

MINUTE ITEM
This Calendar Item No. C23 was approved as
Minute Item No. 23 by the California State Lands
Commission by a vote of 3 to 0 at its
6-27-00 meeting.

**CALENDAR ITEM
C23**

A 41
S 23

June 27, 2000
W 24665
J. Kato
C. Fossum

**CONSIDER ACCEPTANCE OF OFFERS OF DEDICATION
OF LATERAL ACCESS EASEMENTS**

PARTIES WHICH HAVE RECORDED OFFERS OF DEDICATION:

Andrew J. Pierson and Margaret J. Pierson
Rose Fromm-Kirsten
Gary Patterson

PARTY TO ACCEPT EASEMENTS:

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

INTERESTED PARTIES:

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Since the adoption of the Constitution of California of 1879, access to California's public trust waterways has been a mandated responsibility of state government. The vast majority of the hundreds of title settlement agreements the State Lands Commission has been involved in since its inception in 1938 have included provision of public access to the waterways involved.

In the 1960's, an organization with the acronym COAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, over 1200 offers to dedicate (OTDs) public access easements, both vertical or lateral (to or along) the coast, have been made involving California's 1100-mile coastline.

CALENDAR PAGE	0151
MINUTE PAGE	8523

CALENDAR ITEM NO. C23 (CONT'D)

These OTDs were formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. Hundreds of these OTDs remain unaccepted. These offers have a 21 year life, and will expire if not formally accepted by a public agency within that time period.

The OTDs were required to ensure protection of existing public rights of use as well as to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately owned uplands and the publicly owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the dedications does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The State Lands Commission has been requested by the Coastal Commission to review and, where appropriate, accept offers of dedication of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the State Lands Commission. Staff of the Commission is involved in an ongoing process with the Coastal Commission to analyze the OTDs to determine which offers the State Lands Commission should accept. The State Lands Commission has already authorized the acceptance of 115 OTDs in the Malibu area of Los Angeles County where over 40% of the OTDs exist. These approvals involved acceptance of eight OTDs by Minute Item 27 on April 2, 1991; one by Minute Item 2 on July 13, 1992; four by Minute Item 81 on September 23, 1992; 10 by Minute Item 29 on December 17, 1992; 11 by Minute Item 22 on September 9, 1993; 13 by Minute Item 63 on May 9, 1996; 16 by Minute Item 72 on August 21, 1996; 12 by Minute Item 48 on October 28, 1996; eight by Minute Item 74 on February 12, 1997; six by Minute Item 72 on May 12, 1997; 14 by Minute Item 42 on August 26, 1997; and 12 by Minute Item 79 on December 16, 1998.

The Commission's liability for holding these lateral parcels is limited by Section 831.2 of the Government Code which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

CALENDAR ITEM NO. C23 (CONT'D)

The OTDs involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already State owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are, for all practical public use purposes, integral to it. Staff has reviewed each of the offers and the properties as described on the attached Exhibit B and recommends them as appropriate for Commission acceptance.

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXHIBITS:

- A. Location Map
- B. List of Dedications

IT IS RECOMMENDED THAT THE COMMISSION:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

ACCEPT THE OFFER(S) TO DEDICATE PUBLIC ACCESS AND RECREATIONAL USE EASEMENT(S) LISTED ON THE ATTACHED EXHIBIT B.

CALENDAR PAGE	0153
MINUTE PAGE	8525

EXHIBIT B

<u>ADDRESS</u>	<u>OWNER AT TIME OF OFFER</u>	<u>CURRENT OWNER(S)</u>	<u>ASSESSOR PARCEL #</u>
25376 - 25378 Malibu Road	Andrew J. Pierson and Margaret J. Pierson	Andrew and Margaret Pierson P.O. Box 396 Malibu, CA 90265 Sybil Robson 342 N. Maple Drive, # 208 Beverly Hills, CA 90210	4459-017-024 4459-017-025 4459-017-026 4459-017-027
23356 Malibu Colony Drive	Rose Fromm-Kirsten	Rose Fromm-Kirsten 23356 Malibu Colony Drive Malibu, CA 90265	4452-008-021
25206 - 25210 Malibu Road	Gary Patterson	Gary Patterson 25206 Malibu Road Malibu, CA 90265	4459-015-015

CALENDAR PAGE	0155
MINUTE PAGE	8527

NO TEXT THIS PAGE

CALENDAR PAGE _____
MINUTE PAGE _____ 8528