

was approved as a Minute Item
20 by the State Lands
Commission by a vote of 2
0 at its 10/28/76
meeting.

MINUTE ITEM

10/28/76
GRH

20. AMENDMENT OF INDUSTRIAL LEASE PRC 5040.1 - W 21178⁵.

During consideration of Calendar Item 20, attached, Mr. William F. Northrop, Executive Officer, explained that P.G.&E. had requested a letter from the Executive Officer outlining their obligations to pay volumetric rental under the lease amendment. In addition, P.G.&E. inquired as to the disposition of rentals paid pending resolution of any future court decision making the volumetric rental invalid. Mr. Northrop advised the staff has no objection to sending the letter. He explained the letter will provide that any volumetric rental over and above the minimum rental will be paid into a special treasury account, pending the result of the litigation. Should the volumetric rentals be held invalid, they will be refunded, together with the interest earned.

Mr. Dennis Eager, Deputy Attorney General, appeared. He explained the lease amendments. Acting Chairman Roy Bell stated he had no objection to sending it.

Upon motion duly made and carried the following resolution, as amended, was adopted by a vote of 2-0.

THE COMMISSION:

1. DETERMINES THAT AN ENVIRONMENTAL IMPACT REPORT NEED NOT BE PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL. ADM. CODE SECTION 15037.
2. AUTHORIZES ISSUANCE TO PACIFIC GAS AND ELECTRIC COMPANY OF AN AMENDMENT TO LEASE PRC 5040.1, EFFECTIVE AUGUST 1, 1976, WHICH WOULD ACCOMPLISH THE FOLLOWING:
 - (A) CHANGE THE EXISTING LAND DESCRIPTION BY ADDING A NEW PART 3 (PARCELS 1 THROUGH 5) ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; (B) CHANGE THE ANNUAL RENTAL AS FOLLOWS:

MINIMUM ANNUAL RENT: \$868.

THE ANNUAL RENTAL SHALL BE COMPUTED BY MULTIPLYING THE NUMBER OF BARRELS OF CRUDE OIL AND PRODUCTS AND DERIVATIVES THEREOF PASSING OVER THE STATE'S LAND BY \$.0001 (ONE-TENTH MIL) PER BARREL; PROVIDED THAT ALL OTHER TERMS AND CONDITIONS OF LEASE PRC 5040.1 SHALL REMAIN IN FULL FORCE AND EFFECT.

3. AUTHORIZES THE EXECUTIVE OFFICER TO DIRECT A LETTER TO P.G.&E., PROVIDING (1) THAT ANY VOLUMETRIC RENTAL WHICH ACCRUES OVER AND ABOVE THE MINIMUM RENTAL WILL BE PAID INTO A SPECIAL TREASURY ACCOUNT PENDING THE RESULT OF THE

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MINUTE ITEM 20. (CONTD)

PRESENT LITIGATION CHALLENGING THE COMMISSION'S VOLUMETRIC RENTAL REGULATIONS; AND (2) THAT SHOULD VOLUMETRIC RENTALS BE HELD INVALID, THE COMMISSION WILL RETURN TO P.G.&E., SUBJECT TO APPLICABLE PROVISIONS OF LAW, ALL ACCUMULATED PRINCIPAL, AND ANY INTEREST ACTUALLY EARNED THEREON, IN THE SPECIAL DEPOSIT ACCOUNT.

Attachment: Calendar Item 20 (8 Pages)

CALENDAR ITEM

20

10/76
GRII
W 21175

AMENDMENT OF INDUSTRIAL LEASE PRC 5040.1

APPLICANT: Pacific Gas & Electric Company
77 Beale Street, Room 1113
San Francisco, CA 94106

AREA, TYPE LAND AND LOCATION:
Approximately 3 acres of filled and unfilled
tide and submerged land in the beds of
Walnut Creek and Hastings Slough and filled
lands in the town of Crockett, Contra Costa
County.

LAND USE: Pipeline Right of Way

TERMS OF ORIGINAL LEASE:

Initial period: 15 years from August 1, 1975.

Renewal options: 3 successive periods of 10
years each.

Public liability insurance: \$1,000,000 per
occurrence for bodily injury
and property damage.

Consideration: \$1,970 for the temporary work
areas, \$248.80 per annum for
the permanent right of way,
with State reserving the right
to fix a different rental on
each fifth anniversary of the
lease.

