

MINUTE ITEM

This Calendar Item No. 92 was approved as Minute Item No. 92 by the California State Lands Commission by a vote of 3 to ~~0~~ at its 5/12/97 meeting.

CALENDAR ITEM

92

A 74

S 38

05/12/97
PRC 7242.9
A. Scott
J. Smith
C. Fossum

**CONSIDER ISSUANCE OF A GENERAL LEASE - PUBLIC AGENCY USE
TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME
OF ALL LANDS AND INTERESTS IN AND ADJACENT TO BATIQUITOS LAGOON,
INCLUDING A PORTION OF THE PACIFIC OCEAN INVOLVING THE JETTIES AT
THE ENTRANCE TO THE LAGOON, FOR INCLUSION IN THE
BATIQUITOS LAGOON ECOLOGICAL RESERVE,
CITY OF CARLSBAD, SAN DIEGO COUNTY**

APPLICANT:

California Department of Fish And Game
Southern California Region
330 Golden Shore, Suite 50
Long Beach, California 90802

HISTORY:

Batiquitos Lagoon was once a fully tidal system, nourished by daily infusions of ocean water. Archaeological evidence shows the lagoon held marine shellfish that the local Native Americans harvested in abundance. The lagoon changed significantly since that time, partially caused by the impacts of grazing and cultivation practices and more significantly by the filling of portions of the Lagoon for roads and railroads which continue to crisscross the Lagoon (including Old US Highway 101, El Camino Real, Interstate 5, and the Santa Fe Railway). These activities restricted the tidal prism which resulted in limiting the inflow and outflow of seawater. Vast amounts of sediment, washed down from plowed and graded lands, filled the lagoon creating shallow water mudflats. Portions of the original eastern lagoon were filled for development and natural water flows were diverted to other uses. All these alterations, perceived and carried forth as isolated actions over the years combined to drastically alter the characteristics of the lagoon.

The build up of nutrients in the shallow water and algal growth caused poor water quality and increasingly unpleasant odors. Each year, the lagoon condition varied from brackish freshwater during winter and spring to almost completely dry mud flats in the

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summer and fall months. In turn, the extreme variation in water salinity, oxygen content and temperature resulted in low diversity of plants and animals.

Without some human intervention to benefit the lagoon environment, it would have continued to fill with sediment and ultimately lose its remaining wetland value over the next few decades.

In the mid-1980s several interested local, state and federal agencies sought a means by which to restore and enhance the ecological values of the lagoon. After several years of intense work by this group a proposed plan to restore the lagoon's water quality and fish and wildlife habitats was developed. The proposal was to establish a permanent open connection to the ocean, create habitats for use by endangered species and remove excessive sediments that had entered the lagoon as a result of human intervention, agriculture, land use, highway and railroad construction.

BACKGROUND:

By Statutes of 1986, Chapter 1415, section 1 (Public Resources Code, section 6306.1) the California Legislature authorized the California State Lands Commission (CSLC) and Board of Harbor Commissioners of the City of Los Angeles to "take all actions necessary for mitigation of expansion of the Port of Los Angeles by the enhancement, restoration, and management of Batiquitos Lagoon in the County of San Diego." This law also provides that "(I)f any interests in property are acquired as part of the Batiquitos Lagoon mitigation project, these interests are to be held in trust for the public as sovereign lands by the State Lands Commission." Public Resources Code, section 6306.1 further specifically authorizes the Board of Harbor Commissioners to "expend harbor revenue funds to enhance, restore, and manage Batiquitos Lagoon."

On September 23, 1987, the CSLC, by Minute Item No. 39, authorized the execution of a Memorandum of Agreement (MOA) between the CSLC, City of Los Angeles, Department of Fish and Game, City of Carlsbad, United States Fish and Wildlife Service, and National Marine Fisheries Service. This MOA provides for the enhancement of Batiquitos Lagoon as a coastal estuarine marine wetland habitat through the restoration of tidal action, protection of existing habitat values and creation of other wildlife habitat, as mitigation for impacts which would be caused by proposed harbor fill and development within the Port of Los Angeles. The MOA contains provisions, which among other things, designate 1) the City of Carlsbad "to design and construct the Lagoon Enhancement Project"; 2) the CSLC "to hold the necessary

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property rights for construction and maintenance of the Project"; and 3) the DFG "to assume responsibility for management, operation, maintenance and monitoring of the Project upon completion of construction." The CSLC over a period of many years and pursuant to several title settlement agreements and dedications has obtained title to most of the lagoon proper.

