

This Calendar Item No. 29
 was approved by the Board of
 No. 29 of the State Lands
 Commission at its meeting of 3
 to 0 at its 11/27/78
 meeting.

CALENDAR ITEM

29.

11/78
 W 21295
 BLA 182
 Cowan

LAND EXCHANGE AND BOUNDARY LINE AGREEMENT
 (BLA 182)

The State Lands Commission's staff recommends Commission approval of a proposed title settlement and boundary line agreement in lieu of litigation with Parkwood 101, a California limited partnership, with respect to disputed title and boundary issues relating to a parcel of real property located in Redwood City along Belmont Slough adjacent to and north-easterly of Marine World, San Mateo County. The parcel consists of 145 acres, more or less; is described in the attached Exhibit "A"; and is referred to herein as the "Settlement Parcel".

Parkwood 101 claims fee title ownership of the subject parcel, free of any public right, title, or interest, based on their assertions; that the subject parcel was included within the State's Swamp and Overflowed Lands Patents of Surveys No. 82 and 85, the Certificates of Purchase for which were dated November 12, 1868; that they are the successors in interest to the State's Patentee; that the subject parcel was included within the Federal Swamp and Overflowed Lands Patent to the State issued pursuant to the Arkansas Swamp Land Act; that the Settlement Parcel consisted of swamp and overflowed lands within the meaning of the Arkansas Swamp Land Act; that the State's patent did not reserve the public trust for commerce, navigation, and fisheries, or any other right, title, or interest of the public, either expressly or by implication, within the Settlement Parcel or any portion thereof; that the Settlement Parcel has been partially reclaimed and improved, and that the Settlement Parcel is now partially leveed and cut off from tidal action.

The State asserts that the Settlement Parcel contains tidelands and submerged lands the boundaries of which have not been defined; that the State's Swamp and Overflowed Lands Patent did not extinguish the public trust titles, the same being reserved from the conveyance by implication; that the State's patents were void, at least in part, and that the State is the fee simple or easement owner by reason of its sovereignty. The issues of fact and law are the subject of a bona fide dispute between the parties.

A 11, 20

S 7, 10

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Negotiations have been conducted among representatives of Parkwood 101 and the State Lands Commission's staff concerning title to the subject lands. These negotiations have resulted in a proposed agreement for the settlement of this title dispute by a land exchange and boundary line agreement. The major points of this proposed agreement are as follows:

1. Parkwood 101 will grant to the State the real property in San Mateo County particularly described as "Deed Parcels" in the attached Exhibit "B". The State Lands Commission's staff has estimated the value of this land (58 acres more or less) to be about \$18,200.
2. Parkwood 101 will acknowledge and will convey to the State a 50 foot wide nonmotorized easement for public access along Belmont Slough as described in the specific reservation in the State's Patent and the Parkwood deed to the State described above to Parkwood (Paragraph 4), and depicted on the attached plat marked Exhibit "F".
3. Parkwood 101 will purchase and convey, or have conveyed, to the State in its sovereign capacity, an undivided 10/13th interest in the Pt. Edith parcel particularly described as EXCHANGE PARCELS in Exhibit "D". The purchase price of the 10/13th interest is \$100,000 at the unit value for such parcel. The State will be receiving the equivalent of 199 acres, more or less, of the Pt. Edith parcel. The Exchange Parcel is depicted on the attached plat marked Exhibit "G".
4. State will issue a patent of the State's right, title, or interest to Parkwood 101, reserving the public access easement referred to above in the property particularly described as PATENT PARCELS in Exhibit "C" and illustrated in Exhibit "F".
5. Parkwood 101 and the State have agreed that the common boundaries between the DEED PARCELS and the PATENT PARCELS are a reasonable approximation of ordinary high water marks of Belmont Slough.
6. Parkwood 101 will provide a standard form of CLTA title insurance to the State insuring the State's title to the Deed Parcels and the Exchange Parcels described in Exhibits "F" and "G".

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7. Parkwood 101 will prepare a survey showing the settlement and record said survey at the Recorder's Office, San Mateo County, California, without cost to the State.

The real property to be received shall be held by the State in its sovereign capacity subject to the public trust for commerce, navigation, and fisheries, as defined in the case of Marks v. Whitney, 6 Cal. 3rd. 2551.

It is anticipated that the State will lease the 10/13th undivided interest in the Pt. Edith parcel to the State Department of Fish and Game. The Pt. Edith parcel consists mainly of salt marsh and its acquisition is in the interest of preservation of bay wetlands.

The settlement will consolidate State titles in the area of the settlement parcel in a manner which will be beneficial to the environment and ecology.

