

MINUTE ITEM

This Calendar Item No. 059 was approved as
CALENDAR ITEM Minute Item No. 59 by the California State Lands
C59 Commission by a vote of 3 to 0 at its
2/27/98 meeting.

A 58
S 37

02/27/98
PRC8023 W 24909
PRC8024 AD 340
SLL 34
A. Scott
Perez
Fossum

**CONSIDER APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
AND ISSUANCE OF TWO RECREATIONAL PIER LEASES
INVOLVING CERTAIN REAL PROPERTY IN THE
CITY OF HUNTINGTON BEACH AND SUNSET BEACH, ORANGE COUNTY,
PURSUANT TO PUBLIC RESOURCES CODE SECTION 6307
AND THE KAPILOFF LAND BANK ACT**

PRIVATE PARTIES:

Robert E. and Mary E. Bacon
10772 Pine Avenue
Los Alamitos, California 90720

Michael R. & Denise L. Van Voorhis
16923 Park Place
Sunset Beach, California 90742

BACKGROUND:

A title dispute exists between the State, acting by and through the California State Lands Commission (STATE) and Robert E. & Mary E. Bacon (BACON) and Michael R. & Denise L. Van Voorhis (VAN VOORHIS) concerning certain property interests in Huntington Harbour within the city of Huntington Beach and Sunset Beach in Orange County.

Commission staff has conducted a study of the evidence of title to the lands in dispute and has drawn a number of factual and legal conclusions, including, but not limited to, those summarized below:

1. A portion of the land in dispute is located within the meander survey for Tideland Location 221 (TLL 221). The State of California sold the tidelands within TLL 221 to R. J. Northam in 1901 and issued a patent for the tidelands on January 6, 1903.

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2. A portion of the land in dispute is within the meander survey for Rancho La Bolsa Chica.
3. At least a portion of the Subject Property was, in a natural state, as evidenced by historical data (including but not limited to the 1873 United States Coast Survey Topographic sheet T - 1345), covered by the ordinary tides of Sunrise/Anaheim Bay, the precise extent of coverage being subject to dispute. To the extent the Subject Property was tidelands in its natural condition, BACON and VAN VOORHIS own their interests in the property subject to the Public Trust Easement for Commerce, Navigation and Fisheries.
4. A termination of Public Trust interest is proposed for those portions of the subject property which have been improved, bulkheaded, filled or reclaimed and are located above the elevation of mean high tide. (Exhibits C, D, E and F).
5. Those portions of the subject property which are unfilled and are located below the elevation of mean high tide are to be quitclaimed to the State and held as lands subject to the Public Trust (Exhibits G and H).
6. The lands described in Exhibits E and F were acquired by the State in 1961 under the assumption that they were to be underwater and within the 200 foot Midway Channel described below. No upland access rights exist to the lands described in Exhibits E and F and they are not necessary, available useful, or reasonably susceptible of use for Public Trust purposes.
7. Boundary Line Agreement 18 (BLA 18) (PRC 2686.1(A)), dated December 22, 1960, by and between the State Lands Commission and Huntington Harbour Corporation established, pursuant to Public Resources Code Section 6357, the ordinary low-water mark of certain portions of Anaheim Bay. That agreement established the boundary between the lands sold by the State pursuant to TLL 221, which were at the time owned by Huntington Harbour Corporation, and the unsold submerged lands located within the perimeter description of TLL 221.
8. Sovereign Land Location 34 (SLL 34) (PRC 2686.1(B)), dated December 22, 1960 as amended by the agreement dated November 22, 1961, by and between the State Lands Commission and Huntington

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Harbour Corporation exchanged, pursuant to PRC No. section 6307; 17.91 acres of submerged lands of the State for 66.47 acres of tidelands patented under TLL 221 and owned by Huntington Harbour Corp. The exchange agreement did not terminate the Public Trust Easement except as to the 17.91 acres conveyed by the State pursuant to that agreement. The 17.91 acres are located within the Main Channel and Midway Channel, within Huntington Harbour.

