

MINUTE ITEM

This Calendar Item No. C45 was approved as Minute Item No. 45 by the California State Lands Commission by a vote of 3 to 0 at its 4/13/99 meeting.

**CALENDAR ITEM
C45**

A 73,74

S 38

04/13/99
PRC 791.1
PRC 871.1
PRC 932.1
PRC 1409.1
J. Smith

ASSIGNMENT OF LEASE

LESSEE/ASSIGNOR:

San Diego Gas & Electric Company
8306 Century Park Court, Bldg. 4
San Diego, California 92123-1593

ASSIGNEE:

Cabrillo Power I LLC
750 B Street
San Diego, California 92101

AREA, LAND TYPE, AND LOCATION:

183.20 total acres, more or less, of sovereign lands in and adjacent to the Pacific Ocean, Carlsbad, San Diego County.

AUTHORIZED USE:

- PRC 791.1 - Offshore Marine Terminal, Pipeline, and appurtenant facilities.
- PRC 871.1 - Maintenance of two jetties and intake channel.
- PRC 932.1 - Deposition of dredge spoils from Agua Hedionda Lagoon.
- PRC 1409.1 - Maintenance of two jetties and cooling water discharge channel.

LEASE TERM:

- PRC 791.1 - 49 years, beginning March 24, 1953.
- PRC 871.1 - 49 years, beginning December 14, 1953.
- PRC 932.1 - 10 years, beginning September 1, 1994.
- PRC 1409.1 - 10 years, beginning July 8, 1989.

CONSIDERATION:

PRC 791.1 - Minimum annual rent of \$70,000; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

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CALENDAR ITEM NO. C45 (CONT'D)

PRC 871.1 - \$300 as full payment for entire lease period.

PRC 932.1 - Annual rent of \$300, plus public benefit; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PRC 1409.1 - Annual rent of \$15,490; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Public Utilities Commission (PUC), the San Diego Gas & Electric Company (SDG&E) is required to divest itself of certain of its electrical generating facilities. Pursuant to PUC Decision 99-02-073 dated February 18, 1999, SDG&E received approval to sell its Encina Power Plant to a consortium of Dynegy Power Corporation and NRC Energy, Inc. (Cabrillo Power I LLC). The four leases recommended for assignment cover facilities/uses appurtenant to the operation of the plant. Commission staff has received and reviewed all relevant information concerning the proposed Assignee. The proposed Assignments include a provision that SDG&E (Assignor) will remain liable for the faithful performance of any and all obligations under the terms of the original leases.
2. Applicant owns the uplands adjoining the lease premises.
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 because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

EXHIBITS:

- A-1 - A-4 Land Descriptions.
B-1 - B-3 Location and Site Maps.

CALENDAR ITEM NO. C45 (CONT'D)

PERMIT STREAMLINING ACT DEADLINE:

N/A

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 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

AUTHORIZATION:

AUTHORIZE THE ASSIGNMENTS OF LEASE NO. PRC 791.1, A GENERAL LEASE - INDUSTRIAL USE; LEASE NO. PRC 871.1, A RIGHT-OF-WAY EASEMENT; LEASE NO. PRC 932.1, A GENERAL LEASE - INDUSTRIAL USE; AND LEASE NO. PRC 1409.1, A GENERAL LEASE - INDUSTRIAL USE, OF SOVEREIGN LANDS DESCRIBED ON EXHIBITS A-1 THROUGH A-4, ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; FROM SAN DIEGO GAS AND ELECTRIC COMPANY TO CABRILLO POWER I LLC, EFFECTIVE MARCH 1, 1999.

EXHIBIT A-1

PRC 791

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.

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An area 364.00 feet in width extending into the Pacific Ocean from the ordinary high-water mark as established by survey in October, 1953, the side lines of which lie 197.00 feet northwesterly and 167.00 feet southeasterly respectively, measured at right angles, from and parallel to the following described line: Beginning at a point which bears S. $56^{\circ} 18' 37''$ E., a distance of 197.37 feet from Corner No. 1 of the Rancho Agua Hedionda, in the County of San Diego, State of California, according to Partition Map thereof No. 823 filed in the Office of the County Recorder of San Diego County on November 16, 1896; thence from said point of beginning, S. $53^{\circ} 05' 45''$ W., a distance of 680.00 feet.

