

MINUTE ITEM

This Calendar Item No. C89 was approved as Minute Item No. 89 by the California State Lands Commission by a vote of 3 to 0 at its 08/21/96 meeting.

**CALENDAR ITEM
C89**

A 34
S 25

08/21/96
PRC 736
A. Willard
E. Kruger

**CONSIDER REQUEST TO WAIVE PENALTY AND INTEREST
ON LATE PAYMENT OF REVENUES TO
THE STATE LANDS COMMISSION**

LESSEE:

U.S. Borax, Inc.
Attention: Dennis Boyle, Land Manager
26877 Tourney Road
Valencia, California 91355-1847

BACKGROUND:

Commission staff are in receipt of a request from the Lessee, U.S. Borax, Inc. (Borax), to waive penalty and interest resulting from what was considered late payment of advance minimum annual royalty for State mineral extraction Lease No. PRC 736 in Inyo County. The lease requires payment of an advance minimum annual royalty due for the ensuing lease year. The payment is based, in part, on the average sales price of ore from the previous lease year. Such data was not immediately available on the lease anniversary date, May 1, 1996, and therefore the payment was late by 14 days (payment date based on postmark). Penalty and interest of \$799.79 were assessed.

Borax has requested that the State Lands Commission waive the penalty and interest on the basis that the Lessee is not able to calculate the advance royalty payment until production and sales data for the entire lease year (May 1, 1995 through April 30, 1996) are received. A review of the payment record for Lease No. PRC 736 since 1980 indicates that Borax has made a diligent effort to pay the advance royalty prior to the 20th day of the first month of the new lease year. Lease No. PRC 736 is up for renewal in 1997, and payment of the advance royalty will be clarified in the new lease.

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Commission staff have an excellent working relationship with Borax, who has maintained Lease No. PRC 736 in good standing for nearly 50 years. Commission staff recommends that it would be in the State's best interest to waive the assessment of penalty and interest in this instance.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Division 6, Parts 1 and 2; Division 13.
- B. Cal. Code Regs.: Title 3, Division 3; Title 14, Division 6.

AB 884:

N/A

OTHER PERTINENT INFORMATION:

- 1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code Section 21065 and 14 Cal. Code Regs. 15378.

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL. CODE REGS. 15378.
- 2. WAIVE PENALTY AND INTEREST IN THE AMOUNT OF \$799.79 (INVOICE NO. 1363) FOR LEASE NO. PRC 736 FOR THE ADVANCE ROYALTY PAYMENT ASSESSED TO U.S. BORAX, INC., FOR THE 1996-1997 LEASE YEAR.