

**CALENDAR ITEM
C81**

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S 2

04/23/14
G 04-02.1
R. Boggiano

**CONSIDER APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF
EUREKA AND CHEVRON PRODUCTS COMPANY, A DIVISION OF CHEVRON U.S.A.
INC. FOR GENERAL INDUSTRIAL OR COMMERCIAL USES OF A MARINE OIL
TERMINAL ON LEGISLATIVELY-GRANTED SOVEREIGN LAND PURSUANT TO
CHAPTER 1095, STATUTES OF 1978**

APPLICANT:

City of Eureka
531 K Street
Eureka, CA 95501

The City of Eureka (City) is trustee of sovereign tide and submerged land granted by the Legislature pursuant to Chapter 82, Statutes of 1857; Chapter 438, Statutes of 1915; Chapter 187, Statutes of 1927; Chapter 225, Statutes of 1945; Chapter 1086, Statutes of 1970; and Chapter 1095, Statutes of 1978, minerals reserved to the State of California.

BACKGROUND:

Section 8.5 of Chapter 1086, Statutes of 1970, as amended by Section 3 of Chapter 1095, Statutes of 1978 (Chapter 1095), states that no lease in excess of one year in duration for the use of granted tide and submerged lands entered into or issued by the City shall be valid without the prior approval of the State Lands Commission (Commission).

Pursuant to Chapter 1095, the City submitted a proposed lease agreement (lease) of legislatively granted tide and submerged to the Commission to be approved as conforming to the terms of the legislative grant under which title to the land is held by the City. The lease by and between the City and Chevron Products Company (Chevron) is for the continued operation of a marine oil terminal and existing pier and dock structure in Humboldt Bay, as shown on Exhibit A. The pier and dock structure provide a platform for the loading and off-loading of refined petroleum products by barge. This facility is the only terminal for the importation of refined petroleum products north of the San Francisco Bay Area region.

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On October 1, 1972, the City and Chevron entered into a lease agreement involving approximately seven acres of sovereign land for the construction and use of a pier structure for the loading and off-loading of petroleum products. Pursuant to Chapter 1095, the Commission approved a lease agreement between the City and Chevron on September 25, 1984, for the continued use of the area leased under the 1972 lease agreement (Minute Item 27, 09/25/1984). The 1984 lease agreement required annual rent at \$8,800 and was subject to an annual adjustment equal to 10% of the previous year's annual rent. The term of the 1984 lease agreement expired in September 2008, and the lease has been in holdover status since, pending negotiations between the City and Chevron on the terms of a new agreement.

The City has submitted the proposed lease agreement negotiated between the City and Chevron for consideration by the Commission. The initial lease term is for five (5) years, beginning on the day it is executed by the City, with the option for Chevron to extend the lease beyond the initial term for three (3) additional five-(5)-year periods—a potential overall lease period of twenty (20) years. The lease authorizes the continued use of the existing facilities for the unloading/off-loading of petroleum products and does not authorize the construction of any additional improvements without the written consent of the City.

Under the proposed lease, the City will charge Chevron rent at \$31,000.00 annually for the initial five-(5)-year lease term. Thereafter the rent will be adjusted annually at a rate of five percent (5%), commencing on the first day of each subsequent rental period year. The amount of rent is based on 9% of the appraised value of the lease premises as of August 17, 2011.

STAFF ANALYSIS:

The proposed lease continues the existing use as the only terminal for the loading/unloading of petroleum products on the State's northernmost coast. The lack of a lease since 2008 has impeded the ability of the City and Chevron to bring the facility into compliance with the Commission's Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS), which establish standards to ensure that an oil terminal's infrastructure can withstand earthquakes and other threatening events. Commission staff believes that the new lease will facilitate MOTEMS compliance, thus increasing the safety of the terminal and surrounding tidelands. Further, the use of the lease area is for a traditional marine commerce and navigational purpose and is, thus, consistent with the Public Trust Doctrine and the City's trust grant.

The appraisal that the amount of rent is based on was performed by a certified professional. Commission staff conducted a review of the appraisal and found that the

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approach used for the appraisal and the basis for the rent calculation are consistent with sound principles of appraisal methodology.

