

MINUTE ITEM

This Calendar Item No. C.12
was approved as Minute Item
No. 12 by the State Lands
Commission by a vote of 2
to 0 at its 5/23/85
meeting.

CALENDAR ITEM

A 74
S 38

C.12

05/23/85
WP 932
Townsend

AMENDMENT OF MINUTE ITEM 4
COMMISSION ACTION ON OCTOBER 25, 1984
AUTHORIZING THE ISSUANCE OF A
GENERAL LEASE - INDUSTRIAL USE

APPLICANT: San Diego Gas and Electric Company
Attn: Alan Berrier
P. O. Box 1831
San Diego, California 92112

BACKGROUND:

By its action of October 25, 1984, Minute Item 4, the State Lands Commission authorized the issuance of a ten-year General Lease - Industrial Use, to San Diego Gas and Electric (SDG & E) for the deposition of dredge spoils from Agua Hedionda Lagoon, on a 102-acre parcel of tide and submerged land in the Pacific Ocean at Carlsbad, San Diego County. Prior to execution of the lease agreement by SDG & E, their staff requested that Commission staff consider changes to the following lease provisions:

1. Section 2, Special Provisions, Paragraph 4 of the Lease, presently provides that, if the Lessor should find that the dredged material is unsuitable for a public beach, this Lease is terminated upon notice. Staff of SDG & E has requested that the State provide written notice at least 60 days prior to termination.
2. Section 4, General Provisions, Paragraph 7, entitled Indemnity, presently requires SDG & E to be liable and indemnify the State from all liability, claims, damages, or injuries of any kind and from any cause whatsoever occurring on the lease premises. Due to their limited and non-exclusive use of the parcel, staff of SDG & E has requested that the State modify

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this provision to provide that SDG & E be liable and indemnify the State from all liability, claims, damages, or injuries of any kind and from any cause on the lease premises in connection with or attributable to their activities under the Lease.

PRESENT SITUATION:

Staff of the Commission has no objection to the proposed changes in the lease document by SDG & E and recommends approval of these changes by the Commission. All other terms and provisions of the Lease as approved by the Commission on October 25, 1984, Minute Item 4, shall remain unchanged.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. 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 the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

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

EXHIBIT: A. Minute Item 4, October 25, 1984.
B. Site Plat

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. AUTHORIZE THE AMENDMENT OF MINUTE ITEM 4, COMMISSION ACTION OF OCTOBER 25, 1984, TO PROVIDE FOR THE MODIFICATION OF TWO LEASE PROVISIONS AS FOLLOWS:
 - A. SECTION 2, SPECIAL PROVISIONS, PARAGRAPH 4 OF LEASE PRC 932, SHALL PROVIDE THAT IF LESSOR SHOULD FIND THAT THE DREDGED MATERIAL IS UNSUITABLE FOR A PUBLIC BEACH, THE LEASE MAY BE TERMINATED PROVIDED WRITTEN NOTICE OF SAID TERMINATION IS PROVIDED BY LESSOR TO LESSEE, AT LEAST 60 DAYS PRIOR TO TERMINATION.

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- B. SECTION 4, GENERAL PROVISIONS, PARAGRAPH 7, ENTITLED INDEMNITY OF LEASE PRC 932, SHALL PROVIDE THAT THE LESSEE SHALL BE LIABLE AND INDEMNIFY THE STATE FROM ALL LIABILITY, CLAIMS, DAMAGES OR INJURIES OF ANY KIND AND FROM ANY CAUSE ON THE LEASE PREMISES IN CONNECTION WITH OR ATTRIBUTABLE TO LESSEE'S ACTIVITIES UNDER THE LEASE.
3. FIND THAT ALL OTHER TERMS AND PROVISIONS OF LEASE PRC 932 SHALL REMAIN IN FULL FORCE AND EFFECT AS APPROVED BY THE COMMISSION ON OCTOBER 25, 1984.

This Calendar Item No. C04
was approved as Minute Item
No. 7 by the State Lands
Commission by a vote of 2
to 0 at its 10/25/84
meeting.

