

MINUTE ITEM

This Calendar Item No. C96 was approved as Minute Item No. 96 by the California State Lands Commission by a vote of 3 to 0 at its 4-24-01 meeting.

**CALENDAR ITEM
C96**

A 70
S 35

AD 393

04/24/2001
W 503. 1866
C. Fossum
S. Greene
M. Crow

CONSIDER REQUEST FOR AUTHORIZATION TO FILE A SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF JUDGMENT IN UNITED STATES OF AMERICA VS. 8.07 ACRES OF LAND, MORE OR LESS, SITUATE IN ORANGE COUNTY, STATE OF CALIFORNIA AND SIGNAL LANDMARK, INC., A CALIFORNIA CORPORATION, ET AL. USDC, Central District, Civil No. SA-CV-98-74AHS (ANX)

The State of California is a party defendant in the subject condemnation action brought by the United States on behalf of the Army Corps of Engineers. The property involved includes lands lying in the historic and present bed of the Santa Ana River. This portion of the river has been cut off from its historic connection with Newport Bay and is connected to the Santa Ana Flood Control Channel by a tidegate. The condemnation action is being taken to satisfy mitigation requirements for wetlands restoration and protection to compensate for impacts caused by the Santa Ana Mainstem Flood Control Project. Specifically, the project includes creation of environmentally sensitive habitat for the endangered California Least Tern.

The property is a navigable, tidal slough, known locally as Oxbow Loop. A portion of the property is within the city limits of Newport Beach, and is owned in trust by the City of Newport Beach pursuant Chapter 74, Statutes of 1978. The northerly boundaries of Oxbow Loop were established in 1989 by BLA 260.

This is a companion case to Calendar Item 95 which precedes this item. It is also similar to action taken by the Commission on June 6, 1992 by Minute Item 37 which authorized a settlement agreement involving a tributary slough of the Santa Ana River.

The proposed Settlement Agreement and Stipulation for Entry of Judgment in this case will award just compensation of \$363,000 to defendants State, City of Newport Beach, and Signal Landmark, Inc. as follows: City (\$268,620 or 74%); State (\$54,450 or 15%); and Signal Landmark (\$39,930 or 11%). Signal Landmark's property interest is within the condemnation area but involves lands above the mean high tide line of Oxbow Slough. The agreement provides that the State and City's public trust easement shall be subject to the right of the United States to operate and maintain the Santa Ana Mainstem Project, including the marsh restoration project taking place on the subject

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CALENDAR ITEM NO. C96 (CONT'D)

property. This right in the United States shall terminate at such time as it is no longer needed or the property is transferred to a third party.

Exhibit:

A. Site Map

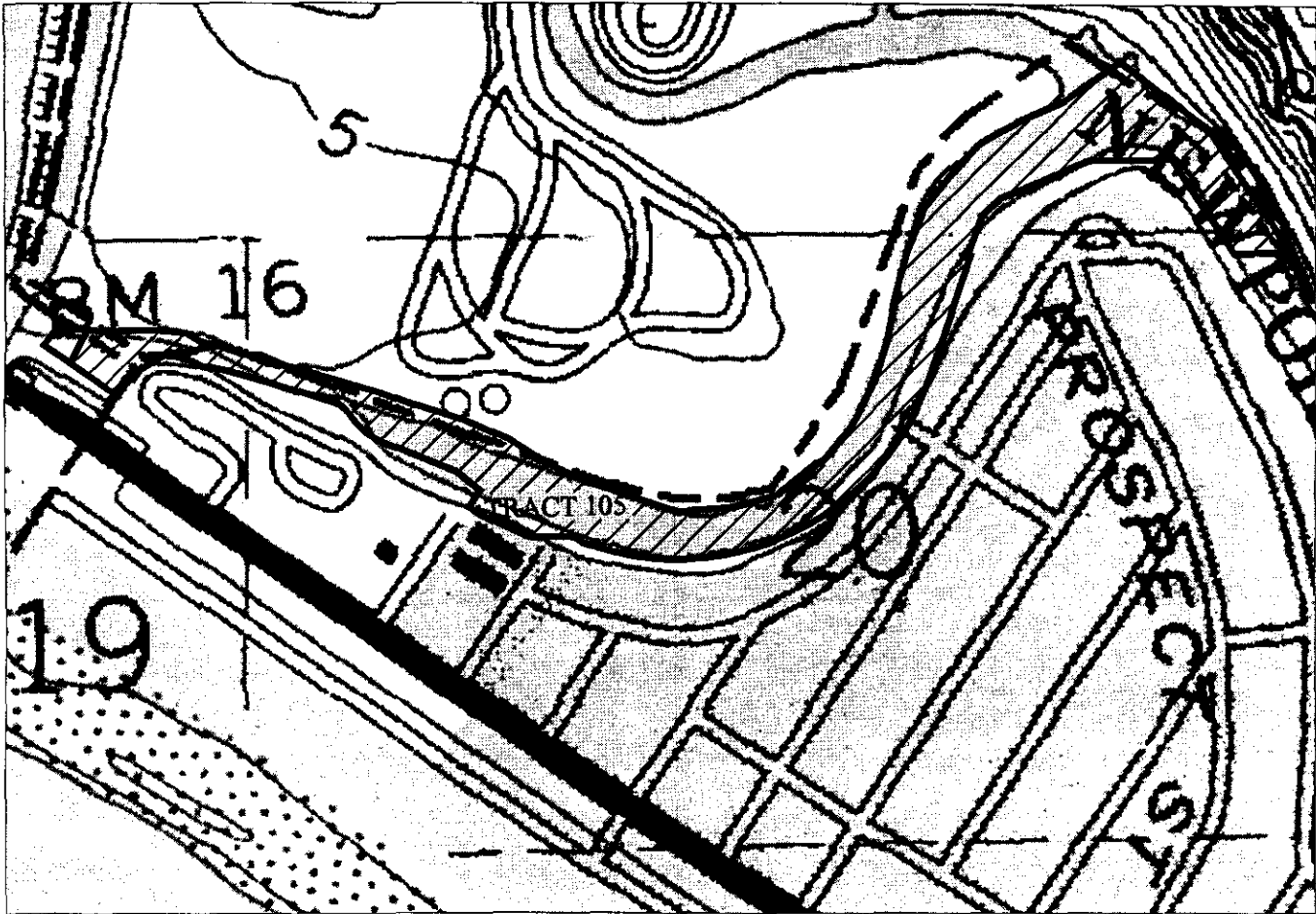
IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 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. AUTHORIZE THE STAFF AND / OR THE ATTORNEY GENERAL TO EXECUTE AND FILE THE SETTLEMENT AGREEMENT AND STIPULATION, SUBSTANTIALLY IN THE FORM OF THAT ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, AND TO TAKE ANY AND ALL OTHER ACTIONS NECESSARY TO EFFECTUATE THE AGREEMENT.

