

**CALENDAR ITEM
C39**

A 74
S 38

10/27/11
PRC 791
A. Scott

GENERAL LEASE - INDUSTRIAL USE

APPLICANT:

Cabrillo Power I, LLC
4600 Carlsbad Boulevard
Carlsbad, CA 92008

AREA, LAND TYPE, AND LOCATION:

76 acres, more or less, of sovereign land in the Pacific Ocean adjacent to Agua Hedionda Lagoon, near Carlsbad, San Diego County.

AUTHORIZED USE:

Continued maintenance of portions of a partly abandoned offshore marine oil terminal comprised of a 20-inch diameter pipeline, and seven submerged anchors and chains.

LEASE TERM:

Three years, beginning March 24, 2012.

CONSIDERATION:

\$70,000 per year, 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: \$5,000,000.

Bond: \$100,000.

Other: Lessee is required to submit a plan for abandonment of the remaining improvements on the leased premises on or before March 23, 2013.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

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2. The lease premises is the site of an offshore marine oil terminal that provided fuel oil to the Encina Power Plant, a steam generating electric power station. The power plant converted to the use of natural gas as a fuel source, but retained the offshore terminal to provide an alternative fuel source as required by the California Independent System Operator (Cal ISO). Cal ISO has recently removed the requirement that the power plant maintain an alternative fuel source, and therefore the original need to maintain this offshore terminal has ceased. Cabrillo Power has already begun the permitting process for removal of the upland storage tanks that were served by this offshore marine terminal.
3. This location was originally leased to San Diego Gas & Electric in 1953 for 49 years. That lease expired on March 23, 2002. The lease continued in holdover status while an Environmental Impact Report (EIR) for a companion project involving the extension of two rock groins protecting the entrance to Agua Hedionda Lagoon was being prepared. That companion project was ultimately abandoned, thus requiring the negotiation of a replacement lease for the marine terminal to allow time to prepare a formal plan for removal or abandonment as an independent project.
4. During the holdover period, the offshore marine terminal was placed into "caretaker" status, as defined by US Coast Guard regulations, by removing the connection hoses, cleaning and capping the fixed pipeline, removing the surface buoys, blanking the pipeline ends, and filing the appropriate notices with authorities to place the facility into an out of service condition.
5. On February 8, 2011, the Commission approved a 10-year lease retroactive to 2002. That lease expires March 23, 2012. A formal abandonment plan was submitted by the Lessee as required by the lease, however the plan did not provide sufficient detail for staff to make a determination of the environmental impact of either complete removal or abandonment in place.
6. Staff has now required the Lessee to resubmit an abandonment plan on or before March 23, 2013. To assure the resubmitted plan will contain the necessary information required by staff to make a proper evaluation, staff has provided the Lessee a format for the abandonment plan. The format provided will assure greater detail allowing staff to better evaluate the proposal and be able to make a recommendation of future action to the Commission.

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5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Reg. tit. §15061) the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 14, California Code of Regulations, section 15301.

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

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. 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.

EXHIBITS:

- A. Site Map
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 14, California Code of Regulations, section 15301.

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 section 6370, et seq.

AUTHORIZATION:

Authorize Issuance of a General Lease-Industrial Use to Cabrillo Power I, LLC beginning March 24, 2012, for a term of three years, for the continued maintenance of portions of a partially abandoned offshore marine oil terminal comprised of a 20-inch diameter pipeline and seven submerged anchors and chains as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$70,000, with the State reserving the right to fix a different rent periodically during the lease term,

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as provided in the lease; liability insurance for a combined single-limit coverage of \$5,000,000; and surety in the amount of \$100,000.

