

MINUTE ITEM

This Calendar Item No. 35
was approved as Minute Item
No. 35 by the State Lands
Commission by a vote of 3
to 0 at its 9/23/91
meeting.

CALENDAR ITEM

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09/23/91
PRC 7163
Townsend
Small
Bergen

AMENDMENT OF LEASE CONDITION TO
GENERAL LEASE - RIGHT-OF-WAY USE PRC 7163

LESSEE:

Exxon Corporation
P. O. Box 5025
Thousand Oaks, California 91359

BACKGROUND:

The State Lands Commission, at its meeting in January 1988, authorized the issuance of Lease PRC 7163 for Exxon's proposed Santa Ynez Unit (SYU) oil pipeline offshore at Las Flores Canyon, Santa Barbara County. The environmental mitigation measures adopted by the Commission for this project, as incorporated into the lease as Exhibit "B", includes the following:

"(2)(i) Exxon shall include in their construction impact reduction plan, methods to reduce impacts to Cetaceans (Whales, Dolphins, etc.) during the Cetacean migration period, December through March. Exxon shall provide for a qualified marine mammal observer approved by the Commission. Weather permitting, the observer shall make a daily aerial survey of the coastline from Point Conception to Coal Oil Point to determine whether or not Cetaceans are in the area. For periods of inclement weather, Exxon shall describe in the plan how it will be determined if Cetaceans are near the construction zone. The plan shall also require that if Cetaceans are present, the observer shall continue to monitor their activities. The plan shall specify how and when construction activities will be reduced or ceased if the Cetaceans approach the construction zone. The distance from the construction zone shall be the

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determining factor. For example, the plan shall specify that when Cetaceans are within two (2) miles of the construction zone, Exxon shall suspend blasting until animals have left this zone.

The plan shall also describe how the Cetaceans will be warned of obstructions in the water during the period of inactivity. Exxon shall have deployed acoustical "pingers" or sonar reflectors when Cetaceans are within two (2) miles. Exxon's plan shall describe the deployment of these acoustical devices.

All survey methods shall be approved by the Commission and all daily reports of numbers and Cetacean activity shall be submitted to the State Lands Commission at the conclusion of construction."

CURRENT SITUATION:

Exxon has requested that the portions of Lease Condition (2)(i) relating to daily aerial surveys, and the deployment of acoustical devices or sonar reflectors be deleted or permanently waived. This request is based on the following considerations:

1. Observational data collected from aerial surveys is useful during blasting operations, which can potentially affect marine mammals over a large area. In this instance, the data can be used to determine whether or not Cetaceans are within or about to enter the blasting zone of influence (which can sometimes be as much as half-a-mile from the blasting source). However, blasting is not expected to be required for further construction or operation of the pipelines and power cables on PRC 7163. If Exxon changes its plan to include blasting, it will conduct daily aerial surveys as required by the current condition.
2. Based on Exxon's nearshore pipeline and power cable installation project, it has found that for non-blasting projects, observational data collected within the immediate vicinity of the construction zone is more effective for assessing whether or not construction activities should be curtailed or redirected. This opinion is supported by the County of Santa Barbara Resource Management Department's mitigation effectiveness evaluation of the nearshore project. Observational data within the construction vicinity can best be collected using a dedicated monitoring vessel located onsite. Exxon plans to use such a vessel to

the extent it is required by observations of Cetaceans during the actual construction operations.

3. In a letter from the National Marine Fisheries Service (NMFS) dated February 8, 1989, the NMFS stated that the use of acoustical devices or sonar reflectors during offshore construction is not necessary, and constitutes harassment of whales. Prior work in this area has demonstrated that migrating whales will adjust their course at distances of two kilometers or more to avoid a source of noise. Based on those findings, it is reasonable to conclude that whales will adjust their course to avoid pipe laying operations at distances well beyond the effective range of flashers and seal control devices. Even if whales approach a pipe laying barge, the likelihood that they would get tangled in lines of the size typically used in those operations is remote.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 3, Div. 3; Title 14, Div. 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

1. These activities involve lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the projects, as proposed, are consistent with its use classification.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 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. Code Regs. 15378.

EXHIBITS:

- A. Location Map
- B. Site Map
- C. Lease Condition

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO P.R.C. 370, ET SEQ.
2. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
3. ADOPT THE AMENDED LEASE CONDITION (2)(i) AS CONTAINED IN EXHIBIT "C" ATTACHED.

