

MINUTE ITEM

This Calendar Item No. 36
was approved as Minute Item
No. 36 by the State Lands
Commission by a vote of 2
to 0 at its 12/23/86
meeting.

CALENDAR ITEM

A 44
S 22

36

12/23/86
W 503.1144 PRC 7031
A. Scott PRC 7032
Fossum
Saurenman
BLA 256

**APPROVAL OF PROPOSED SETTLEMENT OF LITIGATION
PEOPLE VS. THE BEACH CLUB,
SANTA MONICA STATE BEACH, CITY OF SANTA MONICA,
WILL ROGERS STATE BEACH, CITY OF LOS ANGELES (BLA 256)**

BACKGROUND:

The Subject Property is a portion of the Santa Monica and Will Rogers State Beaches and extends across the city line between the Cities of Santa Monica and Los Angeles. A portion of the area is administered by the City of Santa Monica for the State Department of Parks and Recreation under an operating agreement. The area in the City of Los Angeles is ungranted tidelands. This action is a lawsuit brought by the State of California (State Lands Commission and Department of Parks and Recreation) and the City of Santa Monica to quiet title to the property along the beach both in the City of Santa Monica and the City of Los Angeles. The principal problem to be resolved by this litigation is the location of the last natural Mean High Tide Line (MHTL) of the Pacific Ocean.

In 1921, the City of Santa Monica, acting under its authority as trustee of the State tide and submerged lands pursuant to Chapter 78, Statutes of 1917, surveyed the then existing MHTL and enacted and recorded City Ordinance No. 188 (Commissioner's Series) fixing the line along the entire length of the subject property within the city limits. The upland property extends into the City of Los Angeles and the beach area at this location remains under the sole jurisdiction of the State Lands Commission as ungranted tidelands, therefore the City of Los Angeles is not a necessary party to this litigation.

Since 1921, the tide and submerged lands waterward of the 1921 MHTL have become filled as the result of the construction of man-made structures, and the beach in Santa Monica currently extends an average of 400 feet waterward of the 1921 MHTL.

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The owner of the upland parcel (The Beach Club) contends it is entitled to all or at least a portion of the filled tide and submerged lands located waterward of the 1921 MHTL, claiming that the filling is at least partially naturally caused. It also contends that the City and the State are estopped from requiring the removal of the existing improvements due to acquiescence in their existence for a substantial time.

The upland portion of the club in the City of Santa Monica was originally purchased in 1936 and the portion in the City of Los Angeles was purchased in 1955. The Club contends that as the beach prograded it used that area 125 feet waterward of the 1921 MHTL in front of the buildings in the City of Santa Monica for about 30 years and a smaller area in the City of Los Angeles for 20 years in the belief that it owned the land.

The encroachments located on the area claimed to be sovereign land in People vs. The Beach Club consist of a portion of a covered patio, wooden walkways and minimum building overhang in the City of Santa Monica and a windbreak fence, paved walkway and paddle tennis courts located in the City of Los Angeles. The encroachments extend a maximum of 125 feet waterward the 1921 MHTL.

During the past several years, the staff of the Commission, together with the staffs of the Attorney General's Office, the City of Santa Monica, and the Department of Parks and Recreation have conducted negotiations with representatives of The Beach Club in order to reach an agreement settling this long standing litigation over ownership of this portion of the Santa Monica and Will Rogers State Beaches. Throughout this period of time the State has made various offers of settlement and has evaluated various counter-offers of The Beach Club.

CURRENT SITUATION:

Staff negotiations have resulted in a proposed Boundary Line Agreement (BLA) and two Permits for Improvements; one covering the beach area within the City of Santa Monica and a separate one covering the Beach area in the City of Los Angeles. The actual agreements are on file in the Sacramento office of the Commission. The form of settlement agreement and the permit for improvements has been reviewed and approved by the City of Santa Monica and The Beach Club and both parties are in the process of executing these documents.

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The general terms and conditions of the approved agreements are as follows:

1. Club and State agree that the boundary separating sovereign lands from the private uplands within the City of Santa Monica is the 1921 MHTL as retraced in 1978 by the State Lands Commission. This survey was approved by the State Lands Commission September 26, 1979 as Minute Item No. 29 and filed January 3, 1980, Book 90 of Records of Surveys, page 39, Records of Los Angeles County. The parties also agree that for the land within the City of Los Angeles that the boundary will be an extension of the last course of the 1921 MHTL referred to above, extended to the northerly upland property line. The parties will execute a BLA establishing a fixed boundary line.
2. The Club will receive two Permits for Improvements covering an area waterward of the agreed boundary line. One Permit is for the area within the City of Santa Monica and the other for the area within the City of Los Angeles. The Permits will both have the same terms and conditions but the rental from the Santa Monica State Beach area permit will go to the City of Santa Monica and the rent for the Will Rogers State Beach area will go to the Commission. The general terms and conditions of the Permit for Improvements are as follows:
 - a) Permit term of 25 years with an option to renew for one additional period of ten years.
 - b) Annual rent for permit area in both the City of Santa Monica and the City of Los Angeles will be based on a nominal rent schedule attached to the permits and will apply only to the first ten years of the term. Beginning in the 11th year of the term of the permits the rent will be changed to \$.65/square foot of the use area. This rental figure to be adjusted by the percentage change in the CPI or eight percent per year whichever is less for the initial ten years of the term. Thereafter the annual rent to be adjusted using the same method upon each fifth anniversary of the permit.

