

MINUTE ITEM
This Calendar Item No. 26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 3
to 0 at its 2/17/87
meeting.

CALENDAR ITEM

A 19
S 8

26

02/17/87
W 23835 AD 58
J. Sekelsky

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
SOUTH SAN FRANCISCO, SAN MATEO COUNTY
UNDER KAPILOFF LAND BANK ACT, P.R.C. 8500 ET SEQ.

PRIVATE PARTY: ConAgra, Inc., a
Delaware Corporation

A title dispute exists between the State in its sovereign capacity, the City of South San Francisco, as grantee ("City"), and ConAgra, Inc., a Delaware Corporation ("ConAgra") concerning ownership of approximately 8.42 acres of real property located in South San Francisco, San Mateo County. The real property is referred to as the Settlement Parcel, and is described in Exhibit "A", and is depicted on Exhibit "B".

ConAgra is the record owner of the Settlement Parcel as successor in interest to a State patent which labeled the land as swamp and overflowed.

City, by Chapter 345 of the Statutes of 1913, as amended, was granted all right, title, and interest of the State on and to all the salt marsh, tidelands and submerged lands within the City, in trust for harbor purposes, subject to certain terms, conditions, and reservations.

ConAgra contends that the State patent conveyed all right, title and interest of the State within the Settlement Parcel without any reservations to the State, express or implied, and that it now holds title to the property free and clear of any State right, title or interest.

The staff of the State Lands Commission has conducted a study of the evidence of title to the Settlement Parcel and has drawn

a number of factual conclusions, including those summarized below:

1. The parcel includes filled and reclaimed historic wetlands which formerly consisted of marsh and sloughs.
2. It was in a natural state covered, at least in part, by the ordinary tides of San Francisco Bay, the precise extent of coverage being subject to dispute.
3. The Settlement Parcel, in whole or in part, is within lands granted by the Legislature to the City pursuant to Chapter 345 of the Statutes of 1913, as amended.

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, and its grantee, the City of South San Francisco, are the owners of some public trust right, title or interest in the Settlement Parcel. The exact extent and nature of the State's and City's interest is, however, subject to uncertainty and dispute.

The property has been filled and reclaimed and has been used in conjunction with a meat packing plant, and is no longer covered by the waters of San Francisco Bay.

ConAgra 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.

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. The private party will deposit the sum of \$250,000 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. The City will quitclaim all right, title, and interest it may have in the Settlement Parcel by virtue of Chapter 345 of the Statutes of 1913, as amended, to the State for purposes of effectuating the compromise settlement agreement.

3. In exchange for the above transfer of funds by ConAgra to the State, the State will convey to ConAgra all its right, title, and interest and will terminate the public trust interest in the Settlement Parcel.
4. City will use its best efforts to identify, and State, as trustee of the Land Bank Fund, will use its best efforts for three years to acquire, available lands within the City which are useful for public trust purposes, with the monies deposited into the Land Bank Fund pursuant to the compromise settlement agreement.
5. 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 Settlement Parcel and has evaluated the law and the evidence bearing on the title dispute, and is of the opinion that the sum of \$250,000 is equal to or greater than the value of the State's interest in the Settlement Parcel.

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 because it falls within the statutory exemption for 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. Settlement Parcel Description.
B. Settlement Parcel Plat.

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 UNDER THE STATUTORY EXEMPTION FOR SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS, PURSUANT TO P.R.C. 21080.11.

2. FIND THAT WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S AND CITY'S INTEREST IN THE SUBJECT PARCEL 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 TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST.
 - B. THAT THE \$250,000 RECEIVED BY THE STATE PURSUANT TO THE AGREEMENT IS EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SUBJECT PARCEL BEING RELINQUISHED BY THE STATE.
 - C. THE SUBJECT PARCEL HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE TO BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT TIDELAND OR SUBMERGED LAND.
 - D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE PARCEL.
 - E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.
 - F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION, IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
 - G. ON THE EFFECTIVE DATE OF THE AGREEMENT AND CONSISTENT WITH ITS TERMS, THE SUBJECT PARCEL 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.

