

MINUTE ITEM

This Calendar Item No. 29 was approved as Minute Item No. 29 by the State Lands Commission by a vote of 2 to 0 at its 7-24-80 meeting.

CALENDAR ITEM

29.

7/80
W 22467
SLL 66
Stevenson
Sinclair
Louie
PRC 5872

EXCHANGE AGREEMENT AND PUBLIC AGENCY LEASE
WITH VENTURA PORT DISTRICT,
VENTURA COUNTY (SLL 66)

SUMMARY OF TITLE DISPUTE:

A title dispute exists between the Ventura Port District (District) and the State of California in its sovereign capacity (State) as to a parcel of land (subject parcel) within the Ventura Harbor, City of San Buenaventura, Ventura County. The subject parcel is comprised of approximately 9.77 acres of presently water-covered land and approximately 6.68 acres of filled land, both of which are depicted in their approximate locations on the attached Exhibit A.

The District claims the subject parcel as a successor in interest of the patent to Rancho San Miguel to Raymundo Olivas and Felipe Lorenzana. The District contends that it now holds title to the subject parcel free and clear of any right, title, or interest of the State.

The staff of the State Lands Commission has conducted a study of the evidence of title to the subject parcel and has drawn a number of evidentiary conclusions, among which are the following:

1. The subject parcel is located within the perimeter description of Rancho San Miguel and within the present day Ventura Harbor;
2. That, in a natural state, the subject parcel was part of an embayment of the Santa Clara River which was covered, at least in part, by the ordinary tides, the precise extent of tidal action being uncertain;
3. That appromately 6.68 acres of the total area of the subject parcel has been filled and is now cut off from tidal waters.
4. That the presently unfilled portion of the subject parcel is part of the waterway of the Ventura Harbor and comprises approximately 9.77 acres.

A 36

S 18

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The staff of the State Lands Commission is of the opinion that the title evidence and applicable legal principles lead to the conclusion that the State, in its sovereign capacity, is the owner of a public trust interest in the subject parcel, the exact extent of which is subject to uncertainty and dispute. The staff is also of the opinion that the approximately 6.68 acres of filled land within the subject parcel is the only presently filled land within the Ventura Harbor (as it is described in the Exchange Agreement) which in its last natural condition was subject to the ebb and flow of the ordinary tides.

PROPOSED SETTLEMENT:

The District has proposed to settle its title dispute with the State by entering an Exchange Agreement and an accompanying Lease in a separate document. The Exchange Agreement calls for the State to quitclaim its interest in all presently filled areas within the Harbor although, as discussed above, the State's claim to presently filled areas is limited to the approximately 6.68 acres within the subject parcel. The reason for quitclaiming beyond the area of State claim is to completely settle the District's title to filled lands within the Harbor before the District begins new extensive development plans. The actual exchange of value is predicated upon the State relinquishing its interest in the 6.68 acres within the subject parcel for 12.87 acres of land as described below. The lease will be of all State right, title, and interest in the present waterway of the Harbor within the subject parcel. The staff of the State Lands Commission recommends approval of the exchange and lease if substantially in the form of the Exchange Agreement and Lease, copies of which are now on file with the State Lands Commission and which are incorporated herein by this reference.

Although the Agreement as proposed sets forth all of the terms and conditions of the settlement, a brief summary of some of the principal terms and conditions is set forth below:

1. The District will quitclaim to the State all its right, title, and interest to the 12.87 acre parcel of beachfront property described in Exhibit B and depicted in Exhibits A and C, reserving therefrom a right to deposit dredge spoils and to construct a sand barrier along the east side of the parcel. This parcel will be conveyed to the State in its sovereign capacity as real property of the legal character of tide and submerged land held

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under the public trust for commerce, navigation, fisheries, and recreation.

