Decision No. 90720

AUG 28 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HORIZON TOURS, a limited partnership composed of Je Y. Goolsby, general partner, and Richard P. Riegert, limited partner, for a certificate of public convenience and necessity to operate a passenger transportation guided tour service in Hope Ranch, Santa Barbara City, and Montecito, all in the County of Santa Barbara.

Application No. 58445 (Filed October 31, 1978)

Richard P. Riegert, for applicant.

Wayne J. Seward, Attorney at Law,
for Montecito Protective &
Improvement Association,
protestant.

R. E. Douglas, for the Commission
staff.

OPINION

By this application Je Y. Goolsby and R. P. Riegert, doing business as Horizon Tours, a limited partnership, seek authority to operate a sightseeing service as a passenger stage corporation over specified routes in the city of Santa Barbara, Hope Ranch, and Montecito.

Public hearing was held before Administrative Law Judge Norman Haley at Los Angeles on April 23, 1979, and the matter was submitted.

Presentation of Applicants

The proposed service would consist of the following three tours: (1) the city of Santa Barbara and South Montecito; (2) Montecito; and (3) Hope Ranch and Santa Barbara. There would be three tours operated six days a week, utilizing

minibuses. The tours would be regularly scheduled, guided, circular sightseeing tours beginning and ending at the same terminals. Applicants anticipate that from time to time some slight modifications may be made along the routes to accommodate the needs and convenience of passengers. Guests of hotels and motels in close proximity to or on the tour routes would be picked up and returned to their hotels or motels.

Exhibit A to the application is the statement of proposed rates and rules. The rates would be the same for all three tours as follows:

Individual Adults	\$ 6.90
Students	6.00
Senior Citizens	6.00
Children (under 12)	2.50
Charter Groups (15-21)	90.00

The schedules of all three tours are set forth in Exhibits B-1, B-2, and B-3. Exhibits C-1, C-2, and C-3 are maps showing in detail the proposed routes. These maps are modified in Exhibit 1. Exhibit D describes and depicts two types of Microbus Corporation buses. Maximum capacities range from 18 to 25 passengers. One of the two would be purchased and used on the routes. Exhibit E is the latest personal financial statement of Je Y. Goolsby, general partner. Assets are shown as \$130,732 and net worth as \$79,998 after allowance for liabilities of \$50,740. The liability of R. P. Riegert, the limited partner, would be the \$7,500 which he would contribute.

The application states that data of the Santa Barbara Chamber of Commerce show that in 1977 a daily average of 5,298 visitors stayed overnight in Santa Barbara hotels and motels. The estimate shows that, including short visits (two to eight hours) and people staying in private homes, Santa Barbara has a daily average of 14,998 tourists. It is contended that

tourists arriving by private automobiles have a problem in seeing the city because the maps available do not clearly define points of interest in a manner that can be conveniently followed. It also is contended there are many dead-end streets, curved streets, street name changes, and other problems which can cause tourists unfamiliar with those areas to become lost driving automobiles. Assertedly, there is no service offered of the type proposed for a tourist arriving by public conveyance and registering in one of Santa Barbara's hotels or motels to conveniently see the many points of interest in the community. It is stated that Santa Barbara hosts a large number of foreign tourists who are accustomed to the kind of service proposed. It is also stated that brochures would be made available in hotel and motel lobbies to help tourists to become acquainted with the area in the event the application is granted.

Attached to the application are letters of support from the Santa Barbara Conference & Visitors Bureau and two associations representing lodging, restaurant, and beverage business. Copies of the application were mailed to known passenger stage corporations, the Metropolitan Transit District, and the city and county of Santa Barbara. The only protest is from the Montecito Protective & Improvement Association (Association).

