

Calendar Item No. 36
placed as Minute Item
36 by the State Lands
Commission by a vote of 3
to 0 at its 12/15/76
meeting.

MINUTE ITEM

12/15/76
GH

36. AMENDMENT OF LEASE PRC 1792 1 - PACIFIC GAS & ELECTRIC
COMPANY - WP 1390.

During consideration of Calendar Item 36, attached, Mr. William F. Northrop, Executive Officer, read the following statement into the record:

"P.G.&E. has requested a letter from the Executive Officer outlining P.G.&E.'s obligation to pay the volumetric rental under this lease amendment should a court later determine that the Commission's volumetric rental charge is invalid. They also have inquired concerning disposition of such rentals pending resolution of any such litigation. If you will recall, a similar letter was provided to P.G.&E. last month in connection with their volumetric rental payments."

"The staff is agreeable to sending such a letter. The letter will provide that any volumetric rental over the minimum rental will be paid into a special treasury account pending the result of the present litigation challenging the Commission's new rental regulations. Should volumetric rentals be held invalid, these excess rentals will be refunded, together with interest actually earned on the money."

Mr. Emile Nurisso, representing Pacific Gas & Electric Company appeared, expressing their favor with the lease as it is presently written.

Upon motion duly made and carried, the resolution as presented in Calendar Item 36, was adopted by a vote of 3-0, together with the authorization for the Executive Office to send a letter to P.G.&E. as outlined in the above statement.

Attachment: Calendar Item (6 pages)

CALENDAR ITEM

12/76
WP 1390
GH

36.

AMENDMENT OF LEASE PRC 1390.1

APPLICANT: Pacific Gas & Electric Company
77 Beale Street, Room 1113
San Francisco, California 94106

AREA, TYPE LAND AND LOCATION: Approximately 73 acres of coastal submerged land near Morro Rock, City of Morro Bay, San Luis Obispo County.

LAND USE: Marine Oil Terminal.

TERMS OF ORIGINAL LEASE AS PREVIOUSLY AMENDED:
Initial period: 49 years from May 26, 1954.

Surety bond: \$50,000.

Public liability insurance: \$1,000,000 per occurrence for bodily injury and \$5,000,000 for property damage.

Consideration: \$28,420.08 with 5 year review.

TERMS OF AMENDMENT RECOMMENDED HEREIN:
Period: 49 years from May 26, 1954.

Surety bond: \$50,000.

Public liability insurance: \$1,000,000 per occurrence for bodily injury and \$5,000,000 for property damage.

CONSIDERATION: A. Until the minimum annual rental (below) is equaled in each lease year, the annual rental shall be computed by multiplying the number of barrels of crude oil and products and derivatives thereof passing over the State's land by \$0.01 (one cent).

B. Thereafter the annual rental shall be computed by multiplying the number of barrels of crude oil and products and derivatives thereof passing over the State's land in the same lease year by \$0.005 (one half cent).

C. The minimum annual rental shall be \$46,000, with the State reserving the right to fix a different rental on each fifth anniversary of the amendment.

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CALENDAR ITEM NO. 36. (CONTD)

BASIS FOR CONSIDERATION:

Volumetric rental per 2 Cal. Adm. Code 2006,
et seq.

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is permittee of adjacent landowner.
Filing fee has been received.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code. Div. 6, parts 1 & 2.
- B. Administrative Code: Title 2, Div. 3,
Arts. 1, 2, 10 & 11.

OTHER PERTINENT INFORMATION:

1. By action dated March 31, 1975, (Minute Item No. 13, dated March 31, 1975) the Commission authorized an Amendment to the subject lease; which amendment authorized an expansion of the terminal facilities to accommodate 50,000 DWT tankers. The Commission also approved an addendum to the final EIR on the project, which precludes P.G.&E. from purging the oil pipeline in case of a major rupture.

In order to maintain the integrity of the plant by providing back-up systems for fuel supply, P.G.&E. has applied to the Commission to construct and maintain a new 16" pipeline to recirculate oil to heat the existing pipeline and act as a back-up line in the event the major line becomes inoperable.

2. The land description is being changed to reflect the actual area of use per a survey of the location of the mooring buoys.
3. The City of Morro Bay conducted an initial study on this project and generated a negative declaration. A Notice of Determination on the project has been filed with the Secretary for Resources. Copies of both documents are on file in the office of the Commission.
4. The pipeline project is located on lands that have been identified as environmentally significant pursuant to Public Resources Code 6370.1, and is classified in a significant use category, Class "B", Limited Use. Staff review and coordination with the City of Morro Bay and the Department of Fish

CALENDAR ITEM NO. 36. (CONTD)

and Game indicates that there will be no significant effect upon the identified environmental values.

