MINUTE ITEM 3/31/75
HAM

12. TERMINATION OF INDUSTRIAL LEASE PRC 2451, TIDE AND SUBMERGED LAND IN CARQUINEZ STRAIT NEAR PORT COSTA IN CONTRA COSTA COUNTY; TIME OIL COMPANY - WP 2451, PRC 2451.

After consideration of Calendar Item 10 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT TIME OIL COMPANY HAS FAILED TO COMPLY WITH THE CONDITIONS OF PARAGRAPH NO. 4 OF INDUSTRIAL LEASE 2451.

2. TERMINATES LEASE PRC 2451 AS OF JULY 29, 1974, UNLESS PROOF OF CONSTRUCTION IS PRESENTED TO THE STATE LANDS DIVISION NO LATER THAN JUNE 30, 1975.

3. AUTHORIZES THE STATE LANDS DIVISION TO EXECUTE AND ISSUE A NOTICE PURSUANT TO THESE FINDINGS IN THE FORM AND CONTENT SHOWN ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment:
Calendar Item 10 (8 pages)

A 10, 11
S 17

CALENDAR ITEM

10.

3/75
HAM
WP 2451

TERMINATION OF INDUSTRIAL LEASE PRC 2451

LESSEE: Time Oil Company.

AREA, TYPE LAND AND LOCATION:
8.31 acres of tide and submerged land in Carquinez Strait near Port Costa in Contra Costa County.

INTENDED LAND USE:
Dock for loading and unloading petroleum products.

TERMS OF ORIGINAL LEASE:
Initial period: 15 years, from July 30, 1959.

Renewal options: 2 additional periods of 10 years each.

Surety bond: $1,000.

Consideration: $1,206.61 per annum.

BACKGROUND: Under application dated October 1, 1958, Time Oil Company requested a 15-year lease with 2 additional renewal options of 10 years each. The applicant advised that the State's land would be used for the construction of an oil dock and attendant pipelines for the conveyance of oil to future upland storage terminals. The applicant also advised that plans for the dock were under preparation and would be forwarded to the Division as soon as available.

Acting on the application as a good faith request, the staff and applicant agreed on appropriate terms and conditions of the lease. The lease specified that a dock would be built, but without a deadline for completion. The staff presented the application to the State Lands Commission for consideration, and the Commission approved it on July 30, 1959, under Minute Item No. 31. Lease PRC 2451 was thereafter executed and issued to Time Oil Company.

On June 30, 1970, the Division notified Time Oil Company that construction had not yet been started on the leasehold premises, and requested copies of construction drawings and notice of approximate construction dates. The lessee replied that an unfavorable financing situation and the loss of government contracts caused construction on the leased area to be deferred.

In June of 1974, Time Oil expressed its desire to exercise the first 10-year renewal option as provided in Paragraph 20 of the lease. By letter dated October 9, 1974, the Division again requested Time Oil to provide construction data, as well as environmental information pertaining thereto. From that time forward, no such information has been supplied to the staff.

CURRENT SITUATION:

The staff maintains that the lessee has been dilatory beyond any reasonable definition of time within which to complete construction on the subject land. The staff further understands that it has never been Commission policy to issue leases for idle, land-holding purposes. As a condition to the lease, Paragraph 4 provides that the subject premises shall be used for the construction, maintenance and use of a dock. The staff holds that the lessee has failed to meet said condition.

The staff recommends that the Commission authorize lease termination procedures. Legal counsel has advised that such procedures require the lessor to first issue a demand for performance to the lessee to begin construction of a dock on the leased area within a reasonable time. The staff believes that it is reasonable to require the lessee to provide detailed construction plans and an environmental data statement no later than June 30, 1975, to show proof of construction.

EXHIBITS: A. Form of Notice. B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT TIME OIL COMPANY HAS FAILED TO COMPLY WITH THE CONDITIONS OF PARAGRAPH NO. 4 OF INDUSTRIAL LEASE 2451.

2. TERMINATE LEASE PRC 2451 AS OF JULY 29, 1974, UNLESS PROOF OF CONSTRUCTION IS PRESENTED TO THE STATE LANDS DIVISION NO LATER THAN JUNE 30, 1975.