Evidence on behalf of applicants was presented by the two partners. The testimony of the general partner affirmed the statements contained in the application relative to conditions in the area and the need for the proposed service. Exhibit 1 consists of three pages of maps containing revisions to the routes shown in the application. Portions of routes over private land within Montecito were eliminated. The general partner said the public streets in Montecito are relatively wide

and there is relatively little traffic congestion due to low density of population, large property lots, and a prohibition against parking on the streets. Assertedly, the vehicles proposed to be used by applicant would be small and have no difficulty negotiating those streets. The witness contends there are many more larger vehicles traveling the streets of Montecito without impeding the traffic. These include 54 regular transit buses and a number of buses of for-hire carriers, including those of Gray Line Tours Company from Los Angeles. He said the latter are 60-passenger buses which are about three times larger than those proposed to be used. He stated that the 60-passenger buses have no difficulty operating over the streets of Montecito.

The general partner stated it is proposed to operate two buses a day in addition to the many already operating. These buses would be gasoline-powered, rather than diesel, to reduce engine noise. There would be no stopping in front of residences on the street. The only stopping would be in front of commercial places. He said the major tourist attractions in Montecito are the gardens, vegetation, the mountains, creeks, and landscaping. He admitted that views of the mountains, the ocean, and the parks can be seen without entering Montecito, but stated the views are much more spectacular and beautiful from Montecito.

The limited partner testified and introduced Exhibit 2 containing commercial statistics and other data designed to show that a substantial traffic load would be available if the service is authorized. Exhibit 2 also contains letters and postcards from certain trade associations and individuals supporting the proposed service. These were solicited responses. They represent 1,265 rooms of the 1,888 hotel and motel rooms on the proposed route.

It was the opinion of those responding that from 3 percent to 50 percent of the guests at particular lodgings would want to go on guided sightseeing tours of the Santa Barbara area, if conveniently available. Approximately 94 percent of the respondents reflected in Exhibit 2 were of the opinion that regularly scheduled sightseeing tours of Santa Barbara, Hope Ranch, and Montecito are a needed and desired service. No one stated that such services are not needed.

Based on assumptions of a 74 percent occupancy rate and the accuracy of the data in Exhibit 2, the limited partner calculated that approximately 23 percent of the visitors want to tour or do tour the area by automobile. He testified that this equates to approximately 536,000 visitors per year who drive and ride in automobiles, sightseeing as best they can. The latter figure is based on Chamber of Commerce statistics showing there are more than 2,320,000 yearly visitors to the Santa Barbara area. The limited partner estimated that each minibus would take at least 10 automobiles off the road.

According to statements made by the limited partner, as counsel, the partners herein are in the process of purchasing a certificate of public convenience and necessity covering a tour from Melni Tours, present owner of A&A Tours. He said that the tour was authorized by the Commission in 1962, but presently is inactive. The limited partner said that of the large number of people who visit Santa Barbara every year, many tour the city and surrounding areas, mostly by automobile. He estimated that several hundred thousand people per year already drive to Montecito in their own cars, disturb traffic, and congest the town. He pointed out that there is no prohibition against access to Montecito in automobiles. It is his position that residents in the community of Montecito

do not have the right to restrict access on public roads to people in public conveyances who come for the pleasure of visiting the community. He contends that if the application is approved, there will be a reduction in the number of vehicles on the road and a reduction in congestion as the result of having professional drivers accommodating loads of approximately 20 people who otherwise would be driving in individual cars. Assertedly, costs of transportation will be reduced and there will be a substantial reduction in use of valuable energy resources.

The staff representative presented Exhibit 3 consisting of a proposed certificate of public convenience and necessity in the event the application is granted, as filed. He said Exhibit 3 would have to be revised to incorporate route changes in Exhibit 1 and any required restrictions. Position of Protestant

Counsel for the protestant Association assisted in development of the record through cross-examination of applicants' witnesses. No exhibits or other direct evidence were presented by protestant.

The Association is a nonprofit corporation with a membership of over 2,000 homeowners in the unincorporated community of Montecito, which is located adjacent to the easterly limits of the city of Santa Barbara. The Association has a 17-member board of directors and many subcommittees. The purpose of the Association is contained in its Articles of Incorporation, a portion of which was quoted by counsel, as follows:

"...to preserve and maintain Montecito as an area of beauty and charm, primarily residential in character, and to do any and all lawful things and acts deemed to be in the best interest of Montecito and the owners and residents of these communities." A.58445 SW

During the Association's review of applicants' proposal, the requested routes were drawn on large-scale maps and considered at three publicly noticed meetings. The final action of the board of directors was to vote unanimously to recommend to the Commission that the application be denied insofar as it requests authority to operate in Montecito.

