

MINUTE ITEM

This Calendar Item No. 20
was approved as Minute Item
No. 20 by the State Lands
Commission by a vote of 3
to 0 at its 10/30/81
meeting.

MINUTE ITEM

10/30/81
PRC 5735
PRC 5736
Horn
Hadly

20. RATIFICATION OF EXECUTIVE OFFICER'S APPROVAL OF CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO AND RAINIER NATIONAL BANK AS ADDITIONAL SECURED-PARTY LENDERS ON WICKLAND OIL TERMINALS LEASES PRC 3735.1 AND 3736.1 AMENDMENT OF EXISTING AGREEMENTS AND CONSENT TO ENCUMBRANCING OF LEASE ISSUANCE OF LETTER DETAILING PROCEDURES IN EVENT OF DEFAULT BY LESSEE ON ITS LOAN AND DELEGATION OF AUTHORITY TO EXECUTIVE OFFICER TO APPROVE ASSIGNEES OR PURCHASERS OF THE LEASE UNDER THE AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE.

During consideration of Calendar Item 20 attached, Chairman Kenneth Cory expressed concerns about the short time fuse of 25 hours being allotted to approving or rejecting a proposed bidder if Wickland defaults on its loan. He proposed that the timeframe be amended to two State working days.

He wanted it clarified that the two working days were based on "two State working days" and not necessarily "two Bank working days" given State holidays, etc., which may not coincide with bank holidays.

Based on Mr. Cory's concerns, upon motion duly made and carried, the following resolution was approved by a vote of 3-0.

THE COMMISSION:

1. DETERMINES THAT AN ENVIRONMENTAL DOCUMENT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21065, AND 14 CAL. ADM. CODE 15037 and 15060.
2. RATIFIES THE ACTION OF THE EXECUTIVE OFFICER IN APPROVING CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO AND RAINIER NATIONAL BANK, FOR THE PURPOSE OF ENCUMBRANCING LEASES PRC 5735.1 AND 5736.1; AND AUTHORIZE STAFF TO EXECUTE AN AMENDED AGREEMENT AND CONSENT TO ENCUMBRANCING OF LEASE SUBSTANTIALLY IN THE FORM ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF.

3. AUTHORIZES STAFF TO ISSUE A LETTER TO THE SECURED-PARTY LENDERS WHICH DETAILS THE PROCEDURES THAT WILL BE UTILIZED IN THE EVENT WICKLAND DEFAULTS ON ITS LOAN.
4. DELEGATES TO THE EXECUTIVE OFFICER OR HIS DESIGNEE AUTHORITY TO APPROVE ASSIGNEES OR LEASE PURCHASERS IN THE EVENT WICKLAND DEFAULTS ON ITS LOANS AND THE SECURED-PARTY LENDERS PROCEED AGAINST WICKLAND AND TRANSFER THE LEASE ON THE CONDITION THAT THE COMMISSION IS GIVEN TWO STATE WORKING DAYS IN WHICH TO APPROVE A NEW ASSIGNEE OR LEASE PURCHASER.
5. AUTHORIZES STAFF TO TAKE ALL ACTIONS REASONABLY NECESSARY TO GIVE EFFECT TO THESE DETERMINATIONS AND RATIFICATIONS.

CALENDAR PAGE

MINUTE PAGE

2109

CALENDAR ITEM

20

10/30/81
PRC 5735
PRC 5736
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Hadly

RATIFICATION OF EXECUTIVE OFFICER'S APPROVAL OF
CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO
AND RAINIER NATIONAL BANK
AS ADDITIONAL SECURED-PARTY LENDERS
ON WICKLAND OIL TERMINALS
LEASES PRC 3735.1 AND 3736.1.
AMENDMENT OF EXISTING AGREEMENTS
AND CONSENT TO ENCUMBRANCING OF LEASE
ISSUANCE OF LETTER DETAILING PROCEDURES
IN EVENT OF DEFAULT BY LESSEE
ON ITS LOAN AND
DELEGATION OF AUTHORITY TO EXECUTIVE OFFICER
TO APPROVE ASSIGNEES OR PURCHASERS OF THE LEASE
UNDER THE AGREEMENT AND CONSENT TO
ENCUMBRANCING OF LEASE

BACKGROUND:

At its meeting on June 24, 1981, the Commission approved Crocker National Bank as a secured-party lender for Wickland's Marine Petroleum Products Terminal Project. Subsequent to this approval, Crocker was joined by Continental Illinois National Bank and Trust Company of Chicago and Rainier National Bank (Seattle) as prospective lenders for Wickland's terminal project. In order to close the loan and distribute proceeds before the end of October the Executive Officer (after polling the Commissioners) approved the addition of the two banks as secured-party lenders on Wickland's leases. Adding additional lenders will require amendment of the Agreement and Consent to Encumbrancing of Lease.

Concurrent with approval of the two additional banks Crocker, for itself and as agent for the two banks, has requested a letter which details the procedures that would be utilized by the parties in the unlikely event that the lessee (Wickland) defaults

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CALENDAR ITEM NO. 20 (CONTD)

on the loan and the banks proceed against the lessee as provided for in the loan documentation.

Briefly, the letter provides for giving the Commission advance notice of any transfer in order to secure approval of the prospective transferee in a timely manner. If a sale conducted by bidding is involved, the Commission will receive advance notice of the time and date of sale so as to have a representative present who can approve a prospective purchaser within one hour of learning the winning bidder's identity. This provision is needed to insure compliance by the Secured Party-Lender with provisions of the Civil Code dealing with foreclosure sales. The chances of a foreclosure sale actually occurring are however quite remote.

Staff believes the letter, together with the rights provided for in the Consent to Encumbrancing of Lease, is a reasonable compromise that gives all parties some assurance of the process to be utilized in the unlikely event of default by Wickland.

Either of the situations above will require a delegation of authority to the Executive Officer (or his designee) to approve prospective assignees under lease default. Such a delegation would be highly desirable to provide the flexibility needed to conduct the various financial transactions.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL DOCUMENT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21065, AND 14 CAL. ADM. CODE 15037 AND 15060.
2. RATIFY THE ACTION OF THE EXECUTIVE OFFICER IN APPROVING CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO AND RAINIER NATIONAL BANK AS SECURED-PARTY LENDERS, IN ADDITION TO CROCKER NATIONAL BANK, FOR THE PURPOSE OF ENCUMBRANCING LEASES PRC 5735.1 AND 5736.1; AND AUTHORIZE STAFF TO EXECUTE AN AMENDED AGREEMENT

CALENDAR ITEM NO. 20 (CONTD)

AND CONSENT TO ENCUMBRANCING OF LEASE SUBSTANTIALLY IN THE FORM ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF.

3. AUTHORIZE STAFF TO ISSUE A LETTER TO THE SECURED-PARTY LENDERS WHICH DETAILS THE PROCEDURES THAT WILL BE UTILIZED IN THE EVENT WICKLAND DEFAULTS ON ITS LOAN.
4. DELEGATE TO THE EXECUTIVE OFFICER OR HIS DESIGNEE AUTHORITY TO APPROVE ASSIGNEES OR LEASE PURCHASERS IN THE EVENT WICKLAND DEFAULTS ON ITS LOANS AND THE SECURED-PARTY LENDERS PROCEED AGAINST WICKLAND AND TRANSFER THE LEASE.
5. AUTHORIZE STAFF TO TAKE ALL ACTIONS REASONABLY NECESSARY TO GIVE EFFECT TO THESE DETERMINATIONS AND RATIFICATIONS.