

MINUTE ITEM

This Calendar Item No. 18
was approved as Minute Item
No. 18 by the State Lands
Commission by a vote of 2
to 0 at its 11/23/81
meeting.

CALENDAR ITEM

* 18

11/23/81
W 501.988
A. Slott
Wyllie

BOUNDARY SETTLEMENT AND EXCHANGE AGREEMENT
BETWEEN L R PARTNERSHIPS, LTD.
AND STATE LANDS COMMISSION
AT AGUA HEDIONDA LAGOON, SAN DIEGO COUNTY

APPLICANT: L R Partnership LTD, a limited partnership
c/o J L Rombotis
P. O. Box 1155
Carlsbad, California 92008

In January, 1979 a suit to Quiet Title was filed against the State concerning lands owned by L R Partnership, Ltd., located within Agua Hedionda Lagoon and within the Rancho Agua Hedionda, as to whether any State title claims exist therein.

A dispute exists between the parties as to whether a portion of the applicant's property consists of tidelands, and if so, whether the area claimed to be tidelands is subject to a public trust easement. In this regard, uncertainties exist in determining the location of the last natural mean high tide line of the lagoon.

Staff and applicant have negotiated a settlement agreement setting a compromise line across applicant's property. Applicant will convey to the State in fee the portion of applicant's parcel waterward of the compromise boundary line, in exchange for the removal of the public trust easement claim from the portion of applicant's parcel landward of the compromise line.

Portions of applicant's parcel are also subject to claims of an implied dedication easement of public access (Gion). Any easement will be terminated on the portion of the applicant's property landward of the compromise line in return for fixed non-exclusive easements for public access from the first public road to the proposed compromise line. The staff believes this easement corridor would provide necessary vertical access and thereby benefit lands obtained in this agreement. Therefore, it is suggested that staff be authorized to accept on behalf of the Commission an offer of dedication made in conjunction with the coastal permit process.

A 76

S 38

(Revised 11/23/81)

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All of the above terms and conditions of settlement are contained in a proposed boundary and exchange agreement on file in the Sacramento Office of the State Lands Commission.

AB 884: N/A.

EXHIBITS: A. Site Map.
B. Agreement Area.
C. Legal description of Compromise Boundary Line.

