

**CALENDAR ITEM
C36**

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06/27/00
W 25116
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D. Eagan

CONSIDER REQUEST FOR APPROVAL OF (1) MARE ISLAND PROPERTY SETTLEMENT AND EXCHANGE AGREEMENT BETWEEN THE CITY OF VALLEJO AND THE STATE LANDS COMMISSION; AND (2) ISSUANCE OF A PUBLIC AGENCY LEASE OF CERTAIN PROPERTY AT MARE ISLAND TO THE CITY OF VALLEJO; CITY OF VALLEJO, SOLANO COUNTY

BACKGROUND

The purpose of this calendar item is to seek authorization by the State Land Commission of an agreement to settle sovereign land title issues at Mare Island Naval Shipyard, within the city of Vallejo, Solano County. Through the recordation of the deeds and patents called for in the agreement, the city of Vallejo will own certain lands at Mare Island free of State title and the public trust for commerce, navigation, and fisheries (the "public trust"), and the State of California will have clear and uncontested title to other lands at Mare Islands as public trust lands.

The parties to the Agreement are the City of Vallejo and the State of California, acting by and through the State Lands Commission. The area which is the subject of this agreement shall be called the "Mare Island Settlement Area," and is shown on Exhibit A attached to this calendar item. Another property, the "North Housing Site," which previously served as a barracks site but currently is open space with habitat values, is adjacent to the Mare Island Settlement Area, and is also shown on Exhibit A. Exhibit A is made a part of this calendar item by reference.

Mare Island has a long history in California, beginning with the purchase of the Mare Island Rancho in 1853 by the United States for the establishment of a naval base. In the years following, the United States requested grants from the California Legislature of tide and submerged lands and swamp and overflowed lands surrounding the Mare Island Rancho for access to the water and to fill shallow lands to expand the base into deeper water. These grants were provided in three acts. They are Chapter 43, Statutes of 1854; Chapter 81, Statutes of 1897; and Chapter 1452, Statutes of 1963. Each of these grants contain reversionary language. Described in a general way, these

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reversions provided that the land granted would return to California when the United States no longer owned or controlled the adjoining land for military purposes. The Navy filled and developed the Mare Island Naval Shipyard for service in the last century, through World War I and World War II, and into the modern era, until closure of the Shipyard in April 1996.

The extent and location of the original Mare Island Rancho has been a subject of dispute for over a century, and remains so to this day. In several cases, the United States has litigated the extent of the Island with private parties, but never with the State of California. Several United States Supreme Court cases have dealt with the question. They are Irwin v. San Francisco Savings Union (1889) 136 U. S. 578; U. S. v. O'Donnell (1938) 303 U. S. 501; and Stewart v. U.S. (1942) 316 U.S. 354. Despite these decisions, the boundaries, extent, and location of the purchased rancho and of the granted State lands remain subjects of dispute between the State on the one hand, and the United States and the city of Vallejo on the other. In the end, the United States has generally recognized the State's reversion on the west undeveloped side of Mare Island, but not to any significant degree on the east developed side. The city of Vallejo does not recognize the reversion as to any dry land on either side of the Island, but does acknowledge state title in areas which are open water today. Exhibit B, attached to this item and incorporated by this reference as a part of it, shows the original Island and the areas in dispute.

The purpose of this calendar item is to seek authority to put the title questions to rest through an agreement which has been developed between the staffs of the city of Vallejo and the State Lands Commission. The draft agreement is on file at the Sacramento offices of the State Lands Commission, and will be referred to as the "Agreement." The Agreement has been developed in the context of particular problems stemming from closing military bases. Among these problems are complex federal land disposal procedures, the necessity of hazardous waste remediation on some parts of Mare Island, and delays in transfer out of the United States caused by the need to remediate. The Agreement sets up a process through which, over time and as remediation is completed, some land will come to the State subject to the public trust, while other land staying with the City of Vallejo will have the public trust terminated by patent from the State. The result of the full implementation of the Agreement and its deeds and patents will be that the final configuration of public trust lands will be as shown in Exhibit C, attached to this calendar item and made a part of it by this reference. With the final public trust configuration, the State will own land suited to a range of public trust uses, from potential waterfront heavy industrial use, to visitor-serving areas appropriate for shoreline parks, restaurants, shops, and museums, public walkways, and sites for animal and bird habitat.

