

MINUTE ITEM

This Calendar Item No. 17
was approved as Minute Item
No. 17 by the State Lands
Commission by a vote of 2
to 0 at its 10/25/84
meeting.

CALENDAR ITEM

A 29
S 14

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10/25/84
WP 6674
Lipphardt
Sekelsky
PRC 6674

AMENDMENT TO PUBLIC AGENCY PERMIT PRC 6674.9 AND
APPROVAL OF SUBLEASES AND ASSIGNMENT OF
PROCEEDS FROM LEASE PREMISES

APPLICANT: City of Pismo Beach (City)
1000 Bello Street
P. O. Box 3
Pismo Beach, California 93449
Attention: City Clerk

SUBLESEE: City of Pismo Beach
Public Facilities Corporation (Corporation)
c/o City Clerk
1000 Bello Street
P. O. Box 3
Pismo Beach, California 93449
Attention: President

ASSIGNEE: Bank of America NT & SA (Trustee)
Corporate Agency Division
201 Mission Street, 15th Floor
San Francisco, California 94105
Attention: Andy Jeremi

Bank of America NT & SA (Trustee)
Corporate Agency Division
55 So. Flower Street, 5th Floor
Los Angeles, California 90071
Attention: Peet Saaret

SUBLESEE: Wildlife Conservation Board (WCB)
1416 Ninth Street
Sacramento, California 95814
Attention: Alvin G. Rutsch

111
2471

CALENDAR ITEM NO. 17 (CONT'D)

AREA, TYPE LAND AND LOCATION:

A 4.076-acre parcel of tide and submerged land in the Pacific Ocean at Pismo Beach, San Luis Obispo County.

LAND USE:

Operation and maintenance of Pismo Beach Fishing Pier.

TERMS OF ORIGINAL PERMIT:

Initial period: 35 years beginning May 1, 1984.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rental for any year in which income generated from the lease premises exceeds expenses, or if the Commission finds such action to be in the State's best interest.

TERMS OF PROPOSED AMENDMENT:

This Amendment clarifies the lease description for title insurance purposes, restricts to use on the lease premises any revenues earned from those lease premises, and changes the construction completion date to December 31, 1985.

Consideration: Remains the same.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Adm. Code 2003.

APPLICANT STATUS:

Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Adm. Code: Title 2; Div. 3; Title 14, Div. 6.

AB 884:

N/A.

OTHER PERTINENT INFORMATION:

1. On May 24, 1984, the State Lands Commission approved a General Permit - Public Agency Use, to the City of Pismo Beach for the lease of .640 acres of tidelands and submerged lands underlying the Pismo Beach

CALENDAR ITEM NO. 17 (CONT'D)

Fishing pier. The City has since received a grant from the State Coastal Conservancy and additional funding commitments from the Wildlife Conservation Board and the Federal Emergency Management Administration, and proposes to restore and expand the pier as part of an urban waterfront restoration project. On July 12, 1984, the Commission approved an amendment to General Permit - Public Agency Use, to the City of Pismo Beach which modified the lease description to provide for the proposed pier expansion and provided a construction limiting date of December 30, 1984. Because of delays in obtaining financing and materials, the City now projects completion of the pier restoration on or before December 31, 1985. The City is attempting to obtain title insurance on the lease premises. This proposed amendment would clarify the lease description to accommodate the City in obtaining title insurance. The amendment also restricts to use on the lease premises any revenues derived from or attributable to the lease premises. Lessee would like to explore with staff the possibility of conducting a boundary study to determine the ordinary high water mark in the pier area and the possibility of a future lease amendment to allow expenditure of lease revenues for public trust uses of statewide public benefit outside the lease premises.

2. The annual rental value of the site is estimated to be \$15,980.
3. Lessee has formed the City of Pismo Beach Public Facilities Corporation (Corporation) to assist the City in the fiscal administration of the pier restoration project. The City and the Corporation have entered into a Lease Agreement which subleases Lease PRC 6674.9, upon which is located the pier, to the Corporation, which then subleases such property back to the City for maintenance and operation. Under the Lease Agreement, the City is obligated to make lease payments to the Corporation for the use and occupancy of the property. The Corporation is obligated to assist the

CALENDAR ITEM NO. 17 (CONT'D)

City in the pier project by assigning the lease payments to Trustee (Bank of America NT & SA), whose responsibility is to administer funds for improvement and restoration of the pier under the waterfront restoration project.

The City, the Corporation and the Trustee have entered into an Assignment and Trust Agreement. This Agreement assigns the lease payments, owed by the City to the Corporation, to the Trustee to repay Certificates of Participation issued and sold by the Trustee, the proceeds of which are applied to the pier restoration.