2. The State will quitclaim all its right, title, and interest in all presently filled lands within the Harbor and will terminate the public trust upon the presently filled land within the subject parcel. The quitclaim will reserve public access rights as outlined in the Ventura Harbor Master Plan.
3. The District will provide a standard form of C.L.T.A. title insurance in an appropriate amount insuring the State's interest in the exchange parcel without cost to the State.
4. By a separate document, the State will issue a rent-free 66-year public agency lease for all presently water-covered areas within the subject parcel. The 66-year term is necessary to be consistent with the District's leasing policy and development plans.

The staff of the State Lands Commission has appraised the 12.87 acre parcel offered by the Ventura Port District in exchange and the evidence and legal issues bearing on the title dispute. The staff has concluded that the value of the exchange parcel is equal to or greater than the value of the State's interest in the approximately 6.68 acres of filled area in the subject parcel which is the only filled land the State claims within the Harbor.

- EXHIBITS:
- A. Subject Parcel Plat.
 - B. Exchange Parcel Description.
 - C. Exchange Parcel Plat.
 - D. Site Map.

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED EXCHANGE AGREEMENT (SLL 66) AND LEASE OF 66 YEARS ARE IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION; AID IN RECLAMATION; FOR FLOOD CONTROL PROTECTION; TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; FOR THE PROTECTION, PRESERVATION AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO AND PUBLIC USE THEREOF PURSUANT TO THE PUBLIC TRUST; THAT THEY WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATER INVOLVED; AND THAT THE REAL PROPERTY TO BE RECEIVED BY THE STATE

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IS OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE STATE'S INTEREST IN THE LAND TO BE RELINQUISHED BY THE STATE.

2. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE-STATE TITLES WITHIN THE SUBJECT PARCEL; THAT THE PROPOSED EXCHANGE AGREEMENT AND LEASE CONSTITUTE A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED; THAT IT IS IN LIEU OF THE COSTS, DELAYS AND UNCERTAINTIES OF TITLE LITIGATION; THAT IT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW INCLUDING SECTION 6307 OF THE PUBLIC RESOURCES CODE, AS WELL AS THE OTHER PROVISIONS OF DIVISION SIX THEREOF, AND IS CONSISTENT WITH THE STATE'S POWER TO RESOLVE AND SETTLE A CONTROVERSY IN LIEU OF LITIGATION; THAT UPON RECORDATION OF THE AGREEMENT AND CONSISTENT WITH THE TERMS THEREOF, THE APPROXIMATELY 6.68 ACRES OF FILLED LAND WITHIN THE SUBJECT PARCEL ARE FOUND TO HAVE BEEN IMPROVED, FILLED, AND RECLAIMED BY THE DISTRICT, AND HAVE BEEN THEREBY EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING, AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS, AND ARE FREED FROM THE PUBLIC TRUST FOR COMMERCE, NAVIGATION, FISHING, AND RECREATION.
3. FIND THAT BECAUSE THIS TRANSACTION IS IN SETTLEMENT OF A TITLE DISPUTE THE PROVISIONS OF CEQA ARE INAPPLICABLE.
4. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
 - A. THE EXCHANGE AGREEMENT IN SUBSTANTIALLY THE SAME FORM AS THE PROPOSED AGREEMENT ON FILE WITH THE COMMISSION;
 - B. A QUITCLAIM OF ALL RIGHT, TITLE, AND INTEREST OF THE STATE TO ALL LANDS WITHIN THE VENTURA HARBOR WHICH ARE PRESENTLY FILLED AS SPECIFIED IN THE EXCHANGE AGREEMENT;
 - C. A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF THE CONVEYANCE TO THE STATE OF ALL RIGHT, TITLE, AND INTEREST OF THE DISTRICT IN THE EXCHANGE PARCEL DESCRIBED IN EXHIBIT B AND DEPICTED IN EXHIBIT C, AS REAL PROPERTY OF THE LEGAL CHARACTER OF TIDELANDS

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AND SUBMERGED LANDS, OWNED BY THE STATE BY REASON OF ITS SOVEREIGNTY UNDER THE PUBLIC TRUST, EXCEPTING THEREFROM THE RIGHT TO DEPOSIT DREDGE SPOILS AND TO CONSTRUCT A SAND BARRIER AS PROVIDED IN THE EXCHANGE AGREEMENT;

