

19. APPLICATION FOR CONDITIONAL RENEWAL AND AMENDMENT OF LEASE P.R.C. 272.1, COVERING TWO STRIPS OF TIDE AND SUBMERGED LANDS IN MONTEREY BAY, MONTEREY COUNTY; TIDEWATER OIL COMPANY - W.O. 3957.

During consideration of Calendar Item 16 attached, the Executive Officer indicated that the record should show that it is understood that one of the elements in connection with the establishment of the rental which will be part of the retroactive adjustment, when determined, is the problem of evaluating charges for mooring buoy areas, in addition to the right-of-way easements over the tidelands reflected in this item.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE TO TIDEWATER OIL COMPANY A RENEWAL FOR A PERIOD OF TEN YEARS FROM NOVEMBER 25, 1961, OF LEASE P.R.C. 272.1, COVERING TIDE AND SUBMERGED LANDS IN MONTEREY BAY, MONTEREY COUNTY, SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE ANNUAL RENTAL SHALL CONTINUE AT THE UNADJUSTED RATE OF \$132.00 UNTIL A FIRM RENTAL IS ESTABLISHED BY MUTUAL AGREEMENT;
2. WHEN A FIRM RENTAL IS ESTABLISHED, THERE SHALL BE A RETROACTIVE ADJUSTMENT TO THE END THAT THE TOTAL OF ALL RENTALS THEREFORE ACCRUED UNDER LEASE P.R.C. 272.1 AS RENEWED SHALL EQUAL THE AMOUNT THAT WOULD HAVE ACCRUED HAD THE FIRM RENTAL BEEN IN EFFECT SINCE NOVEMBER 25, 1961;
3. IN THE EVENT LESSEE REFUSES TO ACCEPT WITHIN SIXTY DAYS A FINAL OFFER BY THE STATE WHICH WOULD ESTABLISH A FIRM RENTAL, THE LEASE AS RENEWED 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;
4. THE LESSEE MAY TERMINATE LEASE P.R.C. 272.1 AS RENEWED UPON SIXTY (60) DAYS' NOTICE OF SUCH TERMINATION TO THE STATE; PROVIDED, HOWEVER, THAT NO SUCH TERMINATION SHALL BECOME EFFECTIVE, AND THE LESSEE SHALL BE FULLY LIABLE FOR RENT AND FOR THE PERFORMANCE OF ALL OTHER OBLIGATIONS ON THE PART OF THE LESSEE, UNTIL SAID LESSEE HAS FULLY COMPLIED WITH AND HAS CONSUMMATED EACH AND ALL OF THE PROVISIONS OF PARAGRAPHS 13 AND 14 OF THE BASIC LEASE.

ALL OTHER TERMS AND CONDITIONS OF LEASE P.R.C. 272.1 ARE TO REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT THROUGHOUT THE TERM OF THIS RENEWAL.

Attachment

Calendar Item 16 (2 pages)

CALENDAR ITEM

16.

APPLICATION FOR CONDITIONAL RENEWAL AND AMENDMENT OF LEASE P.R.C. 272.1, COVERING TWO STRIPS OF TIDE AND SUBMERGED LANDS IN MONTEREY BAY, MONTEREY COUNTY; TIDEWATER OIL COMPANY - W.O. 3957.

Lease P.R.C. 272.1, covering two 100-foot-wide strips of tide and submerged lands extending 2,000 and 600 feet, respectively, into Monterey Bay (see Exhibit "A") was issued on November 25, 1946, for fifteen years with the lessee's right to renew for one additional period of ten years. The 2,000-foot strip serves a submarine pipeline, and the 600-foot strip carries a cathodic protection anode consisting of welded pipe.

Although Tidewater Oil Company elected to renew the lease upon expiration, an agreement 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 determined by staff appraisers. As a result, occupancy of the land by the lessee has continued in sufferance since November 24, 1961. 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 personnel are cooperating.

In the meantime, Tidewater Oil Company has requested a conditional renewal of the expired lease for a period of ten (10) years from November 25, 1961, subject to the following special terms and conditions:

1. The annual rental is to continue at the unadjusted rate of \$132.00 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 November 25, 1961.
3. The lease as renewed is to be modified to include the standard termination clause which now appears in all commercial lease agreements.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE TO TIDEWATER OIL COMPANY A RENEWAL FOR A PERIOD OF TEN YEARS FROM NOVEMBER 25, 1961, OF LEASE P.R.C. 272.1, COVERING TIDE AND SUBMERGED LANDS IN MONTEREY BAY, MONTEREY COUNTY, SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE ANNUAL RENTAL SHALL CONTINUE AT THE UNADJUSTED RATE OF \$132.00 UNTIL A FIRM RENTAL IS ESTABLISHED BY MUTUAL AGREEMENT;
2. WHEN A FIRM RENTAL IS ESTABLISHED, THERE SHALL BE A RETROACTIVE ADJUSTMENT TO THE END THAT THE TOTAL OF ALL RENTALS THERETOFORE ACCRUED UNDER LEASE P.R.C. 272.1 AS RENEWED SHALL EQUAL THE AMOUNT THAT WOULD HAVE ACCRUED HAD THE FIRM RENTAL BEEN IN EFFECT SINCE NOVEMBER 25, 1961;

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3. IN THE EVENT LESSEE REFUSES TO ACCEPT WITHIN SIXTY DAYS A FINAL OFFER BY THE STATE WHICH WOULD ESTABLISH A FIRM RENTAL, THE LEASE AS RENEWED 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.
4. THE LESSEE MAY TERMINATE LEASE P.R.C. 272.1 AS RENEWED UPON SIXTY (60) DAYS' NOTICE OF SUCH TERMINATION TO THE STATE; PROVIDED, HOWEVER, THAT NO SUCH TERMINATION SHALL BECOME EFFECTIVE, AND THE LESSEE SHALL BE FULLY LIABLE FOR RENT AND FOR THE PERFORMANCE OF ALL OTHER OBLIGATIONS ON THE PART OF THE LESSEE, UNTIL SAID LESSEE HAS FULLY COMPLIED WITH AND HAS CONSUMMATED EACH AND ALL OF THE PROVISIONS OF PARAGRAPHS 13 AND 14 OF THE BASIC LEASE.

ALL OTHER TERMS AND CONDITIONS OF LEASE P.R.C. 272.1 ARE TO REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT THROUGHOUT THE TERM OF THIS RENEWAL.