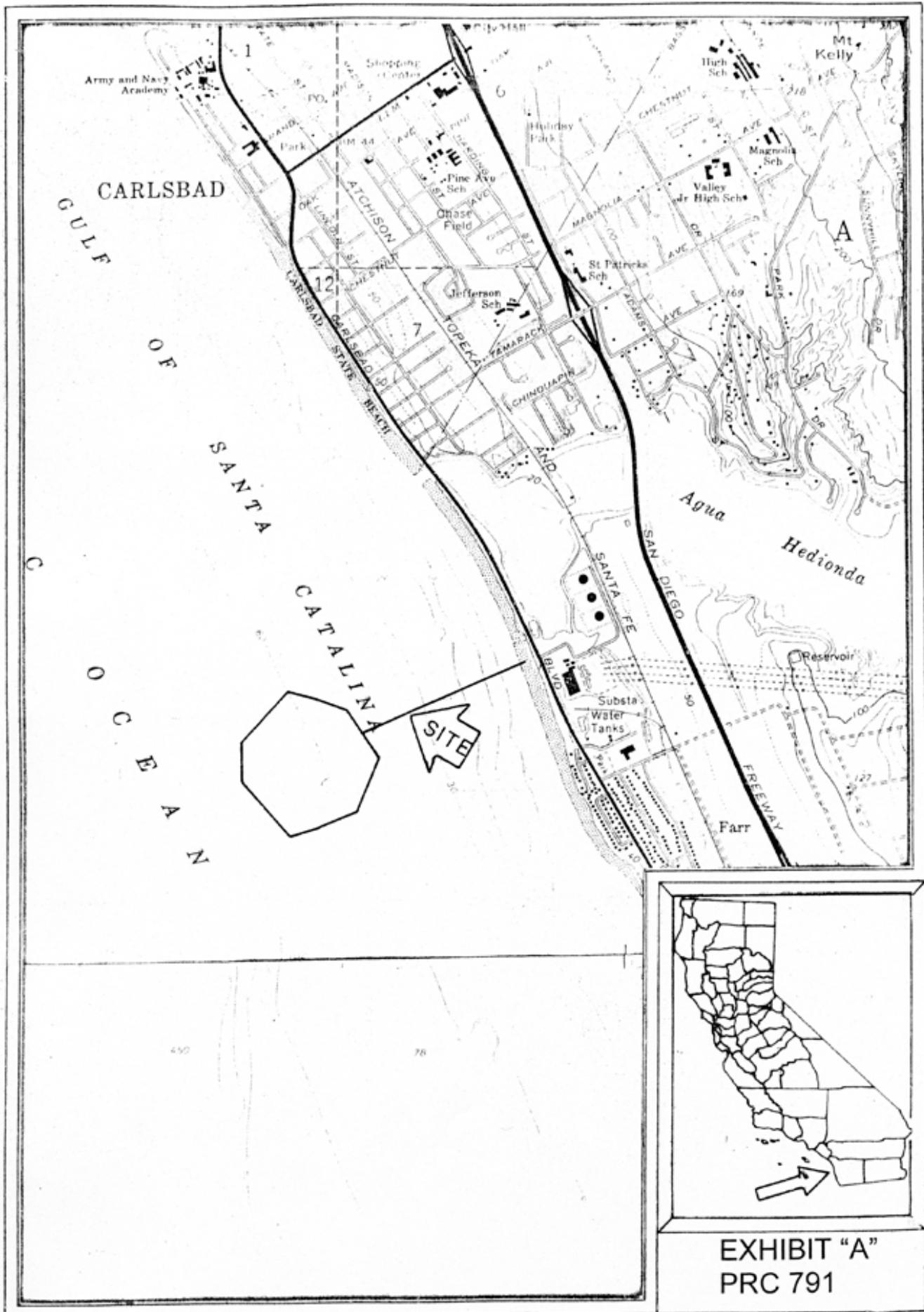


EXHIBIT "A"
PRC 791

EXHIBIT "B"

LAND DESCRIPTION

PRC 791.1

PARCEL "A"

A strip of tide and submerged land 60.00 feet in width, extending into the Pacific Ocean, and located approximately one mile south of the City of Carlsbad, San Diego County, California, and lying 30.00 feet on each side of the following described line:

COMMENCING at Corner Number 1 of Rancho Agua Hedionda, according to Map 823, filed in the Office of the County Recorder of San Diego County, California, November 16, 1896; thence S 26° 07' 53" E, 3,450.26 feet to the centerline of the existing 60.00-foot wide pipeline right-of-way and the TRUE POINT OF BEGINNING of the centerline herein described; thence S 66° 57' 20" W, 2,622.43 feet to a point herein designated Point "A".

The side lines of the above-described strip of land, shall be extended and shortened so that said lines form a continuous strip terminating in the west in a line passing through said Point "A" with a bearing of S 32° 48' 40" E.

PARCEL "B"

A parcel of submerged land lying within the Pacific Ocean approximately one mile south of the City of Carlsbad, San Diego County, California, more particularly described as follows:

BEGINNING at the aforementioned Point "A" of Parcel "A", thence from said Point "A" the following 10 courses:

1. S 32° 48' 40" E 432.16 feet;
2. S 22° 22' 28" W 909.37 feet;
3. S 67° 45' 09" W 644.59 feet;
4. S 73° 09' 24" W 452.60 feet;
5. N 41° 00' 06" W 1099.62 feet;
6. N 00° 48' 40" W 600.00 feet;
7. N 42° 36' 15" E 1032.50 feet;
8. S 74° 46' 44" E 452.60 feet;
9. S 68° 52' 29" E 598.32 feet;
10. S 32° 48' 40" E 328.38 feet

to the point of beginning.