3. AUTHORIZE THE STATE LANDS DIVISION TO EXECUTE AND ISSUE A NOTICE PURSUANT TO THESE FINDINGS IN THE FORM AND CONTENT SHOWN ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

WP 2451

NOTICE OF LEASE TERMINATION BY LESSOR
UNLESS CONSTRUCTION IS COMMENCED BY
LESSEE ON THE LEASED PREMISES NO LATER
THAN JUNE 30, 1975

Recitals

WHEREAS, the State Lands Commission of the State of California, hereinafter referred to as Lessor, and Time Oil Company, a Washington Corporation, hereinafter referred to as Lessee, have entered into an agreement executed on October 19, 1959, covering a fifteen-year term effective July 30, 1959, and identified as Lease No. 2451.1 Public Resources Code Series; and

WHEREAS, Paragraph No. 4 of said agreement provides that the area under lease is for the construction, maintenance and use of a dock; and

WHEREAS, Lessee has failed to install or construct a dock in accordance with the terms and conditions of Lease No. 2451.1 Public Resources Code Series and that Lessee has failed in this obligation for a period exceeding fifteen years, it has been determined that Lessee has failed to comply with the terms and conditions of the lease; and

WHEREAS, it has not been and is not now the policy of the Lessor to issue leases for idle, land-holding purposes.

NOW, THEREFORE, be advised and notified that said Lease No. 2451.1 Public Resources Code Series will terminate because of Lessee's failure to comply with the terms and conditions of said lease unless Lessee provides to Lessor, no later than June 30, 1975, proof of commencement of construction upon the premises described in said lease. Proof of construction will be satisfied only by presenting detailed construction plans together with an Environmental Data Statement in the format outlined in Form 59.2, attached hereto and by reference made a part hereof. Said proof must be delivered to the offices of Lessor at 1807 - 13th Street, Sacramento, California, prior to 5:00 p.m., as of the date above specified.

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By _____

This form describes the environmental data that must be furnished the State Lands Commission as part of an application for Commission action.

ENVIRONMENTAL DATA STATEMENT

_____
(Name of Applicant)

(1) Project and Its Location. Give the name of the project and its location. Generally, two maps or drawings should be submitted. One should show the general vicinity of the proposed project; i.e., nearby landmarks, roads, and other features that would make clear its relation to the general vicinity. The other, preferably topographic, should show the project in detail; i.e., the location of buildings, fills, dredge areas, dikes, public access areas, etc.

(2) Statement of the Objectives Sought by the Proposed Project. Briefly describe what the project is intended to achieve (e.g., new piers for shipping, new park for recreation, shoreline development for public health and safety).

(3) General Description of the Project. Describe the project's technical, economic and environmental characteristics, considering the principal engineering proposals and supporting public service facilities. Include in this description the principal features of the project (e.g., exact size of proposed fills; exact scope of proposed dredging; extent of proposed shoreline public access, etc.) The purpose is to provide a clear, concise overall description of the project.

(4)(a) Description of the Environmental Setting. Describe the environment in the vicinity of the project, as it exists before commencement of the project, from both a local and regional perspective. Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region. Specific reference to related projects, both public and private, both existent and planned, in the region should also be included, for purposes of examining the possible cumulative impact of such projects.

(b) Water Quality Aspects. Describe in the environmental setting section, and other sections where applicable, water quality aspects of the proposed project which have been previously certified by the appropriate state or interstate organization as being in substantial compliance with applicable water quality standards.

(5) Environmental Impact. All phases of a project must be considered when evaluating its impact on the environment: Planning, acquisition, development and operation. The following subjects shall be discussed, preferably in separate sections or paragraphs. If they are not discussed separately, the EIR shall include a table showing where each of the subjects is discussed.

(6) The Environmental Impact of the Proposed Action. Describe the direct and indirect impacts of the project on the environment, giving due consideration to both the short-term and long-term effects. It should include specifics of the area, the resources involved, physical changes, alterations to ecological systems and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development) and other aspects of the resource base such as water, scenic quality and public services.

(7) Any Adverse Environmental Effects Which Cannot Be Avoided If The Proposal is Implemented. Describe any adverse impacts, including those which can be reduced to an insignificant level but not eliminated. Where there are impacts that cannot be alleviated, without imposing an alternative design, their implications and the reasons why the project is being proposed, notwithstanding their effect, should be described. Describe impacts on any aesthetically valuable surroundings, or on human health.

