

**CALENDAR ITEM
C101**

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S. Guerrieri

**CONSIDER APPROVAL OF THE TWO PROPOSED GENERAL LEASE –
INDUSTRIAL USE BY THE CITY OF PITTSBURG FOR PORT INDUSTRIAL
FACILITIES WITHIN THE CITY OF PITTSBURG, CONTRA COSTA COUNTY**

APPLICANT:

City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

The City of Pittsburg (“City”) is trustee of sovereign tide and submerged land granted by the Legislature pursuant to Chapter 422, Statutes of 2011(Chapter 422), minerals reserved to the State (“Statutory Grant”).

BACKGROUND:

Pursuant to Section 3(j) of Chapter 422, the City has submitted lease applications of legislatively granted tide and submerged land for port industrial facilities, for review by the California State Lands Commission (Commission) for approval and consistency with Chapter 422.

The City of Pittsburg has received lease applications for port industrial facilities from GenOn Delta LLC (GenOn) for certain legislatively granted tide and submerged land located on or adjacent to the Pittsburg tidelands, as shown on Exhibit A.

GenOn is the owner of the upland property and the current tenant of the adjacent tide and submerged land. GenOn is in negotiations to sell a portion of its upland property to WesPac energy (WesPac) with the mutual intent that WesPac would, after securing all appropriate approvals, modernize and reactivate the existing oil storage and transfer facility on the upland parcel. This upland oil facility is dependent on the industrial wharf that exists on a portion of the adjacent tide and submerged land presently under lease to GenOn. To facilitate this transaction and in anticipation of the sale of the upland property, the current lease to GenOn is being divided into two separate lease areas (Areas 1A, 1B and Area 2) that will be leased back to GenOn. Once negotiations are

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complete for the sale of the upland property, the lease area containing the industrial wharf will be terminated by GenOn and the City will issue a lease for the area to WesPac (Area 2). Prior to the subsequent lease to WesPac, the City will be required to obtain Commission approval.

Although this objective would require successive actions, only the leases between the City and GenOn are being considered at this time. The two leases to GenOn will result in the same footprint being leased, as shown in Exhibit A.

Proposed Port Industrial Facility Leases that Require Approval:

Lease One:

- GenOn Area 1A and 1B (to replace a portion of existing GenOn Lease)
- Will be leased to GenOn.
- This lease will include two areas, identified in Exhibit A as “Lease Area 1A” which includes approximately 1.071 acres of tide and submerged land in the New York Slough; and “Lease Area 1B,” which occupies approximately 15.165 acres of tide and submerged land in the New York Slough. Both areas are adjacent to 696 West 10th Street in Pittsburg, California and serve an existing upland power plant.
- This lease would be for a term of 49 years and would commence as early as June 1, 2013, upon execution by both the City and GenOn. The appraised rental value is \$257,405 and the annual rental rate will be \$257,405.

Lease Two:

- GenOn Area 2 (to replace a portion of existing GenOn Lease).
- Will be initially leased to GenOn.
- This lease will include approximately 42.692 acres of submerged land in the New York Slough, adjacent to 696 West 10th Street in Pittsburg, California, including various ancillary facilities and an industrial wharf measuring approximately 1,000 feet in length and extending approximately 700 feet from the shoreline. The premises are identified as Area 2 in Exhibit A.
- The lease will be for a non-operational Marine Oil Terminal, currently maintained in “caretaker” status in compliance with Commission requirements for safety, environmental operations and maintenance.
- The lease would be for a term of 49 years and would commence as early as June 1, 2013, upon execution by both the City and GenOn. The appraised rental value is \$557,900 and the annual rental rate will be \$557,900.

The negotiations between WesPac and GenOn are currently in progress. Upon execution, the City will submit a copy of all fully executed leases to the Commission.

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STAFF ANALYSIS:

Pursuant to Section 3(j) of Chapter 422, the City shall not authorize a lease for port industrial facilities, including but not limited to, a marine terminal, pipeline, or other related energy facility, on the trust lands without first requesting and receiving the approval of the Commission. Prior to approving a lease, the Commission shall consult with other governmental agencies and shall not approve the lease unless the Commission determines that the lease is in, and for, the best interest of the people of the State and consistent with applicable provisions of law.

Commission staff has consulted with certain governmental agencies, including the Department of Transportation, District 4, California Department of Fish and Wildlife, Region 3, United States Army Corps of Engineers, and State Water Resources Control Board regarding the leasing of the subject parcel to GenOn. These agencies did not express any issues with these two proposed leases. Based on the information provided by the City, the proposed leases for port industrial facilities are consistent with applicable provisions of law and the uses set forth in Chapter 422. Further, the proposed leases are in, and for, the best interests of the people of the State. Approval of the leases is consistent with Chapter 422 or the Public Trust.

OTHER PERTINENT INFORMATION:

1. Pursuant to the City's statutory grant, the City may lease the trust land, or any part of the trust lands for limited periods, not exceeding 49 years, for purposes consistent with the trust upon which those lands are held. The Trustee may collect and retain rents and other trust revenues from those leases and the lease rates shall be at fair market value.

2. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, 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, sections 15300, and California Code of Regulations Title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6307 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.

