

MINUTE ITEM

This Calendar Item No. 24
was approved as Minute Item
No. 24 by the State Lands
Commission by a vote of 3
to 0 at its 1/23/84
meeting.

CALENDAR ITEM

24 -1

1/23/84
W 503.1091
A. Scott
Fossum
J. Patterson
Collins
BLA 242
G09-01

REQUEST FOR AUTHORIZATION TO EXECUTE A
SETTLEMENT AGREEMENT WITH
VARIOUS PRIVATE PARTIES AT
1,000 STEPS BEACH, SOUTH LAGUNA COVES

BACKGROUND:

In 1980, the County of Orange became involved in litigation over the public's rights to a beach area in South Laguna. In the court's initial judgement it was found that there had been no implied dedication of the beach. The court, however, did not rule on the location of the boundary between the uplands and tidelands. This decision was appealed by the County. The State joined in the appeal on grounds that it had not been informed of or a party to the original lawsuit and because an implied dedication easement benefits all the people of the State, the State was a necessary party. As part of the appeal process, settlement negotiations were begun with the various upland owners in an attempt to reach a settlement of the case which would protect both the public's rights in the beach area and those of the private upland owners.

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S 31

CALENDAR PAGE	<u>158</u>
MINUTE PAGE	<u>207</u>

CURRENT SITUATION:

Staff of the Commission, the California Coastal Commission, the County of Orange and the Attorney General's Office have negotiated an agreement with the private parties involved in this litigation. As part of the agreement the private parties have made an irrevocable offer to dedicate portions of the existing beach to the public provided the offer is accepted prior to January 31, 1984. The proposed settlement agreement will establish a fixed boundary between the private portion of the beach and the public portion of the beach. The settlement also provides that the County will police, maintain and operate the public portion of the beach in accordance with certain agreed standards. All parties to the settlement agreement acknowledge that the boundary between upland and State sovereign land is and will continue to be the Ordinary High Water Mark (OHWM), and this agreement will not have any effect on the movement of that line. Should the OHWM move landward of the agreed boundary between private and public beach, then the public's easement for commerce, navigation and fisheries would move with that line. When the OHWM moves seaward of the location of the agreed boundary, then the former fixed boundary dividing private and public portions of the beach would be reestablished.

Staff of the Commission and the Attorney General's Office feel that the proposed settlement agreement is in the best interest of the State, the County and the public. A copy of the agreement is on file in the Sacramento Office of the Commission and contains provisions concerning the public's rights to lands waterward of the proposed boundary, the County's agreement to maintain the public portions of the beach, and provide sanitary facilities and lifeguard services.

CALENDAR ITEM NO. 24 (1) (CONTD)

It should be noted that there remains disagreement between the County and certain private parties regarding the location of the public restroom on the beach. Approval of the agreement is recommended on the assumption that a restroom will be located on the beach substantially in accordance with the provisions of the agreement currently on file.

AB 884: N/A.

EXHIBITS: A. Location Plat.

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PROPOSED AGREEMENT IS A SETTLEMENT OF LITIGATION AND AS SUCH CEQA DOES NOT APPLY.
2. FIND THAT THE PROPOSED SETTLEMENT AGREEMENT IS IN THE BEST INTEREST OF THE PUBLIC AND THE STATE AND WILL FURTHER PUBLIC TRUST PURPOSES.
3. AUTHORIZE EXECUTION BY THE EXECUTIVE OFFICER OF THE PROPOSED LITIGATION SETTLEMENT AGREEMENT REGARDING LANDS AT 1,000 STEPS, SOUTH LAGUNA BEACH, SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICES OF THE COMMISSION.
4. AUTHORIZE STAFF OF THE COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL STEPS NECESSARY TO IMPLEMENT THE FOREGOING, INCLUDING ANY AND ALL FURTHER APPEARANCES IN LEGAL PROCEEDINGS.

