

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION OF NECESSITY FOR THE REAL PROPERTY INTERESTS
REQUIRED FROM BSR, A GENERAL PARTNERSHIP
FOR THE SAN LUIS OBISPO COUNTY
LOS OSOS WASTEWATER PROJECT,
SUPERVISORIAL DISTRICT NO. 2**

The Board of Supervisors of the County of San Luis Obispo, State of California, does hereby resolve as follows:

1. The Los Osos Wastewater Project proposes to construct a wastewater collection system and a wastewater treatment facility in the unincorporated community of Los Osos; and
2. On September 29, 2009, the San Luis Obispo County Board of Supervisors certified a Final Environmental Impact Report, adopted the Findings required by the California Environmental Quality Act, and filed a Notice of Determination for said Los Osos Wastewater Project (SCH# 2007121034) (WBS 300337); and
3. The County of San Luis Obispo desires to acquire a permanent exclusive easement for a wastewater lift station and related facilities in, over, upon, across and through the certain parcel of real property described and depicted in Exhibit "A" attached hereto; and a permanent easement for Re-vegetation, Open Space and related purposes in, over, upon, across and through the certain parcel of real property described and depicted in said Exhibit "A"; and a Temporary Construction Easement for construction work and staging purposes in, over, upon, across and through the certain parcel of real property described and depicted in said Exhibit "A". Each of the described real property interests is required for public use by exercise of the power of eminent domain. The acquisition of these real property interests is required to complete construction of the Los Osos Wastewater Project ("Project"). A general description of the Project is contained in the Final Environmental Impact Report (SCH# 2007121034) (WBS 300337), which is incorporated herein by reference; and
4. The County of San Luis Obispo desires to exercise its eminent domain authority to acquire the described real property interests in, over, within, upon, across and through

each of those certain parcels of land described in Exhibit "A," attached hereto and specifically incorporated herein; and

5. Pursuant to Code of Civil Procedure Section 1245.235, written notice of the intent to consider the adoption of this Resolution of Necessity was sent on December 2, 2011, to the owners of record of said real property. Said Notice of Hearing was also mailed to all persons whose names appear on the last equalized County Assessment Rolls as having an interest in the subject real property; and
6. Said real property interests as described are located entirely within the County of San Luis Obispo, State of California, and are necessary for the purpose of constructing the Project, and for related public uses and purposes; and
7. The Board of Supervisors of the County of San Luis Obispo has previously determined that all requirements of the California Environmental Quality Act (CA Public Resources Code 21000 et seq) have been met; and
8. A Public Hearing was held and due consideration of all oral and documentary evidence introduced has been given.

IT IS HEREBY FOUND AND DETERMINED by at least a four-fifths vote of this entire Governing Board that:

- I. The findings and declarations contained in this Resolution are based upon the record with respect to the Project before the Board of Supervisors at its hearing of January 10, 2012, the Staff Report dated January 10, 2012, and the testimony, records and documents referenced at said hearing, all of which are incorporated by this reference.
- II. The real property interests as described are to be acquired in, over, within, upon, across and through each of those certain parcels of land more specifically described in Exhibit "A," attached hereto and made a part hereof.
- III. Said real property interests as described are to be acquired for public purposes, pursuant to the authority granted in California Constitution Article I Section 19; California Government Code sections 25350.5; Title 7, Part 3 of the Code of Civil Procedure; and other provisions of law.
- IV. The public interest and necessity require the real property interests as herein described.
- V. The proposed Project is planned or located in the manner that is most compatible with the greatest public good and the least private injury.
- VI. The real property interests as described in, over, within, upon, across and through the certain parcels of land described in Exhibit "A," attached hereto and made a part hereof are necessary for the proposed project.
- VII. Under Code of Civil Procedure Section 1240.510, the proposed use of those certain parcels of land described in Exhibit "A" will not unreasonably interfere with or impair the continuance of any public use as it now exists or may reasonably be expected to exist in the future.
- VIII. The statutory offer required by Government Code Section 7267.2 has been made to the owners of record.
- IX. The Chairperson, or acting Chairperson of this Board of Supervisors, is hereby authorized and directed to execute all documents and papers necessary for the initiation, processing and completion of an eminent domain proceeding for the acquisition of the real property interests in the properties described in Exhibits "A," attached hereto.