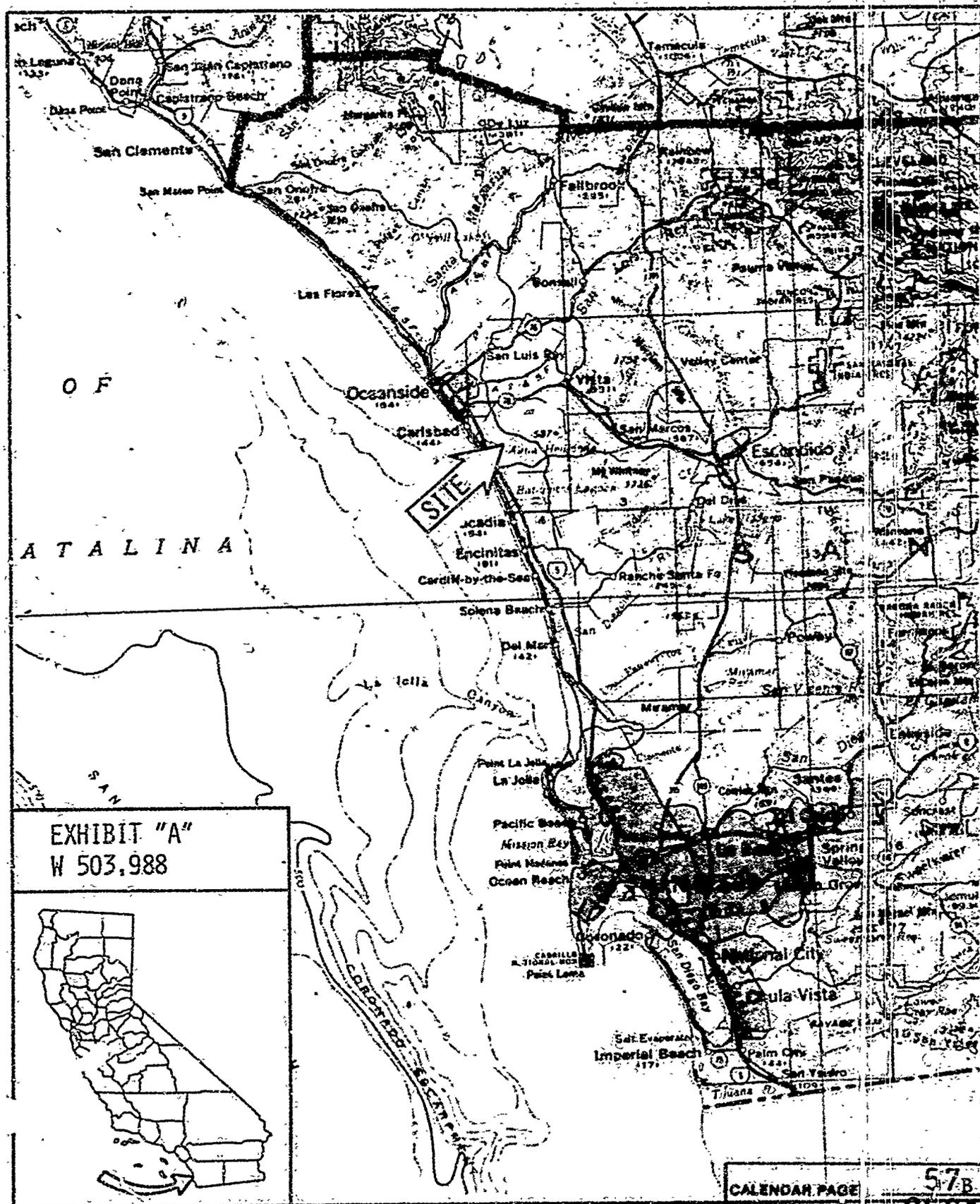
IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ESTABLISHMENT OF THIS COMPROMISE BOUNDARY LINE AND EXCHANGE OF PROPERTY RIGHTS IS A SETTLEMENT IN LIEU OF LITIGATION, THEREFORE, CEQA DOES NOT APPLY.
2. DETERMINE THAT THIS PROJECT IS EXEMPT FROM THE REQUIREMENTS OF ARTICLE 6.5 OF TITLE 2 OF CAL. ADM. CODE BECAUSE THIS PROJECT IS NOT A DEVELOPMENT WITHIN THE MEANING OF SECTION 2503 OF TITLE 2 OF THE CAL. ADM. CODE 15037 AND 2 CAL. ADM. CODE 2903(d).
3. FIND THAT THE PROPOSED SETTLEMENT AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION, COMMERCE, FISHING, RECREATION AND PRESERVATION, THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION, COMMERCE AND FISHING IN THE LANDS AND WATERS INVOLVED BUT WILL IN FACT ENHANCE AND ENLARGE PUBLIC RIGHTS AND UTILIZATION OF SAID LANDS AND WATERWAYS FOR TRUST PURPOSES.
4. FIND THAT THE LAND AND INTEREST IN LANDS TO BE RECEIVED BY THE STATE IS OF GREATER OR EQUAL VALUE WHEN COMPARED TO THE LANDS OR INTEREST IN LANDS BEING CLEARED TO PRIVATE PARTIES.
5. FIND THAT UPON THE EFFECTIVE DATE IF THE AGREEMENT THAT THE LANDS TO BE RETAINED BY L R PARTNERSHIPS, LTD., HAVE BEEN IMPROVED, FILLED AND RECLAIMED AND HAVE THEREBY BEEN EXCLUDED FROM THE PUBLIC CHANNELS AND ARE NO LONGER AVAILABLE OR USEFUL OR SUSPECTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND ARE NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS, AND THAT IT IS IN THE BEST INTEREST OF THE STATE IN SETTLING THE DISPUTE OVER INTEREST TO FREE SAID FILLED LANDS FROM THE PUBLIC TRUST EASEMENT FOR NAVIGATION AND FISHING.
6. AUTHORIZE ACCEPTANCE ON BEHALF OF THE COMMISSION AN OFFER OF DEDICATION OF AN ACCESS EASEMENT FROM THE FIRST PUBLIC ROAD TO THE LANDS QUITCLAIMED IN THIS SETTLEMENT TO THE STATE.

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7. AUTHORIZE THE EXECUTION AND RECORDATION ON BEHALF OF THE COMMISSION OF A BOUNDARY SETTLEMENT AND EXCHANGE AGREEMENT BETWEEN L R PARTNERSHIPS LTD. AND THE STATE IN SUBSTANTIALLY THE FORM OF THE AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION.

8. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE TERMS AND PROVISIONS OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, EXECUTION OF ALL DOCUMENTS, MAPS, DEEDS, TITLE AND ESCROW INSTRUMENTS, CERTIFICATES OF ACCEPTANCE AND CONSENT TO RECORD AND APPEARANCES IN ANY LEGAL PROCEEDINGS TO FINALIZE THE AGREEMENT.