Under PRC 6674.9, subleases and assignments must be approved by the Commission.

Staff recommends approval only of the subleases of the lease premises between the City and the Corporation, and of the assignment of the revenues derived from or attributable to the lease premises to the Trustee to repay Certificates of Participation. No other provisions of the Lease Agreement or the Assignment and Trust Agreement are before the Commission for approval.

4. The Wildlife Conservation Board (WCB) has agreed to contribute funds to Lessee for development of the Pismo Beach Pier. Conditions of the contribution from WCB require that WCB have a proprietary interest in the property. To satisfy this requirement, Lessee has subleased a portion of the pier to the WCB.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

CALENDAR ITEM NO. 17 (CONT'D)

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

6. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but the proposed activity will not affect those significant values.

EXHIBITS: A. Land Description.
 B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. FIND THAT THIS ACTIVITY WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO P.R.C. 6370, ET SEQ., BUT THAT SUCH ACTIVITY WILL HAVE NO DIRECT OR INDIRECT EFFECT ON SUCH VALUES.
3. AUTHORIZE ISSUANCE TO CITY OF PISMO BEACH OF AN AMENDMENT TO LEASE PRC 6674.9, SUBSTANTIALLY IN THE FORM ON FILE IN THE PRINCIPAL OFFICE OF THE STATE LANDS COMMISSION, WHICH AMENDS AND CLARIFIES THE LAND DESCRIPTION TO THAT DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF RESTRICTS TO USE ON THE LEASE PREMISES ANY REVENUES DERIVED FROM OR ATTRIBUTABLE TO THE LEASE PREMISES AND CHANGES THE CONSTRUCTION COMPLETION DATE TO DECEMBER 31, 1985. ALL OTHER TERMS AND CONDITIONS OF LEASE PRC 6674.9 SHALL REMAIN IN FULL FORCE AND EFFECT. THE EFFECTIVE DATE OF THIS AMENDMENT IS OCTOBER 25, 1984.
4. FOR THE PURPOSES OF OBTAINING FUNDING FOR THE PISMO BEACH FISHING PIER RESTORATION PROJECT, APPROVE THE SUBLEASE FROM THE CITY OF PISMO BEACH TO THE CITY OF PISMO BEACH PUBLIC FACILITIES CORPORATION AND THE SUBLEASE BACK TO THE CITY OF PISMO BEACH FROM THE PISMO BEACH PUBLIC FACILITIES CORPORATION; AND THE ASSIGNMENT OF REVENUES ATTRIBUTABLE TO OR DERIVED FROM THE LEASE PREMISES BY THE CITY OF PISMO BEACH AND THE CITY OF PISMO BEACH PUBLIC FACILITIES CORPORATION, TO THE BANK OF AMERICA NT & SA FOR PURPOSES OF REPAYING THE CERTIFICATES OF PARTICIPATION; WHICH SUBLEASES AND ASSIGNMENTS ARE INCLUDED IN THE LEASE

(REVISED 10/25/84)

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CALENDAR PAGE	115
MINUTE PAGE	2475

CALENDAR ITEM NO. 17 (CONT'D)

AGREEMENT BETWEEN THE CITY AND THE CORPORATION AND ASSIGNMENT AND TRUST AGREEMENT BETWEEN THE CITY, THE CORPORATION, AND THE TRUSTEE, SUBSTANTIALLY IN THE FORM ON FILE IN THE PRINCIPAL OFFICE OF THE STATE LANDS COMMISSION. THIS APPROVAL IS MADE PURSUANT TO PARAGRAPH 10 OF SECTION 4 OF STATE LANDS COMMISSION LEASE PRC 6674.9, AND SHALL NOT BE CONSTRUED AS APPROVAL OF THE LEASE AGREEMENT, THE ASSIGNMENT AND TRUST AGREEMENT, OR THE CERTIFICATES OF PARTICIPATION

5. APPROVE A SUBLEASE OF A PORTION OF THE PIER TO THE WILDLIFE CONSERVATION BOARD SUBSTANTIALLY IN THE FORM ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.

