

**CALENDAR ITEM
C57**

A 78
S 39

02/21/14
W 26622
D. Simpkin

GENERAL LEASE – COMMERCIAL USE

APPLICANT:

Everingham Bros. Bait Company, Inc.
1411 Harding Avenue
National City, CA 91950

AREA, LAND TYPE, AND LOCATION:

Sovereign land in San Diego Bay, San Diego County.

AUTHORIZED USE:

Operation and maintenance of two bait barges.

LEASE TERM:

10 years, beginning February 21, 2014.

CONSIDERATION:

Minimum annual rent in the amount of \$64,420, payable in monthly installments. Percentage of gross payment to be due on each anniversary date. The minimum annual rent is paid against three percent (3%) of annual gross income derived from the commercial sale of live fishing bait and five percent (5%) of annual gross income derived from the recreational sale of live fishing bait; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. The Applicant has operated two bait barges located in San Diego Bay approximately 1,800 feet south of the United States Department of the Navy's (Navy) existing fuel pier for the last 50 years. Live bait is sold to the local commercial sport fishing fleet, half day fishing boats, three-quarter day fishing boats, commercial long-range boats, and private fishing boats.

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2. For many years the Navy believed the bait barges were located on Navy property and charged the Applicant rent. The Navy recently advised Commission staff that the barges are not located on Navy property and are located on sovereign land within San Diego Bay. The Applicant is now applying for a General Lease – Commercial Use for the operation and maintenance of the barges.
3. In addition, the Navy's fuel pier is more than 100 years old and is slated for replacement as part of the Naval Base Point Loma Fuel Replacement and Dredging Project (Pier Project).
4. In order to protect marine mammals that frequent the bait barges from construction noise levels over 160 decibels, the bait barges must be temporarily relocated during the Pier Project's deconstruction and reconstruction.
5. The bait barges will be temporarily relocated onto State sovereign land off the east end of Harbor Island in northern San Diego Bay from September 16 through March 31 annually for four years, with the first year beginning in 2014. On or before March 31 of each year, the bait barges will be moved back to their permanent location. Upon the Pier Project's completion, the bait barges will return to their permanent location.
6. **Temporary Location:** On October 11, 2013, the California Coastal Commission (CCC) granted Coastal Development Permit 6-13-0397 for this Project under its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)).

Staff has reviewed the document and determined that the conditions, as specified in the California Code of Regulations, Title 14, section 15253, subdivision (b), have been met for the Commission to use the environmental analysis document certified by CCC as a Negative Declaration equivalent in order to comply with the requirements of the California Environmental Quality Act (CEQA).

7. **Existing Location:** The staff recommends that the Commission find that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1,

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Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

8. 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. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Temporary Location: Find that an environmental analysis document, CCC permit 6-13-039, was adopted for this Project by the CCC under its certified program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), and that the California State Lands Commission has reviewed and considered the information therein and concurs in CCC's determination.

Existing Location: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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.

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AUTHORIZATION:

Authorize issuance of a General Lease – Commercial Use to Everingham Bros. Bait Company, Inc. beginning February 21, 2014, for a term of 10 years, for the operation and maintenance of two bait barges as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; minimum annual rent in the amount of \$64,420, against three percent (3%) of gross income derived from the commercial sale of live fishing bait and five percent (5%) of gross income derived from the recreational sale of live fishing bait; with the State reserving the right to fix a different rent periodically during the lease term if the Commission finds such action to be in the State's best interest; and liability insurance in an amount no less than \$1,000,000 per occurrence.

Authorize a monthly payment plan for the duration of the lease. The amount to be paid for the period, starting February 21, 2014 through February 28, 2014, is \$1,534; all subsequent monthly amounts are \$5,368 against three percent (3%) of gross income derived from the commercial sale of live fishing bait and five percent (5%) of gross income derived from the recreational sale of live fishing bait; with the percentage of gross payment to be due on each anniversary date.

EXHIBIT A

W 26622

LAND DESCRIPTION

Two parcels of submerged land lying in the bed of San Diego Bay, County of San Diego, State of California, described as follows:

LEASE PARCEL A

A parcel of submerged land lying in the bed of San Diego Bay, County of San Diego, State of California, described as follows:

BEGINNING at a point lying N 9°57'22" E 5,080.39 feet from NGS monument Road 2 (PID DC1690); thence the following four (4) courses:

- 1) N 75°54'49" W 435.36 feet;
- 2) N 5°27'02" E 986.49 feet;
- 3) S 49°54'54" E 535.37 feet;
- 4) S 6°13'21" W 747.66 feet to the POINT OF BEGINNING.

Excepting therefrom any portion lying within the grant to the United States pursuant to Chapter 81, Statutes of 1897.

LEASE PARCEL B

A 280 foot wide strip of submerged land lying in the bed of San Diego Bay, County of San Diego, State of California, lying 50 feet northerly of and 230 feet southerly of the following described line:

BEGINNING at 32.721726° North Latitude 117.194753° West Longitude; thence along a line to 32.721619° North Latitude 117.192334° West Longitude and being the terminus of said line.

The sidelines of said strip shall be prolonged or shortened so as to terminate at a line perpendicular to the beginning and terminus of said line.

The BASIS OF BEARINGS of this description is the North American Datum of 1983.

