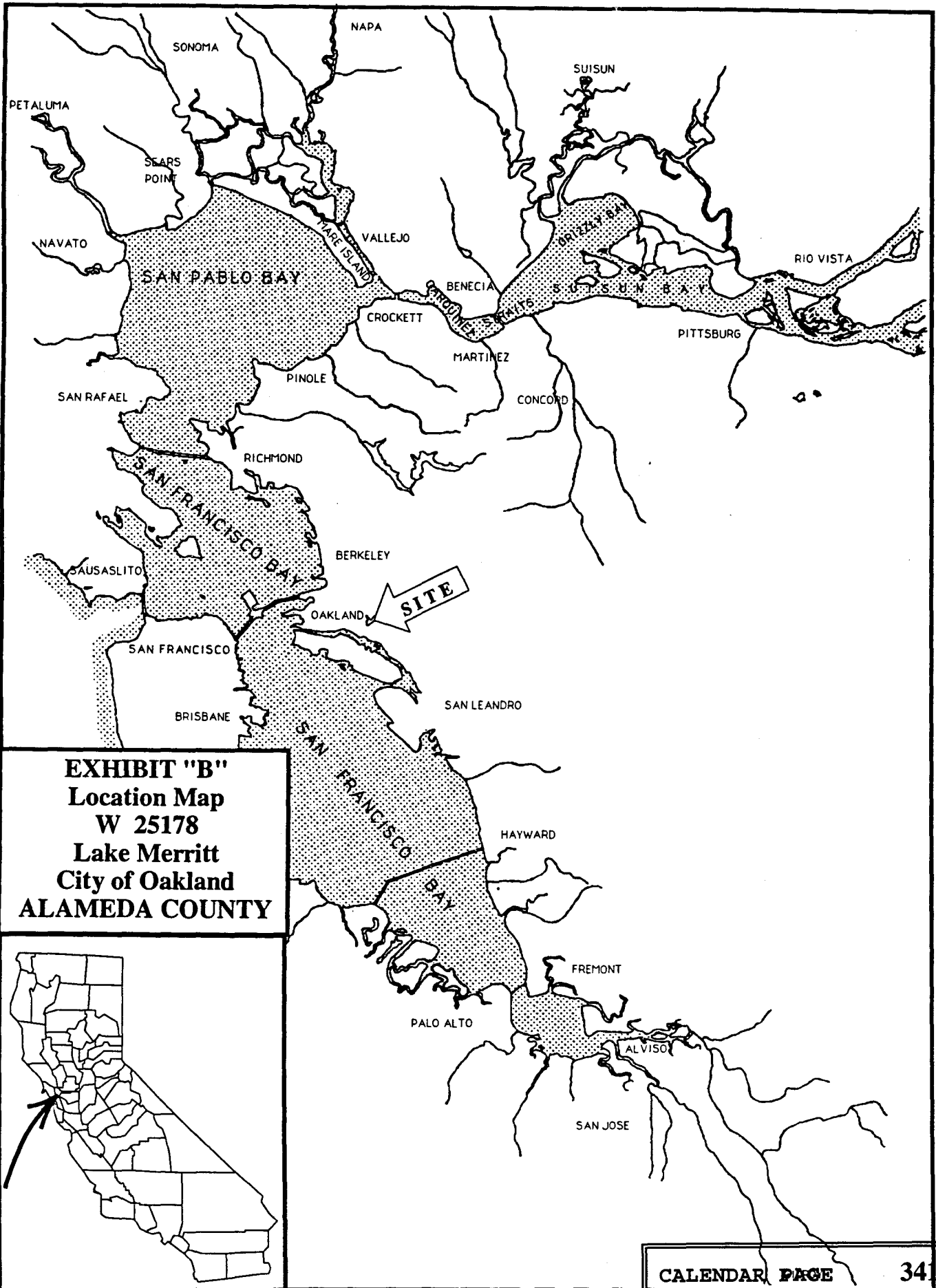


EXHIBIT "B"
Location Map
W 25178
Lake Merritt
City of Oakland
ALAMEDA COUNTY