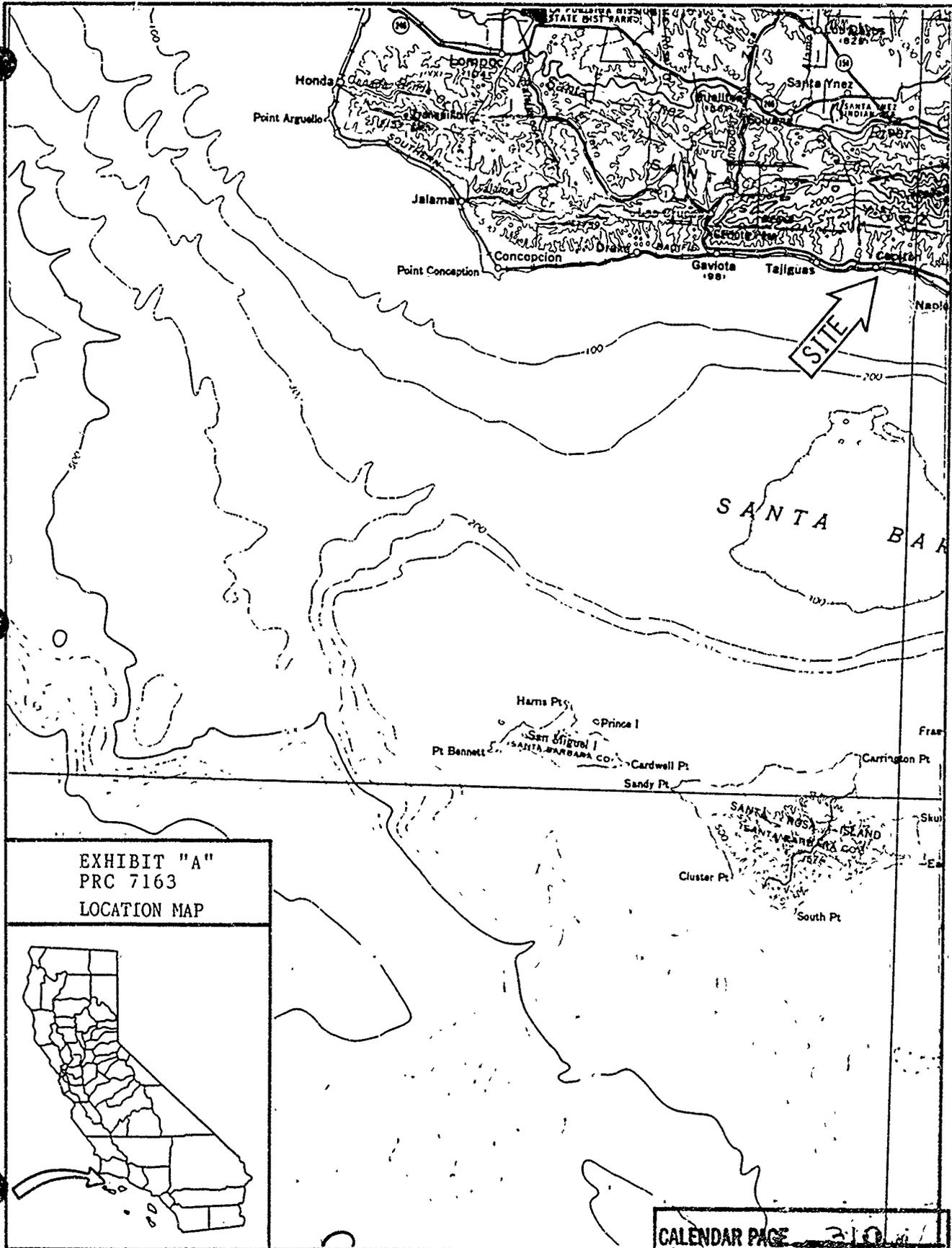
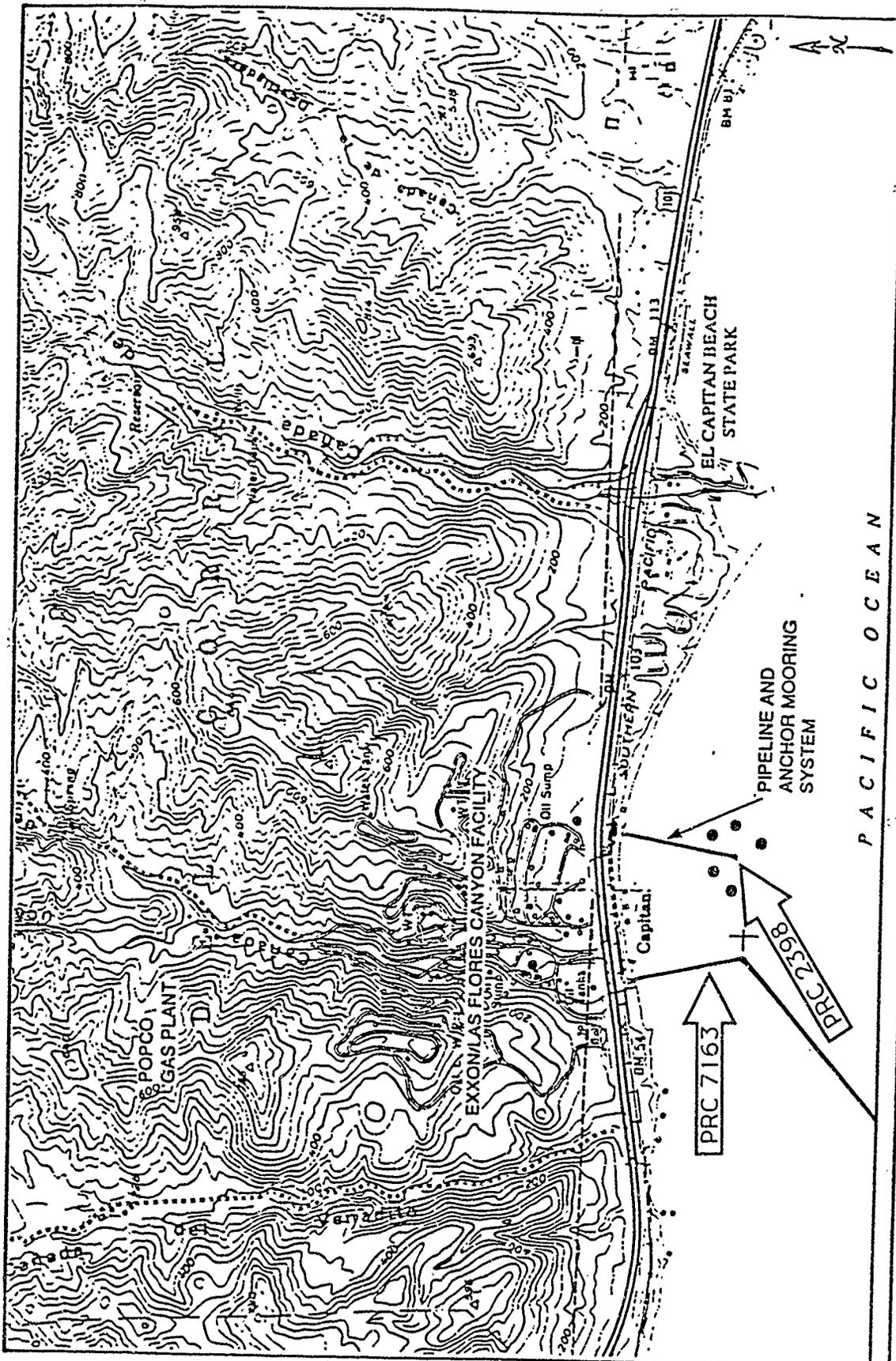


