MINUTE ITEM

25

08/20/87
W 20725.204
Saggese

PORT OF LOS ANGELES, ET AL.
AGREEMENT FOR MARINE HABITAT RESTORATION AT
BATIQUITOS LAGOON, SAN DIEGO COUNTY

Calendar Item 25, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 25.

2010

CALENDAR ITEM

25

A 74, 75

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PORT OF LOS ANGELES, ET AL.
AGREEMENT FOR MARINE HABITAT RESTORATION AT
BATIQUITOS LAGOON, SAN DIEGO COUNTY

BACKGROUND:

The Los Angeles Board of Harbor Commissioners (Board) proposes to construct a marine terminal in Los Angeles Harbor (Harbor), as a part of a 1,030-mile pipeline from the Port to Midland, Texas. The project includes a 106-acre landfill in the Harbor.

The landfill has been permitted by the United States Army Corps of Engineers (COE), Permit No. 85-97 and by the California Coastal Commission (CCC), Permit No. 5-85-623-A. A Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) was certified for this project in November 1985. In addition to mitigations contained in the EIR/EIS, the CCC required, as a condition of its permit, that the project proponents provide 1.5 acres of marine fish and wildlife habitat to replace each acre of fill for the project placed in the harbor.

In considering possible mitigations for the habitat loss caused by the project's landfill, and in light of the Los Angeles - Long Beach Harbors "2020 Plan," the Board determined that there were no feasible mitigation sites within the Harbor and that off-site mitigations would be required. Upon consultation with the appropriate State and Federal agencies, Batiquitos Lagoon was identified as a possible area to be enhanced and restored to tidal action as mitigation for the marine habitat loss expected to be caused by the proposed harbor fill project.

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In order for the Board to be able to participate financially in the Batiquitos Lagoon enhancement, restoration, and management program, Senator Dills carried SB 2059 last year. This bill became law and was chaptered as Statutes of 1986/Chapter 1415, and codified as P.R.C. Section 6306.1. This section enables the Batiquitos mitigation to be implemented using Public Trust funds provided by the Port of Los Angeles. It does so by allowing the expenditure of trust funds on areas outside the boundaries of the sovereign lands granted to the Port of Los Angeles.

In order to ensure the replacement of the habitat permanently lost to landfill in a timely manner, the Port of Los Angeles, United States Fish and Wildlife Service (FWS), California Department of Fish and Game (CDFG), National Marina Fisheries Services (NMFS), City of Carlsbad, and State Lands Commission have been working together to prepare a comprehensive and enforceable plan for the restoration and long-term management of Batiquitos Lagoon in the City of Carlsbad, San Diego County.

To implement the Batiquitos Lagoon program (a project that will create new wildlife habitat), the above parties propose to enter into an agreement (a copy of which is on file in the office of the State Lands Commission) which relates to and incorporates portions of the "Batiquitos Lagoon Enhancement Plan" prepared by the Coastal Conservancy.

The proposed Agreement contemplates that:

1. Carlsbad, supported by the Board, is the most appropriate agency to implement the Lagoon Enhancement Plan (and serve as Lead Agency for the preparation of an EIR pursuant to CEQA),

2. The State Lands Commission is the most appropriate agency to be vested with the necessary property rights for the construction and maintenance of the project; and

3. CDFG is the appropriate agency to manage, operate, maintain and monitor the project during and upon its completion.

4. The Agreement contains the following general provisions that will have some effect on or require some action on the part of the State Lands Commission:

   A. State Lands Commission will monitor the acquisition by the City of Carlsbad of all land rights needed for the lagoon enhancement project.

   B. State Lands Commission will accept and be vested with all land rights necessary for the lagoon project and will hold those rights subject to the Public Trust.

   C. State Lands Commission will issue to the Department of Fish and Game a Public Agency Permit for the maximum term allowed by law covering the entire lagoon project area.

   D. Staff of the Commission will monitor the expenditure of "Trust Funds" by the Port of Los Angeles on the lagoon project.

   E. Staff of the Commission will review all engineering plans and studies and any environmental documents prepared for the project.

Staff has participated with the parties mentioned above in the preparation of the Agreement and concur with its terms and conditions, including the participation of the State Lands Commission as specified, and recommends that the Commission authorize the staff to execute the proposed agreement substantially in the form which is on file in the Commission's office.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2, Div. 3.

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

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.

