

MINUTE ITEM

This Calendar Item No. C72
was approved as Minute Item
No. 72 by the State Land
Commission by a vote of 3
to 0 at its 7/6/95
meeting.

CALENDAR ITEM
C72

A 4
S 1

PRC 7843

W 25198

Hadly

Miller

07/06/95

RECIPROCAL ACCESS EASEMENT AGREEMENT
STATE AND KERNEGHAN/ANDREWS
EL DORADO COUNTY

APPLICANT:

Mark and Sandy Kerneghan
3939 Havenhurst Court
Placerville, California 95667

Charles and Norma Andrews
c/o 3939 Havenhurst Court
Placerville, California 95667

PROPOSED ACTION:

This matter involves a State indemnity selection parcel which is located in El Dorado County ["State Parcel" described in Exhibit "A" and depicted on Exhibit "B"]. The 20-acre State Parcel which was acquired from the federal government in 1971 lacks legal access. The landlocked State Parcel is situated between two privately-owned parcels which are depicted on Exhibit "B". The first ["Parcel #1"], a 20-acre unimproved parcel located immediately west of the State's parcel, belongs to Charles and Norma Andrews ["Andrews"]. The second ["Parcel #2"], a two-acre residential lot, is located on the northeast border of the State's parcel. It is improved with a private residence and belongs to Mark and Sandy Kerneghan ["Kerneghans"]. The Andrews had owned both Parcel # 1 and Parcel #2 until recently when they sold Parcel #1 to the Kerneghans. Parcel #1 [the 20-acre parcel] in which the Andrews retained ownership is also without legal access. An old existing mining road runs across the northern portion of the State's parcel to Andrews' Parcel #1. The Andrews had assumed that they had legal access to Parcel #1 by way of the old existing mining road which is described in the deed of their predecessors in title. Their predecessors apparently also assumed that they held a right-of-way for access.

Reciprocal road easements giving both the Andrews and the State legal access to their respective parcels would be of great benefit to both parties, but particularly the State by making its 20-acre parcel marketable. The State Parcel is timbered but its timber may not be of commercial value. It could, however, be split into two ten-acre parcels which could in turn be sold as residential lots. Legal access would greatly enhance the value of the State parcel.

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Pursuant to the parties' agreement, the State would receive a non-exclusive 50-foot wide easement running: (1) from the nearest public highway [ie. Newtown Road] across the private subdivision road [Havenhurst Court] to the Kerneghans' two-acre residential lot [Parcel #2]; and then (2) from Havenhurst Court across the westerly boundary of such parcel [Parcel #2] to the State Parcel. Regarding the first leg of the State's easement which would overlay Havenhurst Court, the Kerneghans and/or Andrews will be required to secure the permission of the other private lot owners fronting Havenhurst Court for the additional burdening of the existing easement caused by granting the State an access easement. In return for the granting of an access easement to the State for its 20-acre parcel [State Parcel], the Andrews will receive: (1) a non exclusive 50-foot wide easement from the State, running across the northerly border of the State's parcel to their parcel [Parcel #1]; and (2), from the Kerneghans, an easement across Parcel #2 and Havenhurst Court to the public road [Newtown Road]. Pursuant to the subject agreement, the State will receive title insurance from Fidelity National Title Company insuring its right of access to the State parcel. The cost of such title insurance shall be borne by the private parties.

A Reciprocal Access Easement Agreement between the State and the Kerneghans and Andrews can be entered into pursuant to P.R.C. Sections 8700 [School Lands Bank Act], 7303.5 and 6210.9.

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [14 Cal. Code Regs. 15061], the staff has determined that this activity is exempt from the requirements of CEQA because the activity is not a project as defined by CEQA and the State CEQA Guidelines [P.R.C. 21065 and Cal. Code Regs. 15378].

