MINUTE ITEM
This Calendar Item No. C21 was approved as Minute Item No. 21 by the California State Lands Commission by a vote of 3 to 0 at its 12-16-02 meeting.

CALENDAR ITEM
C21

A 41

S 23

ad 439

12/16/02
W 24665
S. Nelson
J. Lam
V. Garcia
C. Fossum

CONSIDER ACCEPTANCE OF OFFER OF DEDICATION OF LATERAL ACCESS EASEMENT

PARTY WHICH HAS RECORDED OFFER OF DEDICATION:
Richard Freshman

PARTY TO ACCEPT EASEMENT:
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

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

BACKGROUND:
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 COAAST (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 1,200 offers to dedicate (OTDs) public access easements, both vertical or lateral (to or along) the coast, have been made involving California's 1,100-mile coastline.

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 from the date of recording, 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 156 OTDs in the Malibu area of Los Angeles County between April 2, 1991, and October 1, 2002, and one OTD in Ventura County on April 9, 2002.

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.

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 the offer and the property on the attached Exhibit B and recommends approval.

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, Section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it 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, Sections 15060 (c)(3) and 15378.

EXHIBITS:

A. Location Map
B. Property Information

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060 (c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14 CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

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

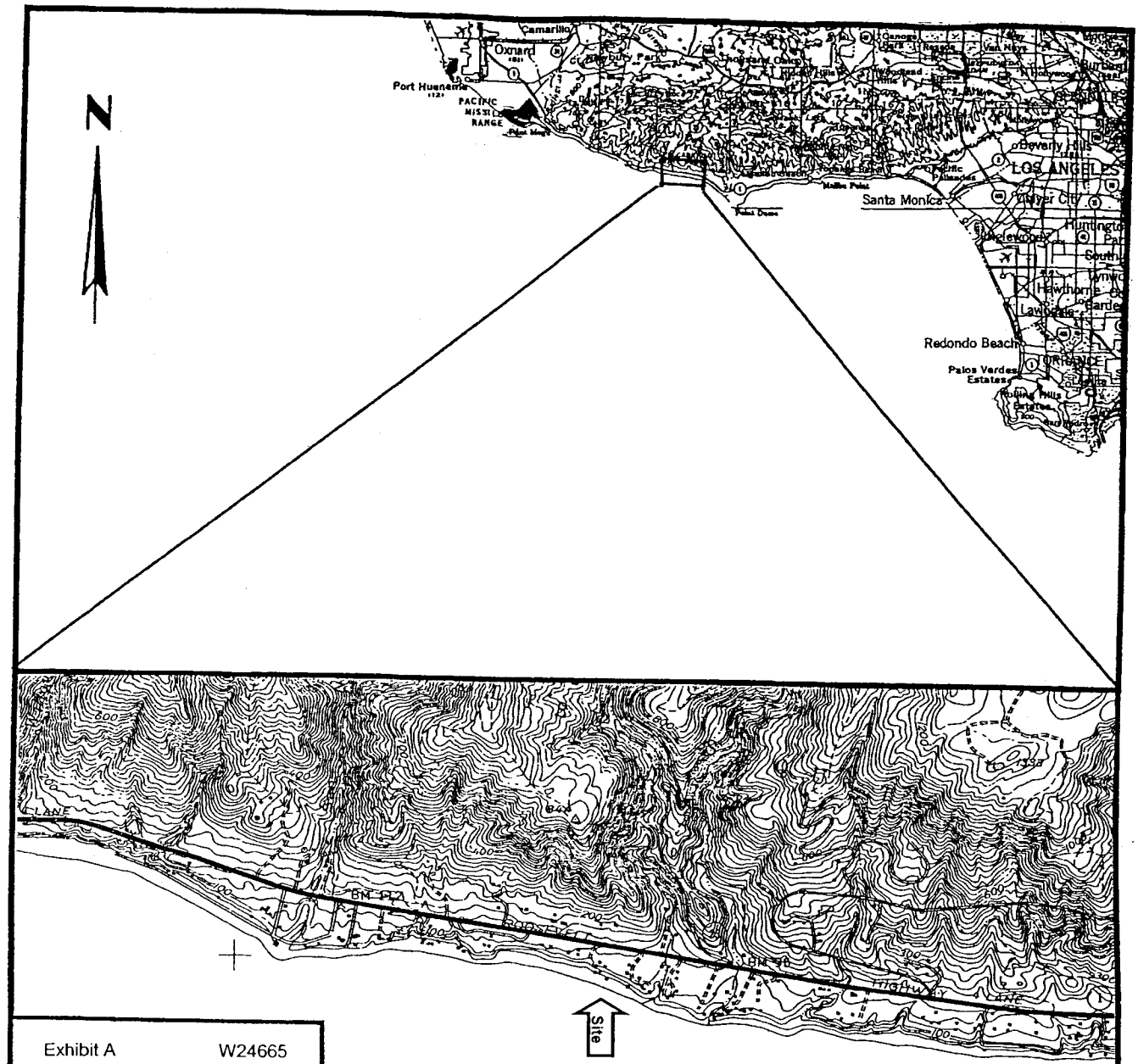

Exhibit A W24665
33344 Pacific Coast Highway

Pacific

Ocean

This exhibit is solely for the purpose of generally defining the location of the subject property, is based on unverified information, and is not intended to be, nor shall it be construed to as a waiver of limitation of any state interest in the subject or any other property.

Map Source: USGS

SN 01-02

EXHIBIT B

ADDRESS	OWNER AT TIME OF OFFER	CURRENT OWNER	ASSESSOR PARCEL #	OTD EXPIRATION DATE
33344 Pacific Coast Highway	Richard Freshman	Jerry Jacob 33344 Pacific Coast Hwy. Malibu, CA 90265	4473-019-011 Los Angeles County	June 29, 2004