

## STAFF REPORT

36

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06/23/20

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D. Simpkin

### **PUBLIC AGENCY PERMIT AND RIGHT-OF-WAY MAP PURSUANT TO SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE AND SECTION 6210.3 OF THE PUBLIC RESOURCES CODE**

#### **APPLICANT:**

California Department of Transportation

#### **PROPOSED PERMIT:**

##### *AREA, LAND TYPE, AND LOCATION:*

Sovereign land in the Pacific Ocean between Big Sycamore Canyon and Point Sand Dune, near Point Mugu State Park, Ventura County.

##### *AUTHORIZED USE:*

The use and maintenance of a right-of-way for highway purposes, pursuant to section 101.5 of the Streets and Highways Code and section 6210.3 of the Public Resources Code.

##### *PERMIT TERM:*

Continuous use, plus 1 year, beginning June 23, 2020.

##### *CONSIDERATION:*

Reasonable value of the right-of-way to be deposited into the State Parks and Recreation Fund.

#### **STAFF ANALYSIS AND RECOMMENDATION:**

##### **Authority:**

Public Resources Code sections 6005, 6210.3, 6216, and 6301; Streets and Highways Code section 101.5.

##### **Public Trust and State's Best Interests Analysis:**

On February 28, 2019, staff issued a Letter of Non-Objection to the California Department of Transportation (Caltrans) for repairs to a portion of Pacific Coast Highway/Highway 1 (PCH) between Big Sycamore Canyon and Point Sand Dune near Point Mugu. The emergency repairs included: repair of approximately 1,400 linear feet of existing rock revetment; repair of the road shoulder, including placement of approximately 40,600 cubic yards of new rock and geotextile fabric along sections of PCH where the road shoulder was partially undermined; and

## STAFF REPORT NO. 36 (CONT'D)

placement of approximately 17,600 cubic yards of fill material atop the rock to stabilize the road shoulder. The repairs were completed in the summer of 2019. Pursuant to the Letter of Non-Objection, Caltrans was required to submit an application and right-of-way maps for the Commission's consideration and approval of a right-of-way.

The public's right to access and use California's navigable waters is a mandate of the California Constitution (Article X, Section 4), a condition of statehood in the Act of Admission of the State of California into the Union (9 Stat. 452, Sept. 9, 1850), and a responsibility of all involved public agencies pursuant to the common law Public Trust Doctrine. PCH provides the public access to this section of the California coast and to water-dependent uses at Point Mugu State Park, Thornhill Broome State Beach, and Sycamore Cove Beach. Furthermore, PCH is critical infrastructure that is necessary to facilitate the movement of goods, people, and services throughout the State. The proposed right-of-way does not interfere with navigation, water-dependent recreation, or other Public Trust uses along this section of the California coast.

The permit does not alienate the State's fee simple interest and does not grant the applicant exclusive rights to the right-of-way. Staff believes that the proposed right-of-way will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the right-of-way. Staff believes this use of State land, by a public agency, for a public benefit is in the best interests of the State.

### **Climate Change:**

Climate change impacts, including sea-level rise, more frequent and intense storm events, increased flooding, and erosion affect both open coastal areas and inland waterways in California. The newly added rock revetment that was damaged by strong waves is located along PCH near Point Mugu, between Big Sycamore Canyon and Point Sand Dune, Ventura County.

Since this rock revetment already experiences flooding, storm surge, wave run-up, and wave action during extreme tides and storms, sea-level rise is likely to exacerbate these conditions in the future.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to

STAFF REPORT NO. **36** (CONT'D)

apply a conservative approach based on both current emission trajectories and the permit location and structures. The Santa Monica tide gauge was used for the projected sea-level rise scenario for the permit area as listed in Table 1.

**Table 1. Projected Sea-Level Rise for Santa Monica<sup>1</sup>**

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.8

Source: Table 28, State of California Sea-Level Rise

Guidance: 2018 Update

Note: <sup>1</sup> Projections are with respect to a 1991 to 2009 baseline.

The combination of these projected conditions increases the likelihood of future damage to the rock revetment that could jeopardize PCH.

As discussed in the *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), armoring structures along the coast, while intended to safeguard upland communities and property, offer only temporary protection, eventually accelerating long-term erosion and leaving homes and property at risk. The rock revetment area within the right-of-way may become vulnerable to more frequent overtopping or inundation during high tides, king tides, and storms, as well as from storm runoff. As a result, the rock revetment may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement. In the future, the rock revetment may also need additional fortification to withstand higher levels of flood exposure and sea-level rise. Caltrans is responsible for the continued use and maintenance of PCH and to protect the highway along this section of the California coast.

**Conclusion:**

For the reasons stated above, staff believes the issuance of the proposed right-of-way will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed permit; and is in the best interests of the State.