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Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel

By: Warren R. Jensen
Deputy County Counsel

Dated: 12/15/11

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STATE OF CALIFORNIA, }
County of San Luis Obispo, } ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____ day of _____, 20 _____.

(SEAL)

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

By _____
Deputy Clerk.

EXHIBIT A

All that certain real property, in the County of San Luis Obispo, State of California, described and depicted in the following pages entitled Exhibit “1”, Exhibit “2”, and Exhibit “3” attached hereto and incorporated herein, and further described as follows:

A PERMANENT EXCLUSIVE EASEMENT (“Permanent Easement Area 1”), in, over, upon, across and through the property described and depicted in Exhibit “1”, for the construction, operation, maintenance and repair of a wastewater lift station and related appurtenances, including associated utilities, pipelines, and related facilities, and ingress and egress rights associated therewith.

A PERMANENT EASEMENT (“Permanent Easement Area 2”), in, over, upon, across and through the property described and depicted in Exhibit “2”, for the County to use for purposes of preserving, restoring, enhancing, and monitoring the described Permanent Easement Area 2 in its natural, restored, or enhanced condition in a manner consistent with the Los Osos Wastewater Project, the related Habitat Management Plan (hereinafter HMP), and/or the related Coastal Development Permit No. CDP A-3-SLO-09-055/069 (hereinafter CDP), including, but not limited to, the right, but not the obligation, to plant, re-plant, vegetate, re-vegetate, irrigate, and to prevent any uses that will impair or interfere with the conservation values of said property as required and as further defined by said LOWWP, related HMP, and related CDP.

A TEMPORARY CONSTRUCTION EASEMENT, in, over, upon, across and through the property described and depicted in Exhibit “3”, for the County to use for purposes of facilitating construction of County Facilities, including the right to place equipment and vehicles, pile earth thereon, temporarily relocate Existing Golf Cart path(s), and utilize said Temporary Construction Easement for all other related activities and purposes associated with construction of County Facilities upon Permanent Easement Area 1 and Permanent Easement Area 2 described herein. This Temporary Construction Easement shall commence thirty (30) days following the issuance of a Notice of Construction Commencement issued by County to Grantor via U.S. Mail, and shall terminate upon completion of the construction of the County Facilities which the County estimates will be completed within thirty-six (36) months of Commencement. If use of this Temporary Construction Easement is required for more than thirty-six (36) months following the commencement of construction, County shall have the unilateral right to extend this Temporary Construction Easement in one month increments, upon thirty (30) days advance written notice prior to the termination of the initial thirty-six (36) month term or any extension thereof, and upon payment of an additional one hundred thirteen dollars (\$113.00) to Grantor for every one month extension period, provided that in no event shall this Temporary Construction Easement extend beyond December 31, 2016.

EXHIBIT 1

(Page 1 of 2)

Lift Station site

Ptn 074-121-005

BSR General Partnership

Permanent Easement Area 1

Those portions of Blocks A and B of Cuesta-By-The-Sea according to the map filed October 4, 1924 in Book 3 at Page 48 of Maps in the office of the County Recorder, County of San Luis Obispo, State of California more particularly described as follows;

Commencing at the southwest corner of said Block A, thence North $1^{\circ}12'00''$ West along the westerly line of said Blocks A and B a distance of 273.00 feet to the True Point of Beginning;

Thence leaving said westerly line North $88^{\circ}48'00''$ East 14.14 feet;

Thence North $11^{\circ}09'25''$ East 30.56 feet;

Thence North $77^{\circ}29'25''$ East 67.31 feet;

Thence South $02^{\circ}20'02''$ East 6.10 feet;

Thence South $20^{\circ}10'00''$ East 47.54 feet;

Thence South $88^{\circ}48'00''$ West 53.25 feet;

Thence South $1^{\circ}12'00''$ East 8.00 feet;

Thence South $88^{\circ}48'00''$ West 49.00 feet to said westerly line of Blocks A and B;

Thence North $1^{\circ}12'00''$ West, 16.00 feet along said westerly line to the point of beginning.

