

MINUTE ITEM

6. APPLICATION FOR PROSPECTING PERMIT, SAN DIEGO BAY, SAN DIEGO COUNTY;
C. CAREW McFALL - W.O. 4336.

Action on Calendar Item 22 attached was deferred upon the recommendation of the Executive Officer pursuant to a request received from the applicant for further staff consideration of the royalty rates.

Attachment
Calendar Item 22 (4 pages)

CALENDAR ITEM

22.

APPLICATION FOR PROSPECTING PERMIT, SAN DIEGO BAY, SAN DIEGO COUNTY; C. CAREW McFALL - W.O. 4336.

An application has been received from C. Carew McFall of San Jose, California, for a permit to prospect for all minerals other than oil and gas on an area of tide and submerged lands in San Diego Bay, San Diego County, covering approximately 225.68 acres (refer to Exhibit "A" attached). The primary mineral sought is a plastic clay which the applicant states can be utilized for clay products, including light weight concrete aggregate.

Field reconnaissance and record review by the staff have shown that the area for which an application has been made cannot be classified at this time as known to contain commercially valuable deposits of the minerals sought.

In accordance with the provisions of Section 6818 of the Public Resources Code, the application has been referred to the office of the Attorney General, and to the Department of Parks and Recreation, Division of Beaches and Parks. The office of the Attorney General has advised that the application complies with the applicable provisions of law and with the rules and regulations of the State Lands Commission.

The Chief of the Division of Beaches and Parks has reported that the proposed operations will not interfere with the recreational use of lands littoral to the area applied for as long as Emory Channel is maintained and as long as activity resulting from the permit would not result in a change of water quality. The Director of the Department of Fish and Game has reported that the proposed operations will not interfere with marine life, which is scarce in this area. The U. S. Army Corps of Engineers have indicated that a Department of the Army permit may be issued upon receipt of notification by the State Lands Division that approval of the prospecting permit has been granted.

In connection with the San Diego Unified Port District proposed harbor development the Director of the Port of San Diego has no objection to the issuance of a permit provided a cancellation clause is contained therein whereby the permit could be cancelled on a thirty-day notice without liability to the State of California or to the proposed San Diego Unified Port District should operations in any way interfere with harbor development.

The prospect area is adjacent to leases of the State held by Western Salt Company and San Diego Gas & Electric Company, and to a portion of tide and submerged lands granted to the City of Chula Vista. Statements of nonobjection to the proposed operations have been received from San Diego Gas & Electric Company, with a qualified statement of nonobjection from the City of Chula Vista regarding the use of spoils for land development. Representatives of Western Salt Company have indicated by phone that Western Salt does not object to the proposed operations.

The statutory filing fee of \$5 has been paid, and the permit fee in the amount of \$225.68 has been deposited by the applicant.

CALENDAR ITEM 22. (CONTD.)

IT IS RECOMMENDED THAT, PURSUANT TO SECTION 6891 OF THE PUBLIC RESOURCES CODE, THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND TO ISSUE TO C. CAREW McFALL A PROSPECTING PERMIT FOR AN AREA OF TIDE AND SUBMERGED LANDS DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND HEREBY MADE A PART HEREOF.

IT IS RECOMMENDED FURTHER THAT THE COMMISSION DETERMINE THAT THE ISSUANCE OF A LEASE UPON THE DESCRIBED LANDS UPON WHICH COMMERCIALY VALUABLE MINERALS SHALL HAVE BEEN DISCOVERED WILL NOT SUBSTANTIALLY IMPAIR THE PUBLIC RIGHTS TO NAVIGATION AND FISHING NOR INTERFERE WITH THE TRUST UPON WHICH SUCH LANDS ARE HELD, AND THAT THE PERMITTEE SHALL BE ENTITLED TO A PREFERENTIAL LEASE OF A COMPACT PARCEL UPON SUCH PORTION OF THE LAND SUBJECT TO PERMIT UPON WHICH COMMERCIALY VALUABLE DEPOSITS OF MINERALS HAVE BEEN DISCOVERED.