CALENDAR PAGE	116
MINUTE PAGE	2476

EXHIBIT "A"

LAND DESCRIPTION

WP 6674.9

A strip of tide and submerged land 205 feet wide in the Pacific Ocean at Pismo Beach, San Luis Obispo County, California, said strip lying 102.5 feet on each side of the following described centerline:

COMMENCING at the most easterly corner of Block 8 of the "Town of El Pismo", City of Pismo Beach, County of San Luis Obispo, State of California, according to the map filed for record June 5, 1905, in Book "A" of Maps, Page 155 in the Office of the County Recorder of said County; thence S 47° 15' W 283.43 feet along the southeasterly line of said Block 8; thence W 52° 38' W 103.21 feet; thence S 68° 10' W 162.35 feet to the TRUE POINT OF BEGINNING; thence S 68° 10' W 1200 feet to the end of the herein described line.

END OF DESCRIPTION

REVISED JULY 30, 1984 BY BOUNDARY AND TITLE UNIT.

CALENDAR PAGE	117
MINUTE PAGE	2477

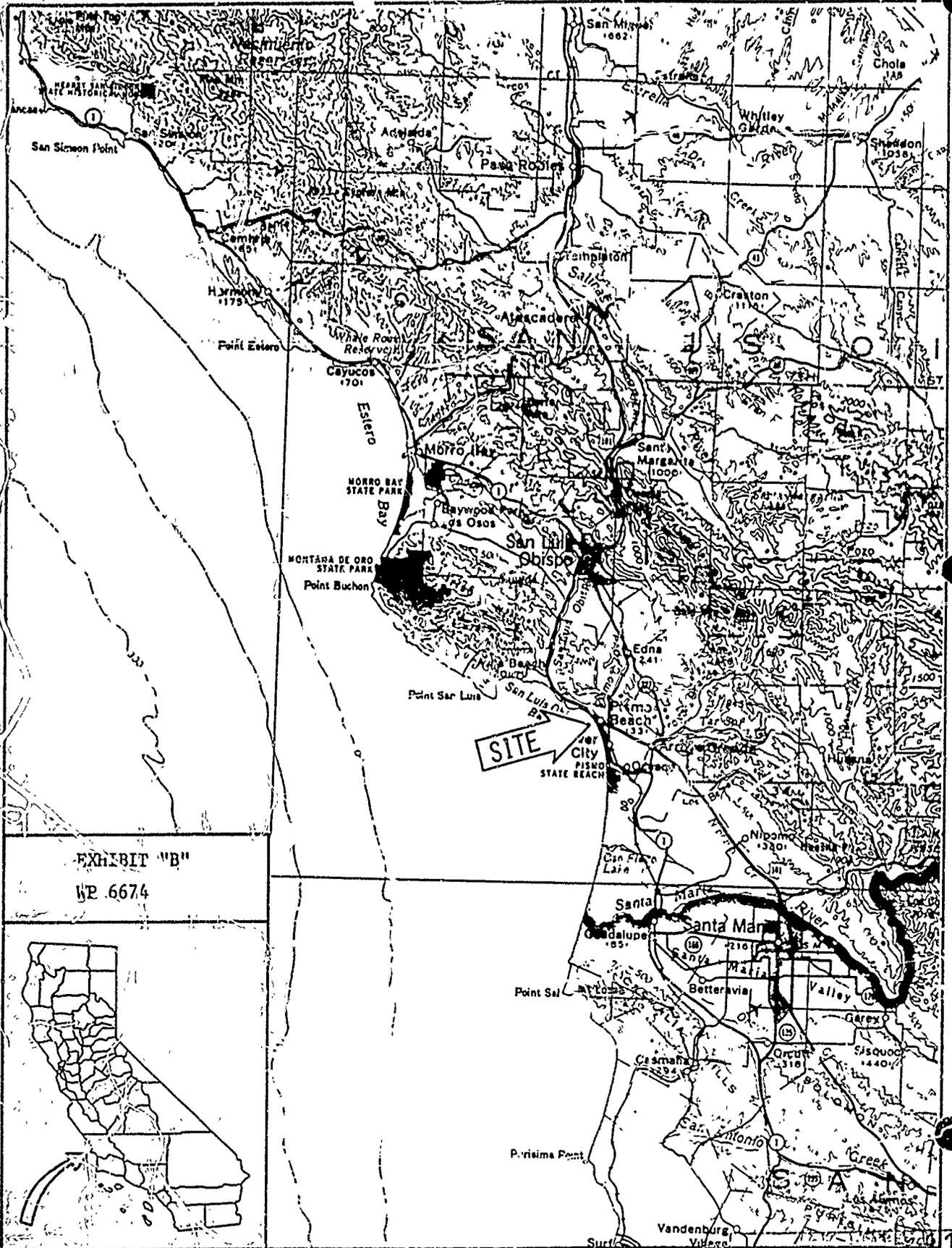


EXHIBIT "B"
 WP 6674