Special: The Commission reserved the right to
change the rent, should the
Commission adopt changes to
its general leasing regulations
(to provide for a volumetric
rental) by August 1, 1976.

TERMS OF AMENDED LEASE:

Initial period: 15 years, from August 1, 1975.

Renewal options: 3 successive periods of 10 years
each.

Public liability insurance: \$1,000,000 per occur-
rence for bodily injury and for
property damage.

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CALENDAR ITEM NO. 20 (CONTD)

CONSIDERATION: (a) The annual rental shall be computed by multiplying the number of barrels of crude oil and products and derivatives thereof passing over the State's land by \$0.0001 (one-tenth mil).

(b) The minimum annual rental shall be \$868.00.

BASIS FOR CONSIDERATION:

2 Cal. Adm. Code, Section 2006 et seq.

STATUTORY AND OTHER REFERENCES:

a. Public Resources Code: Div. 6, Parts 1 and 2.

b. Administrative Code: Title 2, Div. 3,
Art. 1, 2, 10 and 11.

OTHER PERTINENT INFORMATION:

1. By action on August 21, 1975 (Minute Item No. 7), the Commission authorized issuance to Pacific Gas and Electric Company (P.G.&E.) of a lease covering certain portions of a 16" "hot" oil pipeline crossing Walnut Creek and Hastings Slough. The pipeline (which is now under construction) is to supply fuel oil to P.G.&E.'s Antioch electric generating plant from Standard Oil Company of California's Richmond Refinery.

Subsequent to the Commission's lease authorization, Division staff became aware of negotiations between P.G.&E. and C & H Sugar Co. at Crockett for a right of way across certain lands allegedly purchased by C & H Sugar Co. from Southern Pacific Transportation Company. Division staff advised all parties that the railroad had no title in the subject lands to convey to C & H Sugar Co.; and that all lands in the immediate vicinity not leased to C & H Sugar Co. and not used by the Railroad Co. for railroad purposes belong to the State. Accordingly, Division staff has been negotiating with P.G.&E. for a right of way across the subject parcels.

2. Using the alternatives and criteria set forth in the Commission's newly adopted volumetric rental regulations, Division staff has concluded that rental in the amount of \$0.0001 (one-tenth mil) per barrel of commodities passing over the State's land

CALENDAR ITEM NO. 20 (CONTD)

under this lease would be fair and reasonable. P.G.&E. has indicated its willingness to pay such annual rental by executing a document which amends lease PRC 5040.1 to include the additional lands and which reflects the above volumetric rental. A copy of amendment document is on file in the office of the Commission.

3. An environmental impact report is not required for this transaction because the pipeline project was treated in an Environmental Impact Report prepared by the San Francisco Bay Conservation and Development Commission. The B.C.D.C. notice of determination on the project found that the project would cause no adverse environmental effects. The Commission, in originally granting the lease, likewise found the pipeline project would have no significant environmental effects, based on the B.C.D.C. EIR.
4. The subject parcels are not located on State land identified as environmentally significant pursuant to Public Resources Code Section 6370.1.

EXHIBITS: A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT NEED NOT BE PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PUBLIC RESOURCES CODE SECTION 21065 AND 14 CAL. ADM. CODE SECTION 15037.
2. AUTHORIZE ISSUANCE TO PACIFIC GAS AND ELECTRIC COMPANY OF AN AMENDMENT TO LEASE PRC 5040.1, EFFECTIVE AUGUST 1, 1976 WHICH WOULD ACCOMPLISH THE FOLLOWING:

(A) CHANGE THE EXISTING LAND DESCRIPTION BY ADDING A NEW PART 3 (PARCELS 1 THROUGH 5) ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; (B) CHANGE THE ANNUAL RENTAL AS FOLLOWS:

MINIMUM ANNUAL RENT: \$868.

THE ANNUAL RENTAL SHALL BE COMPUTED BY MULTIPLYING THE NUMBER OF BARRELS OF CRUDE OIL AND PRODUCTS AND DERIVATIVES THEREOF PASSING OVER THE STATE'S LAND BY \$0.0001 (ONE-TENTH MIL) PER BARREL:

CALENDAR ITEM NO. 20 (CONTD)

PROVIDED THAT ALL OTHER TERMS AND CONDITIONS OF LEASE PRC
5010.1 SHALL REMAIN IN FULL FORCE AND EFFECT.

