

MINUTE ITEM

4/23/70
EWC

5. AUTHORIZATION FOR SIX-MONTH EXTENSION OF LEASE P.R.C. 618.1, TIDE AND SUBMERGED LANDS IN CARQUINEZ STRAITS, CONTRA COSTA COUNTY; AMERICAN SMELTING AND REFINING COMPANY - W-8398.

After consideration of Calendar Item 1 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE ISSUANCE TO AMERICAN SMELTING AND REFINING COMPANY OF A SIX-MONTH EXTENSION OF LEASE P.R.C. 618.1, IN THE FORM OF AN "INTERIM AGREEMENT PENDING NEGOTIATIONS", A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT "A" AND BY REFERENCE MADE A PART HEREOF.

Attachment:

Calendar Item 1 (3 pages)

CALENDAR ITEM

4/70
W-8398
EWC

1.

INTERIM EXTENSION OF INDUSTRIAL LEASE P.R.C. 618.1

APPLICANT: American Smelting and Refining Company.

LOCATION: A 34.18-acre parcel of filled tide and submerged lands in Carquinez Straits, Contra Costa County.

LAND USE: Portions of a smelting plant, and usage appurtenant thereto.

TERMS OF BASIC LEASE:

Initial period: 5 years, from October 24, 1944.
Renewal options: 3 additional periods of 10 years each.
Surety bond: \$75,000.00.

CONSIDERATION: \$1,067.55 per annum during initial period and first renewal period, which ended October 23, 1969.

PREREQUISITE ITEMS:

Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

- a. Public Resources Code: Div. 6, Pt. 2, Ch. 1, Secs. 6501-6509.
- b. Administrative Code: Title 2, Div. 3, Arts. 1 & 2 as amended May 10, 1969.

OTHER PERTINENT INFORMATION:

The Division completed an appraisal of the land and sent terms and conditions of a renewal to the lessee on September 25, 1969. The company has disagreed with the appraised value and resultant rental, and desires an additional six months for its own investigation into the land value. Accordingly, it has executed an "Interim Agreement Pending Negotiations", which is attached hereto and is self-explanatory and considered reasonable.

EXHIBITS: A. Interim Agreement.
B. Location map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ISSUANCE TO AMERICAN SMELTING AND REFINING COMPANY OF A SIX-MONTH EXTENSION OF LEASE P.R.C. 618.1, IN THE FORM OF AN "INTERIM AGREEMENT PENDING NEGOTIATIONS", A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT "A" AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

INTERIM AGREEMENT PENDING NEGOTIATIONS

THIS AGREEMENT, dated December 1, 1969, is made and entered into by and between the STATE OF CALIFORNIA, hereinafter called the State, acting through the State Lands Commission, and AMERICAN SMELTING AND REFINING COMPANY, a New Jersey corporation, hereinafter called Lessee;

WHEREAS, under date of August 27, 1951, a lease was made and entered into by and between the parties hereto, embracing certain premises situate in the County of Contra Costa, State of California, as in said lease described, and reference is hereby made to said lease for a description of the property and the complete provisions thereof; and

WHEREAS, by an agreement dated February 27, 1959, Lessee exercised its option to renew and extend the term of said lease for an additional term of ten (10) years; and

WHEREAS, by a "notification" dated January 29, 1969, Lessee exercised its option to renew and extend the term of said lease for each of two (2) periods of ten (10) years, and "upon such reasonable terms and conditions as the State, or any successor in interest thereto, might impose;" and

WHEREAS, by letter dated September 25, 1969, State outlined the terms and conditions to be imposed during the renewal period beginning October 24, 1969, and ending October 23, 1979; and

WHEREAS, Lessee is desirous of additional time for the purpose of examining into market and rental values as to form a basis upon which it might establish an opinion of reasonable rental value;

NOW, THEREFORE, it is mutually agreed by and between the parties hereto that Lessee may have six (6) months from the date hereof within which to conduct its investigations and research of market values;

In the event that the parties cannot reach agreement on the "reasonable terms and conditions" prior to the expiration of this interim agreement or any written extension thereof, the rights and duties of the parties shall be determined and construed as said rights and duties existed on October 24, 1969, without prejudice to either of said parties by reason of this agreement or said negotiations.

It is further agreed that any negotiated rental as may hereafter be agreed upon shall be applied to said lease retroactively to commence from and after November 25, 1969.

Except as hereinabove provided, all the terms, covenants and conditions of said lease dated August 27, 1951, shall remain in full force and effect.

IN WITNESS WHEREOF, the lessor and lessee have executed this agreement as of the day and year first above written.

AMERICAN SMELTING AND REFINING COMPANY

By /s/ Armand L. Labbe
Armand L. Labbe
Selby Plant Manager

Attest:

/s/ Albert A. Lawson

STATE OF CALIFORNIA
STATE LANDS COMMISSION

By _____