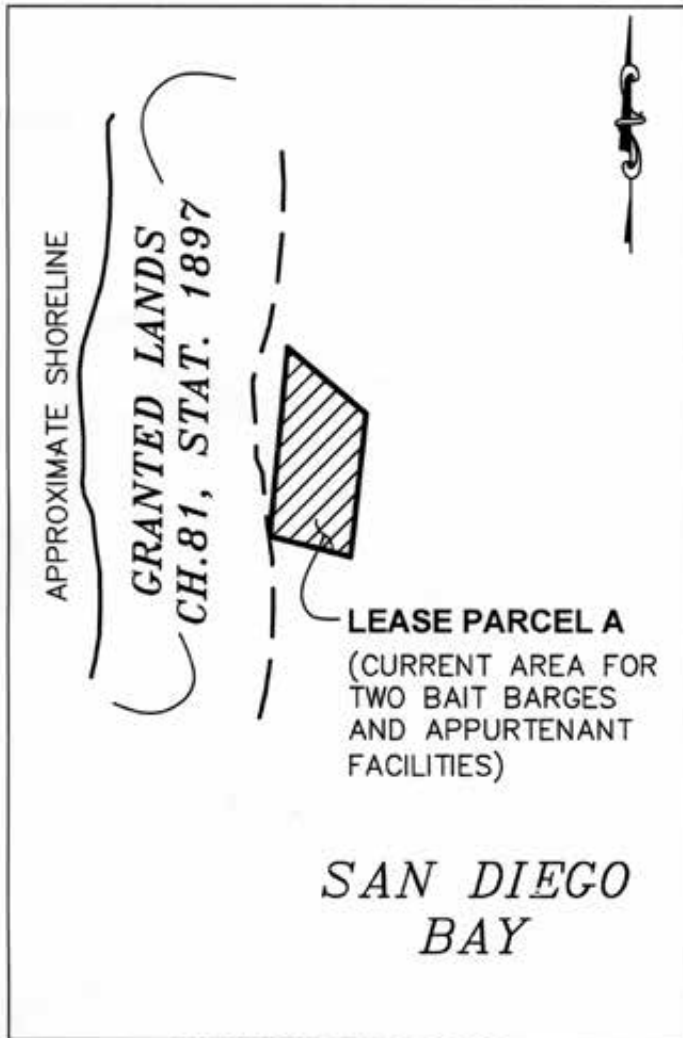
END OF DESCRIPTION

Prepared 10/22/2013 by the California State Lands Commission Boundary Unit.

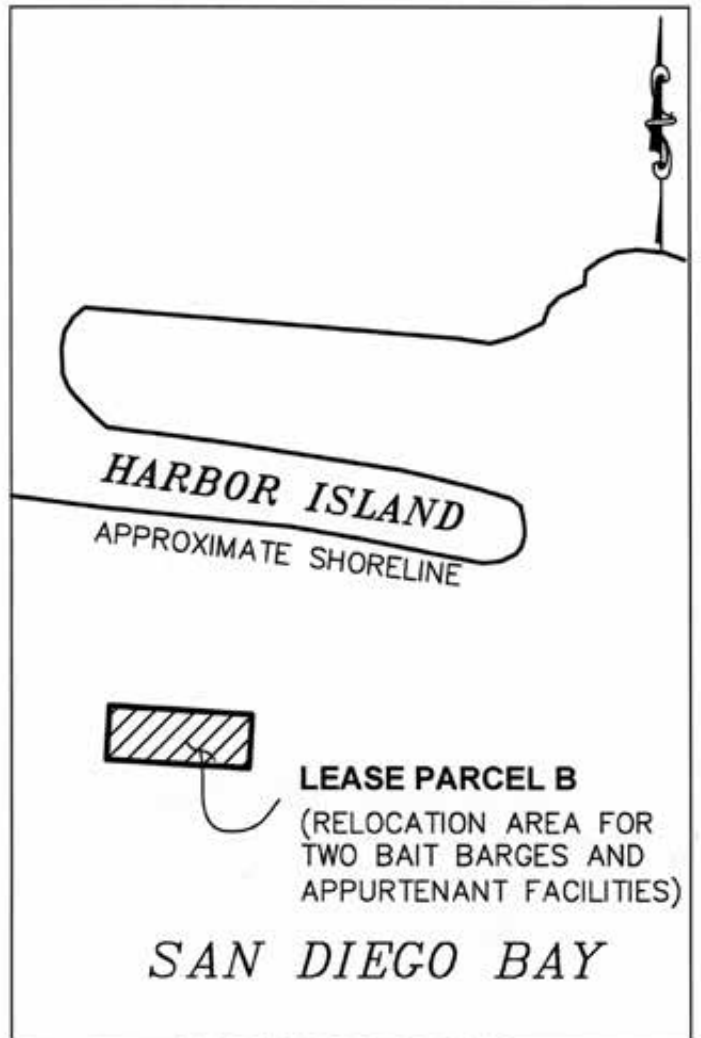


NO SCALE

SITE



EXISTING BAIT BARGES,
SAN DIEGO BAY



PROPOSED BAIT BARGES,
SAN DIEGO BAY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W26622
 EVERINGHAM BROS.
 BAIT CO.
 GENERAL LEASE -
 COMMERCIAL USE
 SAN DIEGO COUNTY



DJF 1/23/14

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.