

MINUTE ITEM  
This Calendar Item No. 40  
was approved as Minute Item  
No. 40 by the State Lands  
Commission by a vote of 3  
to 0 at its 1151st  
meeting.

CALENDAR ITEM

A 44  
S 22

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07/15/91  
W 24258 PRG 7553  
G05-08  
AD 163  
BLA 265  
A. Scott  
Collins  
Fossum

PROPOSED BOUNDARY LINE AGREEMENT  
AND AGREEMENT CONFIRMING OWNERSHIP AND CONTROL  
OF FILLED AND UNFILLED TIDE AND SUBMERGED LANDS  
IN THE CITY OF SANTA MONICA

PARTIES:

City of Santa Monica  
Department of General Services  
Attn: Mary Strobel,  
Deputy City Attorney  
1685 Main Street  
Santa Monica, California 90401

State of California  
State Lands Commission

State of California  
California Attorney General  
Attn: Robert Collins,  
Deputy Attorney General  
300 South Spring Street, Suite 500  
Los Angeles, California 90013

State of California  
Department of Parks and Recreation  
Concession Programs Division  
Attn: Andrea W. Patterson, Chief

(ADDED pgs. 127-127.8)

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PROPOSED ACTION:

It is proposed that the State Lands Commission (Commission) approve, and authorize the execution of, an agreement to resolve various disputes that exist between the above parties over lands located in the City of Santa Monica (City). A copy of such agreement is on file in the Commission's Sacramento office. This agreement between: 1) the Department of Parks and Recreation (Parks), 2) the Commission, 3) the California Attorney General, and 4) the City, with the approval of the Director of the California Department of General Services, is proposed to accomplish the following: (1) clarify and confirm the status of ownership, administration and control of the tide and submerged lands in the City of Santa Monica; and (2) agree upon the boundary between the filled sovereign tidelands located in the City of Santa Monica and proprietary uplands owned by the City and Parks.

BACKGROUND:

During the past 40 years, Santa Monica State Beach has been operated by the City pursuant to operating agreements with Parks. Despite the long standing administration of these lands as a State beach, ambiguities exist regarding jurisdiction over the portions of the lands occupied by the State beach, the boundaries between the State beach lands and private and other publicly owned uplands, and the effect of certain trust grant statutes approved by the State Legislature. This proposed agreement would clarify and confirm the respective roles of the parties and their relationships regarding the State beach and the sovereign tide and submerged lands, proprietary lands of the City and State, and would determine the boundaries between the various ownerships. It is not the intent of the agreement to alter the existing situation, merely to clarify and confirm the status quo.

HISTORICAL BACKGROUND:

In 1917, the State of California granted to the City, in trust, all of the tide and submerged lands within the City for certain designated uses and purposes determined to be consistent with the public trust. In 1949, the City, by grant deed, conveyed back to the State of California some of the tidelands together with all natural and artificial accretions thereto, reserving to City the submerged lands, all oil and gas rights, and rights to the areas covered by the existing municipal piers. The purpose of this reconveyance was to facilitate the establishment of Santa Monica State Beach by Parks. This conveyance document was accepted by the State on behalf of Parks. Because Parks had initiated, and was responsible for this reconveyance and because of the acceptance form, Parks believed that it had obtained jurisdiction

over the tidelands and accretions reconveyed to the State by the City. However, P.R.C. Section 6301 provides that the State Lands Commission has jurisdiction over all the State's tidelands. Therefore, this 1949 reconveyance created an ambiguity.

After the establishment of Santa Monica State Beach in 1949 and continuing to today, Parks has entered into a number of operating agreements with the City whereby the City has assumed responsibility for the maintenance, development and control of Santa Monica State Beach. The State Lands Commission has been aware of these operating agreements and did not challenge the right of the Parks to issue them.

In 1970, the State Legislature amended the 1917 trust grant and thereby created an additional ambiguity: Did the Legislature by the 1970 act intend to grant back to the City the tidelands which in 1949 had become part of Santa Monica State Beach? In a letter dated September 15, 1970, from the City to the State's Attorney General, the City and State confirmed their understanding that the 1970 legislation did not have the effect of reconveying to the City the tidelands reconveyed by City in 1949; however, this letter was never formalized into an agreement. One of the purposes of this proposed agreement is to formalize that understanding.

This proposed agreement would acknowledge the jurisdiction of the State Lands Commission over the filled and unfilled tidelands within the City and at the same time, the Commission would transfer that jurisdiction to Parks for a sixty (60) year period pursuant to Government Code section 14673. This recognition of Commission's jurisdiction, and simultaneous transfer thereof, would, in effect, maintain the status quo, i.e., Parks control over the Santa Monica State Beach through its operating agreement with the City.

