

23. MODIFICATION OF TERMS OF LEASE P.R.C. 3502.1, MINERAL EXTRACTION FROM SUBMERGED LANDS OF THE RUSSIAN RIVER IN SONOMA COUNTY; UTAH CONSTRUCTION & MINING CO. - W.O. 7165.

After consideration of Calendar Item 39 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE APPROVAL OF THE MODIFICATIONS OF MINERAL EXTRACTION LEASE P.R.C. 3502.1, ISSUED TO UTAH CONSTRUCTION & MINING CO., AS FOLLOWS:

1. THAT THE TIME WITHIN WHICH THE LESSEE IS REQUIRED TO OPEN THE MOUTH OF THE RUSSIAN RIVER UNDER THE TERMS OF SUBPARAGRAPH 8(A) OF THE LEASE, AS MODIFIED BY SUBSEQUENT LETTER AGREEMENTS, BE EXTENDED UNTIL SUCH TIME AS THE LESSEE COMMENCES THE EXTRACTION OF SAND AND GRAVEL FROM THE LANDS COVERED BY THE LEASE AND THE TRANSPORT OF SUCH SAND AND GRAVEL THROUGH THE MOUTH OF THE RUSSIAN RIVER.
2. THAT THE BEACH-MONITORING PROGRAM SET FORTH UNDER TERMS OF SUBPARAGRAPH 8(A) OF THE LEASE, AS MODIFIED BY SUBSEQUENT LETTER AGREEMENTS, BE SUSPENDED UNTIL IMMEDIATELY PRIOR TO ANY EXTRACTION OF SAND OR GRAVEL, AT WHICH TIME BEACH PROFILES TO MINUS 36 FEET M.L.L.W. SHALL BE TAKEN AND SAND SAMPLING AND MECHANICAL ANALYSIS BEGUN.
3. THAT THE PROVISIONS OF PARAGRAPH 11 OF THE LEASE REQUIRING THE LESSEE TO EXTRACT AT LEAST 500,000 CUBIC YARDS OF SAND AND GRAVEL DURING EACH LEASE YEAR BE MODIFIED TO PROVIDE THAT THE LESSEE IS OBLIGATED TO EXTRACT ONLY 250,000 CUBIC YARDS DURING THE LEASE YEAR JUNE 28, 1968, TO JUNE 28, 1969. THEREAFTER THE OBLIGATION FOR EACH YEAR WOULD REVERT TO 500,000 CUBIC YARDS.
4. THAT ALL MINIMUM ROYALTIES PAID BY THE LESSEE UNDER THE PROVISIONS OF PARAGRAPH 11 OF THE LEASE FOR THE PERIOD COMMENCING JUNE 28, 1969, AND ENDING WITH THE COMMENCEMENT OF SAND AND GRAVEL PRODUCTION OR ON JUNE 28, 1973, WHICHEVER SHALL OCCUR FIRST, BE APPLIED AS A CREDIT AGAINST PRODUCTION ROYALTIES COMING DUE TO THE STATE UNDER THE TERMS OF PARAGRAPH 3 OF THE LEASE. THE LEASE FURTHER PROVIDES THAT ROYALTIES SHALL BE PAID IN REAL PROPERTY FOR THE PURPOSES OF THE STATE PARK SYSTEM IN ACCORDANCE WITH THE PROVISIONS OF APPENDIX 1 OF THE LEASE.
5. THAT THE LESSEE AGREES TO MAKE AN EXPENDITURE OF AT LEAST \$1,000 PER YEAR TO MAINTAIN AN OPENING TO THE RUSSIAN RIVER CHANNEL.
6. THAT THE LESSEE AGREES NOT TO RELINQUISH ITS INTEREST IN SAID LEASE PRIOR TO JUNE 28, 1969.
7. THAT THE LESSEE AGREES TO HAVE AN INDEPENDENT STUDY MADE BY OTHER COMPANIES OR COMPANY KNOWLEDGEABLE IN THE AGGREGATE AND CEMENT BUSINESS IN REGARD TO THE POTENTIAL MARKETABILITY OF MATERIAL FROM THE RUSSIAN RIVER DEPOSIT.

8. THAT THE LESSEE AGREES TO CONTINUE TO STUDY THE ENGINEERING FEASIBILITY OF OPENING AND MAINTAINING THE MOUTH OF THE RUSSIAN RIVER AS REQUIRED BY THE TERMS OF SAID LEASE, AND TO TAKE OTHER REASONABLE STEPS TO EXPLORE THE ECONOMIC AND TECHNICAL FEASIBILITY OF KEEPING THE LEASE IN EFFECT AND CARRYING OUT THE PROVISIONS THEREOF, AND TO MAKE A REPORT TO THE STATE LANDS COMMISSION ON OR BEFORE JUNE 28, 1969, AS TO THE PROGRESS OF SUCH STUDY.
9. THAT IN THE EVENT OF THE RELINQUISHMENT BY THE LESSEE OF ITS RIGHTS UNDER SAID LEASE BY A QUITCLAIM ON A DATE OTHER THAN THE ANNIVERSARY DATE OF THE LEASE, THE LESSEE SHALL BE OBLIGATED TO PAY TO THE STATE A MINIMUM PRODUCTION ROYALTY IN A SUM PROPORTIONATE TO THE LENGTH OF TIME FROM THE ANNIVERSARY DATE TO THE DATE OF FILING OF THE QUITCLAIM.

ALL OTHER TERMS AND CONDITIONS OF LEASE P.R.C. 3502.1 ARE TO REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

Attachment

Calendar Item 39 (4 pages)

CALENDAR ITEM

39.

