

MINUTE ITEM

This Calendar Item No. 30
was approved as Minute Item
No. 30 by the State Lands
Commission by a vote of 2
to 0 at its 11-10-87
meeting.

CALENDAR ITEM

A 4
S 2

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11/19/87
W 22708 AD 73
J. Sekelsky

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
CITY OF VALLEJO, SOLANO COUNTY
UNDER THE KAPILOFF LAND BANK ACT, P.R.C. 8600 ET SEQ.

APPLICANT: Revolting Developments, Incorporated
660 Washington Street
Vallejo, California 94590

A title dispute exists between the State, in its sovereign capacity, and George Gianulias, d.b.a. Revolting Developments, Incorporated ("Revolting Developments"), a Nevada corporation, concerning ownership of approximately 3.92 acres of real property located in the Solano County. The subject real property is referred to as the Settlement Parcel, and is depicted on Exhibit "A" and described in Exhibit "B". The legal description in Exhibit "B" is subject to staff review for technical accuracy.

Revolting Developments is the current record owner of the Settlement Parcel as successor in interest to a party who purchased a State patent which characterized the land as swamp and overflowed.

Revolting Developments 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.

(ADDED PGS. 144-144.9)

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Non-Substantial Revision 9-19-88

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2. It was in its last natural state covered, at least in part, by the ordinary tides of White Slough, a tributary of the Napa River and San Pablo Bay, the precise extent of coverage being subject to dispute.

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, is the owner of some public trust right, title or interest in the Settlement Parcel. The exact location, extent and nature of the State's interest is, however subject to uncertainty and dispute.

The property has been filled and reclaimed, and is no longer covered by the waters of White Slough.

Revolting Developments 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. Revolting Developments will deposit the sum of \$15,000 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. Revolting Developments will grant to the State an easement across another of its parcels for public access from Sacramento Street to the waters of White Slough, which front the Settlement Parcel. Because the public would also have to cross lands owned by the Vallejo Sanitation and Flood Control District in order to reach those waters, Revolting Developments has requested, and District staff will recommend, that the District grant an access easement across its land to create a continuous public access to those waters.
3. In exchange for the above transfer of funds by Revolting Development to the State, the State will convey to Revolting Developments all its right, title, and interest in the Settlement Parcel.

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4. 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 evidence bearing on the title dispute, and is of the opinion that the sum of \$15,000 is equal to or greater than the value of the State's interest in the Settlement Parcel.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: 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 (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. BCDC has entered into a settlement agreement with Revolting Developments which establishes the location of the line defining the landward extent of BCDC jurisdiction at the waterward boundary of the Settlement Parcel.
3. 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. 8510.

EXHIBITS:

- A. Settlement Parcel Description.
B. Settlement Parcel Plat.

