

MINUTE ITEM
This Calendar Item No. C15
was approved as Minute Item
No. 15 by the State Lands
Commission by a vote of 2
to 0 at its 9/14/88
meeting.

CALENDAR ITEM

A 75
S 38

C 15

09/14/88
W 20725.204 PRC 7242
A. Scott
Fossum
Saggese

APPROVAL AND AUTHORIZATION TO LEASE FOR A PERIOD OF 49 YEARS
ALL THE SOVEREIGN INTEREST OF THE STATE
LOCATED IN AND ADJACENT TO BATIQUITOS LAGOON
CITY OF CARLSBAD, SAN DIEGO COUNTY
TO THE DEPARTMENT OF FISH AND GAME FOR THE PURPOSE OF
INCLUSION IN THE BATIQUITOS ECOLOGICAL RESERVE

APPLICANT: Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

BACKGROUND:

On September 23, 1987, the Commission, by Minute Item No. 39, authorized the execution of a Memorandum of Agreement (MOA) between the Commission, Port of Los Angeles, Department of Fish and Game, City of Carlsbad, United States Fish and Wildlife Service, and National Marine Fisheries. This MOA among other things provided for the enhancement of BatiQUITOS Lagoon (Lagoon) by the restoration of tidal action and creation of other wildlife habitat enhancement as mitigation for impacts caused by development within the Port of Los Angeles. The Commission was identified as the appropriate agency, among those executing the MOA, to hold title to the Lagoon. The MOA contains provisions requiring the Commission to issue a permit to the Department of Fish and Game for inclusion of these lands in an Ecological Reserve.

During the past few years, the Commission has, through various title settlement agreements, confirmed its sovereign ownership to a majority of the bed of the Lagoon. The Department of Fish and Game controls a small portion of the Lagoon and a very minor portion remains in private hands. Pursuant to the MOA,

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the City of Carlsbad is in the process of preparing an Environmental Impact Report addressing the potential impact of restoration and enhancement of the Lagoon. The action proposed by this item will be in furtherance of the Commission's responsibilities undertaken in the MOA. It will result in more than doubling the size of the current Ecological Reserve and put the management of the Lagoon under the jurisdiction of the Department of Fish and Game.

CURRENT SITUATION:

As required by the MOA staff has prepared a proposed permit transferring to the Department of Fish and Game all of its sovereign interest in and around the Lagoon. The proposed permit is for a period of 49 years the maximum term allowed by law. It requires the area to be operated and maintained by the Department of Fish and Game as an Ecological Reserve. The 1987 MOA set up certain criteria regarding the possible enhancement of the Lagoon by the Port of Los Angeles/City of Carlsbad. In accordance with its terms, the restoration will proceed only if the enhancement can be accomplished without loss to existing environmental values. The potential environmental impact of the proposed restoration project is currently under study.

It is the intent of the staff that this area be placed under the control of the Department of Fish and Game as an Ecological Reserve regardless of the outcome of the proposal for the restoration of the Lagoon. The proposed 49-year permit allows the use of the subject area as open space and as an ecological reserve but requires further Commission approval prior to any construction activity. Therefore, before the excavation phase of the enhancement project can be implemented, an EIR and EIS must be completed and written approval by the Commission will be required to begin construction.

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 as a categorical exempt project. The project

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is exempt under Class 25, the transfer of ownership of interests in lands in order to preserve open space, 14 Cal. Adm. Code 15325 and Class 13, Acquisition of Lands for fish and wildlife conservation purposes including preservation of fish and wildlife habitat and establishing Ecological Reserves, 14 Cal. Adm. Code 15313.

Authority: P.R.C. 21084 and 14 Cal. Adm. Code 15300

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

EXHIBIT: A. Location Map

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA AS A CATEGORICAL EXEMPT PROJECT, PURSUANT TO 14 CAL. ADM. CODE 15061, CLASS 25, THE TRANSFER OF OWNERSHIP OF INTERESTS IN LANDS IN ORDER TO PRESERVE OPEN SPACE, 14 CAL. ADM. CODE 15325 AND CLASS 13, ACQUISITION OF LAND FOR FISH AND WILDLIFE CONSERVATION PURPOSES INCLUDING ESTABLISHING ECOLOGICAL RESERVES, 14 CAL. ADM. CODE 15313.
2. AUTHORIZE THE ISSUANCE OF A PUBLIC AGENCY PERMIT TO THE DEPARTMENT OF FISH AND GAME FOR A PERIOD 49 YEARS BEGINNING OCTOBER 1, 1988 COVERING ALL THE SOVEREIGN LANDS OF THE STATE WITHIN BATIQUITOS LAGOON FOR THE PURPOSE OF AND USE AS AN ECOLOGICAL RESERVE AND FOR OPEN SPACE. SUCH AUTHORITY DOES NOT PROVIDE FOR CONSTRUCTION OF ANY IMPROVEMENTS OR PHYSICAL ALTERATION OF LANDS SUBJECT TO THIS AGREEMENT ON THE AREA WITHOUT THE PRIOR WRITTEN APPROVAL OF THE COMMISSION.