It is the position of protestant that the proposed service would be out of harmony with the character of Montecito which is a unique, quiet, residential community. Assertedly, Montecito can gain nothing from the proposed service because it is not a tourist community. Protestant contends the tours would be counterproductive to the residents as they would be a source of considerable disturbance and annoyance and an invasion of privacy. It also contends that many roads in Montecito are very narrow and winding and some are private.

Discussion

There is no authorized common carrier passenger stage sightseeing service now being performed in Santa Barbara, Hope Ranch, or Montecito, from points in the Santa Barbara area. Many visitors come to the area each year and some of them logically desire to see places located along the routes sought in this application. To the extent it is possible to offer tourists the opportunity to travel in a common carrier sight-seeing bus, and they do so instead of driving automobiles, both the tourists and the public generally benefit from reduced traffic congestion, noise, fuel consumption, and air pollution.

What is best for the public, including the residents of Montecito, is of primary concern herein. We have carefully considered and are sympathetic with the views expressed by the protestant Association. The record shows that many visitors travel through Montecito each year by automobile and that

others do so in large tour buses from places such as Los Angeles. In addition, numerous transit buses operate through Montecito. We are convinced that if certain restrictions are imposed relative to the size of vehicles, unloading only at publicly used facilities, and prohibiting use of private roads generally, the proposed service in Montecito will not detract from the quality of life there and, on the contrary, it will actually help reduce vehicular traffic with the attendant benefits that such reduction can produce.

Findings of Fact

- 1. Applicant seeks authority to establish a sightseeing service as a passenger stage corporation over defined routes within the city of Santa Barbara and certain adjacent portions of Santa Barbara County, including Hope Ranch and Montecito.
- 2. The proposed service would consist of three tours operated on two schedules a day with minibuses.
- 3. There is no common carrier sightseeing service originating in the Santa Barbara area now being performed in the city of Santa Barbara, Hope Ranch, or Montecito.
- 4. Certain trade organizations and individuals principally representing hotels and motels support the application.
- 5. Protestant Montecito Protective & Improvement Association is an incorporated nonprofit organization with over 2,000 members. It has a 17-member board of directors and a number of committees.
- 6. Protestant opposes the application on the grounds that
 (1) the proposed service would be out of harmony with the character of Montecito, which is a unique, quiet, residential community;
 (2) Montecito can gain nothing from the proposed service because it is not a tourist community; (3) the tours would be counterproductive to the residents as they would be a source of

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16. Public convenience and necessity require that the proposed service be authorized, subject to the following restrictions:

- (a) No vehicle shall be operated with a carrying capacity in excess of 25 passengers.
- (b) No vehicle shall be operated over roads which are not public highways, except when authorization is received from the owner or owners.
- (c) Passengers shall not be unloaded in the communities of Montecito and Hope Ranch except when the bus stops at commercial facilities or at institutions operated by governmental agencies or nonprofit organizations.
- 17. Based on this record, service operated pursuant to the certificate found required in Finding 16 would not be detrimental to the residents of Montecito as being a source of considerable disturbance, annoyance, or invasion of privacy, particularly for the reasons set forth in Findings 8, 9, and 10.
- 18. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed operation will reduce vehicular congestion, fuel consumption, and air pollution to the extent it replaces private and rented automobile.

The Commission concludes that the application should be granted to the extent provided in the order which follows.

It appears that many of the streets in the Hope Ranch and Montecito are not public highways. Accordingly, the certificate to be granted will be limited to public highways in those communities with the understanding that service may be provided over the private roads with proper authorization from the owner or owners.