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The most important terms of the Agreement will:

- Recognize that the United States will dispose of most of Mare Island (including the filled land in which the State asserts a reversionary title) to the city of Vallejo through parcels identified by the United States as "Transfer & Disposal Parcels."
- Divide the Transfer & Disposal Parcels into land of two types: first, the Trust Termination Parcels, and second, the Public Trust Parcels. The State will patent its title interests in the Trust Termination Parcels to the city of Vallejo, and terminate the public trust. These properties may be retained by the city of Vallejo, or sold into private ownership. As to the Public Trust Parcels and North Housing Site, these lands will be held by the State as land of the legal character of tide and submerged lands.
- Establish a process through which the State will provide its patent to a Trust Termination Parcel only as it receives a deed to a corresponding Public Trust Parcel.
- Recognize that portions of the Public Trust Parcels have hazardous waste in or on them, which will require assessment and remedial action prior to transfer to the State by the City. The Agreement states that the Public Trust Parcels will be transferred to the State by the City only after hazardous waste remediation has been completed, as verified by the California Department of Toxics Substances Control.
- Authorize a long-term escrow for the completion of the exchange of land identified in the Agreement.
- Assure that parcels to come to the State are remediated and deeded to the State by tying State patents of particular areas to the remediation and transfer to the State of other areas.

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With the first patent out from the State, the Agreement calls for the State to receive a very significant parcel of land slated to become a public park. The parcel is on the hill at the south end of the Island, and is approximately 173 acres in size. It has sweeping vistas of the Napa River, and San Francisco and San Pablo Bays. It will be an asset to all of the people of the State for years to come. The North Housing Site, a smaller parcel to the north important for habitat, will also be deeded to the State with its first patent.

The Agreement also recognizes that parts of the area to come to the State--mainly in the ponds on the west side of the Island and the open water areas on the east--will be deeded directly from the United States to the State as reversionary land. The lands on the west may be valuable to receive dredge spoils from ship channels in the Bay in the near term, and as wildlife habitat likely to be leased to the U. S. Fish and Wildlife Service over time.

Connected with the Agreement, authority is also requested to issue a lease to the city of Vallejo to use the Public Trust Parcels and the North Housing Site as part of its plan to improve and to revitalize Mare Island. Some areas on the west side of Mare Island will be withheld from the lease in favor of a subsequent lease to the U. S. Fish and Wildlife Service. A form of lease has been drafted between the staffs of the City and the State Lands Commission, and is on file in the Commission's Sacramento offices. Important terms of the lease are as follows:

- It will be a public agency lease of tide and submerged lands. It will require the city of Vallejo to use the leased land for public trust purposes, applicable generally as to some parcels, and with more particularity as to others. Such a lease will be at no cost to the City upon the Commission's determination that a statewide public benefit accrues from the lease, with the Commission retaining the right to charge rent if it finds such action to be in the State's best interest.
- It will be for an initial term of 49 years, but will extend to 66 years with an amendment to Section 2003 of the Commission's regulations to extend the permitted maximum terms of such leases. The staff commits to initiate the process of the amendment in coming months for consideration by the State Lands Commission and the Office of Administrative Law.

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- The property leased at the outset will be the North Housing Site and the public park. The park will be immediately subleased to the Greater Vallejo Recreation District. The lease will be amended to allow subsequent parcels to be added as they are remediated and deeded to the State. Open water areas to the west will be retained by the State directly.
- The lease requires that the city of Vallejo commit revenues from the leased property to the improvement of that property or to infrastructure on Mare Island benefiting that property. The lessee shall file a yearly report with the State Lands Commission of the use of the leased property and of the income derived from the property.