EXHIBIT "A"
 PRC 7163
 LOCATION MAP



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PRC 7163

EXHIBIT "B"
SITE MAP

PREPARED MARCH 21, 1990 BY SAS.

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EXHIBIT "C"

LEASE CONDITION

- "(2) (i) Exxon shall include in their construction impact reduction plan, methods to reduce impacts to Cetaceans (Whales, Dolphins, etc.) during the Cetacean migration period, December through March. Exxon shall provide for a qualified marine mammal observer approved by the Commission. If blasting is required, weather permitting, the observer shall make a daily aerial survey of the coastline from Point Conception to Coal Oil Point to determine whether or not Cetaceans are in the area. For periods of inclement weather, Exxon shall describe in the plan how it will be determined if Cetaceans are near the construction zone. The plan shall also require that if Cetaceans are present, the observer shall continue to monitor their activities. The plan shall specify how and when construction activities will be reduced or ceased if the Cetaceans approach the construction zone. The distance from the construction zone shall be the determining factor. For example, the plan shall specify that when Cetaceans are within two (2) miles of the construction zone, Exxon shall suspend blasting until animals have left this zone.

All survey methods shall be approved by the Commission and all daily reports of numbers and Cetacean activity shall be submitted to the State Lands Commission at the conclusion of construction."