Attachment: Exhibit "A"

EXCERPT "A"

W 21175

Five parcels of land, at Crockett, County of Contra Costa, State of California being more particularly described as follows:

PARCEL 1.

A strip of land extending from the easterly boundary line of the parcel of land described and designated PARCEL II under Section 3, Land Description, in the un-recorded lease from State of California, State Lands Commission, to California and Hawaiian Sugar Company dated July 24, 1975 (lease P.R.C. No. 5026,1) easterly to (a) the westerly boundary line of the parcel of land described and designated PARCEL III in said lease dated July 24, 1975 and (b) the southerly boundary line of the railroad right of way of the Southern Pacific Transportation Company extending along the northerly boundary line of said parcels of land designated PARCEL II and PARCEL III and lying 15 feet on each side of the line which begins at a point in the easterly boundary line of said parcel of land designated PARCEL II and runs thence (1) north 79° 28.0' east approximately 15 feet to a point herein for convenience called Point "B"; thence

(2) easterly on a curve to the right with a radius of 550.00 feet, tangent at the westerly terminus thereof to the preceding course, an arc distance of approximately 100 feet to a point in the southerly boundary line of said railroad right of way; said Point "B" bears north 40° 52.2' east 365.64 feet distant from the found brass disk (marked Sec. 31 & 32, T 3 N, R 3 W, Sec. 5 & 6, T 2 N, R 3 W) set in the top of a concrete block accepted as marking the northeast corner of Section 6, T 2 N, R 3 W, M.D.B.&M.

PARCEL 2

A strip of land extending from the southwesterly and northwesterly boundary lines of the parcel of land described and designated PARCEL NO. 2 in the quitclaim deed from Southern Pacific Transportation Company to California and Hawaiian Sugar Company dated June 18, 1975 and recorded in Book 7570 of Official Records at page 761, Contra Costa County Records, easterly to the northeasterly boundary line of said parcel of land designated PARCEL NO. 2 and lying 15 feet on each side of the line which begins at a point in the northwesterly boundary line of said parcel of land designated PARCEL NO. 2 and runs thence (1) north 87° 23.0' east approximately 15 feet to a point herein for convenience called Point "B"; thence

(2) easterly on a curve to the left with a radius of 500.00 feet, through a central angle of 19° 43.0' and tangent at the westerly

- terminus thereof to the preceding course, an arc distance of 172.06 feet; thence
- (3) north $67^{\circ} 40.8'$ east 61.93 feet; thence
- (4) easterly on a curve to the right with a radius of 500.00 feet, tangent at the westerly terminus thereof to the preceding course, an arc distance of approximately 80 feet

to a point in the northeasterly boundary line of said parcel of land designated PARCEL NO. 2; said Point "p" bears north $76^{\circ} 51.8'$ east 1268.29 feet distant from the found brass disk (marked Sec. 31 & 32, T 3 N., R 3 W., Sec. 5 & 6, T 2 N., R 3 W) set in the top of a concrete block accepted as marking the northeast corner of Section 6, T 2 N., R 3 W, H.D.B.M.

PARCEL 3

The portion of the parcel of land described and designated PARCEL III under Section 3, Land Description, in the un-recorded lease from State of California, State Lands Commission, to California and Hawaiian Sugar Company dated July 24, 1975 (Lease P.R.C. No. 5026.1) lying within the boundary lines of the strip of land described as follows:

A strip of land bounded on the westerly side by the westerly boundary line of said parcel of land designated PARCEL II, bounded on the northerly side by the northerly boundary line of said parcel of land designated PARCEL III, bounded on the southeasterly side by the southeasterly boundary line of said parcel of land designated PARCEL III, and bounded on the southerly side by a line which is parallel with and distant 15 feet southerly from (measured at a right angle to) the line which begins at a point in the southerly boundary line of the railroad right of way of the Southern Pacific Transportation Company extending along the northerly boundary line of said parcel of land designated PARCEL III and the northerly boundary line of the parcel of land described and designated PARCEL II in said lease dated July 24, 1975 and runs thence (1) easterly on a curve to the right with a radius of 550.00 feet, tangent at the easterly terminus thereof to the succeeding course, an arc distance of approximately 70 feet to a point herein for convenience called Point "C"; thence (2) south $83^{\circ} 08.2'$ east 374.89 feet; thence (3) easterly on a curve to the left with a radius of 500.00 feet, through a central angle of $23^{\circ} 32.0'$ and tangent at the westerly terminus thereof to the preceding course, an arc distance of 205.37 feet; thence (4) north $73^{\circ} 1.8'$ east 29.72 feet; thence (5) easterly on a curve to the right with a radius of 500.00 feet, through a central angle of $14^{\circ} 04.0'$ and tangent at the westerly terminus thereof to the preceding course, an arc distance of 122.75 feet; thence (6) north $87^{\circ} 23.8'$ east approximately