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- c) Club to remove all existing improvements located on the beach which are not included within areas covered by the permits.
- d) Club will remove all improvements from the permit area upon termination of the permit.
- e) No additional improvements are to be constructed on the permit area without the prior written consent of the State and the City of Santa Monica for the area in the City of Santa Monica and the State for the area within the City of Los Angeles.

The complete BLA and the two Permit for Improvements are on file in the Sacramento office of the Commission. These documents are approved by the Office of the Attorney General and its staff joins in recommending the approval of the documents by the Commission.

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 15031), 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.

2. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Map of the Agreement Area/Permit Parcels.
- B. Site Map.

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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 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370, ET SEQ.
3. FIND THAT THE BOUNDARY LINE AGREEMENT (BLA 256) AND THE TWO PERMITS FOR IMPROVEMENTS WHICH ARE ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION ARE IN THE BEST INTEREST OF THE PUBLIC AND THE STATE AND WILL FURTHER PUBLIC TRUST PURPOSES.
4. AUTHORIZE PURSUANT TO THE COMMISSION'S AUTHORITY UNDER SECTION 6357 OF THE P.R.C. THE EXECUTION AND RECORDATION ON BEHALF OF THE STATE OF THAT BOUNDARY LINE AGREEMENT IN SUBSTANTIALLY THE FORM WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
5. AUTHORIZE THE EXECUTION OF THOSE TWO SEPARATE PERMITS FOR IMPROVEMENTS IN SUBSTANTIALLY THE FORM AS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
6. AUTHORIZE THE STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE PROVISIONS OF THESE AGREEMENTS, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL FURTHER APPEARANCES IN LEGAL PROCEEDINGS REQUIRED TO FINALIZE SETTLEMENT OF THIS LITIGATION.

