MINUTE ITEM
This Calendar Item No. C37 was approved as Minute Item No. 37 by the California State Lands Commission by a vote of 3 to 0 at its 10-06-04 meeting.

CALENDAR ITEM
C37

A 74

S 38

PRC 932

10/06/04
WP 932.1
J. Smith

GENERAL LEASE - INDUSTRIAL USE

LESSEE:

Cabrillo Power I LLC
4600 Carlsbad Boulevard
Carlsbad, California 92008

AREA, LAND TYPE, AND LOCATION:

102 acres, more or less, of sovereign lands in the Pacific Ocean, Carlsbad, San Diego County.

AUTHORIZED USE:

Placement of suitable dredge material from Agua Hedionda Lagoon on sovereign lands adjacent to Carlsbad State Beach.

LEASE TERM:

Ten years, beginning September 1, 2004.

CONSIDERATION:

$300 per year; plus the public benefit, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with coverage of no less than $1,000,000.

OTHER PERTINENT INFORMATION:

1. The Lessee is owner or permittee of the uplands adjoining the lease premises.

2. The Lessee, Cabrillo Power I LLC, is requesting a new lease to allow the placement of suitable dredge material from Agua Hedionda Lagoon on sovereign lands adjacent to Carlsbad State Beach. Agua Hedionda Lagoon provides cooling water for the Encina Power Station. It is

necessary for the Lessee to periodically dredge Agua Hedionda Lagoon to maintain the tidal prism necessary to provide adequate seawater for cooling purposes.

A nominal annual rent is justified by the enhancement of Carlsbad State Beach and to downcoast beach areas by sand replenishment through the littoral process.

The Commission first issued Lease No. PRC 932 to San Diego Gas & Electric Company (SDG&E) to perform this ongoing activity in 1954. In 1999, SDG&E sold the upland power facilities to Cabrillo Power I LLC. On April 13, 1999, the Commission authorized the assignment of Lease No. PRC 932, along with other leases associated with the Encina Power Station, to the current Lessee. Lease PRC 932 expired August 31, 2004, and the Lessee has submitted an application for a new lease.

The material will be placed on Carlsbad State Beach as follows: 30% on the beach north of the jetty and 70% on the Middle and South Beaches. Placement of the material will occur outside of the summer season (Memorial Day through Labor Day) in order to avoid impacts to recreation.

To avoid potential impacts to the California Least Tern and the grunion, dredging of the Lagoon will occur between September 15 and April 15, with the option to extend the dredge period to April 30, if approved in writing by the California Coastal Commission (CCC), in consultation with the Corps of Engineers and the Department of Fish and Game (DFG).

The Lessee is also required by the CCC to undertake a survey of the dredge area (including a buffer area at least ten meters beyond the project area) to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey protocol will be prepared in consultation with the Regional Water Quality Control Board, the DFG and the NOAA Fisheries. If the alga is found, the Lessee must notify the DFG and NOAA Fisheries within 24 hours, and the Executive Director of the CCC must subsequently provide written approval either that the alga has been eradicated or that the project has been revised to avoid any contact with the alga.

3. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of

the CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alteration to Land; Title 14, California Code of Regulations, section 15304 (g).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 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 project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers; California Regional Water Quality Control Board; California Coastal Commission; California State Parks; and the city of Carlsbad.

EXHIBITS:

A. Location and Site Map
B. Land Description

PERMIT STREAMLINING ACT DEADLINE:

November 26, 2004

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

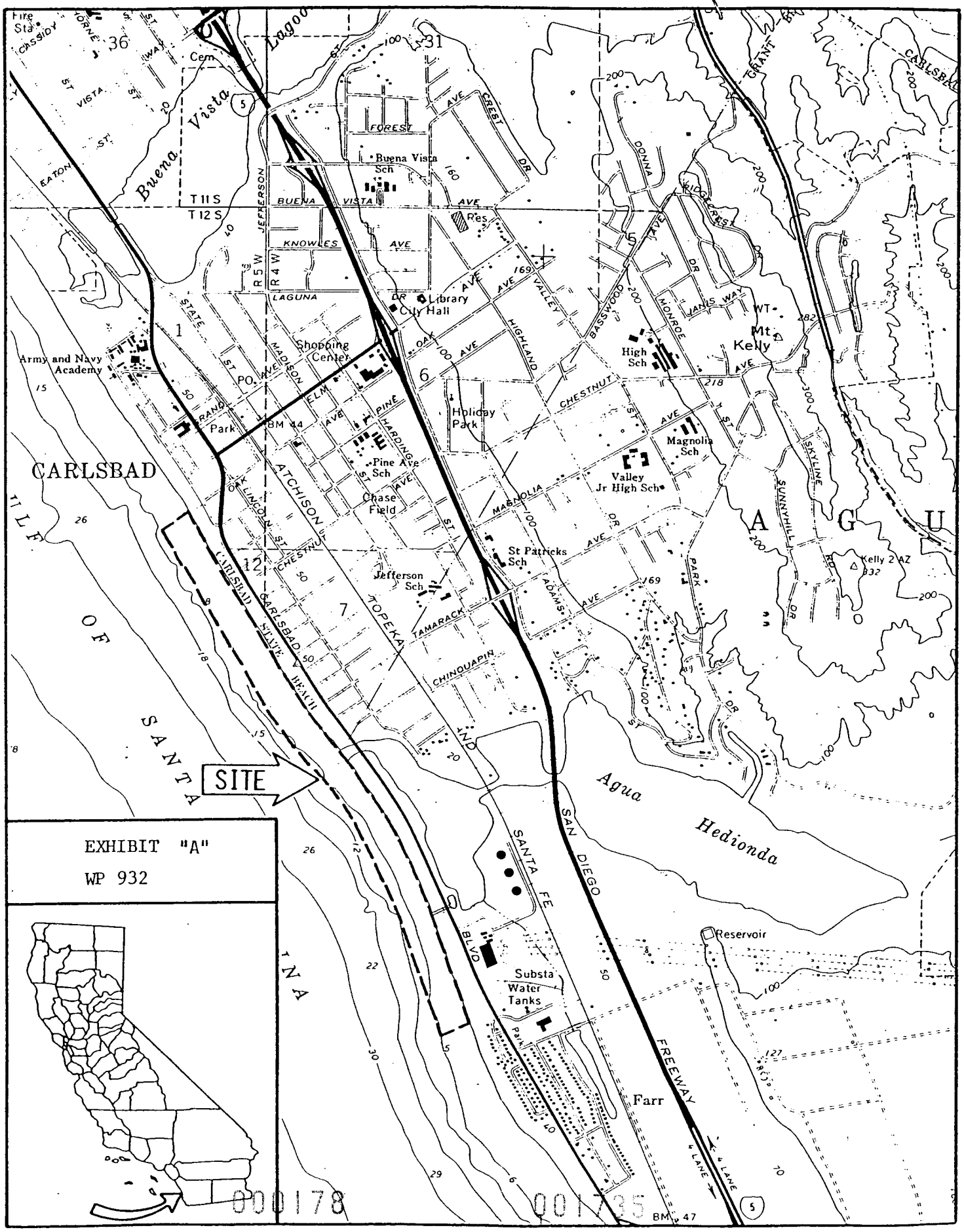
FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 4, MINOR ALTERATION TO LAND; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15304(g).

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE ISSUANCE TO CABRILLO POWER I LLC OF A GENERAL LEASE - INDUSTRIAL USE, BEGINNING SEPTEMBER 1, 2004, FOR A TERM OF TEN YEARS, FOR PLACEMENT OF SUITABLE DREDGE MATERIAL FROM AGUA HEDIONDA LAGOON ON SOVEREIGN LANDS ADJACENT TO CARLSBAD STATE BEACH ON THE LAND DESCRIBED ON EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF $300, PLUS THE PUBLIC BENEFIT, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE WITH COVERAGE OF NO LESS THAN $1,000,000.



000178

001735

CALENDAR PAGE

MINUTE PAGE

EXHIBIT B

WP 932

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 John K. Heinz

Reviewed Leroy F. Weed Date 8/7/74

LICENSED LAND SURVEYOR
LEROY F. WEED
NO. 3600
STATE OF CALIFORNIA