- D. A RENT-FREE 66-YEAR PUBLIC AGENCY LEASE, IN CONSIDERATION OF STATE-WIDE USE AND PUBLIC BENEFIT, OF THE PRESENTLY WATER-COVERED AREAS WITHIN THE SUBJECT PARCEL IN SUBSTANTIALLY THE FORM OF THE COPY OF THE PROPOSED LEASE ON FILE WITH THE COMMISSION.
5. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION, AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING, BUT NOT LIMITED TO, THE EXECUTION, ACKNOWLEDGMENT AND RECORDATION OF DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, DEEDS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE AND CONSENTS TO RECORDATION, AND AMENDMENTS THEREOF AND SUCH OTHER DOCUMENTS AS MAY BE REASONABLE AND CONVENIENT TO CARRY OUT THE SAID EXCHANGE AGREEMENT AND LEASE; TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER THEREOF.

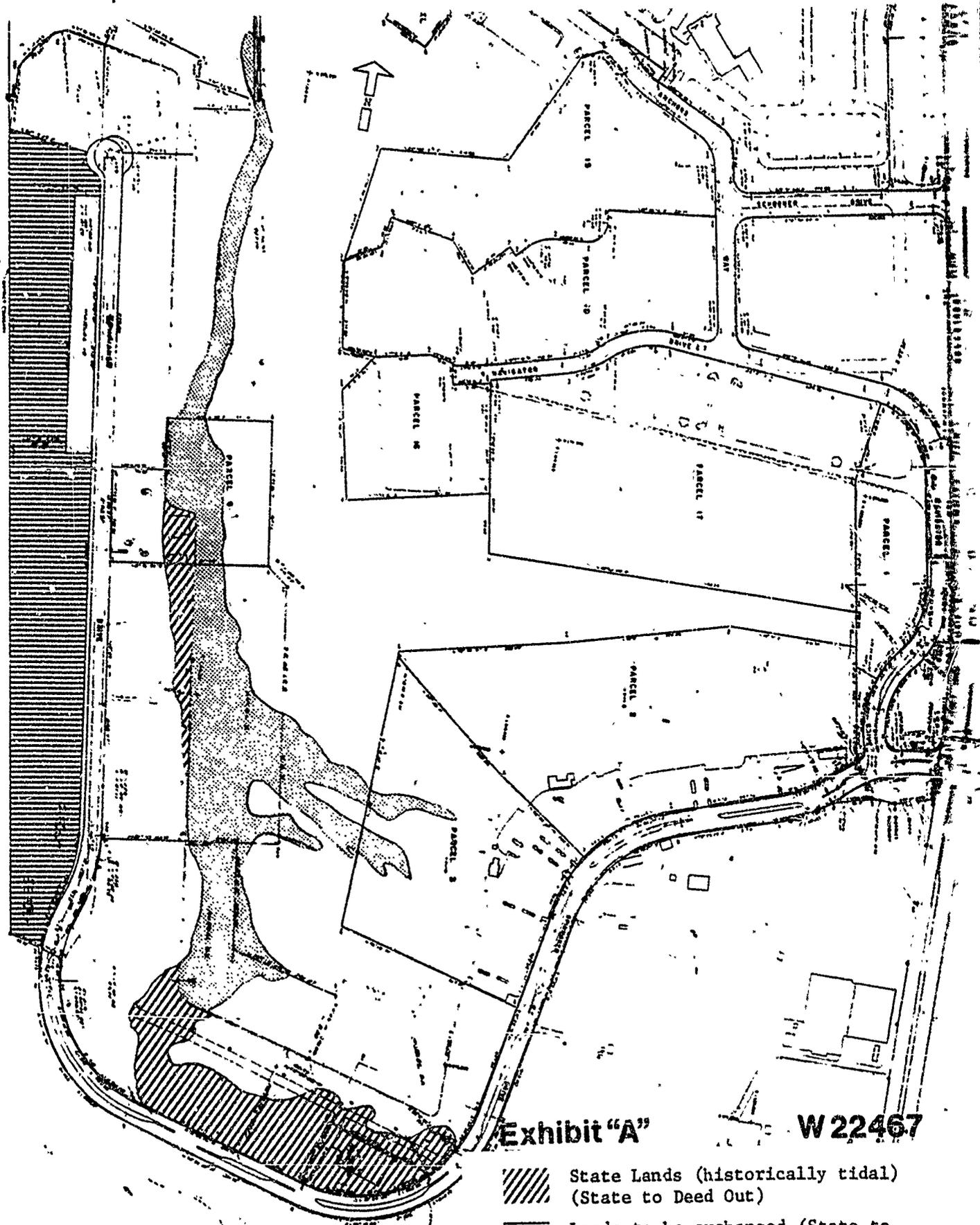


Exhibit "A"

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-  State Lands (historically tidal)
(State to Deed Out)
-  Lands to be exchanged (State to
acquire)
-  Historic Tidelands within Harbor
Waterway

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(Rev. 7/23/80)

EXHIBIT "B"
LEGAL DESCRIPTION

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THAT PORTION OF SUBDIVISION NO. 7 OF THE WEST ONE-HALF OF RANCHO SAN MIGUEL, IN THE CITY OF SAN BUENAVENTURA, COUNTY OF VENTURA, STATE OF CALIFORNIA PER MAP RECORDED IN BOOK 5 PAGE 42 OF MISCELLANEDDS RECORDS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY BOUNDARY LINE OF THE VENTURA PORT DISTRICT WITH THE WESTERLY LINE OF SPINNAKER DRIVE AS SHOWN ON PARCEL MAP FILED IN BOOK 30 PAGE 46, OF PARCEL MAPS, RECORD OF SAID COUNTY, SAID WESTERLY LINE OF SPINNAKER DRIVE BEING A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 485 FEET, A CENTRAL ANGLE OF $25^{\circ}57'52''$, AN ARC LENGTH OF 218.80 FEET, AND A RADIAL TO SAID POINT OF INTERSECTION BEARS NORTH $86^{\circ}39'17''$ WEST; THENCE NORTH $74^{\circ}56'20''$ WEST 111.76 FEET AND NORTH $10^{\circ}41'30''$ WEST 2542.20 FEET ALONG THE SOUTHWESTERLY AND WESTERLY BOUNDARY LINES OF THE VENTURA PORT DISTRICT; THENCE SOUTH $84^{\circ}15'36''$ EAST 259.97 FEET, TO A POINT IN THE WESTERLY LINE OF SPINNAKER DRIVE, LAST SAID WESTERLY LINE OF SPINNAKER DRIVE BEING A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 60 FEET, A CENTRAL ANGLE OF $240^{\circ}00'00''$, AN ARC LENGTH 251.33 FEET; A RADIAL TO SAID POINT BEARS NORTH $84^{\circ}15'36''$ WEST; THENCE SOUTHEASTERLY 77.97 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $74^{\circ}27'21''$ TO THE BEGINNING OF A REVERSING CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 40 FEET, A RADIAL TO SAID POINT BEARS NORTH $21^{\circ}16'54''$ EAST; THENCE SOUTHEASTERLY 41.89 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $60^{\circ}00'00''$ THENCE LEAVING SAID WESTERLY LINE OF SPINNAKER DRIVE AND RADIALLY TO LAST SAID CURVE SOUTH $81^{\circ}16'54''$ WEST 80.00 FEET; THENCE SOUTH $8^{\circ}43'06''$ EAST 815.00 FEET; THENCE NORTH $81^{\circ}16'54''$ EAST 80.00 FEET TO SAID WESTERLY LINE OF SPINNAKER DRIVE; 70.00 FEET WIDE; THENCE SOUTH $8^{\circ}43'06''$ EAST 1239.37 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY HAVING A RADIUS OF 415.00 FEET; THENCE SOUTHWESTERLY 172.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $23^{\circ}52'28''$; THENCE ALONG A TANGENT LINE SOUTH $15^{\circ}09'22''$ WEST 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 485.00 FEET; THENCE SOUTHWESTERLY 116.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $13^{\circ}48'39''$ TO THE POINT OF BEGINNING.