The staff, with advice and assistance from the Office of the Attorney General, has evaluated the State's position as to land title within the Mare Island Settlement Area and the North Housing Site. Also, the staff has reviewed and approved an extensive recent appraisal of all of Mare Island, prepared according to instructions acceptable to staff. The conclusion is that the value of the economic interests being received by the State in the Public Trust Parcels is equal to or greater than the value which the State is relinquishing in the Trust Termination Parcels. Separate from economic value considerations, the Agreement will secure public trust title in land useful for a variety of public trust purposes, and the Lease will assure that the State's property is put to public trust uses beneficial both locally and to all people of the State.

STATUTORY AND OTHER REFERENCES:

- A. PRC: Div. 6, Parts 1 and 2; Div. 13
- B. Cal. Adm. Code: Title 2, 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 (Title 14, California Code of Regulations, Section 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 and leases in connection with those settlements.

Authority: Public Resources Code 21080.11

EXHIBITS:

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- A. Site Map of the Mare Island Settlement Area and the North Housing Site.
- B. Site Map of Original Mare Island and Areas in Dispute.
- C. Site Map of Final Public Trust Configuration

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14 CALIFORNIA CODE OF REGULATIONS SECTION 15061, AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS, AND LEASES IN CONNECTION THEREWITH.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE AND TO DELIVER INTO ESCROW FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY, THE SUBJECT TITLE SETTLEMENT AGREEMENT AND THE PATENT TO PORTIONS OF TRUST TERMINATION PARCELS II AND XV, IN FORMS SUBSTANTIALLY SIMILAR TO THOSE NOW ON FILE WITH THE OFFICE OF THE STATE LANDS COMMISSION; AND TO ACCEPT TITLE IN A PORTION OF PUBLIC TRUST PARCEL VII AND THE NORTH HOUSING SITE, AND TO ISSUE FUTURE PATENTS AND TO RECEIVE AND ACCEPT FUTURE DEEDS, ALL AS PROVIDED IN THE SETTLEMENT AGREEMENT AND ESCROW INSTRUCTIONS TO BE PREPARED PURSUANT TO IT.
3. FIND, UPON RECORDATION OF A PATENT FOR EACH OF THE TRUST TERMINATION PARCELS, THAT:
 - A. THE TRUST TERMINATION PARCEL HAS BEEN IMPROVED, RECLAIMED, AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS;
 - B. SOVEREIGN INTERESTS WITHIN THE TRUST TEMINATION PARCEL ARE NOT NECESSARY OR USEFUL FOR COMMERCE, NAVIGATION, OR FISHERIES, AND THAT THESE

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INTERESTS ARE BETTER SERVED BY THE ACQUISITION OF TITLE TO THE PUBLIC TRUST PARCELS AND THE NORTH HOUSING SITE;

- C. THE SOVEREIGN INTERESTS WITHIN THE TRUST TERMINATION PARCEL COMPRISE ONLY A SMALL PART OF THE LAND LYING WITHIN THE HISTORIC NAPA RIVER AND SAN PABLO BAY;
 - D. THE SETTLEMENT 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;
 - E. THAT THE VALUE OF THE PUBLIC TRUST PARCELS ARE EQUAL TO OR GREATER THAN THE SOVEREIGN LAND TITLE WITHIN THE TRUST TERMINATION PARCELS BEING RELINQUISHED;
 - F. THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE MARE ISLAND SETTLEMENT AREA. THE AGREEMENT IS A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED, AND IS IN LIEU OF THE COSTS, DELAY, AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND AUTHORIZED BY THE REQUIREMENTS OF LAW.
4. AUTHORIZE THE ISSUANCE OF A GENERAL LEASE-PUBLIC AGENCY USE TO THE CITY OF VALLEJO FOR A TERM OF 49 YEARS, TO BE EXTENDED TO 66 YEARS IF THERE IS A CHANGE IN THE COMMISSION'S REGULATIONS, BEGINNING ON THE RECORDING OF DEEDS TO THE STATE OF PUBLIC TRUST PARCEL VII AND THE NORTH HOUSING SITE, AND EXECUTION OF THE LEASE, FOR PUBLIC TRUST PURPOSES AS SET FORTH IN THE LEASE.

