

MINUTE ITEM

4/7/81
W 40142
Gonzalez

31. AWARD OF MINERAL EXTRACTION LEASE

During consideration of Calendar Item 31 attached, Mr. James F. Trout, Assistant Executive Officer, requested that the resolution be amended to exclude Recommendation No. 4. He explained that Tidewater Sand and Gravel had requested that this recommendation be deleted until Tidewater had had time to discuss the return of its bid deposit with the staff of the Commission. Mr. Trout indicated the staff felt this request was reasonable. He further advised that the subject of retaining the bid deposit would be rescheduled for the next Commission meeting and also indicated that a representative from Tidewater was present, Mr. Frank Hortig, to answer any questions.

Chairman Kenneth Cory, along with Commission-Alternate Susanne Morgan, indicated they did not have any problems in deferring action on that portion of the recommendation, but did indicate it would be difficult for them to approve the return of the bid deposit when that matter comes before them. It was their opinion that allowing the return of the bid deposit to the high bidder who has withdrawn his bid could provide the opportunity for manipulation of the bidding procedure.

The question was asked if the second bidder, Olin Jones Sand Co., had been notified that their bid was being rejected and if they were advised of this meeting. Mr. D. J. Everitts, Manager, Energy and Mineral Resources Development, indicated Olin Jones was notified by telephone, but he was unsure whether they were notified in writing or whether they were notified of this meeting.

After discussing the item further, it was the consensus of the Commission that they would feel uncomfortable in rejecting the second bid of Olin Jones unless the Commission was assured that Olin Jones was properly notified and was afforded an opportunity to appear before the Commission. It was therefore decided that the item would be deferred until the next Commission meeting.

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AWARD OF MINERAL EXTRACTION LEASE

On August 20, 1980, the Commission authorized Staff to offer for lease by competitive bid 110 acres of tide and submerged land north of Middle Ground Island, Suisun Bay, for the extraction of minerals other than oil, gas and geothermal resources. The area is known to contain commercially valuable sand and gravel deposits. In accordance with this authorization, a Notice of Intention to Lease was published on September 17, 1980 in the San Francisco Examiner, Contra Costa Times and Fairfield Daily Republic calling for bids on October 21, 1980.

On October 21, 1980 bids were opened in the Commission's Long Beach Office.

Tidewater Sand and Gravel Co., Oakland, California was apparent high bidder with a bid factor of 2.0, but later revoked its bid. Tidewater gave no reason for the revocation, other than it was a management decision. Other bids received were Olin Jones Sand Co.; bid factor 1.4, and Western Pacific Construction Materials Co.; bid factor 1.051. After evaluation by the Lease Management and Audit Sections, staff has determined that Olin Jones Sand Co. lacks the financial resources and equipment necessary to develop this lease in addition to the two other State leases held by Olin Jones. Therefore, Western-Pacific is the more qualified of the remaining bidders and based on the proposed development plan the bid of Western-Pacific will result in greater royalty to the state. The bid factor is to be applied to the royalty formula attached as Exhibit B hereto. The bid factor of 1.051 operates as a multiplier to the lease royalty formula which will result in payment of royalties to the State of 10.51% of the gross sales price for sand and gravel.

The minimum annual production is 50,000 cubic yards per year and the minimum royalty shall not be less than \$0.30 per cubic yard resulting in a minimum royalty of \$15,000 per year.

The Lease has a primary term of 5 years with an option of one 5-year renewal period upon such reasonable terms and conditions as may be prescribed by the State.

Since Tidewater gave no reason for the revocation staff recommends the retention of Tidewater's bid deposit.

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reviewed and approved the bid of Western-Pacific Construction Materials Company, as to conformance with the requirements specified in the Commission's proposal to enter into a Mineral Extraction Lease on those specified sovereign lands in Suisun Bay, and as to compliance with the applicable provisions of law and the rules and regulations of the State Lands Commission.

- 2) In accordance with P.R.C. Section 6818, the Director of Parks and Recreation was notified of the proposed lease, and he has determined that the project will not interfere with recreational use of the littoral lands.