The proposed agreement would also recognize the City's jurisdiction over the trust lands which remain in its jurisdiction under the 1917 grant, as amended by the 1970 statute. Those lands consist, as previously indicated, of submerged lands within the City, oil and gas rights, and the lands under the Santa Monica Pier.

Boundary Status:

In 1975, the State, acting through its Attorney General, Commission, Parks, and the City initiated litigation against a number of private property owners along the northern sector of Santa Monica State Beach. By this litigation, the State and City sought to establish the boundary between the sovereign filled tidelands and private uplands. Most of these lawsuits have been settled and each settlement agreement was executed by all three State agencies and the City. Another purpose of the proposed agreement would be to confirm that the City shall have responsibility for administering these settlement agreements through its operating agreement with Parks.

The City and the State also own a large portion of the upland property along Santa Monica State Beach which adjoins the filled tidelands. However, there has never been an agreement among these governmental agencies as to where the precise boundary between the sovereign tidelands and proprietary uplands is located. Under the proposed agreement, and consistent with the results of prior litigation, the State agencies and the City would agree upon a tidelands boundary. That boundary would be along the 1921 line of mean high tide in the northern part of the City, and along the seaward side of the old Promenade in the central and southern part of the City. (The old Promenade is significantly landward of the 1921 MHTL.) In effect, this boundary agreement would confirm that the existing sandy beach areas within the City of Santa Monica, a portion of some existing parking lots and other areas, are located on filled sovereign tidelands and are subject to the Public Trust. This agreement should once and for all preclude any further litigation over the boundaries of Santa Monica's filled tidelands.

In summary, this agreement would amicably resolve and clarify a number of outstanding disputes and potential disputes among various State agencies and the City of Santa Monica. It would also confirm the boundaries of the State's filled and unfilled tidelands in the City of Santa Monica and thereby avoid any future litigation over these boundaries.

Trust Revenues:

Finally, this agreement would also clarify the rights of the City to use revenues from tidelands for tideland trust purposes. The agreement provides a mechanism by which excess revenues from the State beach tidelands may be expended by the City on the Santa Monica Pier which is a separate tideland trust asset owned by the City.

AB 884:  
N/A

**OTHER PERTINENT INFORMATION:**

1. This agreement has been approved by Parks, the Director of General Services, the City and the State's Attorney General's Office. The agreement is statutorily exempt from the California Environmental Quality Act under P.R.C. Section 21169 and is also categorically exempt as a Class 16 activity (transfer of ownership of land in order to create parks) under State Lands Commission regulations, Title Two of California Code Regulation, Section 2905(g).
  
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that the consummation of the agreement and its implementation are exempt from the requirements of the CEQA. As to the former action, it is exempt as a statutorily exempt project. The project is exempt under P.R.C. Section 21169 and because it involves settlements of title and boundary problems. As to the subsequent transfer of ownership of land to Parks, the activity is categorically exempt under Class 16, Transfer of Ownership of Land in Order to Create Parks, 2 Cal. Code Regs. 2905(g).

Authorities: P.R.C. 21080.11 and 14 Cal. Code Regs. 15378(b)(1); P.R.C. 21169, P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

**EXHIBITS:**

- A. Legal Description of Boundary Line
- B. Location Map

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. FIND THAT THE CONSUMMATION OF THE AGREEMENT AND ITS IMPLEMENTATION ARE EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A: 1) STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11,

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SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS; 2) AS A CATEGORICALLY EXEMPT PROJECT, CLASS 16, TRANSFER OF OWNERSHIP OF LAND IN ORDER TO CREATE PARKS, 2 CAL. CODE REGS. 2905(g); AND 3) AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21169 AND 14 CAL. CODE REGS. 15261, AN ACTIVITY INVOLVING AN ONGOING PROJECT.

2. APPROVE THE BOUNDARY LINE AGREEMENT AND AGREEMENT CONFIRMING OWNERSHIP AND CONTROL OF FILLED AND UNFILLED TIDE AND SUBMERGED LANDS IN THE CITY OF SANTA MONICA, INCLUDING ALL OF THE FINDINGS AND PROVISIONS THEREOF, AND AUTHORIZE STAFF AND THE ATTORNEY GENERAL'S OFFICE TO TAKE ALL STEPS NECESSARY AND APPROPRIATE IN ORDER TO EXECUTE AND IMPLEMENT THIS AGREEMENT.

