

MINUTE ITEM
This Calendar Item No. C33 was approved as
Minute Item No. 33 by the California State Lands
Commission by a vote of 3 to 0 at its
12-03-07 meeting.

CALENDAR ITEM
C33

A 34
S 17

12/03/07
PRC 8253.2
S. Mulqueen
V. Perez

**CONSIDER APPROVAL OF ASSIGNMENT
OF WEBBER PLYLEY'S 100 PERCENT INTEREST IN
MINERAL EXTRACTION LEASE NO. PRC 8253.2 TO
VULCAN LANDS, INC. AND AMENDMENT TO
LEASE NO. PRC 8253.2,
SAN BERNARDINO COUNTY**

ASSIGNOR:

Webber Plyley, Inc. (dba: Sigma Stone Company)
Attn: Mr. George Webber
101 E. Redlands Blvd., Suite 240
Redlands, CA 92373

ASSIGNEE:

Vulcan Lands, Inc.
Attn.: Mr. Brian Tilley
3200 San Fernando Road
Los Angeles, CA 90065

AREA, LAND TYPE, AND LOCATION:

Approximately 160 acres of State 100 percent reserved mineral interest patented school land (APN: 0419-051-20-0000) located in portions of Section 36, T8N R3W, SBM, San Bernardino County and situated about 10 miles southwest of Barstow.

BACKGROUND:

On November 27, 2000, the Commission authorized the issuance of Mineral Extraction Lease No. PRC 8253.2 to Webber Plyley Inc. dba: Sigma Stone Co. (Sigma) for operation of the Black Angel Aggregate Mine (Ca Mine ID No. 91-36-0128). The lease is for a primary term of 10 years with a starting date of December 1, 2000, and provides for two ten-year rights of renewal. As authorized under the lease, Sigma may mine rock, sand, and gravel, commonly

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called aggregate. Currently, Sigma crushes and screens this rock for aggregate that it sells for road construction and other construction purposes in the rapidly growing high desert communities of Victorville and Barstow.

The lease provides for a royalty of not less than seven percent (7%) of the gross proceeds of sale or a minimum royalty per ton, whichever is greater. The minimum royalty, starting in December, 2000, was \$0.30 per short ton and has escalated \$0.01 per lease year to the present royalty of \$0.36 per short ton. Sigma has successfully developed the quarry to a current production of nearly 400,000 short tons per year with resulting royalties to the State of nearly \$200,000 per year for the benefit of the State Teachers Retirement System.

On October 1, 2007, Mr. George Webber, of Webber Plyley, Inc., dba: Sigma Stone Company submitted a request to assign all of its interest in PRC 8253.2 to Vulcan Lands, Inc. (Vulcan). Paragraph 24 of the lease provides that the lessee, with Commission approval, may assign any portion of the lease to any entity possessing the qualifications described in PRC 6804. Vulcan Lands, Inc. is a wholly owned subsidiary of Vulcan Materials Company (VMC), the largest aggregate producer in the nation with 287 aggregate production facilities nationwide. VMC is a publicly traded company headquartered in Birmingham, Alabama and listed on the New York Stock Exchange. VMC employs approximately 8,000 employees. Its sales of construction materials for 2006 exceeded \$3 billion dollars. Vulcan Lands, Inc., a wholly owned subsidiary of VMC, holds the properties, leases and other agreements upon which Vulcan Materials operates its aggregate production facilities.

Vulcan operates numerous aggregate facilities in California. These are located in Sacramento, Fresno, Pleasanton, Riverside, San Bernardino, San Diego, Corona and Oro Grande near Victorville. The Oro Grande facility is primarily an asphalt plant for which Vulcan currently purchases its aggregate from outside sources to produce asphalt. With the acquisition of the Black Angel Mine, Vulcan will become self sufficient in its aggregate needs for this asphalt plant and will have opportunities for outside sales for the growing desert communities and other infrastructure needs.