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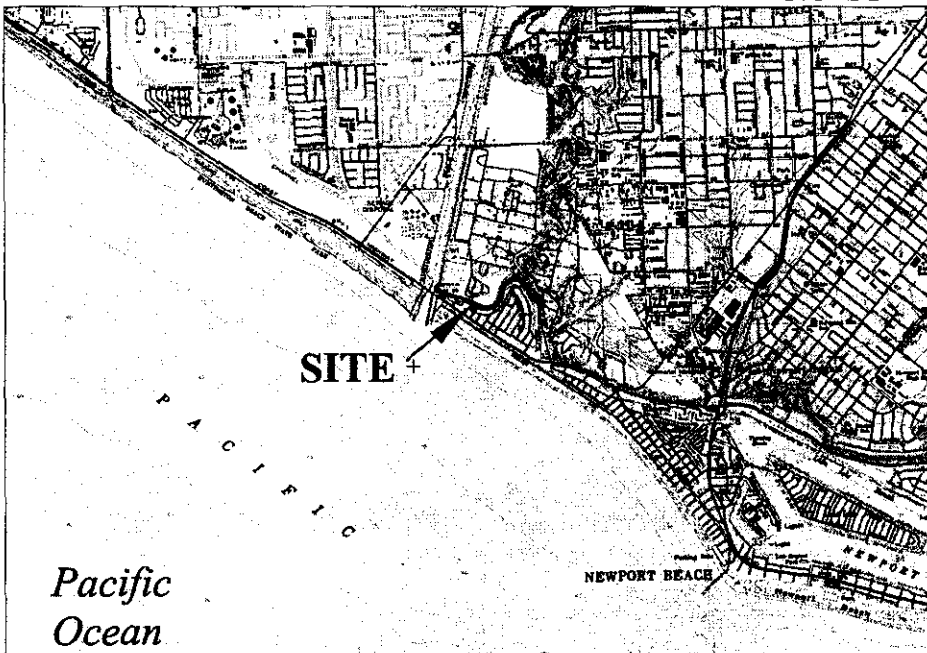
NO SCALE

SITE MAP



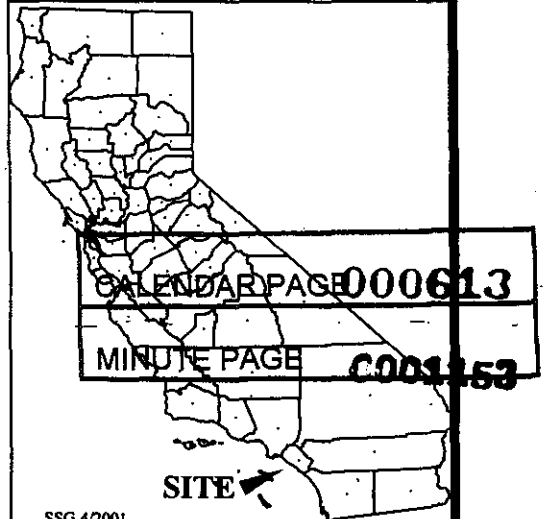
U.S. Tract 105 (Hatched), Santa Ana River Condemnation

LOCATION MAP NO SCALE



Pacific Ocean

Exhibit A
 503.1866
 U.S. v. 8.07 Acres
 City of Newport Beach
 Santa Ana River
 ORANGE 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.