EXHIBIT A-3

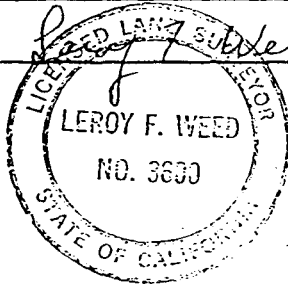
PRC 932

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 Alan K. Young
Reviewed Leroy F. Weed Date 8/7/74



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EXHIBIT A-4

PRC 1409

That certain parcel of tide and submerged lands lying within the Pacific Ocean described as follows:

COMMENCING At Corner No. 1 of Rancho Agua Hedionda, in the City of Carlsbad, County of San Diego, State of California; according to the Map thereof No. 823, filed in the Office of the County Recorder of said County of San Diego; said Corner No. 1 bears N 77° 27' 25" W, 1149.59 feet from an angle point in the northerly line of lot "H" of said Rancho Agua Hedionda; thence S 30° 17' 50" E, 3060.36 feet; thence S 65° 52' 36" W, 187.10 feet to a point on the ordinary high water mark as surveyed by the California State Lands Commission in October, 1953, said point being the TRUE POINT OF BEGINNING; Thence along said ordinary high water mark, N 21° 09' 41" W, 95.13 feet; thence S 65° 52' 36" W, 226.46 feet; thence S 24° 07' 24" E, 110.00 feet; thence S 65° 52' 36" W, 60.00 feet; thence S 24° 07' 24" E, 70.00 feet; thence N 65° 52' 36" E, 275.00 feet to a point in said ordinary high water mark; thence along said ordinary high water mark, N 19° 18' 03" W, 66.09 feet and N 21° 09' 41" W, 19.17 feet to said point of beginning.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

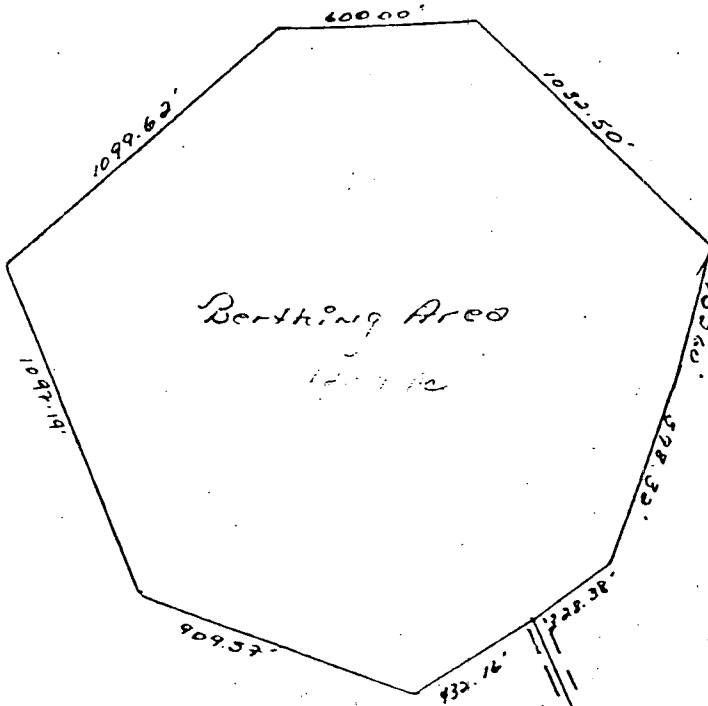
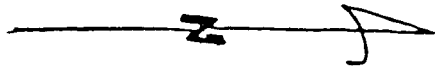
This description based on the California Coordinate System (1927), Zone 6.

END OF DESCRIPTION

REVIEWED JUNE 20, 1989 BY BIU 1.

