

CALENDAR ITEM

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**INFORMATIONAL REPORT ON THE STATUS OF
NEGOTIATIONS TO ACQUIRE
A PUBLIC ACCESS EASEMENT TO AND ALONG
MARTINS BEACH, SAN MATEO COUNTY,
PURSUANT TO PUBLIC RESOURCES CODE SECTION 6213.5**

PARTIES:

California State Lands Commission

Martins Beach 1 LLC and Martins Beach 2 LLC

BACKGROUND:

Martins Beach is located on the west side of Cabrillo Highway (State Route 1) at Martins Beach Road, approximately four miles south of the City of Half Moon Bay, in unincorporated San Mateo County.

On September 30, 2014, Governor Brown signed Senate Bill 968 (Hill), which added Public Resources Code section 6213.5 effective January 1, 2015. The law requires the Commission to “consult and enter into any necessary negotiations ... to acquire a right-of-way or easement ... for the creation of a public access route to and along the shoreline, including the sandy beach, at Martins Beach.” If the Commission is unable to reach an agreement to acquire the right-of-way or easement or the owners do not voluntarily provide public access by January 1, 2016, then PRC section 6213.5 authorizes the Commission to use its existing eminent domain authority to acquire the public right-of-way or easement. Additionally, the Commission must consult and enter into negotiations with local stakeholders, as described, to address the ongoing management and operation of any property acquired under these provisions.

Martins Beach is a crescent-shaped beach with a wide, sandy shoreline. It is bordered by 75-foot tall cliffs at the north and south ends and sloping bluffs in between. The beach is part of a 49.155-acre parcel situated between the Pacific Ocean and the west side of Cabrillo Highway. The parcel (Assessor’s Parcel Number [APN] 066-330-230) is owned by Martins Beach 1 LLC and Martins

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Beach 2 LLC (collectively “Martins Beach LLC”). An adjoining Assessor’s parcel to the south (APN 066-330-240) is under the same ownership, but Martins Beach does not extend onto it.

The only access to the beach is from Martins Beach Road, a gated, privately-owned two-lane road that winds down from Cabrillo Highway, a quarter mile to the east, and then parallels a stretch of the beach. The entry gate is on Martins Beach Road off of Cabrillo Highway. The area where Martins Beach Road winds down to the beach has, over many decades, been developed with 46 single-family residences. The residences, known as cabins, are individually owned and separate from the ownership of the 49.155-acre property. The cabin owners have ground leases from Martins Beach LLC.

Martins Beach has been a popular destination for fishing, picnicking, surfing, and other recreational uses for almost a century. The prior property owners, the Deeney family, provided a general store and public restroom. They built the first cabin and allowed the construction of the others, subject to the previously-mentioned ground leases. While the prior owners allowed the public to use Martins Beach Road to access to the beach, they charged a fee for parking. The current ownership, Martins Beach LLC, purchased the property in 2008 and initially allowed public access. In 2010, it closed the gate and erected signs warning against trespass, preventing public access to Martins Beach.

PENDING LITIGATION:

There are currently two cases involving access to Martins Beach pending. In *Friends of Martin’s Beach v. Martins Beach LLC*, Case No. CIV517634, the court considered whether the public has a right to traverse private property to access the beach. In October 2013, the court ruled that the property owner could close the road and prevent public access to Martins Beach. This decision is currently on appeal. On May 11, 2015, the Commission and the California Coastal Commission filed a joint amicus brief.

In *Surfrider Foundation v. Martins Beach LLC*, Case No. CIV 520336, the Surfrider Foundation challenged the property owners’ compliance with the California Coastal Act when closing the road to the beach. In December 2014, the court found that Martins Beach LLC’s actions to change the public’s access to the beach without a coastal development permit was a violation of the Coastal Act. This decision is currently on appeal. Additionally, in July 2014, the California Coastal Commission initiated a prescriptive rights survey to document possible historic rights of public access at Martins Beach.

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PROPOSED PUBLIC ACCESS EASEMENT:

Commission staff has spent considerable time researching the property and investigating what type of easement would be most useful to the public, including conducting a mean high tide line survey, appraising the property, and participating in a public meeting facilitated by the Surfrider Foundation.

The proposed public access easement to the beach would overlay Martins Beach Road from Cabrillo Highway down to the point where the road meets the beach. The easement area would also continue along Martins Beach Road parallel to the beach for a short distance to allow vehicles to drop people off and turn around. This portion of the easement contains approximately 0.87 acre. The proposed public access easement *along* the beach runs from the north property line to the southern end of the beach. It extends from the mean high tide line to the edge of Martins Beach Road and then along a low lying bluff to the southern end of the beach. This part of the easement contains approximately 5.31 acres. The proposed easement also includes a public parking area at an existing turn out off Martins Beach Road just above (to the east of) the cabins. This area is approximately 0.21 acre. The total area of the proposed public access easement is 6.39 acres. Exhibit B depicts the proposed easement area.