## STAFF REPORT NO. 36 (CONT'D)

### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of permit and right-of-way map is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the highway improvements and restore the premises to their original condition. Upon expiration or prior termination of the right-of-way, the permittee also has no right to a new permit or to renewal of any previous right-of-way.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. Caltrans has filed maps showing the proposed right-of-way area with the Commission.
4. Section 101.5 of the Streets and Highways Code requires Caltrans to determine the reasonable value of the proposed right-of-way and to deposit that amount in the State Parks and Recreation Fund.
5. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

### **EXHIBITS:**

- A. Site and Location Map
- B. Section 101.5 Right-of-Way Map

### **RECOMMENDED ACTION:**

It is recommended that the Commission:

### **CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically

STAFF REPORT NO. 36 (CONT'D)

exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

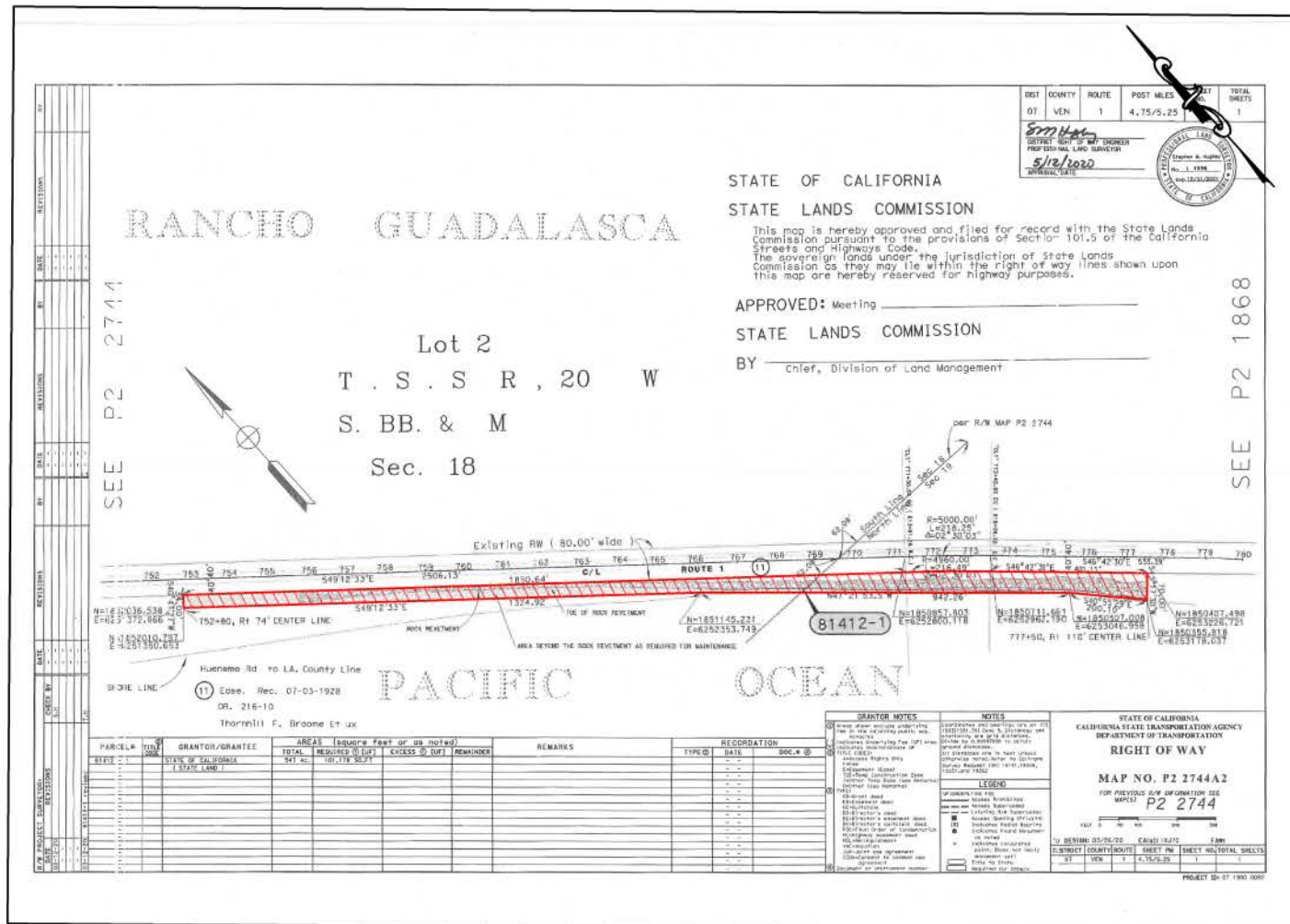
Find that the issuance of the proposed permit and approval of the Right-of-Way Map will not substantially impair the public rights to navigation, fishing, or other Public Trust needs and values at this location, at this time, and for the foreseeable term of the permit; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize a Public Agency Permit and approve a Right-of-Way Map as submitted by the California Department of Transportation pursuant to section 101.5 of the Streets and Highways Code and as authorized by section 6210.3 of the Public Resources Code, effective June 23, 2020, for continuous use plus 1 year, for the use and maintenance of a right-of-way for highway purposes of a portion of Pacific Coast Highway, near Point Mugu, as shown on Exhibits A and B attached and by this reference made a part hereof.