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EXHIBIT B-1



← Pipeline Two

Approx High Tide Line

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PRC 791

Cart 156

EXHIBIT B-2

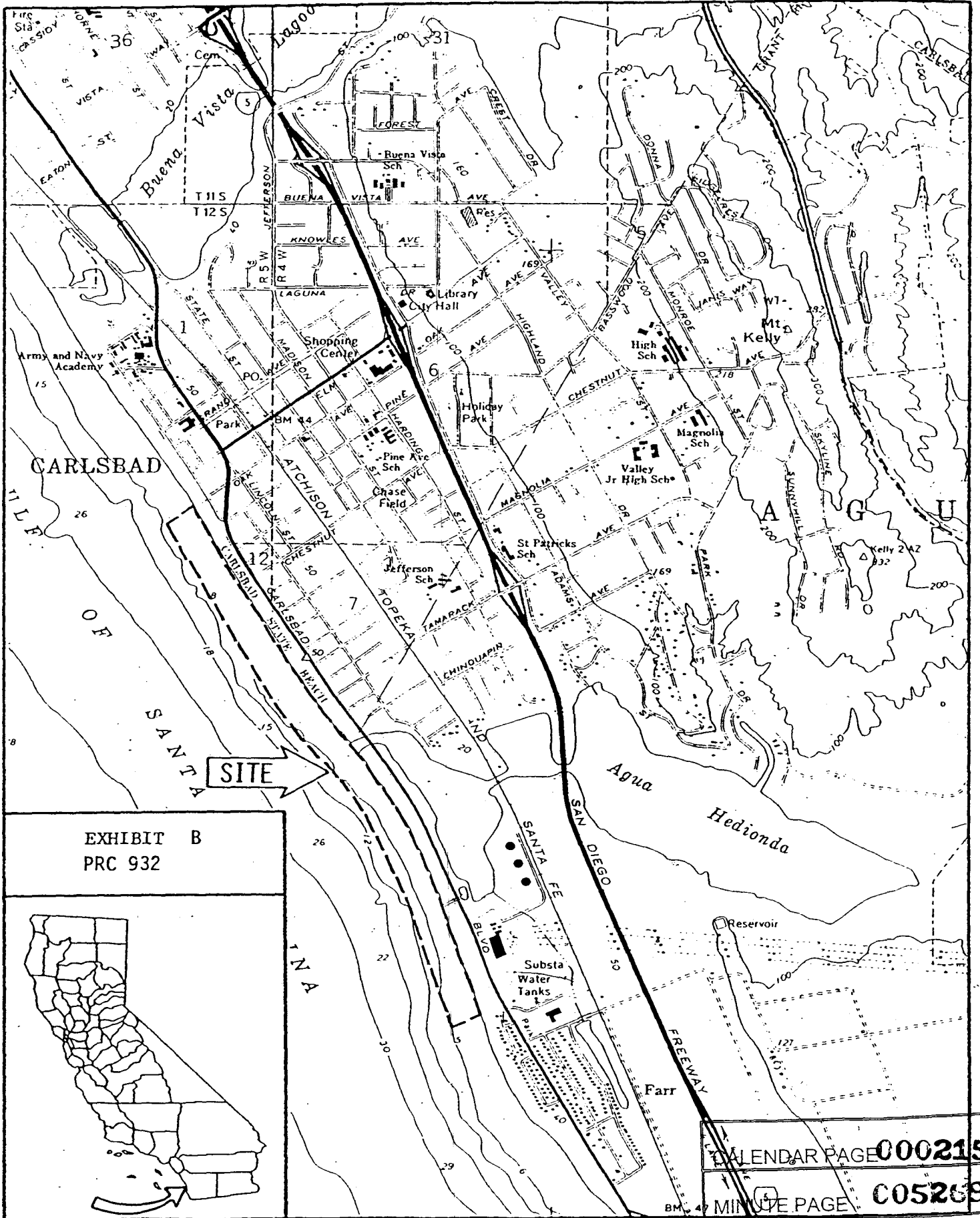