The State will receive the mineral rights in the real property being conveyed to the State, as described in Exhibits "B" and "D", and, pursuant to Section 6307 of the P.R.C., is releasing the mineral rights in the real property described as PATENT PARCELS in Exhibit "C" being conveyed to Parkwood 101.

Copies of the proposed agreement, necessary to accomplish this transaction, are on file with the State Lands Commission.

The agreement is authorized by Division 6 of the P.R.C., with a particular reference to Sections 6107 and 6307.

The agreement is exempt from the preparation of an EIR pursuant to the provisions of Section 6371, of the P.R.C.

An evaluation has been made by the Commission's staff which shows that the State will receive land and interests in land equal or greater in value than those lands and interests in lands claimed by the State and to be surrendered by this agreement. The State will clear its title to 257 acres of land valued at \$118,000 and Parkwood will clear its title to 87 acres valued at about 3.5 million.

The agreement has been reviewed and approved by the Office of the Attorney General.

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The proposed exchange is for the purpose of settling a title dispute, and Parkwood 101 remains subject to all lawful requirements of public agencies for permits, mitigation, use, or otherwise, independent of this agreement.

- EXHIBITS:
- A. Land Description.
 - B. Description of Deed Parcels.
 - C. Description of Patent Parcels.
 - D. Description of Exchange Parcels.
 - E. Site Map.
 - F. Illustration of Patent and Deed Parcels.
 - G. Site Map for Exchange Parcels.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE EXCHANGE AND BOUNDARY LINE AGREEMENT (BLA 182) AS PROPOSED, AND AUTHORIZE THE EXECUTION OF THE AGREEMENT BETWEEN THE COMMISSION AND PARKWOOD 101, IN SUBSTANTIALLY THE FORM OF THE COPY OF THE AGREEMENT ON FILE WITH THE COMMISSION.
2. FIND THAT THE EXCHANGE OF LANDS, INTEREST IN LANDS, AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 1 ABOVE, ARE IN THE BEST INTERESTS OF THE STATE FOR AID IN RECLAMATION; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED; AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID AGREEMENT.
3. AUTHORIZE EXECUTION OF A STATE PATENT TO PARKWOOD 101 OF THE REAL PROPERTY DESCRIBED IN THE AGREEMENT.
4. ACCEPT AND AUTHORIZE THE RECORDATION OF CONVEYANCES TO THE STATE AS PROVIDED IN THE AGREEMENT.
5. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT AND THE RECORDATION THEREOF IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, THE REAL PROPERTY DESCRIBED IN SAID PATENT:
 - a. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, FILLED, AND RECLAIMED BY THE PRIVATE PARTY OR PREDECESSORS IN INTEREST.

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- b. HAS THEREBY BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION, AND FISHING, AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL BE FREED FROM PUBLIC TRUST.
6. AUTHORIZE THE STATE LANDS COMMISSION'S STAFF, AND/OR THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE TRANSACTION DESCRIBED ABOVE, INCLUDING BUT NOT LIMITED TO APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.
7. FIND THAT THE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF CEQA ARE INAPPLICABLE, PURSUANT TO SECTION 6371, OF THE P.R.C.

DESCRIPTION
OF
SETTLEMENT PARCEL

W 21295

That real property in the County of San Mateo, State of California,
described as follows:

Parcels 1, 2, 3 and 4, as shown on Map entitled, "Parcel Map 33-77",
filed for record on November 21, 1977 in Volume 39 of Parcel Maps at
pages 35 and 36, San Mateo County Records.

Containing 144.59 acres, more or less.

DEED PARCELS

W 21295

All that certain real property situate in the City of Foster City, County of San Mateo, State of California, being a portion of Section 36, Township 4 South, Range 4 West, Mount Diablo Base Meridian and a portion of Section 1, Township 5 South, Range 4 West, Mount Diablo Base Meridian; said real property being more particularly described as follows:

PARCEL A

All of Parcel 3 as said parcel is shown on that certain PARCEL MAP 33-77, filed for record on November 21, 1977 in Volume 39 of Parcel Maps at Pages 35 and 36, San Mateo County Records, and containing 13.847 acres of land, more or less.