EXHIBIT "A"

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C04

10/25/84
WP 932.
Louie
PRC 932

GENERAL LEASE - INDUSTRIAL USE

APPLICANT: San Diego Gas & Electric Company
P.O. Box 1831
San Diego, California 92112
Attn: Alan Berrier

AREA, TYPE LAND AND LOCATION:
A 102-acre parcel of tide and submerged land in
the Pacific Ocean at Carlsbad, San Diego County.

LAND USE: Deposition of dredge spoils from Agua Hedionda
Lagoon.

TERMS OF ORIGINAL LEASE:
Initial period: Ten years beginning
September 1, 1974.

Consideration: \$300 per annum; plus the
public benefit, five-year
rent review.

TERMS OF PROPOSED LEASE:
Initial period: Ten years beginning
September 1, 1984.

Public liability insurance: Combined single
limit coverage of \$500,000.

CONSIDERATION: \$300 per annum; plus the public benefit, with
the State reserving the right to fix a
different rental on each fifth anniversary of
the lease.

BASIS FOR CONSIDERATION:
Pursuant to 2 Cal. Adm. Code 2003.

APPLICANT STATUS:
Applicant is owner or permittee of upland.

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PREREQUISITE CONDITIONS, FEES AND EXPENSES:
Filing fee has been received.

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:

11/01/84.

OTHER PERTINENT INFORMATION:

1. This is a continuation of an ongoing activity. Under State lease, San Diego Gas & Electric has been depositing spoils at the subject site since 1954. A nominal annual rent is justified for the use of this parcel by the enhancement to the adjacent Carlsbad State Beach and to downcoast beach areas by sand replenishment through the littoral processes.

2. The Department of Parks and Recreation does not object to the spoils deposit fronting their upland provided the Lessee does not deposit the spoils from April 1 through, and including, September 3 of each lease year unless approval has first been obtained from the Department of Parks and Recreation.

The lease will be terminated if Lessee does not comply with requirements of the California Regional Water Control Board or if the State finds that the dredged material is unsuitable for a public beach.

3. This activity involves lands which have not been identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. However, the Commission has declared that all tide and submerged lands are "significant" by nature of their public ownership (as opposed to "environmental significant"). Since such declaration of significance is not based upon the

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requirements and criteria of P.R.C. 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by 2 Cal. Adm. Code 2954 is not applicable.

4. 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 the CEQA as a categorical exempt project. The project is exempt under Class 4, Minor Alterations To Land, 14 Cal. Adm. Code 15304(g)

APPROVALS OBTAINED:

California Coastal Commission, California Regional Water Quality Control Board, Department of Parks and Recreation.

FURTHER APPROVALS REQUIRED:

U. S. Army Corps of Engineers.

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. AS A CATEGORICAL EXEMPT PROJECT, CLASS 4, MINOR ALTERATIONS TO LAND, 14 CAL. ADM. CODE 15304(g).
2. AUTHORIZE ISSUANCE TO SAN DIEGO GAS & ELECTRIC COMPANY OF A TEN YEAR GENERAL LEASE - INDUSTRIAL USE BEGINNING SEPTEMBER 1, 1984; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$300 PLUS THE PUBLIC BENEFIT, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$500,000; FOR THE DEPOSITION OF SPOILS FROM AGUA HEDIONDA LAGOON ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

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EXHIBIT "A"