Area = 3942 square feet more or less.

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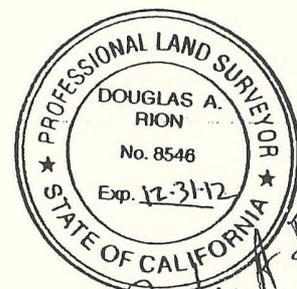
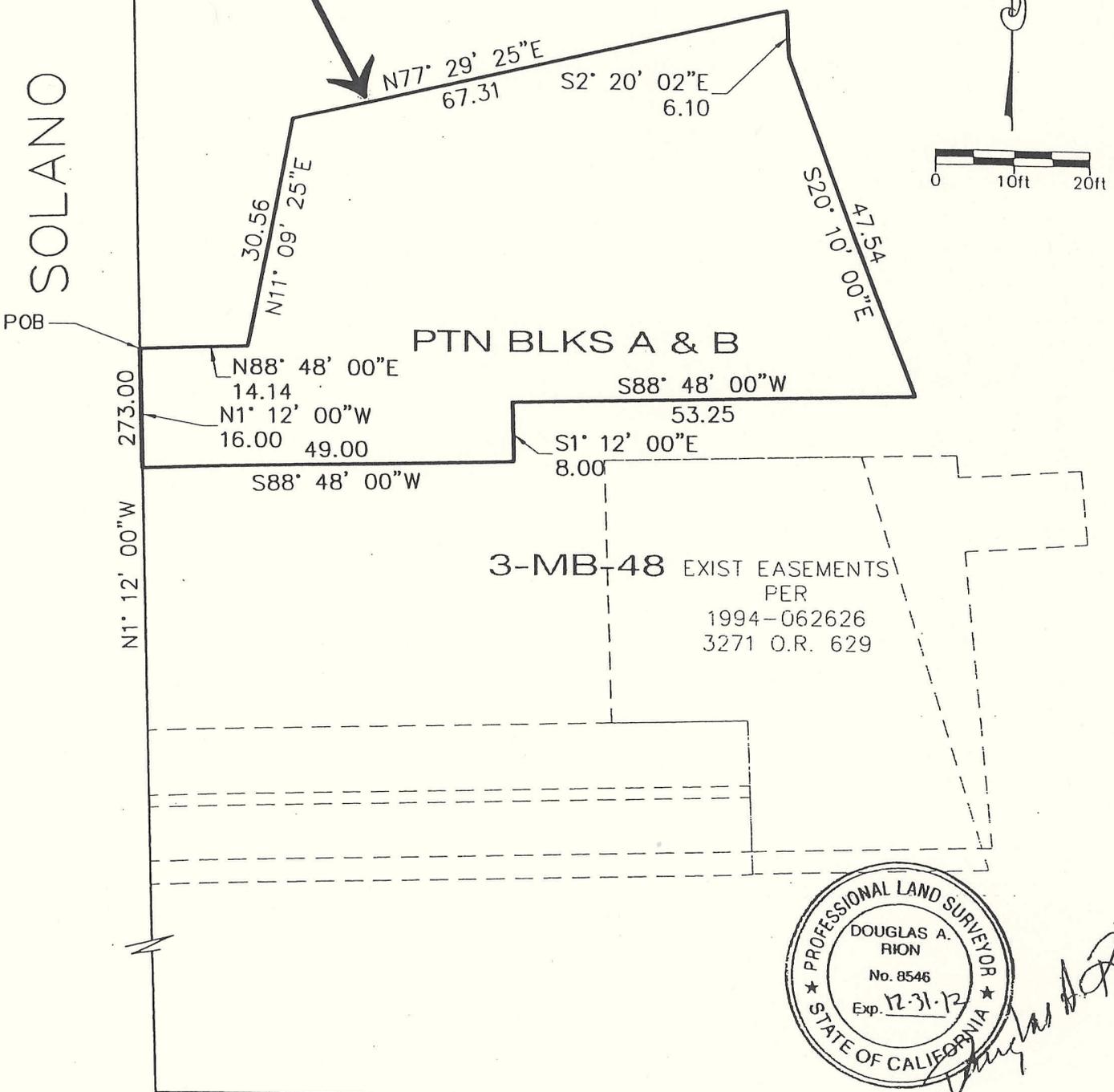


