

MINUTE ITEM

This Calendar Item No. 25  
is approved as Minute Item  
No. 25 by the State Lands  
Commission by a vote of 2  
to 0 at its 2/25/85  
meeting.

CALENDAR ITEM

A 75

S 38

25

02/28/85  
W 22968  
PRC 6198  
PRC 6199  
BLA 253  
Grimmett  
Fossum

BOUNDARY LINE AGREEMENT  
BLA NO. 253

Staff of the State Lands Commission have conducted an investigation of and reached agreement with the applicants regarding fixing the location of the ordinary high water mark as the boundary between State-owned sovereign tide and submerged lands in the bed of San Dieguito Lagoon and uplands owned by Beach Colony One, Ltd. and Beach Colony No. Two, Ltd. in the City of Del Mar, San Diego County.

The proposed fixed boundary as well as the respective quitclaims involving the parcels (the lagoon portion to be confirmed in State sovereign ownership and uplands in private proprietary ownership) are more particularly described in Exhibits "A" through "E" of the Boundary Agreement on file in the Sacramento office of the State Lands Commission.

Beach Colony One, Ltd. and Beach Colony No. Two, Ltd. claim title as the successors in interest of the San Dieguito Reclamation Company through Swamp and Overflowed Land Survey No. 15 and State patent, dated October 21, 1889, issued therefore.

These upland parcels were also within the perimeter description of the Federal Swamp on Overflowed Land Patent No. 114 approved October 15, 1904 by the United States Government Land Office to the State of California.

San Dieguito Lagoon consists of historic and existing tide and submerged lands title to which the State acquired by reason of its sovereignty.

(ADDED 02/27/85)

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Review of historic maps indicates that the proposed boundary line approximates the location of the last natural ordinary high-water mark of San Dieguito Lagoon, prior to artificial influences caused by man made activities.

Parties mutually agree that the proposed boundary line reflects the last natural ordinary high-water mark. The applicants intend to construct permanent riprap bank protection along this line.

The proposed agreement will contain mutual quitclaims by the State to Beach Colony One, Ltd. and to Beach Colony No. Two, Ltd. of their upland parcels, and Beach Colony One, Ltd. and Beach Colony No. Two, Ltd. to the State of any interest in San Dieguito Lagoon waterward of the proposed line.

As the boundary of the upland parcels has been resurveyed, the quitclaim descriptions will be based on a new record of survey to be filed before or in conjunction with the agreement. Revised survey data has been submitted for use by the staff and has been incorporated into Exhibit "A".

#### BACKGROUND

Applicants lost a portion of the bank of their riparian lands due to an avulsive flood in February 1980. Staff believes that the applicants have reasonably and expeditiously sought restoration of their property to its preflood configuration.

At its meeting of August 26, 1982, the Commission approved two protective structure permits (PRC 6198 and PRC 6199) to allow placement of rock riprap bank protection. To date, this authorized work has not been done. In receiving their permit from the Coastal Commission, applicants objected to certain conditions relating to wetlands restoration. They brought a suit regarding this condition and were successful both in the trial court and on appeal.

The applicants now wish to finalize the boundary issue so as to clear their title for purposes of acquiring title insurance and financing their development. The season for construction begins in March.

(ADDED 02/27/85)

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The staff believes it is in the best interests of the State to enter into the proposed agreement, to define the extent, nature, location, and area of public and private titles and common boundary by a permanent locating and fixing of this line pursuant to the provisions of Div. 6 of the P.R.C., with particular reference to Section 6357.

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 as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBITS:

- A. Boundary Description.
- B. Location Map.

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 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, AS A SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT THE PROPOSED BOUNDARY LINE AS DESCRIBED IN EXHIBIT "A" IS THE AGREED LAST NATURAL LOCATION OF THE ORDINARY HIGH WATER MARK AND SHALL UPON EXECUTION AND RECORDATION OF THE AGREEMENT BE A PERMANENT BOUNDARY NO LONGER SUBJECT TO FLUCTUATION.

(ADDED 02/27/85)

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3. FIND THAT THE PROPOSED BOUNDARY LINE AGREEMENT, IS IN THE BEST INTEREST OF THE STATE; AUTHORIZE THE EXECUTION AND RECORDATION OF SAID AGREEMENT SUBSTANTIALLY IN THE FORM WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION, ALONG WITH A RECORD OF SURVEY DEPICTING THE AGREED TO BOUNDARY AND CONVEYANCES PURSUANT THERETO; AND ACCEPT THE CONVEYANCES TO THE STATE AS PROVIDED THEREIN.
4. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS DEEMED NECESSARY, INCLUDING BUT NOT LIMITED TO LITIGATION, IN ORDER TO IMPLEMENT AND GIVE EFFECT TO THIS AGREEMENT.