THE PERMIT, AND ANY PREFERENTIAL LEASE ISSUED PURSUANT THERETO, SHALL INCLUDE THE FOLLOWING CONDITIONS:

1. NO EXPLOSIVE SHALL BE USED IN THE CONDUCT OF OPERATIONS.
2. NO OPERATIONS SHALL BE CONDUCTED THAT WILL INTERFERE WITH EZORY CHANNEL OR WITH THE WATER QUALITY WITHIN THE BAY, OR WHICH WOULD AFFECT THE PUBLIC USE OR BAYSIDE DEVELOPMENT OF SILVER STRAND BEACH STATE PARK.
3. ALL DREDGED MATERIAL DISCHARGED INTO THE BAY SHALL BE DISTRIBUTED EVENLY ON THE BAY FLOOR.
4. THE PERMIT OR ANY SUBSEQUENTLY ISSUED PREFERENTIAL LEASE MAY BE CANCELLED ON THIRTY-DAY NOTICE WITHOUT LIABILITY TO THE STATE OF CALIFORNIA OR TO THE PROPOSED SAN DIEGO UNIFIED PORT DISTRICT SHOULD OPERATIONS IN ANY WAY INTERFERE WITH HARBOR DEVELOPMENT.

ROYALTY PAYABLE UNDER ANY PREFERENTIAL LEASE ISSUED UPON DISCOVERY OF COMMERCIALY VALUABLE DEPOSITS OF MINERALS, UPON ANY AND ALL MINERALS PRODUCED AND EXTRACTED FROM SAID LEASED PREMISES, IS TO BE DETERMINED AS FOLLOWS:

1. FOR GOLD, SILVER, OTHER PRECIOUS AND SEMIPRECIOUS MINERALS, RARE EARTHS, AND RADIOACTIVE MINERALS

$$R = 3.00 + 0.01 (C - 20.00)^2$$

2. FOR NONPRECIOUS METALLIC MINERALS

$$R = 0.20 + 0.125 (C - 2.00)$$

3. FOR NONMETALLIC MINERALS

$$R = 0.178 + 0.15 (C - 1.78)$$

CALENDAR ITEM 22. (CONTD.)

WHERE R = ROYALTY IN DOLLARS AND CENTS PER TON OF MINERAL

C = WEIGHTED AVERAGE OF GROSS SALES PRICE PER TON OF MINERAL DETERMINED BY THE ACTUAL GROSS SALES VALUE OF THE MINERAL SOLD ON A QUARTERLY BASIS DURING THE FIRST YEAR OF THE LEASE, AND EACH YEAR THEREAFTER THE WEIGHTED AVERAGE TO BE DETERMINED BY THE ACTUAL GROSS SALES VALUE OF THE MINERAL SOLD DURING THE PREVIOUS YEAR.

THE MINIMUM ROYALTY UNDER A LEASE ISSUED PURSUANT TO THIS PERMIT SHALL BE:

1. FOR GOLD, SILVER, OTHER PRECIOUS AND SEMIPRECIOUS MINERALS, AND RADIOACTIVE MINERALS: \$3.00 PER TON.
2. FOR NONPRECIOUS METALLIC MINERALS: \$0.20 PER TON.
3. FOR NONMETALLIC MINERALS: \$0.178 PER TON.

THE MAXIMUM ROYALTY SHALL NOT EXCEED 50 PERCENT OF THE AVERAGE GROSS SALES PRICE OF THE MINERAL FOR GOLD, SILVER, OTHER PRECIOUS AND SEMIPRECIOUS MINERALS, AND RADIOACTIVE MINERALS.

THE MAXIMUM ROYALTY SHALL NOT EXCEED 25 PERCENT OF THE AVERAGE GROSS SALES PRICE OF THE MINERAL FOR ALL NONPRECIOUS METALLIC AND NONMETALLIC MINERALS.

Attachment
Exhibit "A"

EXHIBIT "A"

COMMENCING AT STATION E, AS SHOWN ON "MAP OF THE GRANT TO THE CITY OF CHULA VISTA, CHAPTER 328, STATUTES OF 1961", AND RUNNING THENCE NORTH $72^{\circ} 10' 54''$ EAST, 768.58 FEET; THENCE SOUTH 943.31 FEET; THENCE WEST 2,326.71 FEET; THENCE NORTH $60^{\circ} 0' 00''$ WEST, 2,140.00 FEET; THENCE NORTH $32^{\circ} 28' 16''$ WEST, 391.15 FEET; THENCE NORTH $30^{\circ} 48' 05''$ EAST, 3,026.96 FEET; THENCE SOUTH $48^{\circ} 05' 04''$ EAST, 2,553.03 FEET; THENCE SOUTH $7^{\circ} 29' 16''$ EAST, 1,600.00 FEET TO THE POINT OF BEGINNING; CONTAINING 225.68 ACRES MORE OR LESS.

BEARINGS ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE 6.