On September 14, 1988, the CSLC authorized issuance of a permit to the DFG, for inclusion of the State's sovereign interests in the Batiquitos Lagoon Ecological Reserve. Subsequently, DFG decided that, in order for the Department to have the maximum lease period available (49 years), it would postpone entering into the lease until all construction involving the Lagoon Enhancement Project was finished. Therefore, Lease No. PRC 7242.9, as previously authorized, has not been executed.

CURRENT SITUATION:

After over 10 years of hard work, close cooperation and coordination, this project, which directly generated over 70 jobs during the construction phase of the Project is now complete and therefore the CSLC is requested to reauthorize a lease to DFG for inclusion of the CSLC's interest in the Ecological Reserve. Largely through the cooperative efforts of federal, state and local resource agencies, local citizens, the Port of Los Angeles and the City of Carlsbad, the wildlife and habitat of Batiquitos Lagoon once again will enjoy the daily flushing of the tides which will enhance the water quality.

The lease will provide that DFG manage the lagoon as part of the Batiquitos Lagoon Ecological Reserve pursuant to the terms of the MOA. Section 10 of the MOA sets out DFG's project maintenance responsibilities and establishes the accounts which will be used by DFG to fund the preservation and maintenance of the Ecological Reserve. The lease restricts certain commercial and boating activities within the lagoon except as may be needed for scientific collection or maintenance purposes as authorized by DFG.

RESULTS OF THE RESTORATION PROJECT: Major construction elements of the restoration project included the following significant activities -

- Dredging of the lagoon for construction of the east and west basin nesting sites.
- Beach nourishment of 1.6 million cubic yards of material at Encinas Beach.
- Construction of two 300-foot rock jetties extending into the ocean from the mouth of the lagoon.
- Development of tidal inlet rock lining under and adjacent to the Carlsbad

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- Boulevard bridges and railroad bridge.
- Development of rock channel lining and slope protection for the I-5 Bridge.

Major elements of the restored Lagoon Project are the following significant improvements -

- Least Tern and Western Snowy Plover nesting sites in the East and West Basins of the Lagoon totaling approximately 40 acres.
- Deep water habitat.
- Tidal mudflats.
- Pedestrian access trails.
- Revegetation.

PERMIT STREAMLINING ACT DEADLINE:

N/A

APPROVALS OBTAINED:

City of Carlsbad, San Diego County Air Pollution Control District, Regional Water Quality Control Board, Public Utilities Commission, California Department of Parks and Recreation, California Department of Fish and Game, California Department of Transportation, California Coastal Commission, United States Army Corps of Engineers, United States Coast Guard, and the United States Environmental Protection Agency.

OTHER PERTINENT INFORMATION:

1. On March 8, 1994, by Minute Item 44, the Commission found that an EIR/EIS for the Batiquitos Lagoon Enhancement Project (SCH #88080328) had been prepared and certified for this Project by the City of Carlsbad. The CSLC reviewed such document and Mitigation Monitoring Plan adopted by the Lead Agency. The CSLC furthermore adopted the Findings and Statement of Overriding Considerations and the Mitigation Monitoring Plan for the Project.
2. 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 entity nominating such lands and through the CEQA review process, it is the staff's opinion that

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the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Location Map
- B. Site Map
- C. Legal Description

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN EIR AND MITIGATION MONITORING PLAN WERE PREPARED AND CERTIFIED FOR THIS PROJECT BY THE CITY OF CARLSBAD AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. READOPT THE MITIGATION MONITORING PLAN ADOPTED BY THE COMMISSION AT ITS MEETING OF MARCH 8, 1994, BY MINUTE ITEM 44.
3. READOPT THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS ADOPTED BY THE COMMISSION BY MINUTE ITEM 44, AT ITS MARCH 8, 1994, MEETING IN CONFORMANCE WITH SECTION 15096(h) OF THE STATE CEQA GUIDELINES.
4. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.
5. RESCIND THE COMMISSION'S APPROVAL OF MINUTE ITEM NO. 15 FROM THE MEETING OF SEPTEMBER 14, 1988, BY WHICH THE COMMISSION AUTHORIZED ISSUANCE OF A PERMIT TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR INCLUSION OF THE STATE'S SOVEREIGN INTERESTS IN THE BATIQUITOS LAGOON ECOLOGICAL RESERVE. THE LEASE, AS WAS AUTHORIZED BY THAT ACTION WAS NEVER EXECUTED.
6. AUTHORIZE THE ISSUANCE OF A GENERAL LEASE - PUBLIC AGENCY USE TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR A TERM OF 49 YEARS BEGINNING JUNE 1, 1997,

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COVERING ALL THE SOVEREIGN OWNED PUBLIC TRUST LANDS OF THE STATE WITHIN AND ADJACENT TO BATIQUITOS LAGOON AS MORE PARTICULARLY DESCRIBED IN EXHIBIT C; FOR THE PURPOSE OF PRESERVATION AND MAINTENANCE OF THEIR ECOLOGICAL VALUES AS PART OF THE BATIQUITOS LAGOON ECOLOGICAL RESERVE.

