

**CALENDAR ITEM
C61**

A	16	04/05/16 AD 617 W 25109 G 01-01 R. Boggiano J. Porter
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CONSIDER HAZARDOUS MATERIAL REMEDIATION FINDING AND RECORD OF SURVEY FOR THE SECOND CLOSING PHASE AS REQUIRED BY THE NAVAL AIR STATION ALAMEDA TITLE SETTLEMENT AND EXCHANGE AGREEMENT

PARTIES:

City of Alameda

State of California, acting by and through the California State Lands Commission

INTRODUCTION:

The Naval Air Station Alameda Title Settlement and Exchange Agreement (Agreement) was approved by the California State Lands Commission (Commission) on October 19, 2012 (Calendar Item 94). The Agreement was executed by both parties; the City of Alameda (City) and the Commission, and was recorded on June, 30, 2014.

The subject property of the Agreement includes lands within and adjacent to the former Naval Air Station Alameda (NAS Property) located in the City and County of Alameda. The Agreement authorizes an exchange of lands that will impress the public trust on certain lands within the NAS Property (Trust Addition Lands) and terminate the public trust in certain other lands within the NAS Property (Trust Termination Lands). The Agreement also settles and establishes certain boundary lines and settles and confirms the character of certain lands within the NAS Property as either subject to the public trust (Agreed Trust Lands) or as free from the trust (Agreed Non-Trust Lands). The total Trust Termination Lands are approximately 304 acres. The total Trust Addition Lands are approximately 121 acres. The total Agreed Trust Lands are approximately 1,478 acres and the total Agreed Non-Trust Lands are approximately 197 acres.

The conveyances authorized by the Agreement occur in phases. The second closing phase, which both parties are preparing for, requires the Commission to make a finding about the hazardous material remediation involving the property

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to be exchanged as part of the second closing phase and approve a record of survey.

Hazardous Remediation Finding:

A condition precedent to the second closing phase is that the Commission find that all the remedial action necessary to protect human health and the environment with respect to hazardous substances on the land has been completed as determined in accordance with the Federal Facility Agreement for Alameda Naval Air Station between the U.S. Environmental Protection Agency, the U.S. Navy, and the state. The United States must also provide a warranty in accordance with Section 9620(h)(3)(A) of Title 42 of the United States Code or obtain a warranty deferral that has been approved by the Governor.

The Navy will grant eleven (11) quitclaims to the City to facilitate the transfer. The quitclaims will contain warranties in accordance with Section 9620(h)(3)(A) of Title 42 of the United States Code. The warranty will state that all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) remaining on the Property has been taken before the date of this Quitclaim Deed, and any additional remedial action found to be necessary after the date of this Quitclaim Deed shall be conducted by the United States. This covenant shall not apply to the extent that the Navy caused or contributed to any release or threatened release of any hazardous substance, pollutant, or contaminant.

On March 18, 2016, the Navy submitted a final Finding of Suitability to Transfer (FOST) Phase 2 Former Naval Air Station Alameda, Alameda, California. This document covers the NAS Alameda property that will be included in the second closing phase as well as the seaplane lagoon, which is Agreed Trust Land scheduled for Phase 4.

The California Department of Toxic Substances Control (DTSC) has conducted an assessment of the NAS Alameda Phase 2 property. Portions of the property (IR Sites 24 and 34, as designated by DTSC) have received Remedial Action Certifications. The remaining portion (IR Site 16, as depicted by DTSC) has received a Record of Decision – Explanation of Significant Difference. In addition, there is a Land Use Control-Remedial Design that was finalized on February 12, 2016. DTSC has made all approvals necessary for transfer of the land.

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Staff has reviewed the relevant documents, including the documents referenced above. Staff recommends that the Commission find that all remedial action necessary to protect human health and the environment with respect to hazardous substances on the land has been completed and determined in accordance with the Federal Facility Agreement for Alameda Naval Air Station.

Record of Survey for Second Closing Phase:

One of the requirements in the Agreement is that the City must file with the County of Alameda a record of survey showing the boundaries of the Trust Addition Lands, Trust Termination Lands, Agreed Trust Lands and Agreed Non-Trust Lands conveyed in each closing phase. The record of survey must be based on field surveys and establish the physical location of boundaries and define the boundaries with appropriately placed monuments. The record of survey will be recorded as part of the close of escrow for the second closing phase after being reviewed and approved by the Executive Officer of the Commission.

Commission staff has reviewed the record of survey and believes that it accurately shows boundaries of the Trust Addition Lands, Trust Termination Lands, Agreed Trust Lands and Agreed Non-Trust Lands conveyed in the second closing phase. Staff recommends the Commission approve the record of survey for the second closing phase, which is on file in the Commission's Sacramento office.

OTHER PERTINENT INFORMATION:

1. The State, acting by and through the Commission, is authorized under Chapter 734, Statutes of 2000, as amended by Chapter 429, Statutes of 2011, to enter into the Agreement.
2. The first closing phase for the Agreement was approved by the Commission on February 21, 2014 ([Calendar Item 62](#)).
3. The revised phase area boundaries for the second closing phase at Naval Air Station Alameda was approved by the Commission on February 9, 2016 ([Calendar Item 79](#)).
4. The staff recommends that the Commission find that the subject approvals of the hazardous material remediation finding and record of survey do not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a

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project in accordance with the California Environmental Quality Act (CEQA).

