MINUTE ITEM

12/79
Maricle
W. 8770

14. TERMINATION OF DISCUSSIONS - PRC 8770

Calendar Item 14 attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 14 (4 Pages).

2519

"Nonsubstantive Revision 8/7/80"

CALENDAR ITEM

14.

TERMINATION OF DISCUSSIONS

12/79
W 8770
Maricle
PRC 212

BACKGROUND:

1. Richard J. Naylor is the State's lessee under lease PRC 212.1; such lease was assigned to Mr. Naylor and the Commission authorized the Executive Officer to approve the assignment on March 23, 1965, under Minute Item No. 14.

2. Commencing with correspondence dated February 16, 1973, the staff notified Mr. Naylor that unleased State property adjacent to lease PRC 212.1 was being used by Mr. Naylor without benefit of an approved lease or permit.

   In October of the same year, Mr. Naylor indicated his desire to lease additional 75' strips along PRC 212.1 to cover his use of such lands. No application to lease these or any other additional parcels has ever been filed with the State Lands Commission.

3. From October 1973 forward, the use of unleased lands by Mr. Naylor has changed both in the area occupied and the number of vessels present. This fact has made it difficult to establish a precise land description sufficient to cover the exact area encompassing Mr. Naylor's operations.

4. In September of 1978, the staff advised Mr. Naylor of the rental terms and conditions for using unleased State property alongside the land presently under lease. Disagreement over such conditions further prevented finalization of negotiations.

5. On March 20, 1979, a staff site inspection disclosed that several additional floating structures had been moored on State property outside of the area for which

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negotiations had, up until that time, been conducted. The floating structures consisted of numerous fiberglass barges which had been towed to the moorage area. Mr. Naylor failed to ask for permission to so occupy State property and such use is not permitted within the current zoning, Coastline Commercial.

6. In addition to the foregoing, a recent staff inspection disclosed that a portion of the inner y-shaped pier structure has largely collapsed. Such structure is still in use by fishermen. The area is within the lands granted under PRC 212.1 and the lease under which Mr. Naylor holds possession specifically requires that all structures within the lease area be kept in good repair.

7. In 1974, the Commission authorized a lawsuit for quiet title and ejectment, Minute Item 25, July 25, 1974, to remove Mr. Naylor from the land upon which he was trespassing. The possibility of settlement forestalled legal action.

8. During past negotiations, Mr. Naylor paid $7,135.55 to the State as compensation for the use of unleased State property extending from February 22, 1973 through August 31, 1979. The staff believes that said $7135.55 is reasonable compensation for said use during that period and should be accepted in lieu of trespass damages. The staff also intends to collect additional payment from Mr. Naylor for the use of unleased property from September 1, 1979, until vacation is completed as to said area, at the daily rate of $31.78. Said daily rate is based on an annual rate of $11,600 and any payment so made will be accepted in lieu of trespass damages.

9. Whether or not the discussions Mr. Naylor has conducted with Commission staff constitute an application for use of lands adjoining lease PRC 212.1, the staff is opposed to the issuance



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of such a lease because of the past experience with this lessee and because the use he proposes is contrary to zoning regulation of the City of Richmond.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT MR. NAYLOR HAS NOT FILED AN APPLICATION WITH THE STATE LANDS COMMISSION TO LEASE LANDS CONTICUOUS TO LEASE PRC 212.1 AND THAT, IF DISCUSSIONS AND CORRESPONDENCE THAT HE HAS HAD WITH COMMISSION STAFF CONSTITUTE AN APPLICATION, THAT THE APPLICATION BE DENIED ON THE GROUNDS THAT MR. NAYLOR HAS NOT BEEN A DESIRABLE TENANT UNDER LEASE PRC 212.1 AND THAT THE USE HE PROPOSED TO MAKE OF THE NON-LEASED PARCELS IS NOT IN CONFORMINTY WITH THE ZONING CODE OF THE CITY OF RICHMOND.

2. APPROVE THE ACCEPTANCE OF $7,135.55 FROM MR. NAYLOR, AS REASONABLE COMPENSATION IN LIEU OF TRESPASS DAMAGES FOR HIS USE OF UNLEASED STATE LAND FOR THE PERIOD FEBRUARY 22, 1973 THROUGH AUGUST 31, 1979.

3. AUTHORIZE STAFF COLLECTION OF MONEYS FROM MR. NAYLOR FOR THE PERIOD EXTENDING FROM SEPTEMBER 1, 1979, UNTIL VACATION OF THE UNLEASED PROPERTY IS COMPLETED AT $31.78 PER DAY, IN LIEU OF TRESPASS DAMAGES.

