

**STAFF REPORT
C35**

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08/17/17
PRC 139.1
V. Caldwell

GENERAL LEASE – INDUSTRIAL USE

LESSEE/APPLICANT:

Chevron Products Company, a Division of Chevron USA, Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

1.68 acres, more or less, of sovereign land in San Francisco Bay, city of Richmond, north of the Richmond-San Rafael Bridge and just south of Point San Pablo, Contra Costa County.

AUTHORIZED USE:

Continued maintenance of an existing non-operational Chevron Point Orient Wharf (Wharf) in caretaker status.

LEASE TERM:

5 years, beginning August 1, 2017.

CONSIDERATION:

\$57,630 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$5,000,000 per occurrence.

Surety: \$10,000,000.

Other: The lease includes special provisions (1) requiring the Applicant to submit, by August 1, 2020, an application for either a long-term lease for the construction of a Wharf modification project for reuse or full removal of the Wharf; and (2) if no application is submitted, allowing the removal of the Wharf using the Surety Bond upon expiration of this lease and compliance with the California Environmental Quality Act (CEQA).

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code section 6005, 6216, 6301, 6501.1, and 6503;
California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

The California Legislature has delegated to the Commission exclusive control and jurisdiction over ungranted Public Trust lands. (Pub. Resources Code, §§ 6216, 6301). The Commission also retains State authority reserved over lands that have been legislatively granted in trust to other governmental entities (Pub. Resources Code, § 6301). The Commission implements the common law Public Trust Doctrine through careful consideration of its principles and the exercise of discretion within the specific context and location of proposed uses. In administering its trust responsibilities, the Commission exercises its discretionary authority in the best interests of the State, accommodating the changing needs of the public while preserving the public's right to use Public Trust lands for the purposes to which they are uniquely suited.

Commerce and navigation have been recognized as traditional Public Trust uses by the courts. (See, for example, *Marks v. Whitney* (1971) 6 Cal.3d 251, 259). The subject facility is consistent with the common law Public Trust Doctrine because it is associated with and facilitates water-dependent commerce and navigation. Moreover, the requirements of the lease will help ensure that the facility does not become an impediment to navigation by putting in place a plan for its suitable reuse or removal.

On September 20, 2013, the Commission authorized a General Lease – Industrial Use to Chevron Products Company ([Item C78, September 20, 2013](#)). The lease expired on February 28, 2017, and is currently in holdover.

Chevron is now requesting an additional, interim 5-year lease to retain the Wharf in caretaker status, to allow time for an evaluation under CEQA for using the Wharf for off-loading dredged material from Chevron Long Wharf and transporting the dredged material via pipeline from the Wharf to an upland disposal site. The San Francisco Bay Regional Water Quality Control Board is currently the lead agency for this proposed project. The lease provisions require that Chevron submit an application for a long-term lease for any proposed reuse of the Wharf.

The existing Wharf is a timber-pile-supported structure built in 1904 and supported by vertical and battered timber piles. It is F-shaped and

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originally consisted of a causeway and two berths. The causeway is 1,200 feet long by 30 feet wide and connects the Wharf to the upland; it provides for one-lane traffic and support for several abandoned steel pipelines. The outer berth is approximately 510 feet long by 71 feet wide. At this time, much of the inner berth has been removed, and all that remains is a 100-foot-long by 25-foot-wide section, also known as the “turnaround” for the causeway. The last recorded maintenance or upgrade project at the Wharf was in 1985-1986, when steel pile/concrete cap mooring dolphins and a steel fender rack backed with a steel pile system were added. The Wharf was previously used for petroleum products until the mid-1980s when its use was discontinued.

Climate Change Analysis:

The impacts of sea-level rise, including increased wave activity, storm events, and flooding, are not limited to the open coast. The Point Orient Wharf is located on the San Francisco Bay within a tidally influenced region and is, therefore, at higher risk of flood exposure given future projection scenarios of sea-level rise. By 2030, California’s coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise). However, because this action is a short-term lease (5 years) to maintain the Wharf in caretaker status, the Wharf is not expected to be adversely affected by the effects of sea-level rise during the limited lease term. Further sea-level rise analyses would be conducted at the time Chevron submits an application for a long-term lease if it proposes to modify the Wharf for reuse.

Conclusion:

For all the reasons above, Commission staff believes approving the proposed lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The proposed action is consistent with Strategy 1.1 of the Commission’s Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission’s jurisdiction.