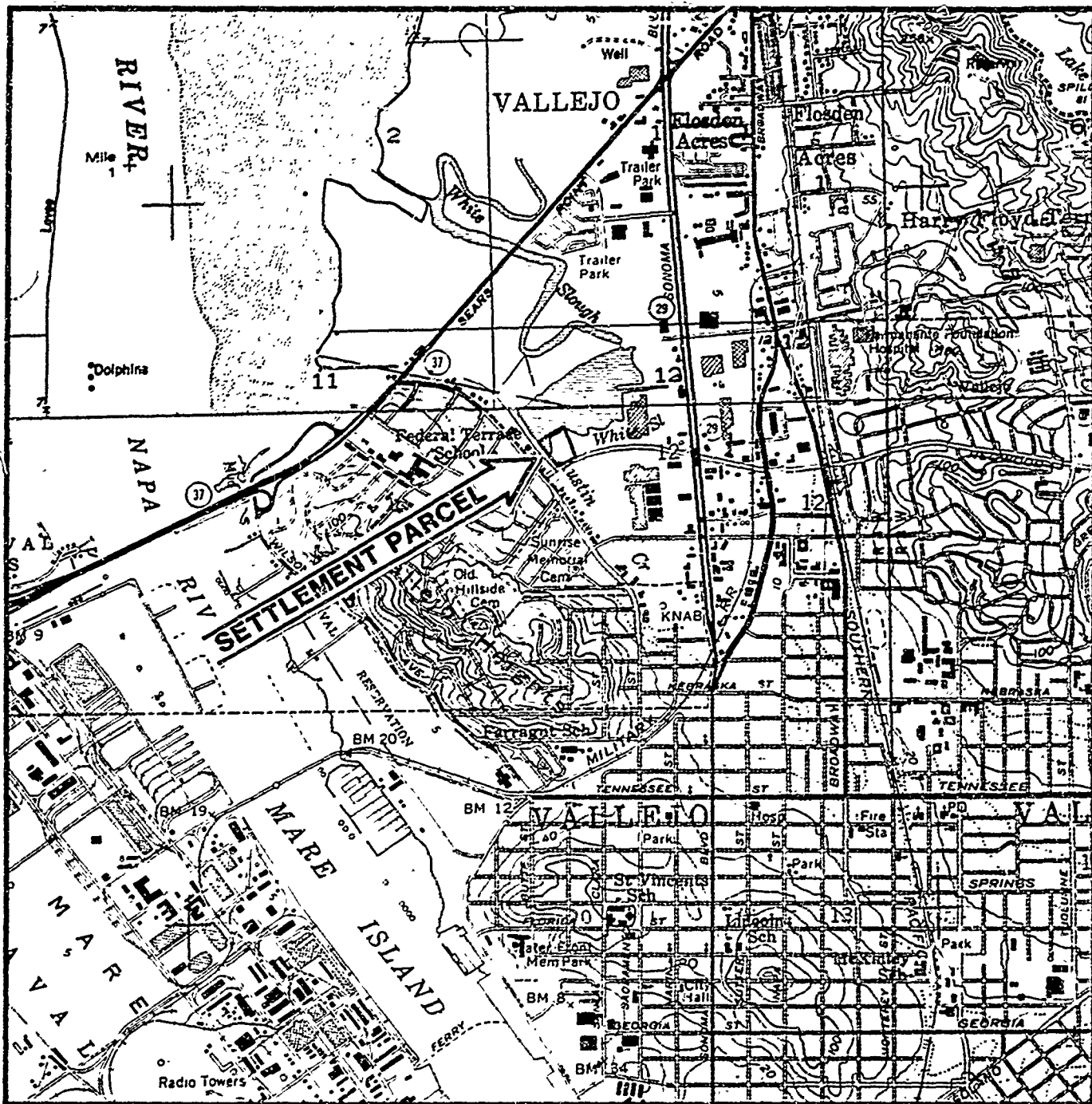
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IT IS RECOMMENDED THAT THE COMMISSION:

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 INTEREST IN THE SETTLEMENT 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 MONIES RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SETTLEMENT PARCEL BEING RELINQUISHED BY THE STATE.
 - C. THE SETTLEMENT PARCEL HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF 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 SETTLEMENT 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 SETTLEMENT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.

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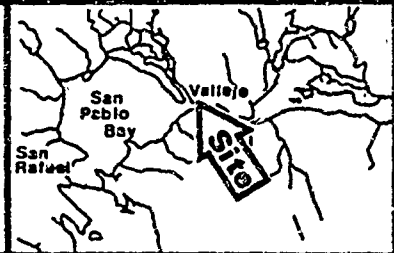
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
 - B. A PATENT OF THE SETTLEMENT PARCEL IN SOLANO 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.



STATE LANDS COMMISSION

SETTLEMENT PARCEL

Portions of USGS Quadrangles Cuttings Wharf,
P.R. 1980; Cordelia, P.R. 1980; Mare Island,
P.R. 1980; Benicia, P.R. 1980



Prepared by: **JKHering** Date: **11/17/87** A: 4 S:2

EXHIBIT A

Title Study **Gianulias/White Slough** W 22708

Z2 -N16-E192

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EXHIBIT "B"
LAND DESCRIPTION
SETTLEMENT PARCEL

All that certain real property situated in the County of Solano, City of Vallejo, State of California and more particularly described as follows:

PARCEL ONE

BEGINNING at the southwest corner of that certain parcel of land described in the deed to Larwin Plaza-Vallejo, a partnership, recorded September 19, 1962 in Book 1161, Page 464 of Official Records of said Solano County as document No. 23290; thence along the west line of said parcel N 39°16'30" W, 87.50 feet to a point on a curve, concave to the south having a radius of 2311.34 feet a radial line of said curve to said point bears N 33°18'54" W, said curve being the northerly boundary of said parcel described in the deed to Larwin Plaza-Vallejo; thence easterly along said curve an arc length of 483.14 feet, through a central angle of 11°58'35" to a point on a non-tangent line; thence S 21°16'44" East, 195.27 feet to the southerly boundary of said last mentioned parcel; thence along the southerly boundary of said parcel the following three (3) courses:
(1) N 64°15'32" W, 132.25 feet; thence
(2) S 67°50'08" W, 179.83 feet; thence
(3) S 58°33'17" W, 185.47 feet to the true point of beginning.

EXCEPTING THEREFROM all that portion as described as Parcel "A" in that notice of minor lot line adjustment recorded December 22, 1986, Instrument No. 75167, Page 154738, Solano County Records and re-recorded March 26, 1987, Instrument No. 19816, Page 37686, Solano County Records, and further described as follows:

All that portion of Parcel Two as described in that certain deed to Revolting Developments, Inc., by deed No. 800056134, recorded August 15, 1980 in the Office of the County Recorder, Solano County, California, described as follows:

Beginning at the northeasterly corner of said Revolting Developments, Inc., parcel of land thence from said point of beginning along the easterly line of said Revolting Developments, Inc., parcel of land S 21°16'44" E, 69.30 feet; thence N 68°48'00" W, 100.73 feet to a point on the northerly line of said Revolting Developments, Inc., parcel of land; thence along said northerly line easterly along the arc of a non-tangent curve to the right concave southeasterly having a radius of 2311.34 feet and being subtended by a chord bearing N 67°44'25" E, 74.30 feet to the point of beginning.

ALSO EXCEPTING THEREFROM a portion of Parcel 'B' as described in that "Notice of Minor Lot Line Adjustment", recorded December 22, 1986, Instrument No. 75167, Page 154738, Solano County Records, and re-recorded March 26, 1987, Instrument No. 19816, Page 37686, Solano County Records, and further described as follows:

Portions of Parcels One and Two as described in that certain deed to Revolting Developments, Inc., by deed No. 800056134, recorded August 15, 1980 in the Office of the County Records, Solano County, California, described as follows:

Beginning at the northwesterly corner of said Parcel Two; thence from said point of beginning along the northerly line of said Parcel Two, easterly along the arc of a non-tangent curve to the right, concave southeasterly having a radius of 2311.34 feet and being subtended by a chord bearing N 60°11'47" E, 283.16 feet; thence S 56°07'00" W, 128.03 feet; thence S 14°59'00" E, 159.00 feet; thence S 57°19'00" W, 87.00 feet to a point on the westerly line of said Parcel One of Revolting Developments Deed; thence along said westerly line of N 39°16'30" W, 82.00 feet the southwestery corner of said Parcel Two of Revolting Developments deed; thence along the westerly line of said Parcel Two, N 39°16'30" W, 87.50 feet to the point of beginning.

PARCEL TWO

All that property as described in that "Notice of Minor Lot Line Adjustment" recorded March 26, 1987, Instrument 19817, page 37691, Solano County Records, and further described as follows:

All that portion of Parcel Three of the land conveyed to Revolting Developments, Inc. by deed no. 800056134 recorded August 15, 1980 in the Office of the County Recorder, Solano County, California described as follows:

Beginning at a point on the northwesterly line of Parcel Two of said Revolting Developments, Inc. deed distant along said northwesterly line, from a tangent that bears S 68°39'41" W, southwestery along the arc of a curve to the left, concave southeasterly having a radius of 2311.34 feet through a central angle of 01°50'31" arc length of 74.31 feet from the northeasterly corner of said Parcel Two to the TRUE POINT OF BEGINNING; thence from said true point of beginning along said northwesterly line from a tangent that bears S 66°49'10" W, southwestery along the arc of a curve to the left, concave southeasterly having a radius of 2311.34 feet through a central angle 03°06'40" an arc length of 125.51 feet; thence N 56°07'00" E, 109.97 feet; thence S 68°48'00" E, 24.33 feet to the true point of beginning.