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PACIFIC

OCEAN

Santa Monica State Beach

Wm Rogers State Beach

1921 MHTL

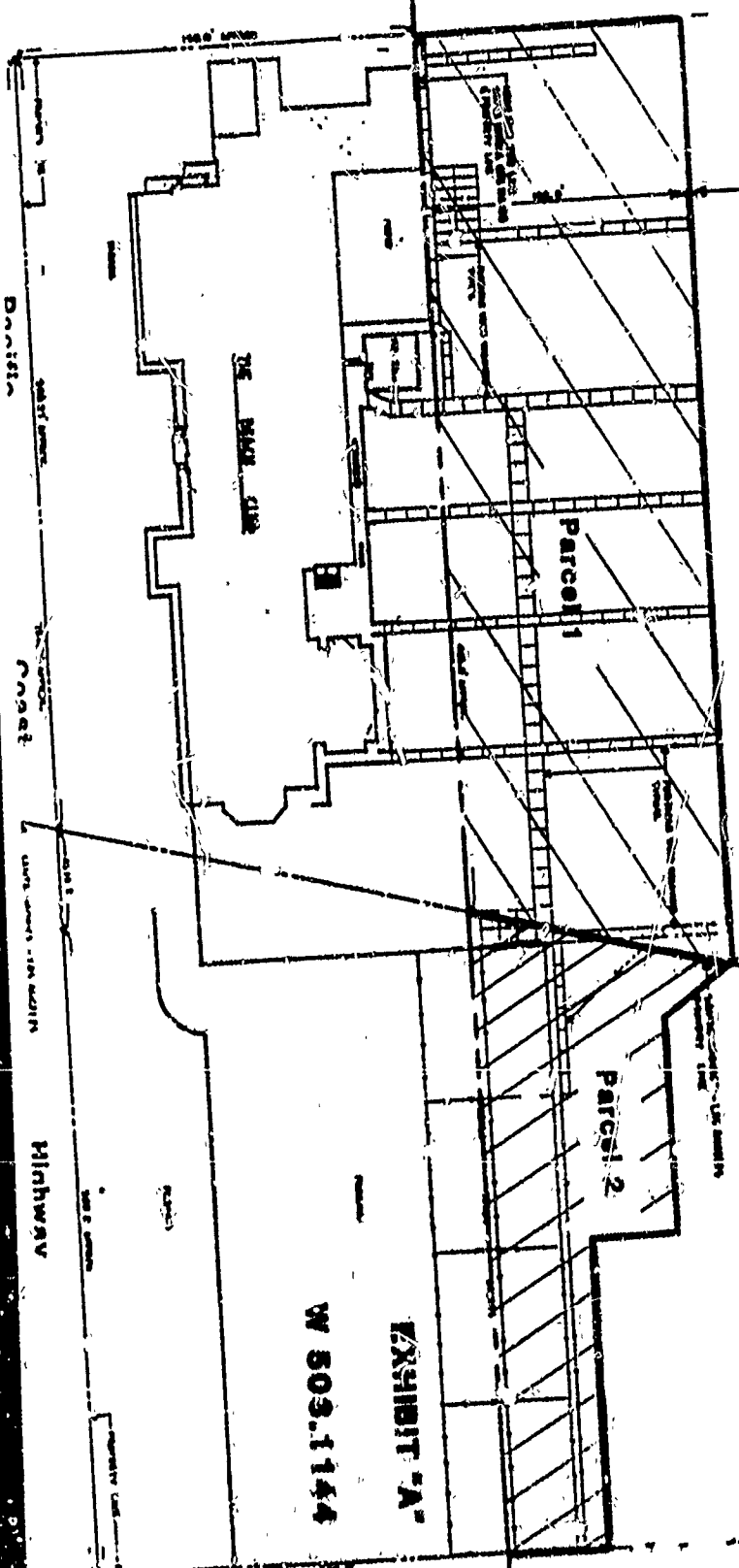


EXHIBIT - A
W 809.1144

(ADDED 12/22/86)

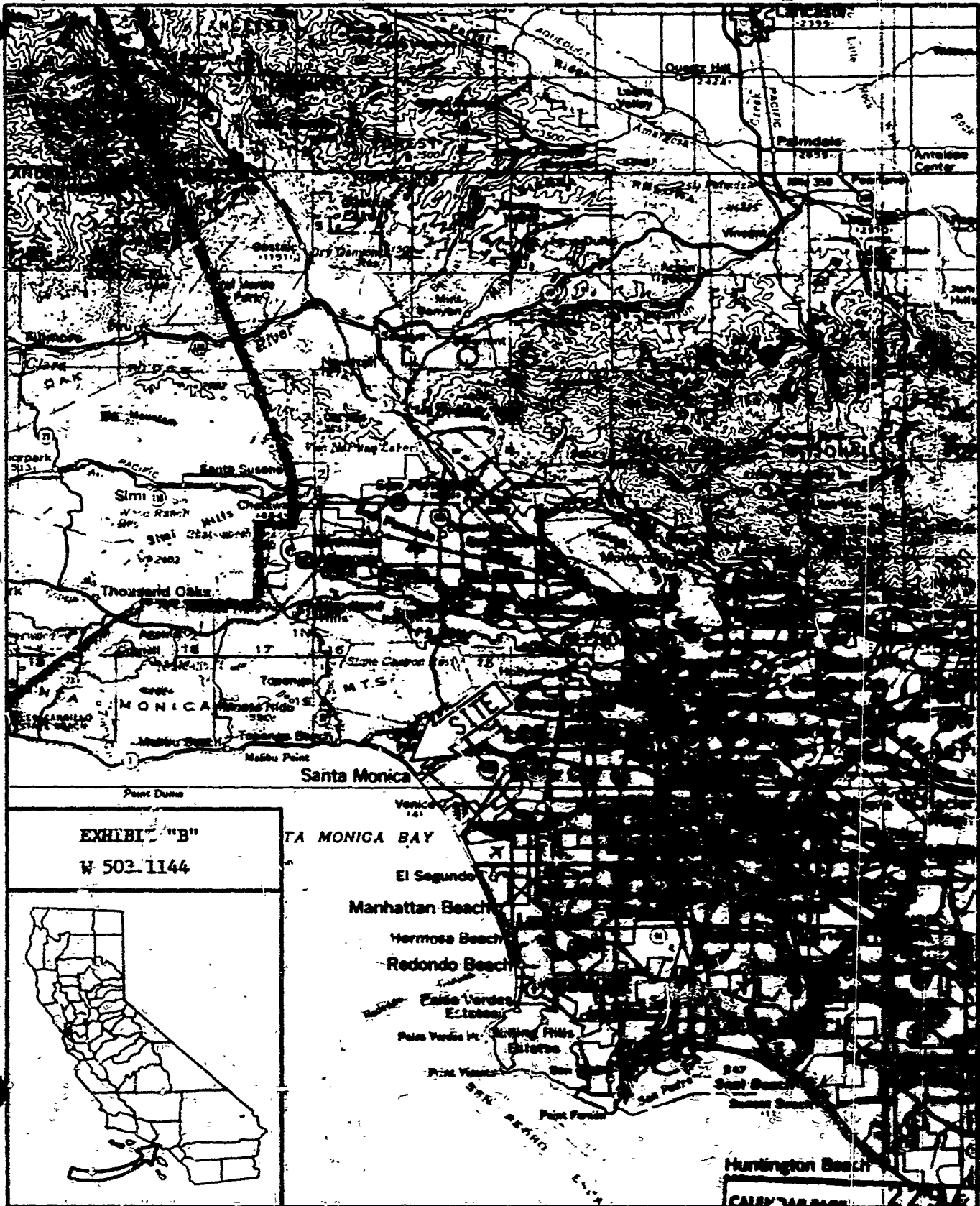


EXHIBIT "B"

W 503.1144



SANTA MONICA BAY

El Segundo
Manhattan Beach

Hermosa Beach

Redondo Beach

Essex Verdes

Point Verdes Pt.

Point Verdes

Huntington Beach

CALIF. PARADE

2796

MINUTE AGE

4199

(ADDED 12/22/86)