## EXHIBIT "A"

W 24258

## LAND DESCRIPTION

That agreed ordinary high water mark in the City of Santa Monica, County of Los Angeles, State of California, described as follows:

COMMENCING at a point in the southwesterly line of the 20 foot strip of land conveyed to the City of Santa Monica, for street purposes, by deed recorded in Book 4530, page 152 of Deeds, Records of said County, said point is distant northwesterly along said southwesterly line, 2519.37 feet from its intersection with the southwesterly prolongation of the northwesterly line of Montana Avenue, as per map of the City of Santa Monica, recorded in Book 39, pages 50 and 51, Miscellaneous Records of said County, said point of commencement also being the most easterly corner of Parcel 3 described in the deed from the Beach Club Holding Company to the Beach Club, recorded December 10, 1936 in Book 14556, Page 343 of Official Records of said County; thence southwesterly at right angles to said southwesterly line, along the southeasterly line of said Parcel 3, 190 feet to the line described as "1921 Mean High Tide Line Retraced 1978", as shown on that Record of Survey filed January 3, 1980, in Book 90 of Records of Surveys, page 39, records of said county; thence along said 1921 mean high tide line, N 58° 26' 22" W 405.33 feet, more or less, to the intersection with the northwest city limit of the City of Santa Monica as described in Volume 5, page 150 of Minutes of the Board of Trustees of the City of Santa Monica and the POINT OF BEGINNING of this description; thence continuing along said 1921 mean high tide line and the ordinary high water mark S 58° 26' 22" E, 48.83 feet to Monument No. 1; thence S 58° 26' 22" E, 500.13 feet to Monument No. 2; thence S 58° 26' 22" E, 448.06 feet to a point that bears N 31° 33' 38" E, 10.00 feet from Monument No. 3; thence along a tangent curve concaved to the southwest, having a radius of 5488.10 feet, through a central angle of 11° 47' 45", an arc length of 1129.87 feet; thence S 46° 38' 37" E, 1385.65 feet to Monument No. 7; thence S 47° 30' 09" E, 498.31 feet to Monument No. 8; thence S 45° 48' 34" E, 485.83 feet to Monument No. 9; thence S 45° 49' 39" E, 400.99 feet to Monument No. 10; thence S 44° 04' 35" E, 64.22 feet; thence leaving said 1921 Mean High Tide Line Retraced 1978, N 45° 43' 33" E, 78.78 feet to the southwesterly corner of The Promenade at its northwest end; said point also bears S 45° 43' 33" W, 10.00 feet from a tack in lead in the centerline of The Promenade; thence continuing along the agreed ordinary high water mark 10.00 feet seaward and parallel with the following described centerline of The Promenade the following courses on those certain maps entitled "1975 Adjustment" Nos. 3403B, 3403A, 3402B, 3402A and 3401B on file in the City of Santa Monica City Engineers Office, S 44° 16' 27" E, 757.59 feet to a tack in lead; thence S 44° 40' 55" E, 341.43 feet to a tack in lead; thence S 53° 52' 30" E, 101.22 feet to a tack in lead; thence S 42° 26' 18" E, 1197.27 feet to a spike; thence S 41° 48' 38" E, 1041.38 feet to a tack in lead in the intersection of The Promenade and Colorado Avenue; thence N 45° 50' 45" E, 3.79 feet to a tack in lead in the intersection of The Promenade and Colorado Avenue; thence S 41° 03' 35" E, 1907.65 feet to a manhole ring; thence S 37° 41' 33" E, 35.47 feet to a spike in the intersection of The Promenade and Pico Boulevard; thence S 37° 41' 33" E, 374.06 feet to a spike in the intersection of The Promenade and Bay Street; thence S 39° 25' 20" E, 1210.04 feet to a tack in lead; thence S 38° 05' 31" E, 134.69 feet to a spike in the intersection of The Promenade and Hollister Avenue; S 38° 05' 31" E, 25.00 feet to a spike; thence S 38° 03' 48" E, 249.91 feet to a spike 20.00 feet southerly of the centerline of Wadsworth Avenue; thence S 39° 55' 51" E, 127.20 feet to a spike 114.04 feet northerly of the centerline of Hart Avenue; S 38° 02' 46" E, 800.59 feet to a spike in the intersection of The Promenade and Grand Avenue; thence S 38° 08' 31" E, 820.49 feet to a spike 20.02 feet southerly of the centerline of Raymond Avenue; thence S 39° 39' 06" E, 725.92 feet to a spike in the intersection of The Promenade and

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Pier Avenue; thence S 39° 39' 06" E, 25.02 feet to a spike; thence S 36° 46' 35" E, 230.95 feet more or less to the southerly city limit of the City of Santa Monica as established by Ordinance No. 124838 of the City of Los Angeles, and by Resolution 2999 of the City of Santa Monica, and the end of the herein described line.

The Basis of Bearing for this description is that course N 88° 26' 22" W along the centerline of Palisades Beach Road between the northwest City Limit of the City of Santa Monica and point BB as shown on that certain map entitled "1975 Adjustment" No. 3504A on file in the City of Santa Monica City Engineer's Office.

**END OF DESCRIPTION**

**PREPARED JUNE, 1991 BY LLB  
W 24258**

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EXHIBIT 'B'  
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