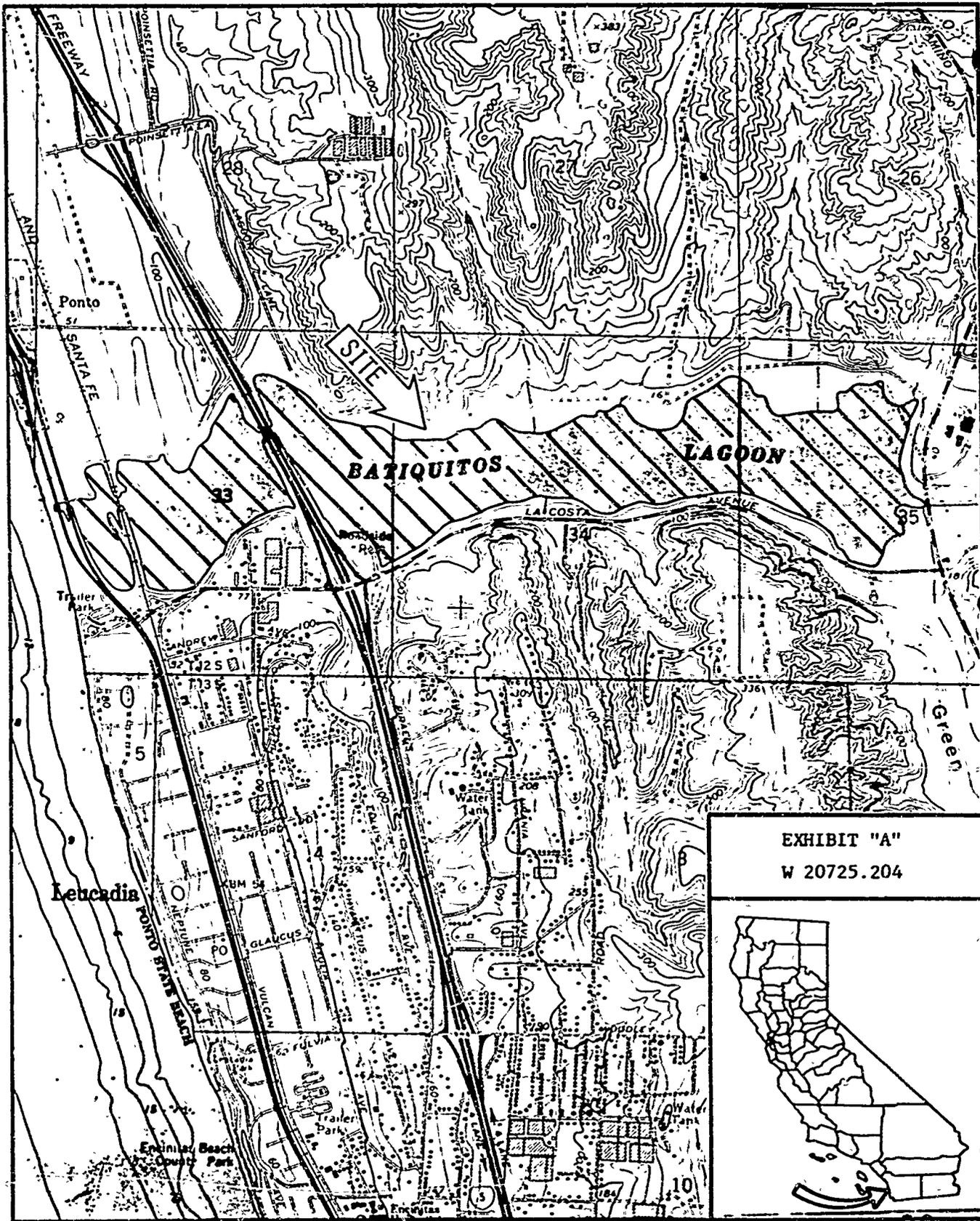


EXHIBIT "A"
W 20725.204



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