5. Using the criteria and alternatives set forth in the Commission's newly adopted volumetric rental regulations, Division staff and P.G.&E. have agreed to a volumetric rental of \$0.01 per barrel until the minimum annual rental of \$46,000 is equaled; thereafter the rental shall be \$0.005 per barrel. A copy of the amendment document is on file in the office of the Commission.

EXHIBITS: A. Land Description. B. Location Map.
C. Negative Declaration.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS PROJECT BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY THE CITY OF MORRO BAY ON JULY 14, 1976.
2. CERTIFY THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE NEGATIVE DECLARATION.
3. DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. FIND THAT GRANTING OF THE APPLICATION WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1 ET SEQ., OF THE PUBLIC RESOURCES CODE.
5. AUTHORIZE THE ISSUANCE TO PACIFIC GAS & ELECTRIC COMPANY OF AN AMENDMENT TO LEASE PRC 1390.1 EFFECTIVE JANUARY 1, 1977, WHICH WOULD ACCOMPLISH THE FOLLOWING:
 - A. CHANGE THE LAND DESCRIPTION TO THAT SHOWN ON EXHIBIT "A" DATED SEPTEMBER 29, 1976, ATTACHED AND BY REFERENCE MADE A PART HEREOF;
 - B. CHANGE THE ANNUAL RENTAL AS FOLLOWS: MINIMUM ANNUAL RENT: \$46,000, UNTIL THE MINIMUM ANNUAL RENTAL IS EQUALED IN EACH LEASE YEAR, THE ANNUAL RENTAL SHALL BE COMPUTED BY MULTIPLYING THE NUMBER OF BARRELS OF CRUDE OIL AND PRODUCTS AND DERIVATIVES THEREOF PASSING OVER THE STATE'S LAND BY \$0.01 (ONE CENT). THEREAFTER THE ANNUAL RENTAL SHALL BE COMPUTED BY MULTIPLYING THE NUMBER OF BARRELS OF CRUDE OIL AND PRODUCTS AND DERIVATIVES THEREOF PASSING OVER THE STATE'S LAND IN THE SAME LEASE YEAR BY \$0.005 (ONE-HALF CENT).

CALENDAR ITEM NO. 36.(CONTD)

PROVIDED THAT ALL OTHER TERMS AND CONDITIONS OF AMENDED
LEASE PRC 1390.1, SHALL REMAIN IN FULL FORCE AND EFFECT.

Attachment: Exhibit "A"

EXHIBIT "A"

W 1390

Three parcels of land in the State owned bed of Estero Bay, County of San Luis Obispo, California, more particularly described as follows:

PARCEL 1

A strip of land 100 feet wide, lying 50 feet on each side of the following described centerline:

BEGINNING at a point from which the U.S.C. & G.S. triangulation station "Morro 2", having California Coordinate System Zone 5 coordinates of X = 1,145,458.88 and Y = 692,530.27, bears S $27^{\circ} 28' 40''$ E, 5228.89 feet; thence S $55^{\circ} 42' 53''$ E, 1029.37 feet to a point herein for convenience called Point "A"; thence continuing S $55^{\circ} 42' 58''$ E approximately 1200 feet to a point in the northerly boundary line of the Grant to the County of San Luis Obispo as described in Chapter 1076, California Statutes 1947, amended by Statutes 1957 Chapter 1874, and as shown on the map recorded in Book 1 of Misc. Maps at page 2, San Luis Obispo County Records; the side lines of said strip of land shall be lengthened or shortened at the southeasterly terminus thereof so as to terminate in said northerly boundary line.

PARCEL 2

BEGINNING at said Point "A" thence N $44^{\circ} 15' 29''$ E, 194.91 feet; thence N $4^{\circ} 35' 11''$ W, 776.37 feet; thence N $48^{\circ} 28' 36''$ W, 694.87 feet; thence N $34^{\circ} 51' 22''$ W, 723.37 feet; thence S $30^{\circ} 10' 57''$ W, 1403.30 feet to a point herein for convenience called Point "B"; thence S $9^{\circ} 57' 05''$ W, 1203.03 feet; thence S $87^{\circ} 15' 17''$ E, 522.50 feet; thence S $78^{\circ} 27' 08''$ E, 687.40 feet; thence N $44^{\circ} 15' 29''$ E, 827.83 feet, to the point of beginning.

PARCEL 3

That parcel of land included within the circumference of a circle having a radius of 20 feet; the center of said circle bears N $70^{\circ} 09' 05''$ W 1061.94 feet distant from said Point "B".

The bearings and distances used in the aforementioned descriptions are based on the California Coordinate System, Zone 5.

END OF DESCRIPTION

Prepared

M. P. Shafiq

Checked

John E. Clary

Reviewed

G. W. Sumner

Date

9/29/76

MS