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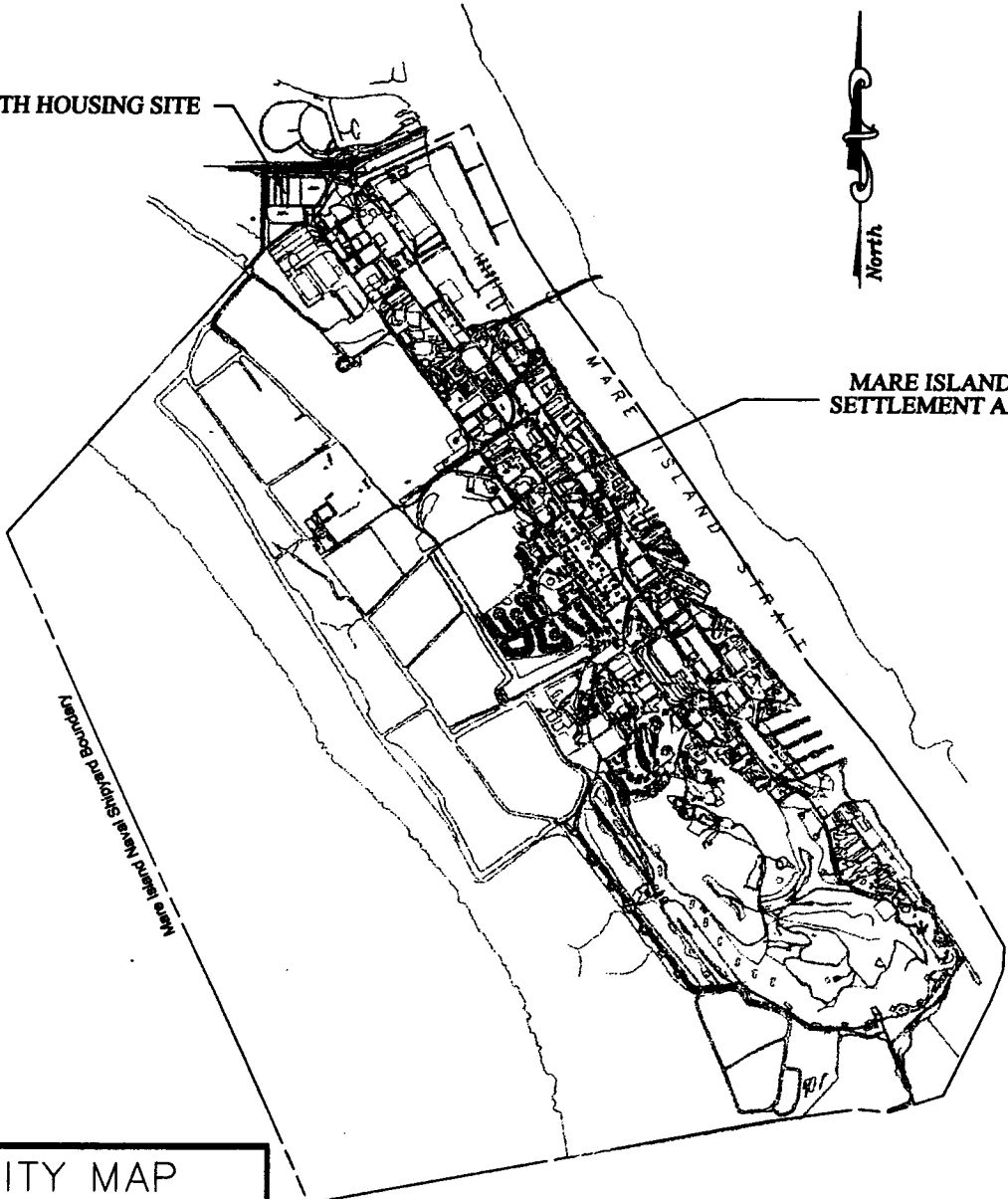
5. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE OFFICE OF THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE TITLE SETTLEMENT AGREEMENT AND LEASE; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL OR ADMINISTRATIVE PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT AND LEASE.

