

MINUTE ITEM
This Calendar Item No. C61 was approved as
Minute Item No. 61 by the California State Lands
Commission by a vote of 3 to 0 at its
09-13-07 meeting.

**CALENDAR ITEM
C61**

A
} Statewide
S

09/13/07
Bid Log 2007-05
WP5735.1, R10205
D. Brown, A. Abeleda
V. Van Way, N. Smith

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER
TO SOLICIT PROPOSALS FOR CONSULTANT SERVICES, NEGOTIATE FAIR AND
REASONABLE PRICE, AWARD AND EXECUTE AGREEMENTS FOR
PREPARATION OF ENVIRONMENTAL DOCUMENTATION AND MITIGATION
MONITORING FOR PROPOSED LEASE RENEWAL OF THE NUSTAR MARINE OIL
TERMINAL LOCATED NEAR SELBY, CONTRA COSTA COUNTY**

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

BACKGROUND:

NuStar Energy, L.P. (NuStar), formerly Valero L.P., is an independent, privately owned transshipper of petroleum products. NuStar operates a marine oil terminal and storage facilities in an industrial area in an unincorporated portion (formerly the small town of Selby) of Contra Costa County between the cities of Crockett and Rodeo.

The marine oil terminal wharf occupies 10.09 acres of sovereign land leased from the California State Lands Commission (CSLC). NuStar's main terminal is located upland, and contains 50 acres of storage tanks, pumps and associated pipelines, vapor recovery systems, a truck loading rack, and office buildings. The wharf, constructed in 1982, lies along the south shoreline of the Carquinez Strait, approximately one mile west of the Interstate 80 Carquinez Strait Bridge. The Carquinez Strait is approximately 5700 feet wide at this location. The wharf lies generally parallel to the Carquinez Strait, extending approximately east and west.

The wharf consists of a 32-foot wide by 72-foot long concrete loading platform supported by pre-stressed concrete piles, and operates as a barge and tanker loading/unloading facility, 24 hours a day, 365 days per year. The total length of the wharf from the west to the east mooring dolphins is approximately 1004 feet. The wharf connects to land by a 260-foot-long elevated trestle that supports a 12-foot wide paved access road and a 15-foot-wide pipe rack.

CALENDAR ITEM NO. C61 (CONT'D)

As a single-vessel docking facility with associated pumps, pipelines, electrical utilities and other mechanical equipment, the wharf accommodates one vessel at a time, capable of up to a maximum of 100,000 dead weight tons vessel displacement and up to a maximum length of 850 feet. The maximum water depth at Mean Lower Low Water (MLLW) is 45 feet. The cargo pumps for vessel loading are located at the main terminal, about 0.9 mile from the wharf.

The CSLC issued the original lease to former owner Wickland Oil in 1981 for an initial term of 25 years, with provisions for two optional renewals of 10 years each. In 1988 Wickland assigned its interest in the Selby facility and wharf to Shore Terminals. Valero purchased Shore Terminals in July 2005, In February 2007, as a result of the separation from Valero Energy Corporation, NuStar Energy, L.P. changed the name of ownership of the oil terminal facility and wharf.

PROPOSED ACTIVITY:

NuStar is requesting the CSLC to renew its lease for an additional 30-year period. The current lease term ended December 21, 2006, and is in holdover status. The new lease, if granted by the CSLC, would allow NuStar to continue current operations until 2036. NuStar currently has no plans for expansion of the facility or wharf.

Consideration of such an action will require environmental documentation, including monitoring, in accordance with the California Environmental Quality Act (CEQA). The Executive Officer requests delegation of authority to engage a consultant for this purpose. Consultant selection shall be conducted consistent with procedures as specified in CSLC Regulations and in the State Contract Manual on the basis of demonstrated competence and qualifications for the types of services to be performed and at a fair and reasonable price. All costs shall be recovered from the project applicant.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

2. Approval of this item by the Commission does not constitute approval of the proposed lease; it only authorizes consultant contracts for environmental review.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code Section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Section 11.00 (A & E method)
- C. Public Contract Code Section 6106
- D. Government Code Section 4526
- E. California Administrative Code Title 2 Article 13 Section 2980.0 - 2990.0

IT IS RECOMMENDED THAT THE COMMISSION:

- 1. FIND THAT THESE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL CODE REGS. 15060(c)(3) BECAUSE THESE ACTIVITIES ARE NOT PROJECTS AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL CODE REGS. 15378.
- 2. FIND THAT THE SELECTION OF CONSULTANTS UNDER THIS PROCESS DOES NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOVERNMENT CODE SECTION 11342, SUB. (H), BECAUSE THEY WILL BE ACCORDED EQUAL OPPORTUNITY TO SUBMIT STATEMENTS OF QUALIFICATIONS AND PERFORMANCE DATA.
- 3. FIND THAT THE SELECTION OF CONSULTANTS UNDER THIS PROCESS FOR PROFESSIONAL SERVICES OF ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING OR CONSTRUCTION PROJECT MANAGEMENT SERVICES WILL BE CONSISTENT WITH PROCEDURES AND POLICIES ADOPTED BY THE COMMISSION AS SPECIFIED IN GOVERNMENT CODE SECTION 4526 AND TITLE 2, CALIFORNIA CODE OF REGULATIONS 2980 –2980.9.
- 4. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO SOLICIT PROPOSALS, NEGOTIATE A FAIR AND REASONABLE PRICE, AWARD AND EXECUTE CONTRACTS FOR ENVIRONMENTAL DOCUMENTATION AND MITIGATION MONITORING IN ACCORDANCE WITH STATE POLICIES AND PROCEDURES.
- 5. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH PROJECT APPLICANT TO RECOVER COSTS INCURRED IN THE CONSIDERATION OF THIS PROJECT.