MINUTE ITEM

This Calendar Item No. 27 was approved as Minute Item No. 27 by the State Lands Commission by a vote of 3 to 0 at its 5/24/84 meeting.

CALENDAR ITEM

A 44

S 22

27

05/24/84
W 503.773
BLA 246
A. Scott
C. Fossum
J. Saurenman
PRC 6724

APPROVAL OF PROPOSED SETTLEMENT OF LITIGATION,
PEOPLE VS. THE JONATHAN CLUB,
SANTA MONICA STATE BEACH,
CITY OF SANTA MONICA
(BLA 246)

BACKGROUND: The property involved in this existing litigation is a portion of Santa Monica State Beach, which is currently being operated by the City of Santa Monica under an agreement with the California State Department of Parks and Recreation. This lawsuit involves the State of California (State Lands Commission and Department of Parks and Recreation) and the City of Santa Monica in a quiet title action against The Jonathan Club for title to an area of sandy beach and for removal of some minor improvements located on the beach. This litigation has been in progress for a long period of time. The past several years have been spent in negotiating a settlement agreement acceptable to the four principal parties involved in the litigation.

The State and the City claim public ownership of that portion of Santa Monica State Beach which is now occupied by the Jonathan Club and which is the subject of this litigation. The claim of title is based on the location of the last natural Mean High Tide of the Pacific Ocean and upon an implied dedication by the Jonathan Club of the subject property to public use.

(ADDED 05/17/84)

In 1921, the City of Santa Monica, acting under its authority as trustee of the State tide and submerged lands pursuant to Chapter 78, Statutes of 1917, surveyed the then existing Mean High Tide Line and enacted and recorded City Ordinance No. 188 (Commissioner's Series) fixing the line along the entire length of the property involved in this litigation.

Since 1921, tide and submerged lands waterward of the 1921 Mean High Tide Line have become filled as the result of the construction of man-made structures, and the beach currently extends an average of 400 feet waterward of the 1921 Mean High Tide Line.

The owner of the upland parcel (The Jonathan Club) alleged it is entitled to all or at least a portion of the filled tide and submerged lands, claiming that the filling is at least partially naturally caused and it had also adversely possessed the area. It also contended that the City and State are estopped from requiring removal of the existing encroachments due to acquiescence in their existence for a substantial length of years, and that the City issued building permits for the construction of the encroachments.

The Club was originally purchased in 1934 and contends that as the beach prograded it used that area 135 feet waterward of the 1921 MHTL and in front of the Club buildings for more than 30 years in the belief that they owned the land.

The encroachments located on the area claimed to be sovereign land in People vs. The Jonathan Club, et al., consist of a windbreak fence, children's play area, flagpole, volleyball courts, paved walkway and more recently planted palm trees. The encroachments extend a maximum of 135 feet beyond the 1921 Mean High Tide Line (an area of approximately 59,400 square feet).

(ADDED 05/17/84)

During the past several years, the staff of the Commission, together with staff of the Attorney General's Office, the City of Santa Monica, and the Department of Parks and Recreation (State), have been conducting negotiations with representatives of the Jonathan Club (Club) in hopes of avoiding the need for lengthy and expensive litigation over ownership of this portion of Santa Monica State Beach. Throughout this period of time, the State has made various offers of settlement and has considered various counteroffers of Club.

CURRENT SITUATION:

Past negotiations have resulted in a proposed Boundary Line Agreement and Permit for Improvements. The proposed agreement is on file in the Sacramento Office of the Commission. The agreement has been formally approved at a public meeting of the City Council of the City of Santa Monica and a resolution approving the agreement was adopted. The Jonathan Club has also approved and executed the agreement.

The general terms and conditions of the approved agreement is as follows:

1. Club and State agree that the boundary separating sovereign lands from private lands is the 1921 Mean High Tide Line as retraced in 1978 by a State Lands Commission staff survey, approved by the State Lands Commission September 26, 1979, Item No. 29 and both parties will execute a Boundary Line Agreement establishing this line as a fixed boundary.

2. Club is issued a Permit for Improvements covering an area waterward of the agreed boundary, with the following terms and conditions:

   a) Term of 25 years with an option to extend the term for an additional period of 10 years.

