

CALENDAR ITEM
C45

MINUTE ITEM
This Calendar Item No. C45
was approved as Minute Item
No. 45 by the State Lands
Commission by a vote of 3
to 0 at its 3/1/95
meeting.

A 8
S 4

03/01/95
W 24729 AD 226
Rump
Kiley
Eagan

CONSIDER COMPROMISE TITLE SETTLEMENT AGREEMENT BETWEEN THE CITY
OF BENICIA, SOLANO COUNTY, AND THE STATE LANDS COMMISSION

PARTIES: City of Benicia

State Lands Commission

BACKGROUND:

The Legislature, by Chapter 187, Statutes of 1855, as amended, granted certain tide and submerged lands, and lands subject to overflow, to the City of Benicia. Benicia mapped and subdivided the granted lands into blocks of lots and streets. Benicia then sold certain of the lots to private parties. The City of Benicia subsequently reacquired title to the private interest in certain previously sold lots, in connection with the Benicia Marina development. A dispute has arisen between the Commission and the City concerning the present legal character of title to the granted lands that lie within the Benicia Marina development. The dispute is essentially over whether, and to what extent, the land granted by the Legislature to Benicia remains subject to the public trust for commerce, navigation, fisheries, water-oriented recreation, and other recognized public trust purposes.

Commission staff, together with a representative of the Office of the Attorney General, have met with representatives of Benicia and have worked out a proposed compromise title settlement agreement which would lay to rest any question about whether, and to what extent, the public trust applies to the subject parcel. The material provisions of the proposed settlement would do all of the following:

(REVISED 03/01/95)

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- A. The State would quitclaim to Benicia and other parties, as their interests may appear of record at the close of escrow, those parcels designated TRUST TERMINATION PARCEL(s) "A", "B", "C", and "D", free of the public trust easement.
- B. Benicia would quitclaim the TRUST PARCEL to the State, subject to an existing lease for marina and related commercial purposes.
- C. The State would quitclaim to Benicia, a municipal corporation, the TRUST PARCEL, subject to the public trust for commerce, navigation, fisheries, water-oriented recreation and other recognized public trust uses. The existing lease would be subject to the public trust.

The recordation of the conveyances described above would clarify the title status of all land within the disputed area.

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 to P.R.C. 21080.11, settlement of title and bouncary problems.

Authority: P.R.C. 21065.

- 2. This activity involves lands indentified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.

EXHIBITS:

- A. Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS 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 EXECUTIVE OFFICER TO ENTER INTO THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE COMMISSION.
3. FIND THAT, EFFECTIVE UPON RECORDATION OF THE AGREEMENT AND THE CONVEYANCES PURSUANT THERETO:
 - A. THE TRUST TERMINATION PARCELS HAVE BEEN IMPROVED, FILLED AND RECLAIMED; HAVE BEEN REMOVED FROM THE PUBLIC CHANNELS; ARE NOT AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION, FISHERIES, WATER-ORIENTED RECREATION, OR PRESERVATION IN A NATURAL STATE; ARE NOT IN FACT TIDE AND SUBMERGED LANDS; AND ARE FREE FROM THE PUBLIC TRUST FOR COMMERCE , NAVIGATION, FISHERIES, WATER-ORIENTED RECREATION, OR OTHER RECOGNIZED PUBLIC TRUST USES; AND THIS AGREEMENT WILL CONFIRM IN BENICIA SUBSTANTIAL PUBLIC TRUST INTERESTS WHICH WILL SAFEGUARD PUBLIC TRUST USES OF THE TRUST LANDS WHICH ARE OF SIGNIFICANT VALUE FOR SUCH USES.
 - B. THIS AGREEMENT IS IN THE BEST INTERESTS OF THE STATE FOR:
 - (1) THE IMPROVEMENT OF NAVIGATION;
 - (2) THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND; AND
 - (3) THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF

THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO PURSUANT TO THE PUBLIC TRUST.

- C. THE CONVEYANCES MADE IN THIS AGREEMENT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF FISHING AND NAVIGATION IN SAN FRANCISCO BAY OR ITS TRIBUTARIES;
 - D. THE VALUE OF CLAIMED STATE INTERESTS IN THE TRUST TERMINATION PARCELS IS LESS THAN OR EQUAL TO THE VALUE OF PRIVATE INTERESTS IN THE TRUST PARCEL; AND
 - E. THIS AGREEMENT IS IN SETTLEMENT OF A TITLE DISPUTE AND IS THEREFORE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11.
4. AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE TERMS OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, EXECUTION OF SUBSEQUENT DOCUMENTS AND AGREEMENTS, DOCUMENT RECORDING AND COURT ACTIONS AND APPEARANCES.