Said property is also a portion of Parcel One as shown on the "Amended Parcel Map" filed March 6, 1987, Instrument No. 15365, Book 31 of Parcel Maps, Page 1, Solano County Records.

PARCEL THREE

All that property as described in that "Notice of Minor Lot Line adjustment" recorded March 26, 1987, Instrument No. 19818, page 37696, Solano County Records and further described as follows:

All that portion of that certain parcel of land described in that certain grant deed to Vallejo Sanitation and Flood control District of Solano County, State of California Recorded May 3, 1956 in Book 827, page 405, Solano County Records, described as follows:

BEGINNING at a point on the northeasterly line of said Vallejo Sanitation and Flood Control District parcel of land, distant thereon S 39°16'30" E, 82.00 feet from the aforementioned most northerly corner of the Vallejo Sanitation and Flood Control District parcel of land; thence from said point of beginning along the northeasterly and southeasterly lines thereof the following two (2) courses:

- (1) S 39°16'30"E, 118.00 feet; thence
- (2) S 50°43'30" West, 30.00 feet; thence parallel with said northeasterly line N 39°16'30" W, 121.47 feet; thence N 57°19'00" E, 30.20 feet to the point of beginning.

PARCEL FOUR

Beginning at the northwest corner of the real property described as Parcel Two in the deed from Henry H. Kilpatrick, et al to Vallejo Plaza, Inc., recorded December 24, 1959, in Book 1008 of Official Records of Solano County, California, Page 70, as Instrument No 26454; thence along the northerly boundary of said parcel the following three (3) courses:

- (1) N 58°33'17" E, 185.47 feet; thence
- (2) N 67°50'08" E, 179.83 feet; thence
- (3) S 64°15'32" E, 132.25 feet; thence leaving said northerly boundary S 21°16'44" E, 253.80 feet to a point in a non-tangent curve concave to the south having a radius of 1862.87 feet a radial to said point bears N 21°16'44" W, said curve being the northerly line of Redwood Street as said Redwood Street was acquired by the City of Vallejo by Grant of Public Street recorded on May 26, 1960 in Book 1023, Page 168, Official records of said Solano County; thence westerly along the northerly line of Redwood Street 372.18 feet through a central angle of 11°26'49" to the westerly line of said parcel of land deeded to Vallejo Plaza, Inc., thence along said last mentioned westerly line the following three courses:

N 39°16'30"W, 160.46 feet to the northerly terminus of that certain course shown as N 39°16'30"W, 305.30 feet in said deed to Vallejo Plaza, Inc.; thence (2) N 50°43'30" E, 30.00 feet; thence (3) N 39°16'30" W, 200.00 feet to the point of beginning.

ALSO EXCEPTING THEREFROM a portion of Parcel 'B' as described in that "Notice of Minor Lot Line Adjustment", recorded December 22, 1986, Instrument No. 75167, Page 154738, Solano County Records, and re-recorded March 26, 1987, Instrument No. 19816, Page 37686, Solano County Records, and further described as follows:

Portions of Parcels One and Two as described in that certain deed to Revolting Developments, Inc., by deed No. 800056134, recorded August 15, 1980 in the Office of the County Records, Solano County, California, described as follows:

Beginning at the northwesterly corner of said Parcel Two; thence from said point of beginning along the northerly line of said Parcel Two, easterly along the arc of a non-tangent curve to the right, concave southeasterly having a radius of 2311.34 feet and being subtended by a chord bearing N 60°11'47" E, 283.16 feet; thence S 56°07'00" W, 128.03 feet; thence S 14°59'00" E, 159.00 feet; thence S 57°19'00" W, 87.00 feet to a point on the westerly line of said Parcel One of Revolting Developments Deed; thence along said westerly line of N 39°16'30" W, 82.00 feet to the southwesterly corner of said Parcel Two of Revolting Developments deed; thence along the westerly line of said Parcel Two, N 39°16'30" W, 87.50 feet to the point of beginning.

END OF DESCRIPTION

PREPARED BY BIU I. M. L. SHAFER, SUPERVISOR.

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