O F
A T A L I N A

EXHIBIT "A"
W 503,988

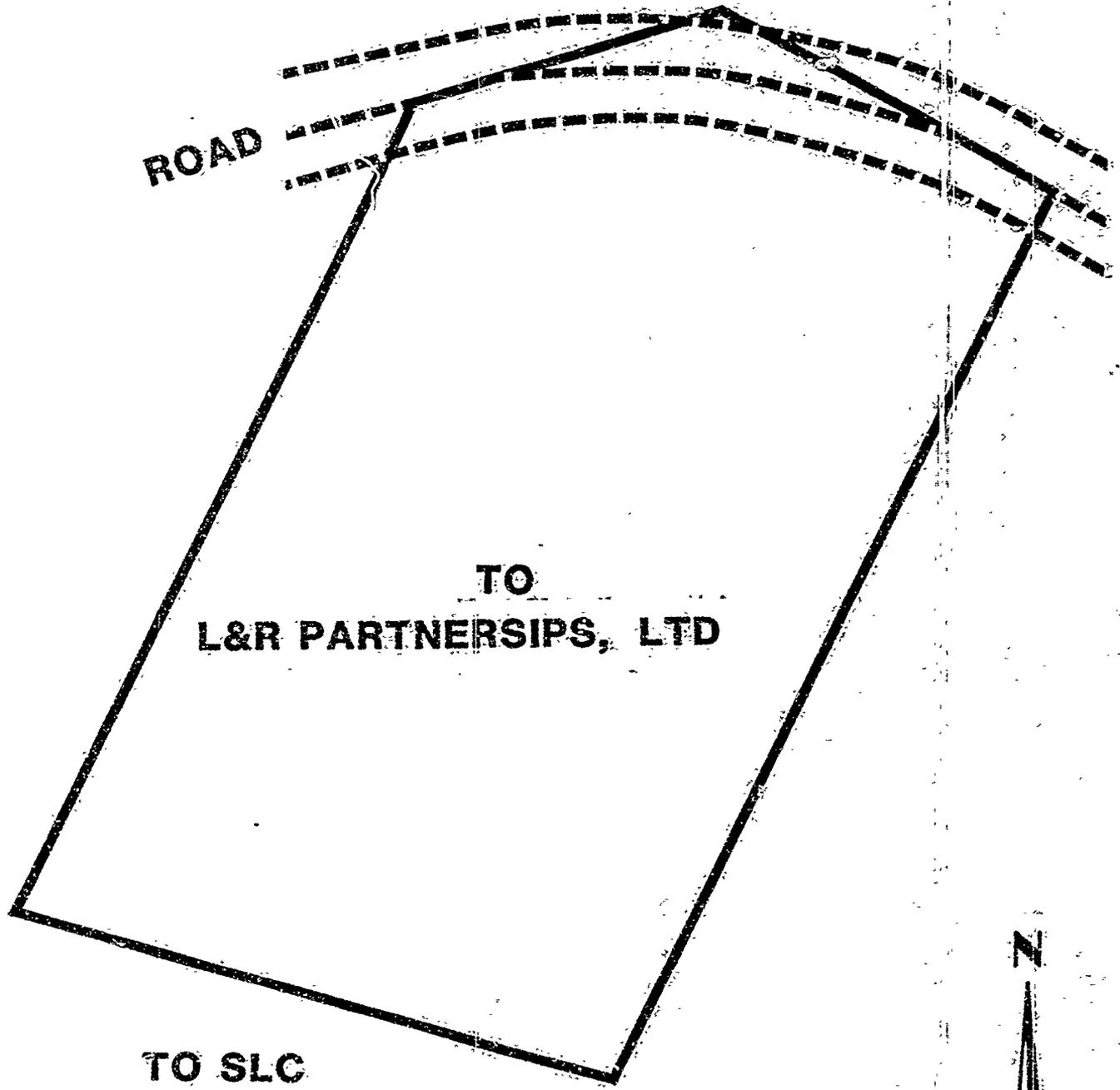


(Added 11/23/81)

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EXHIBIT "B"
AGREEMENT AREA

W 503.988



TO
L&R PARTNERSIPS, LTD

TO SLC

LAGOON

(Added 11/23/81)



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EXHIBIT "C"

LAND DESCRIPTION

W 103.988

A compromise agreement line situated in T11S, R4W, SBM, San Diego County, California, more particularly described as follows:

COMMENCING at Corner No. 15 of Lot "I" of Rancho Aqua Hedionda, as shown on Map No. 823, filed in the office of said county recorder; thence southeasterly along the southerly line of said Lot "I", S 53° 44' 35" E 499.45 feet to the most southwesterly corner of that parcel of land described in deed to Robert W. Phipps, et ux., recorded October 29, 1958, under Document No. 179767 of Official Records; thence along the boundary line of said land as follows: N 25° 01' 15" E (Record - N 24° 53' 50" E) 597.82 feet; thence continuing along said boundary line S 47° 36' 05" E 153.79 feet to the beginning of a tangent curve, concave northerly, having a radius of 355.00 feet; thence easterly along said curve 376.92 feet through an angle of 60° 50' 00"; thence tangent to said curve N 71° 33' 55" E 100.40 feet; thence S 25° 01' 15" W 605.37 feet to the POINT OF BEGINNING; thence S 73° 31' 47" E 404.52 feet to the end of the herein described line.

END OF DESCRIPTION

PREPARED NOVEMBER 20, 1981 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

(Added 11/23/81)

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