

MINUTE ITEM

This Calendar Item No. 26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 3
to 0 at its 5/26/77 CALENDAR ITEM
meeting.

5/77
WP 2408
GRH
PRC 2408

26.

RENEWAL AND AMENDMENT OF INDUSTRIAL LEASE
PRC 2408.1

APPLICANT: Holly Corporation
c/o William H. Bode
Batzell, Nunn and Bode
1523 L Street, N.W.
Washington D. C. 20005

AREA, TYPE LAND AND LOCATION:
8.14 acres of tide and submerged lands in
Carquinez Straits near Ozol, Contra Costa
County.

LAND USE: Marine petroleum wharf.

TERMS OF ORIGINAL LEASE:
Initial period: 15 years from May 28, 1959.
Renewal options: 1 successive period of 5 years.
Surety bond: \$10,000.
Public liability insurance: None.
Consideration: \$1,342.77 per annum.

TERMS OF AMENDED LEASE:
Initial period: 5 years from May 28, 1974.
Renewal options: 1 successive period of 5 years.
Surety bond: \$10,000.
Public liability insurance: \$1,000,000 per
occurrence for bodily injury
and \$2,500,000 for property
damage.

CONSIDERATION: Commencing June 1, 1976, a volumetric rental
accrues according to the following schedule:

- a. \$0.01 per barrel for petroleum products
until the minimum annual rental below
d. is equaled.
- b. \$0.001 (1 mill) per barrel for the next
3,000,000 barrels; and
- c. \$0.004 (4 mills) per barrel for each

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CALENDAR ITEM NO. 26. (CONTD)

additional barrel passing over the State's land in that same year.

d. Minimum annual rental is \$4,800.

Special: For the period May 28, 1974 to May 31, 1976 rental for occupation of the premises shall be \$7,870.52.

BASIS FOR CONSIDERATION:

Volumetric rental pursuant to 3 Cal. Adm. Code 2006.

PREREQUISITE TERMS, FEES AND EXPENSES:

Applicant is owner of upland

OTHER PERTINENT INFORMATION:

1. This transaction was brought to the Commission's attention at its February 1977 meeting. A copy of February's calendar item is on file with the office of the State Lands Commission, which provides an extensive background of the subject lease and current negotiations.

Pursuant to the Commission's directions the staff has continued negotiating with Holly in hopes of resolving the various issues, especially the volumetric rental feature.

The minimum annual rental for the renewal period beginning May 28, 1974 does not reflect the staff's opinion of the current value of the wharf site. The valuation principles applied to the site are those in effect prior to the current Commission's tenure. Inasmuch as the staff had valued the site prior to the adoption of current valuation practices which reflect a truer economic value and Holly had agreed to the rental at that time, staff recommends that the Commission approve the volumetric rental for the period beginning May 28, 1974, which contains a minimum annual rental of \$4,800.

2. Holly has requested that provision for an additional 5 year renewal period be added to the agreement at a pre-agreed rental. Staff is recommending that the Commission approve the addition of another 5-year renewal period which would make the lease renewable from May 28, 1979 through May 27, 1984. Under any such renewal, rental shall

CALENDAR ITEM NO. 26. (CONTD)

be \$0.01 per barrel until the minimum annual rental (see below) is equaled. Thereafter, rental shall be \$0.005 (5 mills) per barrel for each barrel passing over the State's land in that same year.

The minimum annual rental for any renewal during the period May 28, 1979 through May 27, 1984 will be \$15,300. This amount reflects a true value for the subject site.

Apart from the rental, any such renewal shall be upon such reasonable terms and conditions as the Commission may impose.

3. An Environmental Impact Report is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907(a) which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property, shoreline erosion or other types of environmental degradation.
4. This project is situated on State land identified as possessing significant environmental values pursuant to Public Resources Code 6370.1 and is classified in a use category, Class "C" which authorizes multiple use. Staff review of the terminal facility shows that the potential exists for damage to the environment. However, the applicant does operate the terminal for the benefit of the U.S. Department of Defense under a Coast Guard approved terminal manual. In addition, Division staff has reviewed the piping system and clean-up/containment procedures and finds that the facility operates in a manner that minimizes the potential for environmental degradation.

EXHIBITS: A. Land Description. B. Location Map.
 C. Calendar Item #19, February 1977 Meeting.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.

