

This Calendar Item No. 30
was adopted by the State Item
No. 38 of the State Lands
Commission by a vote of 3
to 0 at its 12/20/78
meeting.

CALENDAR ITEM

38.

LEGAL PROCEEDINGS -- MOUTH OF THE
SAN LUIS REY RIVER (OCEANSIDE)

12/78
Collins
W 20725.10

In the past the Commission's staff has received a number of inquiries relating to the State's interest in certain lands located along the coastline at the mouth of the San Luis Rey River in Oceanside. Ownership of these lands is presently claimed by a limited partnership called "North Coast Village" (hereinafter to be referred to as "NCV") which is also the name of that partnership's apartment complex located adjacent to these lands. The inquiries have related to, among other things, the following matters: (a) seaward extent of the NCV's ownership (NCV has claimed ownership to lands covered by the Pacific Ocean based on a boundary line agreement between the State and the City of Oceanside); (b) whether or not the State has sovereign claims to those portions of the San Luis Rey River and Lagoon which run through the property claimed by NCV (parts of this river and lagoon area have been artificially filled); and (c) whether or not the public has prescriptive rights in the area (especially the beach area) based on the doctrine set forth in Gion v. City of Santa Cruz (1970) 2 Cal. 3d. 29.

Recently the City of Oceanside, through its Planning Department, inquired whether the extent of these possible public interests could be determined in the near future so that the section of its Local Coastal Plan which deals with the area could be completed.

A number of other inquiries relating to the area have come from the San Diego Regional Coastal Commission, its staff and its attorneys. Their primary concerns have been over completed projects undertaken by NCV without coastal development permits. In those cases NCV claims exemptions from the Coastal Act on the basis of vested rights. A number of those projects may have encroached upon State lands; those projects included the building of a seawall beyond the existing mean high tide line, the filling and grading of certain formerly lagoon areas, the moving of sand from submerged ocean areas on to NCV's upland property, and the construction of fences which restrain public use of certain beach and lagoon areas adjacent to NCV's apartment complex.

The threat of further attempts by NCV to exclude the public from the beach areas adjacent to its apartments led the Coastal Commission and the Oceanside City Attorney to in-

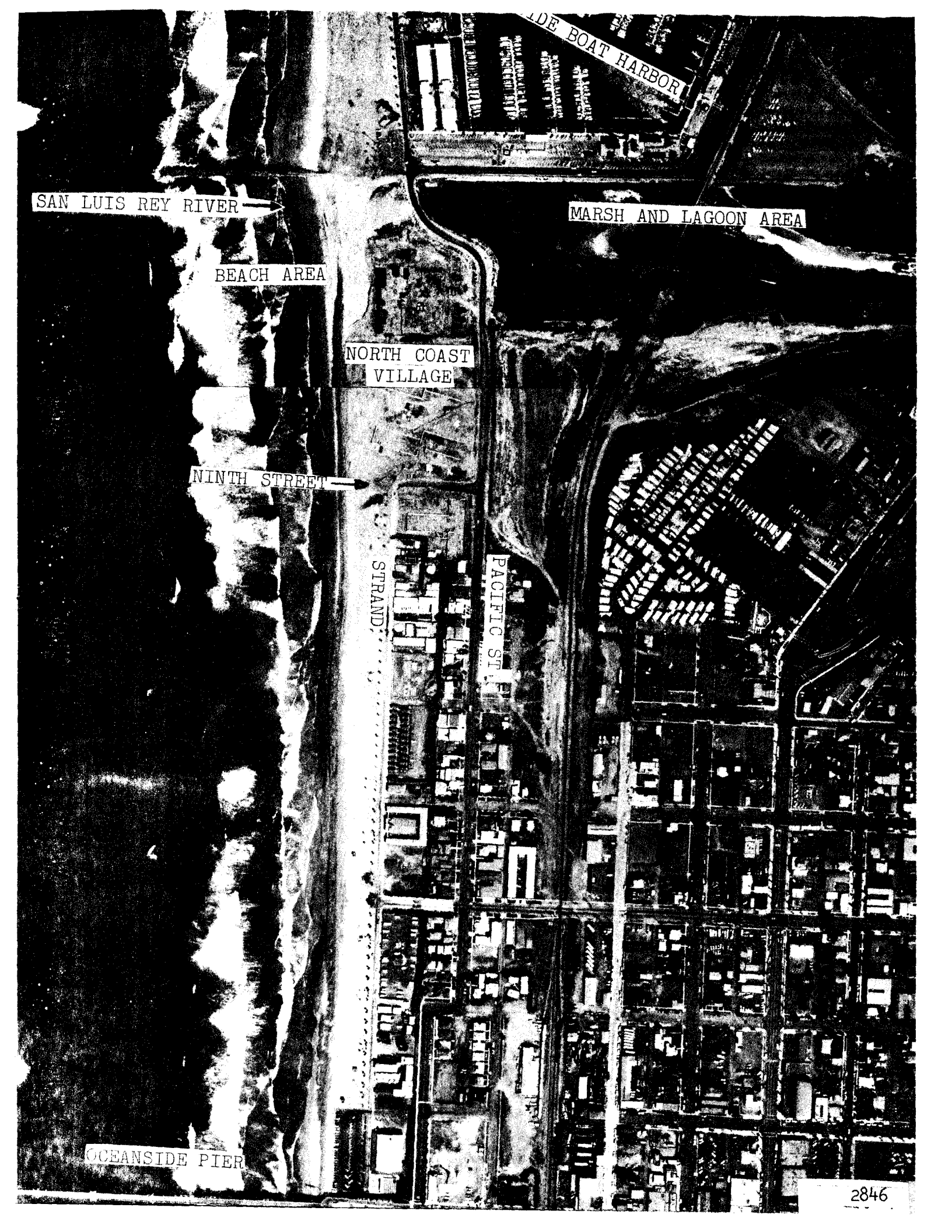
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formally request that the Attorney General's Office instigate an implied dedication investigation of the area. Since then the Attorney General's Office has received numerous telephone calls, letters and completed questionnaires relating to public use of the area. A preliminary analysis of those responses (which now total over 130) indicates there is probable cause to believe that the area under investigation, or at least parts of it, may be subject to prescriptive easements infavor of the public. Since the middle of October, when NCV fenced off additional beach and lagoon areas surrounding its apartments, there have been demands by a number of citizens, who responded to the investigation, that action be taken to protect what they asserted to be the "public's rights" in the area.

It would therefore appear appropriate at this time for the State to take legal action to resolve the title and public access problems which have been described above.

EXHIBIT: A. Aerial Photograph.

IT IS RECOMMENDED THAT THE OFFICE OF THE ATTORNEY GENERAL AND THE STATE LANDS COMMISSION'S STAFF BE AUTHORIZED TO TAKE WHATEVER STEPS ARE NECESSARY, INCLUDING THE INITIATION OF LITIGATION, TO PROTECT THE PUBLIC'S RIGHTS IN THE AREAS AROUND THE MOUTH OF THE SAN LUIS REY RIVER IN THE CITY OF OCEANSIDE, SAN DIEGO COUNTY.



LAKE BOAT HARBOR

SAN LUIS REY RIVER

MARSH AND LAGOON AREA

BEACH AREA

NORTH COAST VILLAGE

NINTH STREET

STRAND

PACIFIC ST

OCEANSIDE PIER