The proposed easement would provide public access similar to that of a public park, with daily dawn-to-dusk hours of operation. The proposed easement would include trash receptacles and one or more portable toilets. It is envisioned that maintenance of the easement (opening and closing the gate, emptying the trash receptacles, and servicing the portable toilets, etc.) would be handled by a local public agency through an agreement with the Commission.

STATUS OF NEGOTIATIONS:

On December 31, 2014, Commission staff sent a letter to Mr. Steve Baugher, Martins Beach LLC's representative, requesting a meeting to begin discussions about acquiring a public access easement. The first meeting with Martins Beach LLC representatives occurred on February 26, 2015. Two subsequent meetings with the same attendees were held on May 12, 2015, and October 15, 2015.

At the October 15th, meeting, Commission staff provided the above described proposal detailing the type and extent of the public access easement and an offer to acquire that easement. To date, Martins Beach LLC has not responded to the Commission staff's offer. Instead Martins Beach LLC has proposed the concept of a land exchange involving an exchange of the entire Martins Beach property for another coastal property with a private beach that the State either already

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owns or, presumably, would acquire. While staff has conducted some very preliminary research into this land exchange concept, staff considers this concept to be beyond the scope of the controlling legislation.

OTHER PERTINENT INFORMATION:

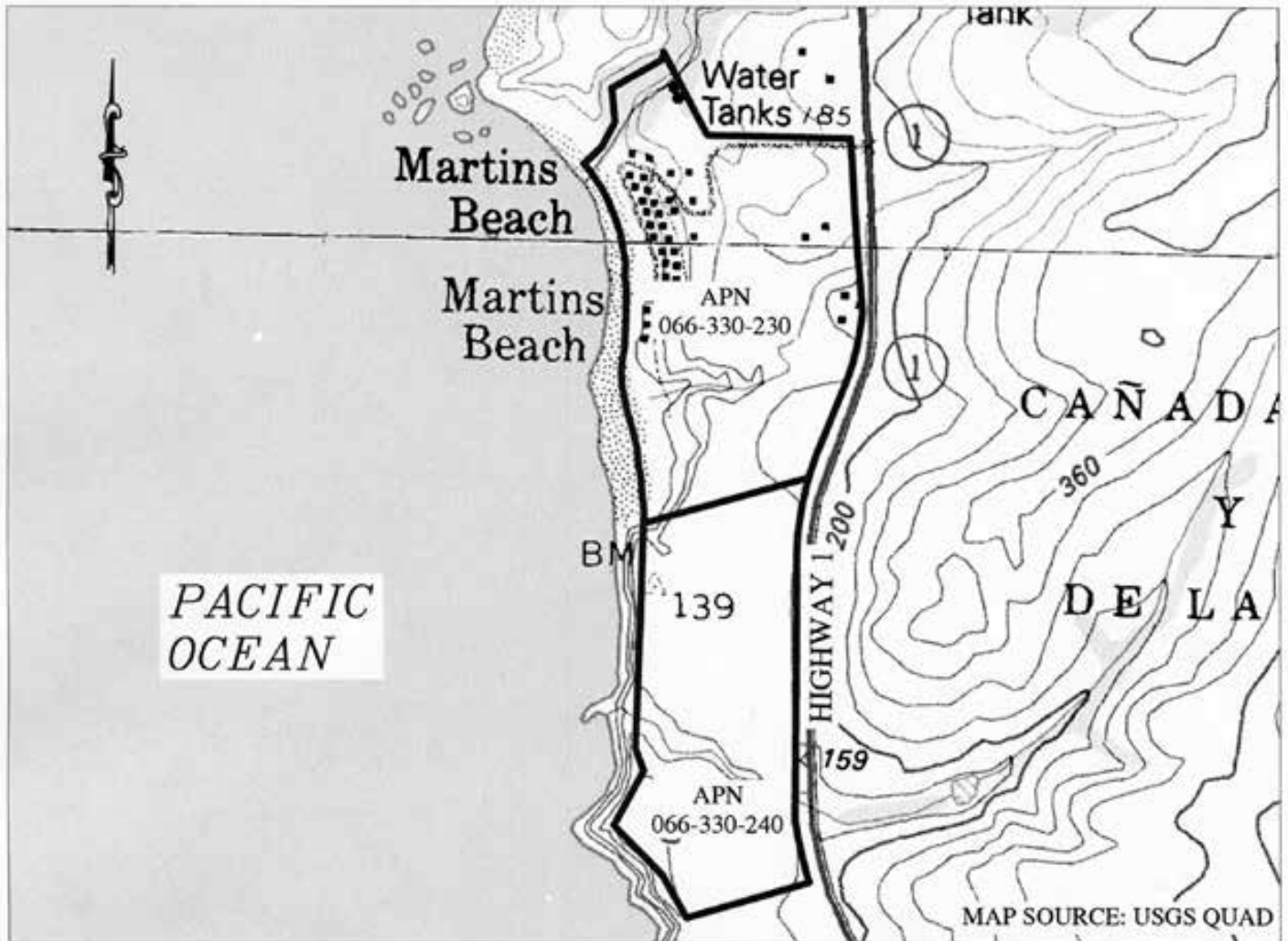
1. The staff's report on the status of negotiations as described above is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

