

MINUTE ITEM 1

This Calendar Item No. 42  
was approved as Minute Item  
No. 42 by the State Lands  
Commission by a vote of 2  
to 0 at its 8/29/85  
meeting.

CALENDAR ITEM

42

A 76

S 39

08/29/85  
W 2875.73  
Frey  
Willard

REQUEST FOR AUTHORITY FOR LITIGATION  
AGAINST NELSON AND SLOAN, INC.

Nelson and Sloan, Inc., a sand, gravel and cement company occupies a parcel of land in Section 36, Township 14S, Range 1W, SBM, San Diego County. The parcel surface was originally conveyed out of the state in 1946. One hundred percent of the minerals were reserved to the State. Through subsequent conveyances the parcel vested in Tri-Way Materials, Inc. in 1965. None of these deeds contained the mineral reservation. On March 17, 1974 Nelson and Sloan entered into a stock merger with Tri-Way and gained ownership of the parcel.

Nelson and Sloan report that gravel has been extracted from the parcel since the mid-1960's. This is an unauthorized extraction of the state's mineral interest and it was discovered in 1984. A number of meetings have been held with Nelson and Sloan and its attorney. Progress has been made but there has been no agreement on basic legal issues. Nor has a lease been entered into by Nelson and Sloan as has been requested by the State.

In order to preserve the State's interest and to recover a substantial but unknown sum of damages staff requests authority to take all steps necessary including litigation in order to resolve this matter.

- EXHIBITS:
- A. Land Description.
  - B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THIS ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

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CALENDAR ITEM NO. 42 (CONT'D)

2. AUTHORIZE STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO TERMINATE THE CONTINUED UNAUTHORIZED OCCUPATION AND EXTRACTION OF STATE MINERAL INTERESTS IN SECTION 36, T14S, R1W, SBB&M, SAN DIEGO COUNTY BY NELSON AND SLOAN, INC. AND/OR ANY OTHER PARTY WITH INTEREST; AND TO COLLECT DAMAGES FOR THE EXTRACTION OF MINERALS; AND FOR WHATEVER OTHER LEGAL OR EQUITABLE REMEDIES THAT MAY BE NECESSARY OR APPROPRIATE.

EXHIBIT "A"

LAND DESCRIPTION

W2875.73

A parcel of land in San Diego County, California, described as follows:

SW $\frac{1}{4}$  of NW $\frac{1}{4}$  and the N $\frac{1}{2}$  of SW $\frac{1}{4}$  of Section 36, T14S, R1W, SBM.

EXCEPTING THEREFROM any portion thereof lying within State Highway Easement Lease No.17, Chapter 672 Stats 1931.

END OF DESCRIPTION

PREPARED AUGUST 6, 1985 BY BOUNDARY SERVICES UNIT, M. L. SHAFER, SUPERVISOR.

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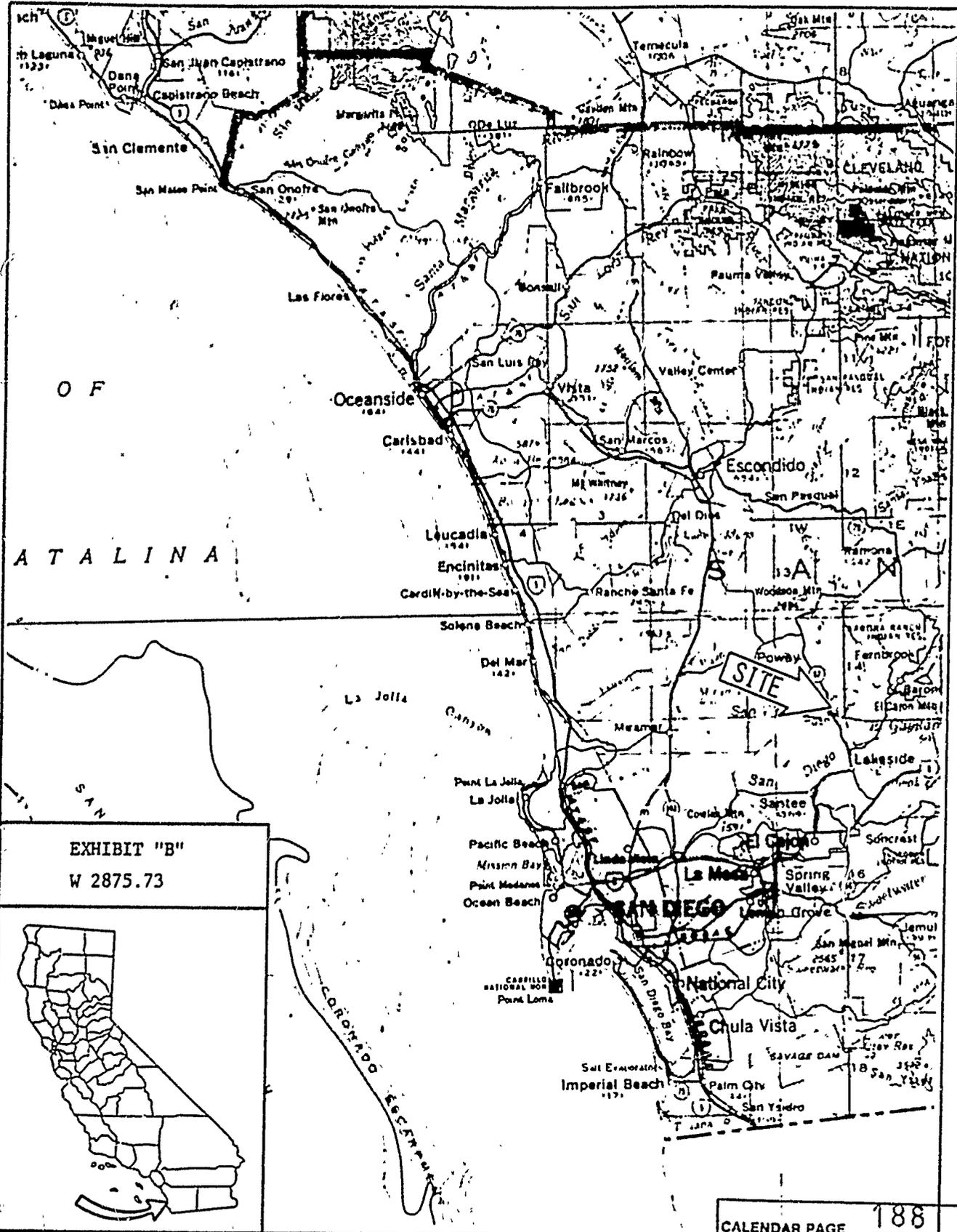


EXHIBIT "B"  
W 2875.73