EXHIBIT 1

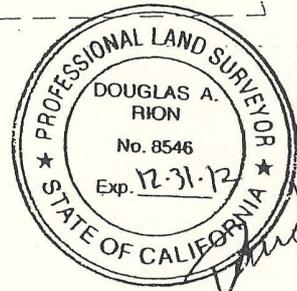
(Page 2 of 2)

SOLANO STREET

Permanent Easement Area 1



3-MB-48 EXIST EASEMENTS
PER
1994-062626
3271 O.R. 629



[Handwritten Signature]

SW COR BLK A, 3-MB-48

lift station area
ptn 74-121-005
BSR General Partnership
Area=3942 sq. ft.

EXHIBIT 2

(Page 1 of 3)

Type: Permanent easement - revegetation area

APN: ptn 074-121-005

Owner: BSR General Partnership

Permanent Easement Area 2

That portion of Block B of Cuesta-By-The-Sea according to the map filed October 4, 1924 in Book 3 at Page 48 of Maps in the office of the County Recorder, County of San Luis Obispo, State of California more particularly described as follows;

Commencing at the southwest corner of Block A of said map, thence North $1^{\circ}12'00''$ West along the westerly line of said Blocks A and B a distance of 273.00 feet to the True Point of Beginning;

Thence leaving said westerly line North $88^{\circ}48'00''$ East 14.14 feet;

Thence North $11^{\circ}09'25''$ East 30.56 feet;

Thence North $77^{\circ}29'25''$ East 67.31 feet;

Thence North $2^{\circ}20'02''$ West 30.28 feet more or less to the southerly line of the open space easement described in exhibit B of Document 1993-082100, records of said County at a point being the westerly terminus of the course described as "South $78^{\circ}19'42''$ West 69.60 feet" in said exhibit B;

Thence along said southerly line the following courses:

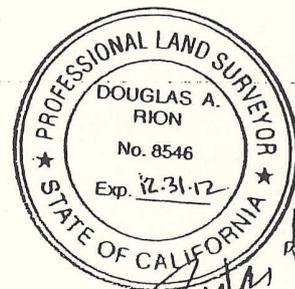
South $78^{\circ}41'04''$ West 54.33 feet to an angle point in said line;

North $79^{\circ}42'45''$ West 33.26 feet more or less to said westerly line of Block B;

Thence along said westerly line South $1^{\circ}12'00''$ East 70.41 feet to the point of beginning.

Area = 3385 square feet more or less.

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Douglas A. Rion

EXHIBIT 2

(Page 2 of 3)

Reveg area within open space easement

Pin 074-121-005

BSR General Partnership

Permanent Easement Area 2

That portion of Block B of Cuesta-By-The-Sea according to the map filed October 4, 1924 in Book 3 at Page 48 of Maps in the office of the County Recorder, County of San Luis Obispo, State of California more particularly described as follows;

Commencing at the southwest corner of Block A of said map, thence North $1^{\circ}12'00''$ West along the westerly line of said Blocks A and B a distance of 273.00 feet;

Thence leaving said westerly line North $88^{\circ}48'00''$ East 20.28 feet;

Thence North $11^{\circ}09'25''$ East 25.33 feet;

Thence North $77^{\circ}29'25''$ East 62.31 feet;

Thence North $2^{\circ}20'02''$ West 36.38 feet more or less to the southerly line of the open space easement described in exhibit B of Document 1993-082100, records of said County at a point being the westerly terminus of the course described as "South $78^{\circ}19'42''$ West 69.60 feet" in said exhibit B and the True Point of Beginning;

Thence along said southerly line the following courses:

South $78^{\circ}41'04''$ West 54.33 feet to an angle point in said line;

North $79^{\circ}42'45''$ West 33.26 feet more or less to said westerly line of Block B;

Thence along said westerly line North $1^{\circ}12'00''$ West 77.77 feet;

Thence leaving said westerly line South $87^{\circ}54'38''$ East 63.18 feet;

Thence South $34^{\circ}27'28''$ East 32.78 feet;

Thence South $7^{\circ}44'56''$ East 44.11 feet to the point of beginning.