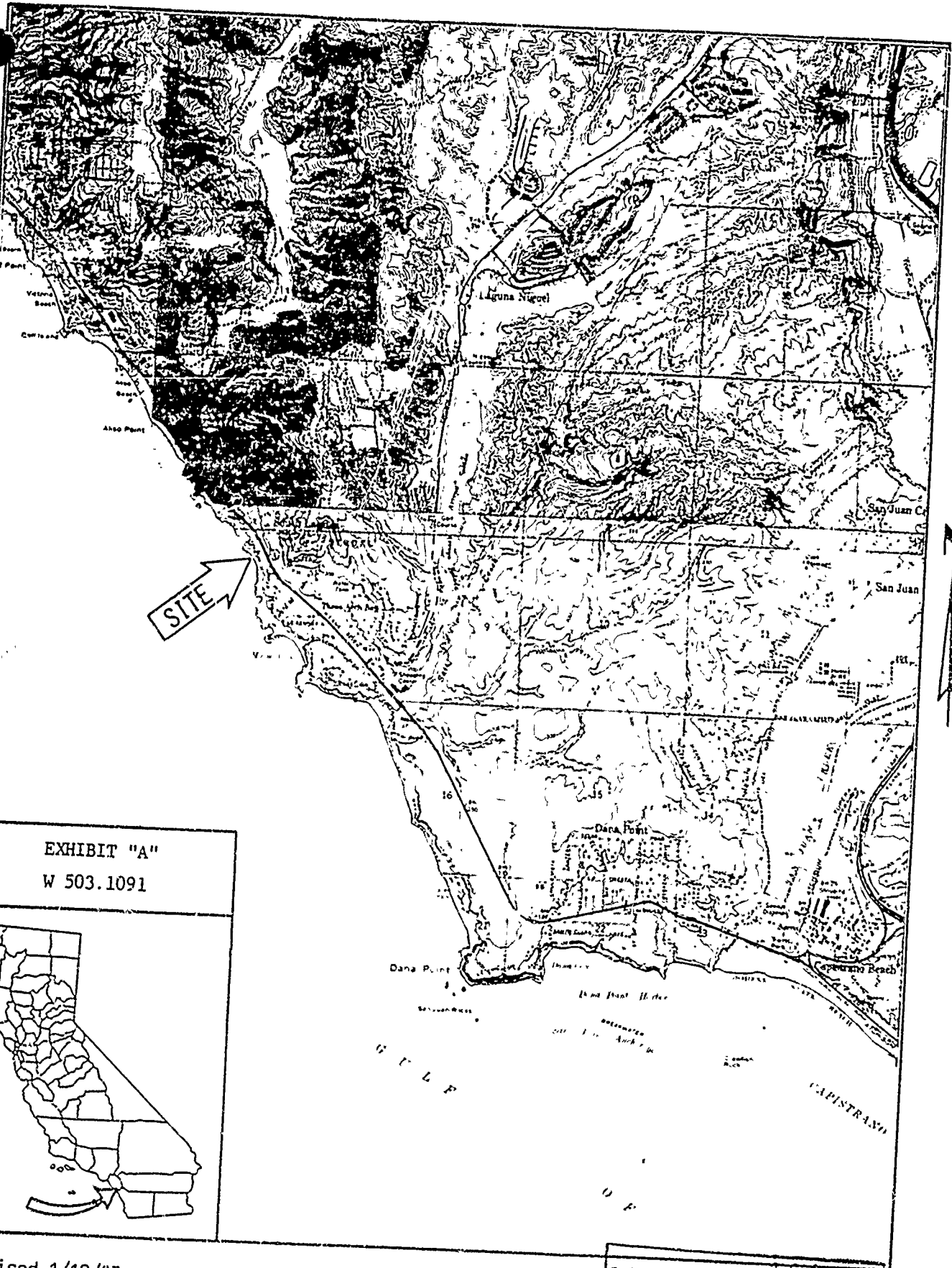


EXHIBIT "A"
W 503.1091



Revised 1/19/83

CALENDAR PAGE	161
MINUTE PAGE	210