5/69  
W.O. 7165  
P.R.C. 3502.1

MODIFICATION OF LEASE TERMS

LEASE: P.R.C. 3502.1.

LESSEE: Utah Construction & Mining Co.

LOCATION: Submerged lands, Russian River, Sonoma County.

REQUEST: Lessee has requested that certain amendments be made in State Mineral Extraction Lease P.R.C. 3502.1, issued on June 22, 1966, pursuant to competitive bidding. The lease covers a portion of the bed of the Russian River, extending from the mouth to approximately four miles upstream.

The request made by the applicant is as follows:

1. That the time within which the lessee is required to open the mouth of the Russian River under the terms of subparagraph 8(a) of the lease, as modified by subsequent letter agreements, be extended until such time as the lessee commences the extraction of sand and gravel from the lands covered by the lease and the transport of such sand and gravel through the mouth of the Russian River.
2. That the beach-monitoring program set forth in subparagraph 8(F) and Exhibit A of the lease be suspended until such time as the lessee commences the extraction of sand and gravel from the lands covered by the lease and the transport of such sand and gravel through the mouth of the Russian River.
3. That the provisions of paragraph 11 of the lease, requiring the lessee to extract at least 500,000 cubic yards of sand and gravel during each lease year, be modified to provide that the lessee is obligated to extract only 250,000 cubic yards during the lease year June 28, 1968, to June 28, 1969. Thereafter the obligation for each year would revert to 500,000 cubic yards.
4. That all minimum royalties paid by the lessee under the provisions of paragraph 11 of the lease for the period commencing June 28, 1969, and ending on the earlier of:
  - a. The commencement of production of sand and gravel, or
  - b. June 28, 1973,be applied as a credit against production royalties becoming due to the State under the terms of paragraph 3 of the lease.

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And further, the lessee has agreed:

1. To an amendment providing that the lease cannot be relinquished prior to June 28, 1969;
2. To consent to have an independent study made by other companies, or company, knowledgeable in the aggregate and cement business, in regard to the potential marketability of material from the Russian River deposit;
3. To continue to study the engineering feasibility of opening and maintaining the mouth of the Russian River as required by the terms of the subject lease, and to take other reasonable steps to explore the economic and technical feasibility of keeping the lease in effect and carrying out the provisions thereof; and
4. To make a report to the State Lands Commission on or before June 28, 1969, as to the progress of such study.

OTHER PERTINENT INFORMATION:

The office of the Attorney General has advised that, subject to the requirements as agreed to in Items 1 through 4 above by the lessee, the Commission may legally approve the requested modifications. That office further advises that written statements of approval of or non-objection to the proposed modifications be obtained from the Administrator of The Resources Agency, the Director of Parks and Recreation, and the Director of the Department of Water Resources.

The Administrator of The Resources Agency states that the requested changes appear to be in order and in accordance with the understanding of Director William Penn Mott, Jr., of the Department of Parks and Recreation, with the exceptions listed below:

Paragraph 2 of the requested modifications should be modified to read as follows:

That the beach-monitoring program set forth under terms of subparagraph 8(A) of the lease, as modified by subsequent letter agreements, be suspended until immediately prior to any extraction of sand or gravel, at which time beach profiles to minus 36 feet M.L.L.W. shall be taken, and sand sampling and mechanical analysis begun.

And paragraph 4 should be changed to read:

That all minimum royalties paid by the lessee under the provisions of paragraph 11 of the lease for the period commencing June 28, 1969, and ending with the commencement of sand and gravel production or on June 28, 1973, whichever shall occur first, be applied as a credit against production royalties coming due to the State under the terms of paragraph 3 of the lease. The lease further provides that royalties shall be paid in real property for the purposes of the State Park System in accordance with the provisions of Appendix 1 of the lease.

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The Director of Water Resources has approved the requested modifications and has emphasized the requested change by the Administrator of The Resources Agency in paragraph 2.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE APPROVAL OF THE MODIFICATIONS OF MINERAL EXTRACTION LEASE P.R.C. 3502.1, ISSUED TO UTAH CONSTRUCTION & MINING CO., AS FOLLOWS:

1. THAT THE TIME WITHIN WHICH THE LESSEE IS REQUIRED TO OPEN THE MOUTH OF THE RUSSIAN RIVER UNDER THE TERMS OF SUBPARAGRAPH 8(A) OF THE LEASE, AS MODIFIED BY SUBSEQUENT LETTER AGREEMENTS, BE EXTENDED UNTIL SUCH TIME AS THE LESSEE COMMENCES THE EXTRACTION OF SAND AND GRAVEL FROM THE LANDS COVERED BY THE LEASE AND THE TRANSPORT OF SUCH SAND AND GRAVEL THROUGH THE MOUTH OF THE RUSSIAN RIVER.
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COMMISSION ON OR BEFORE JUNE 28, 1969, AS TO THE PROGRESS OF SUCH STUDY.

9. THAT IN THE EVENT OF THE RELINQUISHMENT BY THE LESSEE OF ITS RIGHTS UNDER SAID LEASE BY A QUITCLAIM ON A DATE OTHER THAN THE ANNIVERSARY DATE OF THE LEASE, THE LESSEE SHALL BE OBLIGATED TO PAY TO THE STATE A MINIMUM PRODUCTION ROYALTY IN A SUM PROPORTIONATE TO THE LENGTH OF TIME FROM THE ANNIVERSARY DATE TO THE DATE OF FILING OF THE QUITCLAIM.

ALL OTHER TERMS AND CONDITIONS OF LEASE P.R.C. 3502.1 ARE TO REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.