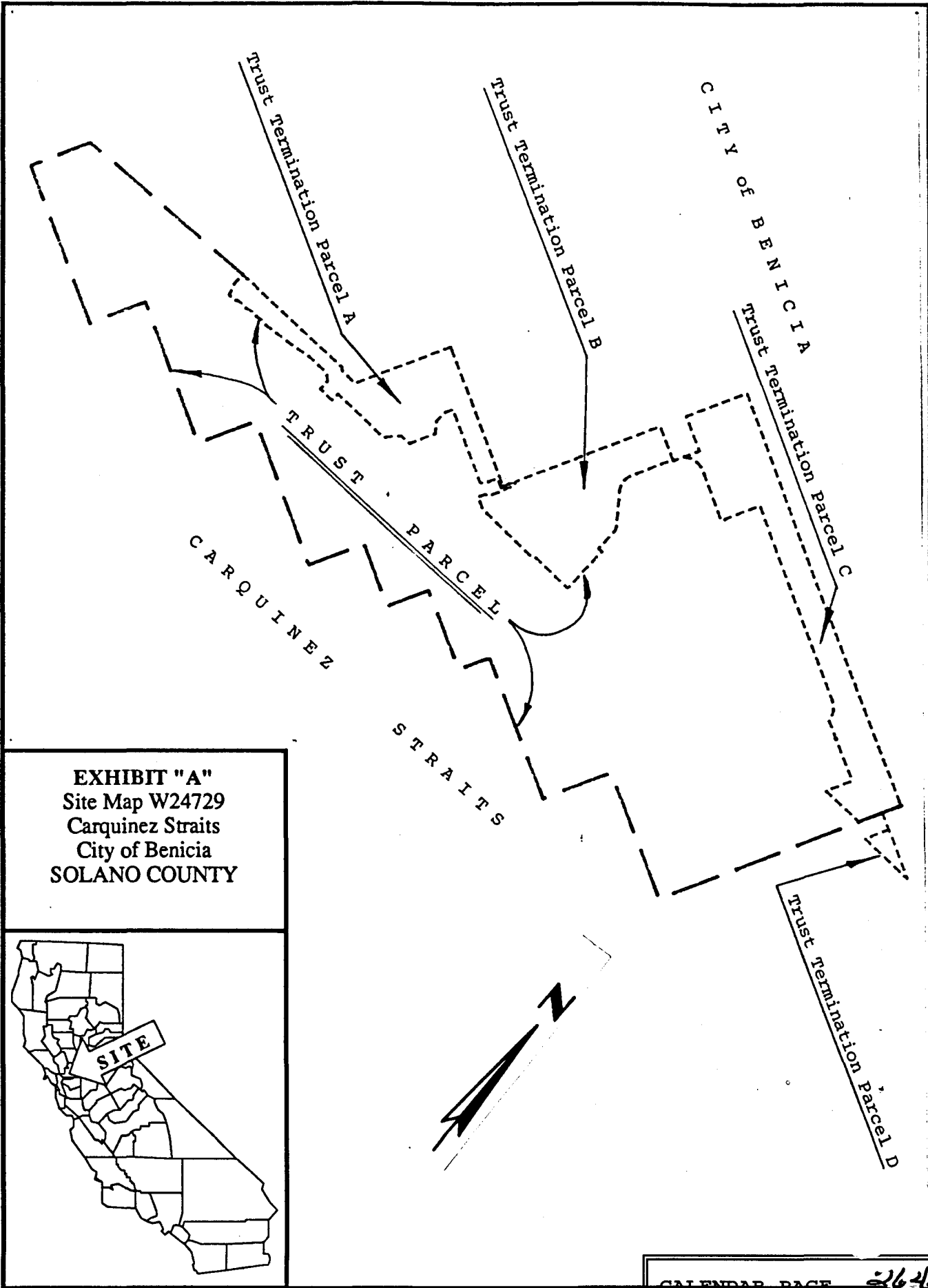


EXHIBIT "A"
 Site Map W24729
 Carquinez Straits
 City of Benicia
 SOLANO COUNTY