9. The staff is of the opinion that a review of the title evidence and the applicable legal principles leads to the conclusion that the State, in its sovereign capacity, is the owner of some Public Trust right, title, or interest in the subject property. The exact extent and nature of the State's interest is, however, subject to uncertainty and continued vigorous dispute by the Private Parties.
10. The Parties hereto consider it expedient, necessary and in the best interests of the State, the public, and the Private Parties to resolve this title dispute by compromise settlement, thereby avoiding the potential substantial costs, time delays, and uncertainties of litigation.
11. In the interest of settlement, the State and the Private Parties have conducted independent studies and evaluations of the title evidence, the principles of law and the merits of the State's and the Private Parties' legal positions. A land appraisal and interest evaluation study completed by the State has shown that the value of the claimed State sovereign interests in the Trust Termination Parcels (Exhibits C and D) together with the State Exchange Parcels (Exhibits E and F) is less than or equal to the combined value of the property interests to be conveyed to the State in the Private Exchange Parcels (Exhibits G and H) plus \$65,000.
12. As an element of this Agreement, and pursuant to Public Resources Code section 6503.5, the State will issue a recreational pier lease for a 10 year term to Bacon and a separate 10 year recreational pier lease to Van Voorhis for the areas as shown on Exhibit B.

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA

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Guidelines (Title 14 California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: Public Resources Code section 21080.11

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.
3. In taking action on this staff recommendation, the Commission is acting as the trustee of the Land Bank Fund created by Public Resources Code section 8610.

EXHIBITS:

- A. DESCRIPTION OF SUBJECT PROPERTY
- B. SITE MAP/ DEPICTION OF SUBJECT PROPERTY
- C. TRUST TERMINATION PARCEL (BACON)
- D. TRUST TERMINATION PARCEL (VAN VOORHIS)
- E. STATE EXCHANGE PARCEL (BACON)
- F. STATE EXCHANGE PARCEL (VAN VOORHIS)
- G. PRIVATE EXCHANGE PARCEL (BACON)
- H. PRIVATE EXCHANGE PARCEL (VAN VOORHIS)

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14 CALIFORNIA CODE OF REGULATIONS SECTION 5061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO PUBLIC RESOURCES CODE SECTION 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

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3. FIND THAT, WITH RESPECT TO THE PROPOSED TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST WITHIN THE AREA DESCRIBED IN EXHIBITS C, D, E AND F OF THIS CALENDAR ITEM FOR THE LANDS DESCRIBED IN EXHIBITS G AND H PLUS \$65,000.00 IN FUNDS DEPOSITED IN THE LAND BANK WITH WHICH TO ACQUIRE OTHER INTERESTS IN REAL PROPERTY OF BENEFIT TO THE PUBLIC TRUST:
- A. THE AGREEMENT IS IN THE BEST INTERESTS OF THE STATE AND CONSISTENT WITH PUBLIC TRUST NEEDS.
 - B. THAT THE LANDS DESCRIBED IN EXHIBITS G AND H PLUS THE \$65,000.00 TO BE PLACED IN THE LAND BANK FUND IS EQUAL TO, OR GREATER THAN THE VALUE OF THE INTEREST IN THE LANDS DESCRIBED IN EXHIBITS C, D, E AND F BEING RELINQUISHED BY THE STATE.
 - C. THE AREA OF INTERESTS IN LANDS BEING CLAIMED BY THE STATE TO BE RELINQUISHED, WHICH IS WITHIN A RELATIVELY SMALL AREA (APPROXIMATELY 0.26 ACRES) HAS, PURSUANT TO A PROJECT FOR IMPROVEMENT OF NAVIGATION, RECREATION, FLOOD CONTROL PROTECTION, AND ENHANCEMENT AND CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATERS AND UPLANDS, BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER IN FACT TIDE OR SUBMERGED LANDS.
 - D. THE CONVEYANCES PROPOSED BY THE AGREEMENT WILL NOT INTERFERE WITH THE PUBLIC'S RIGHTS OF ACCESS TO WATERWAYS IN HUNTINGTON HARBOUR.
 - E. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS AND CLAIMS WITHIN THE AGREEMENT AREA.
 - F. THE PROPOSED SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED.