EXHIBITS:

- A. Site and Location Map
- B. Compilation Plat Showing Proposed Public Access Easements

NO SCALE

SITE



MARTINS BEACH, NEAR HALF MOON BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

MARTINS BEACH
 APNs 066-330-230 &
 066-330-240
 SAN MATEO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

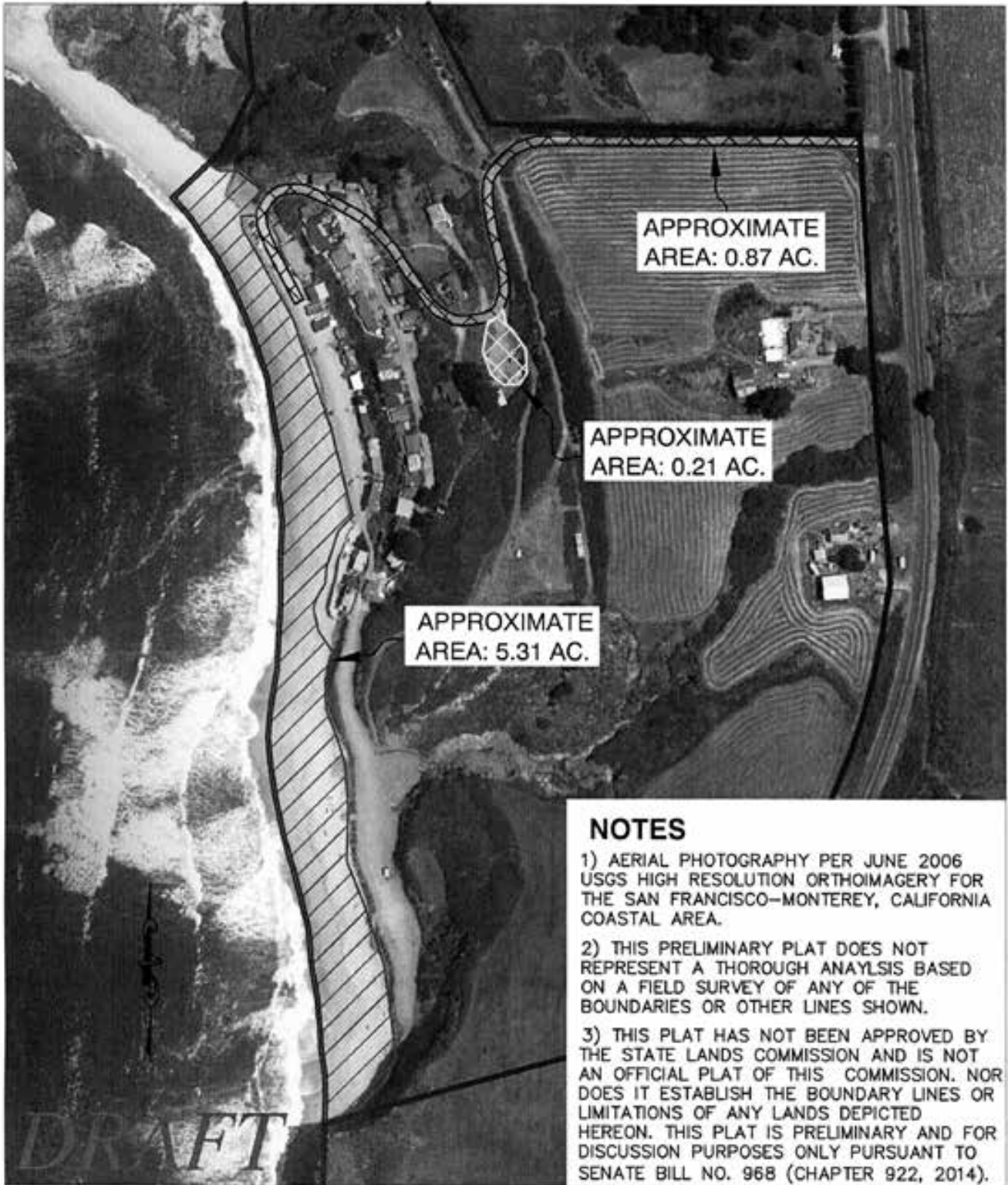


EXHIBIT B

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SCALE: 1"=300'

DRAWN BY: J.PORTER, PLS 8266

DATE: 12/03/15

PROPOSED EASEMENT AREAS
MARTINS BEACH
SAN MATEO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

