

MINUTE ITEM

This Calendar Item No. C23 was approved as Minute Item No. 23 by the California State Lands Commission by a vote of 3 to 2 at its 12-3-99 meeting.

**CALENDAR ITEM
C23**

A 70
S 35

12/03/99
G 09-02.6
M. Howe
C. Fossum

**COMPLIANCE WITH CHAPTER 74, STATUTES OF 1978, SECTION 2.5(B)
AS ADDED BY CHAPTER 317, STATUTES OF 1997,
SECTION 3, BY THE CITY OF NEWPORT BEACH**

PARTY:

City of Newport Beach
P.O. Box 1768
Newport Beach, California 92649-1768

HISTORY AND BACKGROUND:

The first legislative grant of tide and submerged lands to the city of Newport Beach was made in 1919. Thereafter, in the 1920's, certain portions of the tidelands were filled and reclaimed as part of a plan of harbor improvement. In 1938, a small portion of the filled tidelands, together with adjacent uplands, was leased for residential purposes by the City. Subdivision of the land and the construction of residences followed. This area, known as Beacon Bay, has been a residential community under lease from the City since that time.

Issues regarding the private, exclusive use of these filled tidelands for residential purposes were resolved by the Legislature in 1978 (Statutes of 1978, Chapter 74). The Legislature therein determined that these filled and leased tidelands, comprising approximately three acres, are a relatively small portion of the City's granted tide and submerged lands, that the leases are producing income to support the Trust, and the lands are not required or needed for Trust uses of commerce navigation, and fisheries. The Legislature therefore found that the filled tidelands could continue to be leased for residential purposes provided that certain conditions were met. These conditions included transfer of certain property in Upper Newport Bay to the Trust, and revenues derived from the filled tidelands were to be deposited in a separate City Tidelands Capital Fund for the acquisition of real property to further the purposes of the Trust and for capital improvements thereon and for the operation and maintenance of any

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acquired property or capital improvements. In 1996, it was discovered that the City had not been depositing revenues into the Capital Fund, but rather into the Tidelands Operation Fund. To compensate for revenues not placed in the special capital outlay fund, the Legislature in 1997 (Statutes of 1997, Chapter 317) amended Sections 1 and 2 of Chapter 74 and added Section 2.5. The Legislature directed the city of Newport Beach to transfer, subject to the California State Lands Commission's (CSLC) approval, City-owned real property not subject to the Public Trust to the Trust created pursuant to the legislative grant by December 31, 1998, or with a time extension approved by the Executive Officer, December 31, 1999. Pursuant to this act, the City has offered to dedicate certain lands to be held subject to the Public Trust, as shown on Exhibit B. Also pursuant to this act, the CSLC must determine that the subject lands: (1) have equal or greater value and utility to the Public Trust than the lands described as Parcels A, B, and C in Section 6 of Chapter 317 of the Statutes of 1997, and (2) that the dedication of lands as Trust lands will provide satisfactory substitution for the requirements prescribed in subdivision (a) of Section 2 of this act as enacted by Chapter 74 of the Statutes of 1978. Staff has reviewed the lands proposed by the City to be dedicated as Trust lands and recommends those lands shown on Exhibit B be approved.

OTHER PERTINENT INFORMATION:

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 CEQA and the State CEQA Guidelines.

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

EXHIBIT:

- A. Location Map and Site Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

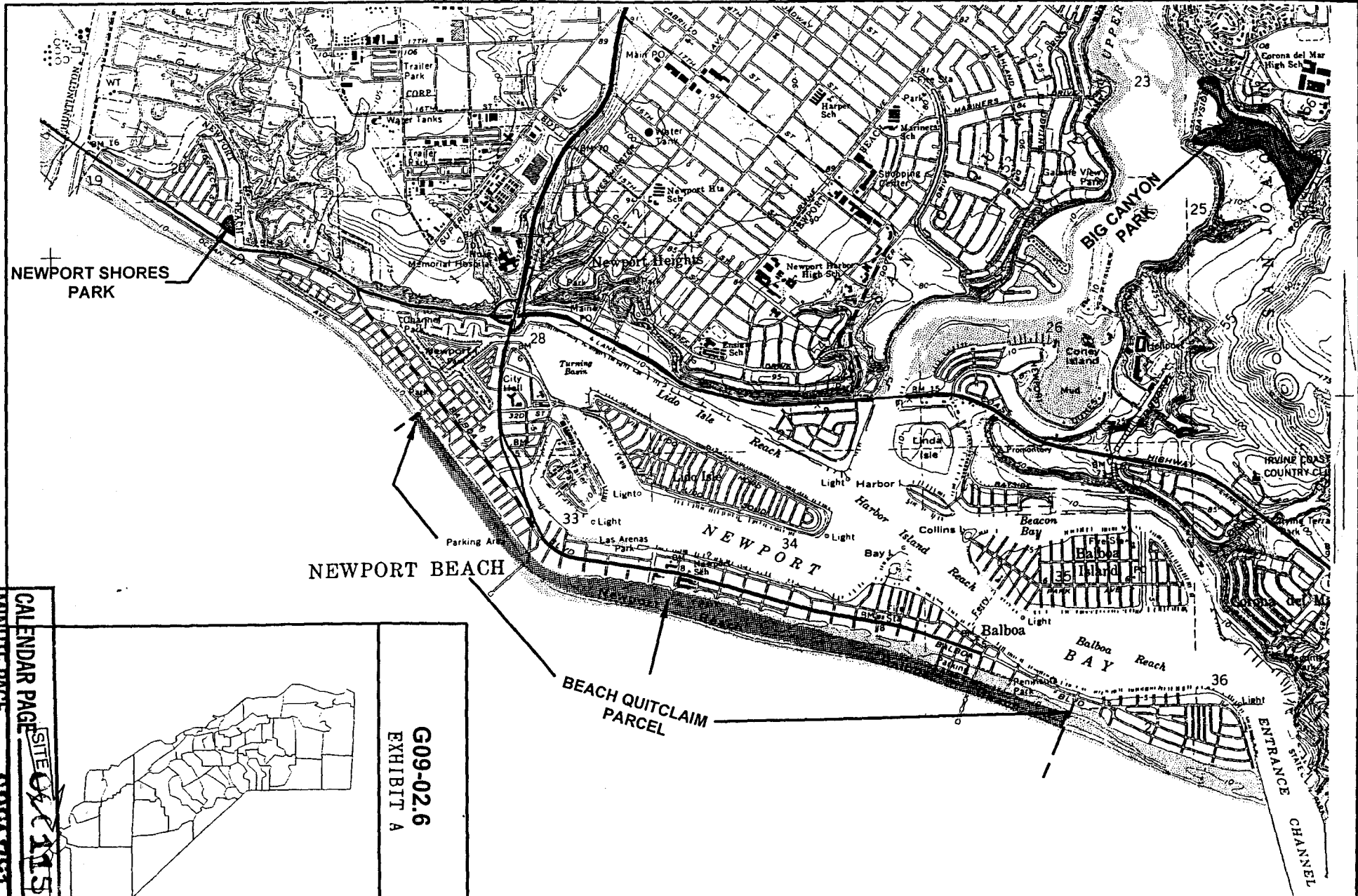
FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A

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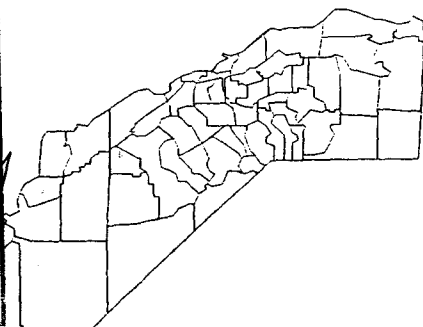
PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

AUTHORIZATION:

THE COMMISSION HAS DETERMINED THAT THE SUBJECT LANDS, SHOWN FOR REFERENCE PURPOSES ONLY ON EXHIBIT B, WHICH ARE PROPOSED TO BE DEDICATED BY THE CITY OF NEWPORT BEACH TO THE TRUST CREATED PURSUANT TO THE LEGISLATIVE GRANT: (1) HAVE EQUAL OR GREATER VALUE AND UTILITY TO THE PUBLIC TRUST THAN THE LANDS DESCRIBED AS PARCELS A, B AND C IN SECTION 6 OF CHAPTER 317 OF THE STATUTES OF 1997, AND (2) THAT DEDICATION OF SAID LANDS AS TRUST LANDS WILL PROVIDE SATISFACTORY SUBSTITUTION FOR THE REQUIREMENTS PRESCRIBED IN SUBDIVISION (A) OF SECTION 2 AS ENACTED BY CHAPTER 74 OF THE STATUTES OF 1978.



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 EXHIBIT A