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2. Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; but, such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Industrial Use to Chevron Products Company, beginning August 1, 2017, for a term of 5 years for continued maintenance of an existing non-operational Chevron Point

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Orient Wharf in caretaker status, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$57,630 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$5,000,000 per occurrence; and surety in an amount of not less than \$10,000,000.

EXHIBIT A

PRC 139.1

LAND DESCRIPTION

The land referred to herein is situated in the State of California, County of Contra Costa, City of Richmond, described as follows:

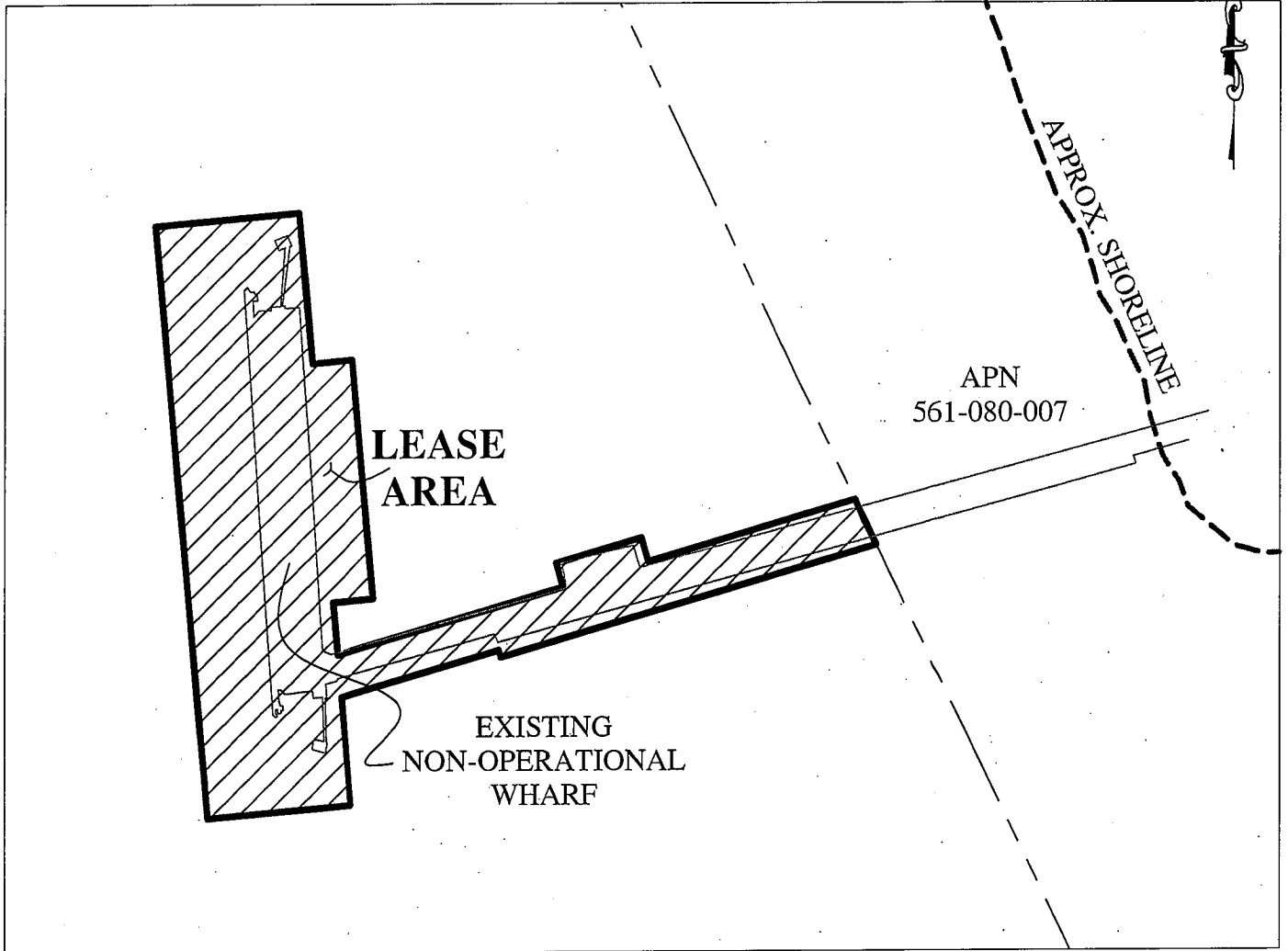
Commencing at Station SP 159 on the exterior boundary of the San Pablo Rancho as shown on "Map of the San Pablo Rancho, accompanying and forming a part of the final report of the Referees in Partition" filed in the Office of the Recorder of Contra Costa County, California, March 1, 1894, said Station SP 159 being also known as Station 443 as shown on "Map No. 1 of Salt Marsh and Tidelands, situate in the County of Contra Costa, State of California, 1872", the original of said Map is on file in the Office of the Surveyor General of the State of California, from which said Point Station 159, an iron pipe set in the Center line of the Richmond Belt Railway bears North $15^{\circ} 18' 25''$ West, 541.08 feet, said points are shown on a Record of Survey Map filed December 2, 1966 in book 45 LSM at pages 47 and 48 of Contra Costa County records, thence leaving the exterior boundary of the San Pablo Rancho South $1^{\circ} 20' 55''$ West, 1335.47 feet to the point of beginning on Chevron U.S.A. Inc. Causeway marked by a railroad spike, said point also being on the Established Waterfront Line and the boundary line of lands, owned by Chevron U.S.A. Inc. Thence leaving said point of beginning South $25^{\circ} 27'$ East, 46.88 feet; Thence South $73^{\circ} 36'$ West, 526.25 feet; Thence North $16^{\circ} 24'$ West, 10.00 feet; Thence South $73^{\circ} 36'$ West, 220.56 feet; Thence South $5^{\circ} 06' 20''$ East, 144.40 feet; Thence South $84^{\circ} 53' 40''$ West, 193.40 feet; Thence North $5^{\circ} 06' 20''$ West, 793.33 feet; Thence North $84^{\circ} 53' 40''$ East, 193.40 feet; Thence South $5^{\circ} 06' 20''$ East, 202.01 feet; Thence North $84^{\circ} 53' 40''$ East, 55.00 feet; Thence South $5^{\circ} 06' 20''$ East, 320.00 feet; Thence South $84^{\circ} 53' 40''$ West, 55.00 feet; Thence South $5^{\circ} 06' 20''$ East, 70.02 feet; Thence North $73^{\circ} 36'$ East, 316.21 feet; Thence North $16^{\circ} 24''$ West, 33.00 feet; Thence North $73^{\circ} 36''$ East, 120.00 feet; Thence South $16^{\circ} 24'$ East, 33.00 feet; Thence North $73^{\circ} 36'$ East, 288.98 feet to a point on the aforementioned Established Waterfront Line; Thence South $25^{\circ} 27'$ East, 19.75 feet to the point of beginning.