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- G. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION, AND IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW.
- H. ON THE DATE PROVIDED FOR IN THE TITLE SETTLEMENT AGREEMENT AND CONSISTENT WITH ITS TERMS, THE TRUST TERMINATION PARCELS, DESCRIBED IN EXHIBITS C AND D, AND THE STATE EXCHANGE PARCELS, DESCRIBED IN EXHIBITS E AND F, WILL BE FOUND TO NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST EASEMENT WILL BE TERMINATED.
4. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGMENT, AND RECORDATION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION OF THE BACON / VAN VOORHIS TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
5. AUTHORIZE ISSUANCE OF A TEN YEAR RECREATIONAL PIER LEASE, FOR MAINTENANCE OF A BOAT DOCK, TO ROBERT E. BACON AND MARY E. BACON, BEGINNING MARCH 1, 1998, ON THE LANDS SHOWN ON EXHIBIT B AS BACON DOCK AREA; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; LIABILITY INSURANCE IN THE AMOUNT OF \$300,000.
6. AUTHORIZE ISSUANCE OF A TEN YEAR RECREATIONAL PIER LEASE, FOR MAINTENANCE OF AN EXISTING BOAT DOCK, TO MICHAEL R. VAN VOORHIS AND DENISE L. VAN VOORHIS, BEGINNING MARCH 1, 1998, ON THE LANDS SHOWN ON EXHIBIT B AS VAN VOORHIS DOCK AREA; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; LIABILITY INSURANCE IN THE AMOUNT OF \$300,000.
7. AUTHORIZE AND DIRECT THE STAFF OF THE CALIFORNIA STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL: 1) TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE CALIFORNIA STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE TITLE

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SETTLEMENT AGREEMENT; AND 2) TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

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EXHIBIT A

SUBJECT PROPERTY

All of those lands lying within the County of Orange, State of California, depicted on the attached Exhibit B, as more particularly described in Exhibits C through H, attached hereto.