(ADDED 05/17/84)

b) Area described in three parcels: Parcel 1 extending 100' waterward of the 1921 Mean High Tide Line, Parcel 2 extending approximately 40' waterward of the 1921 Mean High Tide Line, Parcel 3 extending approximately 35' waterward of the 1921 Mean High Tide Line.

c) Annual rental of $.65/square foot for Parcel 1 and $1/square foot for 2 and 3. Annual rental to be adjusted at five-year intervals by the cumulative percentage change in the CPI or 8% per year whichever is less. Adjustment applies to first fifteen (15) years of permit term. Last ten (10) years rental based on nominal rent schedule attached to permit adjusted for fifteen (15) years by the percentage change in the CPI or 8% per year, whichever is less.

d) Club to remove all existing improvements located on the beach which are not included within areas covered by the permit.

e) Club will remove all improvements from the permit area upon termination of permit.

f) No additional improvements are to be constructed on the permit area without the prior written consent of the State and the City of Santa Monica. Permit does provide Commission approval of relocation of two existing paddle tennis courts and minor landscaping subject to the Club's fulfilling all other legal requirements.

The complete Boundary Line Agreement and Permit for Improvements is on file in the Sacramento Office of the Commission. This agreement is also approved by the Office of the Attorney General and its staff recommends it be approved by the Commission.

(ADDED 05/17/84)

A Lease Agreement with Options between the Department of Parks and Recreation, Department of General Services, the City of Santa Monica and the Jonathan Club is also a part of the general settlement. Because the Commission is not a party to this Lease Agreement, it is not being presented for approval. Pursuant to this Lease Agreement, the Jonathan Club is allowed to lease a publicly owned parcel at 908 Palisades Beach Road for a period of ten years with an option for an additional five years. The Club also has an option to obtain fee ownership of this parcel if it can find suitable beachfront property for an exchange.

From time to time, questions have been raised concerning the membership practices of the Jonathan Club. In particular, concerns have been raised that the Club discriminates in its membership practices on the basis of race, religion and sex. Because of the need to establish and confirm permanent public ownership of the Beach, and because of the public benefits associated with such confirmation, the parties agreed that this settlement would deal only with the question of the location of the boundary between sovereign tide and submerged lands and the uplands owned by the Jonathan Club. Any issues regarding the Club's membership practices were considered to be separate and distinct and were not addressed in those settlement documents. Therefore, these settlement documents resolve the boundary litigation and imply no approval by any involved governmental agency at any time now or in the future of any membership practices of the Jonathan Club.

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that the activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a Statutory exempt project. The project is exempt because it involves settlement of title and boundary problems.

Authority: P.R.C. 21080.11.

(ADDED 05/17/84)

This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed is consistent with its use classification.

EXHIBITS:

A. Map of Agreement Area/Lease Parcels.
B. Site Map.

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS, AND FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 6370 ET SEQ.

2. FIND THAT THE BOUNDARY LINE AGREEMENT AND PERMIT FOR IMPROVEMENTS WHICH HAS BEEN APPROVED BY THE CITY COUNCIL OF SANTA MONICA ON FEBRUARY 14, 1984, AND WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION IS IN THE BEST INTERESTS OF THE PUBLIC AND THE STATE AND WILL FURTHER PUBLIC TRUST PURPOSES.

3. AUTHORIZE PURSUANT TO THE COMMISSION'S AUTHORITY UNDER SECTION 6357 OF THE PUBLIC RESOURCES CODE THE EXECUTION AND RECORDATION ON BEHALF OF THE STATE OF THAT BOUNDARY LINE AGREEMENT AND PERMIT FOR IMPROVEMENTS (BLA 246) WHICH HAS PREVIOUSLY BEEN APPROVED AND SIGNED BY THE CITY OF SANTA MONICA AND THE JONATHAN CLUB AND WHICH IS ON FILE IN THE SACRAMENTO OFFICES OF THE COMMISSION, TOGETHER WITH ANY OTHER DOCUMENTS NECESSARY TO ESTABLISH AS A FIXED BOUNDARY THE 1921 MEAN HIGH TIDE LINE AS RETRACED IN 1978.

4. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE PROVISIONS OF THESE AGREEMENTS, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL FURTHER APPEARANCES IN LEGAL PROCEEDINGS REQUIRED TO FINALIZE SETTLEMENT OF THIS LITIGATION.

(ADDED 05/17/84)

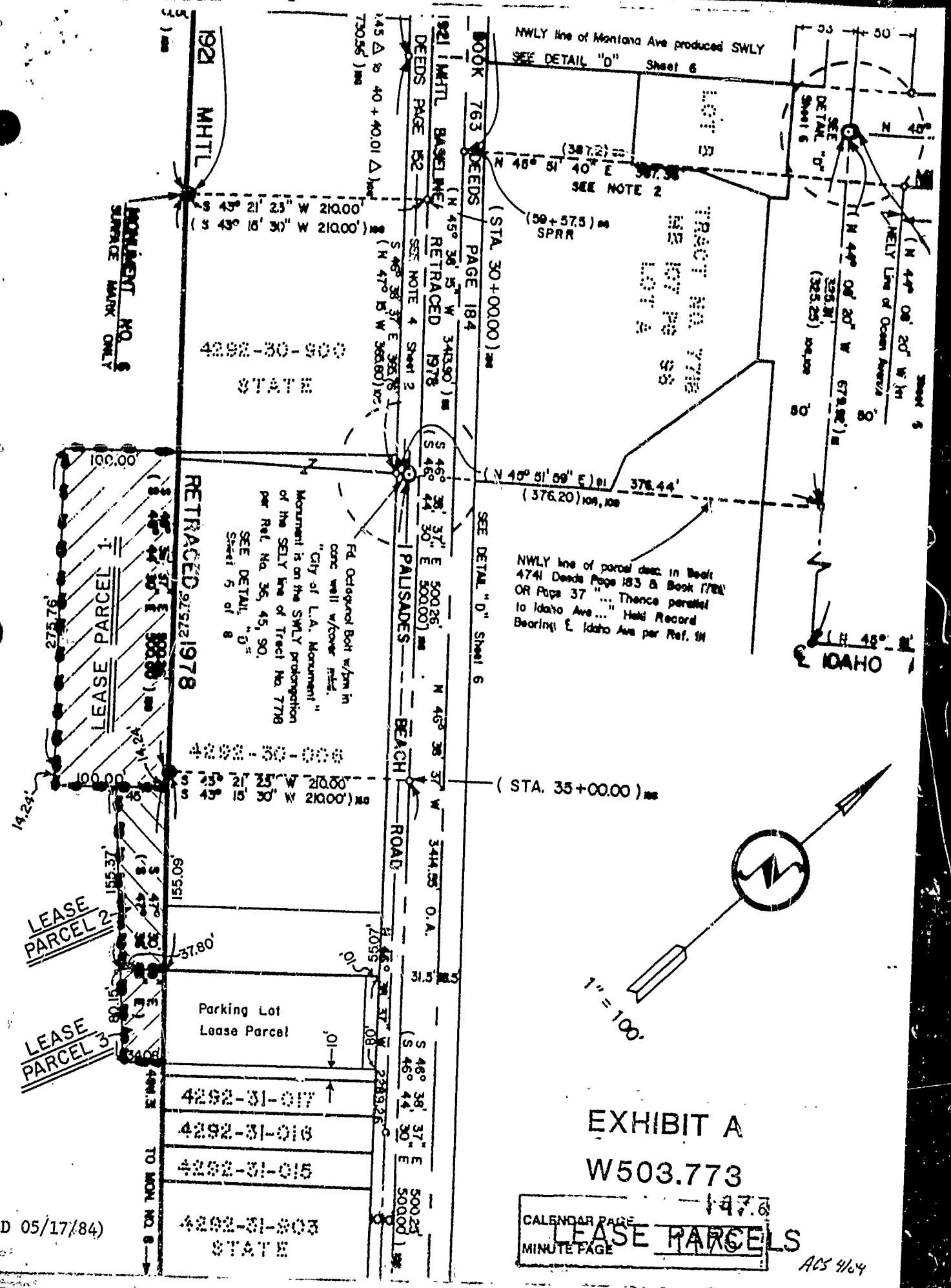

EXHIBIT A

W503.773

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LEASE PARCELS

(ADDED 05/17/84)