OTHER PERTINENT INFORMATION:

1. The Commission has 60 days after submittal of a proposed lease in which to consider the lease. If the Commission does not take any action within 60 days, the lease shall be deemed approved. The City submitted the proposed lease on April 9, 2014.
2. The staff recommends that the Commission find that the subject approval of a proposed lease between the City and Chevron does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

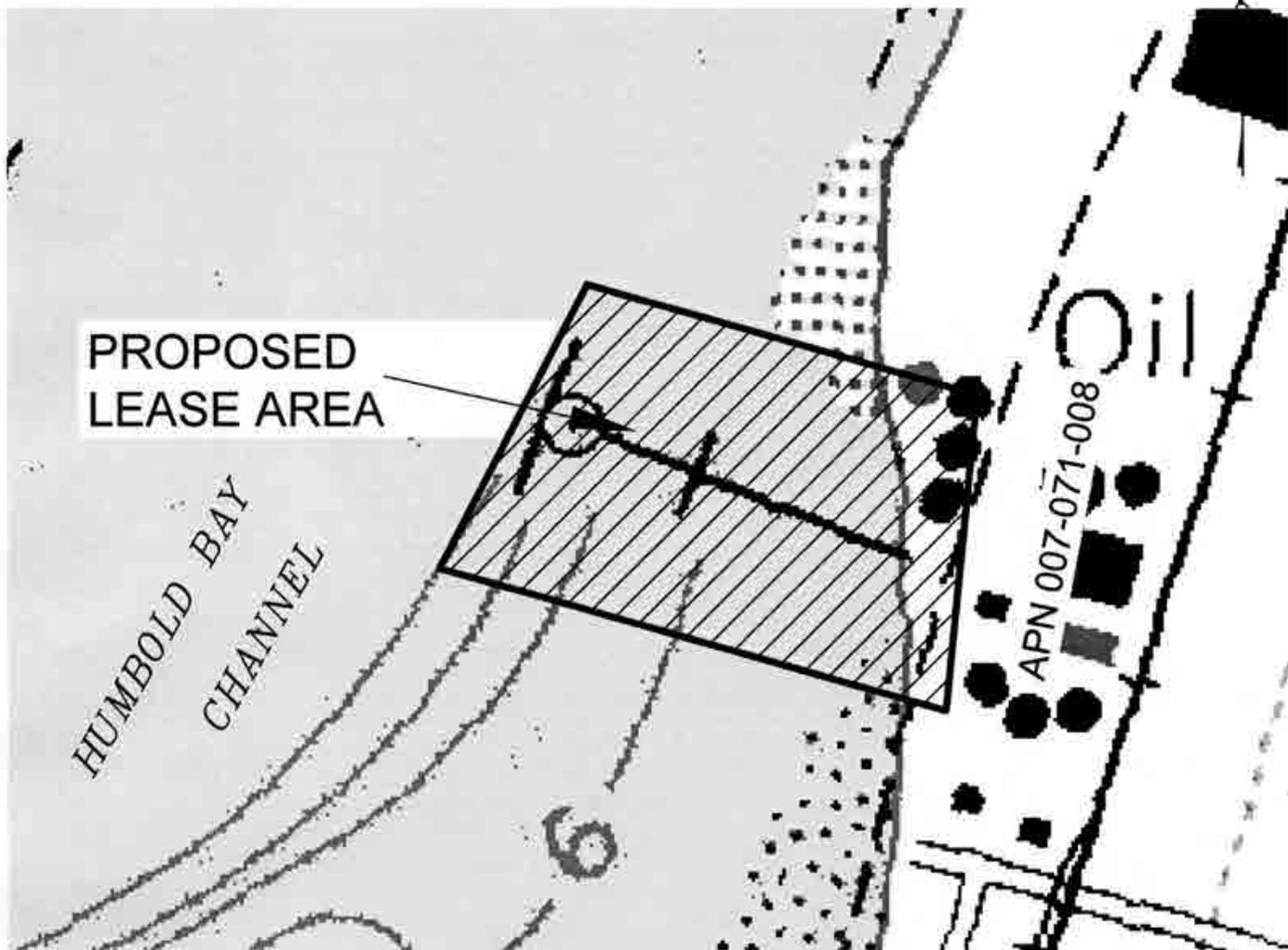
Find that the subject approval of a proposed lease between the City and Chevron is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

1. Find that, based on the information provided by the City, the proposed lease agreement is consistent with applicable law and in the best interest of the State.
2. Approve the proposed lease for existing petroleum loading/unloading facilities, between the City of Eureka and Chevron Products Company, pursuant to Chapter 1086, Statutes of 1970, as amended by Chapter 1095, Statutes of 1978.

NO SCALE

SITE



3400 CHRISTIE STREET, EUREKA

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

CITY OF EUREKA
G 04-02

APPROVAL OF A LEASE OF
TIDE & SUBMERGED LANDS
HUMBOLDT 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.

TS 04/08/14