MINUTE ITEM
This Calendar Item No. C94
was approved as Minute Item
No. 94 by the State Lands
Commission by a vote of 3
to Ø 27 at its 11/15/94
meeting.
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CALENDAR ITEM
C94

Stevenson
Sekelsky
W 503.1557
11/15/94
AD218

REQUEST FOR AUTHORIZATION TO SETTLE LITIGATION;
TAGGART, ET AL. V. MOSS LANDING HARBOR DISTRICT, ET AL.
(MONTEREY COUNTY SUPERIOR COURT; CASE NO. 86722)

BACKGROUND:
In 1988, Marion Taggart and eight other private parties filed this litigation against the Moss Landing Harbor District and the State of California, State Lands Commission. Plaintiffs sought to quiet title to property, including tide and submerged lands, and to validate a franchise agreement entered into by the District and plaintiffs' predecessor-in-interest Wilbur Sandholdt, which purported to grant rights of use to tide and submerged lands abutting plaintiff's property. The subject property lies within the Moss Landing Harbor District, Monterey County. Sovereign land within this area was granted by the Legislature to the District by Chapter 1190, Statutes of 1940, as amended. The subject property is shown in its general location on the location map attached as Exhibit A.

The principal allegation of the plaintiffs in this litigation is that they enjoy a franchise dated 1945 in the bed of the Salinas River fronting their upland property. The existence or validity of such a franchise is disputed by the State and the District for several reasons. Among them were that the District was not authorized to provide a franchise in State land at the time it was allegedly issued and that the issuance of a franchise was the consequence of a conflict of interest given that the franchisee (Wilbur C. Sandholdt) was at the relevant time a member of the operating board of the District.

THE SETTLEMENT PROPOSAL:
Since the filing of this litigation, Commission staff and the Office of the Attorney General have met many times with the District and with opposing counsel and parties, in some instances in Court-mandated settlement conferences. The parties have developed a settlement comprised of two principal documents, a Compromise Settlement Agreement and a Guaranteed Rights Agreement. In sum, the settlement provides that:

1. The parties will recognize the boundary separating private uplands from sovereign tide and submerged lands granted to the District using the 1965 Boundary Line Agreement which involved the subject property and other lands to the south. The Court will issue judgment quieting title on the

waterward side of the boundary line to the State and the District. The Court will grant judgment to the private parties in a parcel bounded by the landward side of the line and the Pacific Ocean.

2. The plaintiffs have asserted that they enjoy a right of way in a small parcel at the north end of the property on the waterward side of the agreed boundary. Under the agreements to be entered, no party is required to deed to the other interests it asserts in this small area and each party is permitted to maintain its legal position concerning it.

3. The parties will enter what may be generally described as a lease or franchise agreement which, for settlement purposes, has been termed a Guaranteed Rights Agreement (GRA). This Agreement concerns a parcel of land in the Salinas River fronting the subject property and measuring approximately 754 feet in length by 125 feet in depth. The GRA shall be subject to a fee to be paid to the District beginning in year 26 of the GRA and escalating thereafter.

OTHER PERTINENT INFORMATION:

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

   Authority: PRC 21080.11.

EXHIBITS:

A. Location Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. THE COMMISSION FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TILE AND BOUNDARY PROBLEMS.

2. THE COMMISSION APPROVE THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT AND GUARANTEED RIGHTS AGREEMENT AMONG THE COMMISSION, THE MOSS LANDING HARBOR DISTRICT, AND MARION TAGGART AND OTHER ASSOCIATED PRIVATE PARTIES TO SETTLE THE LITIGATION ENTITLED MARION T. TAGGART, ET AL. V. MOSS LANDING HARBOR DISTRICT, STATE OF CALIFORNIA (MONTEREY COUNTY SUPERIOR COURT CASE NO. 86722). THE SETTLEMENT SHALL BE IN SUBSTANTIALLY THE FORMS OF THE COMPROMISE SETTLEMENT AGREEMENT AND THE GUARANTEED RIGHTS AGREEMENT ON FILE IN THE OFFICES OF THE COMMISSION WHICH WERE APPROVED BY THE COURT ON AUGUST 18, 1994.

3. THE COMMISSION AUTHORIZE THE MOSS LANDING HARBOR DISTRICT TO ENTER THE COMPROMISE TITLE SETTLEMENT AGREEMENT AND GUARANTEED RIGHTS AGREEMENT.