END OF DESCRIPTION

REVIEWED JANUARY 24, 1983 BY BOUNDARY AND TITLE UNIT, LEROY WEED, SUPERVISOR.

NO SCALE

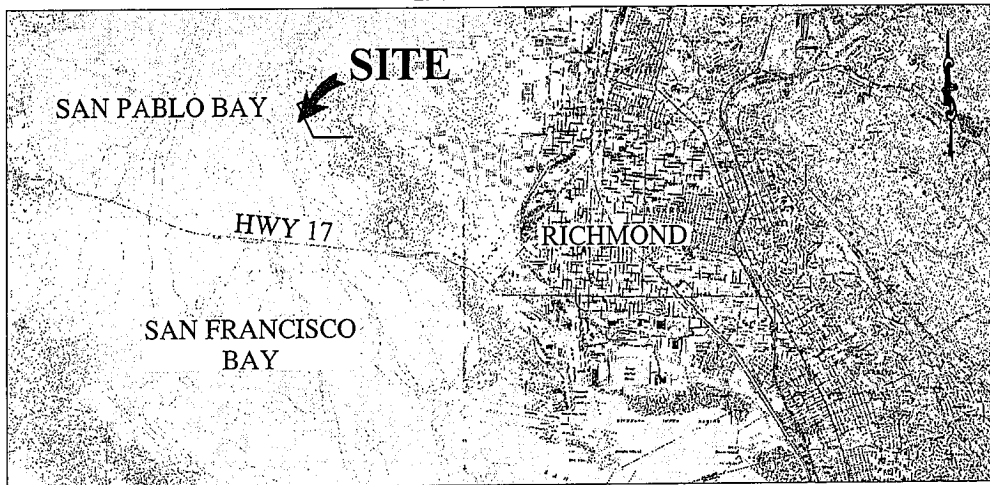
SITE



Point Orient Wharf, Richmond

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 139.1
 CHEVRON PRODUCTS CO.
 APN 561-080-007
 GENERAL LEASE -
 INDUSTRIAL USE
 CONTRA COSTA COUNTY



MJF 7/20/17