

MINUTE ITEM

This Calendar Item No. C72 was approved as Minute Item No. 72 by the California State Lands Commission by a vote of 3 to 0 at its 5/12/97 meeting.

**CALENDAR ITEM
C72**

A 44
S 22

05/12/97
W 24665
C. Fossum
F. Sledd
F. Carey
J. Kato

**CONSIDER ACCEPTANCE OF OFFERS OF DEDICATION
OF LATERAL ACCESS EASEMENTS**

PARTIES WHICH HAVE DEDICATED EASEMENTS:

Steven N. Brouman
Ned Brown and Myra Brown, Trustee
John W. Carson and Joanna Carson
Gordon M. Sumner
Steven C. Gordon and Sandra D. Gordon
Sidney Dinow, Cheryl Dinow, Lewis Maler

PARTY TO ACCEPT EASEMENTS:

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

INTERESTED PARTIES:

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

California Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, California 94612-2530

Since the adoption of the Constitution of California of 1879, access to California's public trust waterways has been a mandated responsibility of state government. The vast majority of the hundreds of title settlement agreements the State Lands Commission has been involved in since its inception of 1938 have included provision of public access to the waterways involved.

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In the 1960's, an organization with the acronym COAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, over 1200 offers to dedicate (OTDs) public access easements, both vertical or lateral (to or along) the coast, have been made involving California's 1100-mile coastline.

These OTDs were formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. Nearly 1000 of these OTDs remain unaccepted. Most of these offers have a 21 year life, so that they will expire if not formally accepted by a public agency within that time period.

The OTDs were required to ensure protection of existing public rights of use as well as to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately owned uplands and the publicly owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the dedications does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The State Lands Commission has been requested by the Coastal Commission to review and, where appropriate, accept offers of dedication of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the State Lands Commission. Staff of the Commission is involved in an ongoing process with the Coastal Conservancy and the Coastal Commission to analyze the OTDs to determine which offers the State Lands Commission should accept. The State Lands Commission has already authorized the acceptance of 82 OTDs in the Malibu area of Los Angeles County where over 40% of the OTDs exist. These approvals involved acceptance of eight OTDs by Minute Item 27 on April 2, 1991; 15 by Minute Item 2 on July 31, 1992; 11 by Minute Item 22 on September 9, 1993; 13 by Minute Item 63 on May 9, 1996; 15 by Minute Item 72 on August 21, 1996; 12 by Minute Item 48 on October 28, 1996; and eight by Minute Item 74 on February 12, 1997.

CALENDAR ITEM NO. C72 (CONT'D)

The Commission's liability for holding these lateral parcels is limited by Section 831.2 of the Government Code which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

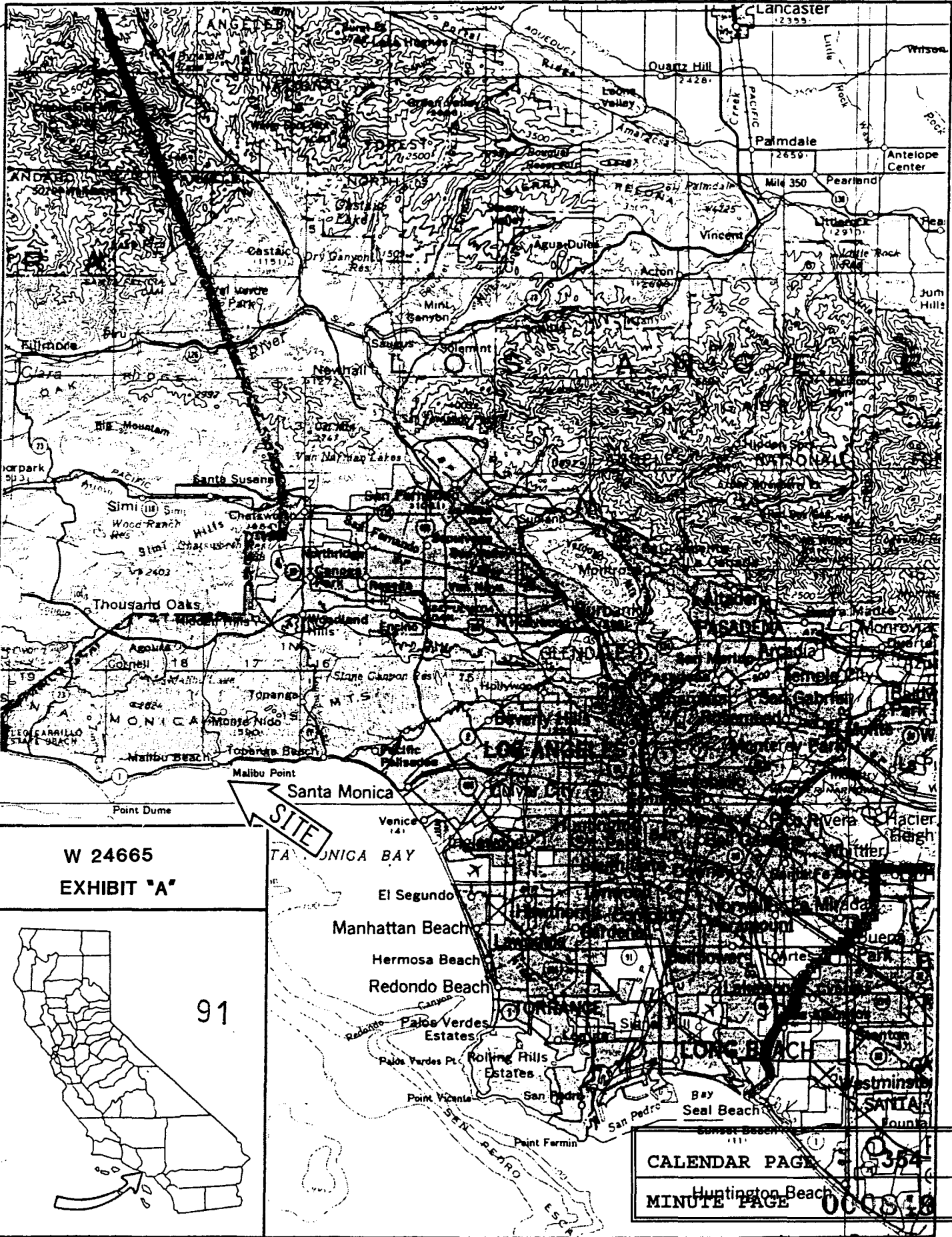
The OTDs involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already state owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are for all practical public use purposes integral to it. Staff has reviewed each of the offers and the properties as described on the attached Exhibit "B" and recommends them as appropriate for Commission acceptance.