END OF DESCRIPTION

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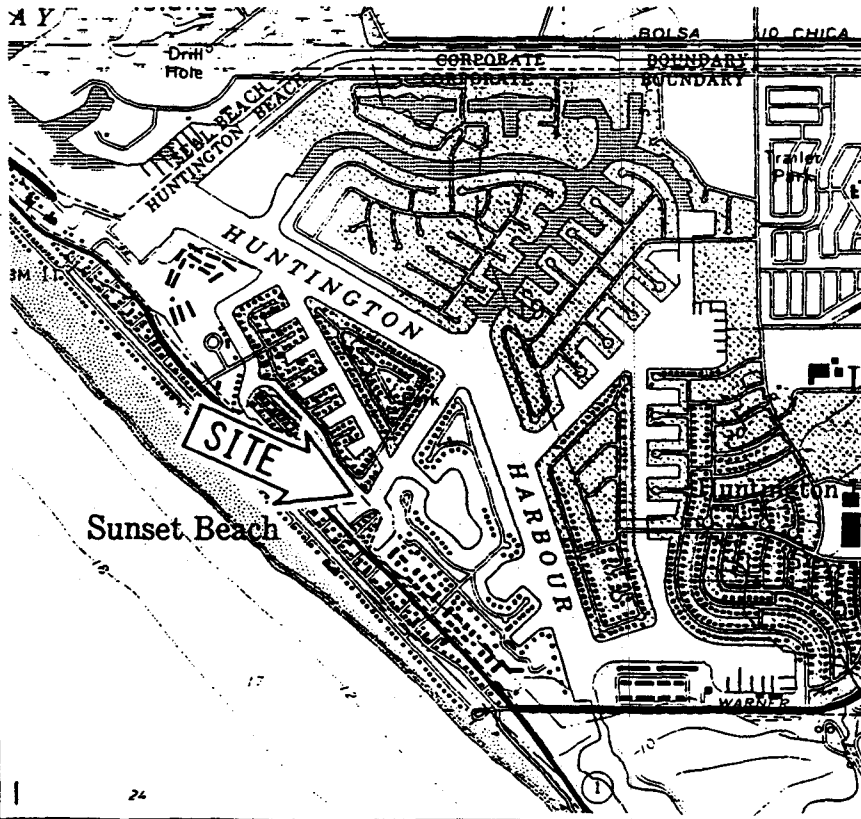
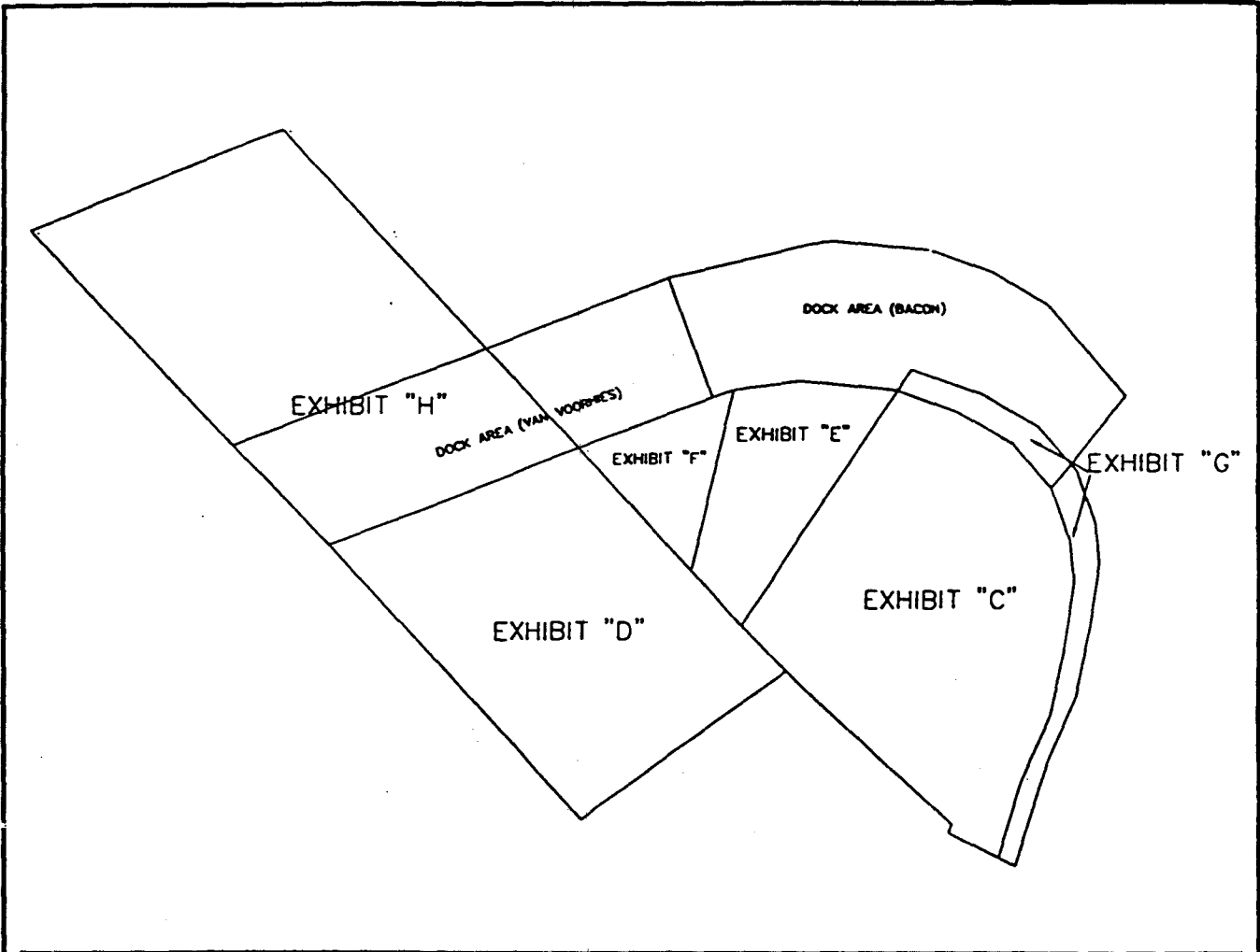


EXHIBIT "B"
SITE MAP
 AD 340 / W24909
 BACON / VAN VOORHIS
 TITLE SETTLEMENT
 HUNTINGTON BEACH
 ORANGE COUNTY, CA.