(ADDED 02/27/85)

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EXHIBIT "A"

BOUNDARY LINE DESCRIPTION

W 22968

A line marking the boundary between the San Dieguito River and a portion of Lot 2 of Section 11, T14S, R4W, SBM, located in the City of Del Mar, County of San Diego, State of California, said line being more particularly described as follows:

BEGINNING at the most northerly corner of Parcel No. 2 as shown on Parcel Map No. 1900, File No. 73-258158, filed September 13, 1973, in the Office of the County Recorder of said county; thence along the northeasterly boundary of said Parcel No. 2 as shown on said map S 43° 54' 45" E 227.25 feet; thence S 53° 32' 30" E 123.54 feet; thence leaving said northeasterly boundary as shown on said map, S 45° 20' 58" E 250.12 feet to a point on the south-easterly boundary of Parcel No. 2, as shown on said map; thence along said boundary S 33° 49' 30" E 59.66 feet to the most westerly corner of said Parcel No. 2, being also the most northerly corner of Parcel No. 1 of said Parcel Map No. 1900; thence along the northeasterly boundary of said Parcel No. 1 S 33° 49' 30" E 6.69 feet to the westerly right of way line of the Atchison, Topeka & Santa Fe Railway Co. and the end of the herein described line.

END OF DESCRIPTION

PREPARED FEBRUARY 21, 1985 BY BOUNDARY INVESTIGATION UNIT,  
ROY MINNICK, SUPERVISOR

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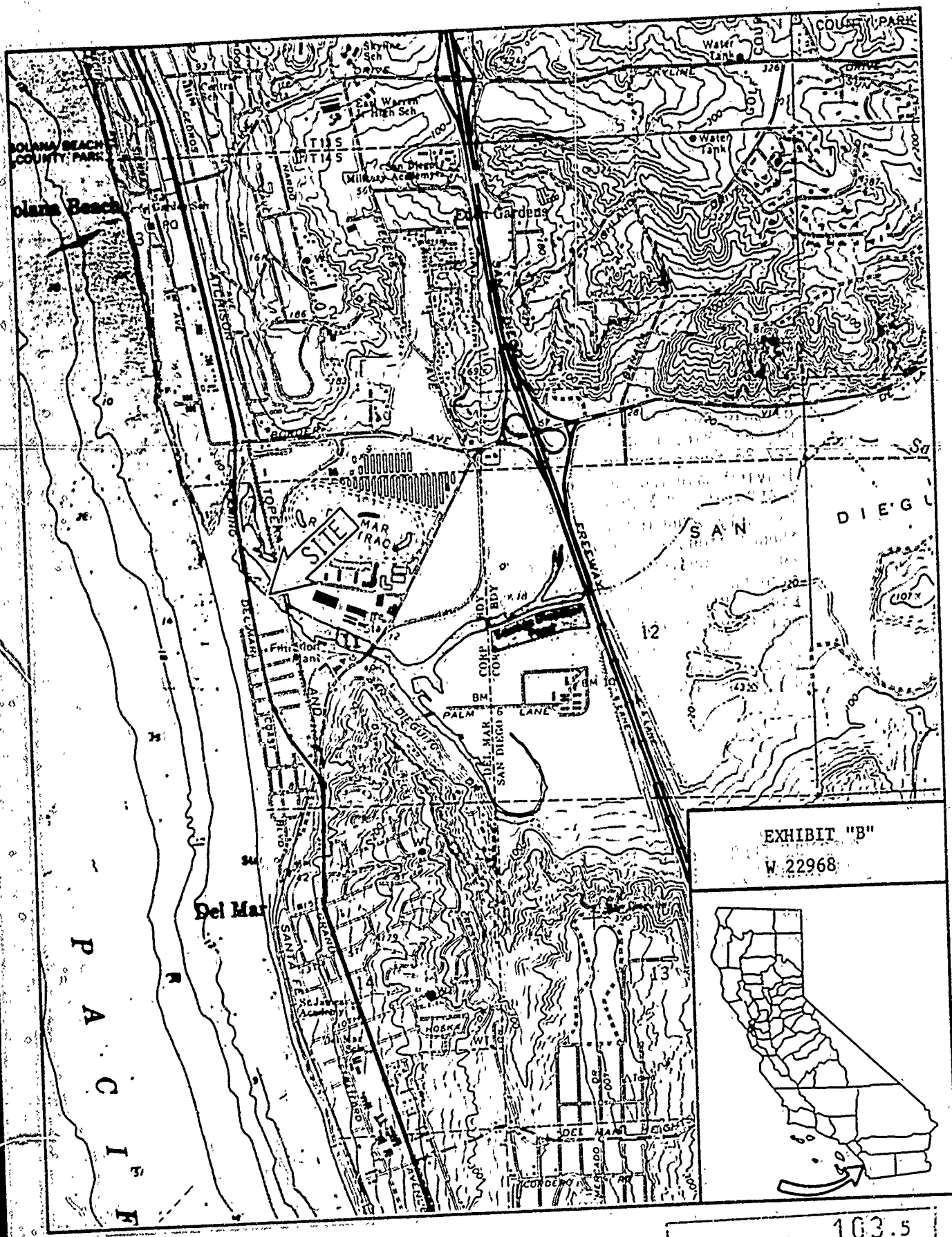


EXHIBIT "B"  
W. 22968



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