AREA: 560579 SQUARE FEET
12.8691 ACRES

JENNINGS ENGINEERING COMPANY
JUNE 4, 1980
JN3554
LESS PCL 13
MG:jt

DESCRIPTION SUPPLIED BY OTHERS. REVIEWED BY TECHNICAL SERVICES UNIT JULY 16, 1980, ROY MINNICK, SUPERVISOR.

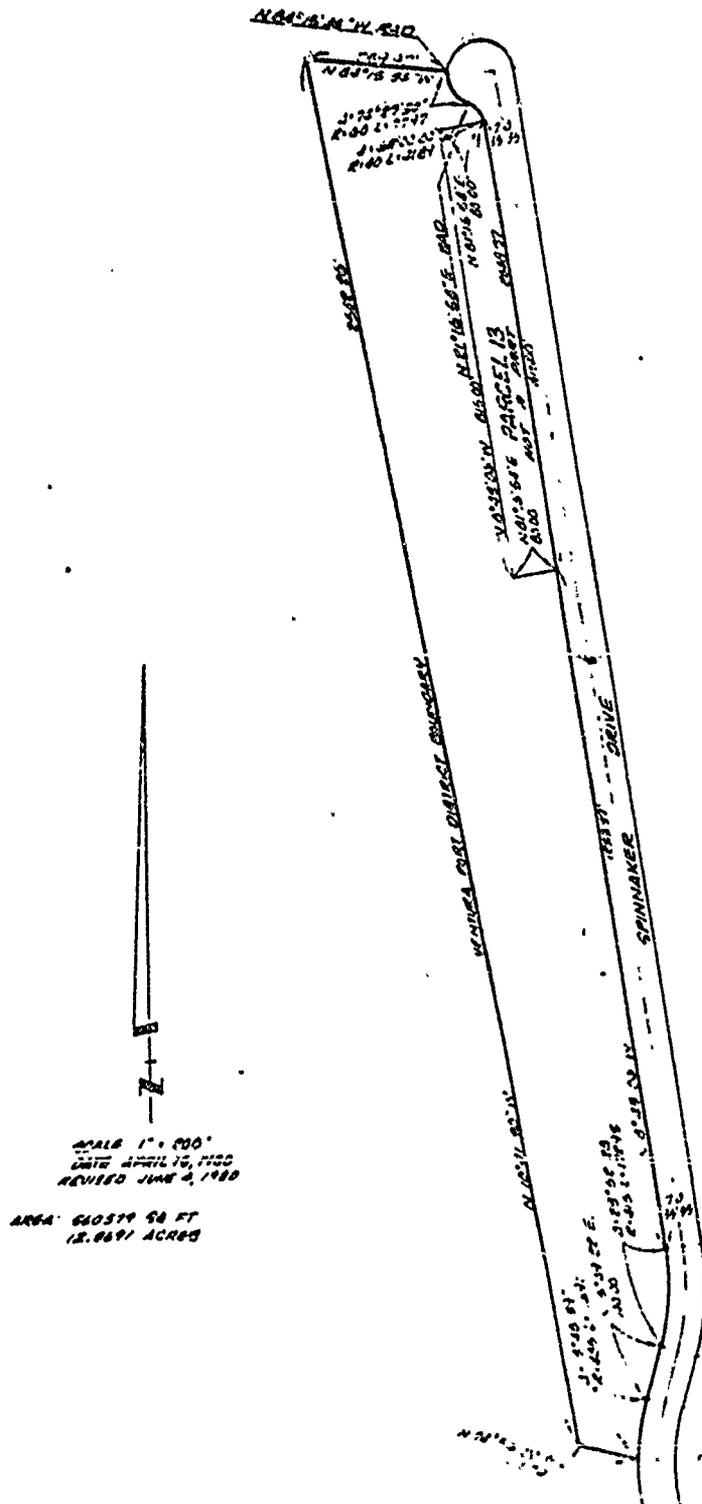
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MAP TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "C"