4. THE COMMISSION AUTHORIZE THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY TO FINALIZE AND TO IMPLEMENT THE SETTLEMENT, INCLUDING THE FINALIZATION OF LEGAL DESCRIPTIONS.

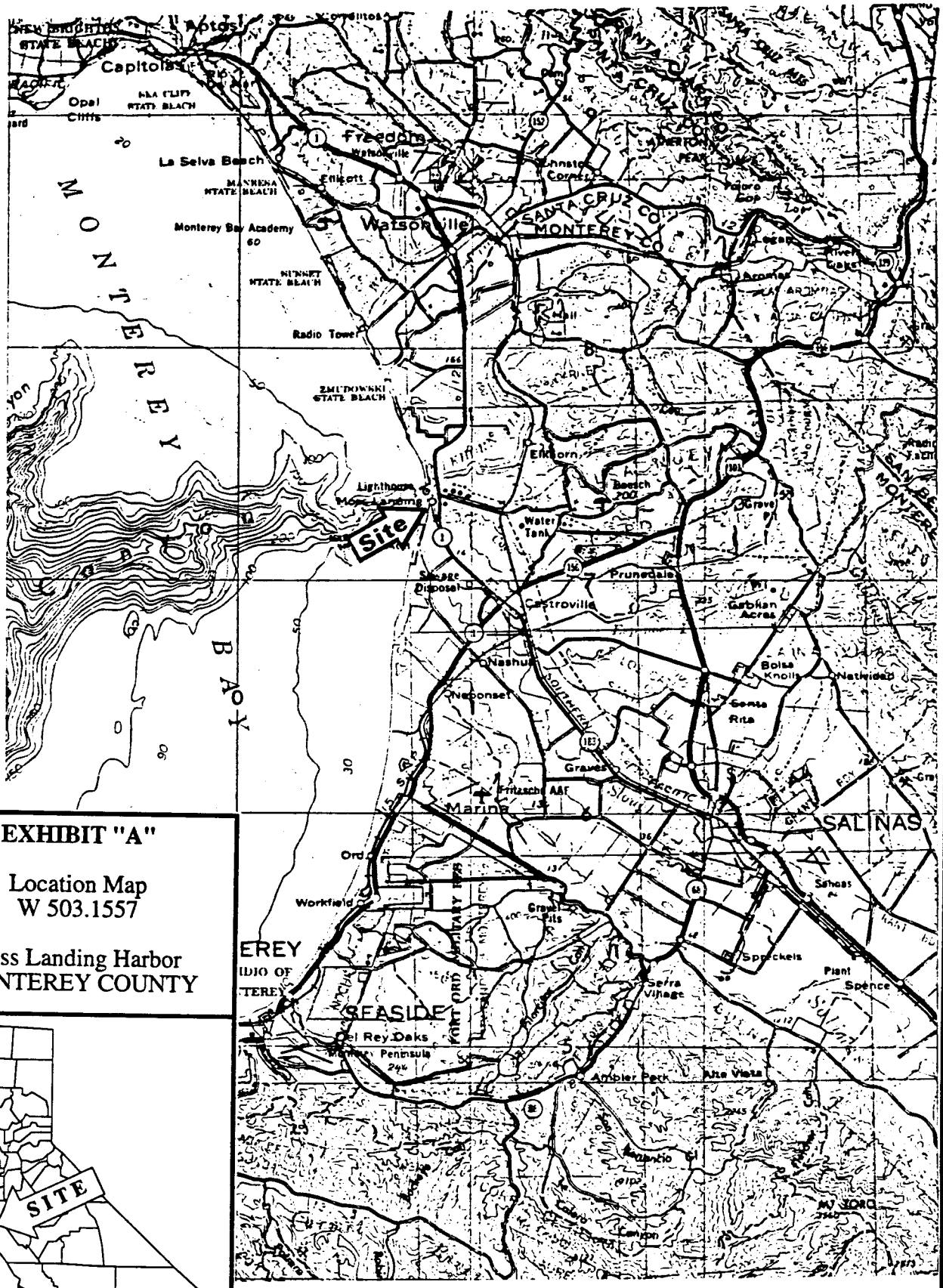

EXHIBIT "A"

Location Map
W 503.1557

Moss Landing Harbor
MONTEREY COUNTY

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RLF 11/94