NO SCALE

SITE



## HWY 1 (PCH) NEAR MUGU LAGOON

NO SCALE

LOCATION



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 A

A 2029  
CALTRANS  
STREETS & HIGHWAYS CODE  
SECTION 101.5  
VENTURA COUNTY





*SM Hughey*  
DISTRICT RIGHT OF WAY ENGINEER  
PROFESSIONAL LAND SURVEYOR  
*5/12/2020*  
APPROVAL DATE

PROFESSIONAL LAND SURVEYOR  
Stephen M. Hughey  
No. L 4996  
Exp. 12/31/2021  
STATE OF CALIFORNIA

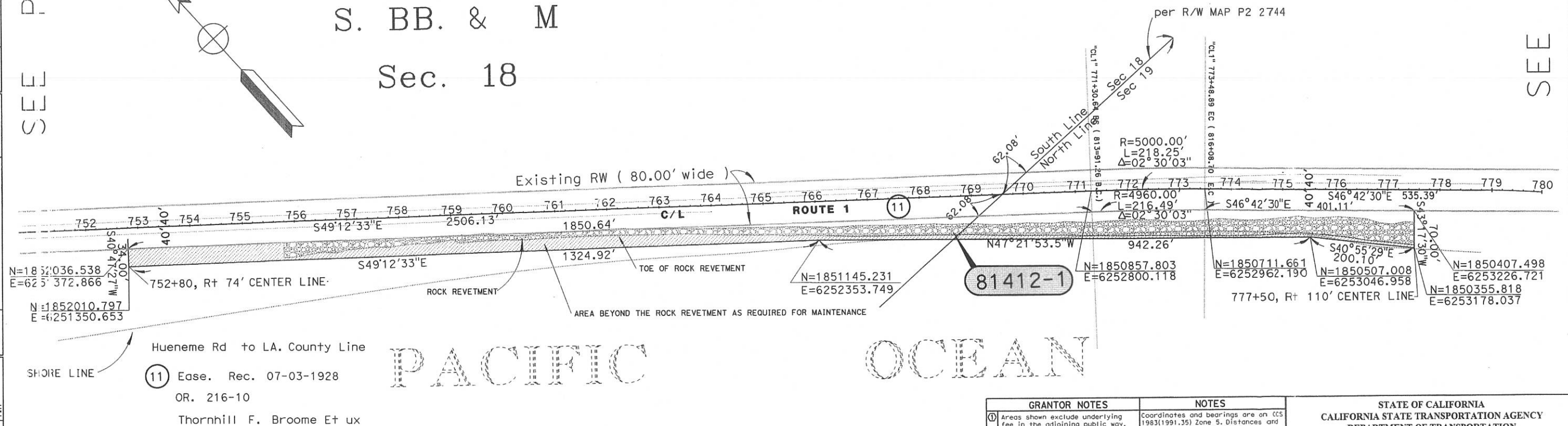
This map is hereby approved and filed for record with the State Lands Commission pursuant to the provisions of Section 101.5 of the California Streets and Highways Code.  
The sovereign lands under the jurisdiction of State Lands Commission as they may lie within the right of way lines shown upon this map are hereby reserved for highway purposes.

STATE LANDS COMMISSION

BY Chief, Division of Land Management

2002-2003

Lot 2  
T . S . S R , 20 W  
S. BB. & M  
Sec. 18



## GRANTOR NOTES










- ① Areas shown exclude underlying fee in the adjoining public way.
- ② **UF**  
Indicates Underlying Fee (UF) Area  
Indicates Indeterminate UF
- ③ **TITLE CODES:**  
A=Access Rights Only  
F=Fee  
E=Easement (Ease)  
TCE=Temp Construction Easement  
T=Other Temp Eas (see Remarks)  
O=Other (see Remarks)
- ④ **TYPE:**  
GD=Grant deed  
ED=Easement deed  
QC=Quitclaim  
DD=Director's deed  
DE=Director's easement deed  
DK=Director's quitclaim deed  
FC=Final Order of Condemnation  
HE=Highway easement deed  
REL=Relinquishment  
VAC=Vacation  
JUA=Joint use agreement  
CCUA=Consent to common use agreement
- ⑤ Document or Instrument number

**NOTES**

Coordinates and bearings are on CO  
1983/1991/351 foot 5. Distances and  
stationing are grid distances.  
Divide by 0.99997058 to obtain  
ground distances.  
All distances are in feet unless  
otherwise noted. Refer to Caltrans  
Survey Request (SR) 14141, 19248,  
19251, and 19262

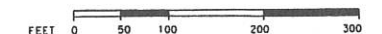
**LEGEND**

UF=UNDERLYING FEE

	Access Prohibited
	Access Superseded
	Existing R/W Superseded
	Access Opening (Private)
	Indicates Radial Bearing
	Indicates Found Monument as noted
	Indicates calculated point. Does not imply monument set
	Title to State
	Required for Others

MAP NO. P2 2744A2

FOR PREVIOUS R/W INFORMATION SEE  
MAP(S) **P2 2744**



TO DESIGN: 03/26/20		EA(s): 1XJ70		FA#:	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
07	VEN	1	4.75/5.25	1	1

PROJECT ID: 07 1900 0092

SEE P.2 1868

# EXHIBIT B