Je Y. Goolsby and Richard P. Riegert, dba Horizon Tours, a limited partnership, are placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in

- 1. A certificate of public convenience and necessity (PSC-1077) is granted to Je Y. Goolsby and Richard P. Riegert, dba Horizon Tours, authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for sightseeing service over routes within the city of Santa Barbara, Hope Ranch, and Montecito, as set forth in Appendix A of this decision.
- 2. In providing service pursuant to the authority granted by this order, applicants shall comply with the following service regulations. Failure to do so may result in a cancellation of the authority.
 - (a) Within thirty days after the effective date of this order, applicants shall file written acceptance of the certificate granted. Applicants are placed on notice that if they accept the certificate they will be required, among other things, to comply with the safety rules administered by the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-Series, and the insurance requirements of the Commission's General Order No. 101-Series.

(e) Applicants shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or

before March 31 of each year, annual reports of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be thirty days after the date hereof.

Dated ______AUG 28 1979 , at San Francisco, California.

President

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Commissioner Claire T. Dedrick. being necessarily absent. did not participate in the disposition of this proceeding.

Je Y. GOOLSBY & R. P. RIEGERT doing business as HORIZON TOURS

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CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

PSC 1077

TO OPERATE AS

A PASSENGER STAGE CORPORATION

Showing passenger stage operative rights, restrictions, limitations, exceptions, and privileges applicable thereto.

All changes and amendments as authorized by the Public Utilities Commission of the State of California will be made as revised pages or added original pages.

Issued under authority of Decision No. 90720; dated AUG 28 1979, of the Public Utilities Commission of the State of California, in Application No. 58445.

Je Y. GOOLSBY & R. P. RIEGERT doing business as HORIZON TOURS

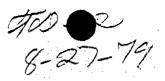
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Appendix A Je Y. GOOLSBY & R. P. RIEGERT doing business as HORIZON TOURS

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SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS (Continued)

- (e) Carrier shall not pick up or discharge passengers except at the specified service points of origin/destination as hereinafter set forth. This restriction shall not prevent stopovers for the purpose of permitting sightseeing passengers to visit various points of interest along the route.
 - (1) No vehicle shall be operated over roads which are not public highways except when authorization is received from the owner or owners.
 - (2) Passengers shall not be unloaded in the communities of Montecito and Hope Ranch except when the bus stops at commercial facilities or at institutions operated by governmental agencies or nonprofit organizations.
- (f) Alternate routes may be operated only in combination with or as part of the regular routes to which they are related.
- (g) Two or more routes or portions of separate routes may be consolidated or operated in combination with one another.

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Appendix A Je Y. GOOLSBY & R. P. RIEGERT Original Page 5 doing business as HORIZON TOURS

SECTION 2. AUTHORIZED POINTS OF ORIGIN/DESTINATION

All tours shall originate and terminate at one or more of the following locations:

LOCATION

HOTEL/MOTEL

ADDRESS

El Encanto Hotel and Villas Polynesian Motel Tropicana Motel Colonial Motel Royal Inn Tides Motel Beach Travelodge El Patio Best Western Motel Marina Beach Motel Sand Castle Motel Surf Motel Western Village Motel The Beach House Motel Ocean Palms Motel LaPlaya Motel Ambassador by the Sea Pacific Park Motel Ala Mar Motel Casa Del Mar Motel

1900 Lasuen Rd. 433 W. Montecito St. 223 Castillo St. 223 Castillo St. 206 Castillo St. 128 Castillo St. 116 Castillo St. 22 Castillo St. 336 W. Cabrillo Blvd. 21 Bath St. 26 Chapala St. 117 Bath St. 320 Yanonali St. 232 W. Cabrillo Blvd. 212 W. Cabrillo Blvd. 202 W. Cabrillo Blvd. 122 W. Cabrillo Blvd. 102 W. Cabrillo Blvd. 28 W. Cabrillo Blvd.

