

17. APPLICATION TO LEASE A PARCEL OF UNGRANTED SOVEREIGN LAND IN SUISUN BAY, NORTHERLY OF AVON, CONTRA COSTA COUNTY; TIDEWATER OIL COMPANY - W.O. 5204, P.R.C. 3454.1.

After consideration of Calendar Item 17 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE TO TIDEWATER OIL COMPANY A 15-YEAR LEASE FROM JULY 26, 1964, COVERING TIDE AND SUBMERGED LANDS HEREINAFTER DESCRIBED, SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. THE LESSEE SHALL HAVE THE RIGHT TO RENEW THIS LEASE FOR THREE ADDITIONAL PERIODS OF 10 YEARS EACH, SUBJECT TO SUCH TERMS AND CONDITIONS AS THE STATE MAY IMPOSE AT THE TIME OF EACH RENEWAL.
2. THE ANNUAL RENTAL SHALL BE AN UNADJUSTED RATE OF \$385 UNTIL A FIRM RENTAL IS ESTABLISHED BY MUTUAL AGREEMENT.
3. WHEN A FIRM RENTAL IS ESTABLISHED, THERE SHALL BE A RETROACTIVE ADJUSTMENT TO THE END THAT THE TOTAL OF ALL RENTALS THERETOFOR ACCRUED UNDER THE LEASE SHALL EQUAL THE AMOUNT THAT WOULD HAVE ACCRUED HAD THE FIRM RENTAL BEEN IN EFFECT SINCE JULY 26, 1964.
4. IN THE EVENT LESSEE REFUSES TO ACCEPT WITHIN SIXTY DAYS A FINAL OFFER BY THE STATE WHICH WOULD ESTABLISH A FIRM RENTAL, THE LEASE SHALL TERMINATE AND THE LESSEE SHALL PAY THE STATE THE FAIR RENTAL VALUE, AS ESTABLISHED BY A COURT OF COMPETENT JURISDICTION, TO THE DATE OF TERMINATION.
5. THE LESSEE SHALL PROVIDE A CONTINUING PERFORMANCE BOND IN THE AMOUNT OF \$50,000.
6. THE DESCRIPTION OF THE LANDS COVERED BY THE LEASE IS AS FOLLOWS:

A PARCEL OF SUBMERGED LAND, AND LAND WHICH WAS SUBMERGED IN ITS NATURAL STATE, IN SUISUN BAY NORTHERLY OF AVON, CONTRA COSTA COUNTY, CALIFORNIA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE ORDINARY LOW WATER MARK OF SUISUN BAY WHICH BEARS N. 22° 52' 28" E. 673.79 FEET MORE OR LESS AND S. 72° 00' 30" W. 661.27 FEET FROM A BRASS CAP IN CONCRETE INSCRIBED "CALIFORNIA LANDS COMMISSION - LANDS END - 1947"; SAID BRASS CAP MONUMENT HAS CALIFORNIA ZONE 3 COORDINATES OF X = 1,543,798.11, Y = 565,926.78; THENCE FROM THE POINT OF BEGINNING LEAVING THE ORDINARY LOW WATER MARK N. 34° 04' 15" W., A DISTANCE OF 1,889.52 FEET; THENCE N. 70° 30' 45" E., A DISTANCE OF 357.70 FEET; THENCE N. 19° 29' 15" W., A DISTANCE OF 155.00 FEET; THENCE S. 70° 30' 45" W., A DISTANCE

OF 1,334.00 FEET; THENCE S. 19° 29' 15" E., A DISTANCE OF 230.00 FEET; THENCE N. 70° 30' 45" E., A DISTANCE OF 912.49 FEET; THENCE S. 34° 04' 15" E., A DISTANCE OF 1,809.03 FEET MORE OR LESS TO THE ABOVE-MENTIONED LOW WATER MARK; THENCE ALONG SAME N. 72° 06' 30" E., A DISTANCE OF 104.12 FEET TO THE POINT OF BEGINNING, COMPRISING 10.635 ACRES MORE OR LESS.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE 3.

Attachment
Calendar Item 17 (2 pages)

CALENDAR ITEM

17.

APPLICATION TO LEASE A PARCEL OF UNGRANTED SOVEREIGN LAND IN SUISUN BAY, NORTHERLY OF AVON, CONTRA COSTA COUNTY; TIDEWATER OIL COMPANY - W.O. 5204.

Lease P.R.C. 419.1 was issued to Tidewater Oil Company on July 26, 1949, for 15 years with the lessee's right to renew for one additional period of 10 years. The lease covered a 50.16-acre parcel of tide and submerged lands in Suisun Bay near Avon in Contra Costa County (see Exhibit "A"). The land is improved with a wharf and related protecting dolphins. The lease was amended on June 8, 1953, by increasing the land area to 51.07 acres, at an annual rental of \$385.00.

Tidewater Oil Company elected to renew the lease by letter dated June 24 1964, and at the same time broached the possible reduction in area to 10.6 acres.

Renewal of the lease has not been possible because of complexities involved in valuation of the State's property rights in this type of land usage and because of nonacceptance by the tenant of the land value as determined by staff appraisers. As a result, occupancy of the land by lessee has continued in sufferance since July 26, 1964. Negotiations in the area of valuation are continuing. An independent appraiser has been retained by Western Oil and Gas Association for the purpose of making a complete economic study of land utilization involved in this type of lease. Staff appraisers are cooperating.

Tidewater Oil Company now requests cancellation of its right to renew Lease P.R.C. 419.1, and wishes instead to negotiate a new lease to cover a 10.635-acre parcel for a period of 15 years from July 26, 1964, with the right to renew the lease for three additional periods of 10 years each, subject to the following special terms and conditions:

1. The annual rental from July 26, 1964, will be the unadjusted rate of \$385 until a firm rental figure is established.
2. When a firm rental rate is established, there shall be a retroactive adjustment to provide for payment of such firm rate from July 26, 1964.
3. A performance bond in the amount of \$50,000 shall be provided at the time the lease agreement is executed.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE TO TIDEWATER OIL COMPANY A 15-YEAR LEASE FROM JULY 26, 1964, COVERING TIDE AND SUBMERGED LANDS HEREINAFTER DESCRIBED, SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

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CALENDAR ITEM 17. (CONTD.)

2. THE ANNUAL RENTAL SHALL BE AN UNADJUSTED RATE OF \$385 UNTIL A FIRM RENTAL IS ESTABLISHED BY MUTUAL AGREEMENT;
3. WHEN A FIRM RENTAL IS ESTABLISHED, THERE SHALL BE A RETROACTIVE ADJUSTMENT TO THE END THAT THE TOTAL OF ALL RENTALS THEREFORE ACCRUED UNDER THE LEASE SHALL EQUAL THE AMOUNT THAT WOULD HAVE ACCRUED HAD THE FIRM RENTAL BEEN IN EFFECT SINCE JULY 26, 1964;
4. IN THE EVENT LESSEE REFUSES TO ACCEPT WITHIN SIXTY DAYS A FINAL OFFER BY THE STATE WHICH WOULD ESTABLISH A FIRM RENTAL, THE LEASE SHALL TERMINATE AND THE LESSEE SHALL PAY THE STATE THE FAIR RENTAL VALUE, AS ESTABLISHED BY A COURT OF COMPETENT JURISDICTION, TO THE DATE OF TERMINATION.
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