EXHIBITS: A. Legal Description B. Royalty Formula
 C. Location Map

IT IS RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 6 OF THE P.R.C.:

1. FIND THAT THE COMMISSION, ON MAY 29, 1980, CERTIFIED THAT EIR ND NO. 261, SCH 80042911, WAS PREPARED BY COMMISSION STAFF PURSUANT TO THE PROVISIONS OF THE CALIF. ENVIRONMENTAL QUALITY ACT AND SUCH DOCUMENT WAS REVIEWED AND CONSIDERED. AT THAT TIME A FINDING WAS MADE THAT THIS PROJECT WOULD NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
2. FIND THAT GRANTING OF THIS LEASE WILL HAVE NO SIGNIFICANT EFFECT UPON THE ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO P.R.C. SECTION 6370.1.
3. FIND THAT WESTERN-PACIFIC MATERIALS COMPANY, HAVING SUBMITTED A BID WITH A BID FACTOR OF 1.051, IS THE HIGHEST QUALIFIED AND RESPONSIBLE BIDDER AMONG THOSE PRESENTING BIDS FOR THE SUBJECT LEASE.
4. FIND THAT TIDEWATER SAND AND GRAVEL WAS THE HIGHEST QUALIFIED BIDDER PRIOR TO THEIR REVOCATION OF ITS BID, AND THAT THE BID DEPOSIT SHALL BE RETAINED BY THE COMMISSION.
5. AUTHORIZE THE ISSUANCE OF A 5-YEAR MINERAL EXTRACTION LEASE TO WESTERN-PACIFIC MATERIALS COMPANY ON 110 ACRES OF SUBMERGED LANDS IN SUISUN BAY, CONTRA COSTA AND

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PREREQUISITE ITEMS:

- I. a) The bid submitted by Western-Pacific Construction Materials Company has been reviewed by the Leasing and Audit Staff for completeness and the bidder's technical and economic capability.
- b) Staff Counsel has reviewed the bid and determined that the Commission has complied with the procedural requirements of the law and that the bid submitted conforms with:
 - 1) The bid requirements specified in the proposal of the Commission.
 - 2) The applicable provisions of the law;
 - 3) The rules and regulations of the Commission.

- II. The bid of Western-Pacific Company was accompanied by the required \$1000 deposit.

ENVIRONMENTAL INFORMATION:

An EIR ND No. 261, SCH 80042911, was prepared by the State Lands Commission staff pursuant to CEQA and implementing regulations, and was certified by the Commission on May 29, 1980.

This project is situated on submerged lands identified as possessing significant environmental values pursuant to PRC Section 6370.1 and is classified in a use category, Class C, which authorizes Multiple Use. Through the circulation of ND 261, staff has coordinated this project with those agencies and organizations who nominated the site as containing significant environmental values. They have found this project to be compatible with their nomination.

APPROVALS OBTAINED:

- 1) The Office of the Attorney General, pursuant to P.R.C. Section 6890, has

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SOLANO COUNTIES, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; AT A ROYALTY DETERMINED IN ACCORDANCE WITH THE FORMULA ATTACHED HERETO AS EXHIBIT "B" AND THE OTHER TERMS AND CONDITIONS AS SET FORTH IN THE LEASE OFFERING.

EXHIBIT "A"

LAND DESCRIPTION

NORTH MIDDLE GROUND

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A parcel of State-owned sovereign land in the bed of Suisun Bay, Contra Costa and Solano Counties, California, said parcel described as follows:

COMMENCING at the corner common to Sections 4, 5, 8, and 9, T2N, R1W, MDM, thence along the following six (6) courses:

1. North 1,320.00 feet;
2. N 30° E 78.54 feet;
3. East 1,320.00 feet;
4. N 1° W 4,200.00 feet;
5. East 2,700.00 feet; and
6. North 3,992.62 feet to the POINT OF BEGINNING;
thence the following four courses:
7. North 1,157.38 feet;
8. West 4,149.97 feet;
9. South 1,157.38 feet; and
10. East 4,149.97 feet to the point of beginning

END OF DESCRIPTION

PREPARED JUNE 30, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

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EXHIBIT B

CONSIDERATION:

Royalties for the mineral resources produced or extracted are to be determined according to the following formula:

$$R = E \sqrt{0.10 W (Y)}$$

Where R = royalty in dollars and cents paid to the State.

E = bid factor of _____, which shall be greater than or equal to 1.0.

W = weighted average lease quarter sales price, f.o.b. the dock, per cubic yard.

Y = total lease quarter yardage sold.

The weighted average sales price (WASP) per lease quarter shall include consideration of wholesale and retail sales and is subject to approval and audit by the State. The royalty rate for a lease quarter shall be based upon the WASP for that quarter. In place sales shall not be permitted.

The annual minimum extraction volume shall be 50,000 cubic yards. The minimum royalty per cubic yard shall not be less than \$0.30.

All terms and conditions of the royalty schedule shall be subject to review and possible readjustment at the end of the third year of the primary lease term.