STATUTORY AND REGULATORY AUTHORITY:

- A. P.R.C.: Div. 6, Parts 1 & 3; Div. 7.7; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6

AB 884:

N/A

EXHIBITS:

- A. Land Description
- B. Location and Site Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND CAL. CODE REGS. 15278.
2. FIND THAT STATE'S ACQUISITION OF AN ACCESS EASEMENT ACROSS KERNEGHAN'S PRIVATELY-OWNED LOT [PARCEL #2] AND AN APPURTENANT EASEMENT TO THE STATE'S PARCEL [EXHIBIT "A"] BY WAY OF A RECIPROCAL ACCESS EASEMENT AGREEMENT IS NECESSARY TO PROVIDE LEGAL ACCESS TO SUCH STATE PARCEL [P.R.C. 6210.9].
3. FIND THAT THE PROPOSED RECIPROCAL EXCHANGE OF ACCESS EASEMENTS BETWEEN THE STATE AND KERNEGHANS AND ANDREWS IS IN THE BEST INTEREST OF THE STATE AND THAT THE VALUE OF THE EASEMENT ACQUIRED BY THE STATE PURSUANT TO SUCH EXCHANGE IS OF GREATER OR EQUAL VALUE TO THAT OF THE EASEMENT CONVEYED TO THE PRIVATE PARTIES [P.R.C. 7303.5]
4. AUTHORIZE STAFF TO ENTER INTO A RECIPROCAL ACCESS EASEMENT AGREEMENT WITH KERNEGHANS AND ANDREWS AND TO TAKE ALL ADDITIONAL NECESSARY STEPS TO SECURE LEGAL ACCESS TO THE STATE PARCEL.

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EXHIBIT "A"
(STATE PARCEL)

W25198

The East one half of the Southwest one quarter of the Southeast one quarter of Section 20, Township 10 North, Range 12 East, Mount Diablo Base and Meridian.

