

22. AUTHORIZATION FOR EXECUTION OF AN AGREEMENT WITH CITY OF PORT HUENEME, OXNARD-SANTA CLARA LEMON ASSOCIATION, LEISURE-TIME LOVERS, A LIMITED PARTNERSHIP, OR ITS SUCCESSOR IN INTEREST, AND OTHER AFFECTED PARTIES TO ESTABLISH THE BOUNDARY OF OWNERSHIP ALONG A PORTION OF THE SHORE OF THE SANTA BARBARA CHANNEL AT PORT HUENEME, VENTURA COUNTY; AUTHORIZATION TO TERMINATE EXISTING PIER PERMIT PRC 3844.9, BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF PORT HUENEME; AUTHORIZATION TO ISSUE A NEW PIER PERMIT TO THE CITY OF PORT HUENEME - S 20253, PRC 4661.9; BLA 129.

After consideration of Calendar Item 21 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. AUTHORIZES THE EXECUTION OF AN AGREEMENT BY THE STATE, THE CITY OF PORT HUENEME, OXNARD-SANTA CLARA LEMON ASSOCIATION, AND LEISURE-TIME LOVERS, A LIMITED PARTNERSHIP OR ITS SUCCESSOR IN INTEREST, TO ESTABLISH THE BOUNDARY OF OWNERSHIP ALONG A PORTION OF THE SHORE OF THE SANTA BARBARA CHANNEL AT PORT HUENEME, AS DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, AND DEFINING THE NATURE AND EXTENT OF CERTAIN IMPLIED DEDICATION RIGHTS LANDWARD THEREOF AS DESCRIBED IN BLA 129 ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
2. AUTHORIZES TERMINATION OF EXISTING PRC 3844.9 BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF PORT HUENEME.
3. AUTHORIZES ISSUANCE OF A NEW PERMIT FROM THE STATE TO THE CITY OF PORT HUENEME AS PART OF THE BOUNDARY LINE AGREEMENT.
4. AUTHORIZES THE DIVISION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT SAID BOUNDARY AGREEMENT.

Attachment:

Calendar Item 21 (3 pages)

CALENDAR ITEM

4/72
NB

21.

W 20253

AGREEMENT WITH CITY OF PORT HUENEME, OXNARD-SANTA CLARA LEMON ASSOCIATION, LEISURE-TIME LOVERS, A LIMITED PARTNERSHIP, OR ITS SUCCESSOR IN INTEREST, AND OTHER AFFECTED PARTIES

The City of Port Hueneme, Oxnard-Santa Clara Lemon Association, and Leisure-Time Lovers, a limited partnership, have requested the State Lands Commission to enter into an agreement establishing the boundary line of ownership along 4,532 feet of the shore of Santa Barbara Channel at Port Hueneme, defining certain implied dedication public easements landward of said boundary line and providing for the issuance of a permit of certain State lands waterward of said line to the City.

This agreement is important to the City of Port Hueneme because it assists in the completion of a 50-acre city beach park, a facility of significant State-wide benefit, and allows commencement of new upland projects planned for immediate development. This will also allow a northwesterly extension of Surfside Drive to serve as additional beach parking. For the past several years, the City of Port Hueneme has been acquiring property and constructing a 50-acre public beach park in the area affected by the proposed agreement. Without an agreement as to the location of the ordinary high water mark which is the common boundary between the uplands abutting State lands, the City cannot obtain title reports showing clear title to upland parcels it has acquired. Such title reports are necessary for the City to be reimbursed from State funds appropriated to this project. The City is willing to agree to the location of the ordinary high water mark set forth in the agreement, provided the State Lands Commission issues a permit to the City of a sufficient area of State land waterward of the agreed boundary to be used for said park in order to have sufficient acreage to enable State and Federal funding for the public park. (An existing permit to the City for a pier within the affected area will be terminated by this transaction and the existing permit area added to the description of the new permit to be issued.)

The portion of the beach involved in this transaction has been subjected to severe erosion following the construction of the Port Hueneme harbor jetties in 1939. The maximum extent of this erosion was reached in 1959. Numerous attempts to halt the erosion by public and private individuals were unsuccessful until about 1962 when the United States Army Corps of Engineers placed massive amounts of fill on the subject beach. As a result of this and subsequent fill operations, the present mean high tide line is waterward of the 1939 position. Erosion is continuing, and the present beach is maintained by periodic placement of additional fill by the Corps of Engineers.

