

MINUTE ITEM

This Calendar Item No. 36
was approved as Minute Item
No. 36 by the State Lands
Commission by a vote of 3
to 0 at its 4-7-81
meeting.

CALENDAR ITEM

F 36

3/81
W 503.1123
Wylie
Fossum
BLA 201
PRC 5980

BOUNDARY LINE AGREEMENT AND PERMIT
FOR IMPROVEMENTS IN SETTLEMENT OF LITIGATION
(PEOPLE V. CALIFORNIA CANADIAN BANK, ET AL., LOS ANGELES
SUPERIOR COURT CASE NO. WEC 42549)

IDENTIFICATION OF PROPERTY AFFECTED BY THIS AGREEMENT:

This proposed Boundary Line Agreement concerns property on the Santa Monica State Beach, hereinafter "Subject Property" located waterward of the 1921 Mean High Tide Line and adjoining an upland parcel commonly known as 522 Palisades Beach Road, hereinafter "Upland Parcel". Relevant portions of the "Subject Property" and "Upland Parcel" are shown on the sketch attached as Exhibit "B". The cross hatched area shows the extent of existing encroachments onto the "Subject Property" which will be covered by the proposed "Permit for Improvements."

BACKGROUND:

The Subject Property constitutes a portion of the Santa Monica State Beach, which is currently being administered by the Department of Parks and Recreation, and operated by the City of Santa Monica under an operating agreement. This lawsuit is one of 27 lawsuits brought by the State of California and the City of Santa Monica to quiet title to property along the Santa Monica State Beach and to require removal of encroachments onto the beach adjacent to private property.

In 1921, the City of Santa Monica, at that time a sovereign land trust grantee of the State, entered into a boundary agreement with the upland owner's predecessor in interest, which agreement fixed the 1921 Mean High Tide Line as the boundary separating uplands from tidelands. This Boundary Agreement was affirmed by the California Supreme Court in the case of People v. Muchenberger, 206 Cal. 635 (1929).

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(Rev, 4/6/81)

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Since 1921, the tidelands waterward of the 1921 Mean High Tide Line have become filled as the result of the construction of man-made structures, and the beach currently extends an average of 400 feet waterward of the 1921 Mean High Tide Line.

The owners of the upland parcel contend they are entitled to all or a portion of the filled tidelands, claiming that the filling is at least partially naturally caused. They also contend that the City and State are estopped from requiring removal of the encroachments due to acquiescence in their existence for a substantial length of years, and that the City issued building permits for the construction of the encroachments.

The encroachments in People v. California Canadian Bank, et al., consist of a swimming pool, rock and concrete decking, and fences. The encroachments extend 29 feet beyond the 1921 Mean High Tide Line and enclose an area of approximately 1,740 square feet.

PROPOSED SETTLEMENT:

The essence of the proposed settlement is as follows:

1. EXECUTION OF THE BOUNDARY LINE AGREEMENT which reaffirms the 1921 Mean High Tide Line as retraced in 1978 as the permanent boundary separating the upland parcel from sovereign tidelands. The boundary will not change due to accretion or erosion, whether artificially or naturally caused.
2. The State Lands Commission, the Department of Parks and Recreation, and the City of Santa Monica will quitclaim all right, title and interest in the upland parcel landward of the 1921 Mean High Tide Line as retraced in 1978.
3. The upland party will quitclaim all right, title and interest in the subject property waterward of the 1921 Mean High Tide Line as retraced in 1978.
4. The upland party will be permitted to maintain existing improvements waterward of the 1921 Mean High Tide Line as retraced in 1978 subject to the terms and conditions set forth in the "Permit for Improvements."