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ACQUIRED LANDS



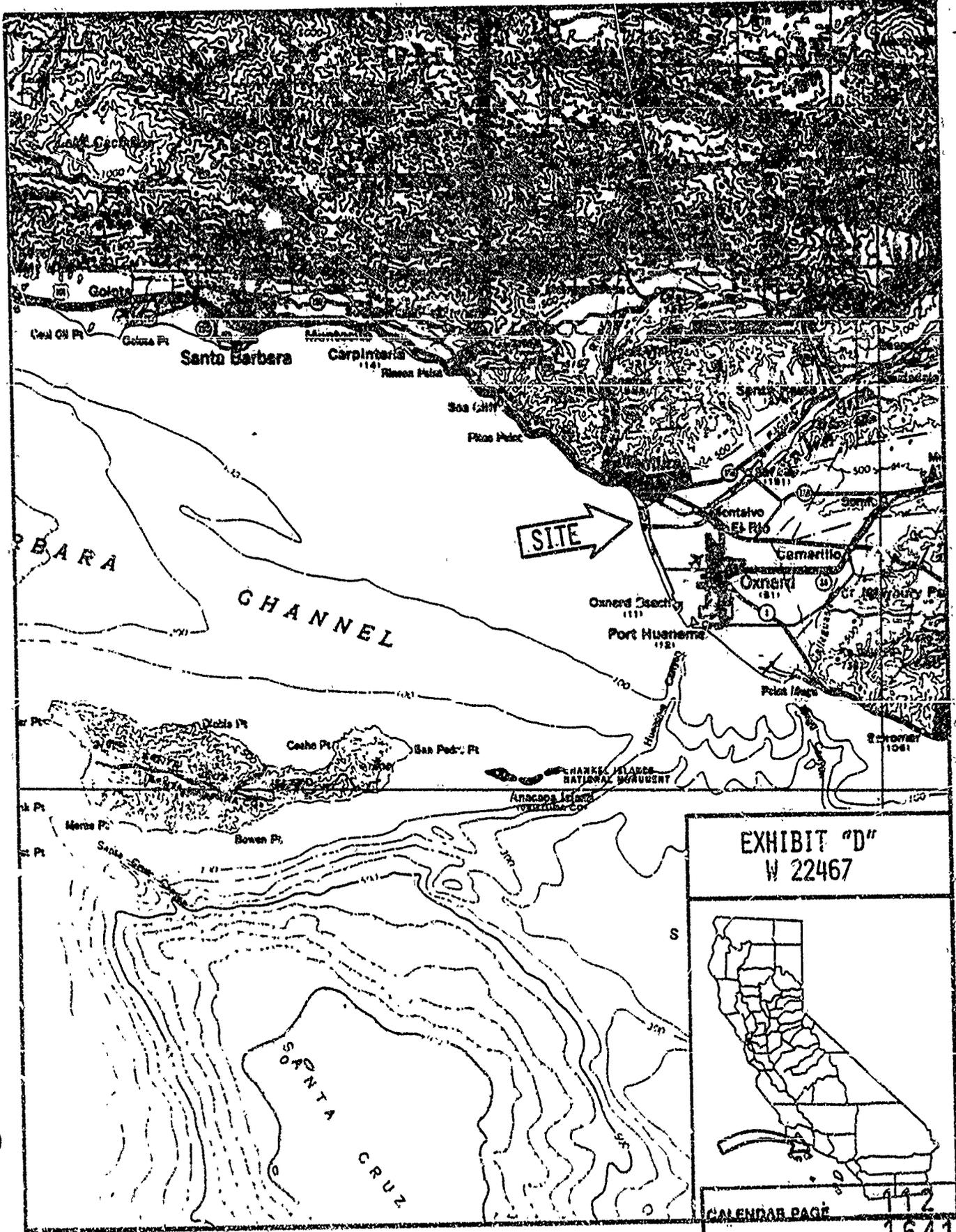


EXHIBIT "D"
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