90 feet to a point in the southerly boundary line of said railroad right of way; said Point "C" bears north $55^{\circ} 12.2'$ east 493.84 feet distant from the found brass disk (marked Sec. 31 & 32, T 3 N, R 3 W, Sec. 5 & 6, T 2 N, R 3 W) set in the top of a concrete block accepted as marking the northeast corner of Section 6, Township 2 North, Range 3 West, M.D.B.&M.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark.

PARCEL 4

A strip of land of the uniform width of 30 feet extending from the southwesterly boundary line of the parcel of land described and designated PARCEL IV under Section 3, Land Description, in the unrecorded lease from State of California, State Lands Commission, to California and Hawaiian Sugar Company dated July 24, 1975 (lease P.R.C. No. 5026.1) northeasterly to the easterly boundary line of the parcel of land described and designated PARCEL IX in said lease dated July 24, 1975 and lying 15 feet on each side of the line which begins at a point in the southwesterly boundary line of said parcel of land designated PARCEL IV and runs thence (1) north $51^{\circ} 05.5'$ east approximately 60 feet to a point herein for convenience called Point "A"; thence (2) north $57^{\circ} 49.0'$ east 371.94 feet; thence (3) easterly on a curve to the right with a radius of 720.00 feet, through a central angle of $21^{\circ} 39.0'$, and tangent at the westerly terminus thereof to the preceding course, an arc distance of 272.06 feet; thence (4) north $79^{\circ} 28.0'$ east approximately 210 feet to a point in the easterly boundary line of said parcel of land designated PARCEL II; said Point "A" bears south $83^{\circ} 39.0'$ west 549.47 feet distant from the found brass disk (marked Sec. 31 & 32, T 3 N, R 3 W, Sec. 5 & 6, T 2 N, R 3 W) set in the top of a concrete block accepted as marking the northeast corner of Section 6, T 2 N, R 3 W, M.D.B.&M.

PARCEL 5

A strip of land extending from the northeasterly boundary line of the parcel of land described and designated PARCEL NO. 2 in the quitclaim deed from Southern Pacific Transportation Company to California and Hawaiian Sugar Company dated June 18, 1975 and recorded in Book 7570 of Official Records at page 761. Contra Costa County Records, easterly to the ordinary high water mark of Carquinez Straits and lying 15 feet on each side of the following described centerline:

CONVERGING at the brass disk (marked Sec. 31 & 32, T 3 N, R 3 W, Sec. 5 & 6, T 2 N, R 3 W) set in the top of a concrete block accepted as marking the northeast corner of Section 6, T 2 N, R 3 W, M.D.B.&M.; thence north $76^{\circ} 51.8'$ east 1268.29 feet; thence easterly on a curve to the left with a radius of 500.00 feet, the center of which bears $N 2^{\circ} 36.2' E$ through a central angle of $19^{\circ} 43.0'$, an arc distance of 172.06 feet; thence north $67^{\circ} 40.8'$ east 61.93 feet; thence easterly on a curve to the right with a radius of 500.00 feet, tangent at the westerly terminus thereof to the preceding course, an arc distance of approximately 80 feet

to a point in the northeasterly boundary line of said parcel of land designated PARCEL NO. 2 being the TRUE POINT OF BEGINNING of the herein described strip of land; thence continuing along said 500.00 foot radius curve an arc distance of 111.36 feet; thence N 89° 36.5' E 122.0 feet more or less to the ordinary high water mark of Carquinez Straits.

END OF DESCRIPTION

Prepared *Frank C. Warren* Checked *James R. Carlson*
Reviewed *D. Bittman* Date *9/13/76*