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being a portion of Section 36, Township 4 South, Range 4 West, Mount Diablo Base Meridian and a portion of Section 1, Township 5 South, Range 4 West, Mount Diablo Base Meridian; said real property being more particularly described as follows:

PARCEL B

A portion of that certain Parcel 4 as last said parcel is shown on the above mentioned Parcel Map 33-77 and being more particularly described as follows:

BEGINNING at the southwest corner of said Section 36, Township 4 South, Range 4 West, Mount Diablo Base Meridian as shown on said Parcel Map;

THENCE from said Point of Beginning northerly along the westerly line of said Section 36 N. 1°07'26" E. 209.99 feet to a point thereon;

THENCE leaving said westerly line of Section 36 easterly along the general southeasterly line of said Parcel 3 of Parcel Map 33-77 the following courses:

S. 89°16'36" E. 123.52 feet,
N. 4°42'00" W. 1,000.00 feet,
N. 6°42'00" E. 700.00 feet,
N. 30°18'00" E. 400.00 feet,
N. 51°47'00" E. 270.00 feet
N. 57°09'00" E. 230.00 feet,
N. 81°57'00" E. 300.00 feet,
S. 84°35'00" E. 450.00 feet,
S. 64°35'00" E. 500.00 feet,
S. 61°20'00" E. 400.00 feet,
S. 80°53'56" E. 250.00 feet,
N. 65°16'48" E. 200.00 feet to the most easterly corner of said Parcel 3;

EXHIBIT B

THENCE southerly along the easterly line of said Parcel 4 S. 6°08'10" E. 445.44 feet to a point thereon;

THENCE leaving last said line in a general westerly and southerly direction the following courses:

S. 71°37'24" W. 403.31 feet,
 S. 67°30'23" W. 298.26 feet,
 N. 67°37'53" W. 113.99 feet,
 N. 23°00'30" W. 227.22 feet,
 N. 28°34'01" W. 185.68 feet,
 N. 52°05'07" W. 267.81 feet,
 N. 70°53'05" W. 364.54 feet,
 N. 79°04'11" W. 109.12 feet,
 S. 78°48'18" W. 88.61 feet,
 S. 57°35'25" W. 255.96 feet,
 S. 54°14'48" W. 508.08 feet,
 S. 10°25'00" W. 611.71 feet,
 S. 7°56'53" W. 198.21 feet,
 S. 9°11'27" W. 214.64 feet,
 S. 3°33'33" E. 211.52 feet,
 S. 0°55'54" W. 463.17 feet,
 S. 7°11'20" W. 102.36 feet,
 S. 18°58'38" W. 108.75 feet,
 S. 10°54'35" W. 235.12 feet,
 S. 8°18'38" W. 195.10 feet,
 S. 1°45'48" W. 201.66 feet,
 S. 3°29'04" E. 89.70 feet,
 S. 11°10'03" E. 142.02 feet,
 and S. 18°14'14" E. 53.68 feet to a point on the general southerly line of said Parcel 4

THENCE in a general westerly and northerly direction along the general southerly and westerly line of said Parcel 4 the following courses:

S. 9°02'48" W. 88.83 feet,
 S. 43°19'38" W. 162.26 feet,
 N. 46°40'22" W. 124.98 feet,
 and N. 1°04'00" E. 1,154.60 feet to the Point of Beginning and containing 44.229 acres of land, more or less.

The California Coordinate System, Zone 3, has been used as Basis of Bearings. All bearings are grid bearings. All distances are grid distances. To convert grid distances to ground distance multiply grid distances by scale factor 1.0000653.

PARCEL I

All that certain real property situate in the City of Foster City, County of San Mateo, State of California, being a portion of Section 36, Township 4 South, Range 4 West, Mount Diablo Base Meridian; said real property being more particularly described as follows:

All of Parcels 1 and 2 as said Parcels are shown on that certain PARCEL MAP 33-77, filed for record on November 21, 1977 in Volume 39 of Parcel Maps at Pages 35 and 36, San Mateo County Records and containing 2.229 acres of land, more or less.

PARCEL II

W 21295

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being a portion of Section 36, Township 4 South, Range 4 West, Mount Diablo Base Meridian and a portion of Section 1 Township 5 South, Range 4 West, Mount Diablo Base Meridian; said real property being more particularly described as follows:

BEGINNING at the most easterly corner of Parcel 4, as said Parcel is shown on that certain PARCEL MAP 33-77, filed for record on November 21, 1977 in Volume 39 of Parcel Maps at Pages 35 and 36, San Mateo County Records;

THENCE from said Point of Beginning southerly along the easterly line of said parcel 4 S. 9°32'04" W. 97.07 feet;

THENCE in a general southwesterly direction along the southeasterly line said Parcel 4 the following courses:

S. 44°02'34" W. 1,659.89 feet,
N. 45°57'26" W. 55.00 feet,
S. 44°02'34" W. 1,920.89 feet,
and S. 9°02'48" W. 125.54 feet to a Point thereon;