4. INSTRUCT STAFF TO EFFECT VACATION OF THE UNLEASED AREAS NOW OCCUPIED BY MR. NAYLOR AS SOON AS IT REASONABLY CAN BE ACHIEVED. INSTRUCT STAFF TO TERMINATE FUTURE DISCUSSIONS WITH MR. NAYLOR IN REGARD TO PROPERTY NOT UNDER LEASE TO HIM WHICH IS CONTIGNOUS WITH LEASE PRC 212.1.

6. INSTRUCT STAFF TO NOTIFY MR. NAYLOR TO PROMPTLY REPAIR OR REMOVE ALL IMPROVEMENTS NOW IN A STATE OF DISREPAIR WITHIN THE LAND DESCRIBED IN LEASE PRC 212.1.



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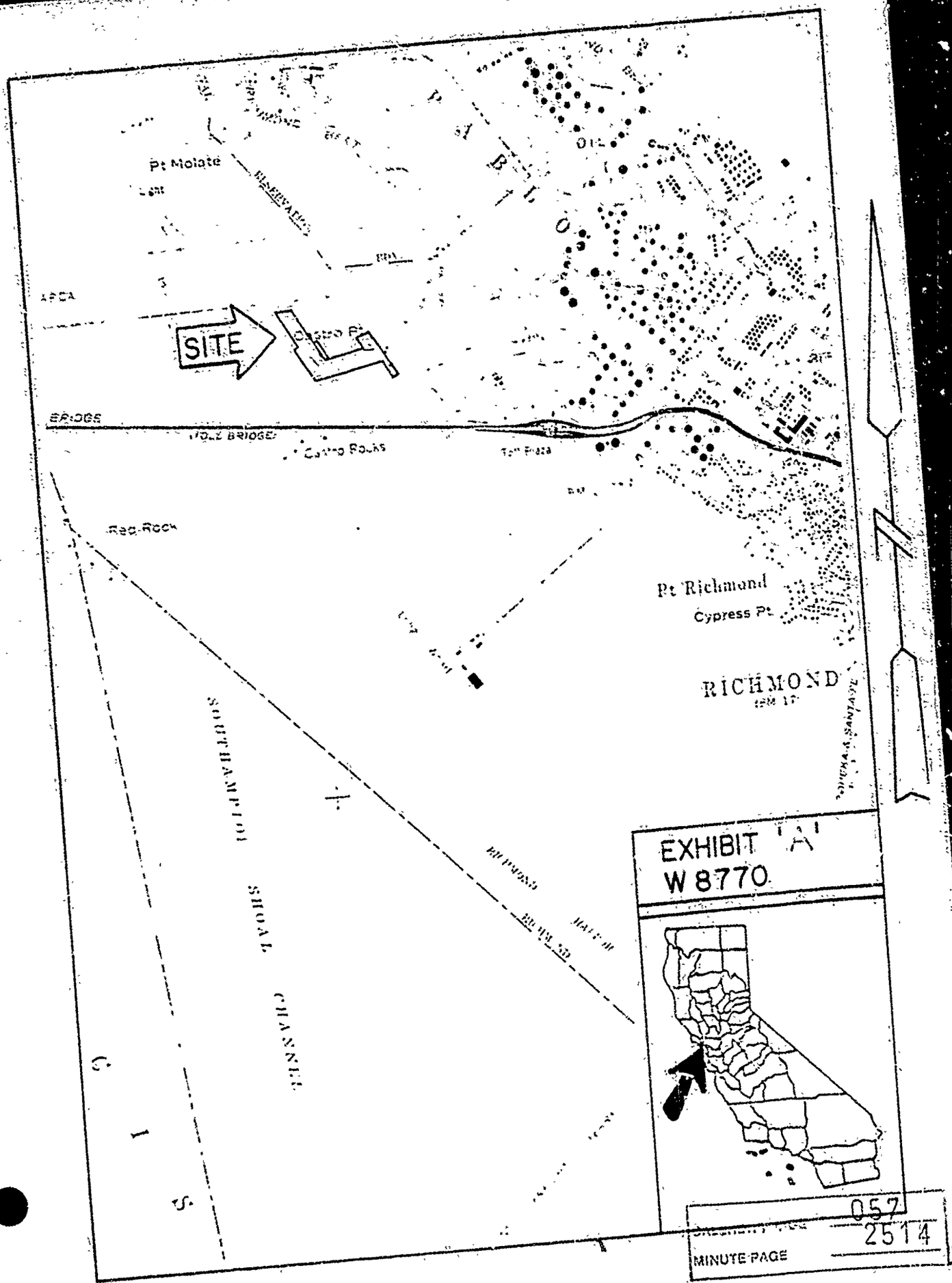
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