EXHIBITS:

- A. Location Map
- B. List of Dedications

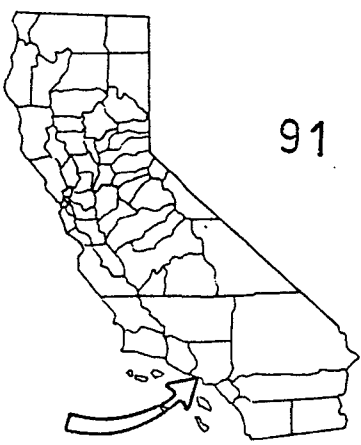
IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. ACCEPT THE OFFER(S) TO DEDICATE PUBLIC ACCESS AND RECREATIONAL USE EASEMENT(S) LISTED ON THE ATTACHED EXHIBIT "B".



W 24665
EXHIBIT "A"

SITE



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EXHIBIT "B"

<u>ADDRESS</u>	<u>OWNER AT TIME OF OFFER</u>	<u>CURRENT OWNER</u>	<u>ASSESSOR PARCEL #</u>
21424 Pacific Coast Hwy.	Steven N. Brouman	Steven N. Brouman 427 Lincoln Boulevard Santa Monica, CA 90402-1935	4451-002-027
21640 Pacific Coast Hwy.	Ned Brown and Myra Brown, Trustees of the Ned and Myra Brown 1984 Trust dated 12/5/1984	Scott Siegler 21640 Pacific Coast Hwy. Malibu, CA 90265-5209	4451-003-024
22240 Pacific Coast Hwy.	John W. Carson and Joanna Carson	Joseph E. Esformes and Kathryn S. Esformes P.O. Box 866 Palmetto, FL 34220-0866	4451-006-016
23544 Malibu Colony Road	Gordon M. Sumner	Gordon M. Sumner 1140 Avenue of the Americas #18 New York, NY 10036-5803	4458-004-043
23562 Malibu Colony Road	Steven C. Gordon and Sandra D. Gordon	Eric Roth and Debra G. Roth 1888 Century Park E. #910 Los Angeles, CA 90067-1713	4458-004-048

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ADDRESS

OWNER AT
TIME OF OFFER

CURRENT OWNER

ASSESSOR PARCEL #

25370 Malibu Road

Sidney Dinow, Cheryl Dinow,
Lewis Maler

Donald M. Cislo and
Sharon A. Cislo
25370 Malibu Road
Malibu, CA 90265-4624

4459-017-030

Michael R. Glickman
3415 Red Rose Drive
Encino, CA 91436-4213

4459-017-031

Drake D. Hogestyn and
Victoria A. Hogestyn
3625 Serra Road
Malibu, CA 90265-4916

4459-017-032

Ben Kimbrough
25372 ½ Malibu Road
Malibu, CA 90265-4624

4459-017-033

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