Area = 6209 square feet more or less.

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EXHIBIT 2

(Page 3 of 3)

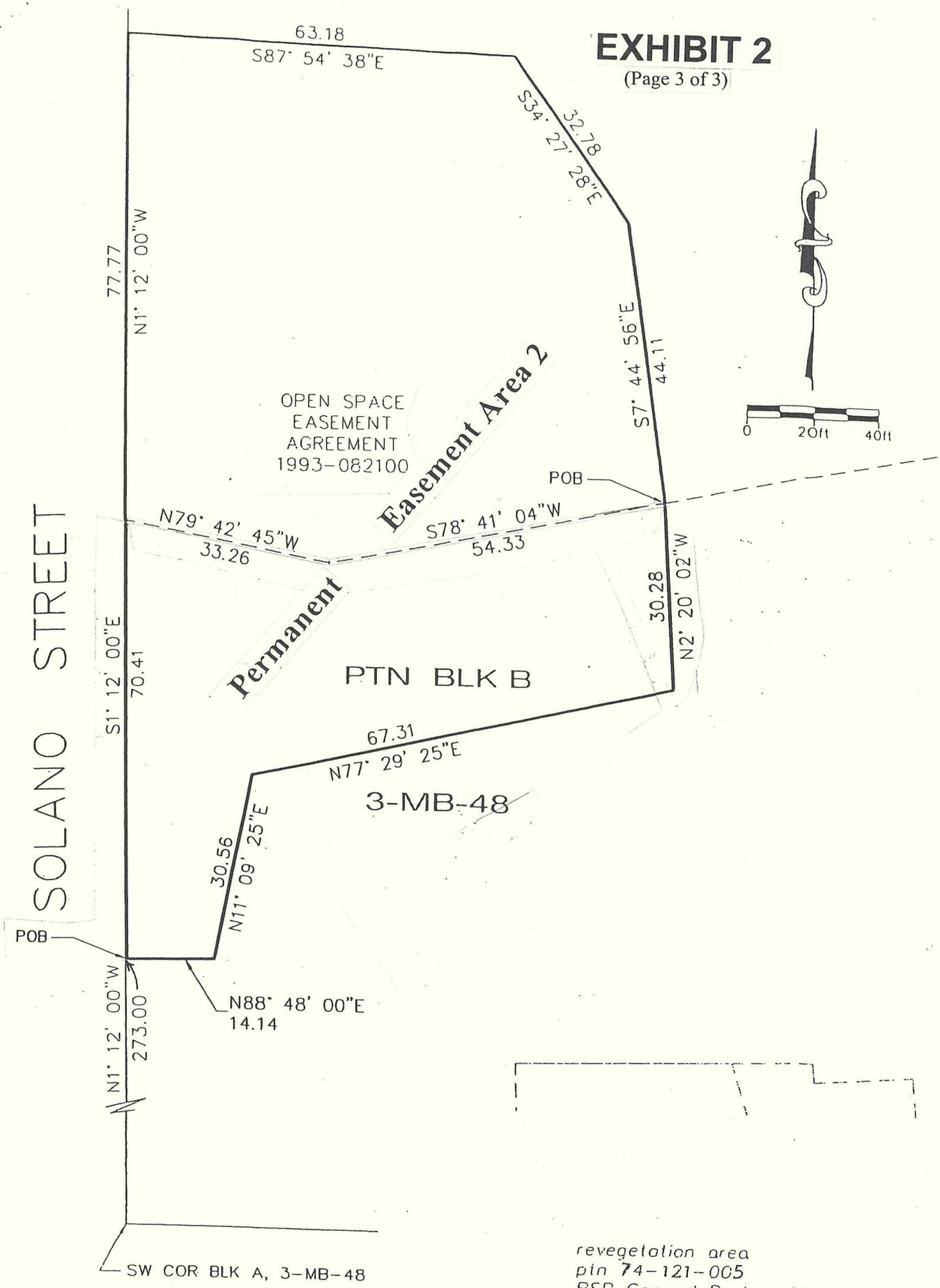
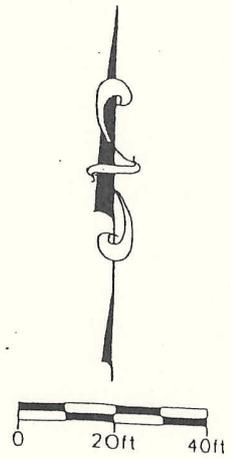