EXHIBIT C

LAND DESCRIPTION

TRUST TERMINATION PARCEL (BACON)

AD340/W24909

A parcel of land in the City of Huntington Beach, County of Orange, lying within the perimeter description of Tideland Location 221, as described in the patent from the State of California, recorded in Book 1 of Patents, Instrument No. 22084, also being a portion of Lot B of Tract 8040, as shown on the map recorded in Book 350, Page 35 of Miscellaneous Maps, both being recorded in the Official Records of Orange County, California, being more particularly described as follows:

BEGINNING at the most western corner of said Lot B; thence northeasterly along the westerly line of said Lot B, being coincident with the easterly boundary of the 200 foot wide channel described as Strip B in Book 6368, Page 411 (at Page 413) of Official Records of Orange County, N33°44' 29"E, 65.16 feet; thence S69°53'53"E, 14.50 feet; thence S59°23'21"E, 14.45 feet; thence S39°35'39"E, 13.64 feet; thence S18°19'58"E, 12.80 feet; thence S05°31'22"E, 9.33 feet; thence S08°25'22"W, 14.65 feet; thence S11°32'36"W, 16.31 feet; thence S23°17'25"W, 16.68 feet; thence S17°01'43"W, 18.23 feet to the southerly boundary of said Lot B of Tract 8040; thence along said southerly boundary N63°45'03"W, 12.65 feet; thence N21°43'12"E, 2.06 feet; thence N47°13'34"W, 54.71 feet; thence N42°23'36"W, 11.69 feet to the point of beginning and the end of the herein described parcel.

END DESCRIPTION

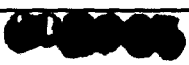
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EXHIBIT D

LAND DESCRIPTION

TRUST TERMINATION PARCEL (VAN VOORHIS)

AD340/W24909

A parcel of land situated in the County of Orange, State of California, being more particularly described as follows:

Lot 10, in Block 210 of Tract 21, First Addition of Sunset Beach, per map recorded in Book 9, Page 22 of Miscellaneous Maps in the Office of the Orange County Recorder.

TOGETHER WITH that certain parcel of land described in Corporation Quitclaim Deed recorded in Book 9788, Page 658 Official Records of Orange County.

END DESCRIPTION

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EXHIBIT E

LAND DESCRIPTION

STATE EXCHANGE PARCEL (BACON)

AD340/W24909

A parcel of land in the City of Huntington Beach, County of Orange, State of California, lying within the perimeter description of Tideland Location 221, as described in the patent from the State of California, recorded in Book 1 of Patents, Instrument No. 22084, and being adjacent to Lot B of Tract 8040, as shown on the map recorded in Book 350, Pages 35 of Miscellaneous Maps, both being recorded in the Official Records of Orange County, California, being more particularly described as follows:

BEGINNING at the most western corner of said Lot B ; thence northeasterly along the westerly line of Lot B, being coincident with the easterly boundary of the 200 foot wide channel described as Strip B in Book 6368, Page 411 (at Page 413) Official Records of Orange County, N33°44' 29"E, 65.16 feet to the fixed and agreed common boundary line; thence along said fixed and agreed common boundary line, N69°53'53"W, 00.67 feet; thence N84°39'07"W, 21.85 feet; thence S82°23'44"W, 15.43 feet; thence leaving said fixed and agreed common boundary line, S13°27'24"W, 43.00 feet to the northeasterly boundary of Lot 10 of Block 210 of Tract No. 21, Map of the First Addition to Sunset Beach, Recorded in Book 9 of Miscellaneous Maps Page 22 in the Official Records of Orange County; thence along last said boundary, S42°23'36"E, 17.05 feet to the point of beginning.