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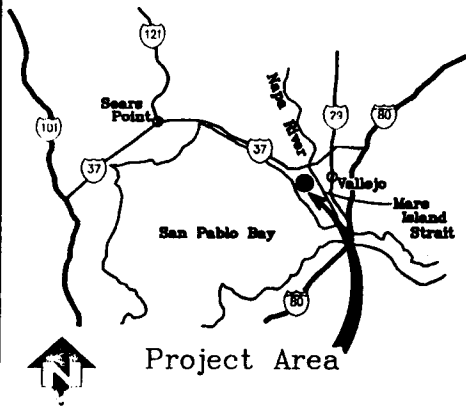
EXHIBIT A

NORTH HOUSING SITE

MARE ISLAND SETTLEMENT AREA



VICINITY MAP



MARE ISLAND SETTLEMENT AREA AND NORTH HOUSING AREA

Mare Island, City of Vallejo
Solano County, California

W25116

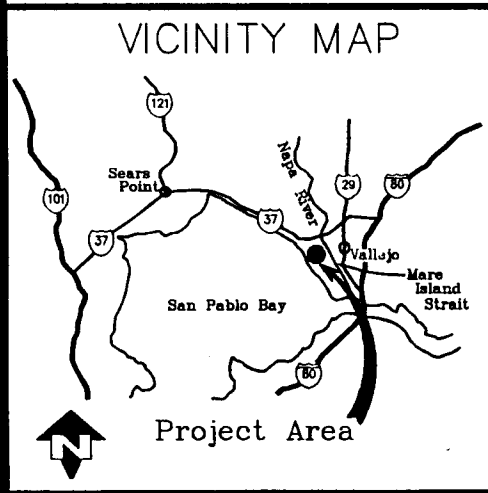
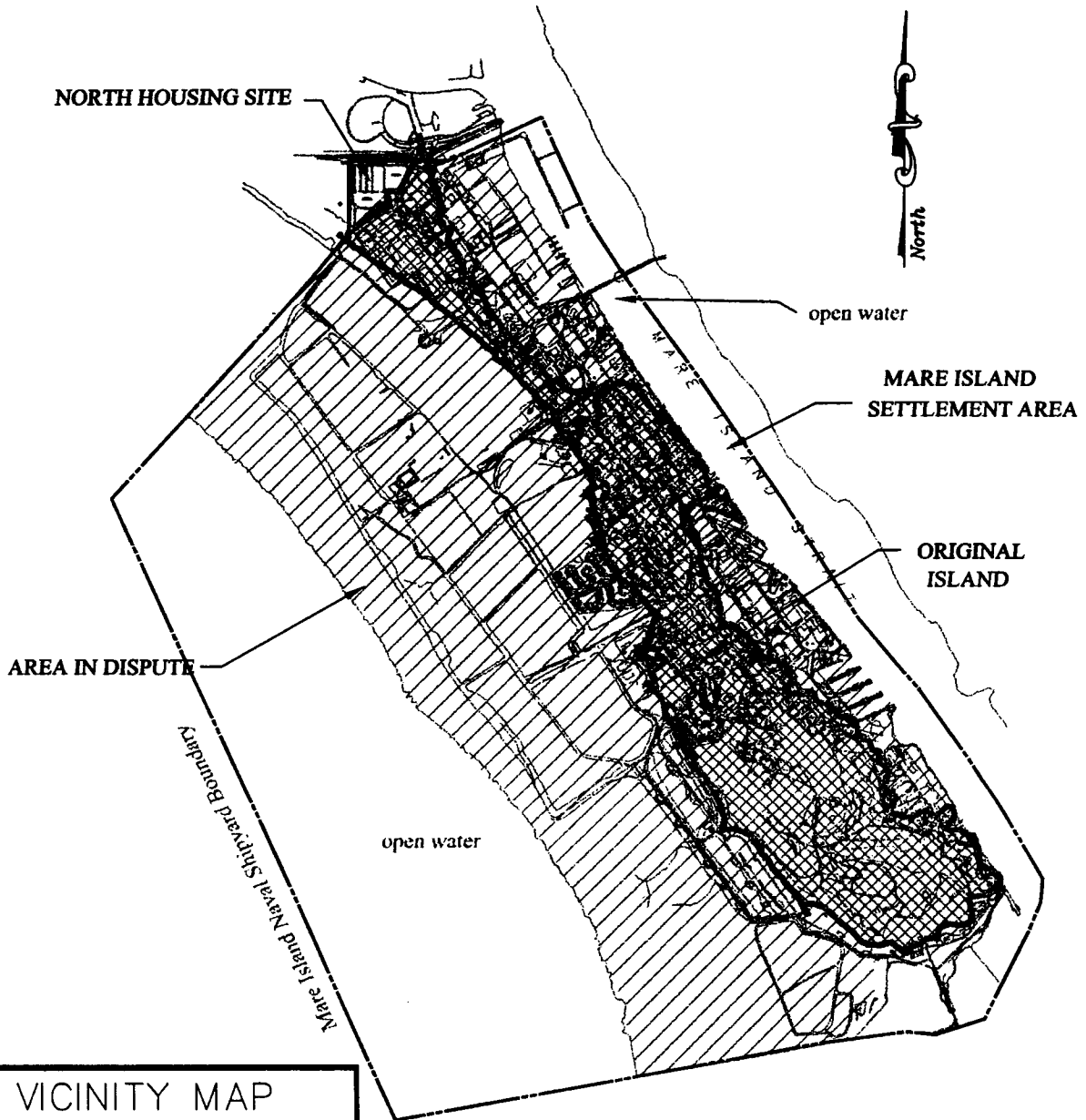
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EXHIBIT B