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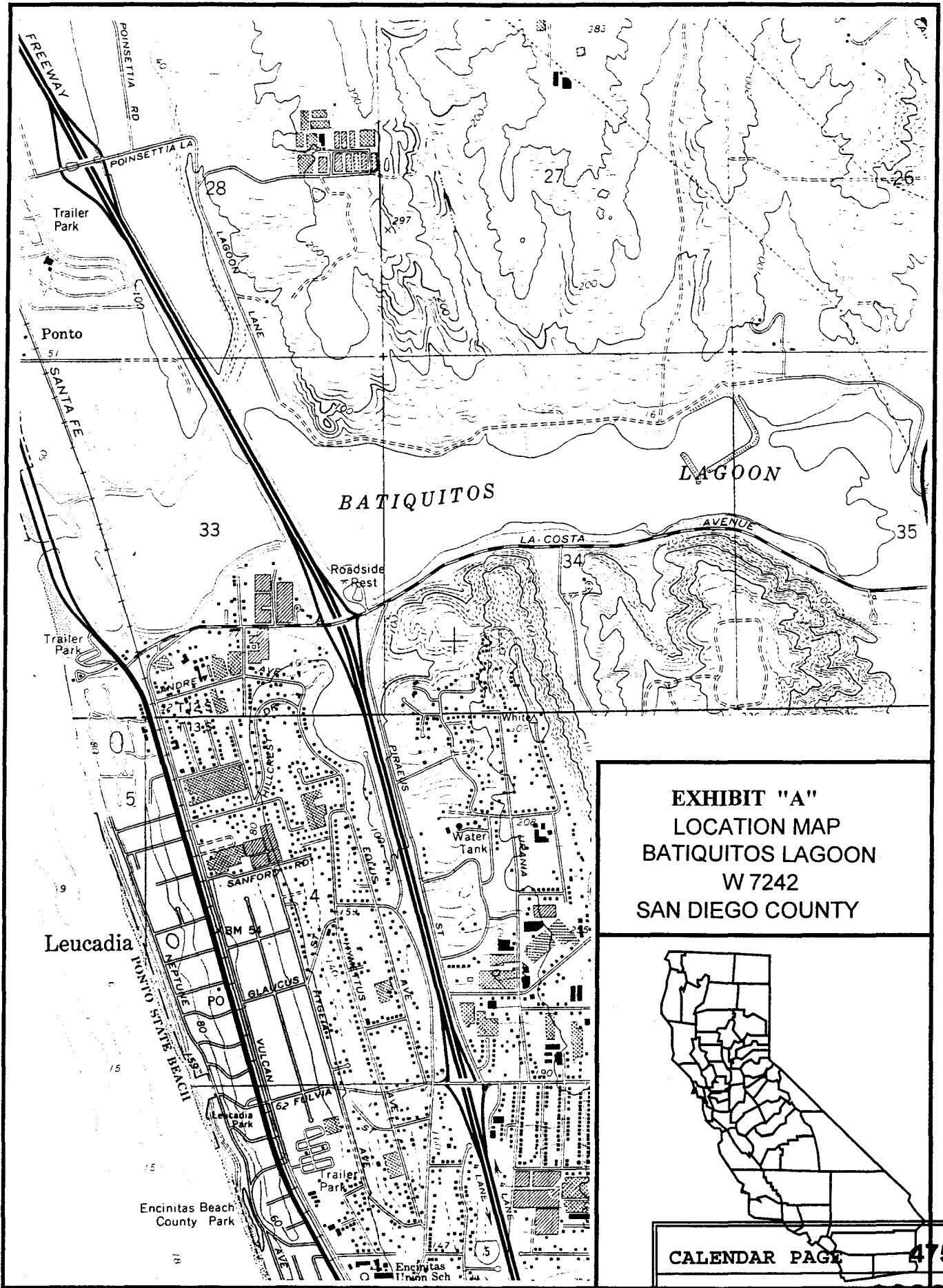