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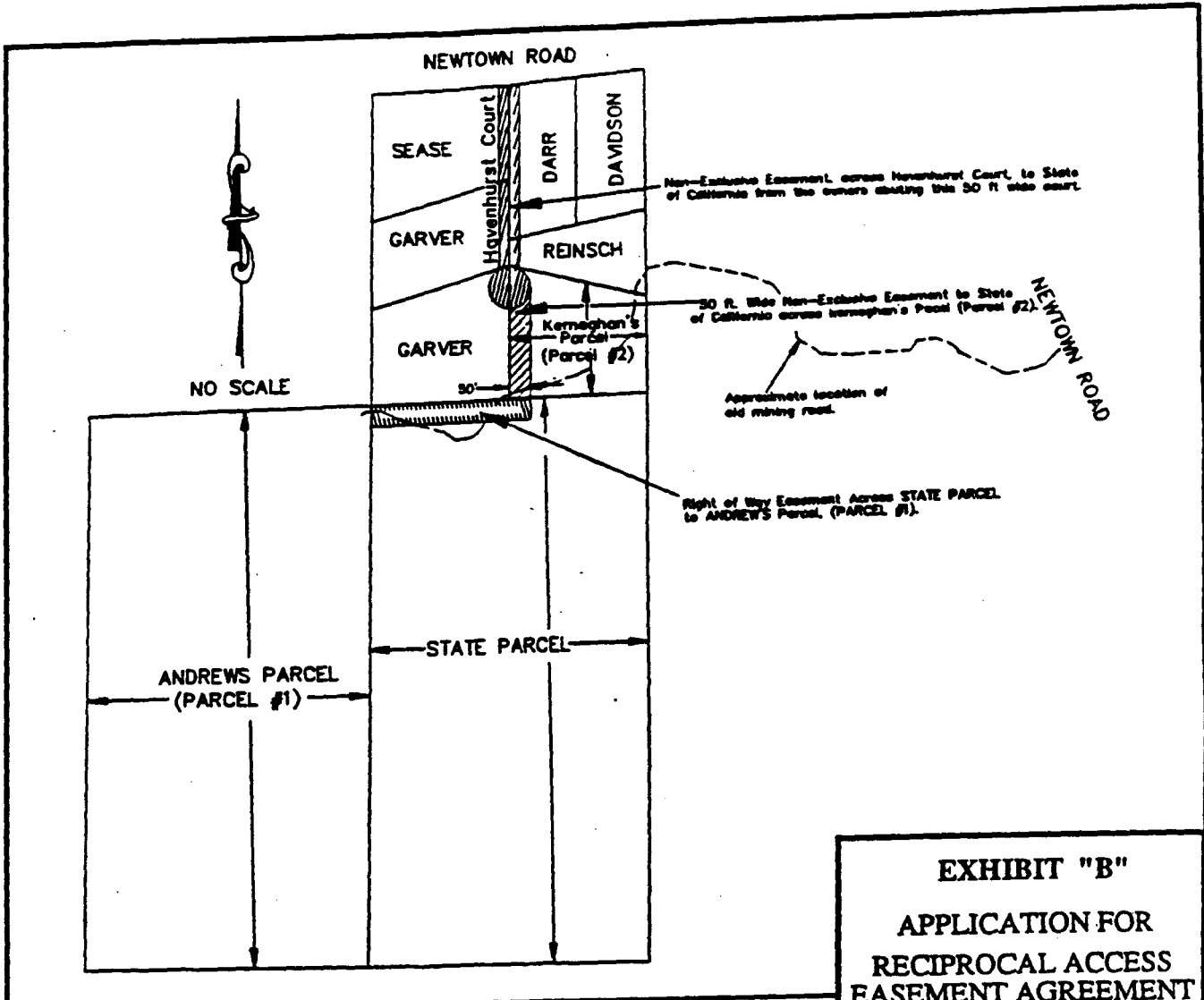
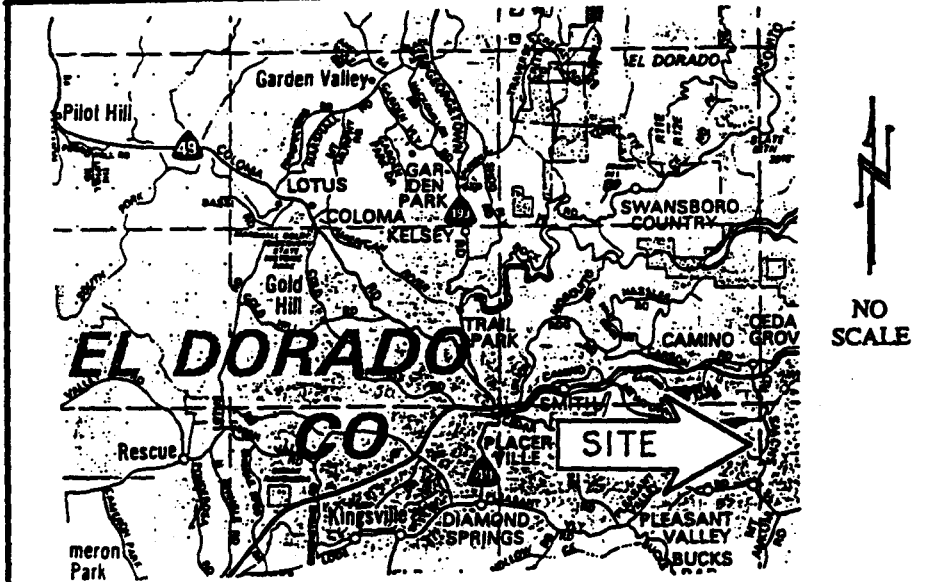


EXHIBIT "B"

**APPLICATION FOR
RECIPROCAL ACCESS
EASEMENT AGREEMENT
STATE OF CALIF.
AND
KERNEGHAN/
ANDREWS
W25198
NEWTOWN
EL DORADO COUNTY**



This Exhibit is solely for purposes of generally defining the lease premises, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

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