EXHIBIT 3

(Page 1 of 3)

*Temporary Construction Easement
Ptn 074-121-005
BSR General Partnership*

Those portions of Blocks A and B of Cuesta-By-The-Sea according to the map filed October 4, 1924 in Book 3 at Page 48 of Maps in the office of the County Recorder, County of San Luis Obispo, State of California, being more particularly described as follows;

Commencing at the southwest corner of said Block A, thence North 1°12'00" West along the westerly line of said Blocks A and B a distance of 273.00 feet to the True Point of Beginning;

Thence leaving said westerly line North 88°48'00" East 14.14 feet;

Thence North 11° 09'25" East 30.56 feet;

Thence North 77°29'25" East 81.46 feet;

Thence South 21°03'09" East 67.91 feet;

Thence South 04°31'20" East 53.04 feet;

Thence South 88°48'00" West 126.70 feet to said westerly line of said Blocks A and B;

Thence North 1°12'00" West 71.00 feet along said westerly line to the True Point of Beginning.

EXCEPT THEREFROM:

All that area described as Parcel 2 in the document number 10244 recorded February 21, 1989 in Volume 3271 of Official Records at page 628 in said County Recorder's office;

ALSO EXCEPTING THEREROM:

All that area described as Parcel 2 in the document number 1994-062626 recorded October 25, 1994 in said County Recorder's office.

AND ALSO EXCEPTING THEREFROM:

Those portions of Blocks A and B of Cuesta-By-The-Sea according to the map filed October 4, 1924 in Book 3 at Page 48 of Maps in the office of the County Recorder, County of San Luis Obispo, State of California more particularly described as follows;

EXHIBIT 3

(Page 2 of 3)

Commencing at the southwest corner of said Block A, thence North $1^{\circ}12'00''$ West along the westerly line of said Blocks A and B a distance of 273.00 feet to the True Point of Beginning;

Thence leaving said westerly line North $88^{\circ}48'00''$ East 14.14 feet;

Thence North $11^{\circ}09'25''$ East 30.56 feet;

Thence North $77^{\circ}29'25''$ East 67.31 feet;

Thence South $02^{\circ}20'02''$ East 6.10 feet;

Thence South $20^{\circ}10'00''$ East 47.54 feet;

Thence South $88^{\circ}48'00''$ West 53.25 feet;

Thence South $1^{\circ}12'00''$ East 8.00 feet;

Thence South $88^{\circ}48'00''$ West 49.00 feet to said westerly line of Blocks A and B;

Thence North $1^{\circ}12'00''$ West, 16.00 feet along said westerly line to the point of beginning.