On May 10, 2007, Sigma received approval from San Bernardino County Planning Department for a new Mining Conditional Use Permit and Reclamation Plan 2007M-03 CUP/RP that replaces all prior approvals. The new CUP/RP allows aggregate production to increase from a current maximum of 1 million tons per year to 2 million tons per year. In addition, the acreage is increased to

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140 acres from the current 60 and extends the mine life to 2037. Mitigated Negative Declaration SCH #2007021063 was prepared for this project pursuant to the provisions of CEQA, together with a comprehensive Mitigation Monitoring and Compliance Program.

Staff is recommending an increase in the current financial security of \$15,000 based upon the respectable aggregate production levels the quarry has achieved. Vulcan has agreed to a new financial security in the amount of \$100,000 to be accomplished in a lease amendment. This lease amendment also provides for other reasonable modifications including:

1. Establishment of a new ten-year primary term of the lease ending December 31, 2017. This new primary term, together with the two ten-year rights of renewal, provides a new lease term that coincides with the County's CUP/RP.
2. Increase of the minimum royalty to \$0.50 per short ton with an escalation of \$0.02 per lease year.
3. Incorporation of the new Mitigated Negative Declaration SCH #2007021063.
4. Incorporation of the new Mining Condition Use Permit/Reclamation Plan 2007M-03 and Mitigation Monitoring and Compliance Program.

STATUTORY AND OTHER REFERENCES:

- A. Paragraph 20 of the Lease.
- B. Paragraph 24 of the Lease.
- C. Public Resources Code section: 6804

OTHER PERTINENT INFORMATION

1. **Lease Assignment:** 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.

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2. **Expansion of Facilities and Amendment of Lease:** A Mitigated Negative Declaration was prepared and adopted for this project by the County of San Bernardino. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by the County of San Bernardino.
3. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all state school lands and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.
4. Properly executed Assignment and Lease Amendment forms have been received. Webber Plyley, Inc. has submitted the \$25 filing fee and \$5,000 Approximate Expense Deposit (AED) for the lease assignment and amendment.
5. Staff performed a lease inspection of the Black Angel Mine on November 20, 2007, and found the mine properly maintained and in good order.
6. If approved, Vulcan shall provide new financial security in the amount of \$100,000 to ensure compliance with the terms and conditions of the lease.
7. Sigma and Vulcan have requested that the approval of this action be conditioned on the subsequent closing of escrow by March 1, 2008, as outlined in their purchase and sale agreement.

EXHIBITS:

- A. Location Map

PERMIT STREAMLINING ACT DEADLINE:

N/A (not a "development project" subject to the Act).

RECOMMENDED ACTIONS:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

1. **LEASE ASSIGNMENT:** FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.
2. **EXPANSION OF FACILITIES AND AMENDMENT OF LEASE:** FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE COUNTY OF SAN BERNARDINO AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
3. ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN THE CEQA DOCUMENT, ON FILE IN THE LONG BEACH OFFICE OF THE COMMISSION.

AUTHORIZATION:

1. CONSENT TO THE ASSIGNMENT OF 100 PERCENT INTEREST IN STATE MINERAL EXTRACTION LEASE NO. PRC 8253.2 FROM WEBBER PLYLEY, INC. TO VULCAN LANDS, INC. WITH THE ASSIGNEE TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF THE LEASE, INCLUDING THE CURRENT LEASE AMENDMENT.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENT NECESSARY TO IMPLEMENT THIS ASSIGNMENT AND AMENDMENT.
3. THE ASSIGNMENT IS CONDITIONED ON THE CLOSING OF ESCROW BY MARCH 1, 2008, AS SET FORTH IN THE PURCHASE AND SALE AGREEMENT BETWEEN WEBBER PLYLEY, INC. AND VULCAN MATERIALS, INC. IF ESCROW

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DOES NOT CLOSE BY MARCH 1, 2008, THIS APPROVAL SHALL
BE RESCINDED WITHOUT ANY FURTHER ACTION BY THE
COMMISSION.