(8) Mitigation Measures Proposed to Minimize the Impact. Describe avoidable adverse impacts, including inefficient and unnecessary consumption of energy, and the measures proposed to minimize these impacts. This discussion shall include an identification of the acceptable levels to which such impacts will be reduced, and the basis upon which such levels where identified. Where alternative measures are available to mitigate an impact, each should be discussed and the basis for selecting one alternative should be identified. Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed. Examples of energy conservation measures are provided in the Appendix.

(9) Alternatives to the Proposed Action. Describe reasonable alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project, and why they were rejected in favor of the ultimate choice. The specific alternative of "no project" must also always be evaluated, along with the impact. Describe alternatives capable of substantially reducing or eliminating any environmentally adverse impacts, even if these alternatives substantially impede the attainment of the project objectives, and are more costly.

(10) The Relationship Between Local Short-Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity. Describe the cumulative and long-term effects of the proposed project which adversely affect the state of the environment. Special attention should be given to impacts which narrow the range of beneficial uses of the environment or pose long-term risks to health or safety. In addition, the reasons why the proposed project is believed by the sponsor to be justified now, rather than reserving an option for further alternatives, should be explained.

(11) Any Irreversible Environmental Changes Which Would Be Involved in the Proposed Action Should it be Implemented. Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as a highway improvement which provides access to a nonaccessible area) generally commit future generations to similar uses. Also irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.

(12) The Growth-Inducing Impact of the Proposed Action. Discuss the ways in which the proposed project could foster economic or population growth, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may further tax existing community service facilities so consideration must be given to this impact. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

(13) Organizations and Persons Consulted. The identity of all federal, state or local agencies, other organizations and private individuals consulted in preparing the EIR, and the identity of the persons, firm or agency preparing the EIR, by contract or other authorization must be given.

(14) The data and degree of specificity required in your Environmental Data Statement must correspond with the data and degree of specificity involved in the underlying activity which is required to be described in a draft Environmental Impact Report and final Environmental Impact Report pursuant to the California Environmental Quality Act of 1970 and the State Guidelines. The foregoing information may, at the discretion of an applicant, be provided in the form of a draft environmental impact report. Such report must contain all the data outlined above and in addition it shall identify the person or entity who authored the document.

APPENDIX TO FORM 59.2

Energy Conservation

The California Environmental Quality Act was amended, effective January 7, 1975, to require that the discussion of mitigation measures in an environmental document include a discussion of measures to reduce the inefficient and unnecessary consumption of energy. The following discussion is offered as assistance in meeting this requirement.

Energy conservation is the wise use of energy resources. The wisdom of a certain kind of energy use will vary according to the circumstances. In late 1974, a leading consideration in energy use is the reduction in dependence upon high priced imported petroleum. Other considerations are the reduction in pollution from energy use and finding ways to make resources in short supply last longer and be used for the most essential purposes.

Energy conservation measures, including both the available alternatives and those incorporated into the design and operation of a proposed project need to be discussed in EIR's. There are many ways in which a project may be designed or operated to make more efficient and wise use of energy. The following list of conservation measures provides examples that may be used in EIR's where relevant. The list is not exhaustive, and it is not necessary to discuss each example in every EIR.

(1) Insulation and other protection from heat loss or heat gain to conserve fuel used to heat or cool buildings and mobile homes.

(2) Use of resource conserving forms of energy such as solar energy for water and space heating, wind for operating pumps, falling water for generating electricity, and heat pumps.

(3) Energy efficient building design including such features as orientation of structures to summer and winter sunlight to absorb winter solar heat and reflect or avoid summer solar heat.

(4) Measures to reduce energy consumption in transportation such as:

   (a) Providing access to alternative means of transportation for people such as bus lines, mass transit, bicycle lanes, pedestrian facilities, and car pooling.

   (b) Use of small cars rather than large cars where possible.

   (c) Use of alternative means of shipping which allow for energy savings.

(5) Efficient lighting practices including use of indirect natural light, use of efficient lighting fixtures and/or sources, establishment of reasonable lighting criteria to prevent over illumination, and minimum use of architectural or display lighting.

(6) Energy conserving construction practices.

(7) Use of energy conservation devices such as flywheels.

(8) Rate structures which discourage unnecessary energy consumption.

(9) Use of human or animal power where such use is feasible.

(10) Waste heat recovery.

(11) Recycling and use of recycled materials.