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EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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 FINDING:

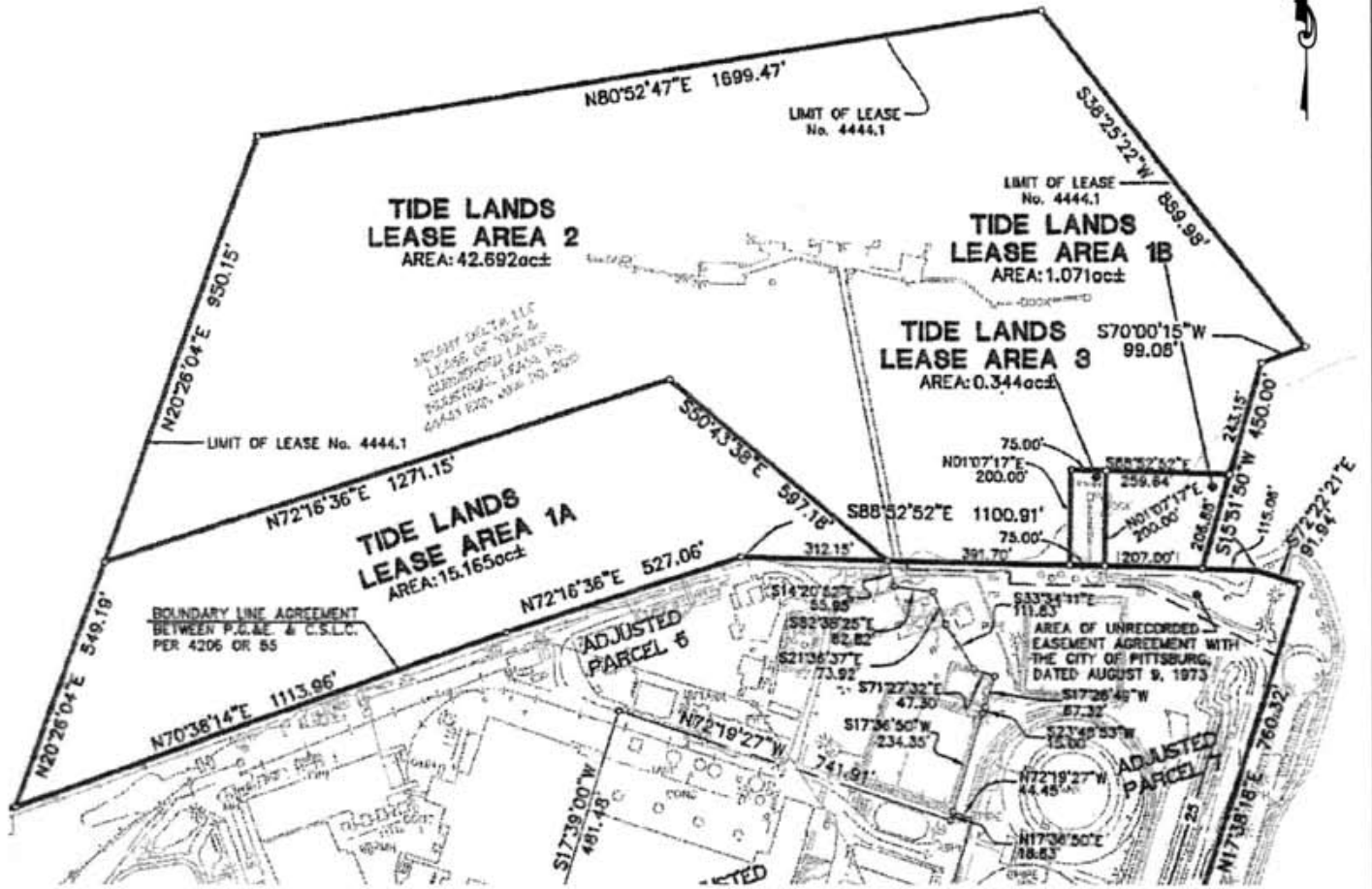
Find that the activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Approve the proposed two leases for port industrial facilities, between the City of Pittsburg and GenOn, pursuant to Chapter 422, Statutes of 2011. Find that, based on the information provided by the City, the proposed leases are consistent with applicable law and the uses set forth in Section 3(j) of Chapter 422, Statutes of 2011, and are in, and for, the best interest of the people of the State.

NO SCALE

SITE



PITTSBURG TIDE AND SUBMERGED LAND

NO SCALE

LOCATION

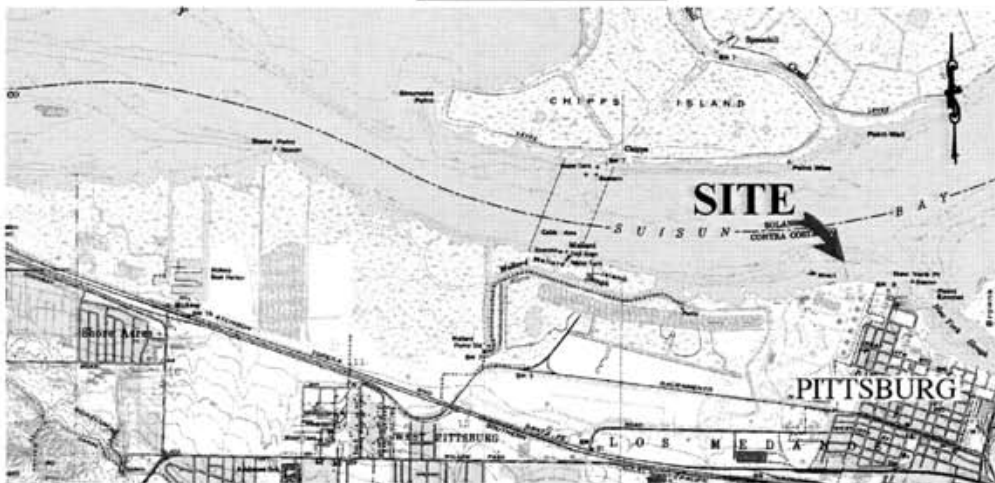


Exhibit A

G02-03.4
CITY OF PITTSBURG
APPROVAL OF
PORT INDUSTRIAL LEASE OF
TIDE & SUBMERGED LAND
CONTRA COSTA COUNTY



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