ACS 4/84

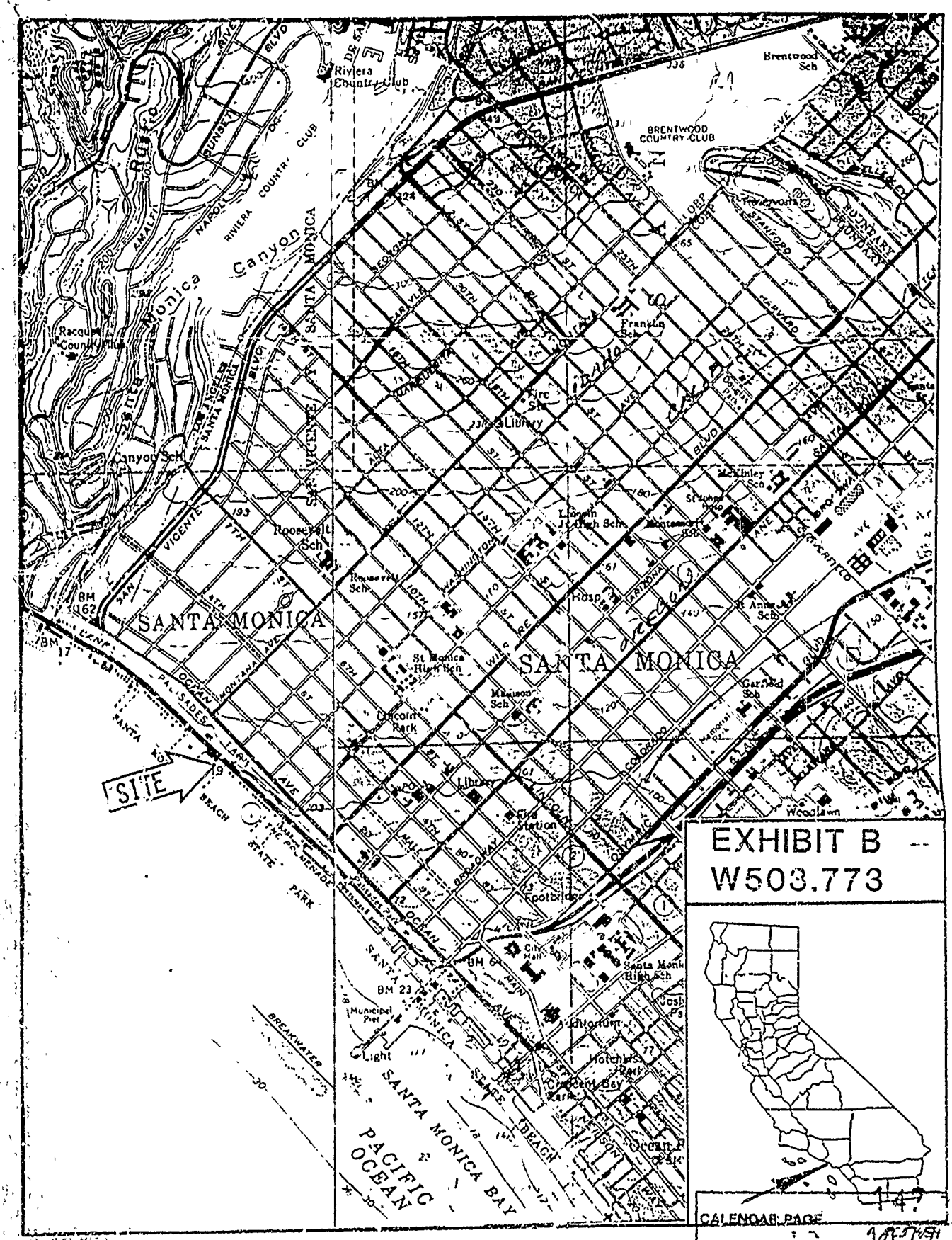

EXHIBIT B
W503.773

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(ADDED 05/17/84)