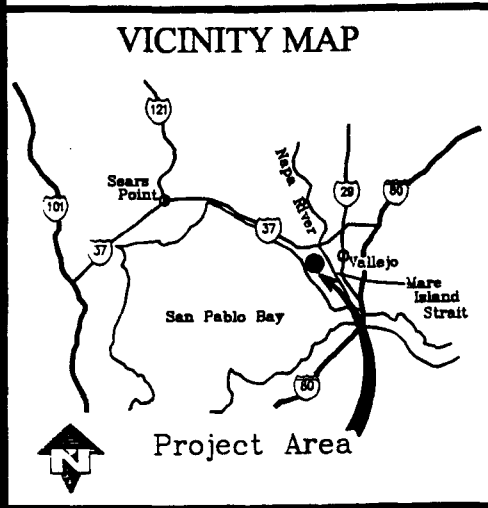
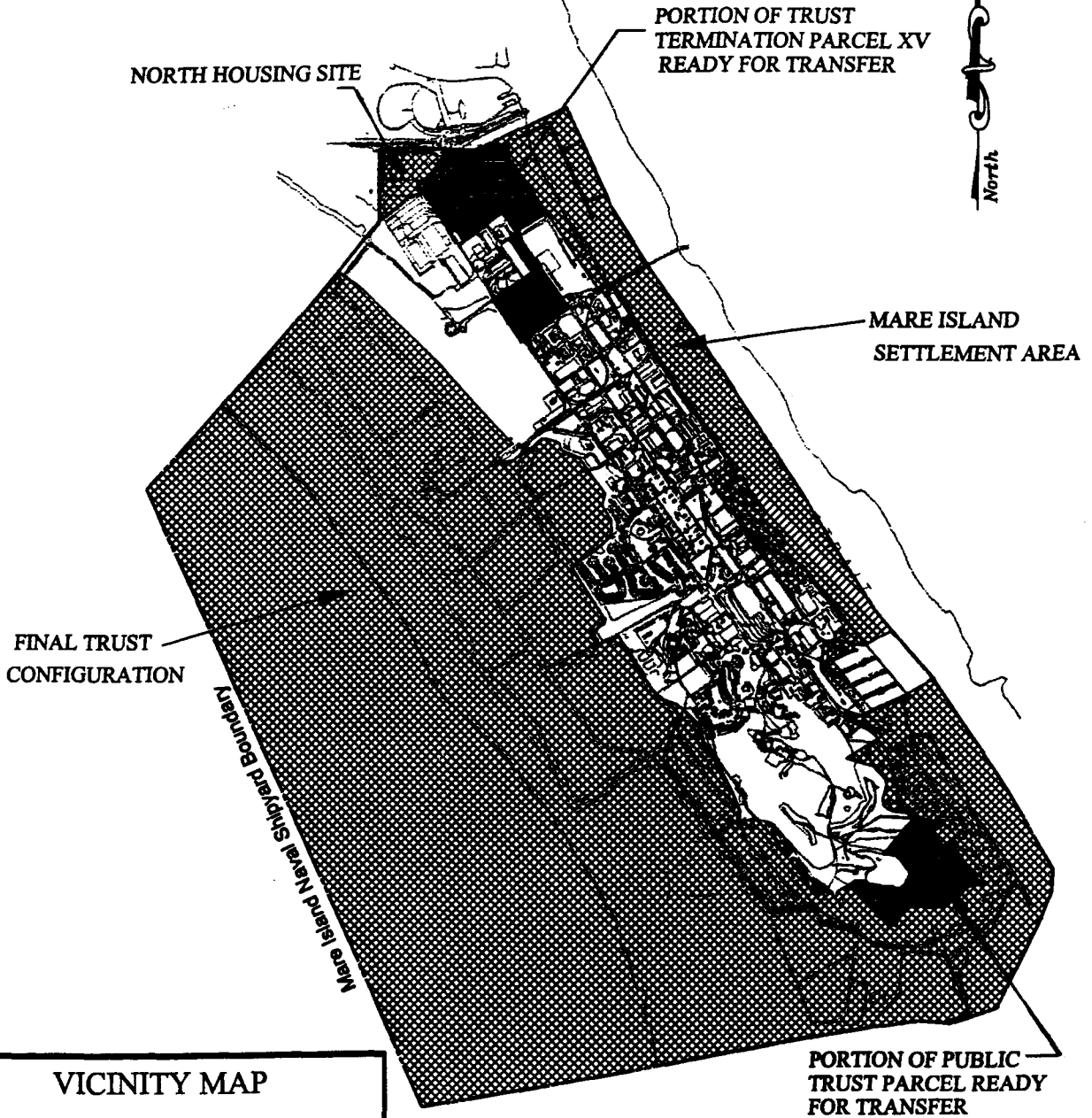
ORIGINAL ISLAND
AND
AREA IN DISPUTE

MARE ISLAND SETTLEMENT AREA AND NORTH HOUSING AREA

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EXHIBIT C



FINAL CONFIGURATION
OF PUBLIC TRUST

MARE ISLAND SETTLEMENT AREA AND NORTH HOUSING AREA

Mare Island, California
Solano County, California
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