The Division surveyed and mapped the mean high tide line of 1939 just prior to the construction of the jetties. This map was approved by the Commission and recorded in 1964. Based on the staff's study, it would appear that the mean high tide line as surveyed by the Division in 1939 is a reasonable

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location of the ordinary high water mark as it last existed in a natural state along the affected area, said last natural position constituting the common boundary of the State lands and abutting upland property. Because of the eroding nature of the beach, the proposed agreement provides that if at any subsequent time the area landward of the agreed line is located waterward of the then existing high water mark, said area shall be subject to an easement for purposes of commerce, navigation and fisheries.

The agreement also provides that a substantial portion of the lands located between the agreed boundary and the 1959 ordinary high water mark are subject to an implied dedication easement based upon long continued public use of that area. This easement cannot be terminated without agreement by the State. Based upon a review of historical evidence, the agreement provides that two parcels of property landward of the easement area are not encumbered by said easement.

The City of Port Hueneme has executed and delivered to the Division an indemnification agreement wherein the City agrees to indemnify and hold harmless the State against loss or damage sustained by any future new claimants to interest in the uplands. In addition, First American Title Insurance Company of Santa Ana has provided the Commission with a \$50,000 policy of title insurance.

No environmental impact report is required, pursuant to provisions of Public Resources Code Section 6371. The Office of the Attorney General has approved the proposed agreement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTION OF AN AGREEMENT BY THE STATE, THE CITY OF PORT HUENEME, OXNARD-SANTA CLARA LEMON ASSOCIATION, AND LEISURE-TIME LOVERS, A LIMITED PARTNERSHIP OR ITS SUCCESSOR IN INTEREST, TO ESTABLISH THE BOUNDARY OF OWNERSHIP ALONG A PORTION OF THE SHORE OF THE SANTA BARBARA CHANNEL AT PORT HUENEME, AS DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, AND DEFINING THE NATURE AND EXTENT OF CERTAIN IMPLIED DEDICATION RIGHTS LANDWARD THEREOF AS DESCRIBED IN BLA 129 ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.
2. AUTHORIZE TERMINATION OF EXISTING PRC 3844.9 BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF PORT HUENEME.
3. AUTHORIZE ISSUANCE OF A NEW PERMIT FROM THE STATE TO THE CITY OF PORT HUENEME AS PART OF THE BOUNDARY LINE AGREEMENT.
4. AUTHORIZE THE DIVISION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT SAID BOUNDARY AGREEMENT.

Attachment: Exhibit "A"

EXHIBIT "A"

W 20253

Legal description of a portion of the Ordinary High Water Mark as delineated on that certain map filed in Book 28, page 76, of Record of Surveys in the office of the County Recorder of the County of Ventura, along the shore of the Santa Barbara Channel in the vicinity of the City of Port Hueneme, County of Ventura, State of California, more particularly described as follows:

BEGINNING at the intersection of said Ordinary High Water Mark with the southwesterly prolongation of the northwesterly line of Pacific Avenue as shown on the map of the Re-Plat of a Portion of Ormond Beach Tract No. 2 as recorded in Book 16, page 53, of Maps in the office of said County Recorder, also being distant along said Ordinary High Water Mark S. 51° 32' 43" E., 204.40 feet from Station 21 as shown on said map recorded in Book 28, page 76, of Record of Surveys; thence along said Ordinary High Water Mark, the following thirteen courses:

- 1st.: N. 51° 32' 43" W., 204.40 feet; thence,
- 2nd.: N. 53° 19' 41" W., 405.20 feet; thence,
- 3rd.: N. 54° 37' 48" W., 397.34 feet; thence,
- 4th.: N. 59° 00' 39" W., 1159.50 feet; thence,
- 5th.: N. 66° 54' 11" W., 147.85 feet; thence,
- 6th.: N. 60° 52' 22" W., 230.10 feet; thence,
- 7th.: N. 52° 11' 50" W., 208.83 feet; thence,
- 8th.: N. 63° 59' 15" W., 139.09 feet; thence,
- 9th.: N. 60° 26' 35" W., 454.09 feet; thence,
- 10th.: N. 85° 10' 10" W., 356.26 feet; thence,
- 11th.: S. 88° 52' 46" W., 409.08 feet; thence,
- 12th.: N. 60° 23' 07" W., 218.55 feet; thence,
- 13th.: N. 70° 08' 12" W., 201.87 feet to the intersection

of the southerly prolongation of the 12th course of that certain parcel of land described in the deed to Oxnard Citrus Association recorded in Book 1072, page 408 of Official Records, Records of said County.