CALENDAR ITEM NO. 26 (CONT'D)

8. A PATENT OF THE SUBJECT PARCEL 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"

LAND DESCRIPTION

SETTLEMENT PARCEL

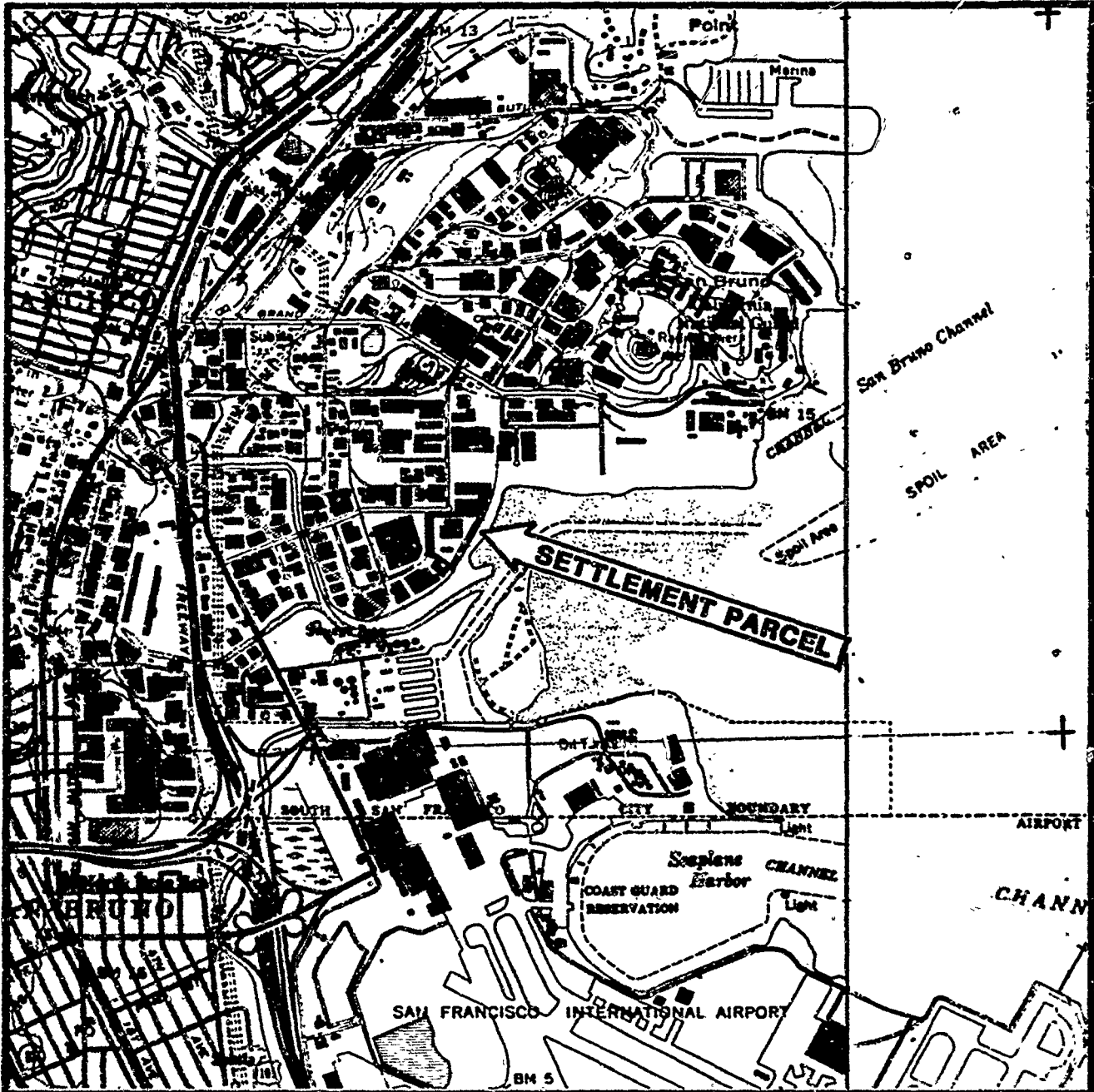
A parcel of land situated in the City of South San Francisco, San Mateo County, California, more particularly described as follows:

Lot No. 19 in Block 3, as shown on that certain map entitled "South San Francisco Industrial Park Unit No. 2-D South San Francisco, San Mateo County, California" filed in the office of the County Recorder of San Mateo County, State of California, on December 10, 1959 in Volume 52 of Maps at pages 41 & 42.

END OF DESCRIPTION

PREPARED BY BOUNDARY SERVICES UNIT, M.L. SHAFER, SUPERVISOR,
1/26/87.

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STATE LANDS COMMISSION
SETTLEMENT PARCEL
 Portion of San Francisco South Quadrangle
 1956, Photorevised 1980



Prepared by: B. Lee Date: 1-26-87 A:10 S: 8
 Title Study: ConAgra, Inc. W. 23835

EXHIBIT B
 Z 2-N42-E145

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