THENCE leaving last said line in a general northerly and easterly direction the following courses:

N. 18°14'14" W. 53.68 feet,
N. 11°10'03" W. 142.02 feet,
N. 3°29'04" W. 89.70 feet,
N. 1°45'48" E. 201.66 feet,
N. 8°18'38" E. 195.10 feet,
N. 10°54'35" E. 235.12 feet,
N. 18°58'38" E. 108.75 feet,
N. 7°11'20" E. 102.36 feet,
N. 0°55'54" E. 463.17 feet,
N. 3°33'33" W. 211.52 feet,
N. 9°11'27" E. 214.64 feet,
N. 7°56'53" E. 198.21 feet,
N. 10°25'00" E. 611.71 feet,
N. 54°14'48" E. 508.08 feet,
N. 57°35'25" E. 255.96 feet,
N. 78°48'18" E. 88.61 feet,
S. 79°04'11" E. 109.12 feet,
S. 70°53'05" E. 364.54 feet,
S. 52°05'07" E. 267.81 feet,
S. 28°34'01" E. 185.68 feet,
S. 23°00'30" E. 227.22 feet,
S. 67°37'53" E. 113.99 feet,
N. 67°30'28" E. 298.26 feet,
and N. 71°37'24" E. 403.31 feet to a Point on the easterly line of Parcel 4;

THENCE southerly along last said line S. 6°08'10" E. 10.69 feet to the Point of Beginning and containing 84.286 acres of land, more or less.

The California Coordinate System, Zone 3, has been used as Basis of Bearings. All bearings are grid bearings. All distances are grid distances. To convert grid distances to ground distance multiply grid distances by scale factor 1.0000653.

Reserving a 50.00 foot wide non-motorized easement for public access along Belmont Slough herein described as follows:

COMMENCING at the most easterly corner of Parcel 4, as said Parcel is shown on that certain PARCEL MAP 33-77, filed for record on November 21, 1977 in Volume 39 of Parcel Maps at Pages 35 and 36, San Mateo County Records;

THENCE from said Point of Commencement southerly along the easterly line of said Parcel 4 S. 9°32'04" W. 97.07 feet;

THENCE in a general southwesterly direction along the southeasterly line said Parcel 4 the following courses:

S. 44°02'34" W. 1,659.89 feet,
 N. 45°57'26" W. 55.00 feet,
 and S. 44°02'34" W. 1,920.87 feet to the True Point of Beginning.

THENCE from said True Point of Beginning along the easterly line of said easement the following courses:

N. 11°10'03" W. 74.11 feet,
 N. 03°29'04" W. 84.07 feet
 N. 01°45'48" E. 196.50 feet,
 N. 08°18'38" E. 191.10 feet,
 N. 10°54'35" E. 230.47 feet,
 N. 18°58'38" E. 110.39 feet,
 N. 07°11'20" E. 110.24 feet,
 N. 00°55'54" E. 467.88 feet,
 N. 03°33'33" W. 207.89 feet,
 N. 09°11'27" E. 209.64 feet,
 N. 07°56'53" E. 197.65 feet,
 and N. 10°25'00" E. 662.70 feet; thence leaving said easterly line and continuing in a southerly and westerly direction the following courses:

S. 54°14'48" W. 72.20 feet,
 S. 10°25'00" W. 611.71 feet,
 S. 07°56'53" W. 198.21 feet,
 S. 09°11'27" W. 214.64 feet,

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S. 03°33'33" E. 211.52 feet,
S. 00°55'54" W. 463.17 feet,
S. 07°11'20" W. 102.36 feet,
S. 18°58'38" W. 108.75 feet,
S. 10°54'35" W. 235.12 feet,
S. 08°18'38" W. 195.10 feet,
S. 01°45'48" W. 201.66 feet,
S. 03°29'04" E. 89.70 feet,
S. 11°10'03" E. 142.02 feet,
S. 18°14'14" E. 53.68 feet,
N. 09°02'48" E. 125.54 feet,
and N. 44°02'34" E. 0.02 feet to the True Point of Beginning.