5. The proposed action is consistent with the Commission's 2016-2020 Strategic Plan, Strategy 1.1 – Deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

EXHIBIT:

- A. Location and Site Map of Public Trust and Trust Termination Parcels

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS:

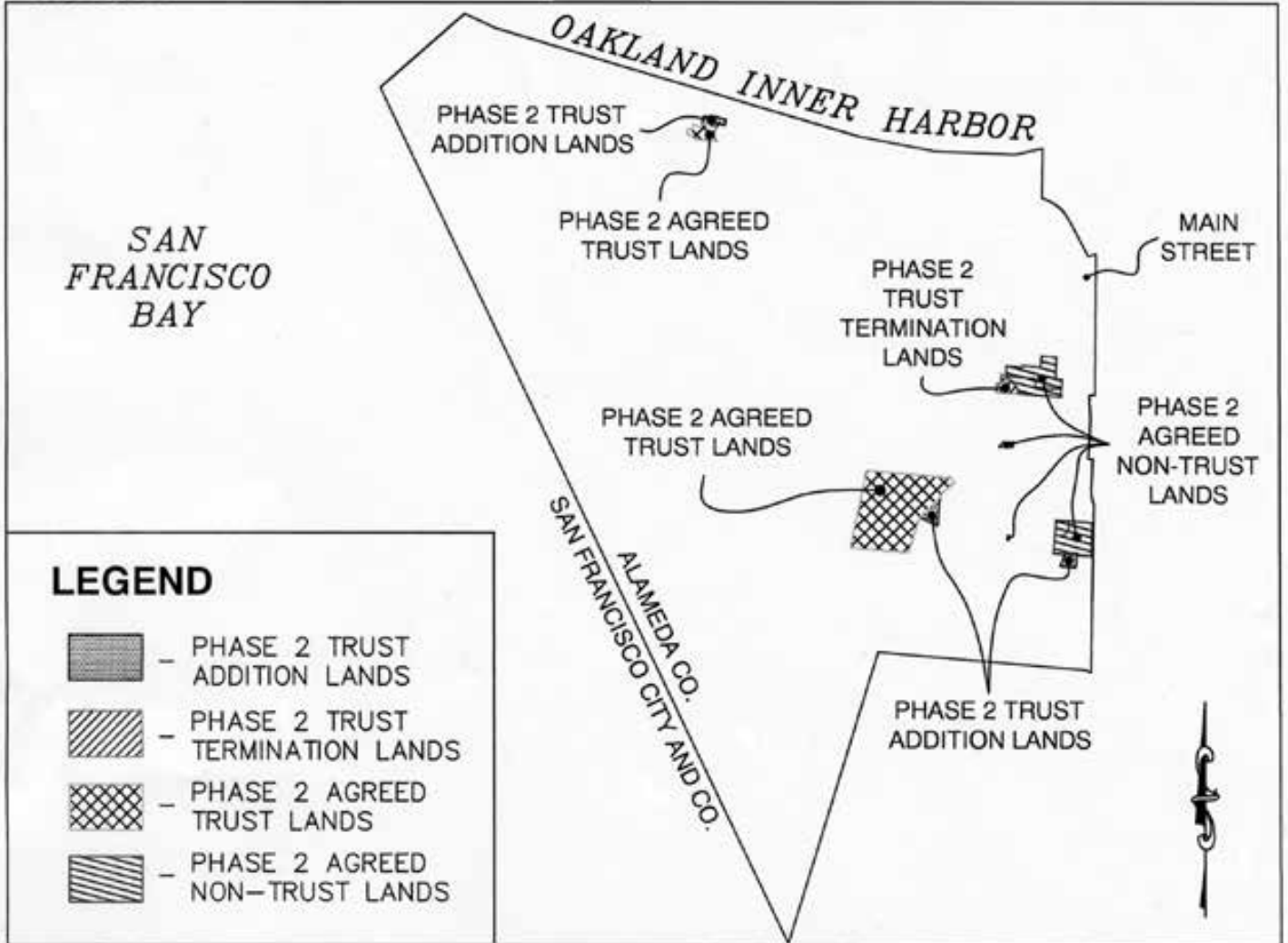
Find that the subject approvals of the hazardous material remediation finding and record of survey are not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

1. Find that all remedial action necessary to protect human health and the environment with respect to hazardous substances on the land proposed for the second closing phase in the Agreement has been completed as determined in accordance with the Federal Facility Agreement for Alameda Naval Air Station between the U.S. Environmental Protection Agency, the U.S. Navy, and the state, and the United States has provided a warranty in accordance with Section 9620(h)(3)(A) of Title 42 of the United State Code.
2. Approve the record of survey, substantially in the form on file in the Commission's Sacramento office, showing the boundaries of the Trust Addition Lands, Trust Termination Lands, Agreed Trust Lands and Agreed Non-Trust Lands to be conveyed in the second closing phase of the Agreement.

NO SCALE

SITE



FORMER NAVAL AIR STATION ALAMEDA TITLE SETTLEMENT AND EXCHANGE AGREEMENT PHASE 2

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

G 01-01/ AD 617
 NAS ALAMEDA TITLE
 SETTLEMENT AND
 EXCHANGE AGREEMENT
 PHASE 2 HAZARDOUS
 MATERIAL REMEDIATION
 AND RECORD OF SURVEY
 ALAMEDA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.