EXHIBIT "A"
LOCATION MAP
BATIQUITOS LAGOON
W 7242
SAN DIEGO COUNTY



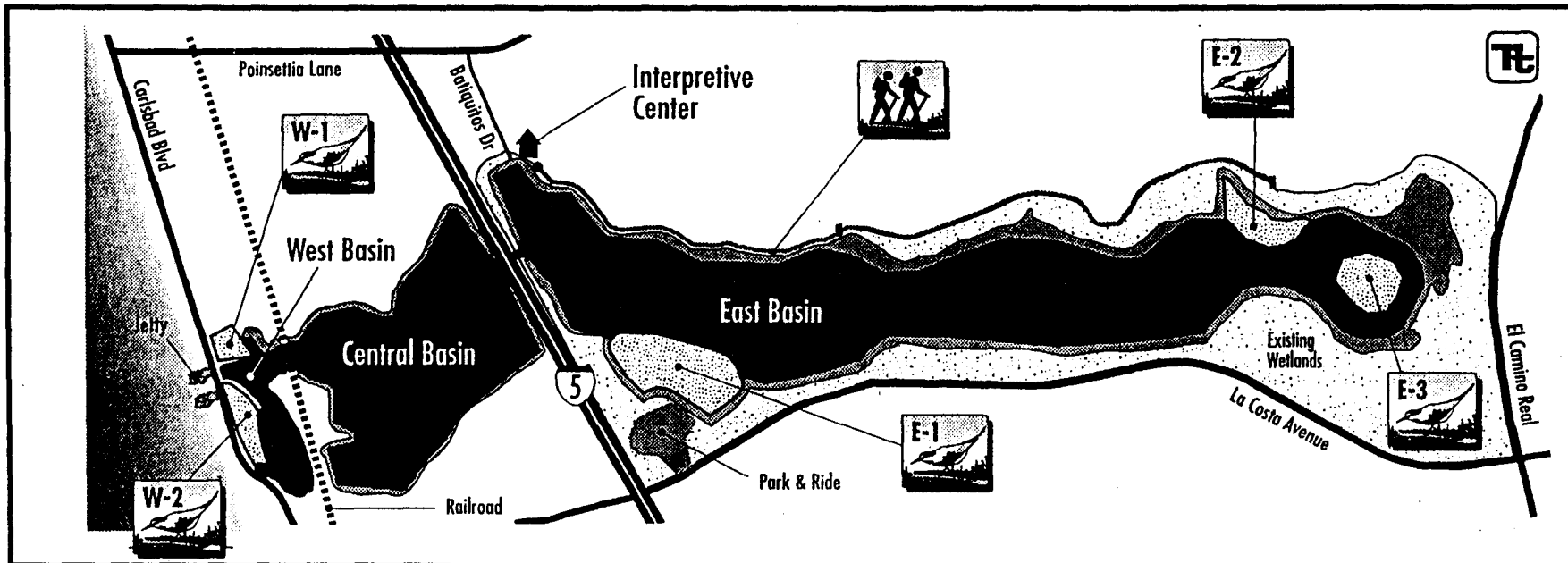


EXHIBIT "B"

SITE MAP W 7242
BATIQUITOS LAGOON
SAN DIEGO COUNTY

LEGEND

- Least Tern & Snowy Plover Nesting Site
- Low Marsh (+1.34 + 4.0 feet NGVD)
- Intertidal (Mudflat) (-4.16 to +1.34 feet NGVD)
- Subtidal (below -4.16 feet NGVD)
- Existing Wetlands



BATIQUITOS LAGOON
ENHANCEMENT PROJECT



EXHIBIT C
LAND DESCRIPTION

WP 7242.9

Two parcels of Public Trust lands, situated in Sections 20, 29, 32, 33, 34 and 35, T12S, R4W, S.B.M. and within a portion of Rancho Agua Hedionda, located in San Diego County, State of California and more particularly described as follows:

PARCEL A

A parcel of tide and submerged lands in the Pacific Ocean, said parcel being bounded on the East by the Ordinary High Water Mark; bounded on the west by a line 1000 feet west of and parallel to the Ordinary High Water Mark; bounded on the North by the westerly extension of the centerline of Manzano Drive; bounded on the South by the southerly limits of the City of Carlsbad.

PARCEL B

All of the State Owned lands and interests in lands under the jurisdiction of the California State State Lands Commission, within Batiquitos Lagoon, including but not limited to those lands and interests authorized to be accepted by the California State Lands Commission, by Minute Item 53, August 3, 1994 Meeting and Calendar Item C78, May 12, 1997 Meeting.

PREPARED BY THE SOUTHERN CALIFORNIA TEAM, STATE LANDS COMMISSION ON MAY 5, 1997.

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