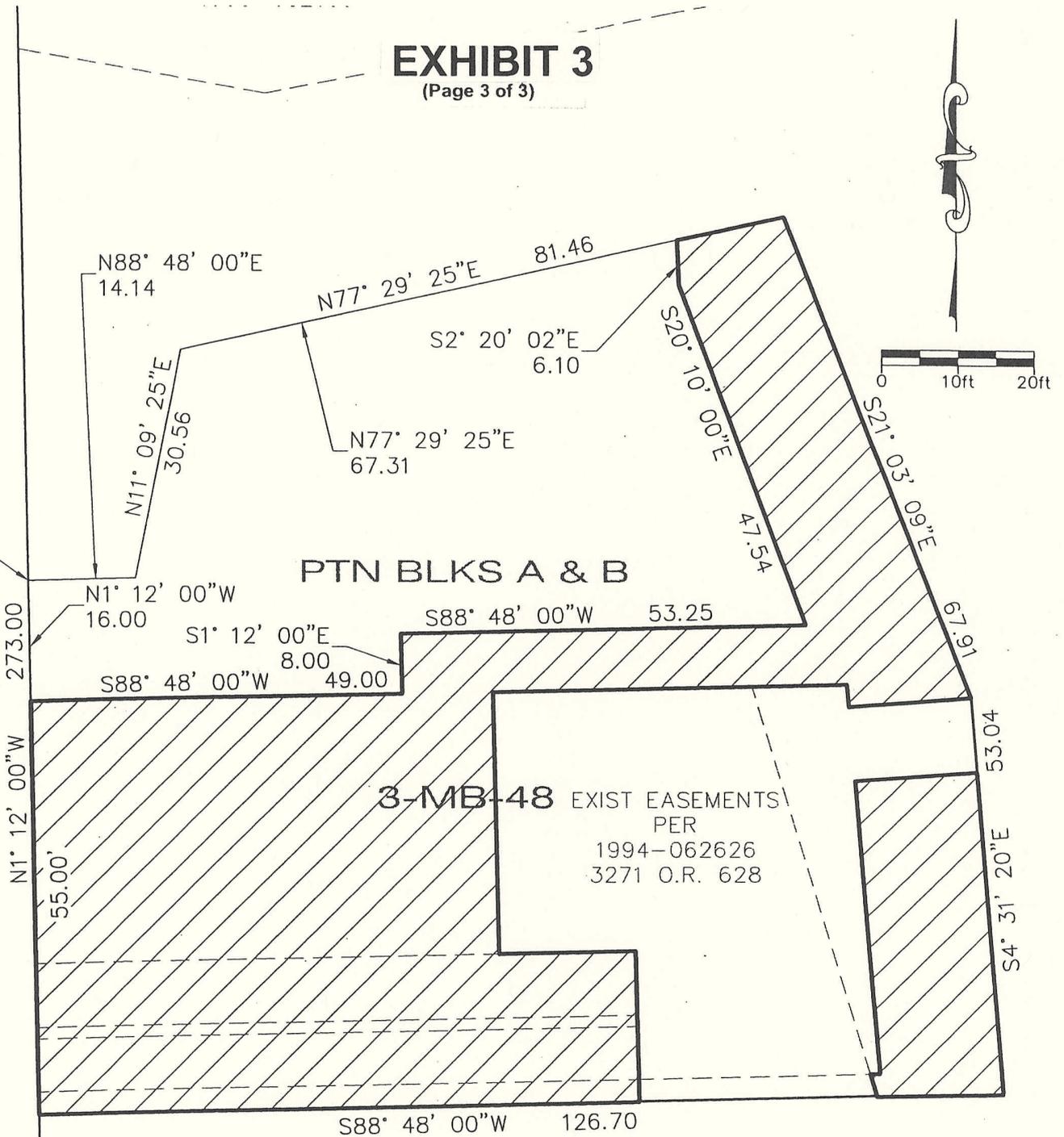
Douglas A. Rion
11-29-2011

EXHIBIT 3

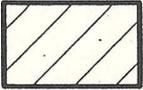
(Page 3 of 3)

SOLANO STREET

TPOB



3-MB-48 EXIST EASEMENTS
PER
1994-062626
3271 O.R. 628

 = TEMPORARY CONSTRUCTION EASEMENT
area = 5921 sf

SW COR BLK A, 3-MB-48



Douglas A. Rion
11-29-2011

TCE
ptn 74-121-005
BSR General Partnership
Area=5921 sq. ft.