

MINUTE ITEM

This Calendar Item No. 16
was approved as Minute Item
No. 16 by the State Lands
Commission by a vote of 3
to 0 at its 10-29-77
meeting.

CALENDAR ITEM

16.

10/79
WP 4908
Horn
PRC 4908

AMENDMENT OF INDUSTRIAL
LEASE PRC 4908.1

APPLICANT: Shell Oil Company
P. O. Box 711
Martinez, California 94533
Attn: Mr. M. S. Waller

AREA, TYPE LAND AND LOCATION:
19.265 acres of tide and submerged lands
in the City of Martinez, Contra Costa County.

LAND USE: Marine petroleum wharf together with necessary
appurtenances.

TERMS OF EXISTING LEASE:
Initial period: 15 years from August 1,
1974.
Renewal options: 3 successive periods
of 10 year each.
Surety bond: \$50,000.
Public liability insurance: \$300,000/900,000
per occurrence for bodily
injury and \$5,000,000
for property damage.
Consideration: \$16,959.60 per annum
5-year rent review.

This amendment changes only the rent as occasioned by the
fifth anniversary of the lease. A special provision is
added detailing the impounding of volumetric rentals in
excess of the minimum annual rental.

The new annual is as follows:

- \$0.015 per barrel until the minimum annual rental
is equaled, thereafter
- \$0.001 per barrel for the next 20,000,000 barrels,
and thereafter
- \$0.003 per barrel for each additional barrel thereafter

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The minimum annual rental is \$60,000. The State continues its right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:

Volumetric rental pursuant to 2 Cal. Adm. Code 2005 and 2006.

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.; Div. 6, Parts 1 & 2.

B. Cal. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:

1. This activity is exempt from CEQA because it is not a project within the meaning of CEQA and the State EIR Guidelines.

Authority: P.R.C. 21065, 14 Cal. Adm. Code 15037 and 2 Cal. Adm. Code 2903(d).

2. This activity is situated on State land identified as possessing significant environmental values pursuant to P.R.C. 6370.1, and is classified in a use category, Class C, which authorizes Multiple Use.

Staff review indicates that there will be no significant effect upon the identified environmental values. This is an existing facility for which no adverse comments have been received.

3. As additional background to this item, staff is currently processing Shell's application to modernize its existing wharf to accommodate larger tankers. The wharf modernization project is only a part of a planned \$300 million refinery modernization project for

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which Contra Costa County is acting as lead agency under CEQA. It is anticipated that Shell's application to enlarge the lease area will come before the Commission in the Spring of 1980.

As currently proposed, Shell's wharf modernization project will require an additional 5-6 acres of State tide and submerged lands. An increase of land area will also require an adjustment to the land rental.

Staff is recommending that the volumetric rental schedule proposed herein be applicable during the ensuing 5-year period; not subject to change when Shell's application to enlarge the lease area comes before the Commission next year. The minimum rental however, would change, but only at the same unit value as proposed herein. Shell has requested a letter from the Commission detailing the above-outlined procedure as applied to the pending application.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21085, 14 CAL. ADM. CODE 15037 AND 2 CAL. ADM. CODE 2903(d).
2. FIND THAT GRANTING OF THE AMENDMENT WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTIC IDENTIFIED PURSUANT TO SECTION 6370.1, OF THE P.R.C.
3. AUTHORIZE ISSUANCE TO SHELL OIL COMPANY OF AN AMENDMENT TO LEASE PRC 4908.1 WHICH CHANGES THE ANNUAL RENTAL TO VOLUMETRIC ALTERNATIVE AS FOLLOWS:

(a) UNTIL THE MINIMUM ANNUAL RENTAL PROVIDED FOR A SUBPARAGRAPH (c) HEREOF IS EQUALED IN EACH LEASE YEAR, THE ANNUAL RENTAL SHALL BE COMPUTED BY MULTIPLYING THE NUMBER OF BARRELS OF PETROLEUM PRODUCTS PASSING OVER THE STATE'S LAND BY \$0.015.

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(b) FOR THE NEXT 20,000,000 BARRELS BEYOND THE NUMBER OF BARRELS NECESSARY TO SATISFY THE MINIMUM RENTAL UNDER SUBPARAGRAPH (a) ABOVE, THE RENTAL SHALL BE \$0.001 PER BARREL; AND THEREAFTER \$0.003 PER BARREL FOR EACH ADDITIONAL BARREL OF SUCH COMMODITIES PASSING OVER THE STATE'S LAND IN THAT SAME LEASE YEAR.

(c) THE MINIMUM ANNUAL RENTAL SHALL BE \$50,000.

(d) THE STATE RESERVES THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE.

PROVIDE IN THE LEASE FOR PAYMENT OF RENTALS IN EXCESS OF THE MINIMUM ANNUAL RENTAL INTO A SPECIAL DEPOSIT ACCOUNT IN THE STATE TREASURY, PENDING A FINAL DISPOSITION OF CURRENT LITIGATION CONCERNING THE VALIDITY OF THE COMMISSION'S RENTAL REGULATIONS; SAID IMPOUNDED RENTALS TO BE REFUNDED AND A NEW REASONABLE RENTAL DETERMINED BY THE COMMISSION SHOULD THE COMMISSION'S VOLUMETRIC RENTAL REGULATIONS BE INVALIDATED, FOR THE CONTINUED OPERATION OF A MARINE PETROLEUM WHARF WITH APPURTENANCES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED TO LEASE PRC 4908.1 AND BY REFERENCE MADE A PART HEREOF.

ALL OTHER TERMS AND CONDITIONS OF LEASE PRC 4908.1 SHALL REMAIN IN FULL FORCE AND EFFECT. THE EFFECTIVE DATE OF THIS AMENDMENT IS AUGUST 1, 1979.