DESCRIPTION OF EXCHANGE PARCELS

W 21295

Those parcels of land in the unincorporated area of the County of Contra Costa, State of California, described as follows:

PARCEL ONE

Portion of Swamp and Overflow Surveys No. 88 and No. 89, a portion of the Tide Land Survey No. 207 and a portion of the 976.04 acre parcel of land described in the deed to C. A. Hooper & Co., recorded June 1, 1932, Book 310, Official Records, page 498, Contra Costa County records, described as follows:

Beginning at the Northwesterly corner of the 273.183 acre parcel of land awarded to the United States of America in the Final Judgment in condemnation under Action No. C-69-369 in the United States District Court, entitled United States of America, plaintiff, vs. V.P. Baker, et al, defendants, a certified copy of which was recorded November 19, 1973 in Book 7094, page 482 of said Official Records; thence South 27° 48' 59" East 5930.49 feet along the Southwesterly line of said 273.183 acre parcel of land to the Southwesterly corner thereof in the Northerly line of the 200 foot wide strip of land firstly described in the deed recorded June 18, 1913 in Book 205, page 141 of Deeds, of said Official Records; thence South 70° 25' West 1665.13 feet along said Northerly line; thence North 27° 48' 59" West 6102.91 feet, parallel with the above-mentioned Southwesterly line of the 273.183 acre parcel of land, to the mean high tide line of Suisun Bay; thence meandering along said mean tide line the following courses: North 5° 14' 30" East 133.42 feet; North 23° 41' East 319.67 feet; South 89° 19' East 154.52 feet; South 66° 15' East 176.55 feet; South 48° 16' East 263.50 feet; South 46° 25' East 300 feet; South 71° 25' East 243 feet, and North 46° 55' 30" East 750.60 feet to the point of beginning.

Containing 226.817 acres, more or less.

PARCEL TWO

All that portion of the land described in the deed from C.A. Hooper & Co. to County of Contra Costa, recorded June 18, 1913 in Book 205 of Deeds, at page 141, Contra Costa County records, lying northerly of the north line of the land described in the deed to Contra Costa County recorded April 19, 1967 in Book 5350, Official Records, page 99, easterly of the southerly extension of the westerly line of the parcel of land described as Parcel One in the deed to Allied Properties, recorded December 30, 1974 in Book 7398, Official Records, page 12 and westerly of the southerly extension of the easterly line of said Allied Properties parcel (7398 OR 12).

PARCEL THREE

W 21295

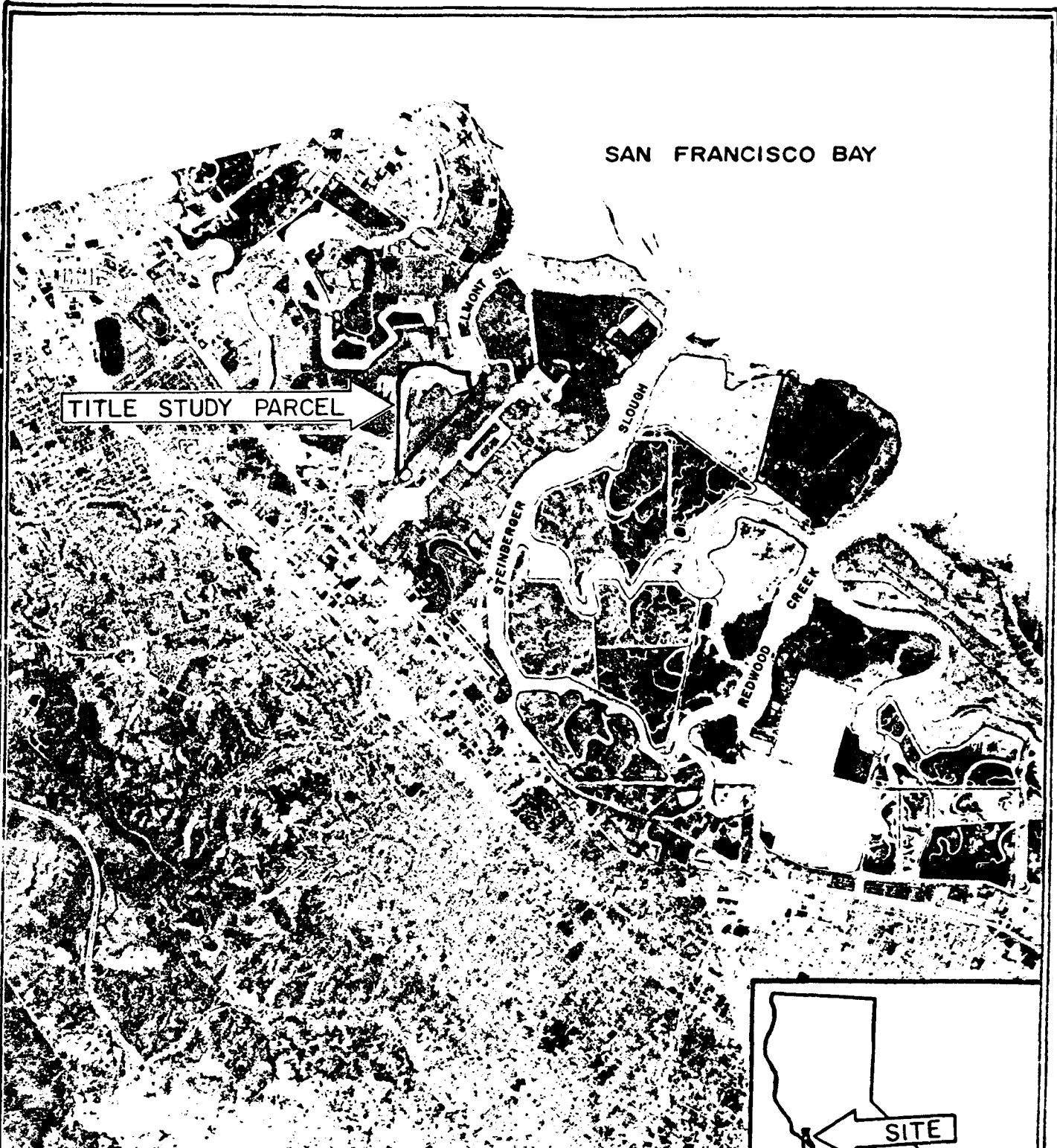
That parcel of land in the unincorporated area of the County of Contra Costa, State of California, described as follows:

Portion of Tide Land Survey No. 207, described as follows:

Commencing at the intersection of the Northwesterly line of said Tide Land Survey No. 207 with the Easterly line of the 30 foot wide strip of land described as Parcel One in the deed to Monsanto Chemical Company, recorded June 30, 1952 in Book 1954, page 245 of Official Records of said county; thence North 71° 51' East 103.88 feet and North 58° 15' East 1905.93 feet along said Northwesterly line to the point of beginning of this description; thence South 31° 45' East 1003.90 feet, leaving said Northwesterly line, to the low water line of Suisun Bay; thence meandering along said low water line the following courses: North 26° 20' East 108.14 feet, North 41° 46' East 650 feet, North 52° 37' East 541 feet, North 19° 18' East 516 feet, North 4° 07' West 311 feet and North 69° 36' West 138.42 feet to said Northwesterly line of Tide Land Survey No. 207; thence South 58° 15' West 1714.07 feet to the point of beginning.

Containing 29.127 acres, more or less.

SAN FRANCISCO BAY



TITLE STUDY PARCEL

STATE LANDS DIVISION

AIR PHOTO PLAT

Prepared by: B. Lee

Date: 9-24-76

Title Study: **PARKWOOD IOI**

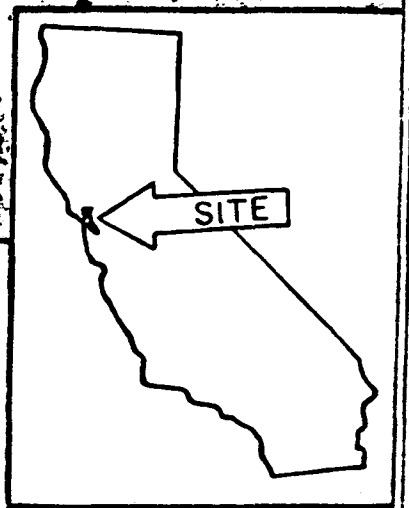
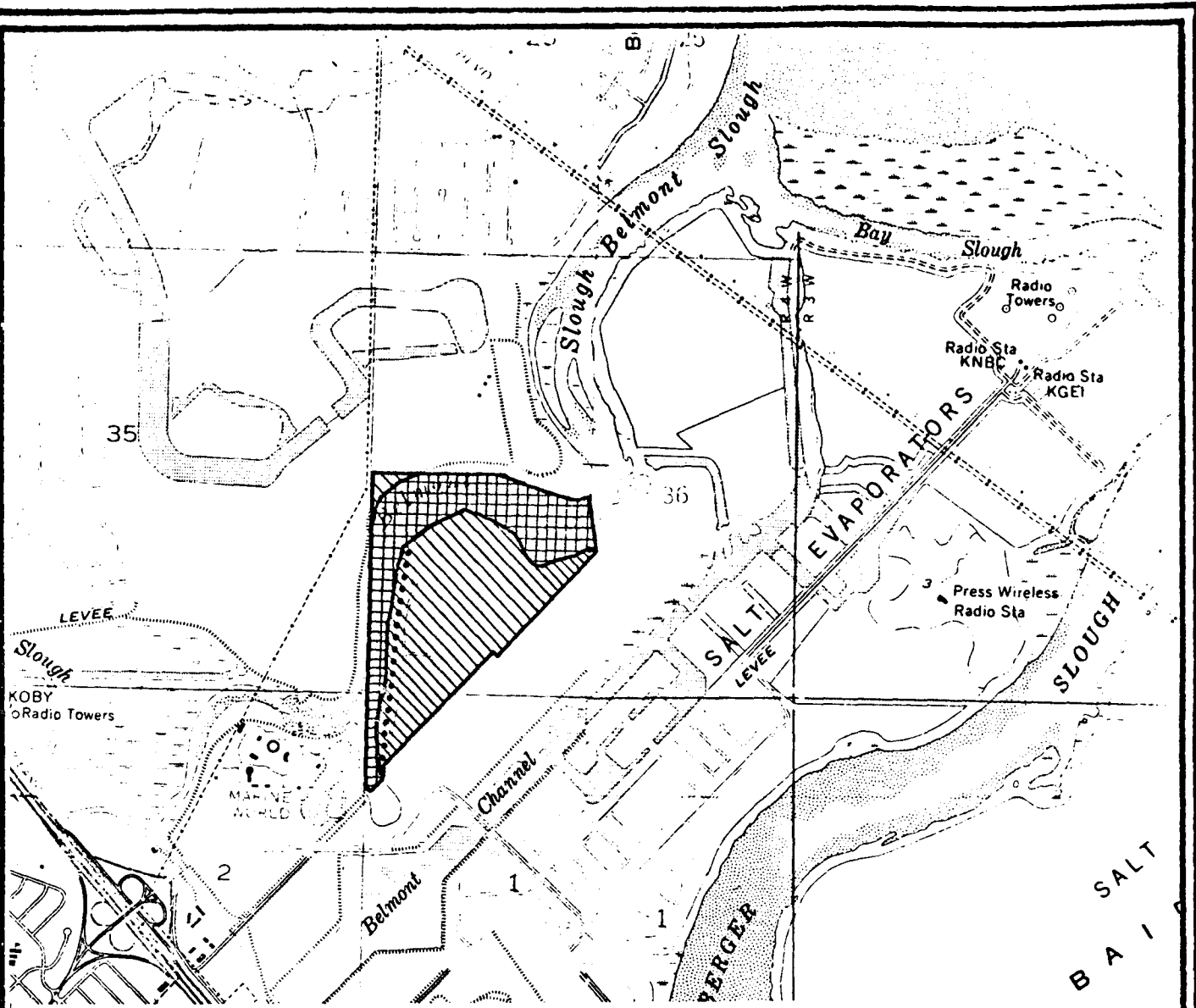





EXHIBIT E

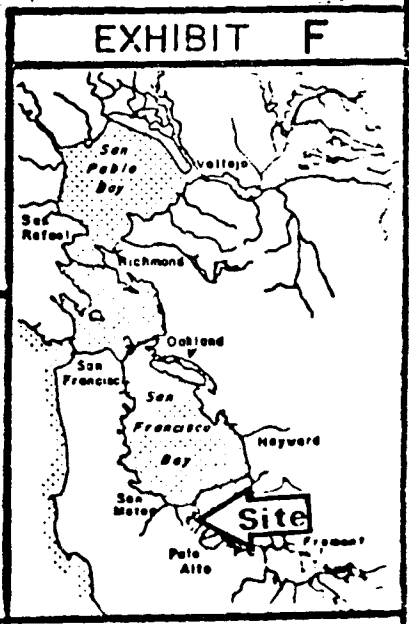
W 21295



LEGEND

-  Proposed lands to be cleared to Parkwood 101 Associates (PATENT PARCELS)
-  Proposed lands to be transferred to the State (DEED PARCELS)
-  Proposed 50' non-motorized public access easement