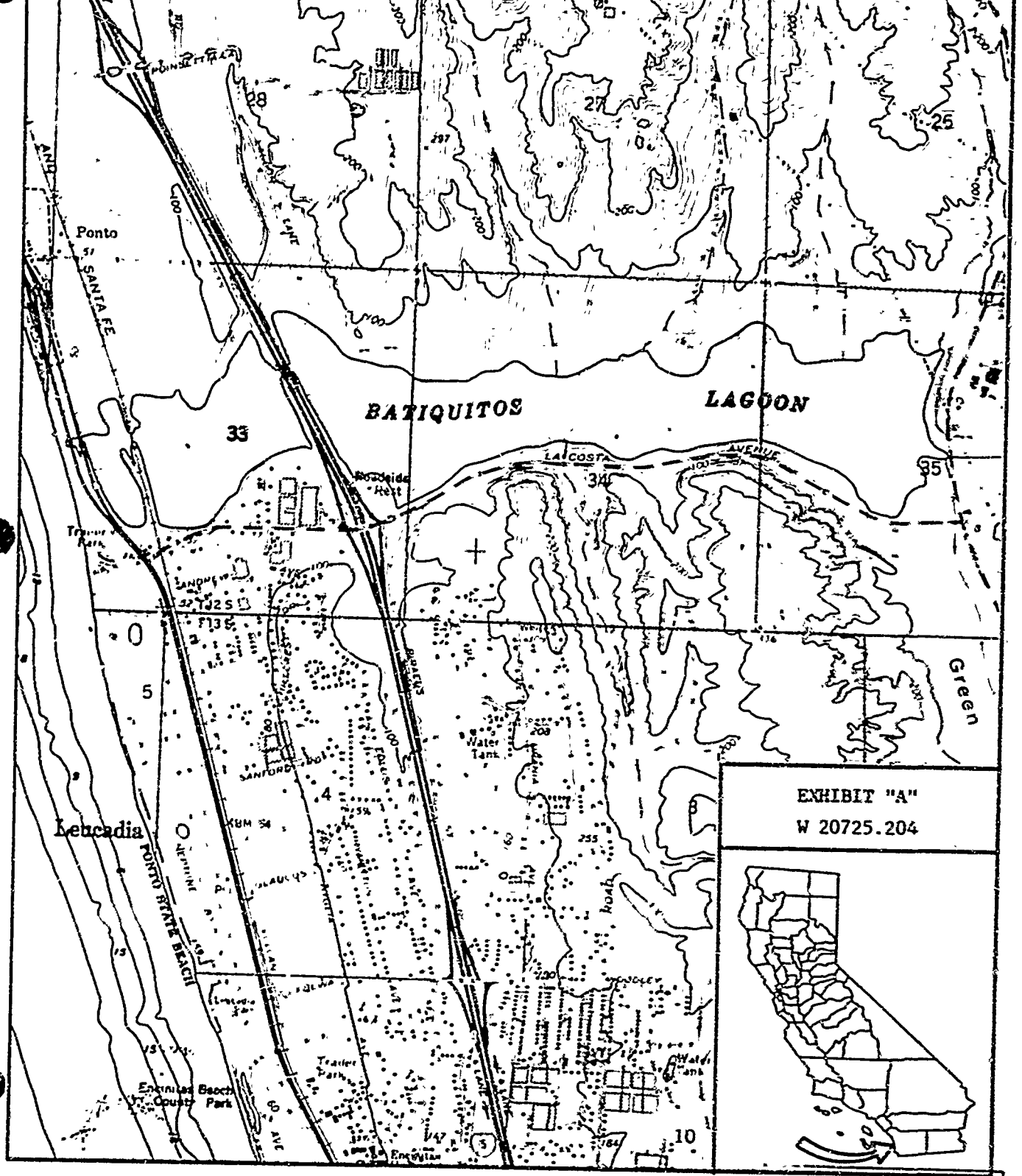
EXHIBIT. A. Location Map.

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. AUTHORIZE THE EXECUTIVE OFFICER OR HER DESIGNEE TO EXECUTE ON BEHALF OF THE COMMISSION, THAT "AGREEMENT AMONG THE CITY OF LOS ANGELES, THE CITY OF CARLSBAD, THE CALIFORNIA DEPARTMENT OF FISH AND GAME, THE CALIFORNIA STATE LANDS COMMISSION, THE NATIONAL MARINE FISHERIES SERVICE, AND THE UNITED STATES FISH AND WILDLIFE SERVICE TO ESTABLISH A PROJECT FOR COMPENSATION OF MARINE HABITAT LOSSES INCURRED BY PORT DEVELOPMENT LANDFILLS WITHIN THE HARBOR DISTRICT OF THE CITY OF LOS ANGELES BY MARINE HABITAT ENHANCEMENT AT BATIQUITOS LAGOON" SUBSTANTIALLY IN THE FORM WHICH IS ON FILE IN THE SACRAMENTO OFFICES OF THE COMMISSION.

3. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE PROVISIONS OF THE AGREEMENT INCLUDING, BUT NOT LIMITED TO, ACCEPTANCE OF PROPERTY RIGHTS IN BATIQUITOS LAGOON AND PARTICIPATION IN THE PLANNING OF THE LAGOON ENHANCEMENT PROJECT.



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