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SECTION 2. AUTHORIZED POINTS OF ORIGIN/DESTINATION

All tours shall originate and terminate at one or more of the following locations:

LOCATION

ADDRESS

HOTEL/MOTEL

#Santa Barbara Inn #Pacific Crest Motel #Ming Tree Motel #Mar Monte Hotel #Blue Sands Motel #Motel 6 #Tahitian Motel #Tanitian Moter #Santa Barbara Biltmore Hotel #Miramar Hotel #Montecito Inn \$DeAnza Hotel \$San Ysidro Guest Ranch cChateau Motel cChateau Motel cSan Rogue Motel cRoyal Executive Inn cTravelers Motel cSunset Motel cSandman Motel cPepper Tree Motor Inn

435 S. Milpas St. 433 Corona Del Mar 930 Orilla Del Mar 1121 E. Cabrillo Blvd. 421 S. Milpas St. 443 Corona Del Mar 1029 Orilla Del Mar 1029 Orilla Del Mar 1029 Channel Dr., Montecito 1555 S. Jameson Dr., Montecito 1295 Coast Village Rd. 1188 Coast Village Rd., Montecito 900 San Ysidro Ln., Montecito 3055 De La Vina St. 3344 State St. 3740 State St. 3504 State St. 3504 State St. 3714 State St. 3850 State St.

435 S. Milpas St.

OTHER LOCATION

Santa Barbara Art Museum

1130 State St.

#Routes 1 and 2 only \$Route 2 only cRoute 3 only

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Je Y. Goolsby & R. P. Tiegert doing business as HORIZON TOURS

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SECTION 3 - ROUTE DESCRIPTIONS

Route 1 - Santa Barbara and South Montecito.

Beginning at El Encanto Hotel and Villa at 1900 Lasuen Road in the City of Santa Barbara thence exiting from the grounds of the El Encanto Hotel by the Mission Ridge Road exit thence via Mission Ridge Road to Las Tunas Road thence via Las Tunas Road to Mission Ridge Lane thence via Mission Ridge Lane to Los Olivos Street thence via Los Olivos Street to Garden Street thence via Garden Street to Micheltorena Street thence via Micheltorena Street to Anacapa Street thence via Anacapa Street to Figueroa Street thence via Figureoa Street to State Street thence via State Street to Anapamu Street thence via Anapamu Street to De La Guerra Street thence via De La Guerra Street to Santa Barbara Street thence via Santa Barbara Street to Canon Perdido Street thence via Canon Perdido Street to Anacapa Street thence via Anacapa Street to Haley Street thence via Haley Street to Castillo Street thence via Castillo Street to Cabrillo Blvd. thence via Cabrillo Blvd. to Milpas Street thence via Milpas Street to Punta Gorda Street thence via Punta Gorda Street to Orilla Del Mar thence via Orilla Del Mar to Cabrillo Blvd. thence via Cabrillo Blvd. to Channel Drive thence via Channel Drive to Fairway Road thence via Fairway Road to Channel Drive thence via Channel Drive to Danielson Road thence via Danielson Road to Miramar Ave. thence via Miramar Ave. to Eucalyptus Lane thence via Eucalyptus Lane to San Ysidro Road thence via San Ysidro Road to East Valley Road thence via East Valley Road to El Bosque Road thence via El Bosque Road to Las Tunas Road thence via Las Tunas Road to San Ysidro Lane thence via San Ysidro Lane to Mountain. Drive thence via Mountain Drive to San Ysidro Road thence via San Ysidro Road to East Valley Road thence via East Valley Road to Hot Springs Road thence via Hot Springs Road and Olive Mill Road to Coast Village Road thence via Coast Village Road to Middle Road thence via Middle Road to Alston Road thence via Alston Road to Cima Linda Lane thence via Cima Linda Lane to Alston Road thence via Alston Road to Eucalyptus Hill Road thence via Eucalyptus Hill Road to Alameda Padre Serra thence via Alameda Padre Serra to Las Alturas Road thence via Las Alturas Road to Mission Ridge Road thence via Mission Ridge Road to the point of the beginning.