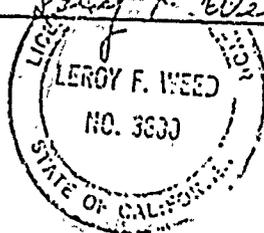
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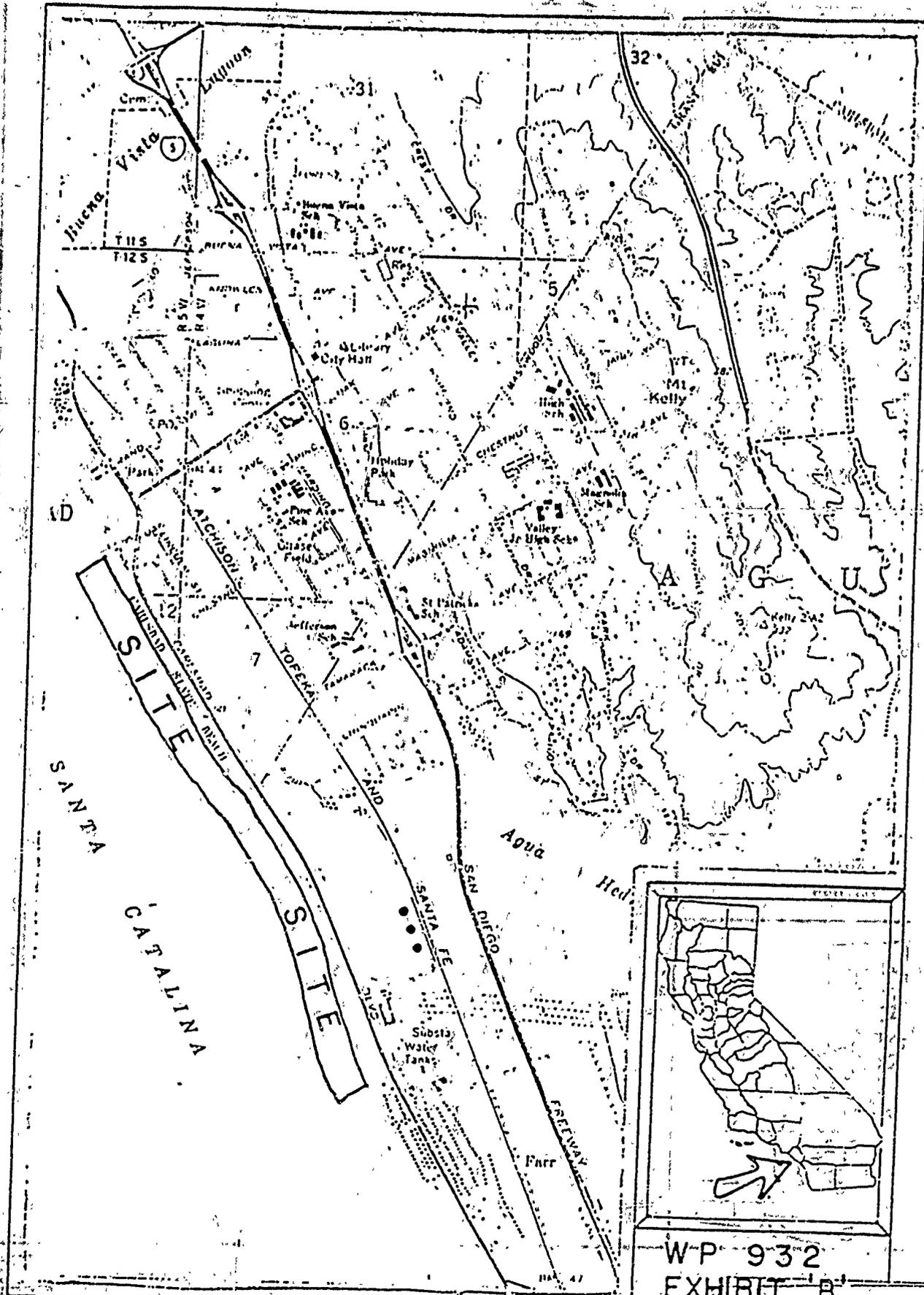
A strip of tide and submerged land adjacent to the entrances to Agua Hedionda Lagoon in the City of Carlsbad, San Diego County, State of California described as follows:

A strip of tide and submerged land in the Pacific Ocean bounded on the northeast by the Ordinary High Water Mark of the Pacific Ocean and on the southwest by a line 500 feet southwest of and parallel to said Ordinary High Water Mark and extending from the north line of Carlsbad Beach State Park as said north line is described in deed recorded in Book 230, page 308 of Official Records of San Diego County southeasterly 8900 feet.