END DESCRIPTION

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EXHIBIT F

LAND DESCRIPTION

STATE EXCHANGE PARCEL (VAN VOORHIS)

AD340/W24909

A parcel of land in the, City of Huntington Beach, County of Orange, State of California, lying within the perimeter description of Tideland Location 221, as described in the patent from the State of California, recorded in Book 1 of Patents, Instrument No. 22084, and being adjacent to Lot 10 of Block 210 in Tract 21, as shown on the map recorded in Book 9, Page 22 of Miscellaneous Maps, both being recorded in the Official Records of Orange County, California, being more particularly described as follows:

COMMENCING at the most western corner of Lot B of Tract 8040, as shown on a map recorded in Book 350, Page 35 of Miscellaneous Maps, Official Records of Orange County, California, also being a point on the northerly boundary of said Lot 10 of Block 210 of Tract 21; thence northeasterly along the westerly line of Lot B, being coincident with a 200 foot wide channel described as Strip B in Book 6368, Page 411 (at Page 413) of Official Records of Orange County, N33°44' 29"E, 65.16 feet to the fixed and agreed common boundary line; thence along said fixed and agreed common boundary line, N69°53'33"W, 00.67 feet; thence N84°39'07"W, 21.85 feet; thence S82°23'44"W, 15.43 feet to the POINT OF BEGINNING of the herein described parcel; thence continuing along said fixed and agreed common boundary line, S69°36'58"W, 38.38 feet to the intersection with the north boundary line of said Lot 10; thence along said north boundary line of Lot 10, S42°23'36"E, 38.52 feet; thence leaving the north boundary line of Lot 10, N13°27'24"E, 43.00 feet to the point of beginning.

END DESCRIPTION

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EXHIBIT G

LAND DESCRIPTION

PRIVATE PARTY EXCHANGE PARCEL (BACON)

AD 340/W24909

All of Parcel 1 as described in deed recorded August 15, 1991 as Instrument numbered 91-439783 of Official Records of Orange County, California.

EXCEPTING THEREFROM the following described parcel of land:

BEGINNING at the most western corner of said Lot B; thence northeasterly along the westerly line of said Lot B, being coincident with the easterly boundary of the 200 foot wide channel described as Strip B in Book 6368, Page 411 (at Page 413) of Official Records of Orange County, N33°44'29"E, 65.16 feet; thence S69°53'53"E, 14.50 feet; thence S59°23'21"E, 14.45 feet; thence S39°35'39"E, 13.64 feet; thence S18°19'58"E, 12.80 feet; thence S05°31'22"E, 9.33 feet; thence S08°25'22"W, 14.65 feet; thence S11°32'36"W, 16.31 feet; thence S23°17'25"W, 16.68 feet; thence S17°01'43"W, 18.23 feet to the southerly boundary of said Lot B of Tract 8040; thence along said southerly boundary N63°45'03"W, 12.65 feet; thence N21°43'12"E, 2.06 feet; thence N47°13'34"W, 54.71 feet; thence N42°23'36"W, 11.69 feet to the point of beginning and the end of the herein described parcel.

END DESCRIPTION

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EXHIBIT H

LAND DESCRIPTION

PRIVATE PARTY EXCHANGE PARCEL (VAN VOORHIS)

AD340/W24909

A parcel of land situated in the County of Orange, State of California and being a portion of Block 216 of Tract 21, First addition of Sunset Beach, per map recorded in Book 9, Page 22 of Miscellaneous Maps, in the Office of the County Recorder, Orange County, California, more particularly described as follows:

BEGINNING at the most northerly corner of that certain parcel of land described in Corporation Quitclaim Deed recorded in Book 9788, Page 658 Official Records of Orange County; thence along the northeasterly boundary of said Block 216, N42°23'36"W, 100.00 feet; thence S67°58'16"W, 63.38 feet, more or less to the northwesterly prolongation of the common line between said Lot 10 and Lot 9 of said Block 210; thence southeasterly along said prolongation, to the most westerly corner of said parcel of land described in said Corporation Quitclaim Deed; thence northeasterly along the northwesterly line of last said parcel, to the point of beginning.

END DESCRIPTION

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