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Appendix A

Je Y. Goolsby & R. P. Riegert
doing business as
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SECTION 3 - ROUTE DESCRIPTIONS CONTINUED

Route 2 - Montecito

Beginning at the El Encanto Hotel, 1900 Lasuen Road in the City of Santa Barbara thence exiting the hotel grounds on Alameda Padre Serra thence via Alameda Padre Serra to Loma Media Road thence via Loma Media Road to Las Alturas Road thence via Las Alturas Road to Camino Altothence via Camino Alto to Conejo Road thence via Conejo Road to Sycamore Canyon Road thence via Sycamore Canyon Road to Coyote Road thence via Coyote Road to Mountain Drive thence via Mountain Drive to Cold Springs Road thence via Cold Springs Road to La Paz Road thence via La Paz Road to Westmont Road thence via Westmont Road to Cold Springs Road thence via Cold Springs Road to Sycamore Canyon Road thence via Sycamore Canyon Road to East Valley Road thence via East Valley Road to Picacho Lane thence via Picacho Lane to Mountain Drive thence via Mountain Drive to the entrance of San Ysidro Guest Ranch thence via Mountain Drive to Park Lane thence via Park Lane to East Valley Road thence via East Valley Road to San Ysidro Road thence via San Ysidro Road to Eucalyptus Lane thence via Eucalyptus Lane to Miramar Ave. thence via Miramar Avenue to South Jameson Lane thence via South Jameson Lane to Virginia Road thence via Virginia Road to Olive Mill Road thence via Olive Mill Road to Channel Drive thence via Channel Drive to Fairway Road thence via Fairway Road to Channel Drive thence via Channel Drive to Cabrillo Blvd. thence via Cabrillo Blvd. to Orilla Del Mar thence via Orilla Del Mar to Punta Gorda Street thence via Punta Gorda Street to Milpas Street thence via Milpas Street to Cabrillo Blvd. thence via Cabrillo Blvd. to Castillo Street thence via Castillo Street to Haley Street thence via Haley Street to Brinkerhoff Avenue thence via Brinkerhoff Avenue to Cota Street thence via Cota Street to Santa Barbara Street thence via Santa Barbara Street to Canon Perdido Street thence via Canon Perdido Street to State Street thence via State Street to Anapamu Street thence via Anapamu Street to Santa Barbara Street thence Santa Barbara to Mission Street thence via Mission Street to Laguna Street thence via Laguna Street to Los Olivos Street thence via Los Olivos Street to Alameda Padre Serra thence via Alameda Padre Serra to point of the beginning.

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SECTION 3 ROUTE DESCRIPTIONS - CONTINUED

Route 3 - Hope Ranch and Riviera Tour

Beginning at the El Encanto Hotel and Villa at 1900 Lasuen Road in the City of Santa Barbara, thence exiting from the hotel grounds to Mission Ridge Road, thence via Mission Ridge Road to Tremonto Road, thence via Tremonto Road to Mountain Drive, thence via Mountain Drive to Mission Canyon Road, thence via Mission Canyon Road to Foothill Road, thence via Foothill Road to the Santa Barbara Botanic Cardens, thence returning via Mission Canyon Road and Foothill Road to Mission Street, thence via Mission Street to the Museum of Natural History, thence via Puesta Del Sol Road to Calle Laureles, thence via Calle Laurele to State Street, thence via State Street to La Cumbra Road, thence via La Cumbra Road to Las Palmas Drive, thence via Las Palmas Drive to Hope Ranch. From Hope Ranch via Cliff Drive, thence via Cliff Drive to Meigs Road; thence via Meigs Road to Shoreline Drive, thence via Shoreline Drive to Cabrillo Boulevard, thence via Cabrillo Boulevard to Chapella Street, thence via Cabrillo Boulevard, thence via Cabrillo Boulevard to Chapella Street, thence via Chapella Street to Mason Street, thence via Mason Street to Castillo Street, thence via Castillo Street to Haley Street, thence via Haley Street to State Street, thence via State Street to Anapamu Street, thence via Anapamu Street to Milpas Street, thence via Milpas Street to Garcia Road, thence via Carcia Road to Alameda Padre Serra, thence via Alameda Padre Serra to Loma Media Road, thence via Loma Media Road to Las Alturas Road, thence via Las Alturas Road to Mission Ridge Road, thence via Mission Ridge Road to the point of the beginning.

END OF APPENDIX A

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