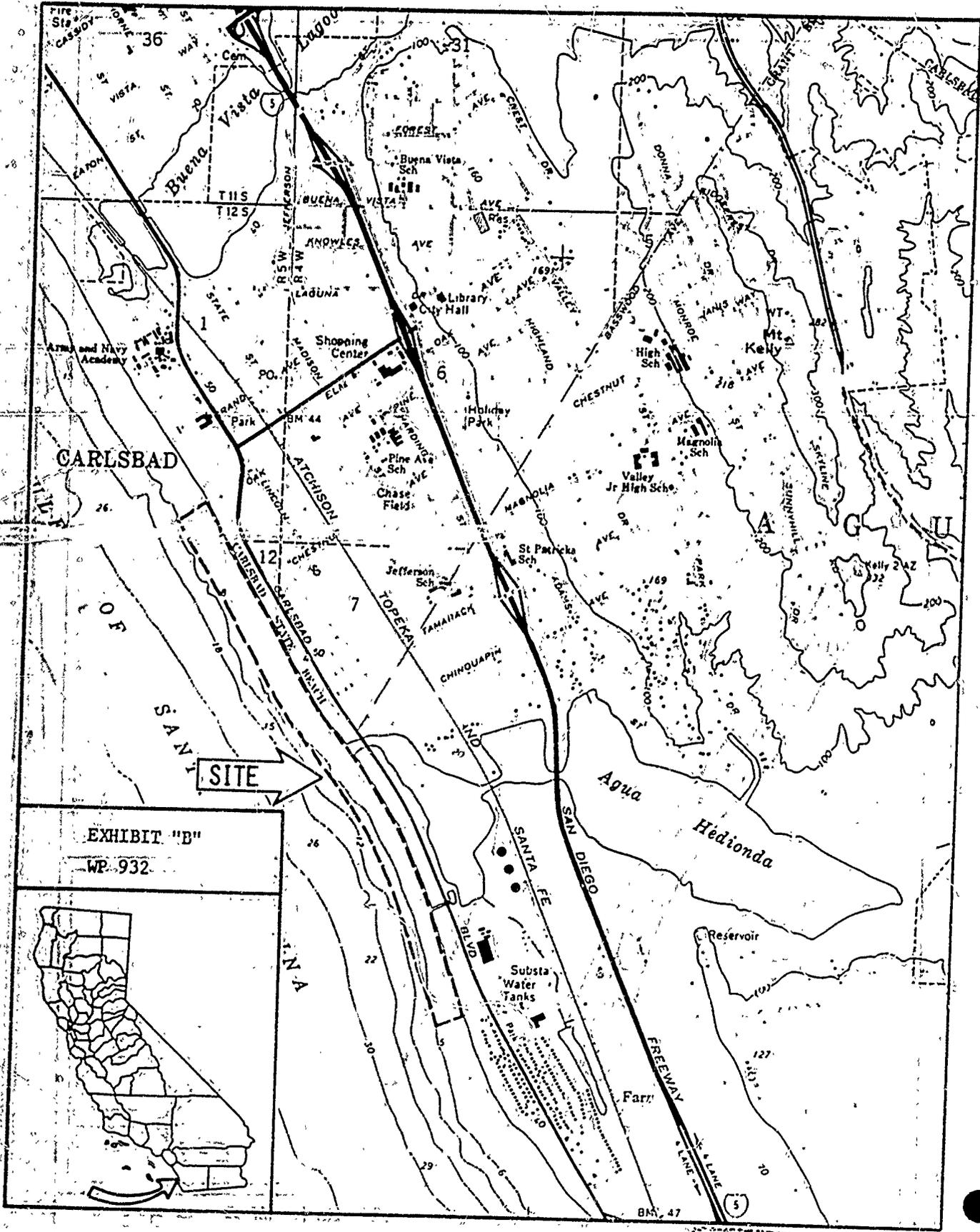
END OF DESCRIPTION

Prepared L F Weed Checked Alan K. Gentry
Reviewed Leroy F. Weed Date: 8/7/74





WP 932
EXHIBIT B



CARLSBAD

SITE

EXHIBIT "B"

WP-932



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