STATE LANDS COMMISSION
PORTION OF U.S.G.S. QUADRANGLES
REDWOOD POINT 1959 , SAN MATEO 1956
PHOTOREVISED 1968 & 1973



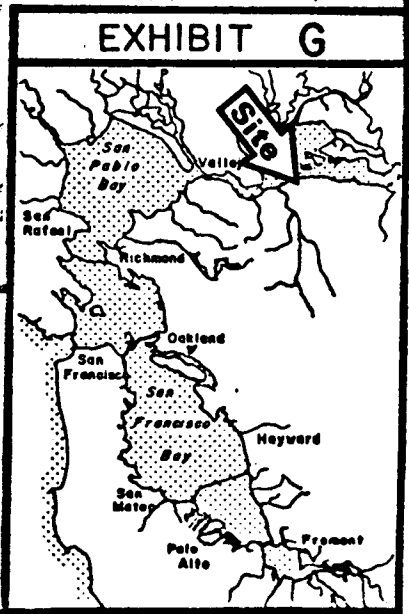
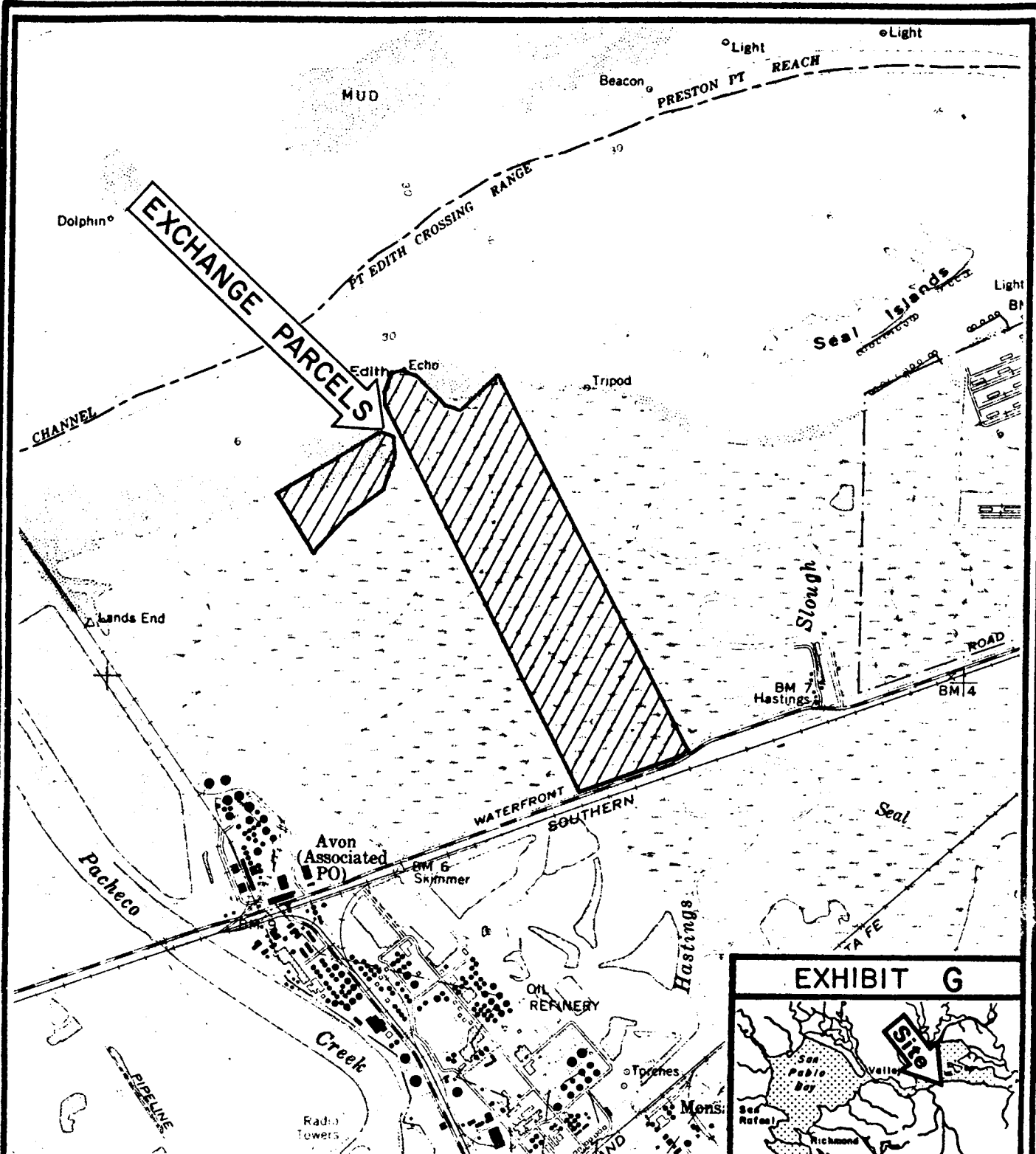
Prepared by: jsf

Date: 10-26-78

Title Study: PARKWOOD 101

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Z 3-N 38-E 149



STATE LANDS COMMISSION

**PORTION OF U.S.G.S. QUADRANGLE
PORT CHICAGO (1959)
PHOTOREVISED 1968**

Prepared by: jsf

Date: 10-30-78

Title Study: PT. EDITH / ALLIED PROP W 21845

Z 3-N 56-E 154, 155