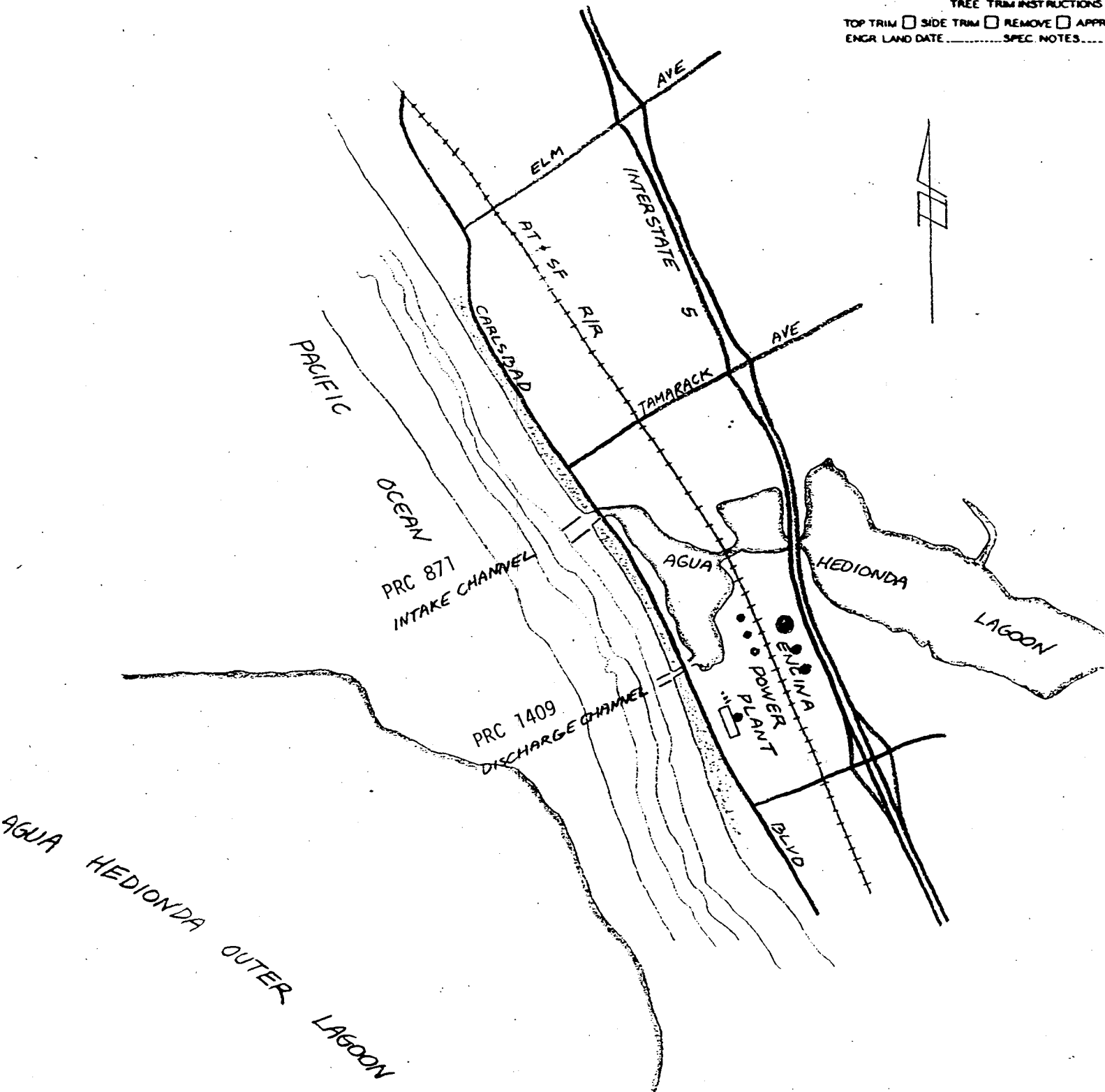
EXHIBIT B
PRC 932

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EXHIBIT B-3

TREE TRIM INSTRUCTIONS
TOP TRIM SIDE TRIM REMOVE APPR
ENGR. LAND DATE.....SPEC. NOTES.....



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