CALENDAR ITEM NO. 26. (CONTD)

2. FIND THAT ADEQUATE PROVISIONS HAVE BEEN MADE FOR THE PERMANENT PROTECTION OF THE SIGNIFICANT ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1 OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE THE FOLLOWING ACTION WITH RESPECT TO LEASE PRC 2408.1:
 - A. THE ISSUANCE OF A 5-YEAR RENEWAL FROM MAY 28, 1974; IN CONSIDERATION OF RENTAL IN THE AMOUNT OF \$7,870.52 FOR THE PERIOD MAY 28, 1974 THROUGH MAY 31, 1976; COMMENCING JUNE 1, 1976 ANNUAL RENTAL SHALL BE PAID AS FOLLOWS:
 - 1) UNTIL THE MINIMUM ANNUAL RENTAL PROVIDED FOR IN PARAGRAPH (3) HEREOF 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).
 - 2) FOR THE NEXT 5,000,000 BARRELS BEYOND THE NUMBER OF BARRELS NECESSARY TO SATISFY THE MINIMUM RENTAL UNDER PARAGRAPH (1) HEREOF, THE RENTAL SHALL BE \$0.001 (1 MILL) PER BARREL; AND THEREAFTER \$0.004 (4 MILLS) PER BARREL FOR EACH ADDITIONAL BARREL OF SUCH COMMODITIES PASSING OVER THE STATE'S LAND IN THAT SAME YEAR.
 - 3) THE MINIMUM ANNUAL RENTAL SHALL BE \$4,800.
 - B. THE ISSUANCE OF AN AMENDMENT TO ADD PUBLIC LIABILITY INSURANCE IN THE AMOUNTS OF \$1,000,000 FOR BODILY INJURY AND \$2,500,000 FOR PROPERTY DAMAGE; AND TO CHANGE THE LAND DESCRIPTION TO THAT SHOWN ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF; AND TO ADD AN OPTION FOR LESSEE TO RENEW THE LEASE UPON SUCH REASONABLE TERMS AND CONDITIONS AS MAY BE IMPOSED BY THE COMMISSION FOR ONE ADDITIONAL PERIOD OF 5-YEARS COMMENCING MAY 28, 1979; ANY SUCH RENEWAL TO PROVIDE FOR ANNUAL RENTAL CALCULATED AS FOLLOWS:
 - 1) FOR THE PERIOD BEGINNING MAY 28, 1979 THE ANNUAL RENT SHALL BE CALCULATED 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) UNTIL THE MINIMUM ANNUAL RENTAL IS EQUALED.
 - 2) THEREAFTER THE RENTAL SHALL BE \$0.005 (5 MILLS) PER BARREL FOR EACH ADDITIONAL BARREL OF SUCH COMMODITIES PASSING OVER THE STATE'S LAND IN THAT SAME YEAR.
 - 3) THE MINIMUM ANNUAL RENTAL SHALL BE \$15,300. PROVIDED THAT ALL OTHER TERMS AND CONDITIONS OF LEASE PRC 2408.1 AS AMENDED, SHALL REMAIN IN FULL FORCE AND EFFECT.

CALENDAR ITEM NO. 26. (CONTD)

C. THE EFFECTIVE DATE OF THIS RENEWAL AND AMENDMENT SHALL
BE MAY 28, 1974.

Attachment: Exhibit "A"

EXHIBIT "A"

WP 2408

Lessee: Holly Corporation

A parcel of submerged land lying in the bed of Carquinez Strait, adjacent to the Ozol Terminal, Contra Costa County, State of California being more particularly described as follows:

COMMENCING at a concrete monument set at an angle point on the line of high tide as said line is shown upon "Map of Resurvey of Tideland Survey No. 32, Contra Costa County, California, made under the Provisions of Chapter 450, Statutes of 1915, to correct errors in original survey" dated January 1927, State Lands Commission File No. 14-6-5 and 6 (said concrete monument being opposite approximate Southern Pacific Railroad Station 2620+82); running thence along said line of high tide shown on the afore-said map the following courses;

- (1) S 33° 45' E 329.3 feet,
- (2) S 62° 15' E 1130.0 feet,
- (3) S 42° 00' E 235.1 feet,
- (4) S 59° 02' 30" E 525.89 feet;

thence leaving said line of high tide N 30° 57' 30" E 304.50 feet to the line of low tide as shown on map above referred to and the TRUE POINT OF BEGINNING of the parcel of land to be described; thence N 65° 30' E along said line of low tide 85.54 feet; thence leaving said line of low tide N 30° 57' 30" E 111.62 feet; thence N 59° 02' 30" W 61 feet; thence N 30° 57' 30" E 122 feet; thence S 59° 02' 30" E 91 feet; thence N 30° 57' 30" E 277 feet; thence N 59° 02' 30" W 420 feet; thence N 30° 57' 30" E 300 feet; thence S 59° 02' 30" E 950 feet; thence S 30° 57' 30" W 300 feet; thence N 59° 02' 30" W 420 feet; thence S 30° 57' 30" W 494.77 feet to said line of low tide; thence N 65° 30' W along said line of low tide 55.35 feet to the true point of beginning.

END OF DESCRIPTION

Prepared J. Collins Checked J. Collins
 Reviewed J. Collins Date 1/17/72

