

**CALENDAR ITEM
C24**

A 74
S 38

02/08/11
PRC 791.1
A. Scott

GENERAL LEASE-INDUSTRIAL USE

APPLICANT:

Cabrillo Power I, LLC
c/o NRG West
5790 Fleet Street, Suite 200
Carlsbad, CA 92008
Attn: George L. Piantka

AREA, LAND TYPE, AND LOCATION:

76 acres, more or less, of tide and submerged lands in the Pacific Ocean adjacent to Agua Hedionda Lagoon, near the city of Carlsbad, San Diego County.

AUTHORIZED USE:

Continued maintenance of an existing 20-inch diameter tar and cement coated pipeline and seven submerged anchors and attached chains.

LEASE TERM:

10 years, beginning March 24, 2002.

CONSIDERATION:

\$70,000 per annum; with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

\$5,000,000.

Bond:

\$100,000.

Other:

A formal plan for abandonment must be submitted to the State Lands Commission by the Lessee on or before March 23, 2011.

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OTHER PERTINENT INFORMATION:

1. Applicant owns the uplands adjoining the lease premises.
2. This is the location of an offshore marine terminal established to provide fuel oil for an existing coastal power plant. The location has been under lease from the Commission since 1953 and in "holdover" status since the original lease expired in 2002. The power plant no longer uses fuel oil as a source for generating electricity. The offshore marine terminal was placed into "caretaker" status as defined by U.S. Coast Guard regulations by removing the connection hoses, cleaning the fixed pipeline, removing the surface buoys, blanking the pipeline ends, and filing the appropriate notices with authorities.
3. The lease has continued in "holdover" while an Environmental Impact Report (EIR) for a companion project, extension of two rock groins protecting the entrance of Agua Hedionda Lagoon, was being prepared. This EIR was to incorporate an analysis of the impacts of removal of the marine terminal components together with the construction of the companion project. The companion project was ultimately abandoned, thus requiring the negotiation of a replacement lease for the marine terminal to allow time to prepare a formal plan for terminal removal or abandonment as an independent project. The proposed lease requires the Lessee to prepare a formal plan for abandonment of this facility. The lessee is in the process of developing the plan and anticipates submitting it to the Commission by the March 23, 2011, deadline.
4. Terms contained in the proposed lease require acknowledgement that the offshore marine terminal is considered to be in "caretaker" status, as defined by U.S. Coast Guard regulations, upon completion of certain tasks by the Lessee and the filing of formal notice with the U.S. Coast Guard.
5. 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 this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

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

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6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 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.

FURTHER APPROVALS REQUIRED:

Filing of notice with the U.S. Coast Guard, Captain of Port, and a Notice to Mariners identifying the terminal as partially removed.

EXHIBITS:

- A. Site Map
- B. Land Description

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 CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (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 sections 6370, et seq.

AUTHORIZATION:

Authorize Issuance of a General Lease-Industrial Use to Cabrillo Power I, LLC beginning March 24, 2002, for a term of 10 years, for the continued maintenance of an existing 20-inch diameter pipeline, seven submerged anchors, and chains as shown on Exhibit "A" attached for reference only and by this reference made a part hereof; annual rent in the amount of \$70,000, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance for combined single-limit coverage of \$5,000,000; and surety in the amount of \$100,000.