5. The "PERMIT FOR IMPROVEMENTS" provides as follows:

- (a) Upland Party may maintain the existing improvements for a period of ten (10) years at a nominal annual rental rate. No additional improvements may be placed upon the area waterward of the 1921 Mean High Tide Line as retraced in 1978.
- (b) If at the expiration of the ten (10) year period, the swimming pool is still in existence and usable, the upland party may exercise an option to lease the premises for an additional 15 years, provided that:
 - (1) All improvements more than 15 feet seaward of the 1921 Mean High Tide Line as retraced in 1978 must be removed.
 - (2) Upland party shall pay fair rental value annually for the use of the premises remaining.
 - (3) If the swimming pool is removed prior to the termination of the 15-year period, upland party must pull back to the 1921 Mean High Tide Line.
- (c) All rental payments shall be made to the State Lands Commission for ultimate transmittal to the City of Santa Monica, as the operator at Santa Monica State Beach, for use in the improvement and development of the beach areas within the City Limits.

6. A judgment confirming the settlement will be obtained in Los Angeles Superior Court Case No. WEC 42549.

GENERAL:

The proposed settlement will eliminate the costs, delays, and uncertainties of litigation. The settlement accomplishes the objective of the State Lands Commission in reaffirming the boundary between uplands and tidelands, and removes the litigation as an obstacle to the beach planning program, which accomplishes the objectives of the Department of Parks and Recreation and the City of Santa Monica.

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The City Council of Santa Monica on March 24, 1981, authorized the execution of the Boundary Line Agreement and approved in concept the Permit for Improvements.

It will be necessary to obtain the signature of the Department of Parks and Recreation.

This project is situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in a use category, Class C, which authorizes Multiple Use.

Staff review indicates that the Boundary Settlement and issuance of a lease will have no significant effect upon the identified environmental values. These are for an existing facility for which no adverse comments have been received.

EXHIBITS: A. Site Map.
 B. Sketch of relevant portions of the
 Subject Property and Upland Parcel.

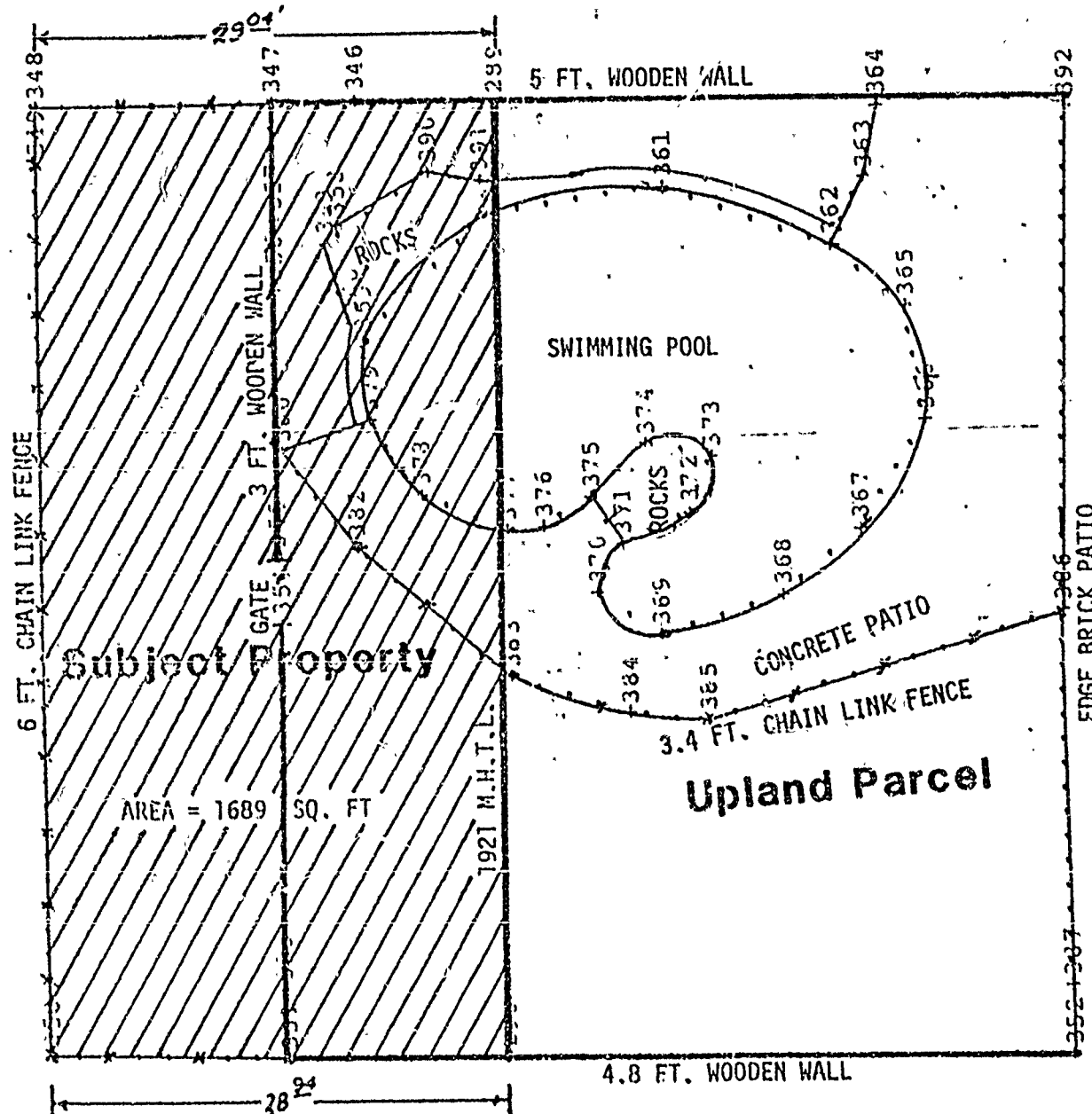
IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ESTABLISHMENT OF THIS BOUNDARY LINE IS A SETTLEMENT IN LIEU OF LITIGATION, THEREFORE, CEQA DOES NOT APPLY.
2. DETERMINE THAT ISSUANCE OF A LEASE FOR EXISTING IMPROVEMENTS IS EXEMPT FROM THE REQUIREMENTS OF CEQA UNDER THE PROVISIONS OF P.R.C. 21084, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
3. DETERMINE THAT THE ESTABLISHMENT OF A BOUNDARY LINE AND ISSUANCE OF A LEASE FOR EXISTING IMPROVEMENTS AS SETTLEMENT IN LIEU OF LITIGATION IS EXEMPT FROM THE REQUIREMENTS OF ARTICLE 6.5, OF TITLE 2 OF CAL. ADM. CODE BECAUSE IT IS NOT A DEVELOPMENT WITHIN THE MEANING OF SECTION 2503 OF TITLE 2 OF THE CAL. ADM. CODE AND SECTION 30105 OF THE P.R.C.
4. FIND THAT GRANTING OF THE LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE P.R.C.

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5. FINE THAT THIS PROPOSED SETTLEMENT IN LIEU OF LITIGATION IS IN THE BEST INTERESTS OF THE STATE.
6. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT AND RECORDATION ON BEHALF OF THE COMMISSION OF THE FOLLOWING DOCUMENTS:
 - A. THE BOUNDARY LINE AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
 - B. THE PERMIT FOR IMPROVEMENTS IN SUBSTANTIALLY THE FORM OF THE COPY ON FILE WITH THE COMMISSION.
 - C. THE STATE'S CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING OF A QUITCLAIM DEED TO THE STATE FROM THE UPLAND PARTY OF ANY RIGHT, TITLE OR INTEREST THE UPLAND PARTY MAY HAVE IN THE SUBJECT PROPERTY.
7. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTIONS ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT AND RECORDATION OF DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, DEEDS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE AND CONSENTS TO RECORDATION, AND SUCH OTHER DOCUMENTS AS MAY BE REASONABLE AND CONVENIENT TO CARRY OUT THE SAID COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER THEREOF.

BEACH AREA



CALIF./CANADIAN BANK
522 PALISADES BEACH ROAD
APN 4293-180-005

PUBLIC PARKING LOT

EXHIBIT B

W 503.1123

Computed By DR Date 12-15-77
Check By DR Date 12-15-77

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