

**CALENDAR ITEM  
C22**

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02/08/11  
W 24665  
S. Nelson

**CONSIDER ACCEPTANCE OF AN OFFER OF DEDICATION  
OF LATERAL ACCESS EASEMENT**

**PARTY THAT RECORDED OFFER OF DEDICATION:**

Elinor Bernstein

**PARTY TO ACCEPT EASEMENT:**

California State Lands Commission

**INTERESTED PARTY:**

California Coastal Commission

**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 (Commission) has entered into since its inception in 1938 have included the 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, eventually resulting in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, more than 1,500 offers to dedicate (OTDs) public access easements, both vertical and lateral (i.e., to and 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. 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

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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 Coastal Commission has requested that the State Lands Commission review and, where appropriate, accept offers of dedication of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the Commission. Commission staff is involved in an ongoing process with Coastal Commission staff to analyze the OTDs to determine which offers the State Lands Commission should accept.

The Commission has already authorized the acceptance of more than 200 OTDs along the coast of California between April 2, 1991, and October 29, 2010, the majority of which are located in the Malibu area of Los Angeles County.

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.

OTDs generally 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 reviewed the offer and the property on the attached Exhibit B and recommends approval.

**OTHER PERTINENT INFORMATION:**

1. The Coastal Development Permit (No. 5-89-995) that required the OTD at 19010 Pacific Coast Highway. as a condition was approved on January 11, 1990 by the Coastal Commission. Ms. Bernstein recorded the Irrevocable Offer to Dedicate Public Access Easement and Declaration of Restrictions on May 8, 1990 as Document No. 90-846002, Official Records of Los Angeles County. The OTD expires on May 8, 2011.

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2. In 1929, prior to the creation of the Commission in 1938, a series of eight steel and concrete groins were constructed along Las Tunas Beach in Malibu. Of these eight groins, one groin was located at the site of the subject OTD. A permitting process for these groins was established in 1931 requiring that these groins be maintained and repaired. However, these groins were allowed to deteriorate to such an extent that all that remained were jagged vertical pieces of the steel structure which protruded from the sand creating a serious hazard to users of the beach.

Pursuant to Litigation filed by the Commission in 1982, the remnants of these groins were to be removed as part of the Las Tunas Beach Settlement Agreement No. 2. The removal work for all of the groins was completed by June 11, 1996. A June 28, 1996 court report verified that the subject groin at this location, known as Las Tunas Groin No. 5, was 100 percent removed.

3. Pursuant to the Commission's delegation of authority and State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], staff determined this activity is not subject to the provisions of CEQA because it is not a "project" as defined by CEQA and 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:**

**CEQA FINDING:**

Find that the activity is not subject to the requirements of 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:**

Approve and Authorize the acceptance of the Irrevocable Offer to Dedicate Public Access Easement recorded on May 8, 1990 as Document No. 90-846002, Official Records of Los Angeles County.

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Authorize the execution, acknowledgment, and recordation of the acceptance and consent to record on behalf of the California State Lands Commission, in substantially the form of the copy of such document on file in the Sacramento office of the Commission.