

This Calendar Item No. 78 was approved as Minute Item No. 78 by the California State Lands Commission by a vote of 2 to 0 at its 12-05-08 meeting.

**Minute Item
78**

AD 509 12/08/05
W 24665
S. Nelson

**CALIFORNIA STATE LANDS COMMISSION;
CALIFORNIA COASTAL COMMISSION;
ACCESS FOR ALL
(PARTIES)**

Regular Item 78: The Commission was asked to approve a public access easement to Access for All. The item was approved by a 2-0 vote.

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W 24665

S. Nelson

**TRANSFER OF LATERAL PUBLIC ACCESS AND
RECREATIONAL USE EASEMENT**

PARTIES:

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

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

Access For All
Attn: Steve Hoye, Executive Officer
P.O. Box 1704
Topanga, California 90290

AREA, LAND TYPE, AND LOCATION:

Lateral access easement located adjacent to the Pacific Ocean in the city of Malibu, APN 4473-014-009, Los Angeles County.

OTHER PERTINENT INFORMATION:

1. At its June 18, 2002, meeting, the Commission accepted the subject Offer of Dedication of lateral access easement for the purpose of public access and recreational use. The acceptance of the easement was subsequently recorded.
2. The organization Access for All, which has been accepting a number of vertical and some lateral access easements in the Malibu area, and the staff of the Coastal Commission have requested that the Commission consider transferring the subject easement to Access for All. Unlike other access easements previously accepted by the Commission, this easement involves the construction of improvements by the upland property owner as outlined in the Coastal Commission's Coastal Development Permit

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(NO. A-220-80). The construction of the improvements will involve future maintenance responsibilities by the easement holder, for which the Commission does not have the local staff or resources, but that a local organization, such as Access for All, can provide.

3. 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.
4. By letter dated October 17, 2005 the owners of the upland property objected to the assignment of the easement to Access For All, asserting that Access For All lacked "monetary assets" sufficient to assume maintenance and liability responsibilities for the access way. As a result of these objections, the matter was removed from the October 20 agenda and scheduled for December 8. Staff has reviewed the concerns and has concluded that Access For All has the ability to perform all obligations associated with acceptance of the assignment. There are several reasons for this conclusion.

First, Access For All currently holds twenty access easements in Malibu, sixteen of which provide lateral access along the beach. Second, Access For All has entered into an agreement pursuant to Government Code Section 831.5 with the State Coastal Conservancy pursuant to which Access For All provides public access to certain lands in the Coastal Zone. The agreement makes Access For All a "public entity" within the meaning of Government Code Section 831.4 which provides that a public entity "is not liable for an injury caused by a condition of...any paved trail, walkway, path or sidewalk" which the entity holds in order to provide public access. Third, the Coastal Commission and Coastal Conservancy have entered into a MOU that provides that in the event of a failure to perform by a nonprofit organization holding a public access easement pursuant to an offer to dedicate granted as a condition of a coastal development permit issued by the Coastal Commission, the access easement will, after a hearing, be transferred to the Coastal Conservancy. In other words, there is a mechanism for transfer of public access easements from nonprofit organizations which for whatever reason have failed to perform their responsibilities in connection with the easement. Fourth, the Coastal Conservancy has given Access For All two grants totaling \$105,000 to

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fund planning and management activities for their existing Malibu easements. Finally, Access For All carries liability insurance for its public access activities. In view of the foregoing, staff recommends that transfer of the public access easement to Access For All is appropriate and desirable.

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

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

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.

AUTHORIZATION:

AUTHORIZE THE TRANSFER OF THE LATERAL PUBLIC ACCESS AND RECREATIONAL USE EASEMENT LISTED ON THE ATTACHED EXHIBIT B.

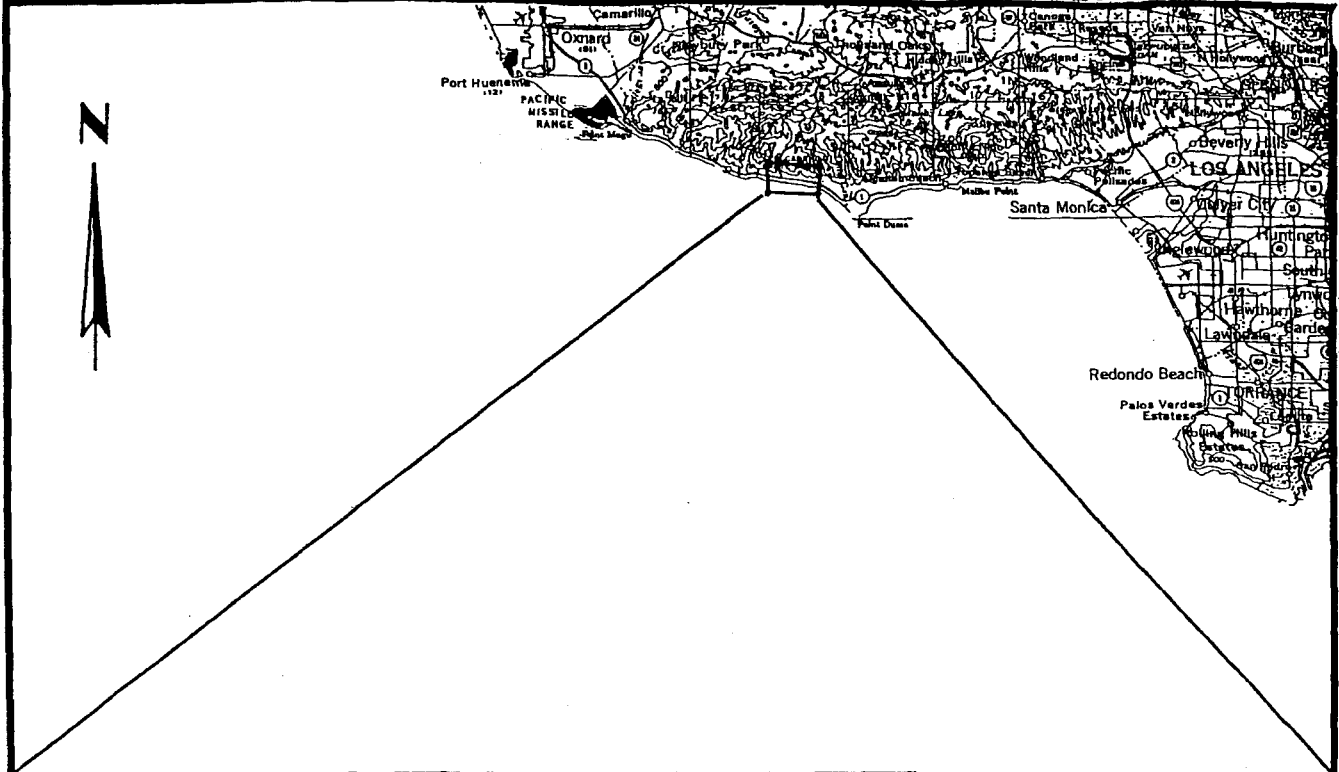


Exhibit A W24665
32340 Pacific Coast Highway



SN 01-02

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

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EXHIBIT B

ADDRESS	OWNER AT TIME OF OFFER	CURRENT OWNER(s)	ASSESSOR PARCEL #	ASSIGNEE of the EASEMENT
82340 Pacific Coast Highway	John H. Benton	Graeme and Brenda Revell	4473-014-009	Access